

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for Senate Committee Substitute for Senate Bill No. 861,
2 Page 1, In the Title, Line 3, by deleting the word "facilities" and inserting in lieu thereof the word
3 "infrastructure"; and

4
5 Further amend said bill, Page 11, Section 227.600, Line 57, by inserting after all of said section and
6 line the following:

7
8 "447.708. 1. For eligible projects, the director of the department of economic development,
9 with notice to the directors of the departments of natural resources and revenue, and subject to the
10 other provisions of sections 447.700 to 447.718, may not create a new enterprise zone but may
11 decide that a prospective operator of a facility being remedied and renovated pursuant to sections
12 447.700 to 447.718 may receive the tax credits and exemptions pursuant to sections 135.100 to
13 135.150 and sections 135.200 to 135.257. The tax credits allowed pursuant to this subsection shall
14 be used to offset the tax imposed by chapter 143, excluding withholding tax imposed by sections
15 143.191 to 143.265, or the tax otherwise imposed by chapter 147, or the tax otherwise imposed by
16 chapter 148. For purposes of this subsection:

17 (1) For receipt of the ad valorem tax abatement pursuant to section 135.215, the eligible
18 project must create at least ten new jobs or retain businesses which supply at least twenty-five
19 existing jobs. The city, or county if the eligible project is not located in a city, must provide ad
20 valorem tax abatement of at least fifty percent for a period not less than ten years and not more than
21 twenty-five years;

22 (2) For receipt of the income tax exemption pursuant to section 135.220 and tax credit for
23 new or expanded business facilities pursuant to sections 135.100 to 135.150, and 135.225, the
24 eligible project must create at least ten new jobs or retain businesses which supply at least twenty-
25 five existing jobs, or combination thereof. For purposes of sections 447.700 to 447.718, the tax
26 credits described in section 135.225 are modified as follows: the tax credit shall be four hundred
27 dollars per employee per year, an additional four hundred dollars per year for each employee
28 exceeding the minimum employment thresholds of ten and twenty-five jobs for new and existing
29 businesses, respectively, an additional four hundred dollars per year for each person who is a person
30 difficult to employ as defined by section 135.240, and investment tax credits at the same amounts
31 and levels as provided in subdivision (4) of subsection 1 of section 135.225;

32 (3) For eligibility to receive the income tax refund pursuant to section 135.245, the eligible
33 project must create at least ten new jobs or retain businesses which supply at least twenty-five
34 existing jobs, or combination thereof, and otherwise comply with the provisions of section 135.245
35 for application and use of the refund and the eligibility requirements of this section;

36 (4) The eligible project operates in compliance with applicable environmental laws and

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1 regulations, including permitting and registration requirements, of this state as well as the federal
2 and local requirements;

3 (5) The eligible project operator shall file such reports as may be required by the director of
4 economic development or the director's designee;

5 (6) The taxpayer may claim the state tax credits authorized by this subsection and the state
6 income exemption for a period not in excess of ten consecutive tax years. For the purpose of this
7 section, "taxpayer" means an individual proprietorship, partnership or corporation described in
8 section 143.441 or 143.471 who operates an eligible project. The director shall determine the
9 number of years the taxpayer may claim the state tax credits and the state income exemption based
10 on the projected net state economic benefits attributed to the eligible project;

11 (7) For the purpose of meeting the new job requirement prescribed in subdivisions (1), (2)
12 and (3) of this subsection, it shall be required that at least ten new jobs be created and maintained
13 during the taxpayer's tax period for which the credits are earned, in the case of an eligible project
14 that does not replace a similar facility in Missouri. "New job" means a person who was not
15 previously employed by the taxpayer or related taxpayer within the twelve-month period
16 immediately preceding the time the person was employed by that taxpayer to work at, or in
17 connection with, the eligible project on a full-time basis. "Full-time basis" means the employee
18 works an average of at least thirty-five hours per week during the taxpayer's tax period for which
19 the tax credits are earned. For the purposes of this section, related taxpayer has the same meaning
20 as defined in subdivision (9) of section 135.100;

