

FIRST REGULAR SESSION

[CORRECTED]

HOUSE BILL NO. 357

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE LEARA.

0855L.01I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 135.950, 135.953, 135.957, 135.960, 135.963, and 135.967, RSMo, and to enact in lieu thereof seven 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Section A. Sections 135.950, 135.953, 135.957, 135.960, 135.963, and 135.967, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 135.950, 135.953, 135.957, 135.960, 135.963, 135.967, and 135.969, to read as follows:

135.950. The following terms, whenever used in sections 135.950 to 135.970 mean:

- (1) "Average wage", the new payroll divided by the number of new jobs;
- (2) "Blighted area", an area which, by reason of the predominance of defective or inadequate street layout, unsanitary or unsafe conditions, deterioration of site improvements, improper subdivision or obsolete platting, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, retards the provision of housing accommodations or constitutes an economic or social liability or a menace to the public health, safety, morals, or welfare in its present condition and use;
- (3) "Board", an enhanced enterprise zone board established pursuant to section 135.957;
- (4) "Commencement of commercial operations" shall be deemed to occur during the first taxable year for which the new business facility is first put into use by the taxpayer in the enhanced business enterprise in which the taxpayer intends to use the new business facility;
- (5) "County average wage", the average wages in each county as determined by the department for the most recently completed full calendar year. However, if the computed county

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 average wage is above the statewide average wage, the statewide average wage shall be deemed
16 the county average wage for such county for the purpose of determining eligibility. The
17 department shall publish the county average wage for each county at least annually.
18 Notwithstanding the provisions of this subdivision to the contrary, for any taxpayer that in
19 conjunction with their project is relocating employees from a Missouri county with a higher
20 county average wage, such taxpayer shall obtain the endorsement of the governing body of the
21 community from which jobs are being relocated or the county average wage for their project shall
22 be the county average wage for the county from which the employees are being relocated;

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

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

25 (8) **"Dormant manufacturing plant", any parcel or parcels of real property**
26 **encompassing not less than two hundred fifty acres that, within six years of the date of the**
27 **notice of intent:**

28 (a) **Was predominantly used for manufacturing or assembly and employed not less**
29 **than three thousand persons but has since ceased all activity;**

30 (b) **Has been found, by an ordinance adopted by the governing body, to be a**
31 **blighted area and designated for redevelopment; and**

32 (c) **Is:**

33 a. **Located in a census tract with, according to United States Census Bureau's**
34 **American Community Survey based on the most recent of five-year period estimated data**
35 **in which the estimate ends in either zero or five, a poverty rate of fifteen percent or more,**
36 **or the median household income is below the statewide median household income or the**
37 **metropolitan median household income for the metropolitan statistical area in which the**
38 **property is located; or**

39 b. **Involved in funding provided by a federal agency of at least one million dollars**
40 **to facilitate the redevelopment of such property;**

41 (9) **"Dormant manufacturing plant zone", includes and encompasses:**

42 (a) **Any dormant manufacturing plant;**

43 (b) **All parcels of real property which are immediately contiguous and adjacent to**
44 **such dormant manufacturing plant; and**

45 (c) **All parcels of real property with boundaries which are within a distance of six**
46 **thousand linear feet from the legal boundary or border of such dormant manufacturing**
47 **plant;**

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

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

53 (a) Identified by the department as critical to the state's economic security and growth;
54 or

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

67 [(10)] (12) "Existing business facility", any facility in this state which was employed by
68 the taxpayer claiming the credit in the operation of an enhanced business enterprise immediately
69 prior to an expansion, acquisition, addition, or replacement;

70 [(11)] (13) "Facility", any building used as an enhanced business enterprise located
71 within an enhanced enterprise zone, including the land on which the facility is located and all
72 machinery, equipment, and other real and depreciable tangible personal property acquired for use
73 at and located at or within such facility and used in connection with the operation of such
74 facility;

75 [(12)] (14) "Facility base employment", the greater of the number of employees located
76 at the facility on the date of the notice of intent, or for the twelve-month period prior to the date
77 of the notice of intent, the average number of employees located at the facility, or in the event
78 the project facility has not been in operation for a full twelve-month period, the average number
79 of employees for the number of months the facility has been in operation prior to the date of the
80 notice of intent;

