

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
CONFERENCE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 861

98TH GENERAL ASSEMBLY
2016

4514S.08T

AN ACT

To repeal sections 227.600 and 447.708, RSMo, and to enact in lieu thereof eight new sections relating to tax incentives.

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

Section A. Sections 227.600 and 447.708, RSMo, are repealed and eight
2 new sections enacted in lieu thereof, to be known as sections 68.075, 143.1100,
3 143.2100, 143.2105, 143.2110, 143.2115, 227.600, and 447.708, to read as follows:

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

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

4 **(1) "AIM zone", an area identified through a resolution passed by**
5 **the port authority board of commissioners appointed under section**
6 **68.045 that is being developed or redeveloped for any purpose so long**
7 **as any infrastructure and building built or improved is in the**
8 **development area. The port authority board of commissioners shall file**
9 **an annual report indicating the established AIM zones with the**
10 **department of revenue;**

11 **(2) "New job", the number of full-time employees located at the**
12 **project facility that exceeds the project facility base employment less**
13 **any decrease in the number of full-time employees at related facilities**
14 **below the related facility base employment. No job that was created**
15 **prior to the date of the notice of intent shall be deemed a new job. An**

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

16 employee that spends less than fifty percent of the employee's work
17 time at the facility is still considered to be located at a facility if the
18 employee receives his or her directions and control from that facility,
19 is on the facility's payroll, one hundred percent of the employee's
20 income from such employment is Missouri income, and the employee is
21 paid at or above the state average wage.

22 3. Any port authority located in this state may establish an AIM
23 zone. Such zone may only include the area within the port authority's
24 jurisdiction and may include any such area. The port authority shall
25 determine the boundaries for each AIM zone, and more than one AIM
26 zone may exist within the port authority's jurisdiction.

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

37 5. There is hereby created in the state treasury the "Port
38 Authority AIM Zone Fund", which shall consist of money collected
39 under this section. The state treasurer shall be custodian of the fund
40 and shall approve disbursements from the fund in accordance with
41 sections 30.170 and 30.180 to the port authorities from which the funds
42 were collected, less the pro-rata portion appropriated by the general
43 assembly to be used solely for the administration of this section which
44 shall not exceed ten percent of the total amount collected within the
45 zones of a port authority. Notwithstanding the provisions of section
46 33.080 to the contrary, any moneys remaining in the fund at the end of
47 the biennium shall not revert to the credit of the general revenue
48 fund. The state treasurer shall invest moneys in the fund in the same
49 manner as other funds are invested. Any interest and moneys earned
50 on such investments shall be credited to the fund.

51 6. The port authority shall approve any projects that begin
52 construction and disperse any money collected under this section. The

53 port authority shall submit an annual budget for the funds to the
54 department of economic development explaining how and when such
55 money will be spent.

56 7. The provision of section 23.253 notwithstanding, no AIM zone
57 may be established after August 28, 2023. Any AIM zone created prior
58 to that date shall continue to exist and be coterminous with the
59 retirement of all debts incurred under subsection 4 of this section. No
60 debts may be incurred or reauthorized using AIM zone revenue after
61 August 28, 2023.

143.1100. 1. This section shall be known and may be cited as the
2 "Bring Jobs Home Act".

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

4 (1) "Business unit":

5 (a) Any trade or business; and

6 (b) Any line of business or function unit which is part of any
7 trade or business;

8 (2) "Deduction":

9 (a) For individuals, an amount subtracted from the taxpayer's
10 Missouri adjusted gross income to determine Missouri taxable income
11 for the tax year in which such deduction is claimed; and

12 (b) For corporations, an amount subtracted from the taxpayer's
13 Federal taxable income to determine Missouri taxable income for the
14 tax year in which such deduction is claimed;

15 (3) "Department", the department of economic development;

16 (4) "Eligible expenses":

17 (a) Any amount for which a deduction is allowed to the taxpayer
18 under Section 162 of the Internal Revenue Code of 1986, as amended;
19 and

20 (b) Permit and license fees, lease brokerage fees, equipment
21 installation costs, and other similar expenses;

22 (5) "Eligible insourcing expenses":

23 (a) Eligible expenses paid or incurred by the taxpayer in
24 connection with the elimination of any business unit of the taxpayer or
25 of any member of any expanded affiliated group in which the taxpayer
26 is also a member located outside the state of Missouri; and

27 (b) Eligible expenses paid or incurred by the taxpayer in
28 connection with the establishment of any business unit of the taxpayer

29 or of any member of any expanded affiliated group in which the
30 taxpayer is also a member located within the state of Missouri if such
31 establishment constitutes the relocation of the business unit so
32 eliminated.

