

FIRST REGULAR SESSION

# HOUSE BILL NO. 840

## 96TH GENERAL ASSEMBLY

---

INTRODUCED BY REPRESENTATIVES JONES (117) (Sponsor), DIEHL, JONES (89), FUNDERBURK,  
NOLTE, TILLEY AND ZERR (Co-sponsors).

1936L.011

D. ADAM CRUMBLISS, Chief Clerk

---

### AN ACT

To amend chapter 135, RSMo, by adding thereto eleven new sections relating to tax incentives to encourage foreign trade.

---

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

Section A. Chapter 135, RSMo, is amended by adding thereto eleven new sections, to  
2 be known as sections 135.1500, 135.1503, 135.1505, 135.1507, 135.1509, 135.1511, 135.1513,  
3 135.1515, 135.1517, 135.1519, and 135.1521, to read as follows:

**135.1500. 1. Sections 135.1500 to 135.1521, shall be known and may be cited as the**  
2 **"Aerotropolis Trade Incentive and Tax Credit Act".**

3 **2. As used in sections 135.1500 to 135.1521, unless the context clearly requires**  
4 **otherwise, the following terms shall mean:**

5 **(1) "Airport", an airport which is owned and operated by a city not within a**  
6 **county;**

7 **(2) "Air export tax credit", the tax credit against the taxes imposed under chapters**  
8 **143, 147, and 148, except for sections 143.191 to 143.265, to be issued by the department**  
9 **to a claiming freight forwarder for the shipment of air cargo on a qualifying outbound**  
10 **flight;**

11 **(3) "Cargo activity", the activities within an eligible facility relating to the storage**  
12 **and distribution of goods and products through all modes of multimodal commerce,**  
13 **including goods and products manufactured or assembled within an eligible facility;**

14 **(4) "Certificate of compliance", a certificate submitted with any application for a**  
15 **tax credit or tax incentive specified in section 135.1513, that shall certify that all requisite**

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.

16 requirements for the issuance of such tax credits and tax incentives have been satisfied for  
17 such eligible facility and shall provide evidence of such satisfaction;

18 (5) "Certificate of occupancy", the certificate for permit issued by a municipality  
19 that permits the commercial use or occupancy of a building or structure;

20 (6) "Chargeable kilo", the shipment of a kilo of freight, as measured by the greater  
21 of:

22 (a) Actual weight; or

23 (b) A dimensional weight, as determined by the conversion factors promulgated by  
24 the International Air Transport Association, on a qualifying outbound flight or a  
25 qualifying inbound flight;

26 (7) "Claiming freight forwarder", the freight forwarder designated as the "agent"  
27 on the airway bill for the qualifying outbound flight for which such air export tax credit  
28 is sought;

29 (8) "Department", the Missouri department of economic development;

30 (9) "Direct all cargo aircraft flight", a flight that flies directly to its destination  
31 without stopping, except to receive fuel and maintenance;

32 (10) "Economic incentive laws", any provision of Missouri law under which  
33 economic incentives are provided to redevelopers of a parcel or parcels to redevelop the  
34 land, such as tax abatement or payments in lieu of taxes, or redevelopment plans or  
35 redevelopment projects approved or adopted which include the use of economic incentives  
36 to redevelop the land;

37 (11) "Eligible costs", the following costs associated with the development in  
38 construction of an eligible facility:

39 (a) Purchase price of real property on which is constructed the eligible facility;

40 (b) Purchase price of structures;

41 (c) Costs of construction of the eligible facility, including necessary site work;

42 (d) Costs of environmental assessments;

43 (e) Closing costs;

44 (f) Real estate brokerage fees;

45 (g) Demolition costs of vacant structures;

46 (h) Maintenance costs prior to the construction of the eligible facility;

47 (i) Costs of title insurance; and

48 (j) Attorneys' fees associated with the acquisition or development of an eligible  
49 facility;

50 (12) "Eligible facility", a qualifying gateway facility, qualifying cold-chain facility,  
51 or qualifying assembly and manufacturing facility;

52           (13) "Eligibility period", the time period, not to exceed eight years, during which  
53 an owner of, or tenant in, or entity operating within, an eligible facility may receive  
54 benefits under section 135.1513. Such time period shall begin to run on the date the  
55 certificate of occupancy is issued for each eligible facility and shall continue for the next  
56 subsequent seven taxable years;

