

HOUSE _____ AMENDMENT NO. _____

Offered By _____

AMEND House Committee Substitute for Senate Bill No. 48, Page 1, Section A, Line 6, by inserting after all of said section and line, the following:

“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. The term "blighted area" shall also include any area which produces or generates or has the potential to produce or generate electrical energy from a renewable energy resource, and which, by reason of obsolescence, decadence, blight, dilapidation, deteriorating or inadequate site improvements, substandard conditions, the predominance or defective or inadequate street layout, unsanitary or unsafe conditions, improper subdivision or obsolete platting, or the existence of conditions which endanger the life or property by fire or other means, or any combination of such factors, is underutilized, unutilized, or diminishes the economic usefulness of the land, improvements, or lock and dam site within such area for the production, generation, conversion, and conveyance of electrical energy from a renewable energy resource;

(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 average wage is above the statewide average wage, the statewide average wage shall be deemed the county average wage for such county for the purpose of determining eligibility. The

1 department shall publish the county average wage for each county at least annually.
2 Notwithstanding the provisions of this subdivision to the contrary, for any taxpayer that in
3 conjunction with their project is relocating employees from a Missouri county with a higher
4 county average wage, such taxpayer shall obtain the endorsement of the governing body of the
5 community from which jobs are being relocated or the county average wage for their project shall
6 be the county average wage for the county from which the employees are being relocated;

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

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

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

12 (9) "Enhanced business enterprise", an industry or one of a cluster of industries that is
13 either:

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

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

27 (10) "Existing business facility", any facility in this state which was employed by the
28 taxpayer claiming the credit in the operation of an enhanced business enterprise immediately prior
29 to an expansion, acquisition, addition, or replacement;

30 (11) "Facility", any building used as an enhanced business enterprise located within an
31 enhanced enterprise zone, including the land on which the facility is located and all machinery,
32 equipment, and other real and depreciable tangible personal property acquired for use at and
33 located at or within such facility and used in connection with the operation of such facility;

34 (12) "Facility base employment", the greater of the number of employees located at the
35 facility on the date of the notice of intent, or for the twelve-month period prior to the date of the
36 notice of intent, the average number of employees located at the facility, or in the event the project

1 facility has not been in operation for a full twelve-month period, the average number of employees
2 for the number of months the facility has been in operation prior to the date of the notice of intent;

3 (13) "Facility base payroll", the total amount of taxable wages paid by the enhanced
4 business enterprise to employees of the enhanced business enterprise located at the facility in the
5 twelve months prior to the notice of intent, not including the payroll of owners of the enhanced
6 business enterprise unless the enhanced business enterprise is participating in an employee stock
7 ownership plan. For the purposes of calculating the benefits under this program, the amount of
8 base payroll shall increase each year based on the consumer price index or other comparable
9 measure, as determined by the department;

10 (14) "Governing authority", the body holding primary legislative authority over a county
11 or incorporated municipality;

12 (15) "Megaproject", any manufacturing or assembling facility, approved by the
13 department for construction and operation within an enhanced enterprise zone, which satisfies the
14 following:

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

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

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

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

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

24 (16) "NAICS", the 1997 edition of the North American Industry Classification System as
25 prepared by the Executive Office of the President, Office of Management and Budget. Any
26 NAICS sector, subsector, industry group or industry identified in this section shall include its
27 corresponding classification in subsequent federal industry classification systems;

28 (17) "New business facility", a facility that does not produce or generate electrical energy
29 from a renewable energy resource and satisfies the following requirements:

30 (a) Such facility is employed by the taxpayer in the operation of an enhanced business
31 enterprise. Such facility shall not be considered a new business facility in the hands of the
32 taxpayer if the taxpayer's only activity with respect to such facility is to lease it to another person
33 or persons. If the taxpayer employs only a portion of such facility in the operation of an enhanced
34 business enterprise, and leases another portion of such facility to another person or persons or
35 does not otherwise use such other portions in the operation of an enhanced business enterprise, the
36 portion employed by the taxpayer in the operation of an enhanced business enterprise shall be

1 considered a new business facility, if the requirements of paragraphs (b), (c), and (d) of this
2 subdivision are satisfied;

3 (b) Such facility is acquired by, or leased to, the taxpayer after December 31, 2004. A
4 facility shall be deemed to have been acquired by, or leased to, the taxpayer after December 31,
5 2004, if the transfer of title to the taxpayer, the transfer of possession pursuant to a binding
6 contract to transfer title to the taxpayer, or the commencement of the term of the lease to the
7 taxpayer occurs after December 31, 2004;

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

12 (d) Such facility is not a replacement business facility, as defined in subdivision (25) of
13 this section;

14 (18) "New business facility employee", an employee of the taxpayer in the operation of a
15 new business facility during the taxable year for which the credit allowed by section 135.967 is
16 claimed, except that truck drivers and rail and barge vehicle operators and other operators of
17 rolling stock for hire shall not constitute new business facility employees;

