

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 327
94TH GENERAL ASSEMBLY

Reported from the Special Committee on Job Creation and Economic Development February 7, 2007 with recommendation that House Committee Substitute for House Bill No. 327 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

D. ADAM CRUMBLISS, Chief Clerk

1217L.03C

AN ACT

To repeal sections 135.950, 135.963, 135.967, 178.895, 178.896, 620.1878, and 620.1881, RSMo, and to enact in lieu thereof seven new sections relating to job development.

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

Section A. Sections 135.950, 135.963, 135.967, 178.895, 178.896, 620.1878, and
2 620.1881, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as
3 sections 135.950, 135.963, 135.967, 178.895, 178.896, 620.1878, and 620.1881, to read as
4 follows:

135.950. The following terms, whenever used in sections 135.950 to 135.970 mean:

- 2 (1) "Blighted area", an area which, by reason of the predominance of defective or
3 inadequate street layout, unsanitary or unsafe conditions, deterioration of site improvements,
4 improper subdivision or obsolete platting, or the existence of conditions which endanger life or
5 property by fire and other causes, or any combination of such factors, retards the provision of
6 housing accommodations or constitutes an economic or social liability or a menace to the public
7 health, safety, morals, or welfare in its present condition and use;
- 8 (2) "Board", an enhanced enterprise zone board established pursuant to section 135.957;
- 9 (3) "Commencement of commercial operations" shall be deemed to occur during the first
10 taxable year for which the new business facility is first put into use by the taxpayer in the
11 enhanced business enterprise in which the taxpayer intends to use the new business facility;
- 12 (4) "Department", the department of economic development;

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.

- 13 (5) "Director", the director of the department of economic development;
- 14 (6) "Employee", [a person employed by the enhanced business enterprise on:
- 15 (a) A regular, full-time basis;
- 16 (b) A part-time basis, provided such person is customarily performing such duties an
- 17 average of at least twenty hours per week; or
- 18 (c) A seasonal basis, provided such person performs such duties for at least eighty
- 19 percent of the season customary for the position in which such person is employed] **a person**
- 20 **employed by the enhanced business enterprise that is scheduled to work an average of at**
- 21 **least one thousand hours per year, and such person at all times has health insurance**
- 22 **offered to him or her, which is partially paid for by the employer;**
- 23 (7) "Enhanced business enterprise", an industry or one of a cluster of industries that is
- 24 either:
- 25 (a) Identified by the department as critical to the state's economic security and growth;
- 26 or
- 27 (b) Will have an impact on industry cluster development, as identified by the governing
- 28 authority in its application for designation of an enhanced enterprise zone and approved by the
- 29 department; but excluding gambling establishments (NAICS industry group 7132), retail trade
- 30 (NAICS sectors 44 and 45), **hospitals (NAICS sector 622), educational services (NAICS**
- 31 **sector 61), religious organizations (NAICS industry group 8131), public administration**
- 32 **(NAICS sector 92), and food and drinking places (NAICS subsector 722), however,**
- 33 **notwithstanding the above, headquarters or administrative offices of an otherwise excluded**
- 34 **business may qualify for benefits if the offices serve a multistate territory. In the event a**
- 35 **national, state, or regional headquarters operation is not the predominant activity of a**
- 36 **project facility, the new jobs and investment of such headquarters operation is considered**
- 37 **eligible for benefits under this section if the other requirements are satisfied.** Service
- 38 industries may be eligible only if a majority of its annual revenues will be derived from [services
- 39 provided] out of the state;
- 40 (8) "Existing business facility", any facility in this state which was employed by the
- 41 taxpayer claiming the credit in the operation of an enhanced business enterprise immediately
- 42 prior to an expansion, acquisition, addition, or replacement;
- 43 (9) "Facility", any building used as an enhanced business enterprise located within an
- 44 enhanced enterprise zone, including the land on which the facility is located and all machinery,
- 45 equipment, and other real and depreciable tangible personal property acquired for use at and
- 46 located at or within such facility and used in connection with the operation of such facility;
- 47 (10) **"Facility base employment", the greater of the number of full-time employees**
- 48 **located at the facility on the date of the notice of intent, or for the twelve-month period**

49 **prior to the date of the notice of intent, the average number of full-time equivalent**
50 **employees located at the facility, or in the event the project facility has not been in**
51 **operation for a full twelve-month period, the average number of full-time equivalent**
52 **employees for the number of months the facility has been in operation prior to the date of**
53 **the notice of intent;**

54 **(11) "Facility base payroll", the total amount of taxable wages paid by the**
55 **enhanced business enterprise to employees of the enhanced business enterprise located at**
56 **the facility in the twelve months prior to the notice of intent, not including the payroll of**
57 **owners of the enhanced business enterprise unless the enhanced business enterprise is**
58 **participating in an employee stock ownership plan. For the purposes of calculating the**
59 **benefits under this program, the amount of base payroll shall increase each year based on**
60 **the consumer price index or other comparable measure, as determined by the department;**

61 **(12) "Governing authority", the body holding primary legislative authority over a county**
62 **or incorporated municipality;**

63 **[(11)] (13) "NAICS", the 1997 edition of the North American Industry Classification**
64 **System as prepared by the Executive Office of the President, Office of Management and Budget.**
65 **Any NAICS sector, subsector, industry group or industry identified in this section shall include**
66 **its corresponding classification in subsequent federal industry classification systems;**

67 **[(12)] (14) "New business facility", a facility that satisfies the following requirements:**

