

HOUSE _____ **AMENDMENT NO.** _____

Offered By

1 AMEND House Bill No. 1718, Page 7, Section 135.1220, Line 214, by inserting after all of said
2 section and line, the following:

3
4 "620.1878. For the purposes of sections 620.1875 to 620.1890, the following terms shall
5 mean:

6 (1) "Approval", a document submitted by the department to the qualified company that
7 states the benefits that may be provided by this program;

8 (2) "Average wage", the new payroll divided by the number of new jobs;

9 (3) "Commencement of operations", the starting date for the qualified company's first new
10 employee, which must be no later than twelve months from the date of the approval;

11 (4) "County average wage", the average wages in each county as determined by the
12 department for the most recently completed full calendar year. However, if the computed county
13 average wage is above the statewide average wage, the statewide average wage shall be deemed
14 the county average wage for such county for the purpose of determining eligibility. The
15 department shall publish the county average wage for each county at least annually.

16 Notwithstanding the provisions of this subdivision to the contrary, for any qualified company that
17 in conjunction with their project is relocating employees from a Missouri county with a higher
18 county average wage, the company shall obtain the endorsement of the governing body of the
19 community from which jobs are being relocated or the county average wage for their project shall
20 be the county average wage for the county from which the employees are being relocated;

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

22 (6) "Director", the director of the department of economic development;

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

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

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

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

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

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

14 (13) "New capital investment", shall include costs incurred by the qualified company at
15 the project facility after acceptance by the qualified company of the proposal for benefits from the
16 department or the approval of the notice of intent, whichever occurs first, for real or personal
17 property, and may include the value of finance or capital leases for real or personal property for
18 the term of such lease at the project facility executed after acceptance by the qualified company of
19 the proposal for benefits from the department or approval of the notice of intent;

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

22 [(14)] (15) "New job", the number of full-time employees located at the project facility
23 that exceeds the project facility base employment less any decrease in the number of full-time
24 employees at related facilities below the related facility base employment. No job that was
25 created prior to the date of the notice of intent shall be deemed a new job. An employee that
26 spends less than fifty percent of the employee's work time at the facility is still considered to be
27 located at a facility if the employee receives his or her directions and control from that facility, is
28 on the facility's payroll, one hundred percent of the employee's income from such employment is
29 Missouri income, and the employee is paid at or above the state average wage;

30 [(15)] (16) "New payroll", the amount of taxable wages of full-time employees, excluding
31 owners, located at the project facility that exceeds the project facility base payroll. If full-time
32 employment at related facilities is below the related facility base employment, any decrease in
33 payroll for full-time employees at the related facilities below that related facility base payroll shall
34 also be subtracted to determine new payroll;

35 [(16)] (17) "Notice of intent", a form developed by the department, completed by the
36 qualified company and submitted to the department which states the qualified company's intent to

1 hire new jobs and request benefits under this program;

2 [(17)] (18) "Percent of local incentives", the amount of local incentives divided by the
3 amount of new direct local revenue;

4 [(18)] (19) "Program", the Missouri quality jobs program provided in sections 620.1875 to
5 620.1890;

6 [(19)] (20) "Project facility", the building used by a qualified company at which the new
7 jobs and new investment will be located. A project facility may include separate buildings that
8 are located within fifteen miles of each other or within the same county such that their purpose
9 and operations are interrelated;

10 [(20)] (21) "Project facility base employment", the greater of the number of full-time
11 employees located at the project facility on the date of the notice of intent or for the twelve-month
12 period prior to the date of the notice of intent, the average number of full-time employees located
13 at the project facility. In the event the project facility has not been in operation for a full
14 twelve-month period, the average number of full-time employees for the number of months the
15 project facility has been in operation prior to the date of the notice of intent;

