

SECOND REGULAR SESSION

SENATE BILL NO. 999

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHAEFER.

Read 1st time February 24, 2010, and ordered printed.

TERRY L. SPIELER, Secretary.

4997S.011

AN ACT

To repeal sections 135.950, 135.953, 135.960, 135.963, 135.967, 135.970, and 135.973, RSMo, and to enact in lieu thereof eight new sections relating to enhanced enterprise zones.

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

Section A. Sections 135.950, 135.953, 135.960, 135.963, 135.967, 135.970, 2 and 135.973, RSMo, are repealed and eight new sections enacted in lieu thereof, 3 to be known as sections 135.950, 135.953, 135.960, 135.963, 135.967, 135.969, 4 135.970, and 135.973, to read as follows:

135.950. The following terms, whenever used in sections 135.950 to 2 [135.970] **135.971**, shall mean:

- 3 (1) "Average wage", the new payroll divided by the number of new jobs;
- 4 (2) "Blighted area", an area which, by reason of the predominance of 5 defective or inadequate street layout, unsanitary or unsafe conditions, 6 deterioration of site improvements, improper subdivision or obsolete platting, or 7 the existence of conditions which endanger life or property by fire and other 8 causes, or any combination of such factors, retards the provision of housing 9 accommodations or constitutes an economic or social liability or a menace to the 10 public health, safety, morals, or welfare in its present condition and use;
- 11 (3) "Board", an enhanced enterprise zone board established pursuant to 12 section 135.957 **or a commission formed by a municipality pursuant to** 13 **section 99.820;**
- 14 (4) "Certified industrial zone", an area of real property:
 - 15 (a) **Encompassing not less than one hundred acres that has been** 16 **approved as a certified site by the department;**

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

17 **(b) Found, by an ordinance adopted by the governing body, to a**
18 **blighted area; and**

19 **(c) Located in a census tract:**

20 **a. With a poverty rate of twenty percent or more; or**

21 **b. For which the median income is below eighty percent of the**
22 **greater of:**

23 **i. The statewide median income; or**

24 **ii. The metropolitan median income for the metropolitan**
25 **statistical area in which the property is located;**

26 **(5) "Certified site", an area of property designated as a certified**
27 **site by the department pursuant to the certified sites program;**

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

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

44 **[(6)] (8) "Department"**, the department of economic development;

45 **[(7)] (9) "Director"**, the director of the department of economic
46 development;

47 **[(8)] (10) "Employee"**, a person employed by the enhanced business
48 enterprise that is scheduled to work an average of at least one thousand hours
49 per year, and such person at all times has health insurance offered to him or her,
50 which is partially paid for by the employer;

51 **[(9)] (11) "Enhanced business enterprise"**, an industry or one of a cluster
52 of industries that [is either]:

53 (a) **Has been** identified by the department as critical to the state's
54 economic security and growth, **and in the case of a business enterprise**
55 **located in a certified industrial zone, shall include data processing,**
56 **hosting, and related services (NAICS 518210) and internet publishing**
57 **and broadcasting and web search portals (NAICS 519130); [or]**

58 (b) Will have an impact on industry cluster development, as identified by
59 the governing authority in its application for designation of an enhanced
60 enterprise zone and approved by the department; but excluding gambling
61 establishments (NAICS industry group 7132), retail trade (NAICS sectors 44 and
62 45), [educational services (NAICS sector 61),] religious organizations (NAICS
63 industry group 8131), public administration (NAICS sector 92), and food and
64 drinking places (NAICS subsector 722), however, notwithstanding provisions of
65 this section to the contrary, headquarters or administrative offices of an
66 otherwise excluded business may qualify for benefits if the offices serve a
67 multistate territory. In the event a national, state, or regional headquarters
68 operation is not the predominant activity of a project facility, the new jobs and
69 investment of such headquarters operation is considered eligible for benefits
70 under this section if the other requirements are satisfied. Service industries may
71 be eligible only if a majority of its annual revenues will be derived from out of the
72 state; **or**