33 For purposes of this subdivision, expenses shall be eligible if such
34 elimination of the business unit in another state or country occurs in
35 a different taxable year from the establishment of the business unit in
36 Missouri;

37 (6) "Expanded affiliated group", an affiliated group as defined
38 under Section 1504(a) of the Internal Revenue Code of 1986, as
39 amended, except to be determined without regard to Section 1504(b)(3)
40 of the Internal Revenue Code of 1986, as amended, and determined by
41 substituting "at least eighty percent" with "more than fifty percent" each
42 place the phrase appears under Section 1504(a) of the Internal Revenue
43 Code of 1986, as amended. A partnership or any other entity other than
44 a corporation shall be treated as a member of an expanded affiliated
45 group if such entity is controlled by members of such group including
46 any entity treated as a member of such group by reason of this
47 subdivision;

48 (7) "Full-time equivalent employee", a number of employees equal
49 to the number determined by dividing the total number of hours of
50 service for which wages were paid by the employer to employees during
51 the taxable year, by two thousand eighty;

52 (8) "Insourcing plan", a written plan to carry out the
53 establishment of a business unit in Missouri;

54 (9) "Taxpayer", any individual, firm, partner in a firm,
55 corporation, partnership, shareholder in an S corporation, or member
56 of a limited liability company subject to the income tax imposed under
57 chapter 143, excluding withholding tax imposed under sections 143.191
58 to 143.265.

59 3. For all taxable years beginning on or after January 1, 2016, a
60 taxpayer shall be allowed a deduction equal to fifty percent of the
61 taxpayer's eligible insourcing expenses in the taxable year chosen
62 under subsection 5 of this section. The amount of the deduction
63 claimed shall not exceed the amount of:

64 (1) For individuals, the taxpayer's Missouri adjusted gross
65 income for the taxable year the deduction is claimed; and

66 **(2) For corporations, the taxpayer's Missouri taxable income for**
67 **the taxable year the deduction is claimed.**

68 **However, any amount of the deduction that cannot be claimed in the**
69 **taxable year may be carried over to the next five succeeding taxable**
70 **years until the full deduction has been claimed.**

71 **4. No deduction shall be allowed under this section until the**
72 **department determines that the number of full-time equivalent**
73 **employees of the taxpayer in the taxable year the deduction is claimed**
74 **exceeds the number of full-time equivalent employees of the taxpayer**
75 **in the taxable year prior to the taxpayer incurring any eligible**
76 **insourcing expenses.**

77 **5. Only eligible insourcing expenses that occur in the taxable**
78 **year such expenses are paid or incurred and:**

79 **(1) The taxpayer's insourcing plan is completed; or**

80 **(2) The first taxable year after the taxpayer's insourcing plan is**
81 **completed;**

82 **shall be used to calculate the deduction allowed under this section.**

83 **6. Notwithstanding any other provision of law to the contrary,**
84 **no deduction shall be allowed for any expenses incurred due to**
85 **dissolving a business unit in Missouri and relocating such business unit**
86 **to another state.**

87 **7. The total amount of deductions authorized under this section**
88 **shall not exceed five million dollars in any taxable year. In the event**
89 **that more than five million dollars in deductions are claimed in a**
90 **taxable year, deductions shall be issued on a first-come, first-served**
91 **filing basis.**

92 **8. A taxpayer who receives a deduction under the provisions of**
93 **this section shall be ineligible to receive incentives under the**
94 **provisions of any other state tax deduction program for the same**
95 **expenses incurred.**

96 **9. Any taxpayer allowed a deduction under this section who,**
97 **within ten years of receiving such deduction, eliminates the business**
98 **unit for which the deduction was allowed shall repay the amount of tax**
99 **savings realized from the deduction to the state, prorated by the**
100 **number of years the business unit was in this state.**

101 **10. The department of economic development and the**
102 **department of revenue shall promulgate rules to implement the**

103 provisions of this section. Any rule or portion of a rule, as that term is
104 defined in section 536.010, that is created under the authority delegated
105 in this section shall become effective only if it complies with and is
106 subject to all of the provisions of chapter 536 and, if applicable, section
107 536.028. This section and chapter 536 are nonseverable, and if any of
108 the powers vested with the general assembly pursuant to chapter 536
109 to review, to delay the effective date, or to disapprove and annul a rule
110 are subsequently held unconstitutional, then the grant of rulemaking
111 authority and any rule proposed or adopted after August 28, 2016, shall
112 be invalid and void.

113 11. Under section 23.253:

114 (1) The provisions of the new program authorized under this
115 section shall automatically sunset six years after the effective date,
116 unless reauthorized by an act of the general assembly; and

117 (2) If such program is reauthorized, the program authorized
118 under this section shall automatically sunset twelve years after the
119 effective date of the reauthorization of this section; and

120 (3) This section shall terminate on September first of the
121 calendar year immediately following the calendar year in which the
122 program authorized under this section is sunset.