16 [(21)] (22) "Project facility base payroll", the total amount of taxable wages paid by the
17 qualified company to full-time employees of the qualified company located at the project facility
18 in the twelve months prior to the notice of intent, not including the payroll of the owners of the
19 qualified company unless the qualified company is participating in an employee stock ownership
20 plan. For purposes of calculating the benefits under this program, the amount of base payroll shall
21 increase each year based on an appropriate measure, as determined by the department;

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

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

26 [(23)] (25) "Qualified company", a firm, partnership, joint venture, association, private or
27 public corporation whether organized for profit or not, or headquarters of such entity registered to
28 do business in Missouri that is the owner or operator of a project facility, offers health insurance
29 to all full-time employees of all facilities located in this state, and pays at least fifty percent of
30 such insurance premiums. For the purposes of sections 620.1875 to 620.1890, the term "qualified
31 company" shall not include:

- 32 (a) Gambling establishments (NAICS industry group 7132);
- 33 (b) Retail trade establishments (NAICS sectors 44 and 45);
- 34 (c) Food and drinking places (NAICS subsector 722);
- 35 (d) Public utilities (NAICS 221 including water and sewer services);
- 36 (e) Any company that is delinquent in the payment of any nonprotested taxes or any other

1 amounts due the state or federal government or any other political subdivision of this state;

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

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

7 b. After its bankruptcy petition has been filed, it produces proof, in a form and at times
8 satisfactory to the department, that it is not delinquent in filing any tax returns or making any
9 payment due to the state of Missouri, including but not limited to all tax payments due after the
10 filing of the bankruptcy petition and under the terms of the plan of reorganization. Any taxpayer
11 who is awarded benefits under this subsection and who files for bankruptcy under Chapter 7 of the
12 United States Bankruptcy Code, Title 11 U.S.C., shall immediately notify the department and
13 shall forfeit such benefits and shall repay the state an amount equal to any state tax credits already
14 redeemed and any withholding taxes already retained;

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

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

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

18 (j) Ethanol distillation or production; or

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

25 [(24)] (26) "Qualified renewable energy sources" shall not be construed to include ethanol
26 distillation or production or biodiesel production; however, it shall include:

27 (a) Open-looped biomass;

28 (b) Close-looped biomass;

29 (c) Solar;

30 (d) Wind;

31 (e) Geothermal; and

32 (f) Hydropower;

33 [(25)] (27) "Related company" means:

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

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

1 (c) Corporations, partnerships, trusts or associations controlled by an individual,
2 corporation, partnership, trust or association in control of the qualified company. As used in this
3 subdivision, "control of a corporation" shall mean ownership, directly or indirectly, of stock
4 possessing at least fifty percent of the total combined voting power of all classes of stock entitled
5 to vote, "control of a partnership or association" shall mean ownership of at least fifty percent of
6 the capital or profits interest in such partnership or association, "control of a trust" shall mean
7 ownership, directly or indirectly, of at least fifty percent of the beneficial interest in the principal
8 or income of such trust, and ownership shall be determined as provided in Section 318 of the
9 Internal Revenue Code of 1986, as amended;

10 [(26)] (28) "Related facility", a facility operated by the qualified company or a related
11 company located in this state that is directly related to the operations of the project facility;

12 [(27)] (29) "Related facility base employment", the greater of the number of full-time
13 employees located at all related facilities on the date of the notice of intent or for the
14 twelve-month period prior to the date of the notice of intent, the average number of full-time
15 employees located at all related facilities of the qualified company or a related company located in
16 this state;

17 [(28)] (30) "Related facility base payroll", the total amount of taxable wages paid by the
18 qualified company to full-time employees of the qualified company located at a related facility in
19 the twelve months prior to the filing of the notice of intent, not including the payroll of the owners
20 of the qualified company unless the qualified company is participating in an employee stock
21 ownership plan. For purposes of calculating the benefits under this program, the amount of
22 related facility base payroll shall increase each year based on an appropriate measure, as
23 determined by the department;

24 [(29)] (31) "Rural area", a county in Missouri with a population less than seventy-five
25 thousand or that does not contain an individual city with a population greater than fifty thousand
26 according to the most recent federal decennial census;

