

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2026
95TH GENERAL ASSEMBLY

4908L.02C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 135.950, 135.953, 135.957, 135.960, 135.963, and 135.967, RSMo, and to enact in lieu thereof seven 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Section A. Sections 135.950, 135.953, 135.957, 135.960, 135.963, and 135.967, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 135.950, 135.953, 135.957, 135.960, 135.963, 135.967, and 135.969, to read as follows:

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

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

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

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

(4) "**Certified industrial zone**", an area of real property that:

(a) Encompasses not less than one hundred acres that has been approved as a certified site by the department;

(b) Has been found by ordinance to be blighted by the governing authority; and

(c) Is located in a census tract which has a poverty rate of twenty percent or more, or for which the median income that is below eighty percent of the greater than:

a. Statewide median income; or

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 **b. Metropolitan median income for the metropolitan statistical area in which the**
18 **certified industrial zone is located;**

19 **(5) "Certified site", an area of property designated as a certified site by the**
20 **department under the certified sites program;**

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

24 **[(5)] (7) "County average wage",** the average wages in each county as determined by the
25 department for the most recently completed full calendar year. However, if the computed county
26 average wage is above the statewide average wage, the statewide average wage shall be deemed
27 the county average wage for such county for the purpose of determining eligibility. The
28 department shall publish the county average wage for each county at least annually.
29 Notwithstanding the provisions of this subdivision to the contrary, for any taxpayer that in
30 conjunction with their project is relocating employees from a Missouri county with a higher
31 county average wage, such taxpayer shall obtain the endorsement of the governing body of the
32 community from which jobs are being relocated or the county average wage for their project shall
33 be the county average wage for the county from which the employees are being relocated;

34 **[(6)] (8) "Department",** the department of economic development;

35 **[(7)] (9) "Director",** the director of the department of economic development;

36 **[(8)] (10) "Employee",** a person employed by the enhanced business enterprise that is
37 scheduled to work an average of at least one thousand hours per year, and such person at all
38 times has health insurance offered to him or her, which is partially paid for by the employer;

39 **[(9)] (11) "Enhanced business enterprise",** an industry or one of a cluster of industries
40 that is either:

41 (a) Identified by the department as critical to the state's economic security and growth,
42 **and in the case of a business enterprise located in a certified industrial zone, will include**
43 **data processing, hosting, and related services (NAICS 518210) and internet publishing,**
44 **broadcasting, and web search portals (NAICS 519130); [or]**

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

53 headquarters 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 under this section
55 if the other requirements are satisfied. Service industries may be eligible only if a majority of
56 its annual revenues will be derived from out of the state; **or**

57 **(c) In the case of a certified industrial zone, will include a private entity that has**
58 **improved all or a portion of the area within an enhanced enterprise zone to prepare the site**
59 **for a business enterprise that otherwise qualifies under paragraph (a) or (b) of this**
60 **subdivision;**

61 [(10)] **(12)** "Existing business facility", any facility in this state which was employed by
62 the taxpayer claiming the credit in the operation of an enhanced business enterprise immediately
63 prior to an expansion, acquisition, addition, or replacement;

64 [(11)] **(13)** "Facility", any building used as an enhanced business enterprise located
65 within an enhanced enterprise zone, including the land on which the facility is located and all
66 machinery, equipment, and other real and depreciable tangible personal property acquired for use
67 at and located at or within such facility and used in connection with the operation of such
68 facility;

69 [(12)] **(14)** "Facility base employment", the greater of the number of employees located
70 at the facility on the date of the notice of intent, or for the twelve-month period prior to the date
71 of the notice of intent, the average number of employees located at the facility, or in the event
72 the project facility has not been in operation for a full twelve-month period, the average number
73 of employees for the number of months the facility has been in operation prior to the date of the
74 notice of intent;

75 [(13)] **(15)** "Facility base payroll", the total amount of taxable wages paid by the
76 enhanced business enterprise to employees of the enhanced business enterprise located at the
77 facility in the twelve months prior to the notice of intent, not including the payroll of owners of
78 the enhanced business enterprise unless the enhanced business enterprise is participating in an
79 employee stock ownership plan. For the purposes of calculating the benefits under this program,
80 the amount of base payroll shall increase each year based on the consumer price index or other
81 comparable measure, as determined by the department;