68 **(a) Such facility is employed by the taxpayer in the operation of an enhanced business**
69 **enterprise. Such facility shall not be considered a new business facility in the hands of the**
70 **taxpayer if the taxpayer's only activity with respect to such facility is to lease it to another person**
71 **or persons. If the taxpayer employs only a portion of such facility in the operation of an**
72 **enhanced business enterprise, and leases another portion of such facility to another person or**
73 **persons or does not otherwise use such other portions in the operation of an enhanced business**
74 **enterprise, the portion employed by the taxpayer in the operation of an enhanced business**
75 **enterprise shall be considered a new business facility, if the requirements of paragraphs (b), (c),**
76 **and (d) of this subdivision are satisfied;**

77 **(b) Such facility is acquired by, or leased to, the taxpayer after December 31, 2004. A**
78 **facility shall be deemed to have been acquired by, or leased to, the taxpayer after December 31,**
79 **2004, if the transfer of title to the taxpayer, the transfer of possession pursuant to a binding**
80 **contract to transfer title to the taxpayer, or the commencement of the term of the lease to the**
81 **taxpayer occurs after December 31, 2004;**

82 **(c) If such facility was acquired by the taxpayer from another taxpayer and such facility**
83 **was employed immediately prior to the acquisition by another taxpayer in the operation of an**

84 enhanced business enterprise, the operation of the same or a substantially similar enhanced
85 business enterprise is not continued by the taxpayer at such facility; and

86 (d) Such facility is not a replacement business facility, as defined in subdivision [(16)]
87 (22) of this section;

88 [(13)] (15) "New business facility employee", an employee of the taxpayer in the
89 operation of a new business facility during the taxable year for which the credit allowed by
90 section 135.967 is claimed, except that truck drivers and rail and barge vehicle operators and
91 other operators of rolling stock for hire shall not constitute new business facility employees;

92 [(14)] (16) "New business facility investment", the value of real and depreciable tangible
93 personal property, acquired by the taxpayer as part of the new business facility, which is used by
94 the taxpayer in the operation of the new business facility, during the taxable year for which the
95 credit allowed by 135.967 is claimed, except that trucks, truck-trailers, truck semitrailers, rail
96 vehicles, barge vehicles, aircraft and other rolling stock for hire, track, switches, barges, bridges,
97 tunnels, and rail yards and spurs shall not constitute new business facility investments. The total
98 value of such property during such taxable year shall be:

99 (a) Its original cost if owned by the taxpayer; or

100 (b) Eight times the net annual rental rate, if leased by the taxpayer. The net annual rental
101 rate shall be the annual rental rate paid by the taxpayer less any annual rental rate received by the
102 taxpayer from subrentals. The new business facility investment shall be determined by dividing
103 by twelve the sum of the total value of such property on the last business day of each calendar
104 month of the taxable year. If the new business facility is in operation for less than an entire
105 taxable year, the new business facility investment shall be determined by dividing the sum of the
106 total value of such property on the last business day of each full calendar month during the
107 portion of such taxable year during which the new business facility was in operation by the
108 number of full calendar months during such period;

109 (17) "New job", the number of employees located at the facility that exceeds the
110 facility base employment less any decrease in the number of the employees at related
111 facilities below the related facility base employment. No job that was created prior to the
112 date of the notice of intent shall be deemed a new job;

113 (18) "Notice of intent", a form developed by the department which is completed by
114 the enhanced business enterprise and submitted to the department which states the
115 enhanced business enterprise's intent to hire new jobs and request benefits under such
116 program;

117 (19) "Related facility", a facility operated by the enhanced business enterprise or
118 a related company in this state that is directly related to the operation of the project
119 facility;

120 (20) "Related facility base employment", the greater of:

121 (a) The number of employees located at all related facilities on the date of the notice
122 of intent; or

123 (b) For the twelve-month period prior to the date of the notice of intent, the average
124 number of employees located at all related facilities of the enhanced business enterprise or
125 a related company located in this state;

126 [(15)] (21) "Related taxpayer":

127 (a) A corporation, partnership, trust, or association controlled by the taxpayer;

128 (b) An individual, corporation, partnership, trust, or association in control of the
129 taxpayer; or

130 (c) A corporation, partnership, trust or association controlled by an individual,
131 corporation, partnership, trust or association in control of the taxpayer. "Control of a
132 corporation" shall mean ownership, directly or indirectly, of stock possessing at least fifty
133 percent of the total combined voting power of all classes of stock entitled to vote, "control of a
134 partnership or association" shall mean ownership of at least fifty percent of the capital or profits
135 interest in such partnership or association, and "control of a trust" shall mean ownership, directly
136 or indirectly, of at least fifty percent of the beneficial interest in the principal or income of such
137 trust; ownership shall be determined as provided in Section 318 of the Internal Revenue Code
138 of 1986, as amended;

139 [(16)] (22) "Replacement business facility", a facility otherwise described in subdivision
140 [(12)] (14) of this section, hereafter referred to in this subdivision as "new facility", which
141 replaces another facility, hereafter referred to in this subdivision as "old facility", located within
142 the state, which the taxpayer or a related taxpayer previously operated but discontinued operating
143 on or before the close of the first taxable year for which the credit allowed by this section is
144 claimed. A new facility shall be deemed to replace an old facility if the following conditions are
145 met:

146 (a) The old facility was operated by the taxpayer or a related taxpayer during the
147 taxpayer's or related taxpayer's taxable period immediately preceding the taxable year in which
148 commencement of commercial operations occurs at the new facility; and

149 (b) The old facility was employed by the taxpayer or a related taxpayer in the operation
150 of an enhanced business enterprise and the taxpayer continues the operation of the same or
151 substantially similar enhanced business enterprise at the new facility.

