

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 861
98TH GENERAL ASSEMBLY

4514H.06C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 227.600, RSMo, and to enact in lieu thereof six new sections relating to transportation facilities.

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

Section A. Section 227.600, RSMo, is repealed and six new sections enacted in lieu thereof, to be known as sections 68.075, 143.2100, 143.2105, 143.2110, 143.2115, and 227.600, to read as follows:

68.075. 1. This section shall be known and may be cited as the "Advanced Industrial Manufacturing Zones Act".

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

(1) "AIM zone", an area identified through a resolution passed by the port authority board of commissioners appointed under section 68.045 that is being developed or redeveloped for any purpose so long as any infrastructure and building built or improved is in the development area. The port authority board of commissioners shall file an annual report indicating the established AIM zones with the department of revenue;

(2) "New job", the number of full-time employees located at the project facility that exceeds the project facility base employment less any decrease in the number of full-time employees at related facilities below the related facility base employment. No job that was created prior to the date of the notice of intent shall be deemed a new job. An employee that spends less than fifty percent of the employee's work time at the facility is still considered to be located at a facility if the employee receives his or her directions and control from that facility, is on the facility's payroll, one hundred percent of the employee's

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 **income from such employment is Missouri income, and the employee is paid at or above**
17 **the state average wage.**

18 **3. Any port authority located in this state may establish an AIM zone. Such zone**
19 **may only include the area within the port authority's jurisdiction and may include any**
20 **such area. The port authority shall determine the boundaries for each AIM zone, and**
21 **more than one AIM zone may exist within the port authority's jurisdiction.**

22 **4. Fifty percent of the state tax withholdings imposed by sections 143.191 to 143.265**
23 **on new jobs within such zone after development or redevelopment has commenced shall**
24 **not be remitted to the general fund of the state of Missouri. Such moneys shall be**
25 **deposited into the port authority AIM zone fund established under subsection 5 of this**
26 **section for the purpose of continuing to expand, develop, and redevelop AIM zones**
27 **identified by the port authority board of commissioners and may be used for managerial,**
28 **engineering, legal, research, promotion, planning, satisfaction of bonds issued under**
29 **section 68.040, and any other expenses.**

30 **5. There is hereby created in the state treasury the "Port Authority AIM Zone**
31 **Fund", which shall consist of money collected under this section. The state treasurer shall**
32 **be custodian of the fund and shall approve disbursements from the fund in accordance**
33 **with sections 30.170 and 30.180 to the port authorities from which the funds were collected,**
34 **less the pro-rata portion appropriated by the general assembly to be used solely for the**
35 **administration of this section which shall not exceed ten percent of the total amount**
36 **collected within the zones of a port authority. Notwithstanding the provisions of section**
37 **33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall**
38 **not revert to the credit of the general revenue fund. The state treasurer shall invest**
39 **moneys in the fund in the same manner as other funds are invested. Any interest and**
40 **moneys earned on such investments shall be credited to the fund.**

41 **6. The port authority shall approve any projects that begin construction and**
42 **disperse any money collected under this section. The port authority shall submit an annual**
43 **budget for the funds to the department of economic development explaining how and when**
44 **such money will be spent.**

45 **7. The provision of section 23.253 notwithstanding, no AIM zone may be**
46 **established after August 28, 2023. Any AIM zone created prior to that date shall continue**
47 **to exist and be coterminous with the retirement of all debts incurred under subsection 4**
48 **of this section. No debts may be incurred or reauthorized using AIM zone revenue after**
49 **August 28, 2023.**

143.2100. 1. As used in sections 143.2100 to 143.2115, unless the context requires
2 **a different meaning, the following terms shall mean:**

3 (1) "Deduction", an amount subtracted from the taxpayer's Missouri adjusted
4 gross income to determine Missouri taxable income for the tax year in which such
5 deduction is claimed;

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

7 (3) "Director", the director of the department of economic development;

8 (4) "Taxpayer", a person, firm, partner in a firm, member of a limited liability
9 company, corporation, or shareholder in an S corporation doing business in the state of
10 Missouri and subject to the state income tax imposed by the provisions of chapter 143, or
11 an insurance company paying an annual tax on its gross premium receipts in this state, or
12 other financial institution paying taxes to the state of Missouri or any political subdivision
13 of this state under the provisions of chapter 148, or an express company which pays an
14 annual tax on its gross receipts in this state under chapter 153.

