

Review of Senate Bill 390 – The Aerotropolis Trade Incentive and Tax Credit Act

Executive Summary

There is consensus that Missouri can and should compete globally by building on its economic strengths, developing successful partnerships and leveraging its assets. The Midwest China Hub Commission is an example of one such partnership that through the “Big Idea” is positioning Missouri as a new gateway for global trade and investment.

The right economic development tools are essential to now provide the mechanism to attract and grow air cargo volumes shipped from Lambert airport to global markets. The success of this cargo hub and export growth will lead to the creation of a commercial hub and the attraction of long-term investment, new construction and permanent job creation.

With this understanding, we have analyzed Senate Bill 390, which includes five categories of direct incentives:

1. The ‘Air Export’ tax credits, which provides for a tax credit of \$.25-\$.30/kilo on all outbound air cargo, with a total incentive cap of \$60 million;
2. A ‘Real Estate’ tax credits, which provides for reimbursement of ‘eligible costs’ to the owner of specific facilities developed within a ‘gateway zone’, with a total incentive cap of \$300 million;
3. A ‘Qualifying Interest Cost’ tax credits, which provides for credits against interest costs to develop such facilities, with a total incentive cap of \$120 million;
4. Up to eight years of exemption from State Corporate Income or Franchise Tax for any ‘tenant or entity operating within an eligible facility’; there is no cap on this incentive; and
5. The retention of fifty percent of state income tax withheld on behalf of employees by any ‘tenant or entity operating in an eligible facility’ (equal to approximately 1.5% of payroll); there is no cap in this incentive.

The first three incentives are capped at an aggregate amount of \$480 million. However, there does not appear to be a cap on the state income/franchise tax incentives, and there is no basis for estimating the ‘cost’ of these incentives.

Specific Analysis:

1. Air Export tax credit –
 - a. Senate Bill 390 provides qualifying freight forwarders air export tax credits not to exceed \$60 million beginning July 1, 2011 and ending June 30, 2019.
 - b. \$60 million over eight years may be sufficient for moderate growth using ten or fewer planes per week, estimated 8% annual air export increase and catchment area market share capped at or near 25%.
 - c. However, route expansion beyond China is considered possible and essential to long-term Lambert success. The Aerotropolis summary specifically highlights this goal and suggests that it is “designed to grow early, twice a week, flight activity into a more robust twenty or more flights per week.”

- d. Based on our analysis, subsidy consumption could easily exceed the \$60 million cap by freight forwarders entitled to air export tax credits for shipments to additional routes to South America, Europe, Russia, India, and others.
- e. Many unknowns remain such as: catalysts for increased flights, cargo market share capture, background analysis, etc.

2. Real Estate tax credits and Qualifying Interest Costs –

We believe that the additional/new incentives proposed by SB 390 would materially facilitate the development of necessary cargo/freight forward infrastructure and related development which is critical to the ultimate success of the goals underlying SB 390. However, the following points may be relevant:

- a. As shown in the attached models, \$192 million in prospective incentives are currently available at the major development sites located at or near Lambert Airport. These incentives include SuperTIF, New Market Tax Credits (Allocation from HRIF), Enhanced Enterprise Zone Tax Credits, Real Property Tax Abatement (Ch 99, Ch 100, EEZ), Personal Property Tax Abatement (Ch 100), Sales Tax Exemption Building Materials (Ch 99, Ch100), Chapter 353 Tax Abatement (Real Property) and Local Option Sales Tax Incentive Fund (Hazelwood);
- b. When added to the funds already spent on TIF and Brownfield Tax Credits in this area, the amount exceeds \$285 million in incentives (spent and prospective); and
- c. Additional programs that could be brought to bear include Missouri BUILD, MO Quality Jobs, New Jobs Training or Customized Training and Foreign Trade Zone advantages.

3. State Income/Franchise Tax Exemption’ –

- a. The lack of detail in the state income tax exemption provisions could lead to situations where this incentive could be manipulated. If nothing else, it will raise significant political questions and may be difficult or impossible to defend without a cap. This may also have been an oversight on the part of the bill’s drafters, but since we were not included in that process, we cannot tell whether it was an error or intentional.

4. Other Legal Issues –

- a. Finally, as set forth in the attached memo, a number of other provisions of SB 390 currently raise additional questions about the overall implementation of the bill, including, among other issues: (i) the definition of ‘eligible costs’ and ‘cargo activity’, (ii) the application and allocation of specific incentives between ‘owner’s’, ‘tenants’ and ‘entity’s operating within’ an eligible facility, and (iii) the role of DED in the implementation of the legislation and the adjustment of tax credit levels from year to year.