73 (c) **In the case of a certified industrial zone, shall include a**
74 **private entity that has improved all or a portion of the area within an**
75 **enhanced enterprise zone to prepare the site for a business enterprise**
76 **that otherwise qualifies under subparagraph (a) or (b) of this**
77 **subdivision;**

78 [(10)] (12) "Existing business facility", any facility in this state which
79 was employed by the taxpayer claiming the credit in the operation of an enhanced
80 business enterprise immediately prior to an expansion, acquisition, addition, or
81 replacement;

82 [(11)] (13) "Facility", any building used as an enhanced business
83 enterprise located within an enhanced enterprise zone, including the land on
84 which the facility is located and all machinery, equipment, and other real and
85 depreciable tangible personal property acquired for use at and located at or
86 within such facility and used in connection with the operation of such facility;

87 [(12)] (14) "Facility base employment", the greater of the number of
88 employees located at the facility on the date of the notice of intent, or for the

89 twelve-month period prior to the date of the notice of intent, the average number
90 of employees located at the facility, or in the event the project facility has not
91 been in operation for a full twelve-month period, the average number of
92 employees for the number of months the facility has been in operation prior to the
93 date of the notice of intent;

94 [(13)] (15) "Facility base payroll", the total amount of taxable wages paid
95 by the enhanced business enterprise to employees of the enhanced business
96 enterprise located at the facility in the twelve months prior to the notice of intent,
97 not including the payroll of owners of the enhanced business enterprise unless
98 the enhanced business enterprise is participating in an employee stock ownership
99 plan. For the purposes of calculating the benefits under this program, the
100 amount of base payroll shall increase each year based on the consumer price
101 index or other comparable measure, as determined by the department;

102 [(14)] (16) "Governing authority", the body holding primary legislative
103 authority over a county or incorporated municipality;

104 [(15)] (17) "Megaproject", any manufacturing or assembling facility,
105 approved by the department for construction and operation within an enhanced
106 enterprise zone, which satisfies the following:

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

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

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

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

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

118 [(16)] (18) "NAICS", the [1997] 2007 edition of the North American
119 Industry Classification System as prepared by the Executive Office of the
120 President, Office of Management and Budget. Any NAICS sector, subsector,
121 industry group or industry identified in this section shall include its
122 corresponding classification in subsequent federal industry classification systems;

123 [(17)] (19) "New business facility", a facility that satisfies the following
124 requirements:

125 (a) Such facility is employed by the taxpayer in the operation of an
126 enhanced business enterprise. Such facility shall not be considered a new
127 business facility in the hands of the taxpayer if the taxpayer's only activity with
128 respect to such facility is to lease it to another person or persons. If the taxpayer
129 employs only a portion of such facility in the operation of an enhanced business
130 enterprise, and leases another portion of such facility to another person or
131 persons or does not otherwise use such other portions in the operation of an
132 enhanced business enterprise, the portion employed by the taxpayer in the
133 operation of an enhanced business enterprise shall be considered a new business
134 facility, if the requirements of paragraphs (b), (c), and (d) of this subdivision are
135 satisfied;

136 (b) Such facility is acquired by, or leased to, the taxpayer after December
137 31, 2004. A facility shall be deemed to have been acquired by, or leased to, the
138 taxpayer after December 31, 2004, if the transfer of title to the taxpayer, the
139 transfer of possession pursuant to a binding contract to transfer title to the
140 taxpayer, or the commencement of the term of the lease to the taxpayer occurs
141 after December 31, 2004;

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

147 (d) Such facility is not a replacement business facility, as defined in
148 subdivision [(25)] (27) of this section. **Notwithstanding the provisions of**
149 **this subdivision to the contrary, in the case of a private party that has**
150 **improved a certified industrial zone, any such improvements made or**
151 **constructed to prepare all or a portion of the site shall constitute a new**
152 **business facility and any party acquiring all, or a portion, of such new**
153 **business facility may elect to assume the obligations of such private**
154 **party upon terms acceptable to the department and shall be deemed to**
155 **constitute the prior taxpayer;**

