AN ACT
To amend chapter 135, RSMo, by adding thereto eleven new sections relating to tax incentives to encourage foreign trade.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 135, RSMo, is amended by adding thereto eleven new sections, to be known as sections 135.1500, 135.1503, 135.1505, 135.1507, 135.1509, 135.1511, 135.1513, 135.1515, 135.1517, 135.1519, and 135.1521, to read as follows:

135.1500. 1. Sections 135.1500 to 135.1519, shall be known and may be cited as the "Aerotropolis Trade Incentive and Tax Credit Act".

2. As used in sections 135.1500 to 135.1519, unless the context clearly requires otherwise, the following terms shall mean:

(1) "Airport", an airport which is owned and operated by a city not within a county;

(2) "Air export tax credit", the tax credit against the taxes imposed under chapters 143, 147, and 148, except for sections 143.191 to 143.265, to be issued by the department to a claiming freight forwarder for the shipment of air cargo on a qualifying outbound flight;

(3) "Cargo activity", the activities within an eligible facility relating to the storage and distribution of goods and products through all modes of multimodal commerce, including goods and products manufactured or assembled within an eligible facility;

(4) "Certificate of compliance", a certificate submitted with any application for a tax credit or tax incentive specified in section 135.1513, that shall certify that all requisite requirements for the issuance of such tax credits and tax incentives have been satisfied for such eligible facility and shall provide evidence of such satisfaction;
(5) "Certificate of occupancy", the certificate for permit issued by a municipality that permits the commercial use or occupancy of a building or structure;

(6) "Chargeable kilo", the shipment of a kilo of freight, as measured by the greater of:

(a) Actual weight; or

(b) A dimensional weight, as determined by the conversion factors promulgated by the International Air Transport Association, on a qualifying outbound flight or a qualifying inbound flight;

(7) "Claiming freight forwarder", the freight forwarder designated as the "agent" on the airway bill for the qualifying outbound flight for which such air export tax credit is sought;

(8) "Department", the Missouri department of economic development;

(9) "Direct all cargo aircraft flight", a flight that flies directly to its destination without stopping, except to receive fuel and maintenance;

(10) "Economic incentive laws", any provision of Missouri law pursuant to which economic incentives are provided to redevelopers of a parcel or parcels to redevelop the land, such as tax abatement or payments in lieu of taxes, or redevelopment plans or redevelopment projects approved or adopted which include the use of economic incentives to redevelop the land;

(11) "Eligible costs", the following costs associated with the development in construction of an eligible facility:

(a) Purchase price of real property on which is constructed the eligible facility;

(b) Purchase price of structures;

(c) Costs of construction of the eligible facility, including necessary site work;

(d) Costs of environmental assessments;

(e) Closing costs;

(f) Real estate brokerage fees;

(g) Demolition costs of vacant structures;

(h) Maintenance costs prior to the construction of the eligible facility;

(i) Costs of title insurance; and
(j) Attorneys' fees associated with the acquisition or development of an eligible facility;

(12) "Eligible facility", a qualifying gateway facility, qualifying cold-chain facility, or qualifying assembly and manufacturing facility;

(13) "Eligibility period", the time period, not to exceed eight years, during which an owner of, or tenant in, or entity operating within, an eligible facility may receive benefits under section 135.1513. Such time period shall begin to run on the date the certificate of occupancy is issued for each eligible facility and shall continue for the next subsequent seven taxable years;

(14) "Freight forwarder", a person that assumes responsibility in the ordinary course of its business for the transportation of cargo from the place of receipt to the place of destination, including the utilization of a qualifying outbound flight;

(15) "Gateway zone", an area designated under the provisions of sections 135.1500 to 135.1519, which shall be within:

(a) A foreign trade zone located within fifty miles of an airport;
(b) A site of at least one hundred contiguous developable acres located within fifty miles of an airport; provided however, such one hundred developable acres need not be contiguous if the acreage is located within a larger designated urban renewal area or redevelopment area under economic incentive laws;
(c) An area within the boundaries of an airport; or
(d) Any area owned or managed by the port authority of a city not within a county;

(16) "Interest costs", interest, loan fees, and closing costs;

(17) "Level one air cargo activity", where at least sixty percent of the total cargo activity of an eligible facility consists of:

(a) Chargeable kilos shipped from such facility, on a qualifying outbound flight by the owner of, or any tenant in, such facility; or
(b) Chargeable kilos shipped on a qualifying inbound flight to the owner of, or any tenant in, an eligible facility, whether or not the inbound shipment is stored at any time within such facility;

(18) "Level two air cargo activity", where at least thirty percent of the total cargo activity of an eligible facility consists of:

(a) Chargeable kilos shipped from such facility, on a qualifying outbound flight by the owner of, or any tenant in, such facility; or
(b) Chargeable kilos shipped on a qualifying inbound flight to
the owner of, or any tenant in, an eligible facility, whether or not the
inbound shipment is stored at any time within such facility;

(19) "Multimodal commerce", modes of commerce for the
shipment of goods or products, including road transportation, railroad
transportation, water transportation or aircraft transportation;

(20) "Municipality", any city, town, village, or county;

(21) "New building", a new structure or building for commercial
activity, including furniture, fixtures, and equipment;

(22) "Perishable freight", agricultural products, including seeds,
garden products, live animals and processed meat products, such as
pork and beef;

(23) "Qualifying applicant", an owner of, or tenant in, an eligible
facility or an entity operating in an eligible facility;

(24) "Qualifying assembly and manufacturing facility", a new
building located within a gateway zone that is equipped for
manufacturing or assembly and:

(a) In which a majority of its production components are
received through at least two modes of multimodal commerce; or

(b) From which a majority of its finished products are shipped
through at least two modes of such multimodal commerce;

(25) "Qualifying cargo activity", meeting or exceeding the
requirements for level one air cargo activity or level two air cargo
activity;

(26) "Qualifying cold-chain facility", a new building located
within a gateway zone which has within it equipment for maintaining
necessary temperatures for the processing, packaging, or distribution
of temperature-sensitive products, provided that at least eighty percent
of the usable square footage of such facility is refrigerated;

(27) "Qualifying gateway facility", a new building, located within
a gateway zone, in which qualifying cargo activity occurs, provided
that no more than twenty percent of the usable space within the
qualifying gateway facility is devoted to office, retail, or residential
use;

(28) "Qualifying inbound flight", an all cargo aircraft flight
originating from an international destination to the airport;

(29) "Qualifying interest costs", interest costs incurred on a
qualifying loan provided, however, the interest rate on such loan shall not exceed seven percent per annum;

(30) "Qualifying loan amount", the principal amount of the loan or loans obtained in connection with the development and construction of an eligible facility not to exceed sixty percent of the eligible costs of such facility, without regard to the actual principal amount of such loan or loans;

(31) "Qualifying outbound flight", a direct all cargo aircraft flight from the airport to an international destination.

135.1503. The executive officer of any county or the mayor of a city not within a county may designate a gateway zone by notifying the department of such designation.

135.1505. 1. Any county or a city not within a county, with a designated gateway zone, shall establish a board of supervisors and shall select three members to serve on the board. The board shall annually levy special assessments on eligible facilities within the gateway zone, which receive benefits under sections 135.1500 to 135.1519, and shall oversee the use of revenues derived from the special assessments.

2. The special assessment on an eligible facility, which receive benefits under sections 135.1500 to 135.1519, shall be twenty cents per rentable square foot of such facility.

3. After the payment of any fees related to the approval and collection of the special assessments, the remaining revenues collected from the special assessments shall be utilized as follows:

(a) Fifty percent of such revenues shall be annually transferred to the airport to be used to market and promote the cargo activities of the airport under an agreement between a city not within a county and the board. Such agreement shall, at a minimum, provide:

a. That the proceeds of the net special assessments shall be placed in a special fund for marketing and promotion of the airport; and

b. That the board shall review and approve the annual budget of the airport for such marketing and promotion.

(b) The remaining fifty percent of such revenues shall be annually transferred to a tax exempt regional economic development association or associations, selected by the board for the marketing and
promotion of the gateway zone. The board shall enter into an
agreement or agreements with such tax exempt economic development
business association or associations for the marketing and promotion
of the gateway zone and shall review and approve the annual budget of
such association or associations for such marketing and promotion.

135.1507. 1. For all taxable years beginning on or after January
1, 2011, a claiming freight forwarder shall be entitled to an air export
tax credit for the shipment of cargo on a qualifying outbound flight in
an amount equal to twenty-five cents per chargeable kilo.

2. For all taxable years beginning on or after January 1, 2011, a
claiming freight forwarder shall be entitled to an air export tax credit
for the shipment of perishable freight on a qualifying outbound flight
in an amount equal to thirty cents per chargeable kilo.

3. No claiming freight forwarder shall receive air export tax
credits under both subsections 1 and 2 of this section for a single
shipment of goods.

4. The department shall index the amount of the air export tax
credits to adjust each year depending upon fluctuations in the cost of
fuel for over-the-road transportation.

