SS SCS HCS HB 327 -- ECONOMIC DEVELOPMENT

(Vetoed by the Governor)

This bill changes the laws regarding economic development programs.

HUNTING HERITAGE PROTECTION AREAS ACT

The Hunting Heritage Protection Areas Act is established which specifies that, subject to all applicable state, federal, and local laws in effect as of the effective date of the bill, the discharge of a firearm for hunting, sport, and all other lawful purposes will not be prohibited in specified protected areas. Protected areas will include all land located within the 100-year flood plain of the Missouri and Mississippi rivers as designated by the Federal Emergency Management Agency.

Areas exempt from the provisions of the bill include:

(1) Areas designated as urbanized by the 2000 United States Census;

(2) Land used by a facility that is regulated by the Federal Energy Regulatory Commission;

(3) Land used for the operation of a port of commerce or a customs port;

(4) Land within the city boundaries of Kansas City or St. Louis; and

(5) Land located within one-half mile of an interstate highway in existence on the effective date of the bill.

New tax increment financing (TIF) projects are prohibited in any hunting heritage protection area after the effective date of the bill, except for:

(1) Expanding the boundaries of existing TIF areas by no more than 5%;

(2) Improving existing flood or drainage protection; or

(3) Constructing or operating a renewable fuel production facility if no new development directly associated with the production of renewable fuel occurs as a result of the project.

TIF projects or districts approved prior to the effective date of the bill are allowed to make certain modifications.

TAX INCREMENT FINANCING

The bill:

(1) Requires any municipality in the counties of Jefferson, St. Charles, or St. Louis to establish a county TIF commission in the same manner as St. Louis County. The bill specifies the membership of the 12-member commission;

(2) Requires any municipality in the counties of Franklin, Jefferson, St. Charles, or St. Louis to obtain permission from its county TIF commission before implementing a TIF project;

(3) Defines "greenfield area" as it relates to TIF projects and prohibits any new TIF project in any greenfield area located in the City of St. Louis or the counties of Franklin, Jefferson, St. Charles, or St. Louis; and

(4) Requires a two-thirds majority vote of a municipality's governing body to overturn a county TIF commission's recommendation against a proposed TIF redevelopment plan, project, or area.

DISTRESSED AREAS LAND ASSEMBLAGE TAX CREDIT ACT

The Distressed Areas Land Assemblage Tax Credit Act is established which authorizes, beginning January 1, 2008, a tax credit equal to 50% of the costs and 100% of the interest incurred for five years after the acquisition of an eligible parcel of land. Eligible parcels must be located within an eligible project area to be redeveloped and must be acquired before the applicant begins condemnation proceedings. Parcels acquired by the applicant from a municipal authority are not included. Tax credits may be carried forward for up to six years or sold.

The annual cap on the credits that can be issued is $12 million, and the cumulative cap is $100 million. If applications for the tax credit exceed $12 million in any year, the Department of Economic Development can issue the entire amount to one applicant if there is only one eligible applicant or on a pro rata basis to all the eligible applicants. Any eligible amount which is not issued because of the $12 million annual limit will be carried forward and reserved for the applicant in future years.

Eligible project areas must meet the following requirements:

(1) The area must consist of at least 100 acres, which can include parcels which are not eligible parcels;

(2) At least 80% of the area must be located within a Missouri qualified census tract area as designated by the United States Department of Housing and Urban Development;

(3) Eligible parcels acquired by the applicant within in the project area must be at least 75 acres; however, the parcels are not required to be contiguous;

(4) The average number of parcels per acre must be at least four; and

(5) Less than 5% of the acreage within the area's boundaries can consist of owner-occupied residences which the applicant has identified for acquisition.

No tax credits can be authorized for the program after August 28, 2013.

