

FIRST REGULAR SESSION

# HOUSE BILL NO. 670

## 96TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES HOUGH (Sponsor), ZERR, ALLEN, LICHTENEGGER, FRANZ, CIERPIOT, RICHARDSON, WALLINGFORD, HINSON, PHILLIPS, FRAKER, JONES (117), REDMON, LONG, DUGGER, RUZICKA, SATER, SCHOELLER AND KORMAN (Co-sponsors).

1375L.02I

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal sections 144.062, 178.760, 178.761, 178.762, 178.763, 178.764, 178.892, 178.893, 178.894, 178.895, 178.896, 620.470, 620.472, 620.474, 620.475, 620.476, 620.478, 620.479, 620.480, 620.481, and 620.482, RSMo, and to enact in lieu thereof eleven new sections relating to tax incentives for business development.

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

Section A. Sections 144.062, 178.760, 178.761, 178.762, 178.763, 178.764, 178.892, 178.893, 178.894, 178.895, 178.896, 620.470, 620.472, 620.474, 620.475, 620.476, 620.478, 620.479, 620.480, 620.481, and 620.482, RSMo, are repealed and eleven new sections enacted in lieu thereof, to be known as sections 144.062, 144.540, 620.800, 620.803, 620.806, 620.809, 620.2000, 620.2005, 620.2010, 620.2015, and 620.2020, to read as follows:

144.062. 1. With respect to exempt sales at retail of tangible personal property and materials for the purpose of constructing, repairing or remodeling facilities for:

(1) A county, other political subdivision or instrumentality thereof exempt from taxation under subdivision (10) of section 39 of article III of the Constitution of Missouri; or

(2) An organization sales to which are exempt from taxation under the provisions of subdivision (19) of subsection 2 of section 144.030; or

(3) Any institution of higher education supported by public funds or any private not-for-profit institution of higher education, exempt from taxation under subdivision (20) of subsection 2 of section 144.030; or

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

10 (4) Any private not-for-profit elementary or secondary school exempt from taxation  
11 under subdivision (22) of subsection 2 of section 144.030; or

12 (5) Any authority exempt from taxation under subdivision (39) of subsection 2 of section  
13 144.030; or

14 (6) After June 30, 2007, the department of transportation or the state highways and  
15 transportation commission; or

16 (7) **After August 28, 2011, any qualified company exempt from taxation under**  
17 **section 144.540;**

18

19 hereinafter collectively referred to as exempt entities, such exemptions shall be allowed for such  
20 purchases if the purchases are related to the entities' exempt functions and activities. In addition,  
21 the sales shall not be rendered nonexempt nor shall any material supplier or contractor be  
22 obligated to pay, collect or remit sales tax with respect to such purchases made by or on behalf  
23 of an exempt entity due to such purchases being billed to or paid for by a contractor or the  
24 exempt entity contracting with any entity to render any services in relation to such purchases,  
25 including but not limited to selection of materials, ordering, pickup, delivery, approval on  
26 delivery, taking of delivery, transportation, storage, assumption of risk of loss to materials or  
27 providing warranties on materials as specified by contract, use of materials or other purchases  
28 for construction of the building or other facility, providing labor, management services,  
29 administrative services, design or technical services or advice to the exempt entity, whether or  
30 not the contractor or other entity exercises dominion or control in any other manner over the  
31 materials in conjunction with services or labor provided to the exempt entity.

32 2. When any exempt entity contracts for the purpose of constructing, repairing or  
33 remodeling facilities, and purchases of tangible personal property and materials to be  
34 incorporated into or consumed in the construction of the project are to be made on a tax-exempt  
35 basis, such entity shall furnish to the contractor an exemption certificate authorizing such  
36 purchases for the construction, repair or remodeling project. The form and content of such  
37 project exemption certificate shall be approved by the director of revenue. The project  
38 exemption certificate shall include but not be limited to:

39 (1) The exempt entity's name, address, Missouri tax identification number and signature  
40 of authorized representative;

41 (2) The project location, description, and unique identification number;

42 (3) The date the contract is entered into, which is the earliest date materials may be  
43 purchased for the project on a tax-exempt basis;

44 (4) The estimated project completion date; and

45 (5) The certificate expiration date. Such certificate is renewable for a given project at  
46 the option of the exempt entity, only for the purpose of revising the certificate expiration date  
47 as necessary to complete the project.

48 3. The contractor shall furnish the certificate prescribed in subsection 2 of this section  
49 to all subcontractors, and any contractor purchasing materials shall present such certificate to all  
50 material suppliers as authorization to purchase, on behalf of the exempt entity, all tangible  
51 personal property and materials to be incorporated into or consumed in the construction of that  
52 project and no other on a tax-exempt basis. Such suppliers shall execute to the purchasing  
53 contractor invoices bearing the name of the exempt entity and the project identification number.  
54 Nothing in this section shall be deemed to exempt the purchase of any construction machinery,  
55 equipment or tools used in constructing, repairing or remodeling facilities for the exempt entity.  
56 All invoices for all personal property and materials purchased under a project exemption  
57 certificate shall be retained by the purchasing contractor for a period of five years and shall be  
58 subject to audit by the director of revenue.

59 4. Any excess resalable tangible personal property or materials which were purchased  
60 for the project by a contractor under a project exemption certificate but which were not  
61 incorporated into or consumed in the construction of the project shall either be returned to the  
62 supplier for credit or the appropriate sales or use tax on such excess property or materials shall  
63 be reported on a return and paid by such contractor not later than the due date of the contractor's  
64 Missouri sales or use tax return following the month in which it was determined that the  
65 materials were not to be used in the project.

66 5. No contractor or material supplier shall, upon audit, be required to pay tax on tangible  
67 personal property and materials incorporated into or consumed in the construction of the project  
68 due to the failure of the exempt entity to revise the certificate expiration date as necessary to  
69 complete any work required by the contract. If it is determined that tax is owed on such property  
70 and materials due to the failure of the exempt entity to revise such certificate expiration date, the  
71 exempt entity shall be liable for the tax owed.

72 6. If an entity issues exemption certificates for the purchase of tangible personal property  
73 and materials which are incorporated into or consumed in the construction of its project and such  
74 entity is found not to have had the authority granted by this section to issue such exemption  
75 certificates, then such entity shall be liable for the tax owed on such personal property and  
76 materials. In addition, if an entity which does have the authority granted by this section to issue  
77 exemption certificates issues such certificates for the purchase of tangible personal property and  
78 materials which are incorporated into or consumed in the construction of a project, or part of a  
79 project, which is found not to be related to such entity's exempt functions and activities, then  
80 such entity shall be liable for the tax owed on such personal property and materials.

144.540. 1. The terms used in this section shall have the meaning provided in section 620.2005, unless the context clearly indicates otherwise. The following additional terms used in this section shall mean:

(1) "Information technology company", a qualified company with a primary NAICS code of 5182;

(2) "Taxpayer", the purchaser of tangible personal property or a service that is subject to state or local sales or use tax and from whom state or local sales or use tax is owed. "Taxpayer" shall not mean the seller charged by law with collecting the sales tax from the purchaser.

2. Beginning August 28, 2011, in addition to the exemptions granted under this chapter, the department of economic development may approve a qualified company for an exemption of up to one hundred percent of the state sales and use taxes defined, levied, or calculated under sections 144.010 to 144.525, sections 144.600 to 144.761, or section 238.235, for a period not to exceed three years from the date of approval, of sales and leases of tangible personal property purchased for use in the project facility, and of sales and leases of tangible personal property and materials for the purpose of constructing, repairing, or remodeling the project facility. To qualify for the exemption provided in this subsection, the qualified company shall, within a period of two years from the date of approval:

(1) Create at least twenty new jobs at the project facility if the average wage of the new payroll equals or exceeds ninety percent of the county average wage; or

(2) Retain at least one hundred fifty retained jobs and commit to making at least fifteen million dollars in new capital investment at a project facility if the project facility base payroll equals or exceeds ninety percent of the county average wage.

3. Beginning August 28, 2011, in addition to the exemptions granted under this chapter, the department of economic development may approve an information technology company for an exemption of up to one hundred percent of the state sales and use taxes defined, levied, or calculated under sections 144.010 to 144.525, sections 144.600 to 144.761, or section 238.235 of electrical energy, gas, water, and other utilities including telecommunication services purchased for use in the project facility. The exemption may be for a period not to exceed five years from the date of approval. The annual amount of the exemption shall be equal to the difference between the amount of state sales and use taxes that would otherwise be due for the twelve months immediately following approval and the amount of state sales and use taxes paid for the purchase of electrical energy, gas, water, and other utilities including telecommunication services purchased for use in the project facility for the twelve months immediately preceding approval. To qualify for the

37 exemption provided in this subsection, the qualified company shall satisfy the requirements  
38 of subsection 2 of this section.

39 **4. The governing body of a city, county, or other political subdivision may approve**  
40 **a qualified company for an exemption of up to one hundred percent of local sales and use**  
41 **taxes defined, levied, or calculated under section 32.085 imposed by the governing body,**  
42 **of sales and leases of tangible personal property purchased for use in the project facility,**  
43 **and of sales and leases of building materials for the purpose of constructing, repairing, or**  
44 **remodeling the project facility. To qualify for the exemption provided in this subsection,**  
45 **the qualified company shall satisfy the requirements of subsection 2 of this section.**

46 **5. The governing body of a city, county, or other political subdivision may approve**  
47 **a qualified company that is also an information technology company for an exemption of**  
48 **up to one hundred percent of the local sales and use tax defined, levied, or calculated under**  
49 **section 32.085 imposed by the governing body, of electrical energy, gas, water, and other**  
50 **utilities including telecommunication services purchased for use in the project facility. The**  
51 **exemption may be for a period as approved by the political subdivision. The annual**  
52 **amount of the exemption shall be equal to the difference between the amount of local sales**  
53 **and use taxes that would otherwise be due for the twelve months immediately following**  
54 **approval and the amount of local sales and use taxes paid for the purchase of electrical**  
55 **energy, gas, water, and other utilities including telecommunication services purchased for**  
56 **use in the project facility for the twelve months immediately preceding approval. To**  
57 **qualify for the exemption provided in this subsection, the qualified company shall satisfy**  
58 **the requirements of subsection 2 of this section.**

59 **6. Any qualified company seeking an exemption from state sales and use taxes**  
60 **under this section shall submit with its notice of intent to seek benefits under the compete**  
61 **Missouri program established in sections 620.2000 to 620.2020 such information as the**  
62 **department of economic development may reasonably require to review the qualified**  
63 **company's request for the exemption. The percentage of any exemption from state sales**  
64 **or use taxes awarded to a qualified company under this section shall not exceed the**  
65 **projected net fiscal benefit to the state over a period of six years, as determined by the**  
66 **department of economic development, and shall not exceed the least amount necessary to**  
67 **obtain the qualified company's commitment to initiate the project. In determining the**  
68 **percentage of the exemption to award to a qualified company under this section, the**  
69 **department of economic development shall consider the factors set forth in subsection 2 of**  
70 **section 620.2010.**

71 **7. (1) Upon approval of an exemption from state sales and use taxes under this**  
72 **section, the department of economic development shall certify the taxpayer's eligibility to**

73 the department of revenue. The department of revenue shall issue the qualified company  
74 an exemption certificate in the amount and for the duration specified by the department  
75 of economic development in its certification.

76 (2) Any qualified company approved for an exemption for state sales and use taxes  
77 under this section shall certify, as part of its annual report under 620.2020, the amount of  
78 state sales and use taxes exempted under this section that would have otherwise been due  
79 during the previous year.

80 (3) If the qualified company fails to satisfy any of the requirements of this section  
81 at any time during the project period, including, but not limited to, the applicable number  
82 of jobs or new capital investment, the qualified company shall remit to the department of  
83 revenue an amount equal to the sales and use taxes exempted under this section, plus  
84 interest of nine percent per annum from the date the exemption certificate was issued.  
85 However, the director of the department of economic development may, in his or her  
86 discretion, provide an extension of up to two additional years or reduce such payment, if  
87 such failure is caused by documented unforeseen events that negatively affected the  
88 operations at the project facility that were not under the control of the qualified company.

89 (4) The department of revenue shall credit any amounts remitted by the qualified  
90 company under this subsection to the fund to which the sales and use taxes exempted  
91 would have otherwise been credited.

92 8. (1) Upon approval of an exemption from local sales and use taxes under this  
93 section, the governing body of the city, county, or other political subdivision approving the  
94 exemption from local sales and use taxes under this section shall certify the taxpayer's  
95 eligibility to the department of revenue. The department of revenue shall issue the  
96 qualified company an exemption certificate in the amount and for the duration specified  
97 by the political subdivision in its certification.

98 (2) Any qualified company approved for an exemption from local sales and use  
99 taxes under this section shall annually certify to the governing body of the city, county, or  
100 other political subdivision the amount of local sales and use taxes exempted under this  
101 section that would have otherwise been due during the previous year.

102 (3) If the qualified company fails to satisfy any of the requirements of this section  
103 at any time during the project period, including, but not limited to, the applicable number  
104 of jobs or new capital investment, the qualified company shall remit to the department of  
105 revenue an amount equal to the sales and use taxes exempted under this section, plus  
106 interest of nine percent per annum from the date the exemption certificate was issued.  
107 However, the governing body may, in its discretion, provide an extension of up to two  
108 additional years or reduce such payment, if such failure is caused by documented

109 unforeseen events that negatively affected the operations at the project facility that were  
110 not under the control of the qualified company.

111 (4) The department of revenue shall credit any amounts remitted by the qualified  
112 company under this subsection to the city, county, or other political subdivision approving  
113 the exemption.

114 9. The department of economic development and the department of revenue shall  
115 jointly prescribe such rules and regulations necessary to carry out the provisions of this  
116 section. Any rule or portion of a rule, as that term is defined in section 536.010, that is  
117 created under the authority delegated in this section shall become effective only if it  
118 complies with and is subject to all of the provisions of chapter 536 and, if applicable,  
119 section 536.028. This section and chapter 536 are nonseverable and if any of the powers  
120 vested with the general assembly pursuant to chapter 536 to review, to delay the effective  
121 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the  
122 grant of rulemaking authority and any rule proposed or adopted after August 28, 2011,  
123 shall be invalid and void.