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

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

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

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

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

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

- 23 (1) The names and locations of participating companies;
- 24 (2) The annual amount of benefits provided;
- 25 (3) The estimated net state fiscal impact, including both direct
26 and indirect new state taxes derived from the program;
- 27 (4) The number of new jobs created;
- 28 (5) The average wages of each project; and
- 29 (6) The types of qualified companies using the program.

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

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

3 (1) "Airport", any publicly or privately owned facility located
4 within Missouri through which cargo is transported by way of airplane
5 to or from destinations outside the state and which handles cargo
6 owned by third parties in addition to cargo owned by the airport's
7 owner;

8 (2) "Base year port cargo volume", the total amount of net tons
9 of noncontainerized cargo or twenty-foot equivalent units (TEUs) of
10 cargo actually transported by way of a waterborne ship, waterborne
11 vehicle, or airplane through a water port facility or airport during the
12 period from January 1, 2015, through December 31, 2015. Base year
13 port cargo volume shall be at least seventy-five net tons of
14 noncontainerized cargo or ten loaded TEUs for a taxpayer to be eligible

15 for the deductions claimed under this section. For a taxpayer that does
16 not transport that amount in the year ending December 31, 2015,
17 including a taxpayer who locates to Missouri after December 31, 2015,
18 the base year port cargo volume will be measured by the initial
19 January first through December thirty-first calendar year in which it
20 meets the requirements of seventy-five net tons of noncontainerized
21 cargo or ten loaded TEUs. Base year port cargo volume shall be
22 recalculated each calendar year after the initial base year;

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

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

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

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

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

50 (2) Qualifying taxpayers that increase their port cargo volume
51 by a minimum of five percent in a qualifying calendar year shall be

52 allowed to claim a fifty-dollar deduction for each TEU or the
53 noncontainerized cargo equivalent above the base year port cargo
54 volume. A qualifying taxpayer that is a major facility as defined in this
55 section shall be allowed to claim a fifty-dollar deduction for each TEU
56 or the noncontainerized cargo equivalent transported through a water
57 port facility or airport during the major facility's first calendar year.
58 A qualifying taxpayer shall not claim a deduction of more than two
59 hundred fifty thousand dollars for each calendar year except as
60 provided for in subdivision (2) of subsection 3 of this section. The
61 maximum amount of deductions for all qualifying taxpayers under this
62 section shall not exceed three million five hundred thousand dollars for
63 each calendar year.

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

67 3. (1) For every year in which a taxpayer claims the deduction,
68 the taxpayer shall submit an application to the department by March
69 first of the calendar year after the calendar year in which the increase
70 in port cargo volume occurs. The taxpayer shall attach a schedule to
71 the taxpayer's application to the department with the following
72 information and any other information requested by the department:

73 (a) A description of how the base year port cargo volume and the
74 increase in port cargo volume were determined;

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

76 (c) The amount of the increase in port cargo volume for the tax
77 year stated both as a percentage increase and as a total increase in net
78 tons of noncontainerized cargo and TEUs of cargo, including
79 information that demonstrates an increase in port cargo volume in
80 excess of the minimum amount required to claim the deductions under
81 this section; and

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

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

143.2110. 1. As used in this section, unless the context clearly

2 indicates otherwise, the term "international trade facility" shall mean
3 a company that:

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

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

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

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

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

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

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

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

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

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

9 (2) "Capital investment", the amount properly chargeable to a
10 capital account for improvements to rehabilitate or expand depreciable
11 real property placed in service during the tax year and the cost of

12 machinery, tools, and equipment used in an international trade facility
13 directly related to the movement of cargo. "Capital investment"
14 includes expenditures associated with any exterior, structural,
15 mechanical, or electrical improvements necessary to expand or
16 rehabilitate a building for commercial or industrial use and
17 excavations, grading, paving, driveways, roads, sidewalks, landscaping,
18 or other land improvements. For purposes of this section, machinery,
19 tools, and equipment shall be deemed to include only that property
20 placed in service by the international trade facility on or after January
21 1, 2017. Machinery, tools, and equipment excludes property:

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

24 (b) Placed in service by the taxpayer, a related party as defined
25 in Subsection (b) of Section 267 of the Internal Revenue Code, as
26 amended, or by a trade or business under common control as described
27 in Subsection (b) of Section 52 of the Internal Revenue Code, as
28 amended; or

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

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

35 b. The cost of furnishings;

36 c. Any expenditure associated with appraisal, architectural,
37 engineering, or interior design fees;

38 d. Loan fees, points, or capitalized interest;

39 e. Legal, accounting, realtor, sales and marketing, or other
40 professional fees;

41 f. Closing costs, permit fees, user fees, zoning fees, impact fees,
42 and inspection fees;

43 g. Bids, insurance, signage, utilities, bonding, copying, rent loss,
44 or temporary facilities costs incurred during construction;

45 h. Utility hook-up or access fees;

46 i. Outbuildings; or

47 j. The cost of any well or septic system;

