

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 2393

94TH GENERAL ASSEMBLY

Reported from the Special Committee on Job Creation and Economic Development March 26, 2008 with recommendation that House Committee Substitute for House Bill No. 2393 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

Reported from the Committee on Rules March 27, 2008 with recommendation that House Committee Substitute for House Bill No. 2393 Do Pass with no time limit for debate.

Taken up for Perfection April 15, 2008. House Committee Substitute for House Bill No. 2393 ordered Perfected and printed, as amended.

D. ADAM CRUMBLISS, Chief Clerk

5383L.03P

AN ACT

To repeal sections 135.950, 135.967, and 137.115, RSMo, and to enact in lieu thereof four new sections relating to enhanced enterprise zones.

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

Section A. Sections 135.950, 135.967, and 137.115, RSMo, are repealed and four new
2 sections enacted in lieu thereof, to be known as sections 135.950, 135.967, 135.968, and
3 137.115, to read as follows:

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

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

3 [(1)] **(2) "Blighted area", an area which, by reason of the predominance of defective or**
4 **inadequate street layout, unsanitary or unsafe conditions, deterioration of site improvements,**
5 **improper subdivision or obsolete platting, or the existence of conditions which endanger life or**
6 **property by fire and other causes, or any combination of such factors, retards the provision of**
7 **housing accommodations or constitutes an economic or social liability or a menace to the public**
8 **health, safety, morals, or welfare in its present condition and use;**

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.

9 [(2)] (3) "Board", an enhanced enterprise zone board established pursuant to section
10 135.957;

11 [(3)] (4) "Commencement of commercial operations" shall be deemed to occur during
12 the first taxable year for which the new business facility is first put into use by the taxpayer in
13 the enhanced business enterprise in which the taxpayer intends to use the new business facility;

14 [(4)] (5) **"County average wage", the average wages in each county as determined**
15 **by the department for the most recently completed full calendar year. However, if the**
16 **computed county average wage is above the statewide average wage, the statewide average**
17 **wage shall be deemed the county average wage for such county for the purpose of**
18 **determining eligibility. The department shall publish the county average wage for each**
19 **county at least annually. Notwithstanding the provisions of this subdivision to the**
20 **contrary, for any taxpayer that in conjunction with their project is relocating employees**
21 **from a Missouri county with a higher county average wage, such taxpayer shall obtain the**
22 **endorsement of the governing body of the community from which jobs are being relocated**
23 **or the county average wage for their project shall be the county average wage for the**
24 **county from which the employees are being relocated;**

25 [(4)] (6) "Department", the department of economic development;

26 [(5)] (7) "Director", the director of the department of economic development;

27 [(6)] (8) "Employee", a person employed by the enhanced business enterprise that is
28 scheduled to work an average of at least one thousand hours per year, and such person at all
29 times has health insurance offered to him or her, which is partially paid for by the employer;

30 [(7)] (9) "Enhanced business enterprise", an industry or one of a cluster of industries that
31 is either:

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

34 (b) Will have an impact on industry cluster development, as identified by the governing
35 authority in its application for designation of an enhanced enterprise zone and approved by the
36 department; but excluding gambling establishments (NAICS industry group 7132), retail trade
37 (NAICS sectors 44 and 45), educational services (NAICS sector 61), religious organizations
38 (NAICS industry group 8131), public administration (NAICS sector 92), and food and drinking
39 places (NAICS subsector 722), however, notwithstanding provisions of this section to the
40 contrary, headquarters or administrative offices of an otherwise excluded business may qualify
41 for benefits if the offices serve a multistate territory. In the event a national, state, or regional
42 headquarters operation is not the predominant activity of a project facility, the new jobs and
43 investment of such headquarters operation is considered eligible for benefits under this section

44 if the other requirements are satisfied. Service industries may be eligible only if a majority of
45 its annual revenues will be derived from out of the state;

46 [(8)] (10) "Existing business facility", any facility in this state which was employed by
47 the taxpayer claiming the credit in the operation of an enhanced business enterprise immediately
48 prior to an expansion, acquisition, addition, or replacement;

49 [(9)] (11) "Facility", any building used as an enhanced business enterprise located within
50 an enhanced enterprise zone, including the land on which the facility is located and all
51 machinery, equipment, and other real and depreciable tangible personal property acquired for use
52 at and located at or within such facility and used in connection with the operation of such
53 facility;

