

HOUSE _____ **AMENDMENT NO.** _____

Offered By

1 AMEND House Bill No. 1455, Page 2, Section 620.478, Line 24, by inserting immediately after
2 said Line the following:

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

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

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

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

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

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

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

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

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

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

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

31 (11) "NAICS", the 1997 edition of the North American Industry Classification System as

1 prepared by the Executive Office of the President, Office of Management and Budget. Any NAICS
2 sector, subsector, industry group or industry identified in this section shall include its corresponding
3 classification in subsequent federal industry classification systems;

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

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

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

17 [(14)] (15) "New job", the number of full-time employees located at the project facility that
18 exceeds the project facility base employment less any decrease in the number of full-time employees at
19 related facilities below the related facility base employment. No job that was created prior to the date of
20 the notice of intent shall be deemed a new job. An employee that spends less than fifty percent of the
21 employee's work time at the facility is still considered to be located at a facility if the employee receives
22 his or her directions and control from that facility, is on the facility's payroll, one hundred percent of the
23 employee's income from such employment is Missouri income, and the employee is paid at or above the
24 state average wage;

25 [(15)] (16) "New payroll", the amount of taxable wages of full-time employees, excluding
26 owners, located at the project facility that exceeds the project facility base payroll. If full-time
27 employment at related facilities is below the related facility base employment, any decrease in payroll for
28 full-time employees at the related facilities below that related facility base payroll shall also be subtracted
29 to determine new payroll;

30 [(16)] (17) "Notice of intent", a form developed by the department, completed by the qualified
31 company and submitted to the department which states the qualified company's intent to hire new jobs and
32 request benefits under this program;

33 [(17)] (18) "Percent of local incentives", the amount of local incentives divided by the amount of
34 new direct local revenue;

35 [(18)] (19) "Program", the Missouri quality jobs program provided in sections 620.1875 to
36 620.1890;

37 [(19)] (20) "Project facility", the building used by a qualified company at which the new jobs and
38 new investment will be located. A project facility may include separate buildings that are located within
39 fifteen miles of each other or within the same county such that their purpose and operations are
40 interrelated;

1 [(20)] (21) "Project facility base employment", the greater of the number of full-time employees
2 located at the project facility on the date of the notice of intent or for the twelve-month period prior to the
3 date of the notice of intent, the average number of full-time employees located at the project facility. In
4 the event the project facility has not been in operation for a full twelve-month period, the average number
5 of full-time employees for the number of months the project facility has been in operation prior to the date
6 of the notice of intent;

7 [(21)] (22) "Project facility base payroll", the total amount of taxable wages paid by the qualified
8 company to full-time employees of the qualified company located at the project facility in the twelve
9 months prior to the notice of intent, not including the payroll of the owners of the qualified company
10 unless the qualified company is participating in an employee stock ownership plan. For purposes of
11 calculating the benefits under this program, the amount of base payroll shall increase each year based on
12 an appropriate measure, as determined by the department;

13 [(22)] (23) "Project period", the time period that the benefits are provided to a qualified company;
14 (24) "Projected net fiscal benefit", the total fiscal benefit to the state less any state benefits
15 offered to the qualified company;

16 [(23)] (25) "Qualified company", a firm, partnership, joint venture, association, private or public
17 corporation whether organized for profit or not, or headquarters of such entity registered to do business in
18 Missouri that is the owner or operator of a project facility, offers health insurance to all full-time
19 employees of all facilities located in this state, and pays at least fifty percent of such insurance premiums.
20 For the purposes of sections 620.1875 to 620.1890, the term "qualified company" shall not include:

- 21 (a) Gambling establishments (NAICS industry group 7132);
- 22 (b) Retail trade establishments (NAICS sectors 44 and 45);
- 23 (c) Food and drinking places (NAICS subsector 722);
- 24 (d) Public utilities (NAICS 221 including water and sewer services);
- 25 (e) Any company that is delinquent in the payment of any nonprotested taxes or any other
26 amounts due the state or federal government or any other political subdivision of this state;
- 27 (f) Any company that has filed for or has publicly announced its intention to file for bankruptcy
28 protection. However, a company that has filed for or has publicly announced its intention to file for
29 bankruptcy between January 1, 2009, and December 31, 2009, may be a qualified company provided that
30 such company:
 - 31 a. Certifies to the department that it plans to reorganize and not to liquidate; and
 - 32 b. After its bankruptcy petition has been filed, it produces proof, in a form and at times
33 satisfactory to the department, that it is not delinquent in filing any tax returns or making any payment due
34 to the state of Missouri, including but not limited to all tax payments due after the filing of the bankruptcy
35 petition and under the terms of the plan of reorganization. Any taxpayer who is awarded benefits under
36 this subsection and who files for bankruptcy under Chapter 7 of the United States Bankruptcy Code, Title
37 11 U.S.C., shall immediately notify the department and shall forfeit such benefits and shall repay the state
38 an amount equal to any state tax credits already redeemed and any withholding taxes already retained;
- 39 (g) Educational services (NAICS sector 61);
- 40 (h) Religious organizations (NAICS industry group 8131);