152

153 Notwithstanding the preceding provisions of this subdivision, a facility shall not be considered
154 a replacement business facility if the taxpayer's new business facility investment, as computed
155 in subdivision [(14)] (16) of this section, in the new facility during the tax period for which the

156 credits allowed in section 135.967 are claimed exceed one million dollars and if the total number
157 of employees at the new facility exceeds the total number of employees at the old facility by at
158 least two;

159 [(17)] (23) "Same or substantially similar enhanced business enterprise", an enhanced
160 business enterprise in which the nature of the products produced or sold, or activities conducted,
161 are similar in character and use or are produced, sold, performed, or conducted in the same or
162 similar manner as in another enhanced business enterprise.

135.963. 1. Improvements made to real property as such term is defined in section
2 137.010, RSMo, which are made **to an enhanced business enterprise as defined in**
3 **subdivision (7) of section 135.950** in an enhanced enterprise zone subsequent to the date such
4 zone or expansion thereto was designated, may, upon approval of an authorizing resolution by
5 the governing authority having jurisdiction of the area in which the improvements are made, be
6 exempt, in whole or in part, from assessment and payment of ad valorem taxes of one or more
7 affected political subdivisions. **In addition to enhanced business enterprises, a speculative**
8 **industrial or warehouse building constructed by a public entity or a private entity if the**
9 **land is leased by a public entity may be subject to such exemption.**

10 2. Such authorizing resolution shall specify the percent of the exemption to be granted,
11 the duration of the exemption to be granted, and the political subdivisions to which such
12 exemption is to apply and any other terms, conditions, or stipulations otherwise required. A copy
13 of the resolution shall be provided to the director within thirty calendar days following adoption
14 of the resolution by the governing authority.

15 3. No exemption shall be granted until the governing authority holds a public hearing
16 for the purpose of obtaining the opinions and suggestions of residents of political subdivisions
17 to be affected by the exemption from property taxes. The governing authority shall send, by
18 certified mail, a notice of such hearing to each political subdivision in the area to be affected and
19 shall publish notice of such hearing in a newspaper of general circulation in the area to be
20 affected by the exemption at least twenty days prior to the hearing but not more than thirty days
21 prior to the hearing. Such notice shall state the time, location, date, and purpose of the hearing.

22 4. Notwithstanding subsection 1 of this section, at least one-half of the ad valorem taxes
23 otherwise imposed on subsequent improvements to real property located in an enhanced
24 enterprise zone **of enhanced business enterprises or speculative industrial or warehouse**
25 **buildings as indicated in subsection 1 of this section** shall become and remain exempt from
26 assessment and payment of ad valorem taxes of any political subdivision of this state or
27 municipality thereof for a period of not less than ten years following the date such improvements
28 were assessed, provided the improved properties are used for enhanced business enterprises.
29 **The exemption for speculative buildings is subject to the approval of the governing**

30 **authority for a period not to exceed two years if the building is owned by a private entity**
31 **and five years if the building is owned or ground leased by a public entity. This would not**
32 **preclude the building receiving an exemption for the remaining time period established by**
33 **the governing authority if it was occupied by an enhanced business enterprise. The two**
34 **and five year time periods indicated for speculative buildings would not be an addition to**
35 **the local abatement time period for that facility.**

36 5. No exemption shall be granted for a period more than twenty-five years following the
37 date on which the original enhanced enterprise zone was designated by the department.

38 6. The provisions of subsection 1 of this section shall not apply to improvements made
39 to real property begun prior to August 28, 2004.

40 7. The abatement referred to in this section shall not relieve the assessor or other
41 responsible official from ascertaining the amount of the equalized assessed value of all taxable
42 property annually as required by section 99.855, 99.957, or 99.1042, RSMo, and shall not have
43 the effect of reducing the payments in lieu of taxes referred to in subdivision (2) of subsection
44 1 of section 99.845, RSMo, subdivision (2) of subsection 3 of section 99.957, RSMo, or
45 subdivision (2) of subsection 3 of section 99.1042, RSMo, unless such reduction is set forth in
46 the plan approved by the governing body of the municipality pursuant to subdivision (1) of
47 subsection 1 of section 99.820, section 99.942, or section 99.1027, RSMo.

135.967. 1. A taxpayer who establishes a new business facility may, upon approval by
2 the department, be allowed a credit, each tax year for up to ten tax years, in an amount
3 determined as set forth in this section, against the tax imposed by chapter 143, RSMo, excluding
4 withholding tax imposed by sections 143.191 to 143.265, RSMo. No taxpayer shall receive
5 multiple ten-year periods for subsequent expansions at the same facility.

6 2. Notwithstanding any provision of law to the contrary, any taxpayer who establishes
7 a new business facility in an enhanced enterprise zone and is awarded state tax credits under this
8 section may not also receive tax credits under sections 135.100 to 135.150, sections 135.200 to
9 135.268, or section 135.535.

10 3. No credit shall be issued pursuant to this section unless:

11 (1) The number of new business facility employees engaged or maintained in
12 employment at the new business facility for the taxable year for which the credit is claimed
13 equals or exceeds two; and

14 (2) The new business facility investment for the taxable year for which the credit is
15 claimed equals or exceeds one hundred thousand dollars.

16 4. The annual amount of credits allowed for an approved enhanced business enterprise
17 shall be the lesser of:

18 (1) The annual amount authorized by the department for the enhanced business
19 enterprise, which shall be limited to the projected state economic benefit, as determined by the
20 department; or

21 (2) The sum calculated based upon the following:

22 (a) A credit of four hundred dollars for each new business facility employee employed
23 within an enhanced enterprise zone;

24 (b) An additional credit of four hundred dollars for each new business facility employee
25 who is a resident of an enhanced enterprise zone;

26 (c) An additional credit of four hundred dollars for each new business facility employee
27 who is paid by the enhanced business enterprise a wage that exceeds the average wage paid
28 within the county in which the facility is located, as determined by the department; and

29 (d) A credit equal to two percent of new business facility investment within an enhanced
30 enterprise zone.