54 [(10)] (12) "Facility base employment", the greater of the number of employees located
55 at the facility on the date of the notice of intent, or for the twelve-month period prior to the date
56 of the notice of intent, the average number of employees located at the facility, or in the event
57 the project facility has not been in operation for a full twelve-month period, the average number
58 of employees for the number of months the facility has been in operation prior to the date of the
59 notice of intent;

60 [(11)] (13) "Facility base payroll", the total amount of taxable wages paid by the
61 enhanced business enterprise to employees of the enhanced business enterprise located at the
62 facility in the twelve months prior to the notice of intent, not including the payroll of owners of
63 the enhanced business enterprise unless the enhanced business enterprise is participating in an
64 employee stock ownership plan. For the purposes of calculating the benefits under this program,
65 the amount of base payroll shall increase each year based on the consumer price index or other
66 comparable measure, as determined by the department;

67 [(12)] (14) "Governing authority", the body holding primary legislative authority over
68 a county or incorporated municipality;

69 [(13)] (15) **"Mega-project", any manufacturing or assembling facility, approved by**
70 **the department for construction and operation within an enhanced enterprise zone, which**
71 **satisfies the following:**

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

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

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

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

80 (e) **An acceptable plan of repayment, to the state, of the tax credits provided for the**
81 **mega-project has been provided by the taxpayer;**

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

86 [(14)] (17) "New business facility", a facility that satisfies the following requirements:

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

96 (b) Such facility is acquired by, or leased to, the taxpayer after December 31, 2004. A
97 facility shall be deemed to have been acquired by, or leased to, the taxpayer after December 31,
98 2004, if the transfer of title to the taxpayer, the transfer of possession pursuant to a binding
99 contract to transfer title to the taxpayer, or the commencement of the term of the lease to the
100 taxpayer occurs after December 31, 2004;

101 (c) If such facility was acquired by the taxpayer from another taxpayer and such facility
102 was employed immediately prior to the acquisition by another taxpayer in the operation of an
103 enhanced business enterprise, the operation of the same or a substantially similar enhanced
104 business enterprise is not continued by the taxpayer at such facility; and

105 (d) Such facility is not a replacement business facility, as defined in subdivision [(22)]
106 (25) of this section;

107 [(15)] (18) "New business facility employee", an employee of the taxpayer in the
108 operation of a new business facility during the taxable year for which the credit allowed by
109 section 135.967 is claimed, except that truck drivers and rail and barge vehicle operators and
110 other operators of rolling stock for hire shall not constitute new business facility employees;

111 [(16)] (19) "New business facility investment", the value of real and depreciable tangible
112 personal property, acquired by the taxpayer as part of the new business facility, which is used by
113 the taxpayer in the operation of the new business facility, during the taxable year for which the
114 credit allowed by 135.967 is claimed, except that trucks, truck-trailers, truck semitrailers, rail
115 vehicles, barge vehicles, aircraft and other rolling stock for hire, track, switches, barges, bridges,

116 tunnels, and rail yards and spurs shall not constitute new business facility investments. The total
117 value of such property during such taxable year shall be:

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

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

128 [(17)] (20) "New job", the number of employees located at the facility that exceeds the
129 facility base employment less any decrease in the number of the employees at related facilities
130 below the related facility base employment. No job that was created prior to the date of the
131 notice of intent shall be deemed a new job;

132 [(18)] (21) "Notice of intent", a form developed by the department which is completed
133 by the enhanced business enterprise and submitted to the department which states the enhanced
134 business enterprise's intent to hire new jobs and request benefits under such program;

135 [(19)] (22) "Related facility", a facility operated by the enhanced business enterprise or
136 a related company in this state that is directly related to the operation of the project facility;

137 [(20)] (23) "Related facility base employment", the greater of:

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

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

143 [(21)] (24) "Related taxpayer":

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

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

147 (c) A corporation, partnership, trust or association controlled by an individual,
148 corporation, partnership, trust or association in control of the taxpayer. "Control of a
149 corporation" shall mean ownership, directly or indirectly, of stock possessing at least fifty
150 percent of the total combined voting power of all classes of stock entitled to vote, "control of a
151 partnership or association" shall mean ownership of at least fifty percent of the capital or profits