81 [(13)] (15) "Facility base payroll", the total amount of taxable wages paid by the
82 enhanced business enterprise to employees of the enhanced business enterprise located at the
83 facility in the twelve months prior to the notice of intent, not including the payroll of owners of
84 the enhanced business enterprise unless the enhanced business enterprise is participating in an
85 employee stock ownership plan. For the purposes of calculating the benefits under this program,

86 the amount of base payroll shall increase each year based on the consumer price index or other
87 comparable measure, as determined by the department;

88 [(14)] (16) "Governing authority", the body holding primary legislative authority over
89 a county or incorporated municipality;

90 [(15)] (17) "Megaproject", any manufacturing or assembling facility, approved by the
91 department for construction and operation within an enhanced enterprise zone, which satisfies
92 the following:

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

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

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

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

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

102 [(16)] (18) "NAICS", the [1997] 2007 edition of the North American Industry
103 Classification System as prepared by the Executive Office of the President, Office of
104 Management and Budget. Any NAICS sector, subsector, industry group or industry identified
105 in this section shall include its corresponding classification in subsequent federal industry
106 classification systems;

107 [(17)] (19) "New business facility", a facility that satisfies the following requirements:

108 (a) Such facility is employed by the taxpayer in the operation of an enhanced business
109 enterprise. Such facility shall not be considered a new business facility in the hands of the
110 taxpayer if the taxpayer's only activity with respect to such facility is to lease it to another person
111 or persons. If the taxpayer employs only a portion of such facility in the operation of an enhanced
112 business enterprise, and leases another portion of such facility to another person or persons or
113 does not otherwise use such other portions in the operation of an enhanced business enterprise,
114 the portion employed by the taxpayer in the operation of an enhanced business enterprise shall
115 be considered a new business facility, if the requirements of paragraphs (b), (c), and (d) of this
116 subdivision are satisfied;

117 (b) Such facility is acquired by, or leased to, the taxpayer after December 31, 2004. A
118 facility shall be deemed to have been acquired by, or leased to, the taxpayer after December 31,
119 2004, if the transfer of title to the taxpayer, the transfer of possession pursuant to a binding
120 contract to transfer title to the taxpayer, or the commencement of the term of the lease to the
121 taxpayer occurs after December 31, 2004;

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

126 (d) Such facility is not a replacement business facility, as defined in subdivision [(25)]
127 (27) of this section;

128 [(18)] (20) "New business facility employee", an employee of the taxpayer in the
129 operation of a new business facility during the taxable year for which the credit allowed by
130 section 135.967 **or 135.969** is claimed, except that truck drivers and rail and barge vehicle
131 operators and other operators of rolling stock for hire shall not constitute new business facility
132 employees;

133 [(19)] (21) "New business facility investment", the value of real and depreciable tangible
134 personal property, acquired by the taxpayer **or on his or her behalf in the case of a lease**, as
135 part of the new business facility, which is used by the taxpayer in the operation of the new
136 business facility, during the taxable year for which the credit allowed by **section 135.967 or**
137 **135.969** is claimed, except that trucks, truck-trailers, truck semitrailers, rail vehicles, barge
138 vehicles, aircraft and other rolling stock for hire, track, switches, barges, bridges, tunnels, and
139 rail yards and spurs shall not constitute new business facility investments. The total value of
140 such property during such taxable year shall be:

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

142 (b) Eight times the net annual rental rate, if leased by the taxpayer. The net annual rental
143 rate shall be the annual rental rate paid by the taxpayer less any annual rental rate received by the
144 taxpayer from subrentals. The new business facility investment shall be determined by dividing
145 by twelve the sum of the total value of such property on the last business day of each calendar
146 month of the taxable year. If the new business facility is in operation for less than an entire
147 taxable year, the new business facility investment shall be determined by dividing the sum of the
148 total value of such property on the last business day of each full calendar month during the
149 portion of such taxable year during which the new business facility was in operation by the
150 number of full calendar months during such period;

151 [(20)] (22) "New job", the number of employees located at the facility that exceeds the
152 facility base employment less any decrease in the number of the employees at related facilities
153 below the related facility base employment. No job that was created prior to the date of the
154 notice of intent shall be deemed a new job;