27 [(30)] (32) "Small and expanding business project", a qualified company that within two
28 years of the date of the approval creates a minimum of twenty new jobs if the project facility is
29 located in a rural area or a minimum of forty new jobs if the project facility is not located in a
30 rural area and creates fewer than one hundred new jobs regardless of the location of the project
31 facility;

32 [(31)] (33) "Tax credits", tax credits issued by the department to offset the state income
33 taxes imposed by chapters 143 and 148, or which may be sold or refunded as provided for in this
34 program;

35 [(32)] (34) "Technology business project", a qualified company that within two years of
36 the date of the approval creates a minimum of ten new jobs involved in the operations of a

1 company:

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

4 (b) Which owns or leases a facility which produces electricity derived from qualified
5 renewable energy sources, or produces fuel for the generation of electricity from qualified
6 renewable energy sources, but does not include any company that has received the alcohol mixture
7 credit, alcohol credit, or small ethanol producer credit pursuant to 26 U.S.C. Section 40 of the tax
8 code in the previous tax year;

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

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

13 [(33)] (35) "Withholding tax", the state tax imposed by sections 143.191 to 143.265. For
14 purposes of this program, the withholding tax shall be computed using a schedule as determined
15 by the department based on average wages.

16 620.1881. 1. The department of economic development shall respond within thirty days
17 to a company who provides a notice of intent with either an approval or a rejection of the notice of
18 intent. The department shall give preference to qualified companies and projects targeted at an
19 area of the state which has recently been classified as a disaster area by the federal government.
20 Failure to respond on behalf of the department of economic development shall result in the notice
21 of intent being deemed an approval for the purposes of this section. A qualified company who is
22 provided an approval for a project shall be allowed a benefit as provided in this program in the
23 amount and duration provided in this section. A qualified company may receive additional
24 periods for subsequent new jobs at the same facility after the full initial period if the minimum
25 thresholds are met as set forth in sections 620.1875 to 620.1890. There is no limit on the number
26 of periods a qualified company may participate in the program, as long as the minimum thresholds
27 are achieved and the qualified company provides the department with the required reporting and is
28 in proper compliance for this program or other state programs. A qualified company may elect to
29 file a notice of intent to start a new project period concurrent with an existing project period if the
30 minimum thresholds are achieved and the qualified company provides the department with the
31 required reporting and is in proper compliance for this program and other state programs;
32 however, the qualified company may not receive any further benefit under the original approval
33 for jobs created after the date of the new notice of intent, and any jobs created before the new
34 notice of intent may not be included as new jobs for the purpose of benefit calculation in relation
35 to the new approval. When a qualified company has filed and received approval of a notice of
36 intent and subsequently files another notice of intent, the department shall apply the definition of

1 project facility under subdivision [(19)] (20) of section 620.1878 to the new notice of intent as
2 well as all previously approved notices of intent and shall determine the application of the
3 definitions of new job, new payroll, project facility base employment, and project facility base
4 payroll accordingly.

5 2. Notwithstanding any provision of law to the contrary, any qualified company that is
6 awarded benefits under this program may not simultaneously receive tax credits or exemptions
7 under sections 135.100 to 135.150, sections 135.200 to 135.286, section 135.535, or sections
8 135.900 to 135.906 at the same project facility. The benefits available to the company under any
9 other state programs for which the company is eligible and which utilize withholding tax from the
10 new jobs of the company must first be credited to the other state program before the withholding
11 retention level applicable under the Missouri quality jobs act will begin to accrue. These other
12 state programs include, but are not limited to, the new jobs training program under sections
13 178.892 to 178.896, the job retention program under sections 178.760 to 178.764, the real
14 property tax increment allocation redevelopment act, sections 99.800 to 99.865, or the Missouri
15 downtown and rural economic stimulus act under sections 99.915 to 99.980. If any qualified
16 company also participates in the new jobs training program in sections 178.892 to 178.896, the
17 company shall retain no withholding tax, but the department shall issue a refundable tax credit for
18 the full amount of benefit allowed under this [subdivision] subsection. The calendar year annual
19 maximum amount of tax credits which may be issued to a qualifying company that also
20 participates in the new job training program shall be increased by an amount equivalent to the
21 withholding tax retained by that company under the new jobs training program. However, if the
22 combined benefits of the quality jobs program and the new jobs training program exceed the
23 projected state benefit of the project, as determined by the department of economic development
24 through a cost-benefit analysis, the increase in the maximum tax credits shall be limited to the
25 amount that would not cause the combined benefits to exceed the projected state benefit. Any
26 taxpayer who is awarded benefits under this program who knowingly hires individuals who are
27 not allowed to work legally in the United States shall immediately forfeit such benefits and shall
28 repay the state an amount equal to any state tax credits already redeemed and any withholding
29 taxes already retained.