21 (8) For the purpose of meeting the existing job retention requirement, if the eligible project
22 replaces a similar facility that closed elsewhere in Missouri prior to the end of the taxpayer's tax
23 period in which the tax credits are earned, it shall be required that at least twenty-five existing jobs
24 be retained at, and in connection with the eligible project, on a full-time basis during the taxpayer's
25 tax period for which the credits are earned. "Retained job" means a person who was previously
26 employed by the taxpayer or related taxpayer, at a facility similar to the eligible project that closed
27 elsewhere in Missouri prior to the end of the taxpayer's tax period in which the tax credits are
28 earned, within the tax period immediately preceding the time the person was employed by the
29 taxpayer to work at, or in connection with, the eligible project on a full-time basis. "Full-time
30 basis" means the employee works an average of at least thirty-five hours per week during the
31 taxpayer's tax period for which the tax credits are earned;

32 (9) In the case where an eligible project replaces a similar facility that closed elsewhere in
33 Missouri prior to the end of the taxpayer's tax period in which the tax credits are earned, the owner
34 and operator of the eligible project shall provide the director with a written statement explaining the
35 reason for discontinuing operations at the closed facility. The statement shall include a comparison
36 of the activities performed at the closed facility prior to the date the facility ceased operating, to the
37 activities performed at the eligible project, and a detailed account describing the need and rationale
38 for relocating to the eligible project. If the director finds the relocation to the eligible project
39 significantly impaired the economic stability of the area in which the closed facility was located,
40 and that such move was detrimental to the overall economic development efforts of the state, the
41 director may deny the taxpayer's request to claim tax benefits;

42 (10) Notwithstanding any provision of law to the contrary, for the purpose of this section,
43 the number of new jobs created and maintained, the number of existing jobs retained, and the value
44 of new qualified investment used at the eligible project during any tax year shall be determined by
45 dividing by twelve, in the case of jobs, the sum of the number of individuals employed at the
46 eligible project, or in the case of new qualified investment, the value of new qualified investment
47 used at the eligible project, on the last business day of each full calendar month of the tax year. If
48 the eligible project is in operation for less than the entire tax year, the number of new jobs created

1 and maintained, the number of existing jobs retained, and the value of new qualified investment
2 created at the eligible project during any tax year shall be determined by dividing the sum of the
3 number of individuals employed at the eligible project, or in the case of new qualified investment,
4 the value of new qualified investment used at the eligible project, on the last business day of each
5 full calendar month during the portion of the tax year during which the eligible project was in
6 operation, by the number of full calendar months during such period;

7 (11) For the purpose of this section, "new qualified investment" means new business facility
8 investment as defined and as determined in subdivision (7) of section 135.100 which is used at and
9 in connection with the eligible project. "New qualified investment" shall not include small tools,
10 supplies and inventory. "Small tools" means tools that are portable and can be hand held.

11 2. The determination of the director of economic development pursuant to subsection 1 of
12 this section shall not affect requirements for the prospective purchaser to obtain the approval of the
13 granting of real property tax abatement by the municipal or county government where the eligible
14 project is located.

15 3. (1) The director of the department of economic development, with the approval of the
16 director of the department of natural resources, may, in addition to the tax credits allowed in
17 subsection 1 of this section, grant a remediation tax credit to the applicant for up to one hundred
18 percent of the costs of materials, supplies, equipment, labor, professional engineering, consulting
19 and architectural fees, permitting fees and expenses, demolition, asbestos abatement, and direct
20 utility charges for performing the voluntary remediation activities for the preexisting hazardous
21 substance contamination and releases, including, but not limited to, the costs of performing
22 operation and maintenance of the remediation equipment at the property beyond the year in which
23 the systems and equipment are built and installed at the eligible project and the costs of performing
24 the voluntary remediation activities over a period not in excess of four tax years following the
25 taxpayer's tax year in which the system and equipment were first put into use at the eligible project,
26 provided the remediation activities are the subject of a plan submitted to, and approved by, the
27 director of natural resources pursuant to sections 260.565 to 260.575. The tax credit may also
28 include up to one hundred percent of the costs of demolition that are not directly part of the
29 remediation activities, provided that the demolition is on the property where the voluntary
30 remediation activities are occurring, the demolition is necessary to accomplish the planned use of
31 the facility where the remediation activities are occurring, and the demolition is part of a
32 redevelopment plan approved by the municipal or county government and the department of
33 economic development. The demolition may occur on an adjacent property if the project is located
34 in a municipality which has a population less than twenty thousand and the above conditions are
35 otherwise met. The adjacent property shall independently qualify as abandoned or underutilized.
36 The amount of the credit available for demolition not associated with remediation cannot exceed the
37 total amount of credits approved for remediation including demolition required for remediation.