31 5. [Prior to January 1, 2007, in no event shall the department authorize more than four
32 million dollars annually to be issued for all enhanced business enterprises. After December 31,
33 2006, in no event shall the department authorize more than seven million dollars annually to be
34 issued for all enhanced business enterprises.

35 6.] If a facility, which does not constitute a new business facility, is expanded by the
36 taxpayer, the expansion shall be considered eligible for the credit allowed by this section if:

37 (1) The taxpayer's new business facility investment in the expansion during the tax
38 period in which the credits allowed in this section are claimed exceeds one hundred thousand
39 dollars and if the number of new business facility employees engaged or maintained in
40 employment at the expansion facility for the taxable year for which credit is claimed equals or
41 exceeds two, and the total number of employees at the facility after the expansion is at least two
42 greater than the total number of employees before the expansion; and

43 (2) The taxpayer's investment in the expansion and in the original facility prior to
44 expansion shall be determined in the manner provided in subdivision [(12)] (14) of section
45 135.950.

46 [7.] 6. The number of new business facility employees during any taxable year shall be
47 determined by dividing by twelve the sum of the number of individuals employed on the last
48 business day of each month of such taxable year. If the new business facility is in operation for
49 less than the entire taxable year, the number of new business facility employees shall be
50 determined by dividing the sum of the number of individuals employed on the last business day
51 of each full calendar month during the portion of such taxable year during which the new
52 business facility was in operation by the number of full calendar months during such period. For
53 the purpose of computing the credit allowed by this section in the case of a facility which

54 qualifies as a new business facility under subsection 6 of this section, and in the case of a new
55 business facility which satisfies the requirements of paragraph (c) of subdivision [(12)] **(14)** of
56 section 135.950, or subdivision [(16)] **(22)** of section 135.950, the number of new business
57 facility employees at such facility shall be reduced by the average number of individuals
58 employed, computed as provided in this subsection, at the facility during the taxable year
59 immediately preceding the taxable year in which such expansion, acquisition, or replacement
60 occurred and shall further be reduced by the number of individuals employed by the taxpayer or
61 related taxpayer that was subsequently transferred to the new business facility from another
62 Missouri facility and for which credits authorized in this section are not being earned, whether
63 such credits are earned because of an expansion, acquisition, relocation, or the establishment of
64 a new facility.

65 [8.] **7.** In the case where a new business facility employee who is a resident of an
66 enhanced enterprise zone for less than a twelve-month period is employed for less than a
67 twelve-month period, the credits allowed by paragraph (b) of subdivision (2) of subsection 4 of
68 this section shall be determined by multiplying four hundred dollars by a fraction, the numerator
69 of which is the number of calendar days during the taxpayer's tax year for which such credits are
70 claimed, in which the employee was a resident of an enhanced enterprise zone, and the
71 denominator of which is three hundred sixty-five.

72 [9.] **8.** For the purpose of computing the credit allowed by this section in the case of a
73 facility which qualifies as a new business facility pursuant to subsection 6 of this section, and
74 in the case of a new business facility which satisfies the requirements of paragraph (c) of
75 subdivision [(12)] **(14)** of section 135.950 or subdivision [(16)] **(22)** of section 135.950, the
76 amount of the taxpayer's new business facility investment in such facility shall be reduced by the
77 average amount, computed as provided in subdivision [(12)] **(14)** of section 135.950 for new
78 business facility investment, of the investment of the taxpayer, or related taxpayer immediately
79 preceding such expansion or replacement or at the time of acquisition. Furthermore, the amount
80 of the taxpayer's new business facility investment shall also be reduced by the amount of
81 investment employed by the taxpayer or related taxpayer which was subsequently transferred to
82 the new business facility from another Missouri facility and for which credits authorized in this
83 section are not being earned, whether such credits are earned because of an expansion,
84 acquisition, relocation, or the establishment of a new facility.

85 [10.] **9.** For a taxpayer with flow-through tax treatment to its members, partners, or
86 shareholders, the credit shall be allowed to members, partners, or shareholders in proportion to
87 their share of ownership on the last day of the taxpayer's tax period.

88 [11.] **10.** Credits may not be carried forward but shall be claimed for the taxable year
89 during which commencement of commercial operations occurs at such new business facility, and
90 for each of the nine succeeding taxable years for which the credit is issued.

91 [12.] **11.** Certificates of tax credit authorized by this section may be transferred, sold, or
92 assigned by filing a notarized endorsement thereof with the department that names the transferee,
93 the amount of tax credit transferred, and the value received for the credit, as well as any other
94 information reasonably requested by the department. The sale price cannot be less than
95 seventy-five percent of the par value of such credits.

96 [13.] **12.** The director of revenue shall issue a refund to the taxpayer to the extent that
97 the amount of credits allowed in this section exceeds the amount of the taxpayer's income tax.

98 **13. Prior to the issuance of tax credits, the department shall verify through the**
99 **department of revenue that the tax credit applicant does not owe any delinquent income,**
100 **sales, or use tax or interest or penalties on such taxes, and through the department of**
101 **insurance that the applicant does not owe any delinquent insurance taxes. Such**
102 **delinquency shall not affect the authorization of the application for such tax credits, except**
103 **that the amount of credits issued shall be reduced by the applicant's tax delinquency. If**
104 **the department of revenue or the department of insurance concludes that a taxpayer is**
105 **delinquent after June fifteenth but before July first of any year and the application of tax**
106 **credits to such delinquency causes a tax deficiency on behalf of the taxpayer to arise, then**
107 **the taxpayer shall be granted thirty days to satisfy the deficiency in which interest,**
108 **penalties, and additions to tax shall be tolled. After applying all available credits toward**
109 **a tax delinquency, the administering agency shall notify the appropriate department, and**
110 **that department shall update the amount of outstanding delinquent tax owed by the**
111 **applicant. If any credits remain after satisfying all insurance, income, sales, and use tax**
112 **delinquencies, the remaining credits shall be issued to the applicant, subject to the**
113 **restrictions of other provisions of law.**

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

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

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

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

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

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

43 6. The department of economic development shall coordinate the new jobs training
44 program, and may promulgate rules that districts will use in developing projects with new and
45 expanding industrial new jobs training proposals which shall include rules providing for the

46 coordination of such proposals with the service delivery areas established in the state to
47 administer federal funds pursuant to the federal Job Training Partnership Act.