82 [(14)] **(16)** "Governing authority", the body holding primary legislative authority over
83 a county or incorporated municipality;

84 [(15)] **(17)** "Megaproject", any manufacturing or assembling facility, approved by the
85 department for construction and operation within an enhanced enterprise zone, which satisfies
86 the following:

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

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

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

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

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

96 [(16)] (18) "NAICS", the [1997] 2007 edition of the North American Industry
97 Classification System as prepared by the Executive Office of the President, Office of
98 Management and Budget. Any NAICS sector, subsector, industry group or industry identified
99 in this section shall include its corresponding classification in subsequent federal industry
100 classification systems;

101 [(17)] (19) "New business facility", a facility that satisfies the following requirements:

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

111 (b) Such facility is acquired by, or leased to, the taxpayer after December 31, 2004. A
112 facility shall be deemed to have been acquired by, or leased to, the taxpayer after December 31,
113 2004, if the transfer of title to the taxpayer, the transfer of possession pursuant to a binding
114 contract to transfer title to the taxpayer, or the commencement of the term of the lease to the
115 taxpayer occurs after December 31, 2004;

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

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

122

123 **Notwithstanding anything to the contrary in this subdivision, in the case of a private party**
124 **that has improved a certified industrial zone as described in paragraph (c) of subdivision**

125 **(11) of this section, any such improvements made or constructed to prepare all or a portion**
126 **of the site shall constitute a new business facility, and any party acquiring all or a portion**
127 **of such new business facility may elect to assume the obligations of such private party upon**
128 **terms acceptable to the department and shall be deemed to constitute the prior taxpayer;**

129 [(18)] **(20)** "New business facility employee", an employee of the taxpayer in the
130 operation of a new business facility during the taxable year for which the credit allowed by
131 section 135.967 **or section 135.969** is claimed, except that truck drivers and rail and barge
132 vehicle operators and other operators of rolling stock for hire shall not constitute new business
133 facility employees;

134 [(19)] **(21)** "New business facility investment", the value of real and depreciable tangible
135 personal property, acquired by the taxpayer **or on its behalf in the case of a lease**, as part of the
136 new business facility, which is used by the taxpayer in the operation of the new business facility,
137 during the taxable year for which the credit allowed by **section 135.967 or 135.969** is claimed,
138 except that trucks, truck-trailers, truck semitrailers, rail vehicles, barge vehicles, aircraft and
139 other rolling stock for hire, track, switches, barges, bridges, tunnels, and rail yards and spurs shall
140 not constitute new business facility investments. The total value of such property during such
141 taxable year shall be:

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

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

152 [(20)] **(22)** "New job", the number of employees located at the facility that exceeds the
153 facility base employment less any decrease in the number of the employees at related facilities
154 below the related facility base employment. No job that was created prior to the date of the
155 notice of intent shall be deemed a new job;

156 [(21)] **(23)** "Notice of intent", a form developed by the department which is completed
157 by the enhanced business enterprise and submitted to the department which states the enhanced
158 business enterprise's intent to hire new jobs and request benefits under such program;

159 [(22)] **(24)** "Related facility", a facility operated by the enhanced business enterprise or
160 a related company in this state that is directly related to the operation of the project facility;