SMALL BUSINESS INVESTMENT TAX CREDITS

The bill:

(1) Reduces the amount of the tax credit for a qualified investment in a small business from 40% to 30% of the investment, unless the small business is located in a distressed community, in which case the tax credit is reduced from 60% to 40%. A tax credit equal to 40% of an investment made in a small business located in a rural area is allowed. Tax credits will only be issued on qualified investments up to $100,000;

(2) Requires that $10 million in tax credits be available each fiscal year for qualified investments in small businesses, regardless of the location of the business. Currently, the total amount of tax credits cannot exceed $13 million with $4 million reserved for distressed communities;

(3) Eliminates the 50% tax credit for an investment in a community bank or community development corporation;

(4) Removes the requirement that $500,000 be available for tax credits for qualified investments in Missouri small businesses, community banks, or community development corporations from the Neighborhood Assistance Program; and

(5) Prohibits the department from issuing certificates without the approval of the Small Business Tax Credit Review Committee, which must review and determine the eligibility of all tax credit applications.

TAX CREDITS

The bill:

(1) Changes the definition of "person" and "taxpayer" as they relate to tax credit programs in Chapters 32, 100, 135, 143, 173, 208, 348, and 620, RSMo, to include charitable organizations which are exempt from federal income tax;

(2) Authorizes a tax credit, beginning January 1, 2008, for certain taxpayers who modify their homes to make them accessible to a disabled person living in the home. If any portion of the modification was claimed as a deduction on the taxpayer's federal income tax return, the amount of the tax credit will be reduced by the amount of the deduction. Taxpayers cannot receive this credit in two consecutive years. The tax credit has a cap of $2,500 per taxpayer and an annual cap of $100,000. The tax credit is not transferrable but will be refundable. To the extent there are tax credits remaining under the $10 million cap in the Rebuilding Communities Tax Credit Program, the first remaining $100,000 will be used for this tax credit;

(3) Authorizes a tax credit, beginning January 1, 2008, equal to 50% of the amount of a contribution made to an eligible organization for the preservation of a Missouri Civil War site. The tax credit is not refundable but can be sold or carried forward for five years. A taxpayer can receive up to $25,000 in credits per tax year, and no more than $100,000 of credits can be issued in a tax year. The first $100,000 of any remaining tax credits in the Neighborhood Assistance Program may also be used for contributions to approved Civil War site preservation organizations;

(4) Increases the cumulative amount of tax credits which may be claimed by all taxpayers contributing to maternity homes in any fiscal year from $2 million to $3 million and allows these credits to be sold;

(5) Establishes the Qualified Beef Tax Credit Act which authorizes a tax credit for each sale of a qualifying beef animal. From January 1, 2009, to December 31, 2016, the credit will be equal to 10 cents per pound above 450 pounds when qualifying beef cattle are sold and 10 cents per pound if the weight of the qualifying beef animal is greater at a subsequent sale than the weight at the first qualifying sale. The tax credit must be claimed in the year in which the qualifying sale occurs. Any unused portion may be carried back three years, carried forward five years, or sold. The annual cap on the credits that can be issued is $10 million, and the cumulative cap is $30 million;

(6) Authorizes a tax credit equal to 7% of the adjusted purchase

price paid to the issuer of a qualified equity investment for the third credit allowance date and 8% for the next four credit allowance dates. The tax credits are not transferable or refundable but may be carried forward for up to five years. No more than $15 million of these tax credits can be utilized annually; and

(7) Lowers the minimum budget expenditure, beginning January 1, 2008, from $300,000 to $50,000 for a qualified film production project less than 30 minutes in length or $100,000 for a project longer than 30 minutes. The bill removes the individual project credit cap of $1 million and increases the total annual program cap from $1.5 million to $10.5 million. The credit will be equal to 35% of the qualifying expenses for the project, which cannot include wages for highly compensated individuals.