38 (2) The amount of remediation tax credits issued shall be limited to the least amount
39 necessary to cause the project to occur, as determined by the director of the department of economic
40 development.

41 (3) The director may, with the approval of the director of natural resources, extend the tax
42 credits allowed for performing voluntary remediation maintenance activities, in increments of three-
43 year periods, not to exceed five consecutive three-year periods. The tax credits allowed in this
44 subsection shall be used to offset the tax imposed by chapter 143, excluding withholding tax
45 imposed by sections 143.191 to 143.265, or the tax otherwise imposed by chapter 147, or the tax
46 otherwise imposed by chapter 148. The remediation tax credit may be taken in the same tax year in
47 which the tax credits are received or may be taken over a period not to exceed twenty years.

48 (4) The project facility shall be projected to create at least ten new jobs or at least twenty-

1 five retained jobs, or a combination thereof, as determined by the department of economic
2 development, to be eligible for tax credits pursuant to this section.

3 (5) No more than seventy-five percent of earned remediation tax credits may be issued
4 when the remediation costs were paid, and the remaining percentage may be issued when the
5 department of natural resources issues a letter of completion letter or covenant not to sue following
6 completion of the voluntary remediation activities. It shall not include any costs associated with
7 ongoing operational environmental compliance of the facility or remediation costs arising out of
8 spills, leaks, or other releases arising out of the ongoing business operations of the facility. In the
9 event the department of natural resources issues a letter of completion for a portion of a property, an
10 impacted media such as soil or groundwater, or for a site or a portion of a site improvement, a
11 prorated amount of the remaining percentage may be released based on the percentage of the total
12 site receiving a letter of completion.

13 4. In the exercise of the sound discretion of the director of the department of economic
14 development or the director's designee, the tax credits and exemptions described in this section may
15 be terminated, suspended or revoked, if the eligible project fails to continue to meet the conditions
16 set forth in this section. In making such a determination, the director shall consider the severity of
17 the condition violation, actions taken to correct the violation, the frequency of any condition
18 violations and whether the actions exhibit a pattern of conduct by the eligible facility owner and
19 operator. The director shall also consider changes in general economic conditions and the
20 recommendation of the director of the department of natural resources, or his or her designee,
21 concerning the severity, scope, nature, frequency and extent of any violations of the environmental
22 compliance conditions. The taxpayer or person claiming the tax credits or exemptions may appeal
23 the decision regarding termination, suspension or revocation of any tax credit or exemption in
24 accordance with the procedures outlined in subsections 4 [to 6] and 5 of section 135.250. The
25 director of the department of economic development shall notify the directors of the departments of
26 natural resources and revenue of the termination, suspension or revocation of any tax credits as
27 determined in this section or pursuant to the provisions of section 447.716.

28 5. Notwithstanding any provision of law to the contrary, no taxpayer shall earn the tax
29 credits, exemptions or refund otherwise allowed in subdivisions (2), (3) and (4) of subsection 1 of
30 this section and the tax credits otherwise allowed in section 135.110, or the tax credits, exemptions
31 and refund otherwise allowed in sections 135.215, 135.220, 135.225 and 135.245, respectively, for
32 the same facility for the same tax period.

33 6. The total amount of the tax credits allowed in subsection 1 of this section may not exceed
34 the greater of:

35 (1) That portion of the taxpayer's income attributed to the eligible project; or

36 (2) One hundred percent of the total business' income tax if the eligible facility does not
37 replace a similar facility that closed elsewhere in Missouri prior to the end of the taxpayer's tax
38 period in which the tax credits are earned, and further provided the taxpayer does not operate any
39 other facilities besides the eligible project in Missouri; fifty percent of the total business' income tax
40 if the eligible facility replaces a similar facility that closed elsewhere in Missouri prior to the end of
41 the taxpayer's tax period in which the credits are earned, and further provided the taxpayer does not
42 operate any other facilities besides the eligible project in Missouri; or twenty-five percent of the
43 total business income if the taxpayer operates, in addition to the eligible facility, any other facilities
44 in Missouri. In no case shall a taxpayer operating more than one eligible project in Missouri be
45 allowed to offset more than twenty-five percent of the taxpayer's business income in any tax period.
46 That portion of the taxpayer's income attributed to the eligible project as referenced in subdivision
47 (1) of this subsection, for which the credits allowed in sections 135.110 and 135.225 and subsection
48 3 of this section, may apply, shall be determined in the same manner as prescribed in subdivision (6)

1 of section 135.100. That portion of the taxpayer's franchise tax attributed to the eligible project for
2 which the remediation tax credit may offset, shall be determined in the same manner as prescribed
3 in paragraph (a) of subdivision (6) of section 135.100.