155 [(21)] (23) "Notice of intent", a form developed by the department which is completed
156 by the enhanced business enterprise and submitted to the department which states the enhanced
157 business enterprise's intent to hire new jobs and request benefits under such program;

158 [(22)] **(24)** "Related facility", a facility operated by the enhanced business enterprise or
159 a related company in this state that is directly related to the operation of the project facility;

160 [(23)] **(25)** "Related facility base employment", the greater of:

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

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

166 [(24)] **(26)** "Related taxpayer":

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

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

170 (c) A corporation, partnership, trust or association controlled by an individual,
171 corporation, partnership, trust or association in control of the taxpayer. "Control of a
172 corporation" shall mean ownership, directly or indirectly, of stock possessing at least fifty
173 percent of the total combined voting power of all classes of stock entitled to vote, "control of a
174 partnership or association" shall mean ownership of at least fifty percent of the capital or profits
175 interest in such partnership or association, and "control of a trust" shall mean ownership, directly
176 or indirectly, of at least fifty percent of the beneficial interest in the principal or income of such
177 trust; ownership shall be determined as provided in Section 318 of the Internal Revenue Code
178 of 1986, as amended;

179 [(25)] **(27)** "Replacement business facility", a facility otherwise described in subdivision
180 [(17)] **(19)** of this section, hereafter referred to in this subdivision as "new facility", which
181 replaces another facility, hereafter referred to in this subdivision as "old facility", located within
182 the state, which the taxpayer or a related taxpayer previously operated but discontinued operating
183 on or before the close of the first taxable year for which the credit allowed by this section is
184 claimed. A new facility shall be deemed to replace an old facility if the following conditions are
185 met:

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

189 (b) The old facility was employed by the taxpayer or a related taxpayer in the operation
190 of an enhanced business enterprise and the taxpayer continues the operation of the same or
191 substantially similar enhanced business enterprise at the new facility. Notwithstanding the
192 preceding provisions of this subdivision, a facility shall not be considered a replacement business
193 facility if the taxpayer's new business facility investment, as computed in subdivision [(19)] **(21)**

194 of this section, in the new facility during the tax period for which the credits allowed in section
195 135.967 or **135.969** are claimed exceed one million dollars and if the total number of employees
196 at the new facility exceeds the total number of employees at the old facility by at least two;

197 ~~[(26)]~~ **(28)** "Same or substantially similar enhanced business enterprise", an enhanced
198 business enterprise in which the nature of the products produced or sold, or activities conducted,
199 are similar in character and use or are produced, sold, performed, or conducted in the same or
200 similar manner as in another enhanced business enterprise.

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

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

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

7 (a) Within the state of Missouri, according to the United States Census Bureau's
8 American Community Survey, based on the most recent of five-year period estimate data in
9 which the final year of the estimate ends in either zero or five or other appropriate source as
10 approved by the director; or

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

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

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

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

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

28 2. Notwithstanding the requirements of subsection 1 of this section to the contrary, an
29 enhanced enterprise zone may be established in an area located within a county for which public

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

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

44 4. **Notwithstanding the requirements of subsection 1 of this section to the contrary,**
45 **a dormant manufacturing plant zone may be designated as an enhanced enterprise zone**
46 **if the dormant manufacturing plant zone meets the criteria set forth in subdivision (9) of**
47 **section 135.950.**

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

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

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

135.957. 1. A governing authority planning to seek designation of an enhanced
2 enterprise zone shall establish an enhanced enterprise zone board. The number of members on
3 the board shall be seven. One member of the board shall be appointed by the school district or
4 districts located within the area proposed for designation as an enhanced enterprise zone. One
5 member of the board shall be appointed by other affected taxing districts. The remaining five
6 members shall be chosen by the chief elected official of the county or municipality.

7 2. The school district member and the affected taxing district member shall each have
8 initial terms of five years. Of the five members appointed by the chief elected official, two shall
9 have initial terms of four years, two shall have initial terms of three years, and one shall have an
10 initial term of two years. Thereafter, members shall serve terms of five years. Each
11 commissioner shall hold office until a successor has been appointed. All vacancies shall be filled
12 in the same manner as the original appointment. For inefficiency or neglect of duty or

13 misconduct in office, a member of the board may be removed by the applicable appointing
14 authority.