48

49 No rule or portion of a rule promulgated under the authority of sections 178.892 to 178.896 shall
50 become effective unless it has been promulgated pursuant to the provisions of chapter 536,
51 RSMo. All rulemaking authority delegated prior to June 27, 1997, is of no force and effect and
52 repealed; however, nothing in this section shall be interpreted to repeal or affect the validity of
53 any rule filed or adopted prior to June 27, 1997, if such rule complied with the provisions of
54 chapter 536, RSMo. The provisions of this section and chapter 536, RSMo, are nonseverable
55 and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,
56 including the ability to review, to delay the effective date, or to disapprove and annul a rule or
57 portion of a rule, are subsequently held unconstitutional, then the purported grant of rulemaking
58 authority and any rule so proposed and contained in the order of rulemaking shall be invalid and
59 void.

60 7. No community college district may sell certificates as described in this section after
61 July 1, [2008] **2018**.

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

21 remaining in the Missouri community college job training program fund at the end of any fiscal
22 year shall not lapse to the general revenue fund, as provided in section 33.080, RSMo, but shall
23 remain in the Missouri community college job training program fund.

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

33 3. Sections 178.892 to 178.896 shall expire July 1, [2018] **2028**.

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**
4 **that 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 [(2)] (3) "Commencement of operations", the starting date for the qualified company's
7 first new employee, which must be no later than twelve months from the date of the [proposal]
8 **approval;**

9 [(3)] (4) "County average wage", the average wages in each county as determined by the
10 department for the most recently completed full calendar year. However, if the computed county
11 average wage is above the statewide average wage, the statewide average wage shall be deemed
12 the county average wage for such county **for the purpose of determining eligibility**. The
13 department shall publish the county average wage for each county at least annually.
14 **Notwithstanding this subdivision to the contrary, for any qualified company that in**
15 **conjunction with their project is relocating employees from a Missouri county with a**
16 **higher county average wage, the company shall obtain the endorsement of the governing**
17 **body of the community from which jobs are being relocated or the county average wage**
18 **for their project shall be the county average wage for the county from which the employees**
19 **are being relocated;**

20 [(4)] (5) "Department", the Missouri department of economic development;

21 [(5)] (6) "Director", the director of the department of economic development;

22 [(6)] (7) "Employee", a person employed by a qualified company;

23 [(7) "Full-time equivalent employees", employees of the qualified company converted
24 to reflect an equivalent of the number of full-time, year-round employees. The method for
25 converting part-time and seasonal employees into an equivalent number of full-time, year-round
26 employees shall be published in a rule promulgated by the department as authorized in section
27 620.1884;]

28 (8) "Full-time[, year-round] employee", an employee of the **qualified** company that
29 [works] **is scheduled to work** an average of at least thirty-five hours per week for a
30 twelve-month period, and one for which the qualified company offers health insurance and pays
31 at least fifty percent of such insurance premiums;

32 (9) "High-impact project", a qualified company that, within two years from
33 commencement of operations, creates one hundred or more new jobs;

34 (10) "Local incentives", the present value of the dollar amount of direct benefit received
35 by a qualified company for a project facility from one or more local political subdivisions, but
36 shall not include loans or other funds provided to the qualified company that must be repaid by
37 the qualified company to the political subdivision;

38 (11) "NAICS", the 1997 edition of the North American Industry Classification System
39 as prepared by the Executive Office of the President, Office of Management and Budget. Any
40 NAICS sector, subsector, industry group or industry identified in this section shall include its
41 corresponding classification in subsequent federal industry classification systems;

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

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

49 (14) "New job", the number of full-time[, year-round] employees located at the project
50 facility that exceeds the project facility base employment less any decrease in the number of
51 full-time [equivalent] employees at related facilities below the related facility base employment.
52 **No job that was created prior to the date of the notice of intent shall be deemed a new job;**

53 (15) "New payroll", [the amount of wages paid by a qualified company to employees in
54 new jobs] **the amount of taxable wages of full-time employees, excluding owners, located**
55 **at the project facility that exceeds the project facility base payroll. If full-time employment**
56 **at related facilities is below the related facility base employment, any decrease in payroll**
57 **for full-time employees at the related facilities below that related facility base payroll shall**
58 **also be subtracted to determine new payroll;**

59 (16) "Notice of intent", a form developed by the department, completed by the qualified
60 company and submitted to the department which states the qualified company's intent to hire new
61 jobs and request benefits under this program;

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

64 (18) "Program", the Missouri quality jobs program provided in sections 620.1875 to
65 620.1890;

66 (19) "Project facility", the building used by a qualified company at which the new jobs
67 and new investment will be located. A project facility may include separate buildings that are
68 located within one mile of each other such that their purpose and operations are interrelated;

69 (20) "Project facility base employment", **the greater of the number of full-time**
70 **employees located at the project facility on the date the notice of intent or** for the
71 twelve-month period prior to the date of the [proposal] **notice of intent**, the average number of
72 full-time [equivalent] employees located at the project facility. In the event the project facility
73 has not been in operation for a full twelve-month period, [project facility base employment is]
74 the average number of full-time [equivalent] employees for the number of months the project
75 facility has been in operation prior to the date of the [proposal] **notice of intent**;

