

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 1245

96TH GENERAL ASSEMBLY

5099L.02P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 135.953, 620.1878 and 620.1881, RSMo, and to enact in lieu thereof six new sections relating to the Missouri quality jobs act.

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

Section A. Sections 135.953, 620.1878 and 620.1881, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 67.3000, 67.3005, 135.953, 620.1878, 620.1881, and 620.2450 to read as follows:

67.3000. 1. As used in this section and section 67.3005, the following words shall mean:

(1) "Active member", an organization located in the state of Missouri, which solicits and services sports events, sports organizations, and other types of sports-related activities in that community;

(2) "Applicant" or "applicants", one or more certified sponsors, endorsing counties, endorsing municipalities, or a local organizing committee, acting individually or collectively;

(3) "Certified sponsor" or "certified sponsors", a nonprofit organization which is an active member of the National Association of Sports Commissions;

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

(5) "Director", the director of revenue;

(6) "Eligible costs", shall include:

(a) Costs necessary for conducting the sporting event;

(b) Costs relating to the preparations necessary for the conduct of the sporting event; and

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.

17 (c) An applicant's pledged obligations to the site selection organization as evidenced
18 by the support contract for the sporting event.

19

20 "Eligible costs" shall not include any cost associated with the rehabilitation or construction
21 of any facilities used to host the sporting event or any direct payments to a for-profit site
22 selection organization, but may include costs associated with the retrofitting of a facility
23 necessary to accommodate the sporting event;

24 (7) "Eligible donation", donations received, by a certified sponsor or local
25 organizing committee, from a taxpayer that may include cash, publically traded stocks and
26 bonds, and real estate that will be valued and documented according to rules promulgated
27 by the department. Such donations shall be used solely to provide funding to attract
28 sporting events to this state;

29 (8) "Endorsing municipality" or "endorsing municipalities", any city, town,
30 incorporated village, or county that contains a site selected by a site selection organization
31 for one or more sporting events;

32 (9) "Joinder agreement", an agreement entered into by one or more applicants,
33 acting individually or collectively, and a site selection organization setting out
34 representations and assurances by each applicant in connection with the selection of a site
35 in this state for the location of a sporting event;

36 (10) "Joinder undertaking", an agreement entered into by one or more applicants,
37 acting individually or collectively, and a site selection organization that each applicant will
38 execute a joinder agreement in the event that the site selection organization selects a site
39 in this state for a sporting event;

40 (11) "Local organizing committee", a nonprofit corporation or its successor in
41 interest that:

42 (a) Has been authorized by one or more certified sponsors, endorsing
43 municipalities, or endorsing counties, acting individually or collectively, to pursue an
44 application and bid on its or the applicant's behalf to a site selection organization for
45 selection to host one or more sporting events; or

46 (b) With the authorization of one or more certified sponsors, endorsing
47 municipalities, or endorsing counties, acting individually or collectively, executes an
48 agreement with a site selection organization regarding a bid to host one or more sporting
49 events;

50 (12) "Site selection organization", the National Collegiate Athletic Association
51 (NCAA); an NCAA member conference, university, or institution; the National Association
52 of Intercollegiate Athletics (NAIA); the United States Olympic Committee (USOC); a

53 national governing body (NGB) or international federation of a sport recognized by the
54 USOC; the United States Golf Association (USGA); the United States Tennis Association
55 (USTA); the Amateur Softball Association of America (ASA); other major regional,
56 national, and international sports associations, and amateur organizations that promote,
57 organize, or administer sporting games, or competitions; or other major regional, national,
58 and international organizations that promote or organize sporting events;

59 (13) "Sporting event" or "sporting events", an amateur or Olympic sporting event
60 that is competitively bid or is awarded to a community by a site selection organization;

61 (14) "Support contract" or "support contracts", an event award notification,
62 joinder undertaking, joinder agreement, or contract executed by an applicant and a site
63 selection organization;

64 (15) "Tax credit" or "tax credits", a credit or credits issued by the department
65 against the tax otherwise due under chapter 143 or 148, excluding withholding tax imposed
66 by sections 143.191 to 143.265;

67 (16) "Taxpayer", any of the following individuals or entities who make an eligible
68 donation:

69 (a) A person, firm, partner in a firm, corporation, or a shareholder in an S
70 corporation doing business in the state of Missouri and subject to the state income tax
71 imposed under chapter 143;

72 (b) A corporation subject to the annual corporation franchise tax imposed under
73 chapter 147;

74 (c) An insurance company paying an annual tax on its gross premium receipts in
75 this state;

76 (d) Any other financial institution paying taxes to the state of Missouri or any
77 political subdivision of this state under chapter 148;

78 (e) An individual subject to the state income tax imposed under chapter 143;

79 (f) Any charitable organization which is exempt from federal income tax and whose
80 Missouri unrelated business taxable income, if any, would be subject to the state income
81 tax imposed under chapter 143.

82 2. An applicant may submit a copy of a support contract for a sporting event to the
83 department. Within sixty days of receipt of the sporting event support contract, the
84 department may review the applicant's support contract and certify such support contract
85 if it complies with the requirements of this section. Upon certification of the support
86 contract by the department, the applicant may be authorized to receive the tax credit under
87 subsection 4 of this section.

88 **3. No more than thirty days following the conclusion of the sporting event, the**
89 **applicant shall submit eligible costs and documentation of the costs evidenced by receipts,**
90 **paid invoices, or other documentation in a manner prescribed by the department.**

91 **4. No later than seven days following the conclusion of the sporting event, the**
92 **department, in consultation with the director, may determine the total number of tickets**
93 **sold at face value for such event. No later than sixty days following the receipt of eligible**
94 **costs and documentation of such costs from the applicant as required in subsection 3 of this**
95 **section, the department may issue a refundable tax credit to the applicant for the lesser of**
96 **one hundred percent of eligible costs incurred by the applicant or an amount equal to five**
97 **dollars multiplied by the event's average per-session admission tickets sold and paid**
98 **registered participants multiplied by the number of days from the first to the last day of**
99 **the event. Tax credits authorized by this section may be transferred, sold, or assigned by**
100 **filing a notarized endorsement thereof with the department that names the transferee, the**
101 **amount of tax credit transferred, and the value received for the credit, as well as any other**
102 **information reasonably requested by the department.**

103 **5. In no event shall the amount of tax credits issued by the department under this**
104 **section exceed ten million dollars in any fiscal year. In any fiscal year, no more than eight**
105 **million dollars in tax credits shall be available to all applicants that submit support**
106 **contracts for sporting events to be held in any city not within a county or in any county**
107 **with more than three hundred thousand inhabitants.**