Summary legal review of SB 390

First, I concur with the points previously raised by Bob Grant relating to areas of ambiguity and constitutionality relating to the procedures for the dedication of 'gateway zones', the distribution of special allocation revenue, and management of these funds. I understand that he will be commenting separately on these issues in greater depth.

Second, I think that there is an overarching issue which needs to be considered, which is that the total 'cost' of the proposed bill is likely significantly greater than was originally represented. Specifically, there are five (not three) categories of incentives under the bill. The three we have been discussing to date are:

- 1) The 'Air Export' tax credits, with a total cap of \$60 Million (See 135.1507-11);
- 2) The 'Real Estate' tax credits, with a total cap of \$300 Million (See 135.1513.1(3) and (4) and 135.1517.1);
- 3) The 'Qualifying Interest Costs' tax credits, with a total cap of \$120 Million (See 135.1513.1(5) and 135.1517.2).

These three programs are capped at an aggregate amount of \$480 Million.

However, Section 135.1513.1(1) provides for up to eight years of exemption from State Income tax or Franchise Tax for any 'tenant or entity operating within an eligible facility', while Section 135.1513.1(2) provides for the retention of fifty percent of state income tax withheld on behalf of employees by any 'tenant or entity operating in an eligible facility', which I understand to be approximately 1.5% of payroll. Most critically, a close read of Section 135.1517 indicates (by omission) that there is NO cap placed on the total cost to the state of these two programs.

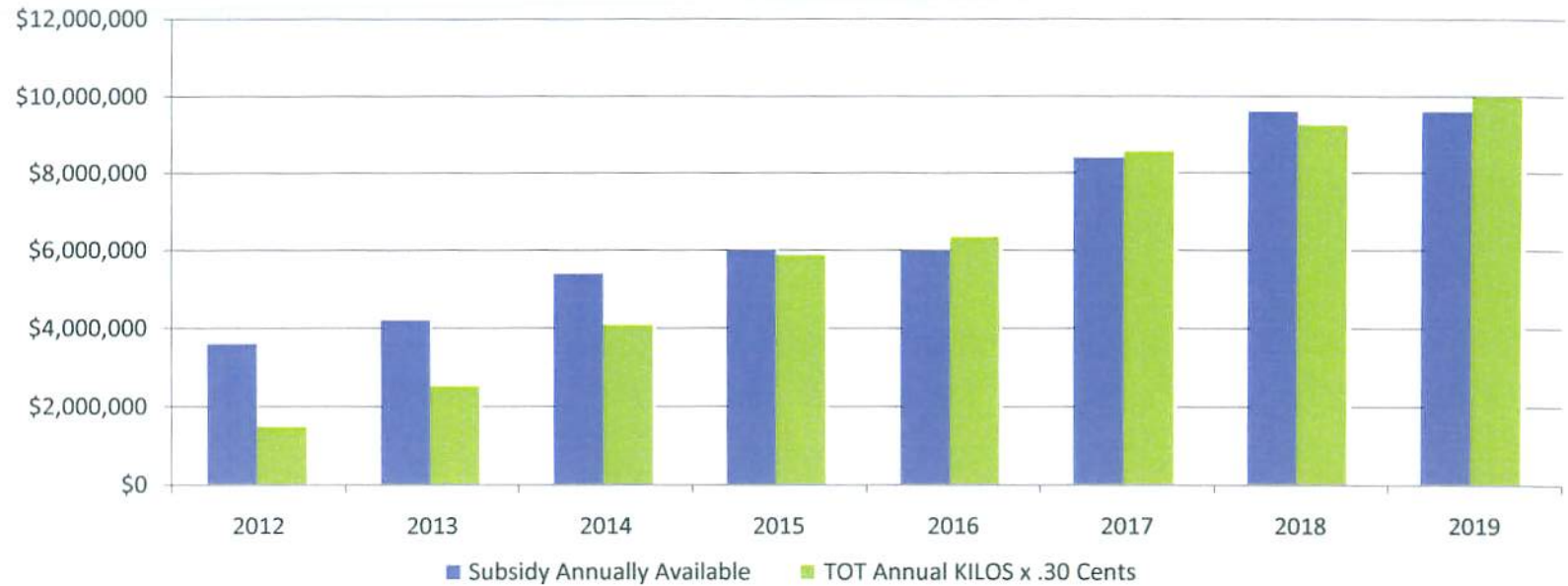
As a result, I don't think that there is any way to accurately estimate the cost of the bill, as currently drafted, except to say that it would most likely be significantly higher than the \$480 Million figure noted above. In addition, and separate and apart from the total cost issue, I am concerned that the lack of detail in the state income tax exemption provisions could lead to situations where this incentive could be manipulated. If nothing else, it will raise significant political questions and may be difficult or impossible to defend without a cap. This may also have been an oversight on the part of the bill's drafters, but since we were not included in that process, I cannot tell whether it was an error or intentional.