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

83 (22) "Project period", the time period that the benefits are provided to a qualified
84 company;

85 [(22) "Proposal", a document submitted by the department to the qualified company that
86 states the benefits that may be provided by this program. The effective date of such proposal
87 cannot be prior to the commencement of operations. The proposal shall not offer benefits
88 regarding any jobs created prior to its effective date unless the proposal is for a job retention
89 project;]

90 (23) "Qualified company", a firm, partnership, joint venture, association, private or
91 public corporation whether organized for profit or not, or headquarters of such entity registered
92 to do business in Missouri that is the owner or operator of a project facility, **offers health**
93 **insurance to all full-time employees of all facilities located in this state, and pays at least**

94 **fifty percent of such insurance premiums.** For the purposes of sections 620.1875 to 620.1890,
95 the term "qualified company" shall not include:

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

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

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

99 (d) [Utilities regulated by the Missouri public service commission] **Utility services,**
100 **including but not limited to electric, gas, water, sewer, cable, and telephone;**

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 [or]

104 (f) Any company that has filed for or has publicly announced its intention to file for
105 bankruptcy protection;

106 (g) **Educational services (NAIC sector 61);**

107 (h) **Religious organizations (NAIC industry group 8131); or**

108 (i) **Public administration (NAIC sector 92);**

109 (24) "Related company" means:

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

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

113 (c) Corporations, partnerships, trusts or associations controlled by an individual,
114 corporation, partnership, trust or association in control of the qualified company. As used in this
115 subdivision, ["control of a corporation["] shall mean ownership, directly or indirectly, of stock
116 possessing at least fifty percent of the total combined voting power of all classes of stock entitled
117 to vote, ["control of a partnership or association["] shall mean ownership of at least fifty percent
118 of the capital or profits interest in such partnership or association, ["control of a trust["] shall
119 mean ownership, directly or indirectly, of at least fifty percent of the beneficial interest in the
120 principal or income of such trust, and ownership shall be determined as provided in Section 318
121 of the Internal Revenue Code of 1986, as amended;

122 (25) "Related facility", a facility operated by the qualified company or a related company
123 located in this state that is directly related to the operations of the project facility;

124 (26) "Related facility base employment", **the greater of the number of full-time**
125 **employees located at all related facilities on the date of the notice of intent or** for the
126 twelve-month period prior to the date of the [proposal] **notice of intent**, the average number of
127 full-time [equivalent] employees located at all related facilities of the qualified company or a
128 related company located in this state;

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

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

139 [(28)] (29) "Small and expanding business project", a qualified company that within two
140 years of the date of the [proposal] **approval** creates a minimum of twenty new jobs if the project
141 facility is located in a rural area or a minimum of forty new jobs if the project facility is not
142 located in a rural area and creates fewer than one hundred new jobs regardless of the location of
143 the project facility;

144 [(29)] (30) "Tax credits", tax credits issued by the department to offset the state income
145 taxes imposed by [chapter] **chapters 143 and 148**, RSMo, or which may be sold or refunded as
146 provided for in this program;

147 [(30)] (31) "Technology business project", a qualified company that within two years of
148 the date of the [proposal] **approval** creates a minimum of ten new jobs [with at least seventy-five
149 percent of the new jobs directly involved] in the operations of a technology company as
150 determined by a regulation promulgated by the department under the provisions of section
151 620.1884 [and] **or** classified by NAICS codes;

152 [(31)] (32) "Withholding tax", the state tax imposed by sections 143.191 to 143.265,
153 RSMo. **For purposes of this program, the withholding tax shall be computed using a**
154 **schedule as determined 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 [a proposal] **an approval** or a rejection
3 of the notice of intent. Failure to respond on behalf of the department of economic development
4 shall result in the notice of intent being deemed [a proposal] **an approval** for the purposes of this
5 section. A qualified company who is provided [a proposal] **an approval** for a project shall be
6 allowed a benefit as provided in this program in the amount and duration provided in this
7 section. A qualified company may receive additional periods for subsequent new jobs at the
8 same facility after the full initial period if the minimum thresholds are met as set forth in sections
9 620.1875 to 620.1890. There is no limit on the number of periods a qualified company may
10 participate in the program, as long as the minimum thresholds are achieved and the qualified

11 company provides the department with the required reporting and is in proper compliance for this
12 program or other state programs. A qualified company may elect to file a notice of intent to start
13 a new project period concurrent with an existing project period if the minimum thresholds are
14 achieved and the qualified company provides the department with the required reporting and is
15 in proper compliance for this program and other state programs; however, the qualified company
16 may not receive any further benefit under the original [proposal] **approval** for jobs created after
17 the date of the new notice of intent, and any jobs created before the new notice of intent may not
18 be included as new jobs for the purpose of benefit calculation in relation to the new [proposal]
19 **approval**.

20 2. Notwithstanding any provision of law to the contrary, any qualified company that is
21 awarded benefits under this program may not [also] **simultaneously** receive tax credits or
22 exemptions under sections 135.100 to 135.150, sections 135.200 to 135.286, section 135.535,
23 or sections 135.900 to 135.906, RSMo, [for the same new jobs] at the **same** project facility. The
24 benefits available to the company under any other state programs for which the company is
25 eligible and which utilize withholding tax from the new jobs of the company must first be
26 credited to the other state program before the withholding retention level applicable under the
27 Missouri quality jobs act will begin to accrue. These other state programs include, but are not
28 limited to, the new jobs training program under sections 178.892 to 178.896, RSMo, the job
29 retention program under sections 178.760 to 178.764, RSMo, the real property tax increment
30 allocation redevelopment act, sections 99.800 to 99.865, RSMo, or the Missouri downtown and
31 rural economic stimulus act under sections 99.915 to 99.980, RSMo. If any qualified company
32 also participates in the new jobs training program in sections 178.892 to 178.896, RSMo, the
33 company shall retain no withholding tax, but the department shall issue a refundable tax credit
34 for the full amount of benefit allowed under this subdivision. **The calendar year annual**
35 **maximum amount of tax credits may be issued to a qualifying company that also**
36 **participates in the new job training program shall be increased by an amount equivalent**
37 **to the withholding tax retained by that company under the new jobs training program.**
38 **However, if the combined benefits of the quality jobs training program and the new jobs**
39 **training program exceed the projected state benefit of the project, as determined by the**
40 **department of economic development through a cost-benefit analysis, the increase in the**
41 **maximum tax credits shall be limited to the amount that would not cause the combined**
42 **benefits to exceed the projected state benefit.**