108 **6. An applicant shall provide any information necessary as determined by the**
109 **department for the department and the director to fulfill the duties required by this**
110 **section. At any time upon the request of the state of Missouri, a certified sponsor shall**
111 **subject itself to an audit conducted by the state.**

112 **7. This section shall not be construed as creating or requiring a state guarantee of**
113 **obligations imposed on an endorsing municipality under a support contract or any other**
114 **agreement relating to hosting one or more sporting events in this state.**

115 **8. The department shall only certify an applicant's support contract for a sporting**
116 **event in which the site selection organization has yet to select a location for the sporting**
117 **event as of August 28, 2012. Support contracts shall not be certified by the department**
118 **after August 28, 2018, provided that the support contracts may be certified on or prior to**
119 **August 28, 2018, for sporting events that will be held after such date.**

120 **9. The department may promulgate rules as necessary to implement the provisions**
121 **of this section. Any rule or portion of a rule, as that term is defined in section 536.010 that**
122 **is created under the authority delegated in this section shall become effective only if it**
123 **complies with and is subject to all of the provisions of chapter 536, and, if applicable,**

124 **section 536.028. This section and chapter 536 are nonseverable and if any of the powers**
125 **vested with the general assembly pursuant to chapter 536, to review, to delay the effective**
126 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**
127 **grant of rulemaking authority and any rule proposed or adopted after August 28, 2012,**
128 **shall be invalid and void.**

67.3005. 1. For all taxable years beginning on or after January 1, 2012, any
2 **taxpayer shall be allowed a credit against the taxes otherwise due under chapter 143, 147,**
3 **or 148, excluding withholding tax imposed by sections 143.191 to 143.265, in an amount**
4 **equal to fifty percent of the amount of an eligible donation, subject to the restrictions in**
5 **this section. The amount of the tax credit claimed shall not exceed the amount of the**
6 **taxpayer's state income tax liability in the tax year for which the credit is claimed. Any**
7 **amount of credit that the taxpayer is prohibited by this section from claiming in a tax year**
8 **shall not be refundable, but may be carried forward to any of the taxpayer's four**
9 **subsequent taxable years.**

10 **2. To claim the credit authorized in this section, a certified sponsor or local**
11 **organizing committee shall submit to the department an application for the tax credit**
12 **authorized by this section on behalf of taxpayers. The department shall verify that the**
13 **applicant has submitted the following items accurately and completely:**

14 **(1) A valid application in the form and format required by the department;**

15 **(2) A statement attesting to the eligible donation received, which shall include the**
16 **name and taxpayer identification number of the individual making the eligible donation,**
17 **the amount of the eligible donation, and the date the eligible donation was received; and**

18 **(3) Payment from the certified sponsor or local organizing committee equal to the**
19 **value of the tax credit for which application is made.**

20
21 **If the certified sponsor or local organizing committee applying for the tax credit meets all**
22 **criteria required by this subsection, the department shall issue a certificate in the**
23 **appropriate amount.**

24 **3. Tax credits issued under this section may be assigned, transferred, sold, or**
25 **otherwise conveyed, and the new owner of the tax credit shall have the same rights in the**
26 **credit as the taxpayer. Whenever a certificate is assigned, transferred, sold, or otherwise**
27 **conveyed, a notarized endorsement shall be filed with the department specifying the name**
28 **and address of the new owner of the tax credit or the value of the credit. In no event shall**
29 **the amount of tax credits issued by the department under this section exceed ten million**
30 **dollars in any fiscal year.**

31 **4. The department shall promulgate rules to implement the provisions of this**
32 **section. Any rule or portion of a rule, as that term is defined in section 536.010, that is**
33 **created under the authority delegated in this section shall become effective only if it**
34 **complies with and is subject to all of the provisions of chapter 536, and, if applicable,**
35 **section 536.028. This section and chapter 536, are nonseverable and if any of the powers**
36 **vested with the general assembly pursuant to chapter 536, to review, to delay the effective**
37 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**
38 **grant of rulemaking authority and any rule proposed or adopted after August 28, 2012,**
39 **shall be invalid and void.**

40 **5. Under section 23.253 of the Missouri sunset act:**

41 **(1) The provisions of the new program authorized under this section shall**
42 **automatically sunset six years after August 28, 2012, unless reauthorized by an act of the**
43 **general assembly; and**

44 **(2) If such program is reauthorized, the program authorized under this section**
45 **shall automatically sunset on December thirty-first twelve years after the effective date of**
46 **the reauthorization of this section; and**

47 **(3) This section shall terminate on September first of the calendar year immediately**
48 **following the calendar year in which the program authorized under this section is sunset.**

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

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

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

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

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

11 (3) The resident population of the area shall be at least five hundred but not more than
12 one hundred thousand at the time of designation as an enhanced enterprise zone if the area lies
13 within a metropolitan statistical area, as established by the United States Census Bureau, or if
14 the area does not lie within a metropolitan statistical area, the resident population of the area at
15 the time of designation shall be at least five hundred but not more than forty thousand
16 inhabitants. If the population of the jurisdiction of the governing authority does not meet the
17 minimum population requirements set forth in this subdivision, the population of the area must
18 be at least fifty percent of the population of the jurisdiction. However, no enhanced enterprise

19 zone shall be created which consists of the total area within the political boundaries of a county;
20 [and]

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

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

25 (b) The county or city not within a county over the previous twelve months; **and**

26 **(5) No finding of blight under this chapter shall be used to meet the conditions for**
27 **blight under any other statute of this state.**

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

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

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

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

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

49 5. Notwithstanding the requirements of subsections 1 and 4 of this section to the
50 contrary, a renewable energy generation zone may be designated as an enhanced enterprise zone
51 if the renewable energy generation zone meets the criteria set forth in subdivision (25) of section
52 135.950.