48 (3) "Deduction year", the first tax year following the tax year in

49 which the international trade facility commenced or expanded its
50 operations. A separate deduction year and a three-year allowance shall
51 exist for each distinct international trade facility of a single taxpayer;

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

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

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

58 (c) Transports at least ten percent more cargo, measured in TEU
59 containers or the noncontainerized cargo equivalent, through water-
60 connected port facilities or airport in the state during the tax year than
61 was transported by the company through such facilities during the
62 preceding tax year;

63 (5) "New, permanent full-time position", a job of indefinite
64 duration, created by the company after establishing or expanding an
65 international trade facility in the state, requiring a minimum of thirty-
66 five hours of employment per week for each employee for the entire
67 normal year of the company's operations, or a position of indefinite
68 duration that requires a minimum of thirty-five hours of employment
69 per week for each employee for the portion of the tax year that the
70 employee was initially hired for, or transferred to the international
71 trade facility in the state. Seasonal or temporary positions, or a job
72 created if a job function is shifted from an existing location in the state
73 to the international trade facility, and positions in building and
74 grounds maintenance, security, and other such positions that are
75 ancillary to the principal activities performed by the employees at the
76 international trade facility shall not qualify as new, permanent full-
77 time positions;

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

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

82 (8) "Qualified trade activities", the completed exportation or
83 importation of at least one International Organization for
84 Standardization ocean container or the noncontainerized equivalent
85 with a minimum twenty-foot length, through a Missouri port authority-

86 operated cargo facility or an airport in this state. An export container
87 or the noncontainerized cargo equivalent with an ultimate
88 international destination shall be loaded on a barge or airplane and an
89 import container or the noncontainerized cargo equivalent originating
90 from an international destination shall be discharged from a barge or
91 airplane at such facility.

92 2. For tax years beginning on or after January 1, 2017, but before
93 January 1, 2023, a taxpayer satisfying the requirements of this section
94 shall be allowed to claim a deduction in an amount equal to either
95 three thousand five hundred dollars per qualified full-time employee
96 that results from increased qualified trade activities by the taxpayer
97 or an amount equal to two percent of the capital investment made by
98 the taxpayer to facilitate the increased qualified trade activities. The
99 election of which deduction amount to claim shall be the responsibility
100 of the taxpayer. Both deductions shall not be claimed for the same
101 activities that occur within a calendar year. The portion of the three
102 thousand five hundred dollars deduction earned with respect to any
103 qualified full-time employee who works in the state for less than twelve
104 full months during the deduction year shall be determined by
105 multiplying the deduction amount by a fraction, the numerator of
106 which is the number of full months such employee worked for the
107 international trade facility in the state during the deduction year and
108 the denominator of which is twelve.

109 3. In no case shall more than five hundred thousands dollars in
110 deductions be claimed under this section in any fiscal year of the
111 state. The taxpayer shall not be allowed to claim any deduction under
112 this section unless it has applied to the department for the deduction
113 and the department has approved the deduction. The department shall
114 determine the deduction amount allowable for the tax year and shall
115 provide a written certification to the taxpayer, which certification shall
116 report the amount of the deduction approved by the department. The
117 taxpayer shall attach the certification to the applicable income tax
118 return.

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

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

123 **(1) For whom a deduction under this section was previously**
124 **earned by a related party as defined in Subsection (b) of Section 267 of**
125 **the Internal Revenue Code, as amended, or a trade or business under**
126 **common control as described in Subsection (b) of Section 52 of the**
127 **Internal Revenue Code, as amended;**

128 **(2) Who was previously employed in the same job function in**
129 **Missouri by a related party as defined in Subsection (b) of Section 267**
130 **of the Internal Revenue Code, as amended, or a trade or business under**
131 **common control as described in Subsection (b) of Section 52 of the**
132 **Internal Revenue Code, as amended; or**

133 **(3) Whose job function was previously performed at a different**
134 **location in Missouri by an employee of the taxpayer, by a related party**
135 **as defined in Subsection (b) of Section 267 of the Internal Revenue**
136 **Code, as amended, or by a trade or business under common control as**
137 **described in Subsection (b) of Section 52 of the Internal Revenue Code,**
138 **as amended.**

139 **6. For the purposes of this section, two or more affiliated**
140 **companies may elect to aggregate the number of jobs created for**
141 **qualified full-time employees or the amounts of capital investments as**
142 **the result of the establishment or expansion by the individual**
143 **companies in order to qualify for the deduction allowed under this**
144 **section.**

145 **7. Recapture of the deduction amount under the following**
146 **circumstances shall be accomplished by increasing the tax in any of the**
147 **five years succeeding the tax year in which a deduction has been**
148 **earned pursuant to this section if the number of qualified full-time**
149 **employees falls below the average number of qualified full-time**
150 **employees during the tax year. The Missouri taxable income increase**
151 **amount shall be determined by recalculating the deduction that would**
152 **have been earned for the original tax year using the decreased number**
153 **of qualified full-time employees and subtracting the recalculated**
154 **deduction amount from the amount previously earned. In the event**
155 **that the average number of qualified full-time employees employed at**
156 **an international trade facility falls below the number employed by the**
157 **taxpayer prior to claiming any deductions under this section in any of**
158 **the five tax years succeeding the year in which the deductions were**
159 **earned, all deductions earned with respect to the international trade**