Finally, set forth below are some other comments with respect to the legislation generally:

- The definition of 'cargo activity' is extremely broad, and specifically includes facilities related to truck, rail and water transportation; this may be appropriate, but may incentivize facilities that have only a limited relationship to the Air Cargo facility;
- The definition of 'eligible costs' includes a number of categories which could, without clarification, have the effect of providing reimbursement for losses and costs incurred prior to the passage of the legislation and unrelated to the development activity which the bill is trying to incentivize;

- Many of the incentives are drafted to be equally applicable to 'owner's', 'tenants' and 'entity's operating within' an eligible facility...my concern is that without clarification, there may be ways to 'stack' incentives based upon the underlying ownership structure of the facility. This will need to be clarified.
- I believe that the definition of a 'Gateway Zone' should also include an area owned or managed by a county port authority;
- The definition of 'Level One' and Level Two' air cargo activity provides that the calculation can be based on chargeable kilos shipped on an 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." It is not clear to me why this clause has been included, but I can see the potential for confusion or manipulation based upon this language; and
- Section 135.1507 provides that DED will adjust the amount of the Air Export tax credits each year based upon fluctuations in the cost of fuel for over-the-road transportation...I assume that means that it will adjust the 'per kilo' amount based upon changes in gas prices, but it is not entirely clear, and even if this is the case, it would affect our projections as to the anticipated expenditure of the Air Export tax credits over time.

Freight Forwarder Annual Tax Credits Available / Est.



Scenario #5: 8% Growth in Air Cargo and Variable% of Catchment Area Market Share

	2012 6%	2013 10%	2014 15%	2015 20%	2016 20%	2017 25%	2018 25%	2019 25%
	6/30/2012	6/30/2013	6/30/2014	6/30/2015	6/30/2016	6/30/2017	6/30/2018	6/30/2019
Plane Capacity Kilos	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000
Per Flight Kilos	31,923	53,813	65,383	75,322	81,347	78,442	74,128	80,058
Weekly Kilos	95,769	161,440	261,533	376,608	406,737	549,095	593,022	640,464
Annual Kilos	4,979,988	8,394,899	13,599,736	19,583,620	21,150,309	28,552,918	30,837,151	33,304,123
Subsidy weekly <u>USED (.30)</u>	\$28,731	\$48,432	\$78,460	\$112,982	\$122,021	\$164,728	\$177,907	\$192,139
TOT Annual KILOS x <u>.30 Cents</u>	\$1,493,996	\$2,518,470	\$4,079,921	\$5,875,086	\$6,345,093	\$8,565,875	\$9,251,145	\$9,991,237
Subsidy Annually Available	\$3,600,000	\$4,200,000	\$5,400,000	\$6,000,000	\$6,000,000	\$8,400,000	\$9,600,000	\$9,600,000
Subsidy Annually REMAINING	\$2,106,004	\$1,681,530	\$1,320,079	\$124,914	(\$345,093)	(\$165,875)	\$348,855	(\$391,237)
Subsidy TOTAL REMAINING	\$58,506,004	\$55,987,534	\$51,907,613	\$46,032,527	\$39,687,434	\$31,121,559	\$21,870,414	\$11,879,177
Min Est Flights Weekly Needed	3	3	4	5	5	7	8	8
4th Year <i>FIXED</i> Option	\$3,600,000	\$4,200,000	\$5,400,000					
4th Year <i>FLIGHT</i> Option				\$6,000,000	\$6,000,000	\$8,400,000	\$9,600,000	\$9,600,000