15 3. A majority of the members shall constitute a quorum of such board for the purpose
16 of conducting business and exercising the powers of the board and for all other purposes. Action
17 may be taken by the board upon a vote of a majority of the members present.

18 4. The members of the board annually shall elect a chair from among the members.

19 5. **In the case of a dormant manufacturing plant zone regarding which a finding**
20 **of blight has been made as provided in subdivision (1) of subsection 1 of section 99.810, the**
21 **commission created under section 99.820 may, at the sole option of the governing authority,**
22 **supplant and replace the board established in accordance with subsection 1 of this section**
23 **and the composition and organization of such commission shall be in accordance with**
24 **section 99.820. If the governing authority elects for such commission to serve in the**
25 **capacity of the enhanced enterprise zone board instead of this board established in**
26 **accordance with subsection 1 of this section, the commission shall fulfill the role and duties**
27 **of the board under subsection 6 of this section.**

28 6. The role of the board **or commission, as described in subsection 5 of this section,**
29 shall be to conduct the activities necessary to advise the governing authority on the designation
30 of an enhanced enterprise zone and any other advisory duties as determined by the governing
31 authority. The role of the board **or commission** after the designation of an enhanced enterprise
32 zone shall be review and assessment of zone activities as it relates to the annual reports as set
33 forth in section 135.960.

135.960. 1. Any governing authority that desires to have any portion of a city or
2 unincorporated area of a county under its control designated as an enhanced enterprise zone shall
3 hold a public hearing for the purpose of obtaining the opinion and suggestions of those persons
4 who will be affected by such designation. The governing authority shall notify the director of
5 such hearing at least thirty days prior thereto and shall publish notice of such hearing in a
6 newspaper of general circulation in the area to be affected by such designation at least twenty
7 days prior to the date of the hearing but not more than thirty days prior to such hearing. Such
8 notice shall state the time, location, date, and purpose of the hearing. The director, or the
9 director's designee, shall attend such hearing. **In the alternative, any governing authority that**
10 **has made the necessary findings by ordinance to designate a dormant manufacturing plant**
11 **zone as a blighted area as contemplated under subdivision (1) of subsection 1 of section**
12 **99.820, prior to December 31, 2012, shall not be required to conduct an additional public**
13 **hearing to establish the dormant manufacturing plant zone as an enhanced enterprise zone**
14 **so long as the governing authority notified the director of such hearing at least thirty days**
15 **prior thereto. Any governing authority that seeks to make the necessary finding to**

16 **designate a dormant manufacturing plant zone as an enhanced enterprise zone after**
17 **December 31, 2012, may do so at a public hearing required under sections 99.820 and**
18 **99.825 conducted by the commission, and such public hearing shall satisfy the public**
19 **hearing requirement set forth in subsection 1 of this section so long as the governing**
20 **authority shall notify the director of such hearing at least thirty days prior thereto.**

21 2. After a public hearing is held as required in subsection 1 of this section, the governing
22 authority may file a petition with the department requesting the designation of a specific area as
23 an enhanced enterprise zone.

24 Such petition shall include, in addition to a description of the physical, social, and economic
25 characteristics of the area:

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

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

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

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

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

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

47 (7) A description or plan that demonstrates the requirements of subsection 4 of section
48 135.953.

49 3. An enhanced enterprise zone designation shall be effective upon such approval by the
50 department and shall expire in twenty-five years. **Notwithstanding the requirements of**
51 **subsection 2 of this section to the contrary, any dormant manufacturing plant zone that has**

52 **been designated as a blighted area as contemplated under subdivision (1) of subsection 1**
53 **of section 99.820 by the governing body or any dormant manufacturing plant zone that has**
54 **been otherwise designated as an enhanced enterprise zone by the governing authority**
55 **under this section shall be deemed approved and designated as an enhanced enterprise**
56 **zone without further approval of or additional action being taken by the department. This**
57 **approval of the department of the dormant manufacturing plant zone as an enhanced**
58 **enterprise zone and the designation of the dormant manufacturing plant zone as an**
59 **enhanced enterprise zone shall be deemed effective when the governing authority provides**
60 **written notice to the department of its intent to establish such enhanced enterprise zone**
61 **and such notice is accompanied with a petition that includes all of the information required**
62 **by subsection 2 of this section.**