156 [(18)] (20) "New business facility employee", an employee of the taxpayer
157 in the operation of a new business facility during the taxable year for which the
158 credit allowed by section 135.967 is claimed, except that truck drivers and rail
159 and barge vehicle operators and other operators of rolling stock for hire shall not
160 constitute new business facility employees;

161 [(19)] (21) "New business facility investment", the value of real and
162 depreciable tangible personal property, acquired by the taxpayer as part of the
163 new business facility, which is used by the taxpayer in the operation of the new
164 business facility, during the taxable year for which the credit allowed by 135.967
165 is claimed, except that trucks, truck-trailers, truck semitrailers, rail vehicles,
166 barge vehicles, aircraft and other rolling stock for hire, track, switches, barges,
167 bridges, tunnels, and rail yards and spurs shall not constitute new business
168 facility investments. The total value of such property during such taxable year
169 shall be:

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

171 (b) Eight times the net annual rental rate, if leased by the taxpayer. The
172 net annual rental rate shall be the annual rental rate paid by the taxpayer less
173 any annual rental rate received by the taxpayer from subrentals. The new
174 business facility investment shall be determined by dividing by twelve the sum
175 of the total value of such property on the last business day of each calendar
176 month of the taxable year. If the new business facility is in operation for less
177 than an entire taxable year, the new business facility investment shall be
178 determined by dividing the sum of the total value of such property on the last
179 business day of each full calendar month during the portion of such taxable year
180 during which the new business facility was in operation by the number of full
181 calendar months during such period;

182 [(20)] (22) "New job", the number of employees located at the facility that
183 exceeds the facility base employment less any decrease in the number of the
184 employees at related facilities below the related facility base employment. No job
185 that was created prior to the date of the notice of intent shall be deemed a new
186 job;

187 [(21)] (23) "Notice of intent", a form developed by the department which
188 is completed by the enhanced business enterprise and submitted to the
189 department which states the enhanced business enterprise's intent to hire new
190 jobs and request benefits under such program;

191 [(22)] (24) "Related facility", a facility operated by the enhanced business
192 enterprise or a related company in this state that is directly related to the
193 operation of the project facility;

194 [(23)] (25) "Related facility base employment", the greater of:

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

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

200 [(24)] **(26)** "Related taxpayer":

201 (a) A corporation, partnership, trust, or association controlled by the
202 taxpayer;

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

205 (c) A corporation, partnership, trust or association controlled by an
206 individual, corporation, partnership, trust or association in control of the
207 taxpayer. "Control of a corporation" shall mean ownership, directly or indirectly,
208 of stock possessing at least fifty percent of the total combined voting power of all
209 classes of stock entitled to vote, "control of a partnership or association" shall
210 mean ownership of at least fifty percent of the capital or profits interest in such
211 partnership or association, and "control of a trust" shall mean ownership, directly
212 or indirectly, of at least fifty percent of the beneficial interest in the principal or
213 income of such trust; ownership shall be determined as provided in Section 318
214 of the Internal Revenue Code of 1986, as amended;

215 [(25)] **(27)** "Replacement business facility", a facility otherwise described
216 in subdivision [(17)] **(19)** of this section, hereafter referred to in this subdivision
217 as "new facility", which replaces another facility, hereafter referred to in this
218 subdivision as "old facility", located within the state, which the taxpayer or a
219 related taxpayer previously operated but discontinued operating on or before the
220 close of the first taxable year for which the credit allowed by this section is
221 claimed. A new facility shall be deemed to replace an old facility if the following
222 conditions are met:

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

227 (b) The old facility was employed by the taxpayer or a related taxpayer
228 in the operation of an enhanced business enterprise and the taxpayer continues
229 the operation of the same or substantially similar enhanced business enterprise
230 at the new facility.

231 Notwithstanding the preceding provisions of this subdivision, a facility shall not
232 be considered a replacement business facility if the taxpayer's new business

233 facility investment, as computed in subdivision [(19)] (21) of this section, in the
234 new facility during the tax period for which the credits allowed in section 135.967
235 are claimed exceed one million dollars and if the total number of employees at the
236 new facility exceeds the total number of employees at the old facility by at least
237 two;

238 [(26)] (28) "Same or substantially similar enhanced business enterprise",
239 an enhanced business enterprise in which the nature of the products produced or
240 sold, or activities conducted, are similar in character and use or are produced,
241 sold, performed, or conducted in the same or similar manner as in another
242 enhanced business enterprise.