160 **facility shall be recaptured. No deduction amount shall be recaptured**
161 **more than once under this subsection. Any recapture under this**
162 **subsection shall reduce deductions earned, but not yet allowed, before**
163 **the taxpayer's Missouri taxable income is increased.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (9) "Private partner", any natural person, corporation, partnership,

24 limited liability company, joint venture, business trust, nonprofit entity, other
25 business entity, or any combination thereof;

26 (10) "Project", exclusively includes any pipeline, ferry, [river] port
27 **facility, water facility, water way, water supply facility or pipeline,**
28 **wastewater or wastewater treatment facility, public building,** airport,
29 railroad, light rail, **vehicle parking facility, mass transit facility,** or other
30 [mass transit facility,] **similar facility currently available or to be made**
31 **available to a government entity for public use, including any**
32 **structure, parking area, appurtenance and other property required to**
33 **operate the structure or facility** to be financed, developed, and/or operated
34 under agreement between the commission and a private partner. **The**
35 **commission or private partner shall not have the authority to collect**
36 **user fees in connection with the project from motor carriers as defined**
37 **in section 227.630. "Project" shall not include any highway, interstate**
38 **or bridge construction, or any rest area, rest stop, or truck parking**
39 **facility connected to an interstate or other highway under the**
40 **authority of the commission.** Any project not specifically included in this
41 subdivision shall not be financed, developed, or operated by a private partner
42 until such project is approved by a vote of the people;

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

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

50 (a) Income;

51 (b) Earnings;

52 (c) Proceeds;

53 (d) User fees;

54 (e) Lease payments;

55 (f) Allocations;

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

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

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

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

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

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

447.708. 1. For eligible projects, the director of the department of
2 economic development, with notice to the directors of the departments of natural
3 resources and revenue, and subject to the other provisions of sections 447.700 to
4 447.718, may not create a new enterprise zone but may decide that a prospective
5 operator of a facility being remedied and renovated pursuant to sections 447.700
6 to 447.718 may receive the tax credits and exemptions pursuant to sections
7 135.100 to 135.150 and sections 135.200 to 135.257. The tax credits allowed
8 pursuant to this subsection shall be used to offset the tax imposed by chapter
9 143, excluding withholding tax imposed by sections 143.191 to 143.265, or the tax
10 otherwise imposed by chapter 147, or the tax otherwise imposed by chapter
11 148. For purposes of this subsection:

12 (1) For receipt of the ad valorem tax abatement pursuant to section
13 135.215, the eligible project must create at least ten new jobs or retain businesses
14 which supply at least twenty-five existing jobs. The city, or county if the eligible
15 project is not located in a city, must provide ad valorem tax abatement of at least
16 fifty percent for a period not less than ten years and not more than twenty-five
17 years;

18 (2) For receipt of the income tax exemption pursuant to section 135.220
19 and tax credit for new or expanded business facilities pursuant to sections
20 135.100 to 135.150, and 135.225, the eligible project must create at least ten new
21 jobs or retain businesses which supply at least twenty-five existing jobs, or
22 combination thereof. For purposes of sections 447.700 to 447.718, the tax credits
23 described in section 135.225 are modified as follows: the tax credit shall be four
24 hundred dollars per employee per year, an additional four hundred dollars per
25 year for each employee exceeding the minimum employment thresholds of ten and
26 twenty-five jobs for new and existing businesses, respectively, an additional four

27 hundred dollars per year for each person who is a person difficult to employ as
28 defined by section 135.240, and investment tax credits at the same amounts and
29 levels as provided in subdivision (4) of subsection 1 of section 135.225;

30 (3) For eligibility to receive the income tax refund pursuant to section
31 135.245, the eligible project must create at least ten new jobs or retain businesses
32 which supply at least twenty-five existing jobs, or combination thereof, and
33 otherwise comply with the provisions of section 135.245 for application and use
34 of the refund and the eligibility requirements of this section;

35 (4) The eligible project operates in compliance with applicable
36 environmental laws and regulations, including permitting and registration
37 requirements, of this state as well as the federal and local requirements;

38 (5) The eligible project operator shall file such reports as may be required
39 by the director of economic development or the director's designee;

40 (6) The taxpayer may claim the state tax credits authorized by this
41 subsection and the state income exemption for a period not in excess of ten
42 consecutive tax years. For the purpose of this section, "taxpayer" means an
43 individual proprietorship, partnership or corporation described in section 143.441
44 or 143.471 who operates an eligible project. The director shall determine the
45 number of years the taxpayer may claim the state tax credits and the state
46 income exemption based on the projected net state economic benefits attributed
47 to the eligible project;