152 interest in such partnership or association, and "control of a trust" shall mean ownership, directly
153 or indirectly, of at least fifty percent of the beneficial interest in the principal or income of such
154 trust; ownership shall be determined as provided in Section 318 of the Internal Revenue Code
155 of 1986, as amended;

156 [(22)] **(25)** "Replacement business facility", a facility otherwise described in subdivision
157 [(14)] **(17)** of this section, hereafter referred to in this subdivision as "new facility", which
158 replaces another facility, hereafter referred to in this subdivision as "old facility", located within
159 the state, which the taxpayer or a related taxpayer previously operated but discontinued operating
160 on or before the close of the first taxable year for which the credit allowed by this section is
161 claimed. A new facility shall be deemed to replace an old facility if the following conditions are
162 met:

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

166 (b) The old facility was employed by the taxpayer or a related taxpayer in the operation
167 of an enhanced business enterprise and the taxpayer continues the operation of the same or
168 substantially similar enhanced business enterprise at the new facility.

169

170 Notwithstanding the preceding provisions of this subdivision, a facility shall not be considered
171 a replacement business facility if the taxpayer's new business facility investment, as computed
172 in subdivision [(16)] **(19)** of this section, in the new facility during the tax period for which the
173 credits allowed in section 135.967 are claimed exceed one million dollars and if the total number
174 of employees at the new facility exceeds the total number of employees at the old facility by at
175 least two;

176 [(23)] **(26)** "Same or substantially similar enhanced business enterprise", an enhanced
177 business enterprise in which the nature of the products produced or sold, or activities conducted,
178 are similar in character and use or are produced, sold, performed, or conducted in the same or
179 similar manner as in another enhanced business enterprise.

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

6 2. Notwithstanding any provision of law to the contrary, any taxpayer who establishes
7 a new business facility in an enhanced enterprise zone and is awarded state tax credits under this
8 section may not also receive tax credits under sections 135.100 to 135.150, sections 135.200 to

9 [135.268] **135.286**, or section 135.535, **and may not simultaneously receive tax credits under**
10 **sections 620.1875 to 620.1890, RSMo, at the same facility.**

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

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

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

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

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

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

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

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

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

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

32 5. Prior to January 1, 2007, in no event shall the department authorize more than four
33 million dollars annually to be issued for all enhanced business enterprises. After December 31,
34 2006, in no event shall the department authorize more than fourteen million dollars annually to
35 be issued for all enhanced business enterprises.

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

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

44 (2) The taxpayer's investment in the expansion and in the original facility prior to
45 expansion shall be determined in the manner provided in subdivision [(14)] **(19)** of section
46 135.950.

47 7. The number of new business facility employees during any taxable year shall be
48 determined by dividing by twelve the sum of the number of individuals employed on the last
49 business day of each month of such taxable year. If the new business facility is in operation for
50 less than the entire taxable year, the number of new business facility employees shall be
51 determined by dividing the sum of the number of individuals employed on the last business day
52 of each full calendar month during the portion of such taxable year during which the new
53 business facility was in operation by the number of full calendar months during such period. For
54 the purpose of computing the credit allowed by this section in the case of a facility which
55 qualifies as a new business facility under subsection 6 of this section, and in the case of a new
56 business facility which satisfies the requirements of paragraph (c) of subdivision [(14)] **(17)** of
57 section 135.950, or subdivision [(22)] **(25)** of section 135.950, the number of new business
58 facility employees at such facility shall be reduced by the average number of individuals
59 employed, computed as provided in this subsection, at the facility during the taxable year
60 immediately preceding the taxable year in which such expansion, acquisition, or replacement
61 occurred and shall further be reduced by the number of individuals employed by the taxpayer or
62 related taxpayer that was subsequently transferred to the new business facility from another
63 Missouri facility and for which credits authorized in this section are not being earned, whether
64 such credits are earned because of an expansion, acquisition, relocation, or the establishment of
65 a new facility.