2 620.800. The following additional terms used in sections 620.800 to 620.809 shall  
3 mean:

4 (1) "Agreement", the agreement between a qualified company, a community college  
5 district, and the department concerning a training project. Any such agreement shall  
6 comply with the provisions of section 620.017;

7 (2) "Board of trustees", the board of trustees of a community college district  
8 established under the provisions of chapter 178;

9 (3) "Certificate", new or retained jobs training certificates issued under section  
10 620.809;

11 (4) "Committee", the compete Missouri job training joint legislative oversight  
12 committee, established by the department under the provisions of section 620.803;

13 (5) "Compete Missouri training program", the training program established under  
14 sections 620.800 to 620.809;

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

16 (7) "Employee", a person employed by a qualified company;

17 (8) "Full-time employee", an employee of the qualified company that is scheduled  
18 to work an average of at least thirty-five hours per week for a twelve-month period, and  
19 one for which the qualified company offers health insurance and pays at least fifty percent  
20 of such insurance premiums;

21 (9) "Local education agency", a community college, two-year state technical college,  
or a technical career education center;

22           (10) "New capital investment", shall include funds spent by the qualified company  
23 at the project facility after the approval of the notice of intent for real or personal  
24 property, and may include the present value of finance or capital leases for real or personal  
25 property for the term of such lease at the project facility executed after approval of the  
26 notice of intent;

27           (11) "New job", the number of full-time employees located at the project facility  
28 that exceeds the project facility base employment less any decrease in the number of full-  
29 time employees at related facilities below the related facility base employment. No job that  
30 was created prior to the date of the notice of intent shall be deemed a new job. An  
31 employee that spends less than fifty percent of the employee's work time at the facility is  
32 still considered to be located at a facility if the employee receives his or her directions and  
33 control from that facility, is on the facility's payroll, one hundred percent of the employee's  
34 income from such employment is Missouri income, and the employee is paid at or above  
35 the applicable percentage of the county average wage;

36           (12) "New jobs credit", the credit from withholding remitted by a qualified  
37 company provided under subsection 6 of section 620.809;

38           (13) "Notice of intent", a form developed by the department, completed by the  
39 qualified company and submitted to the department which states the qualified company's  
40 intent to request benefits under this program;

41           (14) "Project facility", the building or buildings used by a qualified company at  
42 which new or retained jobs and any new capital investment are or will be located. A  
43 project facility may include separate buildings located within sixty miles of each other such  
44 that their purpose and operations are interrelated; provided, that where the buildings  
45 making up the project facility are not located within the same county, the average wage of  
46 the new payroll shall exceed the highest county average wage among the counties in which  
47 the buildings are located. Upon approval by the department, a subsequent project facility  
48 may be designated if the qualified company demonstrates a need to relocate to the  
49 subsequent project facility at any time during the project period;

50           (15) "Project facility base employment", the greater of the number of full-time  
51 employees located at the project facility on the date of the notice of intent or, for the twelve-  
52 month period prior to the date of the notice of intent, the average number of full-time  
53 employees located at the project facility. In the event the project facility has not been in  
54 operation for a full twelve-month period, the average number of full-time employees for  
55 the number of months the project facility has been in operation prior to the date of the  
56 notice of intent;

57           **(16) "Qualified company", a firm, partnership, joint venture, association, private**  
58 **or public corporation whether organized for profit or not, or headquarters of such entity**  
59 **registered to do business in Missouri that is the owner or operator of a project facility,**  
60 **offers health insurance to all full-time employees of all facilities located in this state, and**  
61 **pays at least fifty percent of such insurance premiums. For the purposes of sections**  
62 **620.800 to 620.809, the term "qualified company" shall not include:**

63           **(a) Gambling establishments (NAICS industry group 7132);**

64           **(b) Retail trade establishments (NAICS sectors 44 and 45), except with respect to**  
65 **any company headquartered in this state with a majority of its full-time employees engaged**  
66 **in operations not within the NAICS codes specified in this subdivision;**

67           **(c) Food and drinking places (NAICS subsector 722);**

68           **(d) Public utilities (NAICS 221 including water and sewer services);**

69           **(e) Any company that is delinquent in the payment of any nonprotested taxes or**  
70 **any other amounts due the state or federal government or any other political subdivision**  
71 **of this state;**

72           **(f) Any company requesting benefits for retained jobs that has filed for or has**  
73 **publicly announced its intention to file for bankruptcy protection. However, a company**  
74 **that has filed for or has publicly announced its intention to file for bankruptcy, may be a**  
75 **qualified company provided that such company:**

76           **a. Certifies to the department that it plans to reorganize and not to liquidate; and**

77           **b. After its bankruptcy petition has been filed, it produces proof, in a form and at**  
78 **times satisfactory to the department, that it is not delinquent in filing any tax returns or**  
79 **making any payment due to the state of Missouri, including but not limited to all tax**  
80 **payments due after the filing of the bankruptcy petition and under the terms of the plan**  
81 **of reorganization.**

82

83 **Any taxpayer who is awarded benefits under this subsection and who files for bankruptcy**  
84 **under Chapter 7 of the United States Bankruptcy Code, Title 11 U.S.C., shall immediately**  
85 **notify the department and shall forfeit such benefits and shall repay the state an amount**  
86 **equal to any state tax credits already redeemed and any withholding taxes already**  
87 **retained;**

88           **(g) Educational services (NAICS sector 61);**

89           **(h) Religious organizations (NAICS industry group 8131);**

90           **(i) Public administration (NAICS sector 92);**

91           **(j) Ethanol distillation or production; or**

92           **(k) Biodiesel production.**

93 Notwithstanding any provision of this section to the contrary, the headquarters,  
94 administrative offices or research and development facilities of an otherwise excluded  
95 business may qualify for benefits if the offices or facilities serve a multistate territory. In  
96 the event a national, state, or regional headquarters operation is not the predominant  
97 activity of a project facility, the jobs and investment of such operation shall be considered  
98 eligible for benefits under this section if the other requirements are satisfied;

99 (17) "Related company" means:

100 (a) A corporation, partnership, trust, or association controlled by the qualified  
101 company;

102 (b) An individual, corporation, partnership, trust, or association in control of the  
103 qualified company; or

104 (c) Corporations, partnerships, trusts or associations controlled by an individual,  
105 corporation, partnership, trust or association in control of the qualified company. As used  
106 in this subdivision, "control of a corporation" shall mean ownership, directly or indirectly,  
107 of stock possessing at least fifty percent of the total combined voting power of all classes  
108 of stock entitled to vote, "control of a partnership or association" shall mean ownership  
109 of at least fifty percent of the capital or profits interest in such partnership or association,  
110 "control of a trust" shall mean ownership, directly or indirectly, of at least fifty percent  
111 of the beneficial interest in the principal or income of such trust, and ownership shall be  
112 determined as provided in Section 318 of the Internal Revenue Code of 1986, as amended;

113 (18) "Related facility", a facility operated by the qualified company or a related  
114 company located in this state that is directly related to the operations of the project facility  
115 or in which operations substantially similar to the operations of the project facility are  
116 performed;

117 (19) "Related facility base employment", the greater of the number of full-time  
118 employees located at all related facilities on the date of the notice of intent or for the  
119 twelve-month period prior to the date of the notice of intent, the average number of full-  
120 time employees located at all related facilities of the qualified company or a related  
121 company located in this state;

122 (20) "Retained job", the average number of full-time employees of a qualified  
123 company located at the project facility during each month for the calendar year preceding  
124 the year in which the notice of intent is submitted;

125 (21) "Retained jobs credit", the credit from withholding remitted by a qualified  
126 company provided under subsection 6 of section 620.809;

- 127           (22) "Targeted industry", an industry or one of a cluster of industries identified  
128 by the department by rule following a strategic planning process as being critical to the  
129 state's economic security and growth;
- 130           (23) "Training program", the compete Missouri training program established  
131 under sections 620.800 to 620.809.
- 132           (24) "Training project", the project or projects established through the compete  
133 Missouri training program for the creation or retention of jobs by providing education and  
134 training of workers;
- 135           (25) "Training project costs", all necessary and incidental costs of providing  
136 program services through the training program, including:
- 137           (a) Training materials and supplies;
- 138           (b) Wages and benefits of instructors, who may or may not be employed by the  
139 eligible industry, and the cost of training such instructors;
- 140           (c) Subcontracted services;
- 141           (d) On-the-job training;
- 142           (e) Training facilities and equipment;
- 143           (f) Skill assessment;
- 144           (g) Training project and curriculum development;
- 145           (h) Travel directly to the training project, including a coordinated transportation  
146 program for trainings if the training can be more effectively provided outside the  
147 community where the jobs are to be located;
- 148           (i) Payments to third party training providers and to the eligible industry;
- 149           (j) Teaching and assistance provided by educational institutions in the state of  
150 Missouri;
- 151           (k) In-plant training analysis, including fees for professionals and necessary travel  
152 and expenses;
- 153           (l) Assessment and preselection tools;
- 154           (m) Publicity;
- 155           (n) Instructional services;
- 156           (o) Rental of instructional facilities with necessary utilities; and
- 157           (p) Payment of the principal, premium, and interest on certificates, including  
158 capitalized interest, issued to finance a project, and the funding and maintenance of a debt  
159 service reserve fund to secure such certificates;
- 160           (26) "Training project services", includes, but shall not be limited to, the following:

- 161 (a) Job training, which may include, but not be limited to, preemployment training,  
162 analysis of the specified training needs for a qualified company, development of training  
163 plans, and provision of training through qualified training staff;
- 164 (b) Adult basic education and job-related instruction;
- 165 (c) Vocational and skill-assessment services and testing;
- 166 (d) Training facilities, equipment, materials, and supplies;
- 167 (e) On-the-job training;
- 168 (f) Administrative expenses equal to fifteen percent of the total training costs;
- 169 (g) Subcontracted services with state institutions of higher education, private  
170 colleges or universities, or other federal, state, or local agencies;
- 171 (h) Contracted or professional services; and
- 172 (i) Issuance of certificates, when applicable.

620.803. 1. The department shall establish a "Compete Missouri Training  
2 Program" to assist qualified companies for the training of employees in new jobs and the  
3 retraining or upgrading of skills of full-time employees in retained jobs as provided in  
4 sections 620.800 to 620.809. The training program shall be funded through appropriations  
5 to the funds established under sections 620.806 and 620.809. The department shall, to the  
6 maximum extent practicable, prioritize funding under the training program to assist  
7 qualified companies in targeted industries.

8 2. There is hereby created the "Compete Missouri Job Training Joint Legislative  
9 Oversight Committee". The committee shall consist of three members of the Missouri  
10 senate appointed by the president pro tem of the senate; and three members of the house  
11 of representatives appointed by the speaker of the house. No more than two of the  
12 members of the senate and two of the members of the house of representatives shall be  
13 from the same political party. Members of the committee shall report to the governor, the  
14 president pro tem of the senate and the speaker of the house of representatives on all  
15 assistance to industries under the provisions of sections 620.800 to 620.809 provided during  
16 the preceding fiscal year. The report of the committee shall be delivered no later than  
17 October first of each year. The director of the department shall report to the committee  
18 such information as the committee may deem necessary for its annual report. Members  
19 of the committee shall receive no compensation in addition to their salary as members of  
20 the general assembly, but may receive their necessary expenses while attending the  
21 meetings of the committee, to be paid out of the joint contingent fund.

22 3. The department shall publish guidelines and may promulgate rules and  
23 regulations governing the training program. Any rule or portion of a rule, as that term is  
24 defined in section 536.010, that is created under the authority delegated in this section shall

25 become effective only if it complies with and is subject to all of the provisions of chapter  
26 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and  
27 if any of the powers vested with the general assembly pursuant to chapter 536 to review,  
28 to delay the effective date, or to disapprove and annul a rule are subsequently held  
29 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted  
30 after August 28, 2011, shall be invalid and void.

31 4. The department shall make program applications and guidelines available  
32 online.

33 5. The department may contract with other entities, including businesses,  
34 industries, other state agencies and the political subdivisions of the state for the purposes  
35 of carrying out the provisions of the training program established in sections 620.800 to  
36 620.809. Any assistance through the training program shall be provided under an  
37 agreement.

38 6. Prior to the authorization of any application submitted through the training  
39 program, the department shall verify the applicant's tax payment status and offset any  
40 delinquencies as provided in section 135.815.

620.806. 1. The Missouri job development fund formerly established in the state  
2 treasury by section 620.478 shall now be known as the "Compete Missouri Job  
3 Development Fund" and shall be administered by the department for the training  
4 program. The fund shall consist of all moneys which may be appropriated to it by the  
5 general assembly and also any gifts, contributions, grants or bequests received from  
6 federal, private, or other sources, including, but not limited to, any block grant or other  
7 sources of funding relating to job training, school-to-work transition, welfare reform,  
8 vocational and technical training, housing, infrastructure development and human  
9 resource investment programs which may be provided by the federal government or other  
10 sources.

11 2. The department may provide financial assistance through the training program  
12 to qualified companies that create new jobs which will result in the need for training, or  
13 that make new capital investment relating directly to the retention of retained jobs in an  
14 amount at least five times greater than the amount of any financial assistance. Financial  
15 assistance may also be provided to a consortium of qualified companies organized for the  
16 purpose of providing for common training to the consortium members' employees. Funds  
17 in the compete Missouri job development fund shall be appropriated, for financial  
18 assistance through the training program, by the general assembly to the department and  
19 shall be administered by a local educational agency certified by the department for such  
20 purpose. Except for state-sponsored preemployment training, no qualified company shall

21 receive more than fifty percent of its training program costs from the compete Missouri job  
22 development fund. No funds shall be awarded or reimbursed to any qualified company  
23 for the training, retraining, or upgrading of skills of potential employees with the purpose  
24 of replacing or supplanting employees engaged in an authorized work stoppage. Upon  
25 approval by the department, training project costs, except the purchase of training  
26 equipment and training facilities, shall be eligible for reimbursement with funds from the  
27 compete Missouri job development fund. Notwithstanding any provision of law to the  
28 contrary, no qualified company within a service industry shall be eligible for assistance  
29 under this subsection unless such qualified company provides services in interstate  
30 commerce, which shall mean that the qualified company derives a majority of its annual  
31 revenues from out of the state.

32       **3. The department may provide assistance, through appropriations made from the**  
33 **compete Missouri job development fund, to business and technology centers. Such**  
34 **assistance shall not include the lending of the state's credit for the payment of any liability**  
35 **of the fund. Such centers may be established by Missouri community colleges, or a state-**  
36 **owned postsecondary technical college, to provide business and training services for**  
37 **growth industries as determined by current labor market information.**

**620.809. 1. The Missouri community college job training program fund formerly**  
2 **established in the state treasury by section 178.896 shall now be known as the "Compete**  
3 **Missouri Community College New Jobs Training Fund", and shall be administered by the**  
4 **department for the training program. The department of revenue shall credit to the fund,**  
5 **as received, all new jobs credits. The fund shall also consist of any gifts, contributions,**  
6 **grants, or bequests received from federal, private, or other sources. The general assembly,**  
7 **however, shall not provide for any transfer of general revenue funds into the fund. Moneys**  
8 **in the fund shall be disbursed to the department under regular appropriations by the**  
9 **general assembly. The department shall disburse such appropriated funds in a timely**  
10 **manner into the special funds established by community college districts for training**  
11 **projects, which funds shall be used to pay training project costs. Such disbursements shall**  
12 **be made to the special fund for each training project in the same proportion as the new**  
13 **jobs credit remitted by the qualified company participating in such project bears to the**  
14 **total new jobs credit from withholding remitted by all qualified companies participating**  
15 **in projects during the period for which the disbursement is made. All moneys remaining**  
16 **in the fund at the end of any fiscal year shall not lapse to the general revenue fund, as**  
17 **provided in section 33.080, but shall remain in the fund.**

18       **2. The Missouri community college job retention training program fund formerly**  
19 **established in the state treasury by section 178.764, shall now be known as the "Compete**

20 Missouri Community College Job Retention Training Fund", and shall be administered  
21 by the department for the compete Missouri training program. The department of revenue  
22 shall credit to the fund, as received, all retained jobs credits. The fund shall also consist  
23 of any gifts, contributions, grants, or bequests received from federal, private, or other  
24 sources. The general assembly, however, shall not provide for any transfer of general  
25 revenue funds into the fund. Moneys in the fund shall be disbursed to the department  
26 under regular appropriations by the general assembly. The department shall disburse  
27 such appropriated funds in a timely manner into the special funds established by  
28 community college districts for projects, which funds shall be used to pay training program  
29 costs, including the principal, premium, and interest on certificates issued by the district  
30 to finance or refinance, in whole or in part, a project. Such disbursements by the  
31 department shall be made to the special fund for each project in the same proportion as  
32 the retained jobs credit from withholding remitted by the qualified company participating  
33 in such project bears to the total retained jobs credit from withholding remitted by  
34 qualified companies participating in projects during the period for which the disbursement  
35 is made. All moneys remaining in the fund at the end of any fiscal year shall not lapse to  
36 the general revenue fund, as provided in section 33.080, but shall remain in the fund.