620.1878. For the purposes of sections 620.1875 to 620.1890, the following terms shall
2 mean:

- 3 (1) "Approval", a document submitted by the department to the qualified company that
4 states the benefits that may be provided by this program;
- 5 (2) "Average wage", the new payroll divided by the number of new jobs;
- 6 (3) "Commencement of operations", the starting date for the qualified company's first
7 new employee, which must be no later than twelve months from the date of the approval;
- 8 (4) "County average wage", the average wages in each county as determined by the
9 department for the most recently completed full calendar year. However, if the computed county
10 average wage is above the statewide average wage, the statewide average wage shall be deemed
11 the county average wage for such county for the purpose of determining eligibility. The
12 department shall publish the county average wage for each county at least annually.
13 Notwithstanding the provisions of this subdivision to the contrary, for any qualified company
14 that in conjunction with their project is relocating employees from a Missouri county with a
15 higher county average wage, the company shall obtain the endorsement of the governing body
16 of the community from which jobs are being relocated or the county average wage for their
17 project shall be the county average wage for the county from which the employees are being
18 relocated;
- 19 (5) "Department", the Missouri department of economic development;
- 20 (6) "Director", the director of the department of economic development;
- 21 (7) "Employee", a person employed by a qualified company;
- 22 (8) "Full-time employee", an employee of the qualified company that is scheduled to
23 work an average of at least thirty-five hours per week for a twelve-month period, and one for
24 which the qualified company offers health insurance and pays at least fifty percent of such
25 insurance premiums;
- 26 (9) "High-impact project", a qualified company that, within two years from
27 commencement of operations, creates one hundred or more new jobs;
- 28 (10) "Local incentives", the present value of the dollar amount of direct benefit received
29 by a qualified company for a project facility from one or more local political subdivisions, but
30 shall not include loans or other funds provided to the qualified company that must be repaid by
31 the qualified company to the political subdivision;
- 32 (11) "NAICS", the 1997 edition of the North American Industry Classification System
33 as prepared by the Executive Office of the President, Office of Management and Budget. Any
34 NAICS sector, subsector, industry group or industry identified in this section shall include its
35 corresponding classification in subsequent federal industry classification systems;
- 36 (12) "New direct local revenue", the present value of the dollar amount of direct net new
37 tax revenues of the local political subdivisions likely to be produced by the project over a
38 ten-year period as calculated by the department, excluding local earnings tax, and net new utility

39 revenues, provided the local incentives include a discount or other direct incentives from utilities
40 owned or operated by the political subdivision;

41 (13) **"New capital investment"**, shall include costs incurred by the qualified
42 **company at the project facility after acceptance by the qualified company of the proposal**
43 **for benefits from the department or the approval of the notice of intent, whichever occurs**
44 **first, for real or personal property, and may include the value of finance or capital leases**
45 **for real or personal property for the term of such lease at the project facility executed after**
46 **acceptance by the qualified company of the proposal for benefits from the department or**
47 **approval of the notice of intent;**

48 (14) **"New investment"**, the purchase or leasing of new tangible assets to be placed in
49 operation at the project facility, which will be directly related to the new jobs;

50 [(14)] (15) **"New job"**, the number of full-time employees located at the project facility
51 that exceeds the project facility base employment less any decrease in the number of full-time
52 employees at related facilities below the related facility base employment. No job that was
53 created prior to the date of the notice of intent shall be deemed a new job. An employee that
54 spends less than fifty percent of the employee's work time at the facility is still considered to be
55 located at a facility if the employee receives his or her directions and control from that facility,
56 is on the facility's payroll, one hundred percent of the employee's income from such employment
57 is Missouri income, and the employee is paid at or above the state average wage;

58 [(15)] (16) **"New payroll"**, the amount of taxable wages of full-time employees,
59 excluding owners, located at the project facility that exceeds the project facility base payroll. If
60 full-time employment at related facilities is below the related facility base employment, any
61 decrease in payroll for full-time employees at the related facilities below that related facility base
62 payroll shall also be subtracted to determine new payroll;

63 [(16)] (17) **"Notice of intent"**, a form developed by the department, completed by the
64 qualified company and submitted to the department which states the qualified company's intent
65 to hire new jobs and request benefits under this program;

66 [(17)] (18) **"Percent of local incentives"**, the amount of local incentives divided by the
67 amount of new direct local revenue;

68 [(18)] (19) **"Program"**, the Missouri quality jobs program provided in sections 620.1875
69 to 620.1890;

70 [(19)] (20) **"Project facility"**, the building used by a qualified company at which the new
71 jobs and new investment will be located. A project facility may include separate buildings that
72 are located within fifteen miles of each other or within the same county such that their purpose
73 and operations are interrelated;

74 [(20)] **(21)** "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
76 twelve-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 the
79 number of months the project facility has been in operation prior to the date of the notice of
80 intent;

81 [(21)] **(22)** "Project facility base payroll", the total amount of taxable wages paid by the
82 qualified company to full-time employees of the qualified company located at the project facility
83 in the twelve months prior to the notice of intent, not including the payroll of the owners of the
84 qualified company unless the qualified company is participating in an employee stock ownership
85 plan. For purposes of calculating the benefits under this program, the amount of base payroll
86 shall increase each year based on an appropriate measure, as determined by the department;

87 [(22)] **(23)** "Project period", the time period that the benefits are provided to a qualified
88 company;

89 **(24) "Projected net fiscal benefit", the total fiscal benefit to the state less any state**
90 **benefits offered to the qualified company;**

91 [(23)] **(25)** "Qualified company", a firm, partnership, joint venture, association, private
92 or public corporation whether organized for profit or not, or headquarters of such entity
93 registered to do business in Missouri that is the owner or operator of a project facility, offers
94 health insurance to all full-time employees of all facilities located in this state, and pays at least
95 fifty percent of such insurance premiums. For the purposes of sections 620.1875 to 620.1890,
96 the term "qualified company" shall not include:

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

98 (b) Retail trade establishments (NAICS sectors 44 and 45);

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

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

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

103 (f) Any company that has filed for or has publicly announced its intention to file for
104 bankruptcy protection. However, a company that has filed for or has publicly announced its
105 intention to file for bankruptcy between January 1, 2009, and December 31, 2009, may be a
106 qualified company provided that such company:

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

108 b. After its bankruptcy petition has been filed, it produces proof, in a form and at times
109 satisfactory to the department, that it is not delinquent in filing any tax returns or making any

110 payment due to the state of Missouri, including but not limited to all tax payments due after the
111 filing of the bankruptcy petition and under the terms of the plan of reorganization. Any taxpayer
112 who is awarded benefits under this subsection and who files for bankruptcy under Chapter 7 of
113 the United States Bankruptcy Code, Title 11 U.S.C., shall immediately notify the department and
114 shall forfeit such benefits and shall repay the state an amount equal to any state tax credits
115 already redeemed and any withholding taxes already retained;

116 (g) Educational services (NAICS sector 61);

117 (h) Religious organizations (NAICS industry group 8131);

118 (i) Public administration (NAICS sector 92);