48 (7) For the purpose of meeting the new job requirement prescribed in
49 subdivisions (1), (2) and (3) of this subsection, it shall be required that at least
50 ten new jobs be created and maintained during the taxpayer's tax period for
51 which the credits are earned, in the case of an eligible project that does not
52 replace a similar facility in Missouri. "New job" means a person who was not
53 previously employed by the taxpayer or related taxpayer within the twelve-month
54 period immediately preceding the time the person was employed by that taxpayer
55 to work at, or in connection with, the eligible project on a full-time basis. "Full-
56 time basis" means the employee works an average of at least thirty-five hours per
57 week during the taxpayer's tax period for which the tax credits are earned. For
58 the purposes of this section, related taxpayer has the same meaning as defined
59 in subdivision (9) of section 135.100;

60 (8) For the purpose of meeting the existing job retention requirement, if
61 the eligible project replaces a similar facility that closed elsewhere in Missouri
62 prior to the end of the taxpayer's tax period in which the tax credits are earned,

63 it shall be required that at least twenty-five existing jobs be retained at, and in
64 connection with the eligible project, on a full-time basis during the taxpayer's tax
65 period for which the credits are earned. "Retained job" means a person who was
66 previously employed by the taxpayer or related taxpayer, at a facility similar to
67 the eligible project that closed elsewhere in Missouri prior to the end of the
68 taxpayer's tax period in which the tax credits are earned, within the tax period
69 immediately preceding the time the person was employed by the taxpayer to work
70 at, or in connection with, the eligible project on a full-time basis. "Full-time
71 basis" means the employee works an average of at least thirty-five hours per week
72 during the taxpayer's tax period for which the tax credits are earned;

73 (9) In the case where an eligible project replaces a similar facility that
74 closed elsewhere in Missouri prior to the end of the taxpayer's tax period in which
75 the tax credits are earned, the owner and operator of the eligible project shall
76 provide the director with a written statement explaining the reason for
77 discontinuing operations at the closed facility. The statement shall include a
78 comparison of the activities performed at the closed facility prior to the date the
79 facility ceased operating, to the activities performed at the eligible project, and
80 a detailed account describing the need and rationale for relocating to the eligible
81 project. If the director finds the relocation to the eligible project significantly
82 impaired the economic stability of the area in which the closed facility was
83 located, and that such move was detrimental to the overall economic development
84 efforts of the state, the director may deny the taxpayer's request to claim tax
85 benefits;

86 (10) Notwithstanding any provision of law to the contrary, for the purpose
87 of this section, the number of new jobs created and maintained, the number of
88 existing jobs retained, and the value of new qualified investment used at the
89 eligible project during any tax year shall be determined by dividing by twelve, in
90 the case of jobs, the sum of the number of individuals employed at the eligible
91 project, or in the case of new qualified investment, the value of new qualified
92 investment used at the eligible project, on the last business day of each full
93 calendar month of the tax year. If the eligible project is in operation for less than
94 the entire tax year, the number of new jobs created and maintained, the number
95 of existing jobs retained, and the value of new qualified investment created at the
96 eligible project during any tax year shall be determined by dividing the sum of
97 the number of individuals employed at the eligible project, or in the case of new
98 qualified investment, the value of new qualified investment used at the eligible

99 project, on the last business day of each full calendar month during the portion
100 of the tax year during which the eligible project was in operation, by the number
101 of full calendar months during such period;

102 (11) For the purpose of this section, "new qualified investment" means
103 new business facility investment as defined and as determined in subdivision (7)
104 of section 135.100 which is used at and in connection with the eligible
105 project. "New qualified investment" shall not include small tools, supplies and
106 inventory. "Small tools" means tools that are portable and can be hand held.

107 2. The determination of the director of economic development pursuant
108 to subsection 1 of this section shall not affect requirements for the prospective
109 purchaser to obtain the approval of the granting of real property tax abatement
110 by the municipal or county government where the eligible project is located.

111 3. (1) The director of the department of economic development, with the
112 approval of the director of the department of natural resources, may, in addition
113 to the tax credits allowed in subsection 1 of this section, grant a remediation tax
114 credit to the applicant for up to one hundred percent of the costs of materials,
115 supplies, equipment, labor, professional engineering, consulting and architectural
116 fees, permitting fees and expenses, demolition, asbestos abatement, and direct
117 utility charges for performing the voluntary remediation activities for the
118 preexisting hazardous substance contamination and releases, including, but not
119 limited to, the costs of performing operation and maintenance of the remediation
120 equipment at the property beyond the year in which the systems and equipment
121 are built and installed at the eligible project and the costs of performing the
122 voluntary remediation activities over a period not in excess of four tax years
123 following the taxpayer's tax year in which the system and equipment were first
124 put into use at the eligible project, provided the remediation activities are the
125 subject of a plan submitted to, and approved by, the director of natural resources
126 pursuant to sections 260.565 to 260.575. The tax credit may also include up to
127 one hundred percent of the costs of demolition that are not directly part of the
128 remediation activities, provided that the demolition is on the property where the
129 voluntary remediation activities are occurring, the demolition is necessary to
130 accomplish the planned use of the facility where the remediation activities are
131 occurring, and the demolition is part of a redevelopment plan approved by the
132 municipal or county government and the department of economic
133 development. The demolition may occur on an adjacent property if the project is
134 located in a municipality which has a population less than twenty thousand and