37       3. The department of revenue shall develop such forms as are necessary to  
38 demonstrate accurately each qualified company's new jobs credit paid into the compete  
39 Missouri community college new jobs training fund or retained jobs credit paid into the  
40 compete Missouri community college job retention training fund. The new or retained jobs  
41 credits shall be accounted as separate from the normal withholding tax paid to the  
42 department of revenue by the qualified company. Reimbursements made by all qualified  
43 companies to the compete Missouri community college new jobs training fund and the  
44 compete Missouri community college job retention training fund shall be no less than all  
45 allocations made by the department to all community college districts for all projects. The  
46 qualified company shall remit the amount of the new or retained jobs credit, as applicable,  
47 to the department of revenue in the same manner as provided in sections 143.191 to  
48 143.265.

49       4. A community college district, with the approval of the department in  
50 consultation with the office of administration, may enter into an agreement to establish a  
51 training project and provide training project services to a qualified company. As soon as  
52 possible after initial contact between a community college district and a potential qualified  
53 company regarding the possibility of entering into an agreement, the district shall inform  
54 the department of the potential training project. The department shall evaluate the  
55 proposed training project within the overall job training efforts of the state to ensure that

56 the training project will not duplicate other job training programs. The department shall  
57 have fourteen days from receipt of a notice of intent to approve or disapprove training  
58 projects. If no response is received by the qualified company within fourteen days, the  
59 training project shall be deemed approved. Disapproval of any training project shall be  
60 made in writing and state the reasons for such disapproval. If an agreement is entered  
61 into, the district and the qualified company shall notify the department of revenue within  
62 fifteen calendar days. In addition to any provisions required under subsection 5 of this  
63 section for a qualified company applying to receive a retained job credit, an agreement  
64 may provide, but shall not be limited to:

65 (1) Payment of training project costs, which may be paid from one or a combination  
66 of the following sources:

67 (a) Funds appropriated by the general assembly to the compete Missouri  
68 community college new jobs training program fund or compete Missouri community  
69 college job retention training program fund, as applicable, and disbursed by the  
70 department for the purposes consistent with sections 620.800 to 620.809;

71 (b) Tuition, student fees, or special charges fixed by the board of trustees to defray  
72 training project costs in whole or in part;

73 (2) Payment of training project costs shall not be deferred for a period longer than  
74 eight years;

75 (3) Costs of on-the-job training for employees shall include wages or salaries of  
76 participating employees. Payments for on-the-job training shall not exceed the average of  
77 fifty percent of the total wages paid by the qualified company to each participant during  
78 the period of training. Payment for on-the-job training may continue for up to six months  
79 from the date the training begins;

80 (4) A provision which fixes the minimum amount of new or retained jobs credits,  
81 or tuition and fee payments which shall be paid for training project costs;

82 (5) Any payment required to be made by a qualified company shall constitute a lien  
83 upon the qualified company's business property until paid and have equal priority with  
84 ordinary taxes and shall not be divested by a judicial sale. Property subject to such lien  
85 may be sold for sums due and delinquent at a tax sale, with the same forfeitures, penalties,  
86 and consequences as for the nonpayment of ordinary taxes. The purchasers at tax sale  
87 shall obtain the property subject to the remaining payments.

88 5. Any qualified company that submits a notice of intent for retained job credits  
89 shall enter into an agreement providing that the qualified company has:

90 (1) Maintained at least one hundred full-time employees per year at the project  
91 facility for the calendar year preceding the year in which the application is made;

92           (2) Retained, at the project facility, the same number of employees that existed in  
93 the taxable year immediately preceding the year in which application is made; and

94           (3) Made or agrees to make a new capital investment of greater than five times the  
95 amount of any award under this training program at the project facility over a period of  
96 two consecutive calendar years, as certified by the qualified company and:

97           (a) Has made substantial investment in new technology requiring the upgrading  
98 of employee skills; or

99           (b) Is located in a border county of the state and represents a potential risk of  
100 relocation from the state; or

101           (c) Has been determined to represent a substantial risk of relocation from the state  
102 by the director of the department of economic development.

103           6. If an agreement provides that all or part of training program costs are to be met  
104 by receipt of new or retained jobs credit, such new or retained jobs credit from  
105 withholding shall be determined and paid as follows:

106           (1) New or retained jobs credit shall be based upon the wages paid to the employees  
107 in the new or retained jobs;

108           (2) A portion of the total payments made by the qualified companies under sections  
109 143.191 to 143.265 shall be designated as the new or retained jobs credit from withholding.  
110 Such portion shall be an amount equal to two and one-half percent of the gross wages paid  
111 by the qualified company for each of the first one hundred jobs included in the project and  
112 one and one-half percent of the gross wages paid by the qualified company for each of the  
113 remaining jobs included in the project. If business or employment conditions cause the  
114 amount of the new or retained jobs credit from withholding to be less than the amount  
115 projected in the agreement for any time period, then other withholding tax paid by the  
116 qualified company under sections 143.191 to 143.265 shall be credited to the applicable  
117 fund by the amount of such difference. The qualified company shall remit the amount of  
118 the new or retained jobs credit to the department of revenue in the manner prescribed in  
119 sections 143.191 to 143.265. When all training program costs have been paid, the new or  
120 retained jobs credit shall cease;

121           (3) The community college district participating in a project shall establish a special  
122 fund for and in the name of the training project. All funds appropriated by the general  
123 assembly from the funds established under subsections 1 and 2 of this section, and  
124 disbursed by the department for the training project and other amounts received by the  
125 district for training project costs as required by the agreement shall be deposited in the  
126 special fund. Amounts held in the special fund shall be used and disbursed by the district  
127 only to pay training project costs for such training project. The special fund may be

128 divided into such accounts and subaccounts as shall be provided in the agreement, and  
129 amounts held therein may be invested in the same manner as the district's other funds;

130 (4) Any disbursement for training project costs, received from the department  
131 under sections 620.800 to 620.809 and placed into the training project's special fund may  
132 be irrevocably pledged by a community college district for the payment of the principal,  
133 premium, and interest on the certificate issued by a community college district to finance  
134 or refinance, in whole or in part, such training project;

135 (5) The qualified company shall certify to the department of revenue that the new  
136 or retained jobs credit is in accordance with an agreement and shall provide other  
137 information the department of revenue may require;

138 (6) An employee participating in a training project shall receive full credit under  
139 section 143.211, for the amount designated as a new or retained jobs credit;

140 (7) If an agreement provides that all or part of training program costs are to be met  
141 by receipt of new or retained jobs credit, the provisions of this subsection shall also apply  
142 to any successor to the original qualified company until such time as the principal and  
143 interest on the certificates have been paid.

144 7. To provide funds for the present payment of the training project costs of new or  
145 retained jobs training project through the training program, a community college district  
146 may borrow money and issue and sell certificates payable from a sufficient portion of the  
147 future receipts of payments authorized by the agreement including disbursements from the  
148 compete Missouri community college new jobs training fund or the compete Missouri  
149 community college job retention training fund, to the special fund established by the  
150 district for each project. The total amount of outstanding certificates sold by all  
151 community college districts shall not exceed the total amount authorized under law as of  
152 January 1, 2011, unless an increased amount is authorized in writing by a majority of  
153 members of the committee. The certificates shall be marketed through financial  
154 institutions authorized to do business in Missouri. The receipts shall be pledged to the  
155 payment of principal of and interest on the certificates. Certificates may be sold at public  
156 sale or at private sale at par, premium, or discount of not less than ninety-five percent of  
157 the par value thereof, at the discretion of the board of trustees, and may bear interest at  
158 such rate or rates as the board of trustees shall determine, notwithstanding the provisions  
159 of section 108.170 to the contrary. However, the provisions of chapter 176 shall not apply  
160 to the issuance of such certificates. Certificates may be issued with respect to a single  
161 project or multiple projects and may contain terms or conditions as the board of trustees  
162 may provide by resolution authorizing the issuance of the certificates.

163           **8. Certificates issued to refund other certificates may be sold at public sale or at**  
164 **private sale as provided in this section with the proceeds from the sale to be used for the**  
165 **payment of the certificates being refunded. The refunding certificates may be exchanged**  
166 **in payment and discharge of the certificates being refunded, in installments at different**  
167 **times or an entire issue or series at one time. Refunding certificates may be sold or**  
168 **exchanged at any time on, before, or after the maturity of the outstanding certificates to**  
169 **be refunded. They may be issued for the purpose of refunding a like, greater, or lesser**  
170 **principal amount of certificates and may bear a higher, lower, or equivalent rate of interest**  
171 **than the certificates being renewed or refunded.**

172           **9. Before certificates are issued, the board of trustees shall publish once a notice of**  
173 **its intention to issue the certificates, stating the amount, the purpose, and the project or**  
174 **projects for which the certificates are to be issued. A person with standing may, within**  
175 **fifteen days after the publication of the notice, by action in the circuit court of a county in**  
176 **the district, appeal the decision of the board of trustees to issue the certificates. The action**  
177 **of the board of trustees in determining to issue the certificates shall be final and conclusive**  
178 **unless the circuit court finds that the board of trustees has exceeded its legal authority. An**  
179 **action shall not be brought which questions the legality of the certificates, the power of the**  
180 **board of trustees to issue the certificates, the effectiveness of any proceedings relating to**  
181 **the authorization of the project, or the authorization and issuance of the certificates from**  
182 **and after fifteen days from the publication of the notice of intention to issue.**

183           **10. The board of trustees shall make a finding based on information supplied by**  
184 **the qualified company that revenues provided in the agreement are sufficient to secure the**  
185 **faithful performance of obligations in the agreement.**

186           **11. Certificates issued under this section shall not be deemed to be an indebtedness**  
187 **of the state or the community college district or of any other political subdivision of the**  
188 **state, and the principal and interest on any certificates shall be payable only from the**  
189 **sources provided in subdivision (1) of subsection 4 of this section which are pledged in the**  
190 **agreement.**

191           **12. The provisions of the new program authorized under sections 620.800 to**  
192 **620.809 shall sunset automatically on July 1, 2018, unless reauthorized by an act of the**  
193 **general assembly.**

**620.2000. Sections 620.2000 to 620.2020 and section 144.540 shall be known and**  
2 **may be cited as the "Compete Missouri Program".**

**620.2005. As used in sections 620.2000 to 620.2020, the following terms mean:**

2           **(1) "Average wage", the new payroll divided by the number of new jobs, or the**  
3 **payroll of the retained jobs divided by the number of retained jobs;**

4           (2) "Commencement of operations", the starting date for the qualified company's  
5 first new employee, which shall be no later than twelve months from the date of the  
6 approval;

7           (3) "County average wage", the average wages in each county as determined by the  
8 department for the most recently completed full calendar year. However, if the computed  
9 county average wage is above the statewide average wage, the statewide average wage shall  
10 be deemed the county average wage for such county for the purpose of determining  
11 eligibility. The department shall publish the county average wage for each county at least  
12 annually. Notwithstanding the provisions of this subdivision to the contrary, for any  
13 qualified company that in conjunction with their project is relocating employees from a  
14 Missouri county with a higher county average wage, the company shall obtain the  
15 endorsement of the governing body of the community from which jobs are being relocated  
16 or the county average wage for their project shall be the county average wage for the  
17 county from which the employees are being relocated;

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

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

20           (6) "Employee", a person employed by a qualified company;

21           (7) "Existing Missouri business", a qualified company that, for the ten-year period  
22 preceding submission of a notice of intent to the department, had a physical location in  
23 Missouri and full-time employees who routinely perform job duties within Missouri;

24           (8) "Full-time employee", an employee of the qualified company that is scheduled  
25 to work an average of at least thirty-five hours per week for a twelve-month period, and  
26 one for which the qualified company offers health insurance and pays at least fifty percent  
27 of such insurance premiums;

28           (9) "Local incentives", the present value of the dollar amount of direct benefit  
29 received by a qualified company for a project facility from one or more local political  
30 subdivisions, but this term shall not include loans or other funds provided to the qualified  
31 company that shall be repaid by the qualified company to the political subdivision;

32           (10) "NAICS" or "NAICS industry classification", the classification provided by  
33 the most recent edition of the North American Industry Classification System as prepared  
34 by the Executive Office of the President, Office of Management and Budget;

35           (11) "New capital investment", shall include funds spent by the qualified company  
36 at the project facility after the approval of the notice of intent for real or personal  
37 property, and may include the present value of finance or capital leases for real or personal  
38 property for the term of such lease at the project facility executed after approval of the  
39 notice of intent;

40 (12) "New direct local revenue", the present value of the dollar amount of direct  
41 net new tax revenues of the local political subdivisions likely to be produced by the project  
42 over a ten-year period as calculated by the department, excluding local earnings tax, and  
43 net new utility revenues, provided the local incentives include a discount or other direct  
44 incentives from utilities owned or operated by the political subdivision;

45 (13) "New job", the number of full-time employees located at the project facility  
46 that exceeds the project facility base employment less any decrease in the number of full-  
47 time employees at related facilities below the related facility base employment. No job that  
48 was created prior to the date of the notice of intent shall be deemed a new job. An  
49 employee that spends less than fifty percent of the employee's work time at the facility shall  
50 be considered to be located at a facility if the employee receives his or her directions and  
51 control from that facility, is on the facility's payroll, one hundred percent of the employee's  
52 income from such employment is Missouri income, and the employee is paid at or above  
53 the applicable percentage of the county average wage;

54 (14) "New payroll", the amount of wages earned by all full-time employees,  
55 excluding owners of the qualified company unless the qualified company is participating  
56 in an employee stock ownership plan, located at the project facility during the qualified  
57 company's tax year that exceeds the project facility base payroll;

58 (15) "Notice of intent", a form developed by the department and available online,  
59 completed by the qualified company, and submitted to the department stating the qualified  
60 company's intent to request benefits under this program;