135.1509. 1. To receive benefits provided under section 135.1507,
a claiming freight forwarder shall file an application with the
department. The documentation to be presented by the claiming
freight forwarder in such an application shall consist of the master
airway bill for the shipment on the qualifying outbound flight for which
the claiming freight forwarder is seeking air export tax credits. The
department shall establish procedures to allow claiming freight
forwarders that file applications for air export tax credits to receive
such tax credits within five business days of the departure of the
qualifying outbound flight.

2. If the fiscal year cap on the issuance of air export tax credits
provided under section 135.1511, is met in a given fiscal year, then the
amount of such tax credits which have been authorized, but remain
unissued, shall be carried forward and issued in the subsequent fiscal
year.

3. No tax credits provided under this section shall be authorized
after August 28, 2019. Any tax credits authorized on or before August
28, 2019, but not issued, may be issued until all such authorized tax
19 credits have been issued.

135.1511. The total aggregate amount for air export tax credits authorized under section 135.1507 shall not exceed sixty million dollars. The amount of the air export tax credits issued under section 135.1507 shall not exceed:

(1) Three million six hundred thousand dollars for the fiscal year beginning on or after July 1, 2011, but ending on or before June 30, 2012;

(2) Four million two hundred thousand dollars for the fiscal year beginning on or after July 1, 2012, but ending on or before June 30, 2013;

(3) Five million four hundred thousand dollars for the fiscal year beginning on or after July 1, 2013, but ending on or before June 30, 2014; and

(4) The greater of one million two hundred thousand dollars per weekly qualifying outbound flight or three million six hundred thousand dollars for all fiscal years beginning on or after July 1, 2014.

The department shall annually determine the number of weekly qualifying outbound flights, which shall be the average number of such flights per week during the month of September of the previous year.

135.1513. 1. For all taxable years beginning on or after January 1, 2013, qualifying applicants shall be entitled to the following benefits:

(1) Any tenant or entity operating within an eligible facility shall be exempt from income tax under chapter 143 and franchise tax under chapter 148 for each year during the eligibility period if such facility satisfies the requirements of sections 135.1500 to 135.1519;

(2) Any tenant or entity operating within an eligible facility shall be entitled to retain fifty percent of the state income tax withheld on behalf of employees by such tenant or entity pursuant to section 143.221, for each year during the eligibility period if such facility satisfies the requirements of sections 135.1500 to 135.1519 without regard to whether a municipality is to receive the other fifty percent of such state income tax from the supplemental tax increment financing fund with respect to such property pursuant to section 99.845.

(3) The owner of any eligible facility with level one air cargo activity shall be entitled, during the eligibility period, to receive tax credits against the taxes imposed under chapters 143, 147, and 148,
except for sections 143.191 to 143.265, equal to five percent of the eligible costs for such facility for each year that such facility meets or exceeds level one air cargo activity volumes. The total amount of tax credits issued for any such facility shall not exceed twenty-five percent of such facility's eligible costs;

(4) The owner of any qualifying gateway facility with level two air cargo activity, a qualifying assembly and manufacturing facility, or a qualifying cold-chain facility shall be entitled, during the eligibility period, to receive tax credits against the taxes imposed under chapters 143, 147, and 148, except for sections 143.191 to 143.265, equal to three percent of the eligible costs for such facility for each year that such facility satisfies the requirements of sections 135.1500 to 135.1519. The total amount of tax credits issued for such facility shall not exceed fifteen percent of such facility's eligible costs;

(5) The owner of an eligible facility shall be entitled to receive tax credits against the taxes imposed under chapters 143, 147, and 148, except for sections 143.191 to 143.265, from the department equal to seventy-five percent of the qualifying interest costs for a period of three years during the eligibility period if during such three-year period each type of facility satisfies the requirements for that type of facility specified in sections 135.1500 to 135.1519, provided that the interest rate for such loans shall not exceed seven percent per year.

2. If an eligible facility receives a certificate of occupancy prior to the sunset of the program, the owners and tenants of an eligible facility and the entities operating within the eligible facility may apply for benefits provided under this section for the term of the eligibility period notwithstanding the sunsetting of the program prior to the end of the term of the eligibility period for such facility.

135.1515. 1. In order for the owners or tenants of an eligible facility or the entities operating within the eligible facility to receive benefits provided under section 135.1513, the eligible facility shall satisfy all applicable requirements provided under sections 135.1500 to 135.1519 by September thirtieth of the calendar year in which an application is filed under subsection 2 of this section.