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

31 (1) Small and expanding business projects: in exchange for the consideration provided by
32 the new tax revenues and other economic stimuli that will be generated by the new jobs created by
33 the program, a qualified company may retain an amount equal to the withholding tax as calculated
34 under subdivision [(33)] (35) of section 620.1878 from the new jobs that would otherwise be
35 withheld and remitted by the qualified company under the provisions of sections 143.191 to
36 143.265 for a period of three years from the date the required number of new jobs were created if

1 the average wage of the new payroll equals or exceeds the county average wage or for a period of
2 five years from the date the required number of new jobs were created if the average wage of the
3 new payroll equals or exceeds one hundred twenty percent of the county average wage;

4 (2) Technology business projects: in exchange for the consideration provided by the new
5 tax revenues and other economic stimuli that will be generated by the new jobs created by the
6 program, a qualified company may retain an amount equal to a maximum of five percent of new
7 payroll for a period of five years from the date the required number of jobs were created from the
8 withholding tax of the new jobs that would otherwise be withheld and remitted by the qualified
9 company under the provisions of sections 143.191 to 143.265 if the average wage of the new
10 payroll equals or exceeds the county average wage. An additional one-half percent of new payroll
11 may be added to the five percent maximum if the average wage of the new payroll in any year
12 exceeds one hundred twenty percent of the county average wage in the county in which the project
13 facility is located, plus an additional one-half percent of new payroll may be added if the average
14 wage of the new payroll in any year exceeds one hundred forty percent of the average wage in the
15 county in which the project facility is located. The department shall issue a refundable tax credit
16 for any difference between the amount of benefit allowed under this subdivision and the amount
17 of withholding tax retained by the company, in the event the withholding tax is not sufficient to
18 provide the entire amount of benefit due to the qualified company under this subdivision;

19 (3) High impact projects: in exchange for the consideration provided by the new tax
20 revenues and other economic stimuli that will be generated by the new jobs created by the
21 program, a qualified company may retain an amount from the withholding tax of the new jobs that
22 would otherwise be withheld and remitted by the qualified company under the provisions of
23 sections 143.191 to 143.265, equal to three percent of new payroll for a period of five years from
24 the date the required number of jobs were created if the average wage of the new payroll equals or
25 exceeds the county average wage of the county in which the project facility is located. For
26 high-impact projects in a facility located within two adjacent counties, the new payroll shall equal
27 or exceed the higher county average wage of the adjacent counties. The percentage of payroll
28 allowed under this subdivision shall be three and one-half percent of new payroll if the average
29 wage of the new payroll in any year exceeds one hundred twenty percent of the county average
30 wage in the county in which the project facility is located. The percentage of payroll allowed
31 under this subdivision shall be four percent of new payroll if the average wage of the new payroll
32 in any year exceeds one hundred forty percent of the county average wage in the county in which
33 the project facility is located. An additional one percent of new payroll may be added to these
34 percentages if local incentives equal between ten percent and twenty-four percent of the new
35 direct local revenue; an additional two percent of new payroll is added to these percentages if the
36 local incentives equal between twenty-five percent and forty-nine percent of the new direct local