61 (16) "Percent of local incentives", the amount of local incentives divided by the  
62 amount of new direct local revenue;

63 (17) "Program", the compete Missouri program established in sections 620.2000  
64 to 620.2020;

65 (18) "Project facility", the building or buildings used by a qualified company at  
66 which new or retained jobs and any new capital investment are or will be located. A  
67 project facility may include separate buildings located within sixty miles of each other such  
68 that their purpose and operations are interrelated; provided that where the buildings  
69 making up the project facility are not located within the same county, the average wage of  
70 the new payroll shall exceed the highest county average wage among the counties in which  
71 the buildings are located. Upon approval by the department, a subsequent project facility  
72 may be designated if the qualified company demonstrates a need to relocate to the  
73 subsequent project facility at any time during the project period;

74 (19) "Project facility base employment", the greater of the number of full-time  
75 employees located at the project facility on the date of the notice of intent or, for the twelve-

76 month period prior to the date of the notice of intent, the average number of full-time  
77 employees located at the project facility. In the event the project facility has not been in  
78 operation for a full twelve-month period, the average number of full-time employees for  
79 the number of months the project facility has been in operation prior to the date of the  
80 notice of intent;

81 (20) "Project facility base payroll", the total amount of wages paid by the qualified  
82 company to full-time employees of the qualified company located at the project facility in  
83 the twelve months prior to the notice of intent, not including the payroll of the owners of  
84 the qualified company unless the qualified company is participating in an employee stock  
85 ownership plan. For purposes of calculating the benefits under this program, the amount  
86 of base payroll shall increase each year based on an appropriate measure, as determined  
87 by the department;

88 (21) "Project period", the time period within which benefits are awarded to a  
89 qualified company or within which the qualified company is obligated to perform under  
90 an agreement with the department, whichever is greater;

91 (22) "Projected net fiscal benefit", the total fiscal benefit to the state less any state  
92 benefits offered to the qualified company, as determined by the department;

93 (23) "Qualified company", a firm, partnership, joint venture, association, private  
94 or public corporation whether organized for profit or not, or headquarters of such entity  
95 registered to do business in Missouri that is the owner or operator of a project facility,  
96 offers health insurance to all full-time employees of all facilities located in this state, and  
97 pays at least fifty percent of such insurance premiums. For the purposes of sections  
98 620.2000 to 620.2020, the term "qualified company" shall not include:

99 (a) Gambling establishments (NAICS industry group 7132);

100 (b) Retail trade establishments (NAICS sectors 44 and 45), except with respect to  
101 any company headquartered in this state with a majority of its full-time employees engaged  
102 in operations not within the NAICS codes specified in this subdivision;

103 (c) Food and drinking places (NAICS subsector 722);

104 (d) Public utilities (NAICS 221 including water and sewer services);

105 (e) Any company that is delinquent in the payment of any nonprotested taxes or  
106 any other amounts due the state or federal government or any other political subdivision  
107 of this state;

108 (f) Any company requesting benefits for retained jobs that has filed for or has  
109 publicly announced its intention to file for bankruptcy protection. However, a company  
110 that has filed for or has publicly announced its intention to file for bankruptcy, may be a  
111 qualified company provided that such company:

- 112           **a. Certifies to the department that it plans to reorganize and not to liquidate; and**  
113           **b. After its bankruptcy petition has been filed, it produces proof, in a form and at**  
114 **times satisfactory to the department, that it is not delinquent in filing any tax returns or**  
115 **making any payment due to the state of Missouri, including but not limited to all tax**  
116 **payments due after the filing of the bankruptcy petition and under the terms of the plan**  
117 **of reorganization.**

118

119 **Any taxpayer who is awarded benefits under this subsection and who files for bankruptcy**  
120 **under Chapter 7 of the United States Bankruptcy Code, Title 11 U.S.C., shall immediately**  
121 **notify the department and shall forfeit such benefits and shall repay the state an amount**  
122 **equal to any state tax credits already redeemed and any withholding taxes already**  
123 **retained;**

124           **(g) Educational services (NAICS sector 61);**

125           **(h) Religious organizations (NAICS industry group 8131);**

126           **(i) Public administration (NAICS sector 92);**

127           **(j) Ethanol distillation or production; or**

128           **(k) Biodiesel production.**

129

130 **Notwithstanding any provision of this section to the contrary, the headquarters,**  
131 **administrative offices, or research and development facilities of an otherwise excluded**  
132 **business may qualify for benefits if the offices or facilities serve a multistate territory. In**  
133 **the event a national, state, or regional headquarters operation is not the predominant**  
134 **activity of a project facility, the jobs and investment of such operation shall be considered**  
135 **eligible for benefits under this section if the other requirements are satisfied;**

136           **(24) "Related company", shall mean:**

137           **(a) A corporation, partnership, trust, or association controlled by the qualified**  
138 **company;**

139           **(b) An individual, corporation, partnership, trust, or association in control of the**  
140 **qualified company; or**

141           **(c) Corporations, partnerships, trusts or associations controlled by an individual,**  
142 **corporation, partnership, trust, or association in control of the qualified company. As used**  
143 **in this paragraph, "control of a qualified company" shall mean:**

144           **a. Ownership, directly or indirectly, of stock possessing at least fifty percent of the**  
145 **total combined voting power of all classes of stock entitled to vote in the case of a qualified**  
146 **company that is a corporation;**

147           **b. Ownership of at least fifty percent of the capital or profits interest in such**  
148 **qualified company if it is a partnership or association;**

149           **c. Ownership, directly or indirectly, of at least fifty percent of the beneficial interest**  
150 **in the principal or income of such qualified company if it is a trust, and ownership shall**  
151 **be determined as provided in Section 318 of the Internal Revenue Code of 1986, as**  
152 **amended;**

153           **(25) "Related facility", a facility operated by the qualified company or a related**  
154 **company located in this state that is directly related to the operations of the project facility**  
155 **or in which operations substantially similar to the operations of the project facility are**  
156 **performed;**

157           **(26) "Related facility base employment", the greater of the number of full-time**  
158 **employees located at all related facilities on the date of the notice of intent or, for the**  
159 **twelve-month period prior to the date of the notice of intent, the average number of full-**  
160 **time employees located at all related facilities of the qualified company or a related**  
161 **company located in this state;**

162           **(27) "Related facility base payroll", the total amount of taxable wages paid by the**  
163 **qualified company to full-time employees of the qualified company located at a related**  
164 **facility in the twelve months prior to the filing of the notice of intent, not including the**  
165 **payroll of the owners of the qualified company unless the qualified company is**  
166 **participating in an employee stock ownership plan. For purposes of calculating the**  
167 **benefits under this program, the amount of related facility base payroll shall increase each**  
168 **year based on an appropriate measure, as determined by the department;**

169           **(28) "Retained job", the average number of full-time employees of a qualified**  
170 **company located at the project facility during each month for the calendar year preceding**  
171 **the year in which the notice of intent is submitted;**

172           **(29) "Rural area", a county in Missouri with a population less than seventy-five**  
173 **thousand or that does not contain an individual city with a population greater than fifty**  
174 **thousand according to the most recent federal decennial census;**

175           **(30) "Targeted industry", an industry or one of a cluster of industries identified**  
176 **by the department, by rule following a strategic planning process, as being critical to the**  
177 **state's economic security and growth;**

178           **(31) "Tax credits", tax credits issued by the department to offset the state taxes**  
179 **imposed by chapters 143 and 148, or which may be sold or refunded as provided for in this**  
180 **program; and**

181 (32) "Withholding tax", the state tax imposed by sections 143.191 to 143.265. For  
182 purposes of this program, the withholding tax shall be computed using a schedule as  
183 determined by the department based on average wages.

620.2010. 1. In exchange for the consideration provided by the new tax revenues  
2 and other economic stimuli that will be generated by the new jobs created, a qualified  
3 company shall be eligible to receive the following benefits under this program:

4 (1) A qualified company may, for a period of five years from the date the new jobs  
5 are created, or for a period of six years from the date the new jobs are created if the  
6 qualified company is an existing Missouri business, retain an amount equal to the  
7 withholding tax as calculated under subdivision (32) of section 620.2005 from the new jobs  
8 that would otherwise be withheld and remitted by the qualified company under the  
9 provisions of sections 143.191 to 143.265 if:

10 (a) The qualified company creates twenty or more new jobs, and the average wage  
11 of the new payroll equals or exceeds ninety percent of the county average wage;

12 (b) The qualified company is in a targeted industry and creates ten or more new  
13 jobs, and the average wage of the new payroll equals or exceeds ninety percent of the  
14 county average wage; or

15 (c) The qualified company creates two or more new jobs at a project facility located  
16 within a zone designated under sections 135.950 to 135.963, the average wage of the new  
17 payroll equals or exceeds eighty percent of the county average wage, and the qualified  
18 company commits to making at least one hundred thousand dollars in new capital  
19 investment at the project facility within two years of approval;

20 (2) In addition to any other benefits available under this subsection, a qualified  
21 company that satisfies paragraph (a) of subdivision (1) of this subsection shall also be  
22 entitled to tax credits issued each year for a period of five years from the date the new jobs  
23 are created in an amount not to exceed two percent of new payroll from the new jobs  
24 created; provided that in no event may the total amount of benefits provided to a qualified  
25 company under this subsection exceed five percent of the new payroll in any calendar year;

26 (3) In addition to any other benefits available under this subsection, a qualified  
27 company that satisfies paragraph (b) of subdivision (1) of this subsection shall also be  
28 entitled to tax credits issued each year for a period of five years from the date the new jobs  
29 are created in an amount equal to three percent of new payroll from the new jobs created;  
30 provided that in no event may the total amount of benefits provided to a qualified company  
31 under this subsection exceed six percent of the new payroll in any calendar year.

32           **2. In addition to any benefits available under subsection 1 of this section, the**  
33 **department may award additional tax credits issued each year for a period of five years**  
34 **from the date the new jobs are created as follows:**

35           **(1) A qualified company that satisfies paragraph (a) of subdivision (1) of subsection**  
36 **1 of this section may be awarded tax credits in an amount not to exceed four percent of new**  
37 **payroll from the new jobs created; provided that in no event may the total amount of**  
38 **benefits awarded to a qualified company under this section exceed nine percent of new**  
39 **payroll in any calendar year;**

40           **(2) A qualified company that satisfies paragraph (b) of subdivision (1) of subsection**  
41 **1 of this section may be awarded tax credits in an amount not to exceed six percent of new**  
42 **payroll from the new jobs created; provided that in no event may the total amount of**  
43 **benefits provided to the qualified company under this section exceed twelve percent of new**  
44 **payroll in any calendar year;**

45           **(3) The amount of tax credits awarded to a qualified company under this subsection**  
46 **shall not exceed the projected net fiscal benefit to the state, as determined by the**  
47 **department, and shall not exceed the least amount necessary to obtain the qualified**  
48 **company's commitment to initiate the project. No benefits shall be available under this**  
49 **subsection for any qualified company that has performed significant, project-specific site**  
50 **work at the project facility or has publicly announced its intention to create new jobs or**  
51 **make new capital investment at the project facility prior to approval of its notice of intent;**

52           **(4) In determining the amount of tax credits to award to a qualified company under**  
53 **this subsection, the department shall consider the following factors:**

54           **(a) The significance of the qualified company's need for program benefits;**

55           **(b) The amount of projected net fiscal benefit to the state of the project and the**  
56 **period in which the state would realize such net fiscal benefit;**

57           **(c) The overall size and quality of the proposed project, including the number of**  
58 **new jobs, new capital investment, proposed wages, growth potential of the qualified**  
59 **company, the potential multiplier effect of the project, and similar factors;**

60           **(d) The financial stability and creditworthiness of the qualified company;**

61           **(e) The level of economic distress in the area;**

62           **(f) An evaluation of the competitiveness of alternative locations for the project**  
63 **facility, as applicable; and**

64           **(g) The percent of local incentives committed;**

65           **(5) Upon approval of a notice of intent to receive tax credits under this subsection,**  
66 **the department and the qualified company shall enter into a written agreement covering**  
67 **the applicable project period. The agreement shall specify, at a minimum:**

68 (a) The committed number of new jobs, new payroll, and new capital investment  
69 for each year during the project period;

70 (b) The date or time period during which the tax credits shall be issued, which may  
71 be immediately or over a period not to exceed two years from the date of approval;

72 (c) Clawback provisions, as may be required by the department; and

73 (d) Any other provisions the department may require.

74 3. (1) In lieu of all other benefits available under this program, the department  
75 may authorize a qualified company meeting the requirements of this subsection and  
76 subsection 1 of this section to be issued tax credits, subject to a written agreement entered  
77 into by the qualified company and the department containing detailed performance  
78 requirements and repayment penalties in the event of nonperformance.

79 (2) The amount of tax credits that may be awarded under this subsection shall not  
80 exceed seven percent of new payroll from the new jobs created or, if the qualified company  
81 is in a targeted industry, shall not exceed nine percent of new payroll from the new jobs  
82 created, projected over a period of five years from the date the required number of new  
83 jobs are to be created if the average wage of the new payroll equals or exceeds ninety  
84 percent of the county average wage. The amount of tax credits awarded to a qualified  
85 company under this subsection shall not exceed the projected net fiscal benefit to the state,  
86 as determined by the department, and shall not exceed the least amount necessary to obtain  
87 the qualified company's commitment to initiate the project.

88 (3) Prior to approval, a qualified company requesting benefits under this subsection  
89 shall provide evidence of commitments for the financing of any applicable new capital  
90 investment. The new capital investment shall be made at the project facility within two  
91 years of the date of approval.

92 (4) In awarding tax credits under this subsection, the department shall consider  
93 factors set forth in subsection 2 of this section.

94 (5) Upon approval of a request to receive tax credits under this subsection, the  
95 department and the qualified company shall enter into a written agreement covering the  
96 applicable project period. The agreement shall specify, at a minimum:

97 (a) The committed number of new jobs, payroll, and new capital investment for  
98 each year during the project period;

99 (b) The date or time period during which the tax credits shall be issued, which may  
100 be immediately or over a period not to exceed two years from the date of approval;

101 (c) Clawback provisions provided under subdivision (6) of this subsection; and

102 (d) Any other provisions the department may require.