Summary

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- Based on analysis, subsidy consumption could easily exceed the \$60 million cap by freight forwarders entitled to air export tax credits for shipments to additional routes to South America, Europe, Russia, India, and others.
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	Hazelwood Commerce Center	Aviator Business Park	Airport Property # 1	Airport Property # 2	North Park (phase 2)	TOTAL
Total Acreage	165 acres	160 acres	88 acres	116 acres	200 acres	729 acres
Total Available Developable Acreage-Industrial	120 acres	160 acres	58 acres (existing 660,000 sf bldg sits on approx 30 acre site)	116 acres	200 acres	654 acres
Total Estimated Square Footage to be Developed (assume 35% coverage)	1,829,520	2,439,360	884,268	1,768,536	3,049,200	9,970,884
Capital Investment- Industrial Real Property (Assume \$65/psf)	\$118,918,800	\$158,558,400	\$57,477,420	\$114,954,840	\$198,198,000	\$648,107,460
Personal Property Investment (Assume \$5,000,000 per 100,000 sf industrial)	\$91,476,000	\$121,968,000	\$44,213,400	\$88,426,800	\$152,460,000	\$498,544,200
Permanent Jobs Created in Airfreight Forwarding/Supply Chain/Distribution (Assume 30 jobs every 100,000 sf industrial)	549	732	265	531	915	2991
New Gross Payroll (Assume \$40,000 per year average wage)	\$21,954,240	\$29,272,320	\$10,611,216	\$21,222,432	\$36,590,400	\$119,650,608

Incentive Value (by Program/Site)

Redevelopment Incentives (Authorized/Expended)

TIF	\$17,055,000	\$0	\$0	\$0	\$57,500,000	\$74,555,000	
Brownfield Tax Credits	\$8,000,000	\$5,000,000	\$0	\$0	\$6,000,000	\$19,000,000	* \$15M total for all of N Park (500 acres). Amount here is for 40% (acreage of phase 2)
SuperTIF	\$0	\$0	\$0	\$0	\$0	\$0	* \$7,500,000 in SuperTIF has been used in Phase 1 of N Park
Total (Redevelopment Incentives Authorized/Expended)	\$25,055,000	\$5,000,000	\$0	\$0	\$63,500,000	\$93,555,000	
SuperTIF	\$0	\$0	\$0	\$0	\$9,479,383	\$9,479,383	*\$40,138,601 available over 16-years. NPV 7% is \$23,696,458. Take 40% to represent 200 acres of 500 acre park
Net Equity from New Market Tax Credits (Allocation from HRIF)	\$0	\$530,000	\$530,000	\$530,000	\$530,000	\$2,120,000	* \$10.6M allocation nets 20% equity, divided among 4 NMTC eligible sites. Assumes used in 1-year
Enhanced Enterprise Zone Tax Credits	\$6,217,322	\$8,289,763	\$3,005,039	\$6,010,078	\$9,727,530	\$33,249,732	* 2% of gross new payroll + .5% gross capex * 5-year benefit; NPV @ 7%
Real Property Tax Abatement (Ch 99, Ch 100, EEZ)	\$12,953,239	\$0	\$5,626,443	\$11,252,886	\$21,927,281	\$51,759,849	* Assume 50% tax abatement for 10-years (7% NPV)
Personal Property Tax Abatement (Ch 100)	\$4,431,835	\$6,838,384	\$1,896,463	\$3,792,926	\$7,603,806	\$24,563,414	* Assume 50% tax abatement for 10-years (7% NPV)
Sales Tax Exemption Building Materials (Ch 99, Ch100)	\$3,329,726	\$0	\$1,609,368	\$3,218,736	\$5,549,544	\$13,707,374	*100% exemption-Assumption is 7% of 40% of gross real property investment
Chapter 353 Tax Abatement (Real Property)	\$0	\$54,598,659	\$0	\$0	\$0	\$54,598,659	*Assume 100% for 10-years/50% for 15 years (NPV 7%)
Local Option Sales Tax Incentive Fund (Hazelwood)	\$1,250,000	\$1,250,000	\$0	\$0	\$0	\$2,500,000	*\$2,500,000 per year (No sunset on years, but one-year total only shown)
Total (Prospective Incentives)	\$28,182,122	\$71,506,806	\$12,667,313	\$24,804,626	\$54,817,544	\$191,978,411	
GRAND TOTAL (Authorized/Expended + Prospective)	\$53,237,122	\$76,506,806	\$12,667,313	\$24,804,626	\$118,317,544	\$285,533,411	