1 revenue; or an additional three percent of payroll is added to these percentages if the local
2 incentives equal fifty percent or more of the new direct local revenue. The department shall issue
3 a refundable tax credit for any difference between the amount of benefit allowed under this
4 subdivision and the amount of withholding tax retained by the company, in the event the
5 withholding tax is not sufficient to provide the entire amount of benefit due to the qualified
6 company under this subdivision;

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

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

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

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

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

27 (e) The local taxing entities shall provide local incentives of at least fifty percent of the
28 new direct local revenues created by the project over a ten-year period. The quality jobs advisory
29 task force may recommend to the department of economic development that appropriate penalties
30 be applied to the company for violating the agreement. The amount of the job retention credit
31 granted may be equal to up to fifty percent of the amount of withholding tax generated by the
32 full-time jobs at the project facility for a period of five years. The calendar year annual maximum
33 amount of tax credit that may be issued to any qualified company for a job retention project or
34 combination of job retention projects shall be seven hundred fifty thousand dollars per year, but
35 the maximum amount may be increased up to one million dollars if such action is proposed by the
36 department and approved by the quality jobs advisory task force established in section 620.1887;

1 provided, however, until such time as the initial at-large members of the quality jobs advisory task
2 force are appointed, this determination shall be made by the director of the department of
3 economic development. In considering such a request, the task force shall rely on economic
4 modeling and other information supplied by the department when requesting the increased limit
5 on behalf of the job retention project. In no event shall the total amount of all tax credits issued
6 for the entire job retention program under this subdivision exceed three million dollars annually.
7 Notwithstanding the above, no tax credits shall be issued for job retention projects approved by
8 the department after August 30, 2013;

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

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

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

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

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

34 (c) In awarding benefits under this subdivision, the department shall consider the
35 following factors:

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

1 b. The amount of projected net fiscal benefit to the state of the project and the period in
2 which the state would realize such net fiscal benefit;

3 c. The overall size and quality of the proposed project, including the number of new jobs,
4 new capital investment, proposed wages, growth potential of the qualified company, the potential
5 multiplier effect of the project, and similar factors;

6 d. The financial stability and creditworthiness of the qualified company;

7 e. The level of economic distress in the area;

8 f. An evaluation of the competitiveness of alternative locations for the project facility, as
9 applicable;

10 (d) Upon approval of a notice of intent to request benefits under this subdivision, the
11 department and the qualified company shall enter into a written agreement covering the applicable
12 project period. The agreement shall specify, at a minimum:

13 a. The committed number of full-time employees, payroll, and new capital investment for
14 each year during the project period;

15 b. Clawback provisions, as may be required by the department; and

16 c. Any other provisions the department may require;

17 (6) In no event shall the total amount of all benefits provided in subdivisions (5) and (7)
18 of this subsection for all qualified companies under this subdivision exceed six million dollars for
19 all fiscal years beginning on or after July 1, 2012;

20 (7) A qualified company meeting the requirements of subdivision (5) of this subsection
21 may elect a one-time issuance of tax credits in an amount not to exceed eighty percent of the
22 amount the qualified company may otherwise be eligible to retain for a period of ten years under
23 subdivision (5) of this subsection;

24 (a) In addition to satisfying each of the requirements of subdivision (5) of this subsection,
25 a qualified company requesting tax credits under this subdivision shall provide to the department,
26 prior to approval, evidence of commitments for the financing of any applicable new capital
27 investment. The new capital investment shall be made at the project facility within three years of
28 the date of approval;

29 (b) Upon approval of a notice of intent to request tax credits under this subdivision, the
30 department and the qualified company shall enter into a written agreement covering the applicable
31 project period. The agreement shall specify, at a minimum:

32 a. The committed number of jobs, payroll, and new capital investment for each year
33 during the project period;

34 b. The date or time period during which the tax credits shall be issued, which may be
35 immediately or over a period not to exceed three years from the date of approval;