- 161 [(23)] **(25)** "Related facility base employment", the greater of:
- 162 (a) The number of employees located at all related facilities on the date of the notice of
- 163 intent; or
- 164 (b) For the twelve-month period prior to the date of the notice of intent, the average
- 165 number of employees located at all related facilities of the enhanced business enterprise or a
- 166 related company located in this state;
- 167 [(24)] **(26)** "Related taxpayer":
- 168 (a) A corporation, partnership, trust, or association controlled by the taxpayer;
- 169 (b) An individual, corporation, partnership, trust, or association in control of the
- 170 taxpayer; or
- 171 (c) A corporation, partnership, trust or association controlled by an individual,
- 172 corporation, partnership, trust or association in control of the taxpayer. "Control of a
- 173 corporation" shall mean ownership, directly or indirectly, of stock possessing at least fifty
- 174 percent of the total combined voting power of all classes of stock entitled to vote, "control of a
- 175 partnership or association" shall mean ownership of at least fifty percent of the capital or profits
- 176 interest in such partnership or association, and "control of a trust" shall mean ownership, directly
- 177 or indirectly, of at least fifty percent of the beneficial interest in the principal or income of such
- 178 trust; ownership shall be determined as provided in Section 318 of the Internal Revenue Code
- 179 of 1986, as amended;
- 180 [(25)] **(27)** "Replacement business facility", a facility otherwise described in subdivision
- 181 [(17)] **(19)** of this section, hereafter referred to in this subdivision as "new facility", which
- 182 replaces another facility, hereafter referred to in this subdivision as "old facility", located within
- 183 the state, which the taxpayer or a related taxpayer previously operated but discontinued operating
- 184 on or before the close of the first taxable year for which the credit allowed by this section is
- 185 claimed. A new facility shall be deemed to replace an old facility if the following conditions are
- 186 met:
- 187 (a) The old facility was operated by the taxpayer or a related taxpayer during the
- 188 taxpayer's or related taxpayer's taxable period immediately preceding the taxable year in which
- 189 commencement of commercial operations occurs at the new facility; and
- 190 (b) The old facility was employed by the taxpayer or a related taxpayer in the operation
- 191 of an enhanced business enterprise and the taxpayer continues the operation of the same or
- 192 substantially similar enhanced business enterprise at the new facility. Notwithstanding the
- 193 preceding provisions of this subdivision, a facility shall not be considered a replacement business
- 194 facility if the taxpayer's new business facility investment, as computed in subdivision [(19)] **(21)**
- 195 of this section, in the new facility during the tax period for which the credits allowed in section

196 135.967 or **135.969** are claimed exceed one million dollars and if the total number of employees
197 at the new facility exceeds the total number of employees at the old facility by at least two;

198 [(26)] **(28)** "Same or substantially similar enhanced business enterprise", an enhanced
199 business enterprise in which the nature of the products produced or sold, or activities conducted,
200 are similar in character and use or are produced, sold, performed, or conducted in the same or
201 similar manner as in another enhanced business enterprise.

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

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

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

7 (a) Within the state of Missouri, according to the last decennial census or other
8 appropriate source as approved by the director; or

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

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

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

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

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

26 2. Notwithstanding the requirements of subsection 1 of this section to the contrary, an
27 enhanced enterprise zone may be established in an area located within a county for which public
28 and individual assistance has been requested by the governor pursuant to Section 401 of the
29 Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 et seq., for
30 an emergency proclaimed by the governor pursuant to section 44.100, RSMo, due to a natural

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

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

42 4. **Notwithstanding the requirements of subsection 1 of this section to the contrary,**
43 **a certified industrial zone may be designated as an enhanced enterprise zone if the certified**
44 **industrial zone meets the criteria set forth in subdivision (4) of section 135.950.**

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

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

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

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

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

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

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

19 5. **In the case of a certified industrial zone regarding which a finding of blight has**
20 **been made as provided in subdivision (1) of subsection 1 of section 99.810, the commission**
21 **created under section 99.820 may, at the sole option of the governing authority, supplant**
22 **and replace the board established in accordance with subsection 1 of this section, and the**
23 **composition and organization of such commission shall be in accordance with section**
24 **99.820. If the governing authority elects for the commission to serve instead of the board**
25 **established in accordance with subsection 1 of this section, the commission shall fulfill the**
26 **duties of the board established under subsection 6 of this section.**

27 6. The role of the board **or commission, as described in subsection 5 of this section,**
28 shall be to conduct the activities necessary to advise the governing authority on the designation
29 of an enhanced enterprise zone and any other advisory duties as determined by the governing
30 authority. The role of the board after the designation of an enhanced enterprise zone shall be
31 review and assessment of zone activities as it relates to the annual reports as set forth in section
32 135.960.

