

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2393
94TH GENERAL ASSEMBLY

Reported from the Committee on Economic Development, Tourism and Local Government, April 24, 2008, with recommendation that the Senate Committee Substitute do pass.

5383S.04C

TERRY L. SPIELER, Secretary.

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Section A. Sections 135.950, 135.967, and 137.115, RSMo, are repealed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

135.950. The following terms, whenever used in sections 135.950 to
2 135.970 mean:

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

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

12 [(2)] (3) "Board", an enhanced enterprise zone board established
13 pursuant to section 135.957;

14 [(3)] (4) "Commencement of commercial operations" shall be deemed to
15 occur during the first taxable year for which the new business facility is first put
16 into use by the taxpayer in the enhanced business enterprise in which the

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

17 taxpayer intends to use the new business facility;

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

32 [(4)] **(6) "Department", the department of economic development;**

33 [(5)] **(7) "Director", the director of the department of economic**
34 **development;**

35 [(6)] **(8) "Employee", a person employed by the enhanced business**
36 **enterprise that is scheduled to work an average of at least one thousand hours**
37 **per year, and such person at all times has health insurance offered to him or her,**
38 **which is partially paid for by the employer;**

39 [(7)] **(9) "Enhanced business enterprise", an industry or one of a cluster**
40 **of industries that is either:**

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

43 (b) Will have an impact on industry cluster development, as identified by
44 the governing authority in its application for designation of an enhanced
45 enterprise zone and approved by the department; but excluding gambling
46 establishments (NAICS industry group 7132), retail trade (NAICS sectors 44 and
47 45), educational services (NAICS sector 61), religious organizations (NAICS
48 industry group 8131), public administration (NAICS sector 92), and food and
49 drinking places (NAICS subsector 722), however, notwithstanding provisions of
50 this section to the contrary, headquarters or administrative offices of an
51 otherwise excluded business may qualify for benefits if the offices serve a
52 multistate territory. In the event a national, state, or regional headquarters

53 operation is not the predominant activity of a project facility, the new jobs and
54 investment of such headquarters operation is considered eligible for benefits
55 under this section if the other requirements are satisfied. Service industries may
56 be eligible only if a majority of its annual revenues will be derived from out of the
57 state;

58 [(8)] (10) "Existing business facility", any facility in this state which was
59 employed by the taxpayer claiming the credit in the operation of an enhanced
60 business enterprise immediately prior to an expansion, acquisition, addition, or
61 replacement;

62 [(9)] (11) "Facility", any building used as an enhanced business
63 enterprise located within an enhanced enterprise zone, including the land on
64 which the facility is located and all machinery, equipment, and other real and
65 depreciable tangible personal property acquired for use at and located at or
66 within such facility and used in connection with the operation of such facility;

67 [(10)] (12) "Facility base employment", the greater of the number of
68 employees located at the facility on the date of the notice of intent, or for the
69 twelve-month period prior to the date of the notice of intent, the average number
70 of employees located at the facility, or in the event the project facility has not
71 been in operation for a full twelve-month period, the average number of
72 employees for the number of months the facility has been in operation prior to the
73 date of the notice of intent;

74 [(11)] (13) "Facility base payroll", the total amount of taxable wages paid
75 by the enhanced business enterprise to employees of the enhanced business
76 enterprise located at the facility in the twelve months prior to the notice of intent,
77 not including the payroll of owners of the enhanced business enterprise unless
78 the enhanced business enterprise is participating in an employee stock ownership
79 plan. For the purposes of calculating the benefits under this program, the
80 amount of base payroll shall increase each year based on the consumer price
81 index or other comparable measure, as determined by the department;

82 [(12)] (14) "Governing authority", the body holding primary legislative
83 authority over a county or incorporated municipality;

84 [(13)] (15) **"Mega-project", any manufacturing or assembling**
85 **facility, approved by the department for construction and operation**
86 **within an enhanced enterprise zone, which satisfies the following:**

87 (a) **The new capital investment is projected to exceed three**
88 **hundred million dollars over a period of eight years from the date of**