135.953. 1. For purposes of sections 135.950 to [135.970] 135.971, an
2 area shall meet the following criteria in order to qualify as an enhanced
3 enterprise zone:

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

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

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

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

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

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

27 for:

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

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

31 2. Notwithstanding the requirements of subsection 1 of this section to the
32 contrary, an enhanced enterprise zone may be established in an area located
33 within a county for which public and individual assistance has been requested by
34 the governor pursuant to Section 401 of the Robert T. Stafford Disaster Relief and
35 Emergency Assistance Act, 42 U.S.C. 5121 et seq., for an emergency proclaimed
36 by the governor pursuant to section 44.100, RSMo, due to a natural disaster of
37 major proportions, if the area to be designated is blighted and sustained severe
38 damage as a result of such natural disaster, as determined by the state
39 emergency management agency. An application for designation as an enhanced
40 enterprise zone pursuant to this subsection shall be made before the expiration
41 of one year from the date the governor requested federal relief for the area sought
42 to be designated.

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

50 **4. Notwithstanding the requirements of subsection 1 of this**
51 **section to the contrary, a certified industrial zone may be designated**
52 **as an enhanced enterprise zone.**

53 5. In addition to meeting the requirements of subsection 1, 2, [or] 3, or
54 4 of this section, an area, to qualify as an enhanced enterprise zone, shall be
55 demonstrated by the governing authority to have either:

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

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

135.960. 1. Any governing authority that desires to have any portion of
2 a city or unincorporated area of a county under its control designated as an
3 enhanced enterprise zone shall hold a public hearing for the purpose of obtaining
4 the opinion and suggestions of those persons who will be affected by such
5 designation. The governing authority shall notify the director of such hearing at

6 least thirty days prior thereto and shall publish notice of such hearing in a
7 newspaper of general circulation in the area to be affected by such designation
8 at least twenty days prior to the date of the hearing but not more than thirty
9 days prior to such hearing. Such notice shall state the time, location, date, and
10 purpose of the hearing. The director, or the director's designee, shall attend such
11 hearing.

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

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

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

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

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

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

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

41 (7) A description or plan that demonstrates the requirements of subsection

42 4 of section 135.953.

43 3. An enhanced enterprise zone designation shall be effective upon such
44 approval by the department and shall expire in twenty-five
45 years. **Notwithstanding the requirements of subsection 2 of this section**
46 **to the contrary, any certified industrial zone shall be deemed approved**
47 **and designated as an enhanced enterprise zone without further**
48 **approval of or additional action being taken by the**
49 **department. Approval by the department of the certified industrial**
50 **zone as an enhanced enterprise zone and the designation of the**
51 **certified industrial zone as an enhanced enterprise zone shall be**
52 **deemed effective when the governing authority provides written notice**
53 **to the department of its intent to establish such enhanced enterprise**
54 **zone and such notice is accompanied with a petition that includes all**
55 **of the information required by subsection 2 of this section.**

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

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

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

19 3. No exemption shall be granted until the governing authority holds a

20 public hearing for the purpose of obtaining the opinions and suggestions of
21 residents of political subdivisions to be affected by the exemption from property
22 taxes. The governing authority shall send, by certified mail, a notice of such
23 hearing to each political subdivision in the area to be affected and shall publish
24 notice of such hearing in a newspaper of general circulation in the area to be
25 affected by the exemption at least twenty days prior to the hearing but not more
26 than thirty days prior to the hearing. Such notice shall state the time, location,
27 date, and purpose of the hearing.