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

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

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

14 3. No exemption shall be granted until the governing authority holds a public hearing
15 for the purpose of obtaining the opinions and suggestions of residents of political subdivisions
16 to be affected by the exemption from property taxes. The governing authority shall send, by
17 certified mail, a notice of such hearing to each political subdivision in the area to be affected and
18 shall publish notice of such hearing in a newspaper of general circulation in the area to be
19 affected by the exemption at least twenty days prior to the hearing but not more than thirty days
20 prior to the hearing. Such notice shall state the time, location, date, and purpose of the hearing.

21 4. Notwithstanding subsection 1 of this section, at least one-half of the ad valorem taxes
22 otherwise imposed on subsequent improvements to real property located in an enhanced
23 enterprise zone of enhanced business enterprises or speculative industrial or warehouse buildings

24 as indicated in subsection 1 of this section shall become and remain exempt from assessment and
25 payment of ad valorem taxes of any political subdivision of this state or municipality thereof for
26 a period of not less than ten years following the date such improvements were assessed, provided
27 the improved properties are used for enhanced business enterprises. The exemption for
28 speculative buildings is subject to the approval of the governing authority for a period not to
29 exceed two years if the building is owned by a private entity and five years if the building is
30 owned or ground leased by a public entity. This shall not preclude the building receiving an
31 exemption for the remaining time period established by the governing authority if it was
32 occupied by an enhanced business enterprise. The two- and five-year time periods indicated for
33 speculative buildings shall not be an addition to the local abatement time period for such facility.

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

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

39 7. The abatement referred to in this section shall not relieve the assessor or other
40 responsible official from ascertaining the amount of the equalized assessed value of all taxable
41 property annually as required by section 99.855, 99.957, or 99.1042 and shall not have the effect
42 of reducing the payments in lieu of taxes referred to in subdivision (2) of subsection 1 of section
43 99.845, subdivision (2) of subsection 3 of section 99.957, or subdivision (2) of subsection 3 of
44 section 99.1042 unless such reduction is set forth in the plan approved by the governing body
45 of the municipality pursuant to subdivision (1) of subsection 1 of section 99.820, section 99.942,
46 or section 99.1027.

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

11 2. Notwithstanding any provision of law to the contrary, any taxpayer who establishes
12 a new business facility in an enhanced enterprise zone and is awarded state tax credits under this
13 section may not also receive tax credits under sections 135.100 to 135.150, sections 135.200 to

14 135.286, or section 135.535, and may not simultaneously receive tax credits under sections
15 620.1875 to 620.1890 at the same facility.

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

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

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

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

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

27 (2) The sum calculated based upon **an amount not to exceed the sum of** the following:

28 (a) A **tax credit** [of four hundred dollars for] **up to two and one-half percent of the**
29 **gross wages of** each new business facility employee employed within [an] **the** enhanced
30 enterprise zone; **and**

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

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

36 (d) A **tax credit** [equal] **up to [two] one-half of one** percent of new business facility
37 investment within an enhanced enterprise zone.

38 5. Prior to January 1, 2007, in no event shall the department authorize more than four
39 million dollars annually to be issued for all enhanced business enterprises. After December 31,
40 2006, in no event shall the department authorize more than twenty-four million dollars annually
41 to be issued for all enhanced business enterprises **including any such enhanced business**
42 **enterprises located in dormant manufacturing plant zones under section 135.969.**

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

45 (1) The taxpayer's new business facility investment in the expansion during the tax
46 period in which the credits allowed in this section are claimed exceeds one hundred thousand
47 dollars and if the number of new business facility employees engaged or maintained in
48 employment at the expansion facility for the taxable year for which credit is claimed equals or

49 exceeds two, and the total number of employees at the facility after the expansion is at least two
50 greater than the total number of employees before the expansion; and

51 (2) The taxpayer's investment in the expansion and in the original facility prior to
52 expansion shall be determined in the manner provided in subdivision [(19)] **(21)** of section
53 135.950.