119 (j) Ethanol distillation or production; or

120 (k) Biodiesel production. Notwithstanding any provision of this section to the contrary,
121 the headquarters or administrative offices of an otherwise excluded business may qualify for
122 benefits if the offices serve a multistate territory. In the event a national, state, or regional
123 headquarters operation is not the predominant activity of a project facility, the new jobs and
124 investment of such headquarters operation is considered eligible for benefits under this section
125 if the other requirements are satisfied;

126 [(24)] **(26)** "Qualified renewable energy sources" shall not be construed to include
127 ethanol distillation or production or biodiesel production; however, it shall include:

128 (a) Open-looped biomass;

129 (b) Close-looped biomass;

130 (c) Solar;

131 (d) Wind;

132 (e) Geothermal; and

133 (f) Hydropower;

134 [(25)] **(27)** "Related company" means:

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

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

138 (c) Corporations, partnerships, trusts or associations controlled by an individual,
139 corporation, partnership, trust or association in control of the qualified company. As used in this
140 subdivision, "control of a corporation" shall mean ownership, directly or indirectly, of stock
141 possessing at least fifty percent of the total combined voting power of all classes of stock entitled
142 to vote, "control of a partnership or association" shall mean ownership of at least fifty percent
143 of the capital or profits interest in such partnership or association, "control of a trust" shall mean
144 ownership, directly or indirectly, of at least fifty percent of the beneficial interest in the principal

145 or income of such trust, and ownership shall be determined as provided in Section 318 of the
146 Internal Revenue Code of 1986, as amended;

147 [(26)] **(28)** "Related facility", a facility operated by the qualified company or a related
148 company located in this state that is directly related to the operations of the project facility;

149 [(27)] **(29)** "Related facility base employment", the greater of the number of full-time
150 employees located at all related facilities on the date of the notice of intent or for the
151 twelve-month period prior to the date of the notice of intent, the average number of full-time
152 employees located at all related facilities of the qualified company or a related company located
153 in this state;

154 [(28)] **(30)** "Related facility base payroll", the total amount of taxable wages paid by the
155 qualified company to full-time employees of the qualified company located at a related facility
156 in the twelve months prior to the filing of the notice of intent, not including the payroll of the
157 owners of the qualified company unless the qualified company is participating in an employee
158 stock ownership plan. For purposes of calculating the benefits under this program, the amount
159 of related facility base payroll shall increase each year based on an appropriate measure, as
160 determined by the department;

161 [(29)] **(31)** "Rural area", a county in Missouri with a population less than seventy-five
162 thousand or that does not contain an individual city with a population greater than fifty thousand
163 according to the most recent federal decennial census;

164 [(30)] **(32)** "Small and expanding business project", a qualified company that within two
165 years of the date of the approval creates a minimum of twenty new jobs if the project facility is
166 located in a rural area or a minimum of forty new jobs if the project facility is not located in a
167 rural area and creates fewer than one hundred new jobs regardless of the location of the project
168 facility;

169 [(31)] **(33)** "Tax credits", tax credits issued by the department to offset the state income
170 taxes imposed by chapters 143 and 148, or which may be sold or refunded as provided for in this
171 program;

172 [(32)] **(34)** "Technology business project", a qualified company that within two years of
173 the date of the approval creates a minimum of ten new jobs involved in the operations of a
174 company:

175 (a) Which is a technology company, as determined by a regulation promulgated by the
176 department under the provisions of section 620.1884 or classified by NAICS codes;

177 (b) Which owns or leases a facility which produces electricity derived from qualified
178 renewable energy sources, or produces fuel for the generation of electricity from qualified
179 renewable energy sources, but does not include any company that has received the alcohol

180 mixture credit, alcohol credit, or small ethanol producer credit pursuant to 26 U.S.C. Section 40
181 of the tax code in the previous tax year;

182 (c) Which researches, develops, or manufactures power system technology for:
183 aerospace; space; defense; hybrid vehicles; or implantable or wearable medical devices; or

184 (d) Which is a clinical molecular diagnostic laboratory focused on detecting and
185 monitoring infections in immunocompromised patient populations;

186 [(33)] **(35)** "Withholding tax", the state tax imposed by sections 143.191 to 143.265. For
187 purposes of this program, the withholding tax shall be computed using a schedule as determined
188 by the department based on average wages.

620.1881. 1. The department of economic development shall respond within thirty days
2 to a company who provides a notice of intent with either an approval or a rejection of the notice
3 of intent. The department shall give preference to qualified companies and projects targeted at
4 an area of the state which has recently been classified as a disaster area by the federal
5 government. Failure to respond on behalf of the department of economic development shall
6 result in the notice of intent being deemed an approval for the purposes of this section. A
7 qualified company who is provided an approval for a project shall be allowed a benefit as
8 provided in this program in the amount and duration provided in this section. A qualified
9 company may receive additional periods for subsequent new jobs at the same facility after the
10 full initial period if the minimum thresholds are met as set forth in sections 620.1875 to
11 620.1890. There is no limit on the number of periods a qualified company may participate in the
12 program, as long as the minimum thresholds are achieved and the qualified company provides
13 the department with the required reporting and is in proper compliance for this program or other
14 state programs. A qualified company may elect to file a notice of intent to start a new project
15 period concurrent with an existing project period if the minimum thresholds are achieved and
16 the qualified company provides the department with the required reporting and is in proper
17 compliance for this program and other state programs; however, the qualified company may not
18 receive any further benefit under the original approval for jobs created after the date of the new
19 notice of intent, and any jobs created before the new notice of intent may not be included as new
20 jobs for the purpose of benefit calculation in relation to the new approval. When a qualified
21 company has filed and received approval of a notice of intent and subsequently files another
22 notice of intent, the department shall apply the definition of project facility under subdivision
23 [(19)] **(20)** of section 620.1878 to the new notice of intent as well as all previously approved
24 notices of intent and shall determine the application of the definitions of new job, new payroll,
25 project facility base employment, and project facility base payroll accordingly.