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

73 9. For the purpose of computing the credit allowed by this section in the case of a facility
74 which qualifies as a new business facility pursuant to subsection 6 of this section, and in the case
75 of a new business facility which satisfies the requirements of paragraph (c) of subdivision [(14)]
76 **(17)** of section 135.950 or subdivision [(22)] **(25)** of section 135.950, the amount of the
77 taxpayer's new business facility investment in such facility shall be reduced by the average
78 amount, computed as provided in subdivision [(14)] **(19)** of section 135.950 for new business
79 facility investment, of the investment of the taxpayer, or related taxpayer immediately preceding

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

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

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

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

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

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

135.968. 1. A taxpayer who establishes a mega-project, approved by the
2 department, within an enhanced enterprise zone shall, in exchange for the consideration
3 provided by new tax revenues and other economic stimuli that will be generated from the
4 new jobs created by the mega-project, be allowed an income tax credit equal to the
5 percentage of actual new annual payroll of the taxpayer, as provided under subsection 4
6 of this section. A taxpayer seeking approval of a mega-project shall submit an application
7 to the department. The department shall not approve any mega-project after December
8 31, 2008. The department shall not issue any credits for mega-projects to be issued prior
9 to July 1, 2010, and in no event shall the department authorize more than forty million
10 dollars to be issued annually for all mega-projects.

11 2. In considering applications for approval of mega-projects, the department may
12 approve an application if:

13 (1) The taxpayer's project is financially sound and the taxpayer has adequately
14 demonstrated an ability to successfully undertake and complete the mega-project. This
15 determination shall be supported by a professional third party market feasibility analysis
16 conducted on behalf of the state by a firm with direct experience with the industry of the
17 proposed mega-project, and by a professional third party financial analysis of the
18 taxpayer's ability to complete the project;

19 (2) The taxpayer's plan of repayment to the state of the amount of tax credits
20 provided is reasonable and sound;

21 (3) The taxpayer's mega-project will create new jobs that were not jobs previously
22 performed by employees of the taxpayer or a related taxpayer in Missouri;

23 (4) Local taxing entities are providing a significant level of incentives for the mega-
24 project relative to the projected new local tax revenues created by the mega-project;

25 (5) There is at least one other state or foreign country that the taxpayer verifies is
26 being considered for the project, and receiving mega-project tax credits is a major factor
27 in the taxpayer's decision to go forward with the project and not receiving the credit will
28 result in the taxpayer not creating new jobs in Missouri;

29 (6) The mega-project will be located in an enhanced enterprise zone which
30 constitutes an economic or social liability and a detriment to the public health, safety,
31 morals, or welfare in its present condition and use;

32 (7) The completion of the mega-project will serve an essential public municipal
33 purpose by creating a substantial number of new jobs for citizens, increasing their
34 purchasing power, improving their living conditions, and relieving the demand for
35 unemployment and welfare assistance thereby promoting the economic development of the
36 enhanced enterprise zone, the municipality, and the state; and

37 **(8) The creation of new jobs will assist the state in providing the services needed**
38 **to protect the health, safety, and social and economic well-being of the citizens of the state.**

39 **3. Prior to final approval of an application, a binding contract shall be executed**
40 **between the taxpayer and the department of economic development which shall include,**
41 **but not be limited to:**

42 **(1) A repayment plan providing for cash payment to the state general revenue fund**
43 **which shall result in a positive internal rate of return to the state and fully comply with the**
44 **provisions of the World Trade Organization agreement on subsidies and countervailing**
45 **measures;**

46 **(2) The taxpayer's obligation to construct a facility of at least one million three**
47 **hundred thousand square feet within five years from the date of approval; and**

48 **(3) A projected specific minimum positive internal rate of return over the length**
49 **of the project, as calculated by the repayment amount, as validated by the market**
50 **feasibility analysis, less credits issued, and an increased specific minimum rate of return**
51 **calculated by the repayment amount plus fiscal benefit less the credits issued.**

52 **4. Upon approval of an application by the department, tax credits shall be issued**
53 **annually for a period not to exceed twenty-two years from the commencement of**
54 **commercial operations of the mega-project. The twenty-two-year period for the issuance**
55 **of mega-project tax credits may extend beyond the expiration of the enhanced enterprise**
56 **zone. The maximum percentage of the annual payroll of the taxpayer for new jobs located**
57 **at the mega-project which may be approved or issued by the department for tax credits**
58 **shall not exceed:**