135 the above conditions are otherwise met. The adjacent property shall
136 independently qualify as abandoned or underutilized. The amount of the credit
137 available for demolition not associated with remediation cannot exceed the total
138 amount of credits approved for remediation including demolition required for
139 remediation.

140 (2) The amount of remediation tax credits issued shall be limited to the
141 least amount necessary to cause the project to occur, as determined by the
142 director of the department of economic development.

143 (3) The director may, with the approval of the director of natural
144 resources, extend the tax credits allowed for performing voluntary remediation
145 maintenance activities, in increments of three-year periods, not to exceed five
146 consecutive three-year periods. The tax credits allowed in this subsection shall
147 be used to offset the tax imposed by chapter 143, excluding withholding tax
148 imposed by sections 143.191 to 143.265, or the tax otherwise imposed by chapter
149 147, or the tax otherwise imposed by chapter 148. The remediation tax credit
150 may be taken in the same tax year in which the tax credits are received or may
151 be taken over a period not to exceed twenty years.

152 (4) The project facility shall be projected to create at least ten new jobs
153 or at least twenty-five retained jobs, or a combination thereof, as determined by
154 the department of economic development, to be eligible for tax credits pursuant
155 to this section.

156 (5) No more than seventy-five percent of earned remediation tax credits
157 may be issued when the remediation costs were paid, and the remaining
158 percentage may be issued when the department of natural resources issues a
159 letter of completion letter or covenant not to sue following completion of the
160 voluntary remediation activities. It shall not include any costs associated with
161 ongoing operational environmental compliance of the facility or remediation costs
162 arising out of spills, leaks, or other releases arising out of the ongoing business
163 operations of the facility. In the event the department of natural resources issues
164 a letter of completion for a portion of a property, an impacted media such as soil
165 or groundwater, or for a site or a portion of a site improvement, a prorated
166 amount of the remaining percentage may be released based on the percentage of
167 the total site receiving a letter of completion.

168 4. In the exercise of the sound discretion of the director of the department
169 of economic development or the director's designee, the tax credits and
170 exemptions described in this section may be terminated, suspended or revoked,

171 if the eligible project fails to continue to meet the conditions set forth in this
172 section. In making such a determination, the director shall consider the severity
173 of the condition violation, actions taken to correct the violation, the frequency of
174 any condition violations and whether the actions exhibit a pattern of conduct by
175 the eligible facility owner and operator. The director shall also consider changes
176 in general economic conditions and the recommendation of the director of the
177 department of natural resources, or his or her designee, concerning the severity,
178 scope, nature, frequency and extent of any violations of the environmental
179 compliance conditions. The taxpayer or person claiming the tax credits or
180 exemptions may appeal the decision regarding termination, suspension or
181 revocation of any tax credit or exemption in accordance with the procedures
182 outlined in subsections 4 [to 6] **and 5** of section 135.250. The director of the
183 department of economic development shall notify the directors of the departments
184 of natural resources and revenue of the termination, suspension or revocation of
185 any tax credits as determined in this section or pursuant to the provisions of
186 section 447.716.

187 5. Notwithstanding any provision of law to the contrary, no taxpayer shall
188 earn the tax credits, exemptions or refund otherwise allowed in subdivisions (2),
189 (3) and (4) of subsection 1 of this section and the tax credits otherwise allowed in
190 section 135.110, or the tax credits, exemptions and refund otherwise allowed in
191 sections 135.215, 135.220, 135.225 and 135.245, respectively, for the same facility
192 for the same tax period.

193 6. The total amount of the tax credits allowed in subsection 1 of this
194 section may not exceed the greater of:

195 (1) That portion of the taxpayer's income attributed to the eligible project;
196 or

197 (2) One hundred percent of the total business' income tax if the eligible
198 facility does not replace a similar facility that closed elsewhere in Missouri prior
199 to the end of the taxpayer's tax period in which the tax credits are earned, and
200 further provided the taxpayer does not operate any other facilities besides the
201 eligible project in Missouri; fifty percent of the total business' income tax if the
202 eligible facility replaces a similar facility that closed elsewhere in Missouri prior
203 to the end of the taxpayer's tax period in which the credits are earned, and
204 further provided the taxpayer does not operate any other facilities besides the
205 eligible project in Missouri; or twenty-five percent of the total business income if
206 the taxpayer operates, in addition to the eligible facility, any other facilities in