89 **approval by the department;**

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

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

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

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

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

105 ~~[(14)]~~ **(17)** "New business facility", a facility that satisfies the following
106 requirements:

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

118 (b) Such facility is acquired by, or leased to, the taxpayer after December
119 31, 2004. A facility shall be deemed to have been acquired by, or leased to, the
120 taxpayer after December 31, 2004, if the transfer of title to the taxpayer, the
121 transfer of possession pursuant to a binding contract to transfer title to the
122 taxpayer, or the commencement of the term of the lease to the taxpayer occurs
123 after December 31, 2004;

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

125 and such facility was employed immediately prior to the acquisition by another
126 taxpayer in the operation of an enhanced business enterprise, the operation of the
127 same or a substantially similar enhanced business enterprise is not continued by
128 the taxpayer at such facility; and

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

131 [(15)] **(18)** "New business facility employee", an employee of the taxpayer
132 in the operation of a new business facility during the taxable year for which the
133 credit allowed by section 135.967 is claimed, except that truck drivers and rail
134 and barge vehicle operators and other operators of rolling stock for hire shall not
135 constitute new business facility employees;

136 [(16)] **(19)** "New business facility investment", the value of real and
137 depreciable tangible personal property, acquired by the taxpayer as part of the
138 new business facility, which is used by the taxpayer in the operation of the new
139 business facility, during the taxable year for which the credit allowed by 135.967
140 is claimed, except that trucks, truck-trailers, truck semitrailers, rail vehicles,
141 barge vehicles, aircraft and other rolling stock for hire, track, switches, barges,
142 bridges, tunnels, and rail yards and spurs shall not constitute new business
143 facility investments. The total value of such property during such taxable year
144 shall be:

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

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

157 [(17)] **(20)** "New job", the number of employees located at the facility that
158 exceeds the facility base employment less any decrease in the number of the
159 employees at related facilities below the related facility base employment. No job
160 that was created prior to the date of the notice of intent shall be deemed a new

161 job;

162 [(18)] **(21)** "Notice of intent", a form developed by the department which
163 is completed by the enhanced business enterprise and submitted to the
164 department which states the enhanced business enterprise's intent to hire new
165 jobs and request benefits under such program;

166 [(19)] **(22)** "Related facility", a facility operated by the enhanced business
167 enterprise or a related company in this state that is directly related to the
168 operation of the project facility;

169 [(20)] **(23)** "Related facility base employment", the greater of:

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

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

175 [(21)] **(24)** "Related taxpayer":

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

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

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

190 [(22)] **(25)** "Replacement business facility", a facility otherwise described
191 in subdivision [(14)] **(17)** of this section, hereafter referred to in this subdivision
192 as "new facility", which replaces another facility, hereafter referred to in this
193 subdivision as "old facility", located within the state, which the taxpayer or a
194 related taxpayer previously operated but discontinued operating on or before the
195 close of the first taxable year for which the credit allowed by this section is
196 claimed. A new facility shall be deemed to replace an old facility if the following

197 conditions are met:

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

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

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

213 [(23)] **(26)** "Same or substantially similar enhanced business enterprise",
214 an enhanced business enterprise in which the nature of the products produced or
215 sold, or activities conducted, are similar in character and use or are produced,
216 sold, performed, or conducted in the same or similar manner as in another
217 enhanced business enterprise.

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

7 2. Notwithstanding any provision of law to the contrary, any taxpayer who
8 establishes a new business facility in an enhanced enterprise zone and is awarded
9 state tax credits under this section may not also receive tax credits under sections
10 135.100 to 135.150, sections 135.200 to [135.268] **135.286**, or section 135.535,
11 **and may not simultaneously receive tax credits under sections 620.1875**
12 **to 620.1890, RSMo, at the same facility.**

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

14 (1) The number of new business facility employees engaged or maintained
15 in employment at the new business facility for the taxable year for which the

16 credit is claimed equals or exceeds two; and

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

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

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

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

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

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

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

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

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

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

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

50 (2) The taxpayer's investment in the expansion and in the original facility
51 prior to expansion shall be determined in the manner provided in subdivision

52 [(14)] (19) of section 135.950.