135.960. 1. Any governing authority that desires to have any portion of a city or
2 unincorporated area of a county under its control designated as an enhanced enterprise zone shall
3 hold a public hearing for the purpose of obtaining the opinion and suggestions of those persons
4 who will be affected by such designation. The governing authority shall notify the director of
5 such hearing at least thirty days prior thereto and shall publish notice of such hearing in a
6 newspaper of general circulation in the area to be affected by such designation at least twenty
7 days prior to the date of the hearing but not more than thirty days prior to such hearing. Such
8 notice shall state the time, location, date, and purpose of the hearing. The director, or the
9 director's designee, shall attend such hearing. **In the alternative, any governing authority that**
10 **has made the necessary findings by ordinance to designate a certified industrial zone as a**
11 **blighted area as contemplated under section 99.825, prior to August 28, 2010, shall not be**
12 **required to conduct an additional public hearing to establish the certified industrial zone**
13 **as an enhanced enterprise zone so long as the governing authority notified the director of**
14 **such hearing, at least thirty days prior thereto and any governing authority that seeks to**
15 **make the necessary finding to designate a certified industrial zone as an enhanced**
16 **enterprise zone after August 28, 2010, may do so under a public hearing required under**
17 **sections 99.820 and 99.825 conducted by the commission, and such public hearing shall**
18 **satisfy the public hearing requirement set forth in subsection 1 of this section so long as the**
19 **governing authority shall notify the director of such hearing at least thirty days prior**
20 **thereto.**

21 2. After a public hearing is held as required in subsection 1 of this section, the governing
22 authority may file a petition with the department requesting the designation of a specific area as
23 an enhanced enterprise zone. Such petition shall include, in addition to a description of the
24 physical, social, and economic characteristics of the area:

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

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

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

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

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

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

46 (7) A description or plan that demonstrates the requirements of subsection 4 of section
47 135.953.

48 3. An enhanced enterprise zone designation shall be effective upon such approval **or**
49 **deemed approval** by the department and shall expire in twenty-five years. **Notwithstanding**
50 **the requirement of subsection 2 of this section to the contrary, any certified industrial zone**
51 **that has been designated as a blighted redevelopment area as contemplated under section**
52 **99.825 by the governing body or any certified industrial zone that has been otherwise**
53 **designated as an enhanced enterprise zone by the governing authority under this section**
54 **shall be deemed approved and designated as an enhanced enterprise zone without further**
55 **approval of or additional action being taken by the department. Such approval of the**
56 **department of the certified industrial zone as an enhanced enterprise zone and the**

57 **designation of the certified industrial zone as an enhanced enterprise zone shall be deemed**
58 **effective when the governing authority provides written notice to the department of its**
59 **intent to establish such enhanced enterprise zone and such notice is accompanied with a**
60 **petition that includes all of the information required by subsection 2 of this section.**

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

135.963. 1. Improvements made to real property as such term is defined in section
2 137.010, RSMo, which are made in an enhanced enterprise zone subsequent to the date such
3 zone or expansion thereto was designated, may, upon approval of an authorizing resolution by
4 the governing authority having jurisdiction of the area in which the improvements are made, be
5 exempt, in whole or in part, from assessment and payment of ad valorem taxes of one or more
6 affected political subdivisions. In addition to enhanced business enterprises, a speculative
7 industrial or warehouse building constructed by a public entity or a private entity if the land is
8 leased by a public entity may be subject to such exemption, **and any improvements undertaken**
9 **by a private party in a certified industrial zone designated as an enhanced enterprise zone**
10 **may also be subject to such exemption.**

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

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

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

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

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

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

42 7. The abatement referred to in this section shall not relieve the assessor or other
43 responsible official from ascertaining the amount of the equalized assessed value of all taxable
44 property annually as required by section 99.855, 99.957, or 99.1042, RSMo, and shall not have
45 the effect of reducing the payments in lieu of taxes referred to in subdivision (2) of subsection
46 1 of section 99.845, RSMo, subdivision (2) of subsection 3 of section 99.957, RSMo, or
47 subdivision (2) of subsection 3 of section 99.1042, RSMo, unless such reduction is set forth in
48 the plan approved by the governing body of the municipality pursuant to subdivision (1) of
49 subsection 1 of section 99.820, section 99.942, or section 99.1027, RSMo.