15 2. Prior to March 1, 2018, and every two years thereafter, the department, with
16 information provided by the port authorities, airports, and the department of revenue,
17 shall provide a report on the deductions claimed under sections 143.2100 to 143.2115. Such
18 report shall include the following:

19 (1) The names and locations of participating companies;

20 (2) The annual amount of benefits provided;

21 (3) The estimated net state fiscal impact, including both direct and indirect new
22 state taxes derived from the program;

23 (4) The number of new jobs created;

24 (5) The average wages of each project; and

25 (6) The types of qualified companies using the program.

26 3. The department shall promulgate rules to implement the provisions of sections
27 143.2100 to 143.2115. Any rule or portion of a rule, as that term is defined in section
28 536.010 that is created under the authority delegated in this section shall become effective
29 only if it complies with and is subject to all of the provisions of chapter 536, and, if
30 applicable, section 536.028. This section and chapter 536 are nonseverable and if any of
31 the powers vested with the general assembly pursuant to chapter 536, to review, to delay
32 the effective date, or to disapprove and annul a rule are subsequently held
33 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted
34 after August 28, 2016, shall be invalid and void.

143.2105. 1. As used in this section, unless the context clearly indicates otherwise,
2 the following terms shall mean:

3 (1) "Airport", any publicly or privately owned facility located within Missouri
4 through which cargo is transported by way of airplane to or from destinations outside the

5 state and which handles cargo owned by third parties in addition to cargo owned by the
6 airport's owner;

7 (2) "Base year port cargo volume", the total amount of net tons of noncontainerized
8 cargo or twenty-foot equivalent units (TEUs) of cargo actually transported by way of a
9 waterborne ship, waterborne vehicle, or airplane through a water port facility or airport
10 during the period from January 1, 2015, through December 31, 2015. Base year port cargo
11 volume shall be at least seventy-five net tons of noncontainerized cargo or ten loaded TEUs
12 for a taxpayer to be eligible for the deductions claimed under this section. For a taxpayer
13 that does not transport that amount in the year ending December 31, 2015, including a
14 taxpayer who locates to Missouri after December 31, 2015, the base year port cargo volume
15 will be measured by the initial January first through December thirty-first calendar year
16 in which it meets the requirements of seventy-five net tons of noncontainerized cargo or
17 ten loaded TEUs. Base year port cargo volume shall be recalculated each calendar year
18 after the initial base year;

19 (3) "Major facility", a new facility to be located in Missouri that is projected to
20 import or export cargo through a water port facility or airport in excess of twenty-five
21 thousand TEUs or the noncontainerized cargo equivalent in its first calendar year;

22 (4) "Port cargo volume", the total amount of net tons of noncontainerized cargo or
23 containers measured in TEUs of cargo transported by way of a waterborne ship,
24 waterborne vehicle, or airplane through a water port facility or airport;

25 (5) "TEU" or "Twenty-foot equivalent unit", a volumetric measure based on the
26 size of a container that is twenty feet long by eight feet wide by eight feet, six inches high.
27 If using weight as a measure, then one TEU shall equal sixteen tons of noncontainerized
28 cargo; and

29 (6) "Water port facility", any publicly or privately owned facility located within
30 Missouri through which cargo is transported by way of a waterborne ship or vehicle to or
31 from destinations outside the state and which handles cargo owned by third parties in
32 addition to cargo owned by the water port facility's owner.