26 2. Notwithstanding any provision of law to the contrary, any qualified company that is
27 awarded benefits under this program may not simultaneously receive tax credits or exemptions

28 under sections 135.100 to 135.150, sections 135.200 to 135.286, section 135.535, or sections
29 135.900 to 135.906 at the same project facility. The benefits available to the company under any
30 other state programs for which the company is eligible and which utilize withholding tax from
31 the new jobs of the company must first be credited to the other state program before the
32 withholding retention level applicable under the Missouri quality jobs act will begin to accrue.
33 These other state programs include, but are not limited to, the new jobs training program under
34 sections 178.892 to 178.896, the job retention program under sections 178.760 to 178.764, the
35 real property tax increment allocation redevelopment act, sections 99.800 to 99.865, or the
36 Missouri downtown and rural economic stimulus act under sections 99.915 to 99.980. If any
37 qualified company also participates in the new jobs training program in sections 178.892 to
38 178.896, the company shall retain no withholding tax, but the department shall issue a refundable
39 tax credit for the full amount of benefit allowed under this [subdivision] **subsection**. The
40 calendar year annual maximum amount of tax credits which may be issued to a qualifying
41 company that also participates in the new job training program shall be increased by an amount
42 equivalent to the withholding tax retained by that company under the new jobs training program.
43 However, if the combined benefits of the quality jobs program and the new jobs training program
44 exceed the projected state benefit of the project, as determined by the department of economic
45 development through a cost-benefit analysis, the increase in the maximum tax credits shall be
46 limited to the amount that would not cause the combined benefits to exceed the projected state
47 benefit. Any taxpayer who is awarded benefits under this program who knowingly hires
48 individuals who are not allowed to work legally in the United States shall immediately forfeit
49 such benefits and shall repay the state an amount equal to any state tax credits already redeemed
50 and any withholding taxes already retained.

51 3. The types of projects and the amount of benefits to be provided are:

52 (1) Small and expanding business projects: in exchange for the consideration provided
53 by the new tax revenues and other economic stimuli that will be generated by the new jobs
54 created by the program, a qualified company may retain an amount equal to the withholding tax
55 as calculated under subdivision [(33)] **(35)** of section 620.1878 from the new jobs that would
56 otherwise be withheld and remitted by the qualified company under the provisions of sections
57 143.191 to 143.265 for a period of three years from the date the required number of new jobs
58 were created if the average wage of the new payroll equals or exceeds the county average wage
59 or for a period of five years from the date the required number of new jobs were created if the
60 average wage of the new payroll equals or exceeds one hundred twenty percent of the county
61 average wage;

62 (2) Technology business projects: in exchange for the consideration provided by the new
63 tax revenues and other economic stimuli that will be generated by the new jobs created by the

64 program, a qualified company may retain an amount equal to a maximum of five percent of new
65 payroll for a period of five years from the date the required number of jobs were created from
66 the withholding tax of the new jobs that would otherwise be withheld and remitted by the
67 qualified company under the provisions of sections 143.191 to 143.265 if the average wage of
68 the new payroll equals or exceeds the county average wage. An additional one-half percent of
69 new payroll may be added to the five percent maximum if the average wage of the new payroll
70 in any year exceeds one hundred twenty percent of the county average wage in the county in
71 which the project facility is located, plus an additional one-half percent of new payroll may be
72 added if the average wage of the new payroll in any year exceeds one hundred forty percent of
73 the average wage in the county in which the project facility is located. The department shall
74 issue a refundable tax credit for any difference between the amount of benefit allowed under this
75 subdivision and the amount of withholding tax retained by the company, in the event the
76 withholding tax is not sufficient to provide the entire amount of benefit due to the qualified
77 company under this subdivision;

78 (3) High impact projects: in exchange for the consideration provided by the new tax
79 revenues and other economic stimuli that will be generated by the new jobs created by the
80 program, a qualified company may retain an amount from the withholding tax of the new jobs
81 that would otherwise be withheld and remitted by the qualified company under the provisions
82 of sections 143.191 to 143.265, equal to three percent of new payroll for a period of five years
83 from the date the required number of jobs were created if the average wage of the new payroll
84 equals or exceeds the county average wage of the county in which the project facility is located.
85 For high-impact projects in a facility located within two adjacent counties, the new payroll shall
86 equal or exceed the higher county average wage of the adjacent counties. The percentage of
87 payroll allowed under this subdivision shall be three and one-half percent of new payroll if the
88 average wage of the new payroll in any year exceeds one hundred twenty percent of the county
89 average wage in the county in which the project facility is located. The percentage of payroll
90 allowed under this subdivision shall be four percent of new payroll if the average wage of the
91 new payroll in any year exceeds one hundred forty percent of the county average wage in the
92 county in which the project facility is located. An additional one percent of new payroll may be
93 added to these percentages if local incentives equal between ten percent and twenty-four percent
94 of the new direct local revenue; an additional two percent of new payroll is added to these
95 percentages if the local incentives equal between twenty-five percent and forty-nine percent of
96 the new direct local revenue; or an additional three percent of payroll is added to these
97 percentages if the local incentives equal fifty percent or more of the new direct local revenue.
98 The department shall issue a refundable tax credit for any difference between the amount of
99 benefit allowed under this subdivision and the amount of withholding tax retained by the

100 company, in the event the withholding tax is not sufficient to provide the entire amount of benefit
101 due to the qualified company under this subdivision;

102 (4) Job retention projects: a qualified company may receive a tax credit for the retention
103 of jobs in this state, provided the qualified company and the project meets all of the following
104 conditions:

105 (a) For each of the twenty-four months preceding the year in which application for the
106 program is made the qualified company must have maintained at least one thousand full-time
107 employees at the employer's site in the state at which the jobs are based, and the average wage
108 of such employees must meet or exceed the county average wage;

109 (b) The qualified company retained at the project facility the level of full-time employees
110 that existed in the taxable year immediately preceding the year in which application for the
111 program is made;

112 (c) The qualified company is considered to have a significant statewide effect on the
113 economy, and has been determined to represent a substantial risk of relocation from the state by
114 the quality jobs advisory task force established in section 620.1887; provided, however, until
115 such time as the initial at-large members of the quality jobs advisory task force are appointed,
116 this determination shall be made by the director of the department of economic development;

117 (d) The qualified company in the project facility will cause to be invested a minimum
118 of [seventy] **fifty** million dollars in new investment prior to the end of [two] **five** years or will
119 cause to be invested a minimum of thirty million dollars in new investment prior to the end of
120 two years and maintain an annual payroll of at least seventy million dollars during each of the
121 years for which a credit is claimed; and

122 (e) The local taxing entities shall provide local incentives of at least fifty percent of the
123 new direct local revenues created by the project over a ten-year period. The quality jobs advisory
124 task force may recommend to the department of economic development that appropriate
125 penalties be applied to the company for violating the agreement. The amount of the job retention
126 credit granted may be equal to up to fifty percent of the amount of withholding tax generated by
127 the full-time jobs at the project facility for a period of five years. The calendar year annual
128 maximum amount of tax credit that may be issued to any qualified company for a job retention
129 project or combination of job retention projects shall be seven hundred fifty thousand dollars per
130 year, but the maximum amount may be increased up to one million dollars if such action is
131 proposed by the department and approved by the quality jobs advisory task force established in
132 section 620.1887; provided, however, until such time as the initial at-large members of the
133 quality jobs advisory task force are appointed, this determination shall be made by the director
134 of the department of economic development. In considering such a request, the task force shall
135 rely on economic modeling and other information supplied by the department when requesting