ENHANCED ENTERPRISE ZONE PROGRAM

The bill:

(1) Increases the cap on the amount of tax credits that can be issued in a calendar year from $7 million to $25 million;

(2) Revises the definition of "employee" as it relates to the Enhanced Enterprise Zone Program to a person employed by the enhanced business enterprise that is scheduled to work an average of at least 1,000 hours per year. Health insurance must be offered to employees at all times and must be partially paid by the employer. Currently, the definition of "employee" includes full-time, part-time, and seasonal employees;

(3) Adds educational services, religious organizations, and public administration to the list of entities which are prohibited from being enhanced business enterprises. However, the headquarters or administrative offices which would otherwise be excluded may qualify for benefits if the offices serve a multistate territory;

(4) Allows speculative industrial or warehouse buildings constructed by a public entity, or a private entity if the land is leased by a public entity, to be exempt from ad valorem taxes, upon the approval of the governing authority. If the speculative building is owned by a private entity, it cannot be exempt for more than two years. If it is owned or leased by a public entity, it cannot be exempt for more than five years. Currently, only enhanced business enterprises can be exempt from these taxes; and

(5) Requires the department to verify through the Department of Revenue that the tax credit applicant does not owe any delinquent

taxes, interest, or penalties and to verify through the Department of Insurance, Financial Institutions, and Professional Registration that the applicant does not owe any delinquent insurance taxes prior to issuing any tax credits. The amount of tax credits issued will be reduced by any tax delinquency.

MISSOURI HOMESTEAD PRESERVATION ACT

For all years after 2007, the Director of the Department of Revenue is required to calculate the levels of appropriation necessary to establish the homestead exemption limit anywhere between .01% and 5% for reassessment years and between .01% and 2.5% for alternate years.

TAX CREDITS, DEDUCTIONS, AND EXEMPTIONS FOR ALTERNATIVE FUELS

The bill:

(1) Authorizes a tax credit, beginning January 1, 2008, to January 1, 2011, for eligible applicants who install and operate a qualified alternative fuel station. This credit may be claimed for any tax year in which the applicant is constructing the station. The credit is equal to the lesser of $20,000 or 20% of the total direct costs for the purchase and installation of any alternative fuel storage and dispensing equipment. The costs of purchasing land or an existing alternative fuel station or the construction or purchase of a structure are not considered eligible costs. The total amount of tax credits which can be claimed cannot exceed $3 million in 2008, $2 million in 2009, or $1 million in 2010. Tax credits may be carried forward for two years and sold. Tax credits will be forfeited if a tax credit recipient stops selling alternative fuel;

(2) Authorizes an income tax deduction, beginning January 1, 2008, for the purchase of a qualified hybrid vehicle. The tax deduction will be equal to the lesser of $1,500 or 10% of the vehicle's purchase price and must be claimed in the tax year in which the vehicle is purchased;

(3) Authorizes a tax credit for the purchase of E-85, biodiesel, or biodiesel-blended fuel. For 2008, the tax credit will be 25 cents per gallon for E-85 fuel and 5 cents per gallon for biodiesel or biodiesel-blended fuel purchased by the taxpayer; for 2009 and 2010, 20 cents for E-85 fuel and 3 cents for biodiesel or biodiesel-blended fuel; and for 2011 and beyond, 15 cents for E-85 fuel and 5 cents for biodiesel or biodiesel-blended fuel. The amount of tax credits claimed annually per taxpayer must be from $50 to $500. The tax credit is not refundable but can be carried forward for three years and will be available to taxpayers who choose to take the standard

deduction. No more than $500,000 in tax credits can be redeemed in any one fiscal year; and

(4) Exempts new motor vehicles designed to operate on E-85 fuel from state sales tax in Fiscal Year 2008.