57           (14) "Freight forwarder", a person that assumes responsibility in the ordinary  
58 course of its business for the transportation of cargo from the place of receipt to the place  
59 of destination, including the utilization of a qualifying outbound flight;

60           (15) "Gateway zone", an area designated under the provisions of sections 135.1500  
61 to 135.1521, which shall be within:

62           (a) A foreign trade zone located within fifty miles of an airport;

63           (b) A site of at least one hundred contiguous developable acres located within fifty  
64 miles of an airport; provided, however, such one hundred developable acres need not be  
65 contiguous if the acreage is located within a larger designated urban renewal area or  
66 redevelopment area under economic incentive laws;

67           (c) An area within the boundaries of an airport; or

68           (d) Any area owned or managed by the port authority of a city not within a county;

69           (16) "Interest costs", interest, loan fees, and closing costs;

70           (17) "Level one air cargo activity", where at least sixty percent of the total cargo  
71 activity of an eligible facility consists of:

72           (a) Chargeable kilos shipped from such facility, on a qualifying outbound flight by  
73 the owner of, or any tenant in, such facility; or

74           (b) Chargeable kilos shipped on a qualifying inbound flight to the owner of, or any  
75 tenant in, an eligible facility, whether or not the inbound shipment is stored at any time  
76 within such facility;

77           (18) "Level two air cargo activity", where at least thirty percent of the total cargo  
78 activity of an eligible facility consists of:

79           (a) Chargeable kilos shipped from such facility, on a qualifying outbound flight by  
80 the owner of, or any tenant in, such facility; or

81           (b) Chargeable kilos shipped on a qualifying inbound flight to the owner of, or any  
82 tenant in, an eligible facility, whether or not the inbound shipment is stored at any time  
83 within such facility;

84           (19) "Multimodal commerce", modes of commerce for the shipment of goods or  
85 products, including road transportation, railroad transportation, water transportation or  
86 aircraft transportation;

87           (20) "Municipality", any city, town, village, or county;

88 (21) "New building", a new structure or building for commercial activity, including  
89 furniture, fixtures, and equipment;

90 (22) "Perishable freight", agricultural products, including seeds, garden products,  
91 live animals and processed meat products, such as pork and beef;

92 (23) "Qualifying applicant", an owner of, or tenant in, an eligible facility or an  
93 entity operating in an eligible facility;

94 (24) "Qualifying assembly and manufacturing facility", a new building located  
95 within a gateway zone that is equipped for manufacturing or assembly and:

96 (a) In which a majority of its production components are received through at least  
97 two modes of multimodal commerce; or

98 (b) From which a majority of its finished products are shipped through at least two  
99 modes of such multimodal commerce;

100 (25) "Qualifying cargo activity", meeting or exceeding the requirements for level  
101 one air cargo activity or level two air cargo activity;

102 (26) "Qualifying cold-chain facility", a new building located within a gateway zone  
103 which has within it equipment for maintaining necessary temperatures for the processing,  
104 packaging, or distribution of temperature-sensitive products, provided that at least eighty  
105 percent of the usable square footage of such facility is refrigerated;

106 (27) "Qualifying gateway facility", a new building, located within a gateway zone,  
107 in which qualifying cargo activity occurs, provided that no more than twenty percent of  
108 the usable space within the qualifying gateway facility is devoted to office, retail, or  
109 residential use;

110 (28) "Qualifying inbound flight", an all cargo aircraft flight originating from an  
111 international destination to the airport;

112 (29) "Qualifying interest costs", interest costs incurred on a qualifying loan  
113 provided, however, the interest rate on such loan shall not exceed seven percent per  
114 annum;

115 (30) "Qualifying loan amount", the principal amount of the loan or loans obtained  
116 in connection with the development and construction of an eligible facility not to exceed  
117 sixty percent of the eligible costs of such facility, without regard to the actual principal  
118 amount of such loan or loans;

119 (31) "Qualifying outbound flight", a direct all cargo aircraft flight from the airport  
120 to an international destination.

135.1503. The executive officer of any county or the mayor of a city not within a  
2 county may designate a gateway zone by notifying the department of such designation.