103           **(6) The following clawback provisions shall apply to any benefits awarded under**  
104 **this subsection:**

105           **(a) If a qualified company fails to meet any requirements of this section, including**  
106 **the applicable number of new jobs created or new capital investment within two years**  
107 **from the date of approval of its notice of intent, the qualified company shall repay the face**  
108 **amount of all tax credits received from the department, plus interest of nine percent per**  
109 **annum from the date the tax credits were issued. However, the director may, in his or her**  
110 **discretion, provide an extension up to two additional years or reduce such payment, if such**  
111 **failure is caused by documented unforeseen events that negatively affected the operations**  
112 **at the project facility that were not under the control of the qualified company;**

113           **(b) If, during any year of the project period, the average wage of the new payroll**  
114 **paid by the qualified company fails to equal or exceed the applicable percentage of the**  
115 **county average wage, or the qualified company fails to offer and pay fifty percent of the**  
116 **premium for health insurance to all of its full-time employees located in this state, the**  
117 **company shall refund to the state an amount equal to the face amount of all tax credits**  
118 **received from the department under this program, divided by the number of years in the**  
119 **project period. In addition to the refund, the qualified company shall pay interest of nine**  
120 **percent per annum from the date the tax credits were issued on the amount of the refund;**

121           **(c) If the qualified company fails to meet its payroll commitment for any year**  
122 **during the project period, it shall refund to the state a portion of its total benefit received**  
123 **under this section based on the following formula: the total amount of tax credits received**  
124 **by the qualified company, divided by the number of years during the project period, and**  
125 **multiplied by a fraction, the numerator of which is the contractually agreed-upon amount**  
126 **of payroll for that year minus the actual amount of payroll made by the company during**  
127 **the year, and the denominator of which is the contractually agreed upon amount of payroll**  
128 **made for that same year. In addition to the refund, the qualified company shall pay**  
129 **interest of nine percent per annum from the date the tax credits were issued on the amount**  
130 **of the refund;**

131           **(d) If the qualified company fails to meet its payroll or new capital investment**  
132 **requirements for any year during the project period and the director has a reasonable**  
133 **belief that the qualified company will not be able to meet its performance requirements**  
134 **during all or any portion of the remainder of the project period, the director may require**  
135 **the company to repay all or a proportionate amount of the total tax credits received by the**  
136 **company attributable to the remaining years of the project period as well as the current**  
137 **year, plus interest of nine percent per annum on the amount of repayment from the date**  
138 **the tax credits were issued.**

139           (7) The maximum amount of tax credits that may be authorized under this  
140 subsection for any fiscal year shall be limited as follows:

141           (a) For the fiscal year beginning on July 1, 2011, but ending on or before June 30,  
142 2012, no more than fifteen million dollars in tax credits may be authorized;

143           (b) For the fiscal year beginning on July 1, 2012, but ending on or before June 30,  
144 2013, no more than thirty million dollars in tax credits may be authorized;

145           (c) For the fiscal year beginning on July 1, 2013, but ending on or before June 30,  
146 2014, no more than forty-five million dollars in tax credits may be authorized; and

147           (d) For any fiscal year beginning on or after July 1, 2014, no more than sixty  
148 million dollars in tax credits may be authorized.

149           4. In addition to any benefits available under this section, any qualified company  
150 meeting the requirements of section 144.540 may be eligible for a tax exemption as  
151 provided in section 144.540.

          620.2015. 1. In exchange for the consideration provided by the tax revenues and  
2 other economic stimuli that will be generated by the retention of jobs and the making of  
3 new capital investment in this state, a qualified company may be eligible to receive the  
4 benefits described in this section if the department determines that there is a significant  
5 probability that the qualified company would relocate to another state in the absence of  
6 the benefits authorized under this section. In no event shall the total amount of benefits  
7 available to all qualified companies under this section exceed six million dollars in any  
8 fiscal year.

9           2. A qualified company meeting the requirements of this section may be authorized  
10 to retain an amount not to exceed the amount of withholding tax as calculated under  
11 subdivision (32) of section 620.2005 from the retained jobs that would otherwise be  
12 withheld and remitted by the qualified company under the provisions of sections 143.191  
13 to 143.265, if the average wage of the retained jobs equals or exceeds ninety percent of the  
14 county average wage. In order to receive benefits under this section, a qualified company  
15 shall enter into written agreement with the department containing detailed performance  
16 requirements and repayment penalties in event of nonperformance. The amount of  
17 benefits awarded to a qualified company under this section shall not exceed the projected  
18 net fiscal benefit and shall not exceed the least amount necessary to obtain the qualified  
19 company's commitment to retain the necessary number of jobs and make the required new  
20 capital investment.

21           3. In order to be eligible to receive benefits under this section, the qualified  
22 company shall meet each of the following conditions:

23           (1) The qualified company shall agree to retain, for a period of five years from the  
24 date of approval, at least one hundred twenty-five retained jobs; and

25           (2) The qualified company shall agree to make a new capital investment at the  
26 project facility within two years of the approval in an amount at least three times the  
27 amount of the benefits, available under this section, which are offered to the qualified  
28 company by the department.

29           4. In awarding benefits under this section, the department shall consider the factors  
30 set forth in subsection 2 of section 620.2010.

31           5. Upon approval of a notice of intent to request benefits under this section, the  
32 department and the qualified company shall enter into a written agreement covering the  
33 applicable project period. The agreement shall specify, at a minimum:

34           (1) The committed number of retained jobs, payroll, and new capital investment  
35 for each year during the project period;

36           (2) Clawback provisions, as may be required by the department; and

37           (3) Any other provisions the department may require.

38           6. (1) In lieu of all other benefits under this program, the department may award  
39 a qualified company meeting the requirements of this section tax credits in an amount not  
40 to exceed eighty percent of the amount the qualified company may otherwise be eligible to  
41 retain for a period of five years under subsection 2 of this section.

42           (2) In addition to satisfying each of the requirements of subsection 3 of this section,  
43 a qualified company requesting tax credits under this subsection shall provide to the  
44 department, prior to approval, evidence of commitments for the financing of any  
45 applicable new capital investment. The new capital investment shall be made at the project  
46 facility within two years of the date of approval.

47           (3) Upon approval of a notice of intent to request tax credits under this subsection,  
48 the department and the qualified company shall enter into a written agreement covering  
49 the applicable project period. The agreement shall specify, at a minimum:

50           (a) The committed number of new jobs, payroll, and new capital investment for  
51 each year during the project period;

52           (b) The date or time period during which the tax credits shall be issued, which may  
53 be immediately or over a period not to exceed two years from the date of approval;

54           (c) Clawback provisions, provided under subsection 3 of section 620.2010; and

55           (d) Any other provisions the department may require.

56           (4) Any tax credits awarded under this section shall be included in determining  
57 compliance with the annual limitation on tax credit awards set forth in subdivision (6) of  
58 subsection 3 of section 620.2010.

59           **7. Any qualified company meeting the requirements of section 144.540, in addition**  
60 **to any benefits available under this section, may be eligible for a tax exemption as provided**  
61 **in section 144.540.**

**620.2020. 1. A qualified company that intends to seek benefits under the compete**  
2 **Missouri program shall submit to the department a notice of intent. The department shall**  
3 **respond within thirty days to a notice of intent with an approval or a rejection, provided**  
4 **that the department may withhold approval or provide a contingent approval until it is**  
5 **satisfied that proper documentation of eligibility has been provided. Failure to respond**  
6 **on behalf of the department shall result in the notice of intent being deemed approved. A**  
7 **qualified company receiving approval for program benefits may receive additional benefits**  
8 **for subsequent new jobs at the same facility after the full initial project period if the**  
9 **applicable minimum job requirements are met. There shall be no limit on the number of**  
10 **project periods a qualified company may participate in the program, and a qualified**  
11 **company may elect to file a notice of intent to begin a new project period concurrent with**  
12 **an existing project period if the applicable minimum job requirements are achieved, the**  
13 **qualified company provides the department with the required annual reporting, and the**  
14 **qualified company is in compliance with this program and any other state programs in**  
15 **which the qualified company is currently or has previously participated. However, the**  
16 **qualified company shall not receive any further program benefits under the original**  
17 **approval for any new jobs created after the date of the new notice of intent, and any jobs**  
18 **created before the new notice of intent shall not be included as new jobs for purposes of**  
19 **the benefit calculation for the new approval. When a qualified company has filed and**  
20 **received approval of a notice of intent and subsequently files another notice of intent, the**  
21 **department shall apply the definition of project facility under subdivision (18) of section**  
22 **620.2005 to the new notice of intent as well as all previously approved notices of intent and**  
23 **shall determine the application of the definitions of new job, new payroll, project facility**  
24 **base employment, and project facility base payroll accordingly.**

25           **2. Notwithstanding any provision of law to the contrary, the benefits available to**  
26 **the qualified company under any other state programs for which the company is eligible**  
27 **and which utilize withholding tax from the new or retained jobs of the company shall first**  
28 **be credited to the other state program before the withholding retention level applicable**  
29 **under this program will begin to accrue. If any qualified company also participates in a**  
30 **job training program utilizing withholding tax, the company shall retain no withholding**  
31 **tax under this program, but the department shall issue a refundable tax credit for the full**  
32 **amount of benefit allowed under this program. The calendar year annual maximum**  
33 **amount of tax credits which may be issued to a qualifying company that also participates**

34 in the new job training program shall be increased by an amount equivalent to the  
35 withholding tax retained by that company under the new jobs training program.

36 3. A qualified company receiving benefits under this program shall provide an  
37 annual report of the number of jobs and such other information as may be required by the  
38 department to document the basis for program benefits available, including any exemption  
39 from state sales and use taxes under section 140.540. In such annual report, if the average  
40 wage is below the applicable percentage of the county average wage, the qualified company  
41 has not maintained the employee insurance as required, or if the number of jobs is below  
42 the number required, the qualified company shall not receive tax credits or retain the  
43 withholding tax for the balance of the project period.

44 4. Except as provided in subsection 3 of section 620.2010, the department may  
45 withhold the approval of any benefits until it is satisfied that proper documentation has  
46 been provided, and shall reduce the benefits to reflect any reduction in full-time employees  
47 or payroll. Upon approval by the department, the qualified company may begin the  
48 retention of the withholding taxes when it reaches the required number of jobs and the  
49 average wage meets or exceeds the applicable percentage of county average wage. Tax  
50 credits, if any, may be issued upon satisfaction by the department that the qualified  
51 company has exceeded the applicable percentage of county average wage and the required  
52 number of jobs.

53 5. Any qualified company approved for benefits under this program shall provide  
54 to the department, upon request, any and all information and records reasonably required  
55 to monitor compliance with program requirements. This program shall be considered a  
56 business recruitment tax credit under subdivision (4) of subsection 2 of section 135.800,  
57 and any qualified company approved for benefits under this program shall be subject to  
58 the provisions of section 135.800 to 135.830.

59 6. Any taxpayer who is awarded benefits under this program who knowingly hires  
60 individuals who are not allowed to work legally in the United States shall immediately  
61 forfeit such benefits and shall repay the state an amount equal to any state tax credits  
62 already redeemed and any withholding taxes already retained.

63 7. The maximum amount of tax credits that may be authorized under this program  
64 for any fiscal year shall be limited as follows, less the amount of any tax credits previously  
65 obligated for that fiscal year under any of the tax credit programs referenced in subsection  
66 13 of this section:

67 (1) For the fiscal year beginning on July 1, 2011, but ending on or before June 30,  
68 2012, no more than one hundred and eleven million dollars in tax credits may be  
69 authorized;

70           (2) For the fiscal year beginning on July 1, 2012, but ending on or before June 30,  
71 2013, no more than one hundred and twenty-six million dollars in tax credits may be  
72 authorized; and

73           (3) For any fiscal year beginning on or after July 1, 2013, no more than one  
74 hundred and forty-one million dollars in tax credits may be authorized for each fiscal year.

75           8. For tax credits for the creation of new jobs under section 620.2010, the  
76 department shall allocate the annual tax credits based on the date of the approval,  
77 reserving such tax credits based on the department's best estimate of new jobs and new  
78 payroll of the project, and any other applicable factors in determining the amount of  
79 benefits available to the qualified company under this program. However, the annual  
80 issuance of tax credits shall be subject to annual verification of actual payroll by the  
81 department. Except with respect to tax credits provided under subsection 3 of section  
82 620.2010 or subsection 6 of section 620.2015:

83           (1) Any authorization of tax credits shall expire if, within two years from the date  
84 of commencement of operations, or approval if applicable, the qualified company has failed  
85 to meet the applicable minimum job requirements;

86           (2) The qualified company may retain authorized amounts from the withholding  
87 tax under the project once the applicable minimum job requirements have been met for  
88 the duration of the project period; and

89           (3) No benefits shall be provided under this program until the qualified company  
90 meets the applicable minimum new job requirements.

91

92 In the event the qualified company does not meet the applicable minimum new job  
93 requirements, the qualified company may submit a new notice of intent or the department  
94 may provide a new approval for a new project of the qualified company at the project  
95 facility or other facilities.

96           9. Tax credits provided under this program may be claimed against taxes otherwise  
97 imposed by chapters 143 and 148, and may not be carried forward, but shall be claimed  
98 within one year of the close of the taxable year for which they were issued. Tax credits  
99 provided under this program may be transferred, sold, or assigned by filing a notarized  
100 endorsement thereof with the department that names the transferee, the amount of tax  
101 credit transferred, and the value received for the credit, as well as any other information  
102 reasonably requested by the department. For a qualified company with flow-through tax  
103 treatment to its members, partners, or shareholders, the tax credit shall be allowed to  
104 members, partners, or shareholders in proportion to their share of ownership on the last  
105 day of the qualified company's tax period.

106           **10. Prior to the issuance of tax credits or the qualified company beginning to retain**  
107 **withholding taxes, the department shall verify through the department of revenue and any**  
108 **other applicable state department, that the tax credit applicant does not owe any**  
109 **delinquent income, sales, or use tax or interest or penalties on such taxes, or any delinquent**  
110 **fees or assessments levied by any state department and through the department of**  
111 **insurance, financial institutions and professional registration that the applicant does not**  
112 **owe any delinquent insurance taxes or other fees. Such delinquency shall not affect the**  
113 **approval, except that any tax credits issued shall be first applied to the delinquency and**  
114 **any amount issued shall be reduced by the applicant's tax delinquency. If the department**  
115 **of revenue, the department of insurance, financial institutions and professional**  
116 **registration, or any other state department concludes that a taxpayer is delinquent after**  
117 **June fifteenth but before July first of any year and the application of tax credits to such**  
118 **delinquency causes a tax deficiency on behalf of the taxpayer to arise, then the taxpayer**  
119 **shall be granted thirty days to satisfy the deficiency in which interest, penalties, and**  
120 **additions to tax shall be tolled. After applying all available credits toward a tax**  
121 **delinquency, the administering agency shall notify the appropriate department and that**  
122 **department shall update the amount of outstanding delinquent tax owed by the applicant.**  
123 **If any credits remain after satisfying all insurance, income, sales, and use tax**  
124 **delinquencies, the remaining credits shall be issued to the applicant, subject to the**  
125 **restrictions of other provisions of law.**

126           **11. The director of revenue shall issue a refund to the qualified company to the**  
127 **extent that the amount of tax credits allowed in this section exceeds the amount of the**  
128 **qualified company's tax liability under chapter 143 or 148.**

129           **12. An employee of a qualified company shall receive full credit for the amount of**  
130 **tax withheld as provided in section 143.211.**

131           **13. Notwithstanding any provision of law to the contrary, beginning August 28,**  
132 **2011, no new projects shall be approved and no new tax credits shall be authorized under**  
133 **the business facility tax credit program created under sections 135.110 to 135.150 and**  
134 **section 135.258, the business use incentives for large scale development program created**  
135 **under sections 100.700 to 100.850, the development tax credit program created under**  
136 **sections 32.100 to 32.125, the rebuilding communities tax credit program created under**  
137 **section 135.535, the enhanced enterprise zone tax credit program created under sections**  
138 **135.950 to 135.973, and the Missouri quality jobs program created under sections 620.1875**  
139 **to 620.1890. The provisions of this subsection shall not be construed to limit or impair the**  
140 **ability of any administering agency to issue tax credits for any project approved prior to**  
141 **August 28, 2011, or the ability of any taxpayer to redeem any such tax credits or to retain**

142 any withholding tax under an approval issued prior to that date. The provisions of this  
143 subsection shall not be construed to limit or in any way impair the ability of any governing  
144 authority to provide any local abatement or designate a new zone under the enhanced  
145 enterprise zone program created by sections 135.950 to 135.963.