TAX EXEMPTIONS

The bill:

(1) Exempts motor fuel used for public school district buses from the motor fuel tax;

(2) Exempts motor fuel used for public mass transportation from the motor fuel tax;

(3) Exempts new diesel-powered motor vehicles with a gross vehicle rating of less than 8,500 pounds from state and local sales and use taxes;

(4) Exempts motor vehicles licensed for a gross weight of 24,000 pounds or more or trailers used by common carriers to transport people or property from state and local sales and use taxes. Currently, these vehicles are only exempt if they are engaged solely in interstate commerce;

(5) Specifies that the raw materials used during the primary manufacturing of automobiles will be assumed to contain at least 25% recovered materials. Currently, electricity used in the primary manufacturing of automobiles cannot be assessed local or state sales taxes if the raw materials used in the processing contain at least 25% recovered materials;

(6) Exempts from state and local sales and use tax the utilities used in the research and development of prescription pharmaceuticals consumed by humans or animals;

(7) Exempts from state and local sales and use tax tangible personal property and utilities used in the research and development of agricultural, biotechnology, and plant genomics products;

(8) Exempts from state and local sales and use taxes the cost of all utilities, chemicals, machinery, equipment, and materials used in the manufacturing, processing, compounding, mining, or production of a product; the processing of recovered materials; and the research and development of manufacturing, processing, compounding, mining, or producing a product; and

(9) Exempts from local and state sales and use taxes all

aviation jet fuel sold to an airline for immediate use by an aircraft during a transoceanic flight. The fuel must be delivered directly from the seller to an aircraft and cannot be stored by the purchaser or a third-party.

ESTABLISHING NEXUS FOR THE PURPOSES OF TAXATION

The bill changes the laws regarding establishing substantial nexus as it relates to state income, use, and corporate franchise taxes.

For the purposes of the state's income tax and corporate franchise tax, the bill specifies that a determination of whether a corporation or individual has substantial nexus with Missouri will be made without regard to whether the corporation or individual is deemed to be a related taxpayer in regard to either a distribution or data storage facility in Missouri. Using a distribution facility or selling property shipped from the distribution facility will not be considered when determining if substantial nexus exists.

Currently, for the purposes of the state use tax, distributing direct mail advertising or catalogs; using media-assisted means such as computer-assisted shopping, telephones, television, radio, magazine or newspaper advertisements; or being owned or controlled by the same interests which own or control any seller engaged in the same or similar line of business in Missouri are defined as ways one can engage in business activities in Missouri. The bill eliminates these activities from the definition of "engages in business activities within this state" and instead specifies that a determination of whether a person engages in business activities in Missouri and whether the person has substantial nexus with Missouri will be made without regard to whether the person is deemed to be a related taxpayer with regard to either a distribution or data storage facility in Missouri. Using a distribution facility or selling property shipped from the distribution facility will not be considered when determining if substantial nexus exists.

VOCATIONAL SCHOOL DISTRICTS

The counties of Bollinger, Butler, Cape Girardeau, Dunklin, Mississippi, New Madrid, Pemiscot, Ripley, Scott, Stoddard, and Wayne are allowed to organize a vocational school district. The Coordinating Board for Higher Education must establish specified standards for the district.

NEW JOBS TRAINING PROGRAM

The bill allows community college districts to sell New Jobs

Training Program certificates until July 1, 2018, and extends the program until July 1, 2028.

FAMILY DEVELOPMENT ACCOUNT PROGRAM

The bill revises the definition of "community-based organizations" as it relates to the Family Development Account Program to include any nonprofit corporation formed under Chapter 355 which the Department of Economic Development can approve to implement the program.

Currently, no more than 20% of the moneys in the reserve fund account may be used for the administrative costs of the program during its first two years and 15% in subsequent years. The bill reduces the amount to 15% for the first two years and 10% for subsequent years.

TRANSPORTATION DEVELOPMENT DISTRICTS

Currently, the qualified electors of a proposed transportation district include anyone living within the proposed district who is a registered voter or, if no one living within the proposed district is eligible to vote, people who own property within the proposed district. The bill revises the definition of "qualified electors" to include anyone residing within the district who is registered to vote and owners of real property. Owners of real property will receive one vote per acre, and any registered voter who also owns property must choose whether to vote as an owner or a registered voter.