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

44 (1) Small and expanding business projects: in exchange for the consideration provided
45 by the new tax revenues and other economic [stimulus] **stimuli** that will be generated by the new
46 jobs created by the program, a qualified company may retain an amount equal to the withholding

47 tax **as calculated under subdivision (32) of section 620.1878** from the new jobs that would
48 otherwise be withheld and remitted by the qualified company under the provisions of sections
49 143.191 to 143.265, RSMo, for a period of three years from the date the required number of new
50 jobs were created if the average wage of the new payroll equals or exceeds the county average
51 wage or for a period of five years from the date the required number of new jobs were created
52 if the average wage of the new payroll equals or exceeds one hundred twenty percent of the
53 county average wage;

54 (2) Technology business projects: in exchange for the consideration provided by the new
55 tax revenues and other economic [stimulus] **stimuli** that will be generated by the new jobs
56 created by the program, a qualified company may retain an amount equal to a maximum of five
57 percent of new payroll for a period of five years from the date the required number of jobs were
58 created from the withholding tax of the new jobs that would otherwise be withheld and remitted
59 by the qualified company under the provisions of sections 143.191 to 143.265, RSMo, if the
60 average wage of the new payroll equals or exceeds the county average wage. An additional
61 one-half percent of new payroll may be added to the five percent maximum if the average wage
62 of the new payroll in any year exceeds one hundred twenty percent of the county average wage
63 in the county in which the project facility is located, plus an additional one-half percent of new
64 payroll may be added if the average wage of the new payroll in any year exceeds one hundred
65 forty percent of the average wage in the county in which the project facility is located. The
66 department shall issue a refundable tax credit for any difference between the amount of benefit
67 allowed under this subdivision and the amount of withholding tax retained by the company, in
68 the event the withholding tax is not sufficient to provide the entire amount of benefit due to the
69 qualified company under this subdivision. The calendar year annual maximum amount of tax
70 credits that may be issued to any qualified company for a project or combination of projects is
71 five hundred thousand dollars;

72 (3) High impact projects: in exchange for the consideration provided by the new tax
73 revenues and other economic [stimulus] **stimuli** that will be generated by the new jobs created
74 by the program, a qualified company may retain an amount from the withholding tax of the new
75 jobs that would otherwise be withheld and remitted by the qualified company under the
76 provisions of sections 143.191 to 143.265, RSMo, equal to three percent of new payroll for a
77 period of five years from the date the required number of jobs were created if the average wage
78 of the new payroll equals or exceeds the county average wage of the county in which the project
79 facility is located. The percentage of payroll allowed under this subdivision shall be three and
80 one-half percent of new payroll if the average wage of the new payroll in any year exceeds one
81 hundred twenty percent of the county average wage in the county in which the project facility is
82 located. The percentage of payroll allowed under this subdivision shall be four percent of new

83 payroll if the average wage of the new payroll in any year exceeds one hundred forty percent of
84 the county average wage in the county in which the project facility is located. An additional one
85 percent of new payroll may be added to these percentages if local incentives equal between ten
86 percent and twenty-four percent of the new direct local revenue; an additional two percent of new
87 payroll is added to these percentages if the local incentives equal between twenty-five percent
88 and forty-nine percent of the new direct local revenue; or an additional three percent of payroll
89 is added to these percentages if the local incentives equal fifty percent or more of the new direct
90 local revenue. The department shall issue a refundable tax credit for any difference between the
91 amount of benefit allowed under this subdivision and the amount of withholding tax retained by
92 the company, in the event the withholding tax is not sufficient to provide the entire amount of
93 benefit due to the qualified company under this subdivision. The calendar year annual maximum
94 amount of tax credits that may be issued to any qualified company for a project or combination
95 of projects is seven hundred fifty thousand dollars. The calendar year annual maximum amount
96 of tax credit that may be issued to any qualified company for a project or combination of projects
97 may be increased up to one million dollars **if the number of new jobs will exceed five hundred**
98 **and** if such action is proposed by the department and approved by the quality jobs advisory task
99 force established in section 620.1887; provided, however, until such time as the initial at-large
100 members of the quality jobs advisory task force are appointed, this determination shall be made
101 by the director of the department of economic development. In considering such a request, the
102 task force shall rely on economic modeling and other information supplied by the department
103 when requesting the increased limit on behalf of the project;

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

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

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

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

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

124 (e) The local taxing entities shall provide local incentives of at least fifty percent of the
125 new direct local revenues created by the project over a ten-year period.