146 **14. If any provision of sections 620.2000 to 620.2020 or application thereof to any**  
147 **person or circumstance is held invalid, the invalidity shall not affect other provisions or**  
148 **application of these sections which can be given effect without the invalid provisions or**  
149 **application, and to this end, the provisions of sections 620.2000 to 620.2020 are hereby**  
150 **declared severable.**

151 **15. By no later than January 1, 2012, and the first day of each calendar quarter**  
152 **thereafter, the department shall present a quarterly report to the general assembly**  
153 **detailing the benefits authorized under this program during the immediately preceding**  
154 **calendar quarter to the extent such information may be disclosed under state and federal**  
155 **law. The report shall include, at a minimum:**

156 **(1) A list of all approved and disapproved applicants for each tax credit;**

157 **(2) A list of the aggregate amount of new or retained jobs that are directly**  
158 **attributable to the tax credits authorized;**

159 **(3) A statement of the aggregate amount of new capital investment directly**  
160 **attributable to the tax credits authorized; and**

161 **(4) Documentation of the estimated net state fiscal benefit for each authorized**  
162 **project and, to the extent available, the actual benefit realized upon completion of such**  
163 **project or activity.**

164 **16. The department may adopt such rules, statements of policy, procedures, forms,**  
165 **and guidelines as may be necessary to carry out the provisions of sections 620.2000 to**  
166 **620.2020. Any rule or portion of a rule, as that term is defined in section 536.010, that is**  
167 **created under the authority delegated in this section shall become effective only if it**  
168 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**  
169 **section 536.028. This section and chapter 536 are nonseverable and if any of the powers**  
170 **vested with the general assembly pursuant to chapter 536 to review, to delay the effective**  
171 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**  
172 **grant of rulemaking authority and any rule proposed or adopted after August 28, 2011,**  
173 **shall be invalid and void.**

174 **17. Under section 23.253 of the Missouri sunset act:**

175 **(1) The provisions of the new program authorized under sections 620.2000 to**  
176 **620.2020 shall automatically sunset six years after the effective date of this section unless**  
177 **reauthorized by an act of the general assembly; and**

178           **(2) If such program is reauthorized, the program authorized under this section**  
 179 **shall automatically sunset twelve years after the effective date of this reauthorization of**  
 180 **sections 620.2000 to 620.2020; and**

181           **(3) Sections 620.2000 to 620.2020 shall terminate on September first of the calendar**  
 182 **year immediately following the calendar year in which the program authorized under**  
 183 **sections 620.2000 to 620.2020 is sunset.**

[178.760. As used in sections 178.760 to 178.764, the following terms  
 2 mean:

3           (1) "Agreement", the agreement between an employer and a community  
 4 college district concerning a project. An agreement may be for a period not to  
 5 exceed ten years when the program services associated with a project are not in  
 6 excess of five hundred thousand dollars. For a project where the associated  
 7 program costs are greater than five hundred thousand dollars, the agreement may  
 8 not exceed a period of eight years;

9           (2) "Board of trustees", the board of trustees of a community college  
 10 district;

11           (3) "Capital investment", an investment in research and development,  
 12 working capital, and real and tangible personal business property except  
 13 inventory or property intended for sale to customers. Trucks, truck trailers, truck  
 14 semi-trailers, rail and barge vehicles and other rolling stock for hire, track,  
 15 switches, barges, bridges, tunnels, rail yards, and spurs shall not qualify as a  
 16 capital investment. The amount of such investment shall be the original cost of  
 17 the property if owned, or eight times the net annual rental rate if leased;

18           (4) "Certificate", industrial retained jobs training certificates issued under  
 19 section 178.763;

20           (5) "Date of commencement of the project", the date of the agreement;

21           (6) "Employee", the person employed in a retained job;

22           (7) "Employer", the person maintaining retained jobs in conjunction with  
 23 a project;

24           (8) "Industry", a business located within this state which enters into an  
 25 agreement with a community college district and which is engaged in interstate  
 26 or intrastate commerce for the purpose of manufacturing, processing, or  
 27 assembling products, conducting research and development, or providing services  
 28 in interstate commerce, but excluding retail services;

29           (9) "Program costs", all necessary and incidental costs of providing  
 30 program services, including payment of the principal, premium, and interest on  
 31 certificates, including capitalized interest, issued to finance a project, funding and  
 32 maintenance of a debt service reserve fund to secure such certificates and wages,  
 33 salaries and benefits of employees participating in on-the-job training;

34           (10) "Program services" includes, but is not limited to, the following:

35           (a) Retained jobs training;

36           (b) Adult basic education and job-related instruction;

- 37 (c) Vocational and skill-assessment services and testing;
- 38 (d) Training facilities, equipment, materials, and supplies;
- 39 (e) On-the-job training;
- 40 (f) Administrative expenses equal to seventeen percent of the total
- 41 training costs, two percent to be paid to the department of economic development
- 42 for deposit into the Missouri job development fund created under section
- 43 620.478;
- 44 (g) Subcontracted services with state institutions of higher education,
- 45 private colleges or universities, or other federal, state, or local agencies;
- 46 (h) Contracted or professional services; and
- 47 (i) Issuance of certificates;
- 48 (11) "Project", a training arrangement which is the subject of an
- 49 agreement entered into between the community college district and an employer
- 50 to provide program services that is not also the subject of an agreement entered
- 51 into between a community college district and an employer to provide program
- 52 services under sections 178.892 to 178.896;
- 53 (12) "Retained job", a job in a stable industry, not including jobs for
- 54 recalled workers, which was in existence for at least two consecutive calendar
- 55 years preceding the year in which the application for the retained jobs training
- 56 program was made;
- 57 (13) "Retained jobs credit from withholding", the credit as provided in
- 58 section 178.762;
- 59 (14) "Retained jobs training program", or "program", the project or
- 60 projects established by a community college district for the retention of jobs, by
- 61 providing education and training of workers for existing jobs for stable industry
- 62 in the state;
- 63 (15) "Stable industry", a business that otherwise meets the definition of
- 64 industry and retains existing jobs. To be a stable industry, the business shall
- 65 have:
- 66 (a) Maintained at least one hundred employees per year at the employer's
- 67 site in the state at which the jobs are based, for each of the two calendar years
- 68 preceding the year in which application for the program is made;
- 69 (b) Retained at that site the level of employment that existed in the
- 70 taxable year immediately preceding the year in which application for the program
- 71 is made; and
- 72 (c) Made or agree to make a capital investment aggregating at least one
- 73 million dollars to acquire or improve long-term assets (including leased facilities)
- 74 such as property, plant, or equipment (excluding program costs) at the employer's
- 75 site in the state at which jobs are based over a period of three consecutive
- 76 calendar years, as certified by the employer and:
- 77 a. Have made substantial investment in new technology requiring the
- 78 upgrading of worker's skills; or

79                   b. Be located in a border county of the state and represent a potential risk  
80 of relocation from the state; or

81                   c. Be determined to represent a substantial risk of relocation from the  
82 state by the director of the department of economic development;

83                   (16) "Total training costs", costs of training, including supplies, wages  
84 and benefits of instructors, subcontracted services, on-the-job training, training  
85 facilities, equipment, skill assessment, and all program services excluding  
86 issuance of certificates.]  
87

2                   [178.761. A community college district, with the approval of the  
3 department of economic development in consultation with the office of  
4 administration, may enter into an agreement to establish a project and provide  
5 program services to an employer. As soon as possible after initial contact  
6 between a community college district and a potential employer regarding the  
7 possibility of entering into an agreement, the district shall inform the division of  
8 workforce development of the department of economic development and the  
9 office of administration about the potential project. The division of workforce  
10 development shall evaluate the proposed project within the overall job training  
11 efforts of the state to ensure that the project will not duplicate other job training  
12 programs. The department of economic development shall have fourteen days  
13 from receipt of the application to approve or disapprove projects. If no response  
14 is received by the community college within fourteen days, the projects are  
15 approved. Any project that is disapproved must be in writing stating the reasons  
16 for the disapproval. If an agreement is entered into, the district and the employer  
17 shall notify the department of revenue within fifteen calendar days. An  
18 agreement may provide, but is not limited to:

19                   (1) Payment of program costs, including deferred costs, which may be  
20 paid from one or a combination of the following sources:

21                   (a) Funds appropriated by the general assembly from the Missouri  
22 community college job retention program fund and disbursed by the division of  
23 workforce development in respect of retained jobs credit from withholding to be  
24 received or derived from retained employment resulting from the project;

25                   (b) Tuition, student fees, or special charges fixed by the board of trustees  
26 to defray program costs in whole or in part;

27                   (c) Guarantee of payments to be received under paragraph (a) or (b) of  
28 this subdivision;

29                   (2) Payment of program costs shall not be deferred for a period longer  
30 than ten years if program costs do not exceed five hundred thousand dollars, or  
31 eight years if program costs exceed five hundred thousand dollars from the date  
32 of commencement of the project;

33                   (3) Costs of on-the-job training for employees shall include wages or  
34 salaries of participating employees. Payments for on-the-job training shall not  
exceed the average of fifty percent of the total percent of the total wages paid by

35 the employer to each participant during the period of training. Payment for  
36 on-the-job training may continue for up to six months from the date of the  
37 employer's capital investment;

38 (4) A provision which fixes the minimum amount of retained jobs credit  
39 from withholding, or tuition and fee payments which shall be paid for program  
40 costs;

41 (5) Any payment required to be made by an employer is a lien upon the  
42 employer's business property until paid and has equal precedence with ordinary  
43 taxes and shall not be divested by a judicial sale. Property subject to the lien may  
44 be sold for sums due and delinquent at a tax sale, with the same forfeitures,  
45 penalties, and consequences as for the nonpayment of ordinary taxes. The  
46 purchasers at tax sale obtain the property subject to the remaining payments.]  
47

2 [178.762. If an agreement provides that all or part of program costs are  
3 to be met by receipt of retained jobs credit from withholding, such retained jobs  
4 credit from withholding shall be determined and paid as follows:

5 (1) Retained jobs credit from withholding shall be based upon the wages  
6 paid to the employees in the retained jobs;

7 (2) A portion of the total payments made by the employer under section  
8 143.221 shall be designated as the retained jobs credit from withholding. Such  
9 portion shall be an amount equal to two and one-half percent of the gross wages  
10 paid by the employer for each of the first one hundred jobs included in the project  
11 and one and one-half percent of the gross wages paid by the employer for each  
12 of the remaining jobs included in the project. If business or employment  
13 conditions cause the amount of the retained jobs credit from withholding to be  
14 less than the amount projected in the agreement for any time period, then other  
15 withholding tax paid by the employer under section 143.221 shall be credited to  
16 the Missouri community college retained job training fund by the amount of such  
17 difference. The employer shall remit the amount of the retained jobs credit to the  
18 department of revenue in the manner prescribed in section 178.764. When all  
19 program costs, including the principal, premium, and interest on the certificates  
20 have been paid, the employer credits shall cease;

21 (3) The community college district participating in a project shall  
22 establish a special fund for and in the name of the project. All funds appropriated  
23 by the general assembly from the Missouri community college job training  
24 retention program fund and disbursed by the division of workforce development  
25 for the project and other amounts received by the district in respect of the project  
26 and required by the agreement to be used to pay program costs for the project  
27 shall be deposited in the special fund. Amounts held in the special fund may be  
28 used and disbursed by the district only to pay program costs for the project. The  
29 special fund may be divided into such accounts and subaccounts as shall be  
30 provided in the agreement, and amounts held therein may be invested in  
investments which are legal for the investment of the district's other funds;

31 (4) Any disbursement in respect of a project received from the division  
 32 of workforce development under sections 178.760 to 178.764 and the special  
 33 fund into which it is paid may be irrevocably pledged by a community college  
 34 district for the payment of the principal, premium, and interest on the certificate  
 35 issued by a community college district to finance or refinance, in whole or in part,  
 36 the project;

37 (5) The employer shall certify to the department of revenue that the credit  
 38 from withholding is in accordance with an agreement and shall provide other  
 39 information the department may require;

40 (6) An employee participating in a project will receive full credit for the  
 41 amount designated as a retained jobs credit from withholding and withheld as  
 42 provided in section 143.221;

43 (7) If an agreement provides that all or part of program costs are to be  
 44 met by receipt of retained jobs credit from withholding, the provisions of this  
 45 subsection shall also apply to any successor to the original employer until such  
 46 time as the principal and interest on the certificates have been paid.]  
 47

2 [178.763. 1. To provide funds for the present payment of the costs of  
 3 retained jobs training programs, a community college district may borrow money  
 4 and issue and sell certificates payable from a sufficient portion of the future  
 5 receipts of payments authorized by the agreement including disbursements from  
 6 the Missouri community college job retention training program to the special  
 7 fund established by the district for each project. The total amount of outstanding  
 8 certificates sold by all community college districts shall not exceed fifteen  
 9 million dollars, unless an increased amount is authorized in writing by a majority  
 10 of members of the Missouri job training joint legislative oversight committee.  
 11 The certificates shall be marketed through financial institutions authorized to do  
 12 business in Missouri.

12 The receipts shall be pledged to the payment of principal of and interest on the  
 13 certificates. Certificates may be sold at public sale or at private sale at par,  
 14 premium, or discount of not less than ninety-five percent of the par value thereof,  
 15 at the discretion of the board of trustees, and may bear interest at such rate or  
 16 rates as the board of trustees shall determine, notwithstanding the provisions of  
 17 section 108.170 to the contrary. However, chapter 176 does not apply to the  
 18 issuance of these certificates. Certificates may be issued with respect to a single  
 19 project or multiple projects and may contain terms or conditions as the board of  
 20 trustees may provide by resolution authorizing the issuance of the certificates.

21 2. Certificates issued to refund other certificates may be sold at public  
 22 sale or at private sale as provided in this section with the proceeds from the sale  
 23 to be used for the payment of the certificates being refunded. The refunding  
 24 certificates may be exchanged in payment and discharge of the certificates being  
 25 refunded, in installments at different times or an entire issue or series at one time.  
 26 Refunding certificates may be sold or exchanged at any time on, before, or after

27 the maturity of the outstanding certificates to be refunded. They may be issued  
28 for the purpose of refunding a like, greater, or lesser principal amount of  
29 certificates and may bear a higher, lower, or equivalent rate of interest than the  
30 certificates being renewed or refunded.