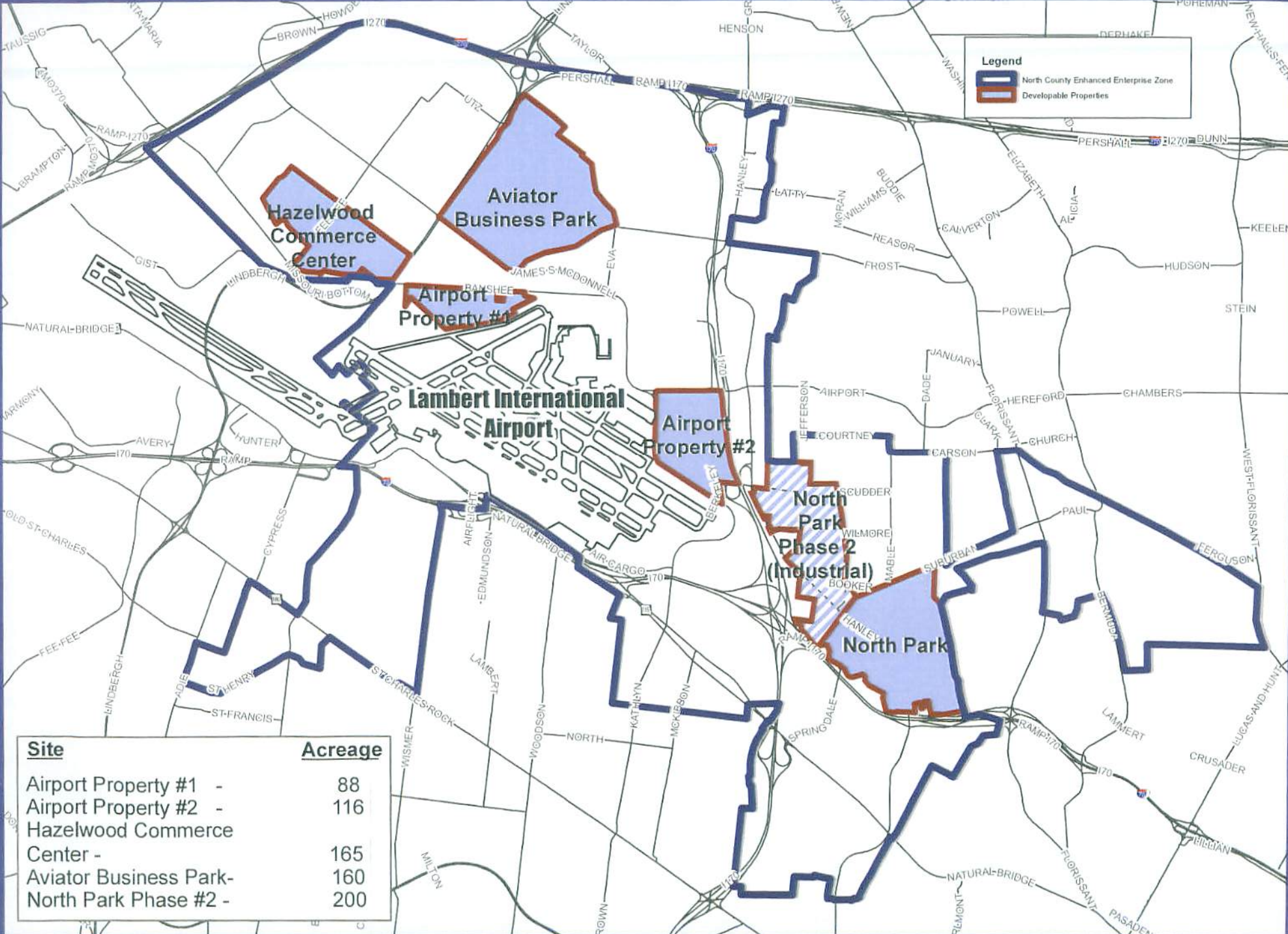
Other Programs (Not Quantifiable without specific project)

Missouri BUILD
MO Quality Jobs
New Jobs Training or Customized Training
Foreign Trade Zone

Large Developable Properties Near Airport

0 3,000 6,000

Feet



Legend

- North County Enhanced Enterprise Zone
- Developable Properties

Site	Acreage
Airport Property #1 -	88
Airport Property #2 -	116
Hazelwood Commerce Center -	165
Aviator Business Park-	160
North Park Phase #2 -	200