136 the increased limit on behalf of the job retention project. In no event shall the total amount of
137 all tax credits issued for the entire job retention program under this subdivision exceed three
138 million dollars annually. Notwithstanding the above, no tax credits shall be issued for job
139 retention projects approved by the department after August 30, [2013] 2018;

140 **(5) Job retention projects: In lieu of the benefits provided under subdivision (4) of**
141 **this subsection and in exchange for the consideration provided by the tax revenues and**
142 **other economic stimuli that will be generated by the retention of jobs and new capital**
143 **investment in this state, a qualified company may be eligible to receive the benefits**
144 **described in this subdivision if the department determines that there is a significant**
145 **probability that the qualified company would relocate to another state in the absence of**
146 **the benefits authorized under this subdivision;**

147 **(a) A qualified company meeting the requirements of this subdivision may be**
148 **authorized to retain an amount not to exceed one hundred percent of the withholding tax**
149 **from full-time jobs that would otherwise be withheld and remitted by the qualified**
150 **company under the provisions of sections 143.191 to 143.265, for a period of ten years if**
151 **the average wage of the retained jobs equals or exceeds ninety percent of the county**
152 **average wage. In order to receive benefits under this subdivision, a qualified company**
153 **shall enter into a written agreement, with the department, containing detailed performance**
154 **requirements and repayment penalties in the event of nonperformance. The amount of**
155 **benefits awarded to a qualified company under this subdivision shall not exceed the**
156 **projected net fiscal benefit and shall not exceed the least amount necessary to obtain the**
157 **qualified company's commitment to retain the necessary number of jobs and make the**
158 **required new capital investment;**

159 **(b) In order to be eligible to receive benefits under this subdivision, the qualified**
160 **company shall meet each of the following conditions:**

161 **a. The qualified company shall agree to retain, for a period of ten years from the**
162 **date of approval of the notice of intent, at least one hundred and twenty-five full-time**
163 **employees; and**

164 **b. The qualified company shall agree to make a new capital investment at the**
165 **project facility within three years from the approval of the notice of intent in an amount**
166 **equal to one half the total benefits provided under this subdivision, which are offered to**
167 **the qualified company by the department;**

168 **(c) In awarding benefits under this subdivision, the department shall consider the**
169 **following factors:**

170 **a. The significance of the qualified company's need for program benefits;**

- 171 **b. The amount of projected net fiscal benefit to the state of the project and the**
172 **period in which the state would realize such net fiscal benefit;**
- 173 **c. The overall size and quality of the proposed project, including the number of new**
174 **jobs, new capital investment, proposed wages, growth potential of the qualified company,**
175 **the potential multiplier effect of the project, and similar factors;**
- 176 **d. The financial stability and creditworthiness of the qualified company;**
- 177 **e. The level of economic distress in the area;**
- 178 **f. An evaluation of the competitiveness of alternative locations for the project**
179 **facility, as applicable;**
- 180 **(d) Upon approval of a notice of intent to request benefits under this subdivision,**
181 **the department and the qualified company shall enter into a written agreement covering**
182 **the applicable project period. The agreement shall specify, at a minimum:**
- 183 **a. The committed number of full-time employees, payroll, and new capital**
184 **investment for each year during the project period;**
- 185 **b. Clawback provisions, as may be required by the department; and**
- 186 **c. Any other provisions the department may require;**
- 187 **(6) In no event shall the total amount of all benefits provided in subdivisions (5) and**
188 **(7) of this subsection for all qualified companies under this subdivision exceed six million**
189 **dollars for any fiscal year beginning on or after July 1, 2012;**
- 190 **(7) A qualified company meeting the requirements of subdivision (5) of this**
191 **subsection may elect a one-time issuance of tax credits in an amount not to exceed eighty**
192 **percent of the amount the qualified company may otherwise be eligible to retain for a**
193 **period of ten years under subdivision (5) of this subsection;**
- 194 **(a) In addition to satisfying each of the requirements of subdivision (5) of this**
195 **subsection, a qualified company requesting tax credits under this subdivision shall provide**
196 **to the department, prior to approval, evidence of commitments for the financing of any**
197 **applicable new capital investment. The new capital investment shall be made at the project**
198 **facility within three years of the date of approval;**
- 199 **(b) Upon approval of a notice of intent to request tax credits under this subdivision,**
200 **the department and the qualified company shall enter into a written agreement covering**
201 **the applicable project period. The agreement shall specify, at a minimum:**
- 202 **a. The committed number of jobs, payroll, and new capital investment for each**
203 **year during the project period;**
- 204 **b. The date or time period during which the tax credits shall be issued, which may**
205 **be immediately or over a period not to exceed three years from the date of approval;**

206 **c. Penalties, including the recapture of tax credits awarded under this subdivision,**
207 **for failure to satisfy the requirements provided under this subdivision and subdivision (5)**
208 **of this subsection; and**

209 **d. Any other provisions the department may require;**

210 **(8) Prior to the award of benefits under subdivision (5) or (7) of this subsection, the**
211 **director of the department shall notify the president pro tem of the senate and the speaker**
212 **of the house of representatives of the amount of the proposed award, including the county**
213 **and city in which the project facility is located, the number of retained jobs and the**
214 **average wages for such retained jobs, the estimated amount of new capital investment, and**
215 **the amount of the projected net fiscal benefit to the state from the project; provided that,**
216 **nothing herein shall require the disclosure of information otherwise protected from**
217 **disclosure by law;**

218 ~~[(5)]~~ **(9) Small business job retention and flood survivor relief:** a qualified company may
219 receive a tax credit under sections 620.1875 to 620.1890 for the retention of jobs and flood
220 survivor relief in this state for each job retained over a three-year period, provided that:

221 (a) The qualified company did not receive any state or federal benefits, incentives, or tax
222 relief or abatement in locating its facility in a flood plain;

223 (b) The qualified company and related companies have fewer than one hundred
224 employees at the time application for the program is made;

225 (c) The average wage of the qualified company's and related companies' employees must
226 meet or exceed the county average wage;

227 (d) All of the qualified company's and related companies' facilities are located in this
228 state;

229 (e) The facilities at the primary business site in this state have been directly damaged by
230 floodwater rising above the level of a five hundred year flood at least two years, but fewer than
231 eight years, prior to the time application is made;

232 (f) The qualified company made significant efforts to protect the facilities prior to any
233 impending danger from rising floodwaters;

234 (g) For each year it receives tax credits under sections 620.1875 to 620.1890, the
235 qualified company and related companies retained, at the company's facilities in this state, at
236 least the level of full-time, year-round employees that existed in the taxable year immediately
237 preceding the year in which application for the program is made; and

238 (h) In the years it receives tax credits under sections 620.1875 to 620.1890, the company
239 cumulatively invests at least two million dollars in capital improvements in facilities and
240 equipment located at such facilities that are not located within a five hundred year flood plain
241 as designated by the Federal Emergency Management Agency, and amended from time to time.