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

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

26 (b) Eight times the net annual rental rate, if leased by the taxpayer. The net annual rental
27 rate shall be the annual rental rate paid by the taxpayer less any annual rental rate received by the
28 taxpayer from subrentals. The new business facility investment shall be determined by dividing
29 by twelve the sum of the total value of such property on the last business day of each calendar
30 month of the taxable year. If the new business facility is in operation for less than an entire
31 taxable year, the new business facility investment shall be determined by dividing the sum of the
32 total value of such property on the last business day of each full calendar month during the portion
33 of such taxable year during which the new business facility was in operation by the number of full
34 calendar months during such period;

35 (20) "New job", the number of employees located at the facility that exceeds the facility
36 base employment less any decrease in the number of the employees at related facilities below the

1 related facility base employment. No job that was created prior to the date of the notice of intent
2 shall be deemed a new job;

3 (21) "Notice of intent", a form developed by the department which is completed by the
4 enhanced business enterprise and submitted to the department which states the enhanced business
5 enterprise's intent to hire new jobs and request benefits under such program;

6 (22) "Related facility", a facility operated by the enhanced business enterprise or a related
7 company in this state that is directly related to the operation of the project facility;

8 (23) "Related facility base employment", the greater of:

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

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

14 (24) "Related taxpayer":

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

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

18 (c) A corporation, partnership, trust or association controlled by an individual,
19 corporation, partnership, trust or association in control of the taxpayer. "Control of a corporation"
20 shall mean ownership, directly or indirectly, of stock possessing at least fifty percent of the total
21 combined voting power of all classes of stock entitled to vote, "control of a partnership or
22 association" shall mean ownership of at least fifty percent of the capital or profits interest in such
23 partnership or association, and "control of a trust" shall mean ownership, directly or indirectly, of
24 at least fifty percent of the beneficial interest in the principal or income of such trust; ownership
25 shall be determined as provided in Section 318 of the Internal Revenue Code of 1986, as
26 amended;

27 (25) "Renewable energy generation zone", an area which has been found, by a resolution
28 or ordinance adopted by the governing authority having jurisdiction of such area, to be a blighted
29 area and which contains land, improvements, or a lock and dam site which is unutilized or
30 underutilized for the production, generation, conversion, and conveyance of electrical energy from
31 a renewable energy resource;

32 (26) "Renewable energy resource", shall include:

33 (a) Wind;

34 (b) Solar thermal sources or photovoltaic cells and panels;

35 (c) Dedicated crops grown for energy production;

36 (d) Cellulosic agricultural residues;

- 1 (e) Plant residues;
2 (f) Methane from landfills, agricultural operations, or wastewater treatment;
3 (g) Thermal depolymerization or pyrolysis for converting waste material to energy;
4 (h) Clean and untreated wood such as pallets;
5 (i) Hydroelectric power, which shall include electrical energy produced or generated by
6 hydroelectric power generating equipment, as such term is defined in section 137.010;
7 (j) Fuel cells using hydrogen produced by one or more of the renewable resources
8 provided in paragraphs (a) to (i) of this subdivision; or
9 (k) Any other sources of energy, not including nuclear energy, that are certified as
10 renewable by rule by the department of natural resources;

11 (27) "Replacement business facility", a facility otherwise described in subdivision (17) of
12 this section, hereafter referred to in this subdivision as "new facility", which replaces another
13 facility, hereafter referred to in this subdivision as "old facility", located within the state, which
14 the taxpayer or a related taxpayer previously operated but discontinued operating on or before the
15 close of the first taxable year for which the credit allowed by this section is claimed. A new
16 facility shall be deemed to replace an old facility if the following conditions are met:

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

20 (b) The old facility was employed by the taxpayer or a related taxpayer in the operation of
21 an enhanced business enterprise and the taxpayer continues the operation of the same or
22 substantially similar enhanced business enterprise at the new facility. Notwithstanding the
23 preceding provisions of this subdivision, a facility shall not be considered a replacement business
24 facility if the taxpayer's new business facility investment, as computed in subdivision (19) of this
25 section, in the new facility during the tax period for which the credits allowed in section 135.967
26 are claimed exceed one million dollars and if the total number of employees at the new facility
27 exceeds the total number of employees at the old facility by at least two;

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

32 135.953. 1. For purposes of sections 135.950 to 135.970, an area shall meet the following
33 criteria in order to qualify as an enhanced enterprise zone:

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

36 (2) At least sixty percent of the residents living in the area have incomes below ninety

1 percent of the median income of all residents:

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

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

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

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

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

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

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

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

36 4. In addition to meeting the requirements of subsection 1, 2, or 3 of this section, an area,

1 to qualify as an enhanced enterprise zone, shall be demonstrated by the governing authority to
2 have either:

- 3 (1) The potential to create sustainable jobs in a targeted industry; or
- 4 (2) A demonstrated impact on local industry cluster development.