59 **(1) Eighty percent for the first three years that tax credits will be issued for the**
60 **mega-project;**

61 **(2) Sixty percent for the next two subsequent years;**

62 **(3) Fifty percent for the next two subsequent years;**

63 **(4) Thirty percent for the next two subsequent years; and**

64 **(5) Twenty-five percent for all subsequent years.**

65

66 **In no event shall the department issue more than forty million dollars annually in mega-**
67 **project tax credits to any taxpayer. The department shall issue a schedule setting forth**
68 **maximum year-by-year credits approved by the department. In any given year, the**
69 **amount of tax credits issued shall be the lesser of the amount identified in the schedule,**
70 **which shall not exceed forty million dollars, or the applicable annual payroll percentage.**

71 **5. Tax credits issued under this section may be claimed against the tax imposed by**
72 **chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265,**

73 **RSMo. For taxpayers with flow-through tax treatment of its members, partners, or**
74 **shareholders, the credit shall be allowed to members, partners, or shareholders in**
75 **proportion to their share of ownership on the last day of the taxpayer's tax period. The**
76 **director of revenue shall issue a refund to a taxpayer to the extent the amount of credits**
77 **allowed in this section exceeds the amount of the taxpayer's income tax liability in the year**
78 **redemption is authorized. An owner of tax credits issued under this section shall not be**
79 **required to have any Missouri income tax liability in order to redeem such tax credits and**
80 **receive a refund. The director of revenue shall prepare a form to permit the owner of such**
81 **tax credits to obtain a refund.**

82 **6. Certificates of tax credits authorized under this section may be transferred, sold,**
83 **or assigned by filing a notarized endorsement thereof with the department that names the**
84 **transferee, the amount of tax credit transferred, and the value received for the credit, as**
85 **well as any other information reasonably requested by the department. Upon such**
86 **transfer, sale, or assignment, the transferee shall be the owner of such tax credits entitled**
87 **to claim the tax credits or any refunds with respect thereto issued to the taxpayer. Tax**
88 **credits may not be carried forward past the year of issuance. Tax credits authorized by**
89 **this section may not be pledged or used to secure any bonds or other indebtedness issued**
90 **by the state or any political subdivision of the state. Once such tax credits have been**
91 **issued, nothing shall prohibit the owner of the tax credits from pledging the tax credits to**
92 **any lender or other third-party.**

93 **7. Any taxpayer issued tax credits under this section shall provide an annual report**
94 **to the department of the number of new jobs located at the mega-project, the new annual**
95 **payroll of such new jobs, and such other information as may be required by the**
96 **department to document the basis for benefits under this section. The department may**
97 **withhold the approval of the annual issuance of any tax credits until it is satisfied that**
98 **proper documentation has been provided, and shall reduce the tax credits to reflect any**
99 **reduction in new payroll. If the department determines the average wage is below the**
100 **county average wage, or the taxpayer has not maintained employee health insurance as**
101 **required, the taxpayer shall not receive tax credits for that year.**

102 **8. Notwithstanding any provision of law to the contrary, any taxpayer who is**
103 **awarded tax credits under this section shall not also receive tax credits under sections**
104 **135.100 to 135.150, sections 135.200 to 135.286, section 135.535, or sections 620.1875 to**
105 **620.1890, RSMo.**

106 **9. Any action brought in any court contesting the approval of a mega-project and**
107 **the issuance of the tax credits, or any other action undertaken pursuant to this section**

108 related to such mega-project, shall be filed within ninety days following approval of the
109 mega-project by the department.

110 **10. Records and documents relating to a proposed mega-project shall be deemed**
111 **closed records until such time as the application has been approved. Provisions of this**
112 **subsection to the contrary notwithstanding, records containing business plan information**
113 **which may endanger the competitiveness of the business shall remain closed.**

114 **11. Notwithstanding any provision of this section to the contrary, no taxpayer who**
115 **receives mega-project tax credits authorized under this section or any related taxpayer**
116 **shall employ, within five years following approval of the mega-project by the department,**
117 **directly or indirectly:**

118 **(1) Any elected public official of this state holding office as of January 1, 2008;**