242 The amount of the small business job retention and flood survivor relief credit granted may be
243 equal to up to one hundred percent of the amount of withholding tax generated by the full-time
244 jobs at the project facility for a period of three years. The calendar year annual maximum
245 amount of tax credit that may be issued to any qualified company for a small business job
246 retention and survivor relief project shall be two hundred fifty thousand dollars per year, but the
247 maximum amount may be increased up to five hundred thousand dollars if such action is
248 proposed by the department and approved by the quality jobs advisory task force established in
249 section 620.1887. In considering such a request, the task force shall rely on economic modeling
250 and other information supplied by the department when requesting an increase in the limit on
251 behalf of the small business job retention and flood survivor relief project. In no event shall the
252 total amount of all tax credits issued for the entire small business job retention and flood survivor
253 relief program under this subdivision exceed five hundred thousand dollars annually.
254 Notwithstanding the provisions of this subdivision to the contrary, no tax credits shall be issued
255 for small business job retention and flood survivor relief projects approved by the department
256 after August 30, 2010.

257 4. The qualified company shall provide an annual report of the number of jobs and such
258 other information as may be required by the department to document the basis for the benefits
259 of this program. The department may withhold the approval of any benefits until it is satisfied
260 that proper documentation has been provided, and shall reduce the benefits to reflect any
261 reduction in full-time employees or new payroll. Upon approval by the department, the qualified
262 company may begin the retention of the withholding taxes when it reaches the minimum number
263 of new jobs and the average wage exceeds the county average wage. Tax credits, if any, may be
264 issued upon satisfaction by the department that the qualified company has exceeded the county
265 average wage and the minimum number of new jobs. In such annual report, if the average wage
266 is below the county average wage, the qualified company has not maintained the employee
267 insurance as required, or if the number of new jobs is below the minimum, the qualified
268 company shall not receive tax credits or retain the withholding tax for the balance of the benefit
269 period. In the case of a qualified company that initially filed a notice of intent and received an
270 approval from the department for high-impact benefits and the minimum number of new jobs
271 in an annual report is below the minimum for high-impact projects, the company shall not
272 receive tax credits for the balance of the benefit period but may continue to retain the
273 withholding taxes if it otherwise meets the requirements of a small and expanding business under
274 this program.

275 5. The maximum calendar year annual tax credits issued for the entire program shall not
276 exceed eighty million dollars, **with ten million dollars reserved to be awarded under**
277 **subsection 14 of this section.** Notwithstanding any provision of law to the contrary, the

278 maximum annual tax credits authorized under section 135.535 are hereby reduced from ten
279 million dollars to eight million dollars, with the balance of two million dollars transferred to this
280 program. There shall be no limit on the amount of withholding taxes that may be retained by
281 approved companies under this program.

282 6. The department shall allocate the annual tax credits based on the date of the approval,
283 reserving such tax credits based on the department's best estimate of new jobs and new payroll
284 of the project, and the other factors in the determination of benefits of this program. However,
285 the annual issuance of tax credits is subject to the annual verification of the actual new payroll.
286 The allocation of tax credits for the period assigned to a project shall expire if, within two years
287 from the date of commencement of operations, or approval if applicable, the minimum
288 thresholds have not been achieved. The qualified company may retain authorized amounts from
289 the withholding tax under this section once the minimum new jobs thresholds are met for the
290 duration of the project period. No benefits shall be provided under this program until the
291 qualified company meets the minimum new jobs thresholds. In the event the qualified company
292 does not meet the minimum new job threshold, the qualified company may submit a new notice
293 of intent or the department may provide a new approval for a new project of the qualified
294 company at the project facility or other facilities.

295 7. For a qualified company with flow-through tax treatment to its members, partners, or
296 shareholders, the tax credit shall be allowed to members, partners, or shareholders in proportion
297 to their share of ownership on the last day of the qualified company's tax period.

298 8. Tax credits may be claimed against taxes otherwise imposed by chapters 143 and 148,
299 and may not be carried forward but shall be claimed within one year of the close of the taxable
300 year for which they were issued, except as provided under subdivision (4) of subsection 3 of this
301 section.

302 9. Tax credits authorized by this section may be transferred, sold, or assigned by filing
303 a notarized endorsement thereof with the department that names the transferee, the amount of
304 tax credit transferred, and the value received for the credit, as well as any other information
305 reasonably requested by the department.

306 10. Prior to the issuance of tax credits, the department shall verify through the
307 department of revenue, or any other state department, that the tax credit applicant does not owe
308 any delinquent income, sales, or use tax or interest or penalties on such taxes, or any delinquent
309 fees or assessments levied by any state department and through the department of insurance,
310 financial institutions and professional registration that the applicant does not owe any delinquent
311 insurance taxes. Such delinquency shall not affect the authorization of the application for such
312 tax credits, except that at issuance credits shall be first applied to the delinquency and any
313 amount issued shall be reduced by the applicant's tax delinquency. If the department of revenue

314 or the department of insurance, financial institutions and professional registration, or any other
315 state department, concludes that a taxpayer is delinquent after June fifteenth but before July first
316 of any year and the application of tax credits to such delinquency causes a tax deficiency on
317 behalf of the taxpayer to arise, then the taxpayer shall be granted thirty days to satisfy the
318 deficiency in which interest, penalties, and additions to tax shall be tolled. After applying all
319 available credits toward a tax delinquency, the administering agency shall notify the appropriate
320 department and that department shall update the amount of outstanding delinquent tax owed by
321 the applicant. If any credits remain after satisfying all insurance, income, sales, and use tax
322 delinquencies, the remaining credits shall be issued to the applicant, subject to the restrictions
323 of other provisions of law.

324 11. Except as provided under subdivision (4) of subsection 3 of this section, the director
325 of revenue shall issue a refund to the qualified company to the extent that the amount of credits
326 allowed in this section exceeds the amount of the qualified company's income tax.

327 12. An employee of a qualified company will receive full credit for the amount of tax
328 withheld as provided in section 143.211.