31 3. Before certificates are issued, the board of trustees shall publish once  
32 a notice of its intention to issue the certificates, stating the amount, the purpose,  
33 and the project or projects for which the certificates are to be issued. A person  
34 may, within fifteen days after the publication of the notice, by action in the circuit  
35 court of a county in the district, appeal the decision of the board of trustees to  
36 issue the certificates. The action of the board of trustees in determining to issue  
37 the certificates is final and conclusive unless the circuit court finds that the board  
38 of trustees has exceeded its legal authority. An action shall not be brought which  
39 questions the legality of the certificates, the power of the board of trustees to  
40 issue the certificates, the effectiveness of any proceedings relating to the  
41 authorization of the project, or the authorization and issuance of the certificates  
42 from and after fifteen days from the publication of the notice of intention to issue.

43 4. The board of trustees shall make a finding based on information  
44 supplied by the employer that revenues provided in the agreement are sufficient  
45 to secure the faithful performance of obligations in the agreement.

46 5. Certificates issued under this section shall not be deemed to be an  
47 indebtedness of the state or the community college district or of any other  
48 political subdivision of the state, and the principal and interest on such  
49 certificates shall be payable only from the sources provided in subdivision (1) of  
50 section 178.761 which are pledged in the agreement.

51 6. The department of economic development shall coordinate the retained  
52 jobs training program, and may promulgate rules that districts will use in  
53 developing projects with industrial retained jobs training proposals which shall  
54 include rules providing for the coordination of such proposals with the service  
55 delivery areas established in the state to administer federal funds pursuant to the  
56 federal Workforce Investment Act. No rule or portion of a rule promulgated  
57 pursuant to the authority of this section shall become effective unless it has been  
58 promulgated pursuant to chapter 536.

59 7. No community college district may sell certificates as described in this  
60 section after July 1, 2014.]

61

2 [178.764. 1. There is hereby established within the state treasury a  
3 special fund, to be known as the "Missouri Community College Job Retention  
4 Training Program Fund", to be administered by the division of workforce  
5 development. The department of revenue shall credit to the community college  
6 job retention training program fund, as received, all retained jobs credit from  
7 withholding remitted by employers pursuant to section 178.762. The fund shall  
8 also consist of any gifts, contributions, grants, or bequests received from federal,  
private, or other sources. The general assembly, however, shall not provide for

9 any transfer of general revenue funds into the community college job retention  
10 training program fund. Moneys in the Missouri community college job retention  
11 training program fund shall be disbursed to the division of workforce  
12 development pursuant to regular appropriations by the general assembly. The  
13 division shall disburse such appropriated funds in a timely manner into the  
14 special funds established by community college districts for projects, which funds  
15 shall be used to pay program costs, including the principal, premium, and interest  
16 on certificates issued by the district to finance or refinance, in whole or in part,  
17 a project. Such disbursements by the division of workforce development shall  
18 be made to the special fund for each project in the same proportion as the retained  
19 jobs credit from withholding remitted by the employer participating in such  
20 project bears to the total retained jobs credit from withholding remitted by all  
21 employers participating in projects during the period for which the disbursement  
22 is made. Moneys for retained jobs training programs established under sections  
23 178.760 to 178.764 shall be obtained from appropriations made by the general  
24 assembly from the Missouri community college job retention training program  
25 fund. All moneys remaining in the Missouri community college job retention  
26 training program fund at the end of any fiscal year shall not lapse to the general  
27 revenue fund, as provided in section 33.080, but shall remain in the Missouri  
28 community college job retention training program fund.

29 2. The department of revenue shall develop such forms as are necessary  
30 to demonstrate accurately each employer's retained jobs credit from withholding  
31 paid into the Missouri community college job retention training program fund.

32  
33 The retained jobs credit from withholding shall be accounted as separate from the  
34 normal withholding tax paid to the department of revenue by the employer.  
35 Reimbursements made by all employers to the Missouri community college job  
36 retention training program fund shall be no less than all allocations made by the  
37 division of workforce development to all community college districts for all job  
38 retention projects. The employer shall remit the amount of the retained job credit  
39 to the department of revenue in the same manner as provided in sections 143.191  
40 to 143.265.]

41  
[178.892. As used in sections 178.892 to 178.896, the following terms  
2 mean:

3 (1) "Agreement", the agreement, between an employer and a community  
4 college district, concerning a project. An agreement may be for a period not to  
5 exceed ten years when the program services associated with a project are not in  
6 excess of five hundred thousand dollars. For a project where associated program  
7 costs are greater than five hundred thousand dollars, the agreement may not  
8 exceed a period of eight years. No agreement shall be entered into between an  
9 employer and a community college district which involves the training of

10 potential employees with the purpose of replacing or supplanting employees  
11 engaged in an authorized work stoppage;

12 (2) "Board of trustees", the board of trustees of a community college  
13 district;

14 (3) "Certificate", industrial new jobs training certificates issued pursuant  
15 to section 178.895;

16 (4) "Date of commencement of the project", the date of the agreement;

17 (5) "Employee", the person employed in a new job;

18 (6) "Employer", the person providing new jobs in conjunction with a  
19 project;

20 (7) "Essential industry", a business that otherwise meets the definition of  
21 industry but instead of creating new jobs maintains existing jobs. To be an  
22 essential industry, the business must have maintained at least two thousand jobs  
23 each year for a period of four years preceding the year in which application for  
24 the program authorized by sections 178.892 to 178.896 is made and must be  
25 located in a home rule city with more than twenty-six thousand but less than  
26 twenty-seven thousand inhabitants located in any county with a charter form of  
27 government and with more than one million inhabitants;

28 (8) "Existing job", a job in an essential industry that pays wages or salary  
29 greater than the average of the county in which the project will be located;

30 (9) "Industry", a business located within the state of Missouri which  
31 enters into an agreement with a community college district and which is engaged  
32 in interstate or intrastate commerce for the purpose of manufacturing, processing,  
33 or assembling products, conducting research and development, or providing  
34 services in interstate commerce, but excluding retail services. "Industry" does not  
35 include a business which closes or substantially reduces its operation in one area  
36 of the state and relocates substantially the same operation in another area of the  
37 state. This does not prohibit a business from expanding its operations in another  
38 area of the state provided that existing operations of a similar nature are not  
39 closed or substantially reduced;

40 (10) "New job", a job in a new or expanding industry not including jobs  
41 of recalled workers, or replacement jobs or other jobs that formerly existed in the  
42 industry in the state. For an essential industry, an existing job shall be considered  
43 a new job for the purposes of the new job training programs;

44 (11) "New jobs credit from withholding", the credit as provided in  
45 section 178.894;

46 (12) "New jobs training program" or "program", the project or projects  
47 established by a community college district for the creation of jobs by providing  
48 education and training of workers for new jobs for new or expanding industry in  
49 the state;

50 (13) "Program costs", all necessary and incidental costs of providing  
51 program services including payment of the principal of, premium, if any, and  
52 interest on certificates, including capitalized interest, issued to finance a project,

- 53 funding and maintenance of a debt service reserve fund to secure such certificates  
 54 and wages, salaries and benefits of employees participating in on-the-job training;  
 55 (14) "Program services" includes, but is not limited to, the following:  
 56 (a) New jobs training;  
 57 (b) Adult basic education and job-related instruction;  
 58 (c) Vocational and skill-assessment services and testing;  
 59 (d) Training facilities, equipment, materials, and supplies;  
 60 (e) On-the-job training;  
 61 (f) Administrative expenses equal to fifteen percent of the total training  
 62 costs;  
 63 (g) Subcontracted services with state institutions of higher education,  
 64 private colleges or universities, or other federal, state, or local agencies;  
 65 (h) Contracted or professional services; and  
 66 (i) Issuance of certificates;  
 67 (15) "Project", a training arrangement which is the subject of an  
 68 agreement entered into between the community college district and an employer  
 69 to provide program services;  
 70 (16) "Total training costs", costs of training, including supplies, wages  
 71 and benefits of instructors, subcontracted services, on-the-job training, training  
 72 facilities, equipment, skill assessment and all program services excluding  
 73 issuance of certificates.]  
 74

2 [178.893. A community college district, with the approval of the  
 3 department of economic development in consultation with the office of  
 4 administration, may enter into an agreement to establish a project and provide  
 5 program services to an employer. As soon as possible after initial contact  
 6 between a community college district and a potential employer regarding the  
 7 possibility of entering into an agreement, the district shall inform the division of  
 8 job development and training of the department of economic development and  
 9 the office of administration about the potential project. The division of job  
 10 development and training shall evaluate the proposed project within the overall  
 11 job training efforts of the state to ensure that the project will not duplicate other  
 12 job training programs. The department of economic development shall have  
 13 fourteen days from receipt of the application to approve or disapprove projects.  
 14 If no response is received by the community college within fourteen days the  
 15 projects are approved. Any project that is disapproved must be in writing stating  
 16 the reasons for the disapproval. If an agreement is entered into, the district and  
 17 the employer shall notify the department of revenue within fifteen calendar days.  
 18 An agreement may provide, but is not limited to:  
 19 (1) Payment of program costs, including deferred costs, which may be  
 20 paid from one or a combination of the following sources:  
 21 (a) Funds appropriated by the general assembly from the Missouri  
 community college job training program fund and disbursed by the division of

22 job development and training in respect of new jobs credit from withholding to  
 23 be received or derived from new employment resulting from the project;

24 (b) Tuition, student fees, or special charges fixed by the board of trustees  
 25 to defray program costs in whole or in part;

26 (c) Guarantee of payments to be received under paragraph (a) or (b) of  
 27 this subdivision;

28 (2) Payment of program costs shall not be deferred for a period longer  
 29 than ten years if program costs do not exceed five hundred thousand dollars, or  
 30 eight years if program costs exceed five hundred thousand dollars from the date  
 31 of commencement of the project;

32 (3) Costs of on-the-job training for employees, shall include wages or  
 33 salaries of participating employees. Payments for on-the-job training shall not  
 34 exceed the average of fifty percent of the total percent of the total wages paid by  
 35 the employer to each participant during the period of training.

36 Payment for on-the-job training may continue for up to six months after the  
 37 placement of the participant in the new job;

38 (4) A provision which fixes the minimum amount of new jobs credit  
 39 from withholding, or tuition and fee payments which shall be paid for program  
 40 costs;

41 (5) Any payment required to be made by an employer is a lien upon the  
 42 employer's business property until paid and has equal precedence with ordinary  
 43 taxes and shall not be divested by a judicial sale. Property subject to the lien may  
 44 be sold for sums due and delinquent at a tax sale, with the same forfeitures,  
 45 penalties, and consequences as for the nonpayment of ordinary taxes. The  
 46 purchasers at tax sale obtain the property subject to the remaining payments.]  
 47

2 [178.894. If an agreement provides that all or part of program costs are  
 3 to be met by receipt of new jobs credit from withholding, such new jobs credit  
 4 from withholding shall be determined and paid as follows:

5 (1) New jobs credit from withholding shall be based upon the wages paid  
 6 to the employees in the new jobs;

7 (2) A portion of the total payments made by the employer pursuant to  
 8 section 143.221 shall be designated as the new jobs credit from withholding.  
 9 Such portion shall be an amount equal to two and one-half percent of the gross  
 10 wages paid by the employer for each of the first one hundred jobs included in the  
 11 project and one and one-half percent of the gross wages paid by the employer for  
 12 each of the remaining jobs included in the project. If business or employment  
 13 conditions cause the amount of the new jobs credit from withholding to be less  
 14 than the amount projected in the agreement for any time period, then other  
 15 withholding tax paid by the employer pursuant to section 143.221 shall be  
 16 credited to the Missouri community college job training fund by the amount of  
 17 such difference. The employer shall remit the amount of the new jobs credit to  
 the department of revenue in the manner prescribed in section 178.896. When

18 all program costs, including the principal of, premium, if any, and interest on the  
19 certificates have been paid, the employer credits shall cease;

20 (3) The community college district participating in a project shall  
21 establish a special fund for and in the name of the project. All funds appropriated  
22 by the general assembly from the Missouri community college job training  
23 program fund and disbursed by the division of job development and training for  
24 the project and other amounts received by the district in respect of the project and  
25 required by the agreement to be used to pay program costs for the project shall  
26 be deposited in the special fund. Amounts held in the special fund may be used  
27 and disbursed by the district only to pay program costs for the project. The  
28 special fund may be divided into such accounts and subaccounts as shall be  
29 provided in the agreement, and amounts held therein may be invested in  
30 investments which are legal for the investment of the district's other funds;

31 (4) Any disbursement in respect of a project received from the division  
32 of job development and training under the provisions of sections 178.892 to  
33 178.896 and the special fund into which it is paid may be irrevocably pledged by  
34 a community college district for the payment of the principal of, premium, if any,  
35 and interest on the certificate issued by a community college district to finance  
36 or refinance, in whole or in part, the project;

37 (5) The employer shall certify to the department of revenue that the credit  
38 from withholding is in accordance with an agreement and shall provide other  
39 information the department may require;

40 (6) An employee participating in a project will receive full credit for the  
41 amount designated as a new jobs credit from withholding and withheld as  
42 provided in section 143.221;

43 (7) If an agreement provides that all or part of program costs are to be  
44 met by receipt of new jobs credit from withholding, the provisions of this  
45 subsection shall also apply to any successor to the original employer until such  
46 time as the principal and interest on the certificates have been paid.]  
47

2 [178.895. 1. To provide funds for the present payment of the costs of  
3 new jobs training programs, a community college district may borrow money and  
4 issue and sell certificates payable from a sufficient portion of the future receipts  
5 of payments authorized by the agreement including disbursements from the  
6 Missouri community college job training program to the special fund established  
7 by the district for each project. The total amount of outstanding certificates sold  
8 by all community college districts shall not exceed twenty million dollars, unless  
9 an increased amount is authorized in writing by a majority of members of the  
10 Missouri job training joint legislative oversight committee. The certificates shall  
11 be marketed through financial institutions authorized to do business in Missouri.  
12 The receipts shall be pledged to the payment of principal of and interest on the  
13 certificates. Certificates may be sold at public sale or at private sale at par,  
premium, or discount of not less than ninety-five percent of the par value thereof,

14 at the discretion of the board of trustees, and may bear interest at such rate or  
15 rates as the board of trustees shall determine, notwithstanding the provisions of  
16 section 108.170 to the contrary. However, chapter 176 does not apply to the  
17 issuance of these certificates. Certificates may be issued with respect to a single  
18 project or multiple projects and may contain terms or conditions as the board of  
19 trustees may provide by resolution authorizing the issuance of the certificates.

20 2. Certificates issued to refund other certificates may be sold at public  
21 sale or at private sale as provided in this section with the proceeds from the sale  
22 to be used for the payment of the certificates being refunded. The refunding  
23 certificates may be exchanged in payment and discharge of the certificates being  
24 refunded, in installments at different times or an entire issue or series at one time.  
25 Refunding certificates may be sold or exchanged at any time on, before, or after  
26 the maturity of the outstanding certificates to be refunded. They may be issued  
27 for the purpose of refunding a like, greater, or lesser principal amount of  
28 certificates and may bear a higher, lower, or equivalent rate of interest than the  
29 certificates being renewed or refunded.