54 7. The number of new business facility employees during any taxable year shall be
55 determined by dividing by twelve the sum of the number of individuals employed on the last
56 business day of each month of such taxable year. If the new business facility is in operation for
57 less than the entire taxable year, the number of new business facility employees shall be
58 determined by dividing the sum of the number of individuals employed on the last business day
59 of each full calendar month during the portion of such taxable year during which the new
60 business facility was in operation by the number of full calendar months during such period. For
61 the purpose of computing the credit allowed by this section in the case of a facility which
62 qualifies as a new business facility under subsection 6 of this section, and in the case of a new
63 business facility which satisfies the requirements of paragraph (c) of subdivision [(17)] **(19)** of
64 section 135.950, or subdivision [(25)] **(27)** of section 135.950, the number of new business
65 facility employees at such facility shall be reduced by the average number of individuals
66 employed, computed as provided in this subsection, at the facility during the taxable year
67 immediately preceding the taxable year in which such expansion, acquisition, or replacement
68 occurred and shall further be reduced by the number of individuals employed by the taxpayer or
69 related taxpayer that was subsequently transferred to the new business facility from another
70 Missouri facility and for which credits authorized in this section are not being earned, whether
71 such credits are earned because of an expansion, acquisition, relocation, or the establishment of
72 a new facility.

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

80 9. For the purpose of computing the credit allowed by this section in the case of a facility
81 which qualifies as a new business facility pursuant to subsection 6 of this section, and in the case
82 of a new business facility which satisfies the requirements of paragraph (c) of subdivision [(17)]
83 **(19)** of section 135.950 or subdivision [(25)] **(27)** of section 135.950, the amount of the
84 taxpayer's new business facility investment in such facility shall be reduced by the average

85 amount, computed as provided in subdivision [(19)] **(21)** of section 135.950 for new business
86 facility investment, of the investment of the taxpayer, or related taxpayer immediately preceding
87 such expansion or replacement or at the time of acquisition. Furthermore, the amount of the
88 taxpayer's new business facility investment shall also be reduced by the amount of investment
89 employed by the taxpayer or related taxpayer which was subsequently transferred to the new
90 business facility from another Missouri facility and for which credits authorized in this section
91 are not being earned, whether such credits are earned because of an expansion, acquisition,
92 relocation, or the establishment of a new facility.

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

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

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

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

106 14. Prior to the issuance of tax credits, the department shall verify through the
107 department of revenue, or any other state department, that the tax credit applicant does not owe
108 any delinquent income, sales, or use tax or interest or penalties on such taxes, or any delinquent
109 fees or assessments levied by any state department and through the department of insurance,
110 financial institutions and professional registration that the applicant does not owe any delinquent
111 insurance taxes. Such delinquency shall not affect the authorization of the application for such
112 tax credits, except that the amount of credits issued shall be reduced by the applicant's tax
113 delinquency. If the department of revenue or the department of insurance, financial institutions
114 and professional registration, or any other state department, concludes that a taxpayer is
115 delinquent after June fifteenth but before July first of any year and the application of tax credits
116 to such delinquency causes a tax deficiency on behalf of the taxpayer to arise, then the taxpayer
117 shall be granted thirty days to satisfy the deficiency in which interest, penalties, and additions
118 to tax shall be tolled. After applying all available credits toward a tax delinquency, the
119 administering agency shall notify the appropriate department, and that department shall update
120 the amount of outstanding delinquent tax owed by the applicant. If any credits remain after

121 satisfying all insurance, income, sales, and use tax delinquencies, the remaining credits shall be
122 issued to the applicant, subject to the restrictions of other provisions of law.