4 7. Taxpayers claiming the state tax benefits allowed in subdivisions (2) and (3) of
5 subsection 1 of this section shall be required to file all applicable tax credit applications, forms and
6 schedules prescribed by the director during the taxpayer's tax period immediately after the tax
7 period in which the eligible project was first put into use. Otherwise, the taxpayer's right to claim
8 such state tax benefits shall be forfeited. Unused business facility and enterprise zone tax credits
9 shall not be carried forward but shall be initially claimed for the tax period during which the eligible
10 project was first capable of being used, and during any applicable subsequent tax periods.

11 8. Taxpayers claiming the remediation tax credit allowed in subsection 3 of this section shall
12 be required to file all applicable tax credit applications, forms and schedules prescribed by the
13 director during the taxpayer's tax period immediately after the tax period in which the eligible
14 project was first put into use, or during the taxpayer's tax period immediately after the tax period in
15 which the voluntary remediation activities were performed.

16 9. The recipient of remediation tax credits, for the purpose of this subsection referred to as
17 assignor, may assign, sell or transfer, in whole or in part, the remediation tax credit allowed in
18 subsection 3 of this section to any other person, for the purpose of this subsection referred to as
19 assignee. To perfect the transfer, the assignor shall provide written notice to the director of the
20 assignor's intent to transfer the tax credits to the assignee, the date the transfer is effective, the
21 assignee's name, address and the assignee's tax period and the amount of tax credits to be
22 transferred. The number of tax periods during which the assignee may subsequently claim the tax
23 credits shall not exceed twenty tax periods, less the number of tax periods the assignor previously
24 claimed the credits before the transfer occurred.

25 10. In the case where an operator and assignor of an eligible project has been certified to
26 claim state tax benefits allowed in subdivisions (2) and (3) of subsection 1 of this section, and sells
27 or otherwise transfers title of the eligible project to another taxpayer or assignee who continues the
28 same or substantially similar operations at the eligible project, the director shall allow the assignee
29 to claim the credits for a period of time to be determined by the director; except that, the total
30 number of tax periods the tax credits may be earned by the assignor and the assignee shall not
31 exceed ten. To perfect the transfer, the assignor shall provide written notice to the director of the
32 assignor's intent to transfer the tax credits to the assignee, the date the transfer is effective, the
33 assignee's name, address, and the assignee's tax period, and the amount of tax credits to be
34 transferred.

35 11. For the purpose of the state tax benefits described in this section, in the case of a
36 corporation described in section 143.471 or partnership, in computing Missouri's tax liability, such
37 state benefits shall be allowed to the following:

38 (1) The shareholders of the corporation described in section 143.471;

39 (2) The partners of the partnership. The credit provided in this subsection shall be
40 apportioned to the entities described in subdivisions (1) and (2) of this subsection in proportion to
41 their share of ownership on the last day of the taxpayer's tax period.

42 12. Notwithstanding any provision of law to the contrary, in any county of the first
43 classification that has a charter form of government and that has a population of over nine hundred
44 thousand inhabitants, all demolition costs incurred during the redevelopment of any former
45 automobile manufacturing plant shall be allowable costs eligible for tax credits under sections
46 447.700 to 447.718 so long as the redevelopment of such former automobile manufacturing plant
47 shall be projected to create at least two hundred fifty new jobs or at least three hundred retained
48 jobs, or a combination thereof, as determined by the department of economic development. The

1 amount of allowable costs eligible for tax credits shall be limited to the least amount necessary to
2 cause the project to occur, as determined by the director of the department of economic
3 development, provided that no tax credit shall be issued under this subsection until January 1, 2018.
4 For purposes of this subsection, "former automobile manufacturing plant" means a redevelopment
5 area that qualifies as an eligible project under section 447.700, that consists of at least one hundred
6 acres, and that was used primarily for the manufacture of automobiles but, after 2007, ceased such
7 manufacturing."; and
8
9 Further amend said bill by amending the title, enacting clause, and intersectional references
10 accordingly.