

SECOND REGULAR SESSION

HOUSE BILL NO. 2393

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES RICHARD (Sponsor), PEARCE, BROWN (30), LeVOTA, GRILL,
RUCKER AND SKAGGS (Co-sponsors).

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D. ADAM CRUMBLISS, Chief Clerk

5383L.01I

AN ACT

To repeal section 135.967, RSMo, and to enact in lieu thereof one new section relating to enhanced enterprise zones.

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

Section A. Section 135.967, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 135.967, to read as follows:

135.967. 1. A taxpayer who establishes a new business facility may, upon approval by the department, be allowed a credit, each tax year for up to ten tax years, in an amount determined as set forth in this section, against the tax imposed by chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo. No taxpayer shall receive multiple ten-year periods for subsequent expansions at the same facility.

2. Notwithstanding any provision of law to the contrary, any taxpayer who establishes a new business facility in an enhanced enterprise zone and is awarded state tax credits under this section may not also receive tax credits under sections 135.100 to 135.150, sections 135.200 to [135.268] **135.286**, or section 135.535, **and may not simultaneously receive tax credits under sections 620.1875 to 620.1980, RSMo, at the same facility.**

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

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

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

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

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

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

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

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

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

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

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

32 5. Prior to January 1, 2007, in no event shall the department authorize more than four
33 million dollars annually to be issued for all enhanced business enterprises. After December 31,
34 2006, in no event shall the department authorize more than fourteen million dollars annually to
35 be issued for all enhanced business enterprises.

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

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

44 (2) The taxpayer's investment in the expansion and in the original facility prior to
45 expansion shall be determined in the manner provided in subdivision (14) of section 135.950.

46 7. The number of new business facility employees during any taxable year shall be
47 determined by dividing by twelve the sum of the number of individuals employed on the last
48 business day of each month of such taxable year. If the new business facility is in operation for
49 less than the entire taxable year, the number of new business facility employees shall be
50 determined by dividing the sum of the number of individuals employed on the last business day

51 of each full calendar month during the portion of such taxable year during which the new
52 business facility was in operation by the number of full calendar months during such period. For
53 the purpose of computing the credit allowed by this section in the case of a facility which
54 qualifies as a new business facility under subsection 6 of this section, and in the case of a new
55 business facility which satisfies the requirements of paragraph (c) of subdivision (14) of section
56 135.950, or subdivision (22) of section 135.950, the number of new business facility employees
57 at such facility shall be reduced by the average number of individuals employed, computed as
58 provided in this subsection, at the facility during the taxable year immediately preceding the
59 taxable year in which such expansion, acquisition, or replacement occurred and shall further be
60 reduced by the number of individuals employed by the taxpayer or related taxpayer that was
61 subsequently transferred to the new business facility from another Missouri facility and for which
62 credits authorized in this section are not being earned, whether such credits are earned because
63 of an expansion, acquisition, relocation, or the establishment of a new facility.

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

71 9. For the purpose of computing the credit allowed by this section in the case of a facility
72 which qualifies as a new business facility pursuant to subsection 6 of this section, and in the case
73 of a new business facility which satisfies the requirements of paragraph (c) of subdivision (14)
74 of section 135.950 or subdivision (22) of section 135.950, the amount of the taxpayer's new
75 business facility investment in such facility shall be reduced by the average amount, computed
76 as provided in subdivision (14) of section 135.950 for new business facility investment, of the
77 investment of the taxpayer, or related taxpayer immediately preceding such expansion or
78 replacement or at the time of acquisition. Furthermore, the amount of the taxpayer's new
79 business facility investment shall also be reduced by the amount of investment employed by the
80 taxpayer or related taxpayer which was subsequently transferred to the new business facility from
81 another Missouri facility and for which credits authorized in this section are not being earned,
82 whether such credits are earned because of an expansion, acquisition, relocation, or the
83 establishment of a new facility.

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

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

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

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

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

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