36 c. Penalties, including the recapture of tax credits awarded under this subdivision, for

1 failure to satisfy the requirements provided under this subdivision and subdivision (5) of this
2 subsection; and

3 d. Any other provisions the department may require;

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

11 [(5)] (9) Small business job retention and flood survivor relief: a qualified company may
12 receive a tax credit under sections 620.1875 to 620.1890 for the retention of jobs and flood
13 survivor relief in this state for each job retained over a three-year period, provided that:

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

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

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

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

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

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

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

31 (h) In the years it receives tax credits under sections 620.1875 to 620.1890, the company
32 cumulatively invests at least two million dollars in capital improvements in facilities and
33 equipment located at such facilities that are not located within a five hundred year flood plain as
34 designated by the Federal Emergency Management Agency, and amended from time to time. The
35 amount of the small business job retention and flood survivor relief credit granted may be equal to
36 up to one hundred percent of the amount of withholding tax generated by the full-time jobs at the

1 project facility for a period of three years. The calendar year annual maximum amount of tax
2 credit that may be issued to any qualified company for a small business job retention and survivor
3 relief project shall be two hundred fifty thousand dollars per year, but the maximum amount may
4 be increased up to five hundred thousand dollars if such action is proposed by the department and
5 approved by the quality jobs advisory task force established in section 620.1887. In considering
6 such a request, the task force shall rely on economic modeling and other information supplied by
7 the department when requesting an increase in the limit on behalf of the small business job
8 retention and flood survivor relief project. In no event shall the total amount of all tax credits
9 issued for the entire small business job retention and flood survivor relief program under this
10 subdivision exceed five hundred thousand dollars annually. Notwithstanding the provisions of
11 this subdivision to the contrary, no tax credits shall be issued for small business job retention and
12 flood survivor relief projects approved by the department after August 30, 2010.

13 4. The qualified company shall provide an annual report of the number of jobs and such
14 other information as may be required by the department to document the basis for the benefits of
15 this program. The department may withhold the approval of any benefits until it is satisfied that
16 proper documentation has been provided, and shall reduce the benefits to reflect any reduction in
17 full-time employees or new payroll. Upon approval by the department, the qualified company
18 may begin the retention of the withholding taxes when it reaches the minimum number of new
19 jobs and the average wage exceeds the county average wage. Tax credits, if any, may be issued
20 upon satisfaction by the department that the qualified company has exceeded the county average
21 wage and the minimum number of new jobs. In such annual report, if the average wage is below
22 the county average wage, the qualified company has not maintained the employee insurance as
23 required, or if the number of new jobs is below the minimum, the qualified company shall not
24 receive tax credits or retain the withholding tax for the balance of the benefit period. In the case
25 of a qualified company that initially filed a notice of intent and received an approval from the
26 department for high-impact benefits and the minimum number of new jobs in an annual report is
27 below the minimum for high-impact projects, the company shall not receive tax credits for the
28 balance of the benefit period but may continue to retain the withholding taxes if it otherwise meets
29 the requirements of a small and expanding business under this program.

30 5. The maximum calendar year annual tax credits issued for the entire program shall not
31 exceed eighty million dollars, with ten million dollars reserved to be awarded under subsection 14
32 of this section. Notwithstanding any provision of law to the contrary, the maximum annual tax
33 credits authorized under section 135.535 are hereby reduced from ten million dollars to eight
34 million dollars, with the balance of two million dollars transferred to this program. There shall be
35 no limit on the amount of withholding taxes that may be retained by approved companies under
36 this program.