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. **Notwithstanding the**
6 **provisions of this subsection, the provisions of section 135.969 shall govern the issuance of**
7 **tax credits for a new business facility in a certified industrial zone approved and**
8 **designated as an enhanced enterprise zone, except for the amount of tax credits to be issued**
9 **with respect to such certified industrial zone as provided in subsection 5 of this section.**

10 2. Notwithstanding any provision of law to the contrary, any taxpayer who establishes
11 a new business facility in an enhanced enterprise zone and is awarded state tax credits under this
12 section may not also receive tax credits under sections 135.100 to 135.150, sections 135.200 to
13 135.286, or section 135.535, and may not simultaneously receive tax credits under sections
14 620.1875 to 620.1890, RSMo, at the same facility.

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

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

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

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

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

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

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

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

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

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

36 5. Prior to January 1, 2007, in no event shall the department authorize more than four
37 million dollars annually to be issued for all enhanced business enterprises. After December 31,
38 2006, in no event shall the department authorize more than twenty-four million dollars annually
39 to be issued for all enhanced business enterprises **including any such enhanced business**
40 **enterprises located in certified industrial zones under section 135.969.**

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

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

49 (2) The taxpayer's investment in the expansion and in the original facility prior to
50 expansion shall be determined in the manner provided in subdivision [(19)] (21) of section
51 135.950.

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

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

78 9. For the purpose of computing the credit allowed by this section in the case of a facility
79 which qualifies as a new business facility pursuant to subsection 6 of this section, and in the case
80 of a new business facility which satisfies the requirements of paragraph (c) of subdivision [(17)]
81 **(19)** of section 135.950 or subdivision [(25)] **(27)** of section 135.950, the amount of the
82 taxpayer's new business facility investment in such facility shall be reduced by the average
83 amount, computed as provided in subdivision [(19)] **(21)** of section 135.950 for new business
84 facility investment, of the investment of the taxpayer, or related taxpayer immediately preceding
85 such expansion or replacement or at the time of acquisition. Furthermore, the amount of the
86 taxpayer's new business facility investment shall also be reduced by the amount of investment
87 employed by the taxpayer or related taxpayer which was subsequently transferred to the new

88 business facility from another Missouri facility and for which credits authorized in this section
89 are not being earned, whether such credits are earned because of an expansion, acquisition,
90 relocation, or the establishment of a new facility.

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

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

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

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

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

**135.969. 1. A taxpayer who establishes a new business facility in a certified
2 industrial zone approved or designated as an enhanced enterprise zone shall be allowed a
3 credit, each tax year for up to ten tax years, in an amount determined as set forth in this**

4 section, against the tax imposed by chapter 143, excluding withholding tax imposed by
5 sections 143.191 to 143.265. No taxpayer shall receive multiple ten-year periods for
6 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 a certified industrial zone approved or designated as
9 an enhanced enterprise zone and accepts state tax credits under this section shall not also
10 receive tax credits under sections 135.200 to 135.286 or section 135.535, and shall not
11 simultaneously receive tax credits under sections 620.1875 to 620.1890 at the same facility.

12 3. No credit shall be issued under this section unless:

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

16 (2) The total of all new business facility investments made in connection with a new
17 business facility equals or exceeds a total aggregate expenditure of ten million dollars or
18 if the total of all new business facility investments is less than ten million dollars, the new
19 business facility investment for the taxable year for which the credit is claimed equals or
20 exceeds one million dollars.

21 4. The annual amount of tax credits authorized to be issued for enhanced business
22 enterprise located in a certified industrial zone shall be the sum of the following:

23 (1) A tax credit equal to ten percent of the gross wages of each new business facility
24 employee employed within the enhanced enterprise zone; and

25 (2) A tax credit equal to five percent of new business facility investment within an
26 enhanced enterprise zone.

27 5. As set forth in section 135.967, up to twenty-four million dollars of tax credits
28 shall be authorized annually for issuance of tax credits for all enhanced enterprise zones
29 including any tax credits issued with respect to certified industrial zones of which ten
30 million shall be used exclusively for tax credits in accordance with this section. Once a new
31 business facility meets the threshold criteria set out in subsection 3 of this section, the
32 annual tax credit authorization available for issuance of tax credits for all other enhanced
33 enterprise zones shall be reduced in the amount of tax credits issued to the taxpayer
34 responsible for such qualifying new business facility unless the taxpayer fails to claim such
35 tax credits in the years following the initial qualification. If a new business facility
36 investment qualifies the taxpayer for tax credits in excess of the available annual
37 authorization limit set out in this subsection, the taxpayer may carry such excess new
38 business facility investment amount forward to subsequent years and shall be treated as

39 a new business facility investment for such later years until the taxpayer has received
40 issuance of all tax credits authorized under this section.