207 Missouri. In no case shall a taxpayer operating more than one eligible project in
208 Missouri be allowed to offset more than twenty-five percent of the taxpayer's
209 business income in any tax period. That portion of the taxpayer's income
210 attributed to the eligible project as referenced in subdivision (1) of this
211 subsection, for which the credits allowed in sections 135.110 and 135.225 and
212 subsection 3 of this section, may apply, shall be determined in the same manner
213 as prescribed in subdivision (6) of section 135.100. That portion of the taxpayer's
214 franchise tax attributed to the eligible project for which the remediation tax
215 credit may offset, shall be determined in the same manner as prescribed in
216 paragraph (a) of subdivision (6) of section 135.100.

217 7. Taxpayers claiming the state tax benefits allowed in subdivisions (2)
218 and (3) of subsection 1 of this section shall be required to file all applicable tax
219 credit applications, forms and schedules prescribed by the director during the
220 taxpayer's tax period immediately after the tax period in which the eligible
221 project was first put into use. Otherwise, the taxpayer's right to claim such state
222 tax benefits shall be forfeited. Unused business facility and enterprise zone tax
223 credits shall not be carried forward but shall be initially claimed for the tax
224 period during which the eligible project was first capable of being used, and
225 during any applicable subsequent tax periods.

226 8. Taxpayers claiming the remediation tax credit allowed in subsection 3
227 of this section shall be required to file all applicable tax credit applications, forms
228 and schedules prescribed by the director during the taxpayer's tax period
229 immediately after the tax period in which the eligible project was first put into
230 use, or during the taxpayer's tax period immediately after the tax period in which
231 the voluntary remediation activities were performed.

232 9. The recipient of remediation tax credits, for the purpose of this
233 subsection referred to as assignor, may assign, sell or transfer, in whole or in
234 part, the remediation tax credit allowed in subsection 3 of this section to any
235 other person, for the purpose of this subsection referred to as assignee. To perfect
236 the transfer, the assignor shall provide written notice to the director of the
237 assignor's intent to transfer the tax credits to the assignee, the date the transfer
238 is effective, the assignee's name, address and the assignee's tax period and the
239 amount of tax credits to be transferred. The number of tax periods during which
240 the assignee may subsequently claim the tax credits shall not exceed twenty tax
241 periods, less the number of tax periods the assignor previously claimed the credits
242 before the transfer occurred.

243 10. In the case where an operator and assignor of an eligible project has
244 been certified to claim state tax benefits allowed in subdivisions (2) and (3) of
245 subsection 1 of this section, and sells or otherwise transfers title of the eligible
246 project to another taxpayer or assignee who continues the same or substantially
247 similar operations at the eligible project, the director shall allow the assignee to
248 claim the credits for a period of time to be determined by the director; except
249 that, the total number of tax periods the tax credits may be earned by the
250 assignor and the assignee shall not exceed ten. To perfect the transfer, the
251 assignor shall provide written notice to the director of the assignor's intent to
252 transfer the tax credits to the assignee, the date the transfer is effective, the
253 assignee's name, address, and the assignee's tax period, and the amount of tax
254 credits to be transferred.

255 11. For the purpose of the state tax benefits described in this section, in
256 the case of a corporation described in section 143.471 or partnership, in
257 computing Missouri's tax liability, such state benefits shall be allowed to the
258 following:

259 (1) The shareholders of the corporation described in section 143.471;

260 (2) The partners of the partnership. The credit provided in this
261 subsection shall be apportioned to the entities described in subdivisions (1) and
262 (2) of this subsection in proportion to their share of ownership on the last day of
263 the taxpayer's tax period.

264 **12. Notwithstanding any provision of law to the contrary, in any**
265 **county of the first classification that has a charter form of government**
266 **and that has a population of over nine hundred thousand inhabitants,**
267 **all demolition costs incurred during the redevelopment of any former**
268 **automobile manufacturing plant shall be allowable costs eligible for tax**
269 **credits under sections 447.700 to 447.718 so long as the redevelopment**
270 **of such former automobile manufacturing plant shall be projected to**
271 **create at least two hundred fifty new jobs or at least three hundred**
272 **retained jobs, or a combination thereof, as determined by the**
273 **department of economic development. The amount of allowable costs**
274 **eligible for tax credits shall be limited to the least amount necessary to**
275 **cause the project to occur, as determined by the director of the**
276 **department of economic development, provided that no tax credit shall**
277 **be issued under this subsection until July 1, 2017. For purposes of this**
278 **subsection, "former automobile manufacturing plant" means a**

279 **redevelopment area that qualifies as an eligible project under section**
280 **447.700, that consists of at least one hundred acres, and that was used**
281 **primarily for the manufacture of automobiles but, after 2007, ceased**
282 **such manufacturing.**

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