1 6. The department shall allocate the annual tax credits based on the date of the approval,
2 reserving such tax credits based on the department's best estimate of new jobs and new payroll of
3 the project, and the other factors in the determination of benefits of this program. However, the
4 annual issuance of tax credits is subject to the annual verification of the actual new payroll. The
5 allocation of tax credits for the period assigned to a project shall expire if, within two years from
6 the date of commencement of operations, or approval if applicable, the minimum thresholds have
7 not been achieved. The qualified company may retain authorized amounts from the withholding
8 tax under this section once the minimum new jobs thresholds are met for the duration of the
9 project period. No benefits shall be provided under this program until the qualified company
10 meets the minimum new jobs thresholds. In the event the qualified company does not meet the
11 minimum new job threshold, the qualified company may submit a new notice of intent or the
12 department may provide a new approval for a new project of the qualified company at the project
13 facility or other facilities.

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

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

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

25 10. Prior to the issuance of tax credits, the department shall verify through the department
26 of revenue, or any other state department, that the tax credit applicant does not owe any delinquent
27 income, sales, or use tax or interest or penalties on such taxes, or any delinquent fees or
28 assessments levied by any state department and through the department of insurance, financial
29 institutions and professional registration that the applicant does not owe any delinquent insurance
30 taxes. Such delinquency shall not affect the authorization of the application for such tax credits,
31 except that at issuance credits shall be first applied to the delinquency and any amount issued shall
32 be reduced by the applicant's tax delinquency. If the department of revenue or the department of
33 insurance, financial institutions and professional registration, or any other state department,
34 concludes that a taxpayer is delinquent after June fifteenth but before July first of any year and the
35 application of tax credits to such delinquency causes a tax deficiency on behalf of the taxpayer to
36 arise, then the taxpayer shall be granted thirty days to satisfy the deficiency in which interest,

1 penalties, and additions to tax shall be tolled. After applying all available credits toward a tax
2 delinquency, the administering agency shall notify the appropriate department and that department
3 shall update the amount of outstanding delinquent tax owed by the applicant. If any credits
4 remain after satisfying all insurance, income, sales, and use tax delinquencies, the remaining
5 credits shall be issued to the applicant, subject to the restrictions of other provisions of law.

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

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

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

15 14. For each calendar year beginning on or after January 1, 2013, but ending on or before
16 December 31, 2014, in lieu of all other benefits available under this program, the department may
17 authorize a qualified company meeting the requirements of this subsection and subsection 3 of
18 this section to be issued tax credits in an amount not to exceed seven percent of new payroll from
19 the new jobs created projected over a period of five years from the date the required number of
20 new jobs are to be created, or, if the qualified company is in a targeted industry identified by the
21 department by rule following a strategic planning process as being critical to the state's economic
22 security and growth, the department may authorize tax credits in an amount not to exceed nine
23 percent of new payroll from the new jobs created, projected over a period of five years. The
24 amount of benefits awarded to a qualified company under this section shall not exceed the
25 projected net fiscal benefit to the state over a ten year period, as determined by the department,
26 and may not exceed the least amount necessary to obtain the qualified company's commitment to
27 initiate the project. In no event shall the tax credits authorized under this subsection exceed ten
28 million dollars annually.

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

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

35 (3) Upon approval of a notice of intent to receive tax credits under this subsection, the
36 department and the qualified company shall enter into a written agreement covering the applicable

1 project period containing detailed performance requirements and repayment penalties in event of
2 nonperformance. The agreement shall specify, at a minimum:

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

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

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

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

10 (4) The following clawback provisions shall apply to any benefits awarded under this
11 subsection:

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

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

28 (c) If the qualified company fails to meet its payroll commitment for any year during the
29 project period, it shall refund to the state a portion of its total benefit received under this section
30 based on the following formula: the total amount of tax credits received by the qualified
31 company, divided by the number of years during the project period, and multiplied by a fraction,
32 the numerator of which is the contractually agreed-upon amount of payroll for that year minus the
33 actual amount of payroll made by the company during the year, and the denominator of which is
34 the contractually agreed upon amount of payroll made for that same year. In addition to the
35 refund, the qualified company shall pay interest of nine percent per annum from the date the tax
36 credits were issued on the amount of the refund;

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

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

15
16 Further amend said bill by amending the title, enacting clause, and intersectional references
17 accordingly.