1 (i) Public administration (NAICS sector 92);
2 (j) Ethanol distillation or production; or
3 (k) Biodiesel production. Notwithstanding any provision of this section to the contrary, the
4 headquarters or administrative offices of an otherwise excluded business may qualify for benefits if the
5 offices serve a multistate territory. In the event a national, state, or regional headquarters operation is not
6 the predominant activity of a project facility, the new jobs and investment of such headquarters operation
7 is considered eligible for benefits under this section if the other requirements are satisfied;

8 [(24)] (26) "Qualified renewable energy sources" shall not be construed to include ethanol
9 distillation or production or biodiesel production; however, it shall include:

- 10 (a) Open-looped biomass;
- 11 (b) Close-looped biomass;
- 12 (c) Solar;
- 13 (d) Wind;
- 14 (e) Geothermal; and
- 15 (f) Hydropower;

16 [(25)] (27) "Related company" means:

- 17 (a) A corporation, partnership, trust, or association controlled by the qualified company;
- 18 (b) An individual, corporation, partnership, trust, or association in control of the qualified
19 company; or

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

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

30 [(27)] (29) "Related facility base employment", the greater of the number of full-time employees
31 located at all related facilities on the date of the notice of intent or for the twelve-month period prior to the
32 date of the notice of intent, the average number of full-time employees located at all related facilities of
33 the qualified company or a related company located in this state;

34 [(28)] (30) "Related facility base payroll", the total amount of taxable wages paid by the qualified
35 company to full-time employees of the qualified company located at a related facility in the twelve months
36 prior to the filing of the notice of intent, not including the payroll of the owners of the qualified company
37 unless the qualified company is participating in an employee stock ownership plan. For purposes of
38 calculating the benefits under this program, the amount of related facility base payroll shall increase each
39 year based on an appropriate measure, as determined by the department;

40 [(29)] (31) "Rural area", a county in Missouri with a population less than seventy-five thousand

1 or that does not contain an individual city with a population greater than fifty thousand according to the
2 most recent federal decennial census;

3 [(30)] (32) "Small and expanding business project", a qualified company that within two years of
4 the date of the approval creates a minimum of twenty new jobs if the project facility is located in a rural
5 area or a minimum of forty new jobs if the project facility is not located in a rural area and creates fewer
6 than one hundred new jobs regardless of the location of the project facility;

7 [(31)] (33) "Tax credits", tax credits issued by the department to offset the state income taxes
8 imposed by chapters 143 and 148, or which may be sold or refunded as provided for in this program;

9 [(32)] (34) "Technology business project", a qualified company that within two years of the date
10 of the approval creates a minimum of ten new jobs involved in the operations of a company:

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

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

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

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

21 [(33)] (35) "Withholding tax", the state tax imposed by sections 143.191 to 143.265. For
22 purposes of this program, the withholding tax shall be computed using a schedule as determined by the
23 department based on average wages.

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

1 jobs for the purpose of benefit calculation in relation to the new approval. When a qualified company has
2 filed and received approval of a notice of intent and subsequently files another notice of intent, the
3 department shall apply the definition of project facility under subdivision [(19)] (20) of section 620.1878
4 to the new notice of intent as well as all previously approved notices of intent and shall determine the
5 application of the definitions of new job, new payroll, project facility base employment, and project
6 facility base payroll accordingly.

7 2. Notwithstanding any provision of law to the contrary, any qualified company that is awarded
8 benefits under this program may not simultaneously receive tax credits or exemptions under sections
9 135.100 to 135.150, sections 135.200 to 135.286, section 135.535, or sections 135.900 to 135.906 at the
10 same project facility. The benefits available to the company under any other state programs for which the
11 company is eligible and which utilize withholding tax from the new jobs of the company must first be
12 credited to the other state program before the withholding retention level applicable under the Missouri
13 quality jobs act will begin to accrue. These other state programs include, but are not limited to, the new
14 jobs training program under sections 178.892 to 178.896, the job retention program under sections
15 178.760 to 178.764, the real property tax increment allocation redevelopment act, sections 99.800 to
16 99.865, or the Missouri downtown and rural economic stimulus act under sections 99.915 to 99.980. If
17 any qualified company also participates in the new jobs training program in sections 178.892 to 178.896,
18 the company shall retain no withholding tax, but the department shall issue a refundable tax credit for the
19 full amount of benefit allowed under this [subdivision] subsection. The calendar year annual maximum
20 amount of tax credits which may be issued to a qualifying company that also participates in the new job
21 training program shall be increased by an amount equivalent to the withholding tax retained by that
22 company under the new jobs training program. However, if the combined benefits of the quality jobs
23 program and the new jobs training program exceed the projected state benefit of the project, as determined
24 by the department of economic development through a cost-benefit analysis, the increase in the maximum
25 tax credits shall be limited to the amount that would not cause the combined benefits to exceed the
26 projected state benefit. Any taxpayer who is awarded benefits under this program who knowingly hires
27 individuals who are not allowed to work legally in the United States shall immediately forfeit such
28 benefits and shall repay the state an amount equal to any state tax credits already redeemed and any
29 withholding 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 the
32 new tax revenues and other economic stimuli that will be generated by the new jobs created by the
33 program, a qualified company may retain an amount equal to the withholding tax as calculated under
34 subdivision [(33)] (35) of section 620.1878 from