119 **(2) Any director, deputy director, division director, or employee directly involved**
120 **in negotiations between the department of economic development and a taxpayer relative**
121 **to the mega-project who was employed as of January 1, 2008, by the department; or**

122 **(3) Any relative, within the second degree of consanguinity or affinity, of any**
123 **individual under subdivisions (1) and (2) of this subsection.**

124 **12. After the expiration of the five-year period referenced in subsection 10 of this**
125 **section, any taxpayer receiving mega-project tax credits authorized under this section shall**
126 **disclose, in the annual report required under subsection 7 of this section, the names of any**
127 **employee of the taxpayer who:**

128 **(1) Has ever been an elected public official of this state;**

129 **(2) Has ever been a director, deputy director, or a division director of the**
130 **department of economic development, or an employee of the department of economic**
131 **development directly involved in the negotiations between the department of economic**
132 **development and the taxpayer relative to the mega-project; or**

133 **(3) Is a relative, within the second degree of consanguinity or affinity, of any**
134 **individual under subdivisions (1) and (2) of this subsection.**

137.115. 1. All other laws to the contrary notwithstanding, the assessor or the assessor's
2 deputies in all counties of this state including the city of St. Louis shall annually make a list of
3 all real and tangible personal property taxable in the assessor's city, county, town or district.
4 Except as otherwise provided in subsection 3 of this section and section 137.078, the assessor
5 shall annually assess all personal property at thirty-three and one-third percent of its true value
6 in money as of January first of each calendar year. The assessor shall annually assess all real
7 property, including any new construction and improvements to real property, and possessor
8 interests in real property at the percent of its true value in money set in subsection 5 of this
9 section. **The true value in money of any possessor interest in real property in subclass (3),**

10 **where such real property is on or lies within the ultimate airport boundary as shown by**
11 **a federal airport layout plan, as defined by 14 CFR 151.5 of a commercial airport having**
12 **a FAR Part 139 certification and owned by a political subdivision, shall be the otherwise**
13 **applicable true value in money of any such possessor interest in real property, less the total**
14 **dollar amount of costs paid by a party, other than the political subdivision, towards any**
15 **new construction or improvements on such real property completed after January 1, 2008,**
16 **and which are included in the above-mentioned possessor interest, regardless of the year**
17 **in which such costs were incurred or whether such costs were considered in any prior year.**

18 The assessor shall annually assess all real property in the following manner: new assessed values
19 shall be determined as of January first of each odd-numbered year and shall be entered in the
20 assessor's books; those same assessed values shall apply in the following even-numbered year,
21 except for new construction and property improvements which shall be valued as though they
22 had been completed as of January first of the preceding odd-numbered year. The assessor may
23 call at the office, place of doing business, or residence of each person required by this chapter
24 to list property, and require the person to make a correct statement of all taxable tangible
25 personal property owned by the person or under his or her care, charge or management, taxable
26 in the county. On or before January first of each even-numbered year, the assessor shall prepare
27 and submit a two-year assessment maintenance plan to the county governing body and the state
28 tax commission for their respective approval or modification. The county governing body shall
29 approve and forward such plan or its alternative to the plan to the state tax commission by
30 February first. If the county governing body fails to forward the plan or its alternative to the plan
31 to the state tax commission by February first, the assessor's plan shall be considered approved
32 by the county governing body. If the state tax commission fails to approve a plan and if the state
33 tax commission and the assessor and the governing body of the county involved are unable to
34 resolve the differences, in order to receive state cost-share funds outlined in section 137.750, the
35 county or the assessor shall petition the administrative hearing commission, by May first, to
36 decide all matters in dispute regarding the assessment maintenance plan. Upon agreement of the
37 parties, the matter may be stayed while the parties proceed with mediation or arbitration upon
38 terms agreed to by the parties. The final decision of the administrative hearing commission shall
39 be subject to judicial review in the circuit court of the county involved. In the event a valuation
40 of subclass (1) real property within any county with a charter form of government, or within a
41 city not within a county, is made by a computer, computer-assisted method or a computer
42 program, the burden of proof, supported by clear, convincing and cogent evidence to sustain such
43 valuation, shall be on the assessor at any hearing or appeal. In any such county, unless the
44 assessor proves otherwise, there shall be a presumption that the assessment was made by a

45 computer, computer-assisted method or a computer program. Such evidence shall include, but
46 shall not be limited to, the following:

47 (1) The findings of the assessor based on an appraisal of the property by generally
48 accepted appraisal techniques; and

49 (2) The purchase prices from sales of at least three comparable properties and the address
50 or location thereof. As used in this [paragraph] **subdivision**, the word "comparable" means that:

51 (a) Such sale was closed at a date relevant to the property valuation; and

52 (b) Such properties are not more than one mile from the site of the disputed property,
53 except where no similar properties exist within one mile of the disputed property, the nearest
54 comparable property shall be used. Such property shall be within five hundred square feet in size
55 of the disputed property, and resemble the disputed property in age, floor plan, number of rooms,
56 and other relevant characteristics.

57 2. Assessors in each county of this state and the city of St. Louis may send personal
58 property assessment forms through the mail.

59 3. The following items of personal property shall each constitute separate subclasses of
60 tangible personal property and shall be assessed and valued for the purposes of taxation at the
61 following percentages of their true value in money:

62 (1) Grain and other agricultural crops in an unmanufactured condition, one-half of one
63 percent;

64 (2) Livestock, twelve percent;

65 (3) Farm machinery, twelve percent;

66 (4) Motor vehicles which are eligible for registration as and are registered as historic
67 motor vehicles pursuant to section 301.131, RSMo, and aircraft which are at least twenty-five
68 years old and which are used solely for noncommercial purposes and are operated less than fifty
69 hours per year or aircraft that are home built from a kit, five percent;

70 (5) Poultry, twelve percent; and

71 (6) Tools and equipment used for pollution control and tools and equipment used in
72 retooling for the purpose of introducing new product lines or used for making improvements to
73 existing products by any company which is located in a state enterprise zone and which is
74 identified by any standard industrial classification number cited in subdivision (6) of section
75 135.200, RSMo, twenty-five percent.

76 4. The person listing the property shall enter a true and correct statement of the property,
77 in a printed blank prepared for that purpose. The statement, after being filled out, shall be signed
78 and either affirmed or sworn to as provided in section 137.155. The list shall then be delivered
79 to the assessor.

80 5. All subclasses of real property, as such subclasses are established in section 4(b) of
81 article X of the Missouri Constitution and defined in section 137.016, shall be assessed at the
82 following percentages of true value:

- 83 (1) For real property in subclass (1), nineteen percent;
- 84 (2) For real property in subclass (2), twelve percent; and
- 85 (3) For real property in subclass (3), thirty-two percent.

86 6. Manufactured homes, as defined in section 700.010, RSMo, which are actually used
87 as dwelling units shall be assessed at the same percentage of true value as residential real
88 property for the purpose of taxation. The percentage of assessment of true value for such
89 manufactured homes shall be the same as for residential real property. If the county collector
90 cannot identify or find the manufactured home when attempting to attach the manufactured home
91 for payment of taxes owed by the manufactured home owner, the county collector may request
92 the county commission to have the manufactured home removed from the tax books, and such
93 request shall be granted within thirty days after the request is made; however, the removal from
94 the tax books does not remove the tax lien on the manufactured home if it is later identified or
95 found. A manufactured home located in a manufactured home rental park, rental community or
96 on real estate not owned by the manufactured home owner shall be considered personal property.
97 A manufactured home located on real estate owned by the manufactured home owner may be
98 considered real property.

99 7. Each manufactured home assessed shall be considered a parcel for the purpose of
100 reimbursement pursuant to section 137.750, unless the manufactured home has been converted
101 to real property in compliance with section 700.111, RSMo, and assessed as a realty
102 improvement to the existing real estate parcel.

103 8. Any amount of tax due and owing based on the assessment of a manufactured home
104 shall be included on the personal property tax statement of the manufactured home owner unless
105 the manufactured home has been converted to real property in compliance with section 700.111,
106 RSMo, in which case the amount of tax due and owing on the assessment of the manufactured
107 home as a realty improvement to the existing real estate parcel shall be included on the real
108 property tax statement of the real estate owner.

109 9. The assessor of each county and each city not within a county shall use the trade-in
110 value published in the October issue of the National Automobile Dealers' Association Official
111 Used Car Guide, or its successor publication, as the recommended guide of information for
112 determining the true value of motor vehicles described in such publication. In the absence of a
113 listing for a particular motor vehicle in such publication, the assessor shall use such information
114 or publications which in the assessor's judgment will fairly estimate the true value in money of
115 the motor vehicle.