Currently, a district must submit a proposed project, with proposed plans and specifications, to the Highways and Transportation Commission for its approval before construction or funding for a project can begin. The bill allows the commission to give preliminary approval to the project subject to the district providing the plans and specifications. After receiving preliminary approval, the district can impose and collect taxes and assessments as specified in the commission's preliminary approval.

Owners of all the property located within a district are allowed, by unanimous petition filed with the district's board of directors, to remove any property from the district if the removal will not materially affect any of the district's obligations.

The bill allows a district to establish different classes of property within the district in order to impose different special assessment rates.

REGIONAL RAILROAD AUTHORITIES ACT

The bill:

(1) Establishes the Regional Railroad Authorities Act to preserve, improve, and continue rail service for agriculture, industry, or passenger traffic and to preserve railroad right-of-way for transportation uses when determined to be practical and necessary for the public welfare;

(2) Authorizes any Missouri city or county to form an authority, which must be organized by a resolution;

(3) Requires each authority to establish a board of at least five commissioners and specifies the powers of the board;

(4) Specifies the powers of the authority, including the ability to exercise the power of eminent domain;

(5) Authorizes the state, any political subdivision, or municipal corporation to transfer any property within the district to the authority;

(6) Specifies that the authority is subject to tort liability under Chapter 537;

(7) Allows the state to make grants to the authority, when appropriated;

(8) Allows the authority to issue revenue bonds; and

(9) Exempts the authority from taxation and assessments.

MISSOURI WORKFORCE INVESTMENT BOARD

The Missouri Workforce Investment Board is established to provide workforce investment activities that increase the employment, retention, and earnings of participants and improve the quality of the workforce, reduce welfare dependency, and enhance productivity and competitiveness.

The board must meet the requirements of the federal Workforce Investment Act (WIA) of 1998. The bill specifies the membership and terms of the board members. The board will assist the Governor with the functions described in Section 111(d) of the WIA 29 USC 2821d, must meet at least quarterly, and must submit an annual report of its activities to the Governor and the General Assembly.

The bill repeals the Missouri Training and Employment Council Act and dissolves the Missouri Training and Employment Council.

QUALITY JOBS PROGRAM

The bill:

(1) Increases the cap on the amount of tax credits that can be issued in a calendar year for the Quality Jobs Program from $12 million to $30 million;

(2) Expands the types of projects which are eligible to receive benefits to include small business job retention and flood survivor relief projects. A qualified company may receive a tax credit for the retention of jobs and flood survivor relief in this state for each job retained over a three-year period. The bill specifies the requirements which must be met including that the qualified company has fewer than 100 employees, the company's average wage must meet or exceed the county average wage, all of the company's facilities are located in Missouri, and that its facilities were directly damaged by flood water rising above the level of a 500-year flood at least two years, but no more than eight years, before an application to the program is made. The qualified company must also invest at least $2 million in capital improvements in facilities and equipment located at facilities that are not located within a 500-year flood plain. The tax credit will equal up to 100% of the withholding taxes generated by the full-time jobs at the project facility during a three-year period. The annual maximum amount of tax credits which can be issued to a qualified company cannot exceed $250,000. The department can propose that this amount be doubled; however, this must be approved by the Quality Jobs Advisory Task Force. The total annual program cap is $500,000. No credits for this project type can be issued after August 30, 2010;

(3) Prohibits a qualified company from participating in the program's Small Business Job Retention and Flood Survivor Relief project if it received any state or federal benefits, incentives, tax relief, or abatement for locating its facility to a flood plain;

(4) Expands the types of projects which are eligible to receive benefits to include tuition reimbursement. A qualified company may receive a tax credit for providing tuition reimbursement to eligible employees. The credit will be up to 50% of the expenses actually incurred in reimbursing tuition expenses but cannot exceed $5,000 per employee. A qualified company can receive up to $25,000 in credits per tax year. The total amount of credits issued in any tax year cannot exceed $250,000. These credits are not refundable but can be sold or carried forward for five years;