**135.1505. 1. Any county or a city not within a county, with a designated gateway zone, shall establish a board of supervisors and shall select three members to serve on the board. The board shall annually levy special assessments on eligible facilities within the gateway zone, which receive benefits under sections 135.1500 to 135.1521, and shall oversee the use of revenues derived from the special assessments.**

**2. The special assessment on an eligible facility, which receives benefits under sections 135.1500 to 135.1521, shall be twenty cents per rentable square foot of such facility.**

**3. After the payment of any fees related to the approval and collection of the special assessments, the remaining revenues collected from the special assessments shall be utilized as follows:**

**(a) Fifty percent of such revenues shall be annually transferred to the airport to be used to market and promote the cargo activities of the airport under an agreement between a city not within a county and the board. Such agreement shall, at a minimum, provide:**

**a. That the proceeds of the net special assessments shall be placed in a special fund for marketing and promotion of the airport; and**

**b. That the board shall review and approve the annual budget of the airport for such marketing and promotion.**

**(b) The remaining fifty percent of such revenues shall be annually transferred to a tax exempt regional economic development association or associations, selected by the board for the marketing and promotion of the gateway zone. The board shall enter into an agreement or agreements with such tax exempt economic development business association or associations for the marketing and promotion of the gateway zone and shall review and approve the annual budget of such association or associations for such marketing and promotion.**

**135.1507. 1. For all taxable years beginning on or after January 1, 2011, a claiming freight forwarder shall be entitled to an air export tax credit for the shipment of cargo on a qualifying outbound flight in an amount equal to twenty-five cents per chargeable kilo.**

**2. For all taxable years beginning on or after January 1, 2011, a claiming freight forwarder shall be entitled to an air export tax credit for the shipment of perishable freight on a qualifying outbound flight in an amount equal to thirty cents per chargeable kilo.**

**3. No claiming freight forwarder shall receive air export tax credits under both subsections 1 and 2 of this section for a single shipment of goods.**

**4. The department shall index the amount of the air export tax credits to adjust each year depending upon fluctuations in the cost of fuel for over-the-road transportation.**

**135.1509. 1. To receive benefits provided under section 135.1507, a claiming freight forwarder shall file an application with the department. The documentation to be presented by the claiming freight forwarder in such an application shall consist of the master airway bill for the shipment on the qualifying outbound flight for which the claiming freight forwarder is seeking air export tax credits. The department shall establish procedures to allow claiming freight forwarders that file applications for air export tax credits to receive such tax credits within five business days of the departure of the qualifying outbound flight.**

**2. If the fiscal year cap on the issuance of air export tax credits provided under section 135.1511, is met in a given fiscal year, then the amount of such tax credits which have been authorized, but remain unissued, shall be carried forward and issued in the subsequent fiscal year.**

**3. No tax credits provided under this section shall be authorized after August 28, 2019. Any tax credits authorized on or before August 28, 2019, but not issued, may be issued until all such authorized tax credits have been issued.**

**135.1511. The total aggregate amount for air export tax credits authorized under section 135.1507 shall not exceed sixty million dollars. The amount of the air export tax credits issued under section 135.1507 shall not exceed:**

**(1) Three million six hundred thousand dollars for the fiscal year beginning on or after July 1, 2011, but ending on or before June 30, 2012;**

**(2) Four million two hundred thousand dollars for the fiscal year beginning on or after July 1, 2012, but ending on or before June 30, 2013;**

**(3) Five million four hundred thousand dollars for the fiscal year beginning on or after July 1, 2013, but ending on or before June 30, 2014; and**

**(4) The greater of one million two hundred thousand dollars per weekly qualifying outbound flight or three million six hundred thousand dollars for all fiscal years beginning on or after July 1, 2014.**

**The department shall annually determine the number of weekly qualifying outbound flights, which shall be the average number of such flights per week during the month of September of the previous year.**

**135.1513. 1. For all taxable years beginning on or after January 1, 2013, qualifying applicants shall be entitled to the following benefits:**

**(1) Any tenant or entity operating within an eligible facility shall be exempt from income tax under chapter 143 and franchise tax under chapter 148 for each year during**

5 the eligibility period if such facility satisfies the requirements of sections 135.1500 to  
6 135.1521;

7 (2) Any tenant or entity operating within an eligible facility shall be entitled to  
8 retain fifty percent of the state income tax withheld on behalf of employees by such tenant  
9 or entity under section 143.221, for each year during the eligibility period if such facility  
10 satisfies the requirements of sections 135.1500 to 135.1521 without regard to whether a  
11 municipality is to receive the other fifty percent of such state income tax from the  
12 supplemental tax increment financing fund with respect to such property under section  
13 99.845.