126

127 The quality jobs advisory task force may recommend to the department of economic
128 development that appropriate penalties be applied to the company for violating the agreement.
129 The amount of the job retention credit granted may be equal to up to fifty percent of the amount
130 of withholding tax generated by the full-time[, year-round] jobs at the project facility for a period
131 of five years. The calendar year annual maximum amount of tax credit that may be issued to any
132 qualified company for a job retention project or combination of job retention projects shall be
133 seven hundred fifty thousand dollars per year, but the maximum amount may be increased up to
134 one million dollars if such action is proposed by the department and approved by the quality jobs
135 advisory task force established in section 620.1887; provided, however, until such time as the
136 initial at-large members of the quality jobs advisory task force are appointed, this determination
137 shall be made by the director of the department of economic development. In considering such
138 a request, the task force shall rely on economic modeling and other information supplied by the
139 department when requesting the increased limit on behalf of the job retention project. In no
140 event shall the total amount of all tax credits issued for the entire job retention program under
141 this subdivision exceed three million dollars annually. Notwithstanding the above, no tax credits
142 shall be issued for job retention projects approved by the department after August 30, 2007.

143 4. The qualified company shall provide an annual report of the number of jobs and such
144 other information as may be required by the department to document the basis for the benefits
145 of this program. The department may withhold the approval of any benefits until it is satisfied
146 that proper documentation has been provided, and shall reduce the benefits to reflect any
147 reduction in full-time[, year-round] employees **or new payroll. Upon approval by the**
148 **department, the qualified company may begin the retention of the withholding taxes when**
149 **it reaches the minimum number of new jobs and the average wage exceeds the county**
150 **average wage. Tax credits, if any, may be issued upon satisfaction by the department that**
151 **the qualified company has exceeded the county average wage and the minimum number**
152 **of new jobs. In such annual report, if the average wage is below the county average wage,**
153 **the qualified company has not maintained the employee insurance as required, or if the**
154 **number of new jobs is below the minimum, the qualified company shall not receive tax**

155 **credits or retain the withholding tax for the balance of the benefit period. In the case of**
156 **a qualified company that initially filed a notice of intent and received an approval from the**
157 **department for high impact benefits and the minimum number of new jobs in an annual**
158 **report is below the minimum for high impact projects, the company shall not receive tax**
159 **credits for the balance of the benefit period but may continue to retain the withholding**
160 **taxes if it otherwise meets the requirements of a small and expanding business under this**
161 **program.**

162 5. [The maximum calendar year annual tax credits issued for the entire program shall not
163 exceed twelve million dollars. Notwithstanding any provision of law to the contrary, the
164 maximum annual tax credits authorized under section 135.535, RSMo, are hereby reduced from
165 ten million dollars to eight million dollars, with the balance of two million dollars transferred
166 to this program. There shall be no limit on the amount of withholding taxes that may be retained
167 by approved companies under this program.] **There shall be no limit on the amount of**
168 **withholding taxes that may be retained by approved companies under this program.**

169 6. The department shall allocate the annual tax credits based on the date of the [proposal]
170 **approval**, reserving such tax credits based on the department's best estimate of new jobs and
171 new payroll of the project, and the other factors in the determination of benefits of this program.
172 However, the annual issuance of tax credits is subject to the annual verification of the actual new
173 payroll. The allocation of tax credits for the period assigned to a project shall expire if, within
174 two years from the date of commencement of operations, or [proposal] **approval** if applicable,
175 the minimum thresholds have not been achieved. The qualified company may retain authorized
176 amounts from the withholding tax under this section once the minimum new jobs thresholds are
177 met for the duration of the project period. No benefits shall be provided under this program until
178 the qualified company meets the minimum new jobs thresholds. In the event the qualified
179 company does not meet the minimum new job threshold, the qualified company may submit a
180 new notice of intent or the department may provide a new [proposal] **approval** for a new project
181 of the qualified company at the project facility or other facilities.

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

185 8. Tax credits may be claimed against taxes otherwise imposed by chapters 143 and 148,
186 RSMo, and may not be carried forward but shall be claimed within one year of the close of the
187 taxable year for which they were issued.

188 9. Tax credits authorized by this section may be transferred, sold, or assigned by filing
189 a notarized endorsement thereof with the department that names the transferee, the amount of

190 tax credit transferred, and the value received for the credit, as well as any other information
191 reasonably requested by the department.

192 **10. Prior to the issuance of tax credits, the department shall verify through the**
193 **department of revenue that the tax credit applicant does not owe any delinquent income,**
194 **sales, or use tax or interest or penalties on such taxes, and through the department of**
195 **insurance that the applicant does not owe any delinquent insurance taxes. Such**
196 **delinquency shall not affect the authorization of the application for such tax credits, except**
197 **that at issuance credits shall be first applied to the delinquency and any amount issued**
198 **shall be reduced by the applicant's tax delinquency. If the department of revenue or the**
199 **department of insurance concludes that a taxpayer is delinquent after June fifteenth but**
200 **before July first of any year and the application of tax credits to such delinquency causes**
201 **a tax deficiency on behalf of the taxpayer to arise, then the taxpayer shall be granted thirty**
202 **days to satisfy the deficiency in which interest, penalties, and additions to tax shall be**
203 **tolled. After applying all available credits toward a tax delinquency, the administering**
204 **agency shall notify the appropriate department and that department shall update the**
205 **amount of outstanding delinquent tax owed by the applicant. If any credits remain after**
206 **satisfying all insurance, income, sales, and use tax delinquencies, the remaining credits**
207 **shall be issued to the applicant, subject to the restrictions of other provisions of law.**

208 **11.** The director of revenue shall issue a refund to the qualified company to the extent
209 that the amount of credits allowed in this section exceeds the amount of the qualified company's
210 income tax.

211 [11.] **12.** An employee of a qualified company will receive full credit for the amount of
212 tax withheld as provided in section [143.221] **143.211**, RSMo.

213 [12.] **13.** If any provision of sections 620.1875 to 620.1890 or application thereof to any
214 person or circumstance is held invalid, the invalidity shall not affect other provisions or
215 application of these sections which can be given effect without the invalid provisions or
216 application, and to this end, the provisions of sections 620.1875 to 620.1890 are hereby declared
217 severable.

✓