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

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

83 9. For the purpose of computing the credit allowed by this section in the
84 case of a facility which qualifies as a new business facility pursuant to subsection
85 6 of this section, and in the case of a new business facility which satisfies the
86 requirements of paragraph (c) of subdivision [(14)] (17) of section 135.950 or
87 subdivision [(22)] (25) of section 135.950, the amount of the taxpayer's new

88 business facility investment in such facility shall be reduced by the average
89 amount, computed as provided in subdivision [(14)] **(19)** of section 135.950 for
90 new business facility investment, of the investment of the taxpayer, or related
91 taxpayer immediately preceding such expansion or replacement or at the time of
92 acquisition. Furthermore, the amount of the taxpayer's new business facility
93 investment shall also be reduced by the amount of investment employed by the
94 taxpayer or related taxpayer which was subsequently transferred to the new
95 business facility from another Missouri facility and for which credits authorized
96 in this section are not being earned, whether such credits are earned because of
97 an expansion, acquisition, relocation, or the establishment of a new facility.

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

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

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

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

115 14. Prior to the issuance of tax credits, the department shall verify
116 through the department of revenue, or any other state department, that the tax
117 credit applicant does not owe any delinquent income, sales, or use tax or interest
118 or penalties on such taxes, or any delinquent fees or assessments levied by any
119 state department and through the department of insurance that the applicant
120 does not owe any delinquent insurance taxes. Such delinquency shall not affect
121 the authorization of the application for such tax credits, except that the amount
122 of credits issued shall be reduced by the applicant's tax delinquency. If the
123 department of revenue or the department of insurance, or any other state

124 department, concludes that a taxpayer is delinquent after June fifteenth but
125 before July first of any year and the application of tax credits to such delinquency
126 causes a tax deficiency on behalf of the taxpayer to arise, then the taxpayer shall
127 be granted thirty days to satisfy the deficiency in which interest, penalties, and
128 additions to tax shall be tolled. After applying all available credits toward a tax
129 delinquency, the administering agency shall notify the appropriate department,
130 and that department shall update the amount of outstanding delinquent tax owed
131 by the applicant. If any credits remain after satisfying all insurance, income,
132 sales, and use tax delinquencies, the remaining credits shall be issued to the
133 applicant, subject to the restrictions of other provisions of law.

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

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

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

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

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

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

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

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

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

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

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

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

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

60 (3) A projected specific minimum positive internal rate of return
61 over the length of the project, as calculated by the repayment amount,
62 as validated by the market feasibility analysis, less credits issued, and
63 an increased specific minimum rate of return calculated by the
64 repayment amount plus fiscal benefit less the credits issued; and

65 (4) A statement that no less than eighty percent of contractors
66 employed by the taxpayer for the construction of the facility required
67 under subdivision (2) of this section shall be Missouri-based employers.

68 4. Upon approval of an application by the department, tax
69 credits shall be issued annually for a period not to exceed twenty-two
70 years from the commencement of commercial operations of the mega-
71 project. The twenty-two-year period for the issuance of mega-project
72 tax credits may extend beyond the expiration of the enhanced
73 enterprise zone. The maximum percentage of the annual payroll of the
74 taxpayer for new jobs located at the mega-project which may be
75 approved or issued by the department for tax credits shall not exceed:

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

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

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

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

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

82 In no event shall the department issue more than forty million dollars
83 annually in mega-project tax credits to any taxpayer. The department
84 shall issue a schedule setting forth maximum year-by-year credits
85 approved by the department. In any given year, the amount of tax
86 credits issued shall be the lesser of the amount identified in the
87 schedule, which shall not exceed forty million dollars, or the applicable
88 annual payroll percentage.