14 (3) The owner of any eligible facility with level one air cargo activity shall be  
15 entitled, during the eligibility period, to receive tax credits against the taxes imposed under  
16 chapters 143, 147, and 148, except for sections 143.191 to 143.265, equal to five percent of  
17 the eligible costs for such facility for each year that such facility meets or exceeds level one  
18 air cargo activity volumes. The total amount of tax credits issued for any such facility shall  
19 not exceed twenty-five percent of such facility's eligible costs;

20 (4) The owner of any qualifying gateway facility with level two air cargo activity,  
21 a qualifying assembly and manufacturing facility, or a qualifying cold-chain facility shall  
22 be entitled, during the eligibility period, to receive tax credits against the taxes imposed  
23 under chapters 143, 147, and 148, except for sections 143.191 to 143.265, equal to three  
24 percent of the eligible costs for such facility for each year that such facility satisfies the  
25 requirements of sections 135.1500 to 135.1521. The total amount of tax credits issued for  
26 such facility shall not exceed fifteen percent of such facility's eligible costs;

27 (5) The owner of an eligible facility shall be entitled to receive tax credits against  
28 the taxes imposed under chapters 143, 147, and 148, except for sections 143.191 to 143.265,  
29 from the department equal to seventy-five percent of the qualifying interest costs for a  
30 period of three years during the eligibility period if during such three-year period each  
31 type of facility satisfies the requirements for that type of facility specified in sections  
32 135.1500 to 135.1521, provided that the interest rate for such loans shall not exceed seven  
33 percent per year.

34 2. If an eligible facility receives a certificate of occupancy prior to the sunset of the  
35 program, the owners and tenants of an eligible facility and the entities operating within the  
36 eligible facility may apply for benefits provided under this section for the term of the  
37 eligibility period notwithstanding the sunset of the program prior to the end of the  
38 term of the eligibility period for such facility.

135.1515. 1. In order for the owners or tenants of an eligible facility or the entities  
2 operating within the eligible facility to receive benefits provided under section 135.1513,

3 the eligible facility shall satisfy all applicable requirements provided under sections  
4 135.1500 to 135.1521 by September thirtieth of the calendar year in which an application  
5 is filed under subsection 2 of this section.

6 2. Owners of, or tenants in, eligible facilities and entities operating within an  
7 eligible facility, seeking benefits provided under section 135.1513, shall file applications for  
8 such benefits, accompanied by a certificate of compliance, on or before December thirty-  
9 first of each year. If such facility, relating to which such owners, tenants, and entities are  
10 applying for such tax credits and tax incentives, satisfies the applicable requirements  
11 provided under sections 135.1500 to 135.1521, the department shall grant such benefits on  
12 or before July fifteenth of the next calendar year following such time period.

13 3. If the annual cap for any of such tax credits, provided under section 135.1517,  
14 is met in a year, then the amount of such tax credits authorized, but unissued, shall be  
15 carried forward and issued in the subsequent year.

16 4. No qualifying applicant shall be entitled to receive benefits provided under  
17 section 135.1513 unless a certificate of occupancy has been issued for the eligible facility  
18 prior to August 28, 2020. A qualifying applicant for which a certificate of occupancy has  
19 been issued prior to August 28, 2019, may be granted benefits under this section.

135.1517. 1. The total aggregate amount for all of the tax credits authorized under  
2 subdivisions (3) and (4) of subsection 1 of section 135.1513 shall not exceed three hundred  
3 million dollars. The annual amount of the tax credits issued under subdivisions (3) and (4)  
4 of subsection 1 of section 135.1513 shall not exceed:

5 (1) Six million dollars for the taxable year beginning on or after January 1, 2013,  
6 and ending on or before December 31, 2013;

7 (2) Twelve million dollars for the taxable year beginning on or after January 1,  
8 2014, and ending on or before December 31, 2014;

9 (3) Fifteen million dollars for the taxable year beginning on or after January 1,  
10 2015, and ending on or before December 31, 2015;

11 (4) Twenty million dollars for all taxable years beginning on or after January 1,  
12 2016, but ending on or before December 31, 2019;

13 (5) Thirty million dollars for all taxable years beginning on or after January 1,  
14 2020, but ending on or before December 31, 2025; and

15 (6) Seven million dollars for the taxable year beginning on or after January 1, 2026,  
16 and ending on or before December 31, 2026.