33 2. (1) For tax years beginning on or after January 1, 2017, but before January 1,
34 2023, a taxpayer engaged in the manufacturing of goods or the distribution of
35 manufactured goods that uses water port facilities or airports in this state and increases
36 its port cargo volume at these facilities by a minimum of five percent in a single calendar
37 year over its base year port cargo volume shall be allowed to claim a deduction in an
38 amount determined by the department. The department may waive the requirement that
39 port cargo volume be increased by a minimum of five percent over base year port cargo
40 volume for any taxpayer that qualifies as a major facility.

41 **(2) Qualifying taxpayers that increase their port cargo volume by a minimum of**
42 **five percent in a qualifying calendar year shall be allowed to claim a fifty-dollar deduction**
43 **for each TEU or the noncontainerized cargo equivalent above the base year port cargo**
44 **volume. A qualifying taxpayer that is a major facility as defined in this section shall be**
45 **allowed to claim a fifty-dollar deduction for each TEU or the noncontainerized cargo**
46 **equivalent transported through a water port facility or airport during the major facility's**
47 **first calendar year. A qualifying taxpayer shall not claim a deduction of more than two**
48 **hundred fifty thousand dollars for each calendar year except as provided for in subdivision**
49 **(2) of subsection 3 of this section. The maximum amount of deductions for all qualifying**
50 **taxpayers under this section shall not exceed three million five hundred thousand dollars**
51 **for each calendar year.**

52 **(3) The deduction may be claimed by the taxpayer as provided in subdivision (1)**
53 **of this subsection only if the taxpayer owns the cargo at the time the water port facilities**
54 **or airports are used.**

55 **3. (1) For every year in which a taxpayer claims the deduction, the taxpayer shall**
56 **submit an application to the department by March first of the calendar year after the**
57 **calendar year in which the increase in port cargo volume occurs. The taxpayer shall attach**
58 **a schedule to the taxpayer's application to the department with the following information**
59 **and any other information requested by the department:**

60 **(a) A description of how the base year port cargo volume and the increase in port**
61 **cargo volume were determined;**

62 **(b) The amount of the base year port cargo volume;**

63 **(c) The amount of the increase in port cargo volume for the tax year stated both as**
64 **a percentage increase and as a total increase in net tons of noncontainerized cargo and**
65 **TEUs of cargo, including information that demonstrates an increase in port cargo volume**
66 **in excess of the minimum amount required to claim the deductions under this section; and**

67 **(d) Any deduction utilized by the taxpayer in prior years.**

68 **(2) The taxpayer shall claim the deduction on its income tax return in a manner**
69 **prescribed by the department of revenue, and the department of revenue may require a**
70 **copy of the certification form issued by a Missouri port authority or airport be attached**
71 **to the return or otherwise provided.**

143.2110. 1. As used in this section, unless the context clearly indicates otherwise,
2 **the term "international trade facility" shall mean a company that:**

3 **(1) Is doing business in the state and engaged in water port or airport related**
4 **activities including, but not limited to, warehousing, distribution, freight forwarding and**
5 **handling, and goods processing;**

6 (2) Has the sole discretion and authority to move cargo in containers or
7 noncontainerized, originating or terminating in the state;

8 (3) Uses water-connected port facilities or airport facilities located in the state; and

9 (4) Uses airplanes, barges, trucks, or rail systems to move cargo, in containers or
10 noncontainerized, through water port facilities or airports in the state.

11 2. For tax years beginning on or after January 1, 2017, but before January 1, 2023,
12 a company that is an international trade facility shall be allowed a twenty-five-dollar
13 deduction per TEU or equivalent of noncontainerized cargo moved by airplane, barge, or
14 rail.

15 3. In no case shall more than two million dollars in deductions be claimed under
16 this section in any fiscal year of the state. The international trade facility shall not be
17 allowed to claim any deduction under this section unless it has applied to the department
18 for the deduction and the department has approved the deduction. The department shall
19 determine the deduction amount allowable for the year and provide a written certification
20 to the international trade facility, which certification shall report the amount of the
21 deduction approved by the department. The international trade facility shall attach the
22 certification to the applicable tax return.