28 4. Notwithstanding subsection 1 of this section, at least one-half of the ad
29 valorem taxes otherwise imposed on subsequent improvements to real property
30 located in an enhanced enterprise zone of enhanced business enterprises or
31 speculative industrial or warehouse buildings as indicated in subsection 1 of this
32 section, **including a certified industrial zone of enhanced business**
33 **enterprises**, shall become and remain exempt from assessment and payment of
34 ad valorem taxes of any political subdivision of this state or municipality thereof
35 for a period of not less than ten years following the date such improvements were
36 assessed, provided the improved properties are used for enhanced business
37 enterprises. The exemption for speculative buildings is subject to the approval
38 of the governing authority for a period not to exceed two years if the building is
39 owned by a private entity and five years if the building is owned or ground leased
40 by a public entity. This shall not preclude the building receiving an exemption
41 for the remaining time period established by the governing authority if it was
42 occupied by an enhanced business enterprise. The two- and five-year time
43 periods indicated for speculative buildings shall not be an addition to the local
44 abatement time period for such facility.

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

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

50 7. The abatement referred to in this section shall not relieve the assessor
51 or other responsible official from ascertaining the amount of the equalized
52 assessed value of all taxable property annually as required by section 99.855,
53 99.957, or 99.1042, RSMo, and shall not have the effect of reducing the payments
54 in lieu of taxes referred to in subdivision (2) of subsection 1 of section 99.845,
55 RSMo, subdivision (2) of subsection 3 of section 99.957, RSMo, or subdivision (2)

56 of subsection 3 of section 99.1042, RSMo, unless such reduction is set forth in the
57 plan approved by the governing body of the municipality pursuant to subdivision
58 (1) of subsection 1 of section 99.820, section 99.942, or section 99.1027, RSMo.

135.967. 1. A taxpayer who establishes a new business facility may, upon
2 approval by the department, be allowed a credit, each tax year for up to ten tax
3 years, in an amount determined as set forth in this section, against the tax
4 imposed by chapter 143, RSMo, excluding withholding tax imposed by sections
5 143.191 to 143.265, RSMo. No taxpayer shall receive multiple ten-year periods
6 for subsequent expansions at the same facility. **Notwithstanding the**
7 **provisions of this subsection, the provisions of section 135.969 shall**
8 **govern the issuance of tax credits for a new business facility in a**
9 **certified industrial zone approved and designated as an enhanced**
10 **enterprise zone, except for the amount of tax credits to be issued with**
11 **respect to such certified industrial zone as provided in subsection 5 of**
12 **this section.**

13 2. Notwithstanding any provision of law to the contrary, any taxpayer who
14 establishes a new business facility in an enhanced enterprise zone and is awarded
15 state tax credits under this section may not also receive tax credits under sections
16 135.100 to 135.150, sections 135.200 to 135.286, or section 135.535, and may not
17 simultaneously receive tax credits under sections 620.1875 to 620.1890, RSMo,
18 at the same facility.

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

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

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

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

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

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

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

33 (b) An additional credit of four hundred dollars for each new business

34 facility employee who is a resident of an enhanced enterprise zone;

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

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

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

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

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

57 (2) The taxpayer's investment in the expansion and in the original facility
58 prior to expansion shall be determined in the manner provided in subdivision (19)
59 of section 135.950.

60 7. The number of new business facility employees during any taxable year
61 shall be determined by dividing by twelve the sum of the number of individuals
62 employed on the last business day of each month of such taxable year. If the new
63 business facility is in operation for less than the entire taxable year, the number
64 of new business facility employees shall be determined by dividing the sum of the
65 number of individuals employed on the last business day of each full calendar
66 month during the portion of such taxable year during which the new business
67 facility was in operation by the number of full calendar months during such
68 period. For the purpose of computing the credit allowed by this section in the
69 case of a facility which qualifies as a new business facility under subsection 6 of

70 this section, and in the case of a new business facility which satisfies the
71 requirements of paragraph (c) of subdivision [(17)] (19) of section 135.950, or
72 subdivision [(25)] (27) of section 135.950, the number of new business facility
73 employees at such facility shall be reduced by the average number of individuals
74 employed, computed as provided in this subsection, at the facility during the
75 taxable year immediately preceding the taxable year in which such expansion,
76 acquisition, or replacement occurred and shall further be reduced by the number
77 of individuals employed by the taxpayer or related taxpayer that was
78 subsequently transferred to the new business facility from another Missouri
79 facility and for which credits authorized in this section are not being earned,
80 whether such credits are earned because of an expansion, acquisition, relocation,
81 or the establishment of a new facility.