30 3. Before certificates are issued, the board of trustees shall publish once  
31 a notice of its intention to issue the certificates, stating the amount, the purpose,  
32 and the project or projects for which the certificates are to be issued. A person  
33 may, within fifteen days after the publication of the notice, by action in the circuit  
34 court of a county in the district, appeal the decision of the board of trustees to  
35 issue the certificates. The action of the board of trustees in determining to issue  
36 the certificates is final and conclusive unless the circuit court finds that the board  
37 of trustees has exceeded its legal authority. An action shall not be brought which  
38 questions the legality of the certificates, the power of the board of trustees to  
39 issue the certificates, the effectiveness of any proceedings relating to the  
40 authorization of the project, or the authorization and issuance of the certificates  
41 from and after fifteen days from the publication of the notice of intention to issue.

42 4. The board of trustees shall determine if revenues provided in the  
43 agreement are sufficient to secure the faithful performance of obligations in the  
44 agreement.

45 5. Certificates issued under this section shall not be deemed to be an  
46 indebtedness of the state or the community college district or of any other  
47 political subdivision of the state and the principal and interest on such certificates  
48 shall be payable only from the sources provided in subdivision (1) of section  
49 178.893 which are pledged in the agreement.

50 6. The department of economic development shall coordinate the new  
51 jobs training program, and may promulgate rules that districts will use in  
52 developing projects with new and expanding industrial new jobs training  
53 proposals which shall include rules providing for the coordination of such  
54 proposals with the service delivery areas established in the state to administer  
55 federal funds pursuant to the federal Job Training Partnership Act. No rule or  
56 portion of a rule promulgated under the authority of sections 178.892 to 178.896

57 shall become effective unless it has been promulgated pursuant to the provisions  
58 of chapter 536. All rulemaking authority delegated prior to June 27, 1997, is of  
59 no force and effect and repealed; however, nothing in this section shall be  
60 interpreted to repeal or affect the validity of any rule filed or adopted prior to  
61 June 27, 1997, if such rule complied with the provisions of chapter 536. The  
62 provisions of this section and chapter 536 are nonseverable and if any of the  
63 powers vested with the general assembly pursuant to chapter 536, including the  
64 ability to review, to delay the effective date, or to disapprove and annul a rule or  
65 portion of a rule, are subsequently held unconstitutional, then the purported grant  
66 of rulemaking authority and any rule so proposed and contained in the order of  
67 rulemaking shall be invalid and void.

68 7. No community college district may sell certificates as described in this  
69 section after July 1, 2018.]  
70

[178.896. 1. There is hereby established within the state treasury a  
2 special fund, to be known as the "Missouri Community College Job Training  
3 Program Fund", to be administered by the division of job development and  
4 training. The department of revenue shall credit to the community college job  
5 training program fund, as received, all new jobs credit from withholding remitted  
6 by employers pursuant to section 178.894. The fund shall also consist of any  
7 gifts, contributions, grants or bequests received from federal, private or other  
8 sources. The general assembly, however, shall not provide for any transfer of  
9 general revenue funds into the community college job training program fund.  
10 Moneys in the Missouri community college job training program fund shall be  
11 disbursed to the division of job development and training pursuant to regular  
12 appropriations by the general assembly. The division shall disburse such  
13 appropriated funds in a timely manner into the special funds established by  
14 community college districts for projects, which funds shall be used to pay  
15 program costs, including the principal of, premium, if any, and interest on  
16 certificates issued by the district to finance or refinance, in whole or in part, a  
17 project. Such disbursements by the division of job development and training  
18 shall be made to the special fund for each project in the same proportion as the  
19 new jobs credit from withholding remitted by the employer participating in such  
20 project bears to the total new jobs credit from withholding remitted by all  
21 employers participating in projects during the period for which the disbursement  
22 is made. Moneys for new jobs training programs established under the provisions  
23 of sections 178.892 to 178.896 shall be obtained from appropriations made by the  
24 general assembly from the Missouri community college job training program  
25 fund. All moneys remaining in the Missouri community college job training  
26 program fund at the end of any fiscal year shall not lapse to the general revenue  
27 fund, as provided in section 33.080, but shall remain in the Missouri community  
28 college job training program fund.

29                   2. The department of revenue shall develop such forms as are necessary  
 30 to demonstrate accurately each employer's new jobs credit from withholding paid  
 31 into the Missouri community college job training program fund. The new jobs  
 32 credit from withholding shall be accounted as separate from the normal  
 33 withholding tax paid to the department of revenue by the employer.  
 34 Reimbursements made by all employers to the Missouri community college job  
 35 training program fund shall be no less than all allocations made by the division  
 36 of job development and training to all community college districts for all projects.  
 37 The employer shall remit the amount of the new job credit to the department of  
 38 revenue in the same manner as provided in sections 143.191 to 143.265.

39                   3. Sections 178.892 to 178.896 shall expire July 1, 2028.]  
 40

                  [620.470. As used in sections 620.470 to 620.481, unless the context  
 2 clearly requires otherwise, the following terms mean:

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

4                   (2) "Fund", the Missouri job development fund as established by section  
 5 620.478;

6                   (3) "Industry", an entity the objective of which is to supply a service or  
 7 the objective of which is the commercial production and sale of an article of trade  
 8 or commerce. The term includes a consortium of such entities organized for the  
 9 purpose of providing for common training to the member entities' employees,  
 10 provided that the consortium as a whole meets the requirements for participation  
 11 in this program;

12                   (4) "Manufacturing", the making or processing of raw materials into a  
 13 finished product, especially by means of large-scale machines of industry.]  
 14

                  [620.472. 1. The department shall establish a new or expanding industry  
 2 training program, the purpose of which is to provide assistance for new or  
 3 expanding industries for the training, retraining or upgrading of the skills of  
 4 potential employees. Training may include preemployment training, and services  
 5 may include analysis of the specified training needs for such company,  
 6 development of training plans, and provision of training through qualified  
 7 training staff. Such program may fund in-plant training analysis, curriculum  
 8 development, assessment and preselection tools, publicity for the program,  
 9 instructional services, rental of instructional facilities with necessary utilities,  
 10 access to equipment and supplies, other necessary services, overall program  
 11 direction, and an adequate staff to carry out an effective training program. In  
 12 addition, the program may fund a coordinated transportation program for  
 13 trainings if the training can be more effectively provided outside the community  
 14 where the jobs are to be located. In-plant training analysis shall include fees for  
 15 professionals and necessary travel and expenses. Such program may also provide  
 16 assistance in the locating of skilled employees and in the locating of additional

17 sources of job training funds. Such program shall be operated with  
18 appropriations made by the general assembly from the fund.

19 2. Assistance under the new or expanding industry training program may  
20 be available only for industries who certify to the department that their  
21 investments relate directly to a projected increase in employment which will  
22 result in the need for training of newly hired employees or the retraining or  
23 upgrading of the skills of existing employees for new jobs created by the new or  
24 expanding industry's investment.

25 3. The department shall issue rules and regulations governing the  
26 awarding of funds administered through the new or expanding industry training  
27 program. When promulgating these rules and regulations, the department shall  
28 consider such factors as the potential number of new permanent jobs to be  
29 created, the amount of private sector investment in new facilities and equipment,  
30 the significance of state funding to the industry's decision to locate or expand in  
31 Missouri, the economic need of the affected community, and the importance of  
32 the industry to the economic development of Missouri.]

33

2 [620.474. 1. The department shall establish a basic industry retraining  
3 program, the purpose of which is to provide assistance for industries in Missouri  
4 for the retraining and upgrading of employees' skills which are required to  
5 support new investment. Such program shall be operated with appropriations  
6 made by the general assembly from the fund.

7 2. Assistance under the basic industry retraining program may be made  
8 available for industries in Missouri which make new investments without the  
9 creation of new employment.

10 3. The department shall issue rules and regulations governing the  
11 awarding of funds administered through the basic industry retraining fund. When  
12 promulgating these rules and regulations, the department shall consider such  
13 factors as the number of jobs in jeopardy of being lost if retraining does not  
14 occur, the amount of private sector investment in new facilities and equipment,  
15 the ratio of jobs retained versus investment, the cost of normal, ongoing training  
16 required for the industry, the economic need of the affected community, and the  
17 importance of the industry to the economic development of Missouri.]

17

2 [620.475. 1. The department shall establish an industry quality and  
3 productivity improvement program to help industries and businesses evaluate and  
4 enhance quality and productivity, and to encourage the private sector to develop  
5 long-range goals to improve quality and productivity and improve the  
6 competitive position of private businesses. The quality and productivity  
7 improvement program shall include seminars, workshops and short courses on  
8 subjects such as long-range planning, new management techniques, automated  
9 manufacturing, innovative uses of new materials and the latest philosophies of

9 management and quality improvement. The program shall be available to  
 10 existing Missouri manufacturing, distribution and service businesses.

11 2. The department may develop quality and productivity improvement  
 12 centers at university and community college campuses throughout the state as the  
 13 demand and need is determined. The department shall have the authority to  
 14 contract with individuals who possess particular knowledge, ability and expertise  
 15 in the various subjects which may be essential to the program's goals. Seminars,  
 16 workshops, short courses and specific not for credit classes shall be developed  
 17 on and off campus for personnel engaged in manufacturing, distribution and  
 18 service businesses. At the discretion of the department, the University of  
 19 Missouri and Lincoln University extension services, the continuing education  
 20 offices of the regional universities and community colleges may be used for the  
 21 promotion and coordination of the off-campus courses that are offered.

22 3. Activities eligible for reimbursement in the industry quality and  
 23 productivity program shall include:

24 (1) The cost of seminars, workshops, short courses and specific not for  
 25 credit classes;

26 (2) The wages of instructors;

27 (3) Productivity materials and supplies, including the purchase of  
 28 packaged productivity programs when appropriate;

29 (4) Travel directly related to the program;

30 (5) Tuition payments to third-party productivity providers and to  
 31 businesses; and

32 (6) Teaching and assistance provided by educational institutions in the  
 33 state.

34 4. No industry receiving assistance under the industry quality and  
 35 productivity improvement program shall be reimbursed for more than fifty  
 36 percent of the total costs of its participation in the program.]

37

2 [620.476. Activities eligible for reimbursement by funds administered  
 3 through the new or expanding industry program and the basic industry retraining  
 4 program shall include: the wages of instructors, who may or may not be  
 5 employees of the industry; training development costs, including the cost of  
 6 training of instructors; training materials and supplies, including the purchase of  
 7 packaged training programs when appropriate; travel directly related to the  
 8 training program; tuition payments to third-party training providers and to the  
 9 industry; teaching and assistance provided by educational institutions in the state  
 10 of Missouri; on-the-job training; and the leasing, but not the purchase, of training  
 11 equipment and space.]

11

2 [620.478. 1. There is hereby established in the state treasury a special  
 3 fund to be known as the "Missouri Job Development Fund". The fund shall  
 consist of all moneys which may be appropriated to it by the general assembly

4 and also any gifts, contributions, grants or bequests received from federal, private  
 5 or other sources. Appropriations made from the fund shall be for the purpose of  
 6 providing contractual services through the department of elementary and  
 7 secondary education for vocational related training or retraining provided by  
 8 public or private training institutions within Missouri; and for contracted services  
 9 through the department of economic development for vocational related training  
 10 or retraining provided by public or private training institutions located outside of  
 11 Missouri; and for vocational related training or retraining provided on site, within  
 12 Missouri, by any proprietorship, partnership or corporate entity. Except for  
 13 state-sponsored preemployment training, no applicant shall receive more than  
 14 fifty percent of its project training or retraining costs from the development fund.  
 15 Moneys to operate the new or expanding industry training program, the basic  
 16 industry retraining program, the industry quality and productivity improvement  
 17 program and assistance to community college business and technology centers  
 18 shall be obtained from appropriations made by the general assembly from the  
 19 fund. No funds shall be awarded or reimbursed to any industry for the training,  
 20 retraining or upgrading of skills of potential employees with the purpose of  
 21 replacing or supplanting employees engaged in an authorized work stoppage.

22 2. The Missouri job development fund shall be able to receive any block  
 23 grant or other sources of funding relating to job training, school-to-work  
 24 transition, welfare reform, vocational and technical training, housing,  
 25 infrastructure development and human resource investment programs which may  
 26 be provided by the federal government or other sources.]  
 27

[620.479. The department is authorized to contract with other entities,  
 2 including businesses, industries, other state agencies and the political  
 3 subdivisions of the state, for the purpose of carrying out the provisions of  
 4 sections 620.470 to 620.481.]  
 5

[620.480. To efficiently carry out the responsibilities of the division of  
 2 job development and training and to improve job training program coordination,  
 3 the commissioner of administration shall authorize the division to directly  
 4 negotiate with and contract for job training and related services with  
 5 administrative entities designated pursuant to the requirements of the Job  
 6 Training Partnership Act and any subsequent amendments and any other agencies  
 7 or entities which may be designated to administer job training and related  
 8 services pursuant to any succeeding federal or state legislative or regulatory  
 9 requirements.]  
 10

[620.481. There is hereby created the "Missouri Job Training Joint  
 2 Legislative Oversight Committee". The committee shall consist of three  
 3 members of the Missouri senate appointed by the president pro tem of the senate;  
 4 three members of the house of representatives appointed by the speaker of the

5 house. No more than two of the members of the senate and two of the members  
6 of the house of representatives shall be from the same political party. Members  
7 of the Missouri job training joint legislative oversight committee shall report to  
8 the governor, the president pro tem of the senate and the speaker of the house of  
9 representatives on all assistance to industries under the provisions of sections  
10 620.470 to 620.481 provided during the preceding fiscal year and the customized  
11 job training program administered by the department of elementary and  
12 secondary education. The report of the committee shall be delivered no later than  
13 October first of each year. The director of the department of economic  
14 development shall report to the committee such information as the committee  
15 may deem necessary for its annual report. Members of the committee shall  
16 receive no compensation in addition to their salary as members of the general  
17 assembly, but may receive their necessary expenses while attending the meetings  
18 of the committee, to be paid out of the joint contingent fund.]  
19

2 [620.482. 1. The department may provide assistance, through  
3 appropriations made from the Missouri job development fund, to business and  
4 technology centers. Such assistance may not include the lending of the state's  
5 credit for the payment of any liability of the fund. Such centers may be  
6 established by Missouri community colleges, or a state-owned postsecondary  
7 technical college, to provide business and training services in disciplines which  
8 shall include, but not be limited to, environmental health and safety, industrial  
9 electrical technology, machine tool technology, industrial management and  
10 technology, computer consulting and computer-aided drafting, microcomputer  
11 training and telecommunications training.

12 2. The department of economic development shall promulgate rules and  
13 regulations as are necessary to implement the provisions of sections 620.470 to  
14 620.482. No rule or portion of a rule promulgated under the authority of sections  
15 620.470 to 620.482 shall become effective unless it has been promulgated  
pursuant to the provisions of section 536.024.]