 143.2115. 1. As used in this section, unless the context requires a different meaning,
2 the following terms shall mean:

3 (1) "Affiliated companies", two or more companies related to each other so that:

4 (a) One company owns at least eighty percent of the voting power of the other or
5 others; or

6 (b) The same interest owns at least eighty percent of the voting power of two or
7 more companies;

8 (2) "Capital investment", the amount properly chargeable to a capital account for
9 improvements to rehabilitate or expand depreciable real property placed in service during
10 the tax year and the cost of machinery, tools, and equipment used in an international trade
11 facility directly related to the movement of cargo. "Capital investment" includes
12 expenditures associated with any exterior, structural, mechanical, or electrical
13 improvements necessary to expand or rehabilitate a building for commercial or industrial
14 use and excavations, grading, paving, driveways, roads, sidewalks, landscaping, or other
15 land improvements. For purposes of this section, machinery, tools, and equipment shall
16 be deemed to include only that property placed in service by the international trade facility
17 on or after January 1, 2017. Machinery, tools, and equipment excludes property:

18 (a) For which a deduction under this section was previously granted;

19 **(b) Placed in service by the taxpayer, a related party as defined in Subsection (b)**
20 **of Section 267 of the Internal Revenue Code, as amended, or by a trade or business under**
21 **common control as described in Subsection (b) of Section 52 of the Internal Revenue Code,**
22 **as amended; or**

23 **(c) Previously in service in the state that has a basis in the hands of the person**
24 **acquiring it, determined in whole or in part by reference to the basis of such property in**
25 **the hands of the person from whom it was acquired or Subsection (a) of Section 1014 of the**
26 **Internal Revenue Code, as amended. "Capital investment" shall not include:**

27 **a. The cost of acquiring any real property or building;**

28 **b. The cost of furnishings;**

29 **c. Any expenditure associated with appraisal, architectural, engineering, or interior**
30 **design fees;**

31 **d. Loan fees, points, or capitalized interest;**

32 **e. Legal, accounting, realtor, sales and marketing, or other professional fees;**

33 **f. Closing costs, permit fees, user fees, zoning fees, impact fees, and inspection fees;**

34 **g. Bids, insurance, signage, utilities, bonding, copying, rent loss, or temporary**
35 **facilities costs incurred during construction;**

36 **h. Utility hook-up or access fees;**

37 **i. Outbuildings; or**

38 **j. The cost of any well or septic system;**

39 **(3) "Deduction year", the first tax year following the tax year in which the**
40 **international trade facility commenced or expanded its operations. A separate deduction**
41 **year and a three-year allowance shall exist for each distinct international trade facility of**
42 **a single taxpayer;**

43 **(4) "International trade facility", a company that:**

44 **(a) Is engaged in port related activities including, but not limited to, warehousing,**
45 **distribution, freight forwarding and handling, and goods processing;**

46 **(b) Uses water-connected port facilities or airports located in the state; and**

47 **(c) Transports at least ten percent more cargo, measured in TEU containers or the**
48 **noncontainerized cargo equivalent, through water-connected port facilities or airport in**
49 **the state during the tax year than was transported by the company through such facilities**
50 **during the preceding tax year;**

51 **(5) "New, permanent full-time position", a job of indefinite duration, created by**
52 **the company after establishing or expanding an international trade facility in the state,**
53 **requiring a minimum of thirty-five hours of employment per week for each employee for**
54 **the entire normal year of the company's operations, or a position of indefinite duration**

55 that requires a minimum of thirty-five hours of employment per week for each employee
56 for the portion of the tax year that the employee was initially hired for, or transferred to
57 the international trade facility in the state. Seasonal or temporary positions, or a job
58 created if a job function is shifted from an existing location in the state to the international
59 trade facility, and positions in building and grounds maintenance, security, and other such
60 positions that are ancillary to the principal activities performed by the employees at the
61 international trade facility shall not qualify as new, permanent full-time positions;

62 (6) "Normal year", at least forty-eight weeks in a calendar year;

63 (7) "Qualified full-time employee", an employee filling a new, permanent full-time
64 position in an international trade facility in the state;

65 (8) "Qualified trade activities", the completed exportation or importation of at least
66 one International Organization for Standardization ocean container or the
67 noncontainerized equivalent with a minimum twenty-foot length, through a Missouri port
68 authority-operated cargo facility or an airport in this state. An export container or the
69 noncontainerized cargo equivalent with an ultimate international destination shall be
70 loaded on a barge or airplane and an import container or the noncontainerized cargo
71 equivalent originating from an international destination shall be discharged from a barge
72 or airplane at such facility.