**135.969. 1. A taxpayer who establishes a new business facility in a dormant
2 manufacturing plant zone approved or designated as an enhanced enterprise zone shall
3 receive a tax credit each tax year for five tax years, in an amount determined as set forth
4 in this section against the tax imposed by chapter 143 excluding withholding tax imposed
5 by sections 143.191 to 143.265. No taxpayer shall receive multiple five-year periods for
6 subsequent expansions at the same facility.**

**7 2. Notwithstanding any provision of law to the contrary, any taxpayer who
8 establishes a new business facility in a dormant manufacturing plant zone approved or
9 designated as an enhanced enterprise zone and accepts state tax credits under this section
10 shall not also receive tax credits or other benefits for the same new jobs under sections
11 135.100 to 135.150, sections 135.200 to 135.286, section 135.535, section 135.967, and
12 sections 620.1875 to 620.1890, unless such benefits are determined to be necessary by the
13 department.**

**14 3. The taxpayer shall be entitled to receive the tax credit upon satisfaction of one
15 of the following criteria:**

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

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

**21 4. The annual amount of tax credits to be issued for an enhanced business
22 enterprise located in a dormant manufacturing plant zone shall be equal to the lesser of:**

**23 (1) The annual amount of projected state economic benefit for such enhanced
24 business enterprise, as determined by the department; or**

25 (2) An annual amount equal to the sum of the following:

**26 (a) A tax credit equal to two and one-half percent of the gross wages of each new
27 business facility employee employed within the enhanced enterprise zone; and**

**28 (b) A tax credit equal to one-half of one percent of new business facility investment
29 within an enhanced enterprise zone.**

**30 5. As set forth in section 135.967, up to twenty-four million dollars of tax credits
31 shall be authorized annually for issuance of tax credits for all enhanced enterprise zones
32 including any tax credits issued with respect to dormant manufacturing plant zones.**

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

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

42 **(2) The taxpayer's investment in the expansion and in the original facility prior to**
43 **expansion shall be determined in the manner provided in subdivision (21) of section**
44 **135.950.**

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

64 **8. For the purpose of computing the credit allowed by this section in the case of a**
65 **facility which qualifies as a new business facility under subsection 6 of this section, and in**
66 **the case of a new business facility which satisfies the requirements of paragraph (c) of**
67 **subdivision (19) or subdivision (27) of section 135.950, the amount of the taxpayer's new**
68 **business facility investment in such facility shall be reduced by the average amount,**

69 computed as provided in subdivision (21) of section 135.950 for new business facility
70 investment, of the investment of the taxpayer, or related taxpayer immediately preceding
71 such expansion or replacement or at the time of acquisition. Furthermore, the amount of
72 the taxpayer's new business facility investment shall also be reduced by the amount of
73 investment employed by the taxpayer or related taxpayer which was subsequently
74 transferred to the new business facility from another Missouri facility and for which
75 credits authorized in this section are not being earned, whether such credits are earned
76 because of an expansion, acquisition, relocation, or the establishment of a new facility.

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

80 10. Credits may not be carried forward but shall be claimed for the taxable year
81 during which commencement of commercial operations occurs at such new business
82 facility, and for each of the five succeeding taxable years for which the credit is issued.

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

88 12. The director of revenue shall issue a refund to the taxpayer to the extent that
89 the amount of credits allowed in this section exceeds the amount of the taxpayer's income
90 tax.

91 13. Prior to the issuance of tax credits, the department shall verify through the
92 department of revenue, or any other state department, that the tax credit applicant does
93 not owe any delinquent income, sales, or use tax or interest or penalties on such taxes, or
94 any delinquent fees or assessments levied by any state department and through the
95 department of insurance, financial institutions and professional registration that the
96 applicant does not owe any delinquent insurance taxes. Such delinquency shall not affect
97 the authorization of the application for such tax credits, except that the amount of credits
98 issued shall be reduced by the applicant's tax delinquency. If the department of revenue
99 or the department of insurance, financial institutions and professional registration, or any
100 other state department, concludes that a taxpayer is delinquent after June fifteenth but
101 before July first of any year and the application of tax credits to such delinquency causes
102 a tax deficiency on behalf of the taxpayer to arise, then the taxpayer shall be granted thirty
103 days to satisfy the deficiency in which interest, penalties, and additions to tax shall be
104 tolled. After applying all available credits toward a tax delinquency, the administering

105 **agency shall notify the appropriate department, and that department shall update the**
106 **amount of outstanding delinquent tax owed by the applicant. If any credits remain after**
107 **satisfying all insurance, income, sales, and use tax delinquencies, the remaining credits**
108 **shall be issued to the applicant, subject to the restrictions of other provisions of law.**

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