116 10. Before the assessor may increase the assessed valuation of any parcel of subclass (1)
117 real property by more than fifteen percent since the last assessment, excluding increases due to
118 new construction or improvements, the assessor shall conduct a physical inspection of such
119 property.

120 11. If a physical inspection is required, pursuant to subsection 10 of this section, the
121 assessor shall notify the property owner of that fact in writing and shall provide the owner clear
122 written notice of the owner's rights relating to the physical inspection. If a physical inspection
123 is required, the property owner may request that an interior inspection be performed during the
124 physical inspection. The owner shall have no less than thirty days to notify the assessor of a
125 request for an interior physical inspection.

126 12. A physical inspection, as required by subsection 10 of this section, shall include, but
127 not be limited to, an on-site personal observation and review of all exterior portions of the land
128 and any buildings and improvements to which the inspector has or may reasonably and lawfully
129 gain external access, and shall include an observation and review of the interior of any buildings
130 or improvements on the property upon the timely request of the owner pursuant to subsection 11
131 of this section. Mere observation of the property via a "drive-by inspection" or the like shall not
132 be considered sufficient to constitute a physical inspection as required by this section.

133 13. The provisions of subsections 11 and 12 of this section shall only apply in any county
134 with a charter form of government with more than one million inhabitants.

135 14. A county or city collector may accept credit cards as proper form of payment of
136 outstanding property tax or license due. No county or city collector may charge surcharge for
137 payment by credit card which exceeds the fee or surcharge charged by the credit card bank,
138 processor, or issuer for its service. A county or city collector may accept payment by electronic
139 transfers of funds in payment of any tax or license and charge the person making such payment
140 a fee equal to the fee charged the county by the bank, processor, or issuer of such electronic
141 payment.

142 15. Any county or city not within a county in this state may, by an affirmative vote of
143 the governing body of such county, opt out of the provisions of this section and sections 137.073,
144 138.060, and 138.100, RSMo, as enacted by house bill no. 1150 of the ninety-first general
145 assembly, second regular session and section 137.073 as modified by [this act] **house committee**
146 **substitute for senate substitute for senate committee substitute for senate bill no. 960,**
147 **ninety-second general assembly, second regular session,** for the next year of the general
148 reassessment, prior to January first of any year. No county or city not within a county shall
149 exercise this opt-out provision after implementing the provisions of this section and sections
150 137.073, 138.060, and 138.100, RSMo, as enacted by house bill no. 1150 of the ninety-first
151 general assembly, second regular session and section 137.073 as modified by [this act] **house**

152 **committee substitute for senate substitute for senate committee substitute for senate bill**
153 **no. 960, ninety-second general assembly, second regular session**, in a year of general
154 reassessment. For the purposes of applying the provisions of this subsection, a political
155 subdivision contained within two or more counties where at least one of such counties has opted
156 out and at least one of such counties has not opted out shall calculate a single tax rate as in effect
157 prior to the enactment of house bill no. 1150 of the ninety-first general assembly, second regular
158 session. A governing body of a city not within a county or a county that has opted out under the
159 provisions of this subsection may choose to implement the provisions of this section and sections
160 137.073, 138.060, and 138.100, RSMo, as enacted by house bill no. 1150 of the ninety-first
161 general assembly, second regular session, and section 137.073 as modified by [this act] **house**
162 **committee substitute for senate substitute for senate committee substitute for senate bill**
163 **no. 960, ninety-second general assembly, second regular session**, for the next year of general
164 reassessment, by an affirmative vote of the governing body prior to December thirty-first of any
165 year.

166 16. The governing body of any city of the third classification with more than twenty-six
167 thousand three hundred but fewer than twenty-six thousand seven hundred inhabitants located
168 in any county that has exercised its authority to opt out under subsection 15 of this section may
169 levy separate and differing tax rates for real and personal property only if such city bills and
170 collects its own property taxes or satisfies the entire cost of the billing and collection of such
171 separate and differing tax rates. Such separate and differing rates shall not exceed such city's tax
172 rate ceiling.

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