89 5. Tax credits issued under this section may be claimed against
90 the tax imposed by chapter 143, RSMo, excluding withholding tax
91 imposed by sections 143.191 to 143.265, RSMo. For taxpayers with flow-
92 through tax treatment of its members, partners, or shareholders, the
93 credit shall be allowed to members, partners, or shareholders in
94 proportion to their share of ownership on the last day of the taxpayer's
95 tax period. The director of revenue shall issue a refund to a taxpayer
96 to the extent the amount of credits allowed in this section exceeds the
97 amount of the taxpayer's income tax liability in the year redemption is
98 authorized. An owner of tax credits issued under this section shall not
99 be required to have any Missouri income tax liability in order to
100 redeem such tax credits and receive a refund. The director of revenue
101 shall prepare a form to permit the owner of such tax credits to obtain

102 a refund.

103 6. Certificates of tax credits authorized under this section may
104 be transferred, sold, or assigned by filing a notarized endorsement
105 thereof with the department that names the transferee, the amount of
106 tax credit transferred, and the value received for the credit, as well as
107 any other information reasonably requested by the department. Upon
108 such transfer, sale, or assignment, the transferee shall be the owner of
109 such tax credits entitled to claim the tax credits or any refunds with
110 respect thereto issued to the taxpayer. Tax credits may not be carried
111 forward past the year of issuance. Tax credits authorized by this
112 section may not be pledged or used to secure any bonds or other
113 indebtedness issued by the state or any political subdivision of the
114 state. Once such tax credits have been issued, nothing shall prohibit
115 the owner of the tax credits from pledging the tax credits to any lender
116 or other third-party.

117 7. Any taxpayer issued tax credits under this section shall
118 provide an annual report to the department of the number of new jobs
119 located at the mega-project, the new annual payroll of such new jobs,
120 and such other information as may be required by the department to
121 document the basis for benefits under this section. The department
122 may withhold the approval of the annual issuance of any tax credits
123 until it is satisfied that proper documentation has been provided, and
124 shall reduce the tax credits to reflect any reduction in new payroll. If
125 the department determines the average wage is below the county
126 average wage, or the taxpayer has not maintained employee health
127 insurance as required, the taxpayer shall not receive tax credits for
128 that year.

129 8. Notwithstanding any provision of law to the contrary, any
130 taxpayer who is awarded tax credits under this section shall not also
131 receive tax credits under sections 135.100 to 135.150, sections 135.200
132 to 135.286, section 135.535, or sections 620.1875 to 620.1890, RSMo.

133 9. Any action brought in any court contesting the approval of a
134 mega-project and the issuance of the tax credits, or any other action
135 undertaken pursuant to this section related to such mega-project, shall
136 be filed within ninety days following approval of the mega-project by
137 the department.

138 10. Records and documents relating to a proposed mega-project

139 shall be deemed closed records until such time as the application has
140 been approved. Provisions of this subsection to the contrary
141 notwithstanding, records containing business plan information which
142 may endanger the competitiveness of the business shall remain closed.

143 11. Notwithstanding any provision of this section to the contrary,
144 no taxpayer who receives mega-project tax credits authorized under
145 this section or any related taxpayer shall employ, within five years
146 following approval of the mega-project by the department, directly or
147 indirectly:

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

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

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

157 12. After the expiration of the five-year period referenced in
158 subsection 10 of this section, any taxpayer receiving mega-project tax
159 credits authorized under this section shall disclose, in the annual
160 report required under subsection 7 of this section, the names of any
161 employee of the taxpayer who:

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

163 (2) Has ever been a director, deputy director, or a division
164 director of the department of economic development, or an employee
165 of the department of economic development directly involved in the
166 negotiations between the department of economic development and the
167 taxpayer relative to the mega-project; or

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

137.115. 1. All other laws to the contrary notwithstanding, the assessor
2 or the assessor's deputies in all counties of this state including the city of St.
3 Louis shall annually make a list of all real and tangible personal property taxable
4 in the assessor's city, county, town or district. Except as otherwise provided in
5 subsection 3 of this section and section 137.078, the assessor shall annually