73 2. For tax years beginning on or after January 1, 2017, but before January 1, 2023,
74 a taxpayer satisfying the requirements of this section shall be allowed to claim a deduction
75 in an amount equal to either three thousand five hundred dollars per qualified full-time
76 employee that results from increased qualified trade activities by the taxpayer or an
77 amount equal to two percent of the capital investment made by the taxpayer to facilitate
78 the increased qualified trade activities. The election of which deduction amount to claim
79 shall be the responsibility of the taxpayer. Both deductions shall not be claimed for the
80 same activities that occur within a calendar year. The portion of the three thousand five
81 hundred dollars deduction earned with respect to any qualified full-time employee who
82 works in the state for less than twelve full months during the deduction year shall be
83 determined by multiplying the deduction amount by a fraction, the numerator of which is
84 the number of full months such employee worked for the international trade facility in the
85 state during the deduction year and the denominator of which is twelve.

86 3. In no case shall more than five hundred thousands dollars in deductions be
87 claimed under this section in any fiscal year of the state. The taxpayer shall not be allowed
88 to claim any deduction under this section unless it has applied to the department for the
89 deduction and the department has approved the deduction. The department shall
90 determine the deduction amount allowable for the tax year and shall provide a written

91 certification to the taxpayer, which certification shall report the amount of the deduction
92 approved by the department. The taxpayer shall attach the certification to the applicable
93 income tax return.

94 4. The amount of the deduction allowed under this section shall not exceed fifty
95 percent of the taxpayer's Missouri adjusted gross income.

96 5. No deduction shall be earned for any employee:

97 (1) For whom a deduction under this section was previously earned by a related
98 party as defined in Subsection (b) of Section 267 of the Internal Revenue Code, as
99 amended, or a trade or business under common control as described in Subsection (b) of
100 Section 52 of the Internal Revenue Code, as amended;

101 (2) Who was previously employed in the same job function in Missouri by a related
102 party as defined in Subsection (b) of Section 267 of the Internal Revenue Code, as
103 amended, or a trade or business under common control as described in Subsection (b) of
104 Section 52 of the Internal Revenue Code, as amended; or

105 (3) Whose job function was previously performed at a different location in Missouri
106 by an employee of the taxpayer, by a related party as defined in Subsection (b) of Section
107 267 of the Internal Revenue Code, as amended, or by a trade or business under common
108 control as described in Subsection (b) of Section 52 of the Internal Revenue Code, as
109 amended.

110 6. For the purposes of this section, two or more affiliated companies may elect to
111 aggregate the number of jobs created for qualified full-time employees or the amounts of
112 capital investments as the result of the establishment or expansion by the individual
113 companies in order to qualify for the deduction allowed under this section.

114 7. Recapture of the deduction amount under the following circumstances shall be
115 accomplished by increasing the tax in any of the five years succeeding the tax year in which
116 a deduction has been earned pursuant to this section if the number of qualified full-time
117 employees falls below the average number of qualified full-time employees during the tax
118 year. The Missouri taxable income increase amount shall be determined by recalculating
119 the deduction that would have been earned for the original tax year using the decreased
120 number of qualified full-time employees and subtracting the recalculated deduction
121 amount from the amount previously earned. In the event that the average number of
122 qualified full-time employees employed at an international trade facility falls below the
123 number employed by the taxpayer prior to claiming any deductions under this section in
124 any of the five tax years succeeding the year in which the deductions were earned, all
125 deductions earned with respect to the international trade facility shall be recaptured. No
126 deduction amount shall be recaptured more than once under this subsection. Any