5 5. Notwithstanding the requirements of subsections 1 and 4 of this section to the contrary,
6 a renewable energy generation zone may be designated as an enhanced enterprise zone if the
7 renewable energy generation zone meets the criteria set forth in subdivision (25) of section
8 135.950.

9 135.963. 1. Improvements made to real property as such term is defined in section
10 137.010 which are made in an enhanced enterprise zone subsequent to the date such zone or
11 expansion thereto was designated, may, upon approval of an authorizing resolution or ordinance
12 by the governing authority having jurisdiction of the area in which the improvements are made, be
13 exempt, in whole or in part, from assessment and payment of ad valorem taxes of one or more
14 affected political subdivisions. Improvements made to real property, as such term is defined in
15 section 137.010, which are locally assessed and in a renewable energy generation zone designated
16 as an enhanced enterprise zone, subsequent to the date such enhanced enterprise zone or
17 expansion thereto was designated, may, upon approval of an authorizing resolution or ordinance
18 by the governing authority having jurisdiction of the area in which the improvements are made, be
19 exempt, in whole or in part, from assessment and payment of ad valorem taxes of one or more
20 affected political subdivisions. In addition to enhanced business enterprises, a speculative
21 industrial or warehouse building constructed by a public entity or a private entity if the land is
22 leased by a public entity may be subject to such exemption.

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

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

35 4. Notwithstanding subsection 1 of this section, at least one-half of the ad valorem taxes
36 otherwise imposed on subsequent improvements to real property located in an enhanced enterprise

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

12 5. No exemption shall be granted for a period more than twenty-five years following the
13 date on which the original enhanced enterprise zone was designated by the department.

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

16 7. The abatement referred to in this section shall not relieve the assessor or other
17 responsible official from ascertaining the amount of the equalized assessed value of all taxable
18 property annually as required by section 99.855, 99.957, or 99.1042 and shall not have the effect
19 of reducing the payments in lieu of taxes referred to in subdivision (2) of subsection 1 of section
20 99.845, subdivision (2) of subsection 3 of section 99.957, or subdivision (2) of subsection 3 of
21 section 99.1042 unless such reduction is set forth in the plan approved by the governing body of
22 the municipality pursuant to subdivision (1) of subsection 1 of section 99.820, section 99.942, or
23 section 99.1027.

24 137.010. The following words, terms and phrases when used in laws governing taxation
25 and revenue in the state of Missouri shall have the meanings ascribed to them in this section,
26 except when the context clearly indicates a different meaning:

27 (1) "Grain and other agricultural crops in an unmanufactured condition" shall mean grains
28 and feeds including, but not limited to, soybeans, cow peas, wheat, corn, oats, barley, kafir, rye,
29 flax, grain sorghums, cotton, and such other products as are usually stored in grain and other
30 elevators and on farms; but excluding such grains and other agricultural crops after being
31 processed into products of such processing, when packaged or sacked. The term "processing"
32 shall not include hulling, cleaning, drying, grating, or polishing;

33 (2) "Hydroelectric power generating equipment", very-low-head turbine generators with a
34 nameplate generating capacity of at least four hundred kilowatts but not more than six hundred
35 kilowatts and machinery and equipment used directly in the production, generation, conversion,
36 storage, or conveyance of hydroelectric power to land-based devices and appurtenances used in

1 the transmission of electrical energy;

2 (3) "Intangible personal property", for the purpose of taxation, shall include all property
3 other than real property and tangible personal property, as defined by this section;

4 (3) "Real property" includes land itself, whether laid out in town lots or otherwise, and all
5 growing crops, buildings, structures, improvements and fixtures of whatever kind thereon,
6 hydroelectric power generating equipment, the installed poles used in the transmission or
7 reception of electrical energy, audio signals, video signals or similar purposes, provided the owner
8 of such installed poles is also an owner of a fee simple interest, possessor of an easement, holder
9 of a license or franchise, or is the beneficiary of a right-of-way dedicated for public utility
10 purposes for the underlying land; attached wires, transformers, amplifiers, substations, and other
11 such devices and appurtenances used in the transmission or reception of electrical energy, audio
12 signals, video signals or similar purposes when owned by the owner of the installed poles,
13 otherwise such items are considered personal property; and stationary property used for
14 transportation of liquid and gaseous products, including, but not limited to, petroleum products,
15 natural gas, water, and sewage;

16 (4) "Tangible personal property" includes every tangible thing being the subject of
17 ownership or part ownership whether animate or inanimate, other than money, and not forming
18 part or parcel of real property as herein defined, but does not include household goods, furniture,
19 wearing apparel and articles of personal use and adornment, as defined by the state tax
20 commission, owned and used by a person in his home or dwelling place."; and

21
22 Further amend said bill by amending the title, enacting clause, and intersectional references
23 accordingly.