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

90 9. For the purpose of computing the credit allowed by this section in the
91 case of a facility which qualifies as a new business facility pursuant to subsection
92 6 of this section, and in the case of a new business facility which satisfies the
93 requirements of paragraph (c) of subdivision [(17)] (19) of section 135.950 or
94 subdivision [(25)] (27) of section 135.950, the amount of the taxpayer's new
95 business facility investment in such facility shall be reduced by the average
96 amount, computed as provided in subdivision [(19)] (21) of section 135.950 for
97 new business facility investment, of the investment of the taxpayer, or related
98 taxpayer immediately preceding such expansion or replacement or at the time of
99 acquisition. Furthermore, the amount of the taxpayer's new business facility
100 investment shall also be reduced by the amount of investment employed by the
101 taxpayer or related taxpayer which was subsequently transferred to the new
102 business facility from another Missouri facility and for which credits authorized
103 in this section are not being earned, whether such credits are earned because of
104 an expansion, acquisition, relocation, or the establishment of a new facility.

105 10. For a taxpayer with flow-through tax treatment to its members,

106 partners, or shareholders, the credit shall be allowed to members, partners, or
107 shareholders in proportion to their share of ownership on the last day of the
108 taxpayer's tax period.

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

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

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

122 14. Prior to the issuance of tax credits, the department shall verify
123 through the department of revenue, or any other state department, that the tax
124 credit applicant does not owe any delinquent income, sales, or use tax or interest
125 or penalties on such taxes, or any delinquent fees or assessments levied by any
126 state department and through the department of insurance, financial institutions
127 and professional registration that the applicant does not owe any delinquent
128 insurance taxes. Such delinquency shall not affect the authorization of the
129 application for such tax credits, except that the amount of credits issued shall be
130 reduced by the applicant's tax delinquency. If the department of revenue or the
131 department of insurance, financial institutions and professional registration, or
132 any other state department, concludes that a taxpayer is delinquent after June
133 fifteenth but before July first of any year and the application of tax credits to
134 such delinquency causes a tax deficiency on behalf of the taxpayer to arise, then
135 the taxpayer shall be granted thirty days to satisfy the deficiency in which
136 interest, penalties, and additions to tax shall be tolled. After applying all
137 available credits toward a tax delinquency, the administering agency shall notify
138 the appropriate department, and that department shall update the amount of
139 outstanding delinquent tax owed by the applicant. If any credits remain after
140 satisfying all insurance, income, sales, and use tax delinquencies, the remaining
141 credits shall be issued to the applicant, subject to the restrictions of other

142 provisions of law.

135.969. 1. A taxpayer who establishes a new business facility in
2 a certified industrial zone approved or designated as an enhanced
3 enterprise zone may, upon approval by the department, be allowed a
4 credit each tax year for up to ten tax years against the tax imposed by
5 chapter 143, excluding withholding tax imposed by sections 143.191 to
6 143.265. No taxpayer shall receive multiple ten-year periods for
7 subsequent expansions at the same facility.

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

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

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

19 (2) The new business facility investment for the taxable year for
20 which the credit is claimed equals or exceeds one million dollars or the
21 total of all new business facility investments made in connection with
22 a new business facility equals or exceeds a total aggregate expenditure
23 of ten million dollars.

24 4. The annual amount of tax credits authorized to be issued for
25 a certified industrial zone approved or designated as an enhanced
26 business enterprise shall be the sum of the following:

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

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

32 5. If a facility, which does not constitute a new business facility,
33 is expanded by a taxpayer, such expansion shall be considered eligible
34 for the credit allowed by this section if:

35 (1) The taxpayer's new business facility investment in the
36 expansion during the tax period in which the credits allowed in this

37 section are claimed exceeds one hundred thousand dollars;

38 (2) The number of new business facility employees engaged or
39 maintained in employment at the expansion facility for the taxable year
40 for which credit is claimed equals or exceeds two; and

41 (3) The total number of employees at the facility after the
42 expansion is at least two greater than the total number of employees
43 before the expansion.