329 13. If any provision of sections 620.1875 to 620.1890 or application thereof to any
330 person or circumstance is held invalid, the invalidity shall not affect other provisions or
331 application of these sections which can be given effect without the invalid provisions or
332 application, and to this end, the provisions of sections 620.1875 to 620.1890 are hereby declared
333 severable.

334 **14. For each calendar year beginning on or after January 1, 2013, but ending on**
335 **or before December 31, 2014, in lieu of all other benefits available under this program, the**
336 **department may authorize a qualified company meeting the requirements of this**
337 **subsection and subsection 3 of this section to be issued tax credits in an amount not to**
338 **exceed seven percent of new payroll from the new jobs created projected over a period of**
339 **five years from the date the required number of new jobs are to be created, or, if the**
340 **qualified company is in a targeted industry identified by the department by rule following**
341 **a strategic planning process as being critical to the state's economic security and growth,**
342 **the department may authorize tax credits in an amount not to exceed nine percent of new**
343 **payroll from the new jobs created, projected over a period of five years. The amount of**
344 **benefits awarded to a qualified company under this section shall not exceed the projected**
345 **net fiscal benefit to the state over a ten year period, as determined by the department, and**
346 **may not exceed the least amount necessary to obtain the qualified company's commitment**
347 **to initiate the project. In no event shall the tax credits authorized under this subsection**
348 **exceed ten million dollars annually.**

349 **(1) Prior to approval, a qualified company requesting benefits under this subsection**
350 **shall provide evidence of commitments for the financing of any applicable new capital**
351 **investment. The new capital investment shall be made at the project facility within two**
352 **years of the date of approval of the notice of intent.**

353 **(2) In awarding tax credits under this subsection, the department shall consider**
354 **factors set forth in subsection 2 of this section.**

355 **(3) Upon approval of a notice of intent to receive tax credits under this subsection,**
356 **the department and the qualified company shall enter into a written agreement covering**
357 **the applicable project period containing detailed performance requirements and**
358 **repayment penalties in event of nonperformance. The agreement shall specify, at a**
359 **minimum:**

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

362 **(b) The date or time period during which the tax credits shall be issued, which may**
363 **be immediately or over a period not to exceed two years from the date of approval of the**
364 **notice of intent;**

365 **(c) Clawback provisions provided under subdivision (4) of this subsection; and**

366 **(d) Any other provisions necessary to effectuate the intent of this subsection.**

367 **(4) The following clawback provisions shall apply to any benefits awarded under**
368 **this subsection:**

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

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

385 (c) If the qualified company fails to meet its payroll commitment for any year
386 during the project period, it shall refund to the state a portion of its total benefit received
387 under this section based on the following formula: the total amount of tax credits received
388 by the qualified company, divided by the number of years during the project period, and
389 multiplied by a fraction, the numerator of which is the contractually agreed-upon amount
390 of payroll for that year minus the actual amount of payroll made by the company during
391 the year, and the denominator of which is the contractually agreed upon amount of payroll
392 made for that same year. In addition to the refund, the qualified company shall pay
393 interest of nine percent per annum from the date the tax credits were issued on the amount
394 of the refund;

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

403 (5) Prior to the award of benefits under this subsection, the director of the
404 department shall notify the president pro tem of the senate and the speaker of the house
405 of representatives of the amount of the proposed award, including the county and city in
406 which the project facility is located, the number of new jobs and the proposed wages for
407 such new jobs, the estimated amount of new capital investment, and the amount of the
408 projected net fiscal benefit to the state from the project; provided that, nothing herein shall
409 require the disclosure of information otherwise protected from disclosure by law.

620.2450. 1. There is hereby established the "Missouri Jobs for Education
2 Program". The program is established for the purpose of providing credit toward tuition
3 to award Missouri and out-of-state business owners and companies responsible for the
4 creation of new jobs in the state. Credit toward tuition awarded under this section entitle
5 the credit holder to credit toward tuition at any public institution of higher education in
6 the state.

7 2. Under the Missouri jobs for education program, business owners and companies
8 may apply for credit toward tuition, redeemable for study at public institutions of higher
9 education in the state. A qualifying business owner or company shall receive one credit
10 toward tuition for every qualifying job created. In order to qualify for credit toward
11 tuition under this section, the new job shall:

- 12 **(1) Pay wages that meet or exceed the county average wage;**
13 **(2) Be maintained for at least one year before the claimant is eligible to receive the**
14 **credit toward tuition; and**
15 **(3) Be a full-time position, including at a minimum two thousand hours per year,**
16 **with one hundred sixty hours per month for ten of the twelve calendar months.**
- 17 **3. Credit toward tuition awarded under this section may be used by employees of**
18 **the business owner or company, by any relatives of the business owner, or may be gifted**
19 **to any person of the business owner's choosing. Credit toward tuition received shall expire**
20 **if not used within ten years of the date awarded. Unused credit toward tuition shall not**
21 **be refunded and shall be deposited into general revenue.**
- 22 **4. There is hereby created in the state treasury the "Missouri Jobs for Education**
23 **Fund", which shall consist of money collected under this section. The state treasurer shall**
24 **be custodian of the fund. In accordance with sections 30.170 and 30.180 the state treasurer**
25 **may approve disbursements. The fund shall be a dedicated fund and money in the fund**
26 **shall be used solely for the administration of this section. The state treasurer shall invest**
27 **moneys in the fund in the same manner as other funds are invested. Any interest and**
28 **moneys earned on such investments shall be credited to the fund.**
- 29 **5. The department of economic development shall administer the program**
30 **established in this section. The department of revenue shall create an employer application**
31 **process, and withhold state employee taxes and deposit the money into the Missouri jobs**
32 **for education fund established in subsection 4 of this section. Funding for credit toward**
33 **tuition shall begin on the day the new job is created. The department of economic**
34 **development shall track employer contributions and ensure that the credit toward tuition**
35 **granted does not exceed the amount that has been deposited by the employer. If an**
36 **employee tax withheld is more than the cost of tuition, no money shall be refunded.**
- 37 **6. Under section 23.253 of the Missouri sunset act:**
- 38 **(1) The provisions of the new program authorized under this section shall**
39 **automatically sunset four years after the effective date of this section unless reauthorized**
40 **by an act of the general assembly; and**
- 41 **(2) If such program is reauthorized, the program authorized under this section**
42 **shall automatically sunset twelve years after the effective date of the reauthorization of this**
43 **section; and**
- 44 **(3) This section shall terminate on September first of the calendar year immediately**
45 **following the calendar year in which the program authorized under this section is sunset.**

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