

HOUSE _____ **AMENDMENT NO.** _____**Offered By** _____

AMEND House Committee Substitute for Senate Bill No. 0145, Section 67.319, Page 5, Line 53, 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 department shall publish the county average wage for each county at least annually. Notwithstanding the provisions of this subdivision to the contrary, for any taxpayer that in conjunction with their project is relocating employees from a Missouri county with a higher county average wage, such taxpayer shall obtain the endorsement of the governing body of the community from which jobs are being relocated or the county average wage for their project shall be the county average wage for the county from which the employees are being relocated;

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

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

(8) "Employee", a person employed by the enhanced business enterprise that is scheduled to work

1 an average of at least one thousand hours per year, and such person at all times has health insurance
2 offered to him or her, which is partially paid for by the employer;

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

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

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

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

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

23 (12) "Facility base employment", the greater of the number of employees located at the facility on
24 the date of the notice of intent, or for the twelve-month period prior to the date of the notice of intent, the
25 average number of employees located at the facility, or in the event the project facility has not been in
26 operation for a full twelve-month period, the average number of employees for the number of months the
27 facility has been in operation prior to the date of the notice of intent;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Eight times the net annual rental rate, if leased by the taxpayer. The net annual rental rate

shall be the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals. The new business facility investment shall be determined by dividing by twelve the sum of the total value of such property on the last business day of each calendar month of the taxable year. If the new business facility is in operation for less than an entire taxable year, the new business facility investment shall be determined by dividing the sum of the total value of such property on the last business day of each full calendar month during the portion of such taxable year during which the new business facility was in operation by the number of full calendar months during such period;

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

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

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

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

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

(24) "Related taxpayer":

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

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

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

(a) Wind;
(b) Solar thermal sources or photovoltaic cells and panels;
(c) Dedicated crops grown for energy production;
(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 provided in
8 paragraphs (a) to (i) of this subdivision; or
9 (k) Any other sources of energy, not including nuclear energy, that are certified as renewable by
10 rule by the department of natural resources;

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

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

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

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

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

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

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

43 (b) Within the county or city not within a county in which the area is located, according

1 to the last decennial census or other appropriate source as approved by the director; and
2 (3) The resident population of the area shall be at least five hundred but not more than
3 one hundred thousand at the time of designation as an enhanced enterprise zone if the area
4 lies within a metropolitan statistical area, as established by the United States Census
5 Bureau, or if the area does not lie within a metropolitan statistical area, the resident
6 population of the area at the time of designation shall be at least five hundred but not
7 more than forty thousand inhabitants. If the population of the jurisdiction of the
8 governing authority does not meet the minimum population requirements set forth in this
9 subdivision, the population of the area must be at least fifty percent of the population of
10 the jurisdiction. However, no enhanced enterprise zone shall be created which consists of
11 the total area within the political boundaries of a county; and
12 (4) The level of unemployment of persons, according to the most recent data available
13 from the United States Bureau of Census and approved by the director, within the area is
14 equal to or exceeds the average rate of unemployment for:

- 15 (a) The state of Missouri over the previous twelve months; or
16 (b) The county or city not within a county over the previous twelve months.

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

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

34 4. In addition to meeting the requirements of subsection 1, 2, or 3 of this section, an area,
35 to qualify as an enhanced enterprise zone, shall be demonstrated by the governing
36 authority to have either:

- 37 (1) The potential to create sustainable jobs in a targeted industry; or
38 (2) A demonstrated impact on local industry cluster development.]
39

40 135.953. 1. For purposes of sections 135.950 to 135.970, an area shall meet the following criteria
41 in order to qualify as an enhanced enterprise zone:

- 42 (1) The area shall be a blighted area, have pervasive poverty, unemployment and general distress;
43 and

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

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

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

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

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

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

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

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

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

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

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

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

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

135.963. 1. Improvements made to real property as such term is defined in section 137.010

1 which are made in an enhanced enterprise zone subsequent to the date such zone or expansion thereto was
2 designated, may, upon approval of an authorizing resolution or ordinance by the governing authority
3 having jurisdiction of the area in which the improvements are made, be exempt, in whole or in part, from
4 assessment and payment of ad valorem taxes of one or more affected political subdivisions.

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

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

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

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

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

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

41 7. The abatement referred to in this section shall not relieve the assessor or other responsible
42 official from ascertaining the amount of the equalized assessed value of all taxable property annually as
43 required by section 99.855, 99.957, or 99.1042 and shall not have the effect of reducing the payments in

lieu of taxes referred to in subdivision (2) of subsection 1 of section 99.845, subdivision (2) of subsection 3 of section 99.957, or subdivision (2) of subsection 3 of section 99.1042 unless such reduction is set forth in the plan approved by the governing body of the municipality pursuant to subdivision (1) of subsection 1 of section 99.820, section 99.942, or section 99.1027.

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

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

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

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

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

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

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