2. Owners of, or tenants in, eligible facilities and entities operating within an eligible facility, seeking benefits provided under section 135.1513, shall file applications for such benefits, accompanied
by a certificate of compliance, on or before December thirty-first of each year. If such facility, relating to which such owners, tenants, and entities are applying for such tax credits and tax incentives, satisfies the applicable requirements provided under 135.1500 to 135.1519, the department shall grant such benefits on or before July fifteenth of the next calendar year following such time period.

3. If the annual cap for any of such tax credits, provided under section 135.1517, is met in a year, then the amount of such tax credits authorized, but unissued, shall be carried forward and issued in the subsequent year.

4. No qualifying applicant shall be entitled to receive benefits provided under section 135.1513 unless a certificate of occupancy has been issued for the eligible facility prior to August 28, 2020. A qualifying applicant for which a certificate of occupancy has been issued prior to August 28, 2019, may be granted benefits under this section.

135.1517. 1. The total aggregate amount for all of the tax credits authorized under subdivisions (3) and (4) of subsection 1 of section 135.1513 shall not exceed three hundred million dollars. The annual amount of the tax credits issued under subdivisions (3) and (4) of subsection 1 of section 135.1513 shall not exceed:

(1) Six million dollars for the taxable year beginning on or after January 1, 2013, and ending on or before December 31, 2013;
(2) Twelve million dollars for the taxable year beginning on or after January 1, 2014, and ending on or before December 31, 2014;
(3) Fifteen million dollars for the taxable year beginning on or after January 1, 2015, and ending on or before December 31, 2015;
(4) Twenty million dollars for all taxable years beginning on or after January 1, 2016, but ending on or before December 31, 2019;
(5) Thirty million dollars for all taxable years beginning on or after January 1, 2020, but ending on or before December 31, 2025; and
(6) Seven million dollars for the taxable year beginning on or after January 1, 2026, and ending on or before December 31, 2026.

2. The total aggregate amount for the tax credits authorized under subdivision (5) of subsection 1 of section 135.1513 shall not exceed one hundred twenty million dollars. The annual amount of the tax credits issued under subdivision (5) of subsection 1 of section
135.1513 shall not exceed:

(1) Three million dollars for the taxable year beginning on or after January 1, 2013, and ending on or before December 31, 2013;
(2) Six million dollars for the taxable year beginning on or after January 1, 2014, and ending on or before December 31, 2014;
(3) Nine million dollars for the taxable year beginning on or after January 1, 2015, and ending on or before December 31, 2015;
(4) Ten million dollars for all taxable years beginning on or after January 1, 2016, but ending on or before December 31, 2025; and
(5) Two million dollars for the taxable year beginning on or after January 1, 2026, and ending on or before December 31, 2026.

135.1519. 1. If the amount of any tax credit authorized under sections 135.1500 to 135.1519 exceeds the total tax liability for the year in which the applicant is entitled to receive a tax credit, the amount that exceeds the state tax liability may be carried forward for credit against the taxes imposed under chapters 143, 147, and 148, except sections 143.191 to 143.265, for the succeeding six years, or until the full credit is used, whichever occurs first. Tax credits authorized under the provisions of sections 135.1500 to 135.1519 may be transferred, sold, or otherwise assigned. Tax credits granted to a partnership, a limited liability company taxed as a partnership, or multiple owners of property shall be passed through to the partners, members, or owners respectively pro rata or pursuant to an executed agreement among the partners, members, or owners documenting an alternate distribution method.

2. A tenant or an entity, which under section 135.1513 retains state income tax withheld on behalf of employees pursuant to section 143.221, may retain such state income tax under section 135.113 once such facility satisfies the requirements of sections 135.1500 to 135.1519 and for each year thereafter during the eligibility period if such facility satisfies such requirements. No benefits shall be provided under this program until such facility satisfies such requirements. The retention of such state income tax shall be subject to the annual verification of the actual payroll of such tenant or entity and the state income tax associated with the actual payroll. In the event such facility does not meet the requirements provided under section 135.1513, the department may recapture the amount of such state income tax that has been
retained by such tenant or entity for such year.

3. An employee of a tenant or an entity, which under section 135.113 is retaining state income tax withheld on behalf of employees by such tenant or entity pursuant to section 143.221, shall receive full credit for the amount of tax withheld as provided in section 143.211.

135.1521. 1. The department may promulgate rules to implement the provisions of sections 135.1500 to 135.1519. Any rule or portion of a rule, as that term is defined in section 536.010 that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and to annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2011, shall be invalid and void.

2. Under section 23.253 of the Missouri sunset act:

(1) The provisions of the new programs authorized under sections 135.1500 to 135.1519 shall automatically sunset six years after August 28, 2011, unless reauthorized by an act of the general assembly;

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset six years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the programs authorized under sections 135.1500 to 135.1519 sunset.