6 assess all personal property at thirty-three and one-third percent of its true value
7 in money as of January first of each calendar year. The assessor shall annually
8 assess all real property, including any new construction and improvements to real
9 property, and possessor interests in real property at the percent of its true value
10 in money set in subsection 5 of this section. **The true value in money of any**
11 **possessor interest in real property in subclass (3), where such real**
12 **property is on or lies within the ultimate airport boundary as shown by**
13 **a federal airport layout plan, as defined by 14 CFR 151.5 of a**
14 **commercial airport having a FAR Part 139 certification and owned by**
15 **a political subdivision, shall be the otherwise applicable true value in**
16 **money of any such possessor interest in real property, less the total**
17 **dollar amount of costs paid by a party, other than the political**
18 **subdivision, towards any new construction or improvements on such**
19 **real property completed after January 1, 2008, and which are included**
20 **in the above-mentioned possessor interest, regardless of the year in**
21 **which such costs were incurred or whether such costs were considered**
22 **in any prior year.** The assessor shall annually assess all real property in the
23 following manner: new assessed values shall be determined as of January first
24 of each odd-numbered year and shall be entered in the assessor's books; those
25 same assessed values shall apply in the following even-numbered year, except for
26 new construction and property improvements which shall be valued as though
27 they had been completed as of January first of the preceding odd-numbered
28 year. The assessor may call at the office, place of doing business, or residence of
29 each person required by this chapter to list property, and require the person to
30 make a correct statement of all taxable tangible personal property owned by the
31 person or under his or her care, charge or management, taxable in the county. On
32 or before January first of each even-numbered year, the assessor shall prepare
33 and submit a two-year assessment maintenance plan to the county governing
34 body and the state tax commission for their respective approval or
35 modification. The county governing body shall approve and forward such plan or
36 its alternative to the plan to the state tax commission by February first. If the
37 county governing body fails to forward the plan or its alternative to the plan to
38 the state tax commission by February first, the assessor's plan shall be considered
39 approved by the county governing body. If the state tax commission fails to
40 approve a plan and if the state tax commission and the assessor and the
41 governing body of the county involved are unable to resolve the differences, in

42 order to receive state cost-share funds outlined in section 137.750, the county or
43 the assessor shall petition the administrative hearing commission, by May first,
44 to decide all matters in dispute regarding the assessment maintenance
45 plan. Upon agreement of the parties, the matter may be stayed while the parties
46 proceed with mediation or arbitration upon terms agreed to by the parties. The
47 final decision of the administrative hearing commission shall be subject to judicial
48 review in the circuit court of the county involved. In the event a valuation of
49 subclass (1) real property within any county with a charter form of government,
50 or within a city not within a county, is made by a computer, computer-assisted
51 method or a computer program, the burden of proof, supported by clear,
52 convincing and cogent evidence to sustain such valuation, shall be on the assessor
53 at any hearing or appeal. In any such county, unless the assessor proves
54 otherwise, there shall be a presumption that the assessment was made by a
55 computer, computer-assisted method or a computer program. Such evidence shall
56 include, but shall not be limited to, the following:

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

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

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

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

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

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

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

76 (2) Livestock, twelve percent;

77 (3) Farm machinery, twelve percent;

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

83 (5) Poultry, twelve percent; and

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

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

94 5. All subclasses of real property, as such subclasses are established in
95 section 4(b) of article X of the Missouri Constitution and defined in section
96 137.016, shall be assessed at the following percentages of true value:

97 (1) For real property in subclass (1), nineteen percent;

98 (2) For real property in subclass (2), twelve percent; and

99 (3) For real property in subclass (3), thirty-two percent.

100 6. Manufactured homes, as defined in section 700.010, RSMo, which are
101 actually used as dwelling units shall be assessed at the same percentage of true
102 value as residential real property for the purpose of taxation. The percentage of
103 assessment of true value for such manufactured homes shall be the same as for
104 residential real property. If the county collector cannot identify or find the
105 manufactured home when attempting to attach the manufactured home for
106 payment of taxes owed by the manufactured home owner, the county collector
107 may request the county commission to have the manufactured home removed from
108 the tax books, and such request shall be granted within thirty days after the
109 request is made; however, the removal from the tax books does not remove the tax
110 lien on the manufactured home if it is later identified or found. A manufactured
111 home located in a manufactured home rental park, rental community or on real
112 estate not owned by the manufactured home owner shall be considered personal
113 property. A manufactured home located on real estate owned by the

114 manufactured home owner may be considered real property.