127 **recapture under this subsection shall reduce deductions earned, but not yet allowed, before**
128 **the taxpayer's Missouri taxable income is increased.**

129 **8. The department shall issue guidelines for:**

130 **(1) The computation and recapture of the deductions provided under this section;**

131 **(2) The establishment of criteria for:**

132 **(a) International trade facilities;**

133 **(b) Qualified full-time employees at such facilities; and**

134 **(c) Capital investments; and**

135 **(3) The computation, recapture, and redemption of the deductions by affiliated**
136 **companies.**

227.600. 1. Sections 227.600 to 227.669 shall be known and may be cited as the
2 "Missouri Public-Private Partnerships Transportation Act".

3 2. As used in sections 227.600 to 227.669, unless the context clearly requires otherwise,
4 the following terms mean:

5 (1) "Commission", the Missouri highways and transportation commission;

6 (2) "Comprehensive agreement", the final binding written comprehensive project
7 agreement between a private partner and the commission required in section 227.621 to finance,
8 develop, and/or operate the project;

9 (3) "Department", the Missouri department of transportation;

10 (4) "Develop" or "development", to plan, locate, relocate, establish, acquire, lease,
11 design, or construct;

12 (5) "Finance", to fund the costs, expenses, liabilities, fees, profits, and all other charges
13 incurred to finance, develop, and/or operate the project;

14 (6) "Interim agreement", a preliminary binding written agreement between a private
15 partner and the commission that provides for completion of studies and any other activities to
16 advance the financing, development, and/or operation of the project required by section 227.618;

17 (7) "Material default", any uncured default by a private partner in the performance of its
18 duties that jeopardizes adequate service to the public from the project as determined by the
19 commission;

20 (8) "Operate" or "operation", to improve, maintain, equip, modify, repair, administer, or
21 collect user fees;

22 (9) "Private partner", any natural person, corporation, partnership, limited liability
23 company, joint venture, business trust, nonprofit entity, other business entity, or any combination
24 thereof;

25 (10) "Project", exclusively includes any pipeline, ferry, [river] port **facility, water**
26 **facility, water way, fuel supply facility or pipeline, water supply facility or pipeline, public**

27 **work, wastewater or wastewater treatment facility, public building,** airport, railroad, light
28 **rail, vehicle parking facility, mass transit facility,** or other **similar facility currently available**
29 **or to be made available to a government entity for public use, including any structure,**
30 **parking area, appurtenance and other property required to operate the structure or**
31 **facility** [mass transit facility,] to be financed, developed, and/or operated under agreement
32 between the commission and a private partner. Any project not specifically included in this
33 subdivision shall not be financed, developed, or operated by a private partner until such project
34 is approved by a vote of the people;

35 (11) "Public use", a finding by the commission that the project to be financed, developed,
36 and/or operated by a private partner under sections 227.600 to 227.669 will improve or is needed
37 as a necessary addition to the state transportation system;

38 (12) "Revenues", include but are not limited to the following which arise out of or in
39 connection with the financing, development, and/or operation of the project:

40 (a) Income;

41 (b) Earnings;

42 (c) Proceeds;

43 (d) User fees;

44 (e) Lease payments;

45 (f) Allocations;

46 (g) Federal, state, and local moneys; or

47 (h) Private sector moneys, grants, bond proceeds, and/or equity investments;

48 (13) "State", the state of Missouri;

49 (14) "State highway system", the state system of highways and bridges planned, located,
50 relocated, established, acquired, constructed, and maintained by the commission under Section
51 30(b), Article IV, Constitution of Missouri;

52 (15) "State transportation system", the state system of nonhighway transportation
53 programs, including but not limited to aviation, transit and mass transportation, railroads, ports,
54 waterborne commerce, freight and intermodal connections;

55 (16) "User fees", tolls, fees, or other charges authorized to be imposed by the
56 commission and collected by the private partner for the use of all or a portion of a project under
57 a comprehensive agreement.

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