(5) Requires any taxpayer who participates in the program and knowingly hires illegal immigrants to forfeit the program's benefits and repay the state an amount equal to any tax credits redeemed or withholding taxes already retained;

(6) Allows tax credits to offset taxes due from financial institutions under Chapter 148. Currently, the credits can only be used to offset state income taxes imposed by Chapter 143;

(7) Revises the definition of "employee" from a person employed by a qualified company to a person employed by a qualified company on a full-time basis, who receives an annual salary equal to or less than the average salary for the county in which the employee is employed or deemed to be employed;

(8) Revises the definition of "withholding tax" to a computation using a schedule determined by the Department of Economic Development based on average wages. Currently, the definition is the state tax imposed by Sections 143.191 - 143.265;

(9) Allows the annual maximum amount of quality jobs tax credits issued to a qualifying company that participates in both the Quality Jobs Program and the New Job Training Program to be increased by an amount equivalent to the withholding tax retained by that company under the New Job Training Program if the combined benefits do not exceed the projected state benefits of the project;

(10) Requires that if the annual maximum amount of quality jobs tax credits issued to any qualified company is increased to $1 million, the number of new jobs must exceed 500. Currently, this increase in tax credits can occur by receiving the approval of the department and the Quality Jobs Advisory Task Force;

(11) Specifies the way in which the county average wage will be calculated when a qualified company relocates employees from one county to another;

(12) Revises the definition of "full-time employee" from an employee who works an average of 35 hours per week to an employee of the qualified company that is scheduled to work an average of 35 hours per week, but leaves the remaining requirements of the definition unchanged;

(13) Changes the calculation of new direct local revenue so that local earnings taxes are excluded;

(14) Specifies that no jobs created before the notice of intent will be deemed new jobs;

(15) Specifies the way in which new payroll will be calculated;

(16) Adds educational services, religious organizations, public administration, and utilities regardless of whether or not they are regulated by the Missouri Public Service Commission to the list of entities which are prohibited from being qualified companies. However, the headquarters or administrative offices which would otherwise be excluded may qualify for benefits if the offices serve a multistate territory;

(17) Expands the definition of "technology business project" to include a qualified company that researches, develops, or manufactures power system technology for aerospace, space, defense, hybrid vehicles, or implantable or wearable medical devices;

(18) Requires the department to give preference to qualified companies and projects targeted at an area of the state which has recently been classified as a disaster area by the federal government;

(19) Allows qualified companies to retain withholding taxes once the minimum number of new jobs has been attained and the county average wage has been exceeded; and

(20) Requires the department to verify through the Department of Revenue that the tax credit applicant does not owe any delinquent taxes, interest, or penalties and to verify through the Department of Insurance, Financial Institutions, and Professional Registration that the applicant does not owe any delinquent insurance taxes prior to issuing any tax credits. The amount of tax credits issued will be reduced by any tax delinquency.

SMALL BUSINESS AND ENTREPRENEURIAL GROWTH ACT

The Small Business and Entrepreneurial Growth Act is established for small business employers who expand their business by increasing the number of jobs and meeting certain qualifications. Beginning January 1, 2008, a qualified employer can retain the Missouri withholding tax from the salaries of newly created jobs for one year. If the employer pays more than 50% of the premiums for health insurance for all employees, the withholding tax can be retained for two years.

TICKET SALES AND SCALPING

The bill decriminalizes ticket scalping by repealing Section 578.395 and prohibits any person or corporation from purchasing more than 20 tickets at one time. A person or company will be allowed to purchase any number of tickets through a group sales office.

The provisions regarding tax credits for equity investments, qualified film production projects, installation and operation of a qualified alternative fuel station, E-85 fuel, biodiesel, and biodiesel-blended fuel will expire six years from the effective date. The provisions regarding the tax credit for home modifications for a disabled person will expire on December 31, 2013.