17 2. The total aggregate amount for the tax credits authorized under subdivision (5)  
18 of subsection 1 of section 135.1513 shall not exceed one hundred twenty million dollars.

19 **The annual amount of the tax credits issued under subdivision (5) of subsection 1 of section**  
20 **135.1513 shall not exceed:**

21 **(1) Three million dollars for the taxable year beginning on or after January 1, 2013,**  
22 **and ending on or before December 31, 2013;**

23 **(2) Six million dollars for the taxable year beginning on or after January 1, 2014,**  
24 **and ending on or before December 31, 2014;**

25 **(3) Nine million dollars for the taxable year beginning on or after January 1, 2015,**  
26 **and ending on or before December 31, 2015;**

27 **(4) Ten million dollars for all taxable years beginning on or after January 1, 2016,**  
28 **but ending on or before December 31, 2025; and**

29 **(5) Two million dollars for the taxable year beginning on or after January 1, 2026,**  
30 **and ending on or before December 31, 2026.**

**135.1519. 1. If the amount of any tax credit authorized under sections 135.1500 to**  
2 **135.1521 exceeds the total tax liability for the year in which the applicant is entitled to**  
3 **receive a tax credit, the amount that exceeds the state tax liability may be carried forward**  
4 **for credit against the taxes imposed under chapters 143, 147, and 148, except sections**  
5 **143.191 to 143.265, for the succeeding six years, or until the full credit is used, whichever**  
6 **occurs first. Tax credits authorized under the provisions of sections 135.1500 to 135.1521**  
7 **may be transferred, sold, or otherwise assigned. Tax credits granted to a partnership, a**  
8 **limited liability company taxed as a partnership, or multiple owners of property shall be**  
9 **passed through to the partners, members, or owners respectively pro rata or under an**  
10 **executed agreement among the partners, members, or owners documenting an alternate**  
11 **distribution method.**

12 **2. A tenant or an entity, which under section 135.1513 retains state income tax**  
13 **withheld on behalf of employees under section 143.221, may retain such state income tax**  
14 **under section 135.113 once such facility satisfies the requirements of sections 135.1500 to**  
15 **135.1521 and for each year thereafter during the eligibility period if such facility satisfies**  
16 **such requirements. No benefits shall be provided under this program until such facility**  
17 **satisfies such requirements. The retention of such state income tax shall be subject to the**  
18 **annual verification of the actual payroll of such tenant or entity and the state income tax**  
19 **associated with the actual payroll. In the event such facility does not meet the**  
20 **requirements provided under section 135.1513, the department may recapture the amount**  
21 **of such state income tax that has been retained by such tenant or entity for such year.**

22 **3. An employee of a tenant or an entity, which under section 135.113 is retaining**  
23 **state income tax withheld on behalf of employees by such tenant or entity under section**

24 **143.221, shall receive full credit for the amount of tax withheld as provided in section**  
25 **143.211.**

**135.1521. 1. The department may promulgate rules to implement the provisions**  
2 **of sections 135.1500 to 135.1521. Any rule or portion of a rule, as that term is defined in**  
3 **section 536.010 that is created under the authority delegated in this section shall become**  
4 **effective only if it complies with and is subject to all of the provisions of chapter 536, and,**  
5 **if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of**  
6 **the powers vested with the general assembly pursuant to chapter 536 to review, to delay**  
7 **the effective date, or to disapprove and to annul a rule are subsequently held**  
8 **unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted**  
9 **after August 28, 2011, shall be invalid and void.**

10 **2. Under section 23.253 of the Missouri sunset act:**

11 **(1) The provisions of the new programs authorized under sections 135.1500 to**  
12 **135.1521 shall automatically sunset six years after August 28, 2011, unless reauthorized by**  
13 **an act of the general assembly;**

14 **(2) If such program is reauthorized, the program authorized under this section**  
15 **shall automatically sunset six years after the effective date of the reauthorization of this**  
16 **section; and**

17 **(3) This section shall terminate on September first of the calendar year immediately**  
18 **following the calendar year in which the programs authorized under sections 135.1500 to**  
19 **135.1521 sunset.**