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

119 8. Any amount of tax due and owing based on the assessment of a
120 manufactured home shall be included on the personal property tax statement of
121 the manufactured home owner unless the manufactured home has been converted
122 to real property in compliance with section 700.111, RSMo, in which case the
123 amount of tax due and owing on the assessment of the manufactured home as a
124 realty improvement to the existing real estate parcel shall be included on the real
125 property tax statement of the real estate owner.

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

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

138 11. If a physical inspection is required, pursuant to subsection 10 of this
139 section, the assessor shall notify the property owner of that fact in writing and
140 shall provide the owner clear written notice of the owner's rights relating to the
141 physical inspection. If a physical inspection is required, the property owner may
142 request that an interior inspection be performed during the physical
143 inspection. The owner shall have no less than thirty days to notify the assessor
144 of a request for an interior physical inspection.

145 12. A physical inspection, as required by subsection 10 of this section,
146 shall include, but not be limited to, an on-site personal observation and review
147 of all exterior portions of the land and any buildings and improvements to which
148 the inspector has or may reasonably and lawfully gain external access, and shall
149 include an observation and review of the interior of any buildings or

150 improvements on the property upon the timely request of the owner pursuant to
151 subsection 11 of this section. Mere observation of the property via a "drive-by
152 inspection" or the like shall not be considered sufficient to constitute a physical
153 inspection as required by this section.

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

157 14. A county or city collector may accept credit cards as proper form of
158 payment of outstanding property tax or license due. No county or city collector
159 may charge surcharge for payment by credit card which exceeds the fee or
160 surcharge charged by the credit card bank, processor, or issuer for its service. A
161 county or city collector may accept payment by electronic transfers of funds in
162 payment of any tax or license and charge the person making such payment a fee
163 equal to the fee charged the county by the bank, processor, or issuer of such
164 electronic payment.

165 15. Any county or city not within a county in this state may, by an
166 affirmative vote of the governing body of such county, opt out of the provisions of
167 this section and sections 137.073, 138.060, and 138.100, RSMo, as enacted by
168 house bill no. 1150 of the ninety-first general assembly, second regular session
169 and section 137.073 as modified by [this act] **house committee substitute for**
170 **senate substitute for senate committee substitute for senate bill no. 960,**
171 **ninety-second general assembly, second regular session,** for the next year
172 of the general reassessment, prior to January first of any year. No county or city
173 not within a county shall exercise this opt-out provision after implementing the
174 provisions of this section and sections 137.073, 138.060, and 138.100, RSMo, as
175 enacted by house bill no. 1150 of the ninety-first general assembly, second regular
176 session and section 137.073 as modified by [this act] **house committee**
177 **substitute for senate substitute for senate committee substitute for**
178 **senate bill no. 960, ninety-second general assembly, second regular**
179 **session,** in a year of general reassessment. For the purposes of applying the
180 provisions of this subsection, a political subdivision contained within two or more
181 counties where at least one of such counties has opted out and at least one of
182 such counties has not opted out shall calculate a single tax rate as in effect prior
183 to the enactment of house bill no. 1150 of the ninety-first general assembly,
184 second regular session. A governing body of a city not within a county or a
185 county that has opted out under the provisions of this subsection may choose to

186 implement the provisions of this section and sections 137.073, 138.060, and
187 138.100, RSMo, as enacted by house bill no. 1150 of the ninety-first general
188 assembly, second regular session, and section 137.073 as modified by [this act]
189 **house committee substitute for senate substitute for senate committee**
190 **substitute for senate bill no. 960, ninety-second general assembly,**
191 **second regular session**, for the next year of general reassessment, by an
192 affirmative vote of the governing body prior to December thirty-first of any year.

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

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