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

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

51 (2) The taxpayer's investment in the expansion and in the original facility prior to
52 expansion shall be determined in the manner provided in subdivision (21) of section
53 135.950.

54 7. The number of new business facility employees during any taxable year shall be
55 determined by dividing by twelve the sum of the number of individuals employed on the
56 last business day of each month of such taxable year. If the new business facility is in
57 operation for less than the entire taxable year, the number of new business facility
58 employees shall be determined by dividing the sum of the number of individuals employed
59 on the last business day of each full calendar month during the portion of such taxable year
60 during which the new business facility was in operation by the number of full calendar
61 months during such period. For the purpose of computing the credit allowed by this
62 section in the case of a facility which qualifies as a new business facility under subsection
63 6 of this section, and in the case of a new business facility which satisfies the requirements
64 of paragraph (c) of subdivision (19) or (27) of section 135.950, the number of new business
65 facility employees at such facility shall be reduced by the average number of individuals
66 employed, computed as provided in this subsection, at the facility during the taxable year
67 immediately preceding the taxable year in which such expansion, acquisition, or
68 replacement occurred and shall further be reduced by the number of individuals employed
69 by the taxpayer or related taxpayer that was subsequently transferred to the new business
70 facility from another Missouri facility and for which credits authorized in this section are
71 not being earned, whether such credits are earned because of an expansion, acquisition,
72 relocation, or the establishment of a new facility.

73 8. For the purpose of computing the credit allowed by this section in the case of a
74 facility which qualifies as a new business facility under subsection 6 of this section, and in

75 the case of a new business facility which satisfies the requirements of paragraph (c) of
76 subdivision (19) or (27) of section 135.950, the amount of the taxpayer's new business
77 facility investment in such facility shall be reduced by the average amount, computed as
78 provided in subdivision (21) of section 135.950 for new business facility investment, of the
79 investment of the taxpayer, or related taxpayer immediately preceding such expansion or
80 replacement or at the time of acquisition. Furthermore, the amount of the taxpayer's new
81 business facility investment shall also be reduced by the amount of investment employed
82 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
84 section are not being earned, whether such credits are earned because of an expansion,
85 acquisition, relocation, or the establishment of a new facility.

86 9. 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
88 proportion to their share of ownership on the last day of the taxpayer's tax period.

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

92 11. 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
94 transferee, the amount of tax credit transferred, and the value received for the credit, as
95 well as any other information reasonably requested by the department. The sale price
96 cannot be less than seventy-five percent of the par value of such credits.

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

100 13. Prior to the issuance of tax credits, the department shall verify through the
101 department of revenue, or any other state department, that the tax credit applicant does
102 not owe any delinquent income, sales, or use tax or interest or penalties on such taxes, or
103 any delinquent fees or assessments levied by any state department and through the
104 department of insurance, financial institutions and professional registration that the
105 applicant does not owe any delinquent insurance taxes. Such delinquency shall not affect
106 the authorization of the application for such tax credits, except that the amount of credits
107 issued shall be reduced by the applicant's tax delinquency. If the department of revenue
108 or the department of insurance, financial institutions and professional registration, or any
109 other state department, concludes that a taxpayer is delinquent after June fifteenth but
110 before July first of any year and the application of tax credits to such delinquency causes

111 a tax deficiency on behalf of the taxpayer to arise, then the taxpayer shall be granted thirty
112 days to satisfy the deficiency in which interest, penalties, and additions to tax shall be
113 tolled. After applying all available credits toward a tax delinquency, the administering
114 agency shall notify the appropriate department, and that department shall update the
115 amount of outstanding delinquent tax owed by the applicant. If any credits remain after
116 satisfying all insurance, income, sales, and use tax delinquencies, the remaining credits
117 shall be issued to the applicant, subject to the restrictions of other provisions of law.

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