44 A taxpayer's investment in the expansion and in the original facility
45 prior to expansion shall be determined in the manner provided under
46 subdivision (21) of section 135.950.

47 6. The number of new business facility employees during any
48 taxable year shall be determined by dividing by twelve the sum of the
49 number of individuals employed on the last business day of each month
50 of such taxable year. If the new business facility is in operation for less
51 than the entire taxable year, the number of new business facility
52 employees shall be determined by dividing the sum of the number of
53 individuals employed on the last business day of each full calendar
54 month during the portion of such taxable year during which the new
55 business facility was in operation by the number of full calendar
56 months during such period. For the purpose of computing the credit
57 allowed by this section in the case of a facility which qualifies as a new
58 business facility under subsection 5 of this section, and in the case of
59 a new business facility which satisfies the requirements of paragraph
60 (c) of subdivision (19) of section 135.950, or subdivision (27) of section
61 135.950, the number of new business facility employees at such facility
62 shall be reduced by the average number of individuals employed,
63 computed as provided in this subsection, at the facility during the
64 taxable year immediately preceding the taxable year in which such
65 expansion, acquisition, or replacement occurred and shall further be
66 reduced by the number of individuals employed by the taxpayer or
67 related taxpayer that was subsequently transferred to the new business
68 facility from another Missouri facility and for which credits authorized
69 in this section are not being earned, whether such credits are earned
70 because of an expansion, acquisition, relocation, or the establishment
71 of a new facility.

72 7. For the purpose of computing the credit allowed by this
73 section in the case of a facility which qualifies as a new business

74 facility pursuant to subsection 5 of this section, and in the case of a
75 new business facility which satisfies the requirements of paragraph (c)
76 of subdivision (19) of section 135.950 or subdivision (27) of section
77 135.950, the amount of the taxpayer's new business facility investment
78 in such facility shall be reduced by the average amount, computed as
79 provided in subdivision (21) of section 135.950 for new business facility
80 investment, of the investment of the taxpayer, or related taxpayer
81 immediately preceding such expansion or replacement or at the time
82 of acquisition. Furthermore, the amount of the taxpayer's new business
83 facility investment shall also be reduced by the amount of investment
84 employed by the taxpayer or related taxpayer which was subsequently
85 transferred to the new business facility from another Missouri facility
86 and for which credits authorized in this section are not being earned,
87 whether such credits are earned because of an expansion, acquisition,
88 relocation, or the establishment of a new facility.

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

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

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

104 11. The director of revenue shall issue a refund to the taxpayer
105 to the extent that the amount of credits allowed in this section exceeds
106 the amount of the taxpayer's income tax.

107 12. Prior to the issuance of tax credits, the department shall
108 verify through the department of revenue, or any other state
109 department, that the tax credit applicant does not owe any delinquent
110 income, sales, or use tax or interest or penalties on such taxes, or any

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

135.970. The department may adopt such rules, statements of policy,
2 procedures, forms, and guidelines as may be necessary to carry out the provisions
3 of sections 135.950 to [135.970] 135.971. Any rule or portion of a rule, as that
4 term is defined in section 536.010, RSMo, that is created under the authority
5 delegated in this section shall become effective only if it complies with and is
6 subject to all of the provisions of chapter 536, RSMo, and, if applicable, section
7 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any
8 of the powers vested with the general assembly pursuant to chapter 536, RSMo,
9 to review, to delay the effective date, or to disapprove and annul a rule are
10 subsequently held unconstitutional, then the grant of rulemaking authority and
11 any rule proposed or adopted after August 28, 2004, shall be invalid and void.

135.973. After January 1, 2007, all enterprise zones designated before
2 January 1, 2006, shall be eligible to receive the tax benefits under sections
3 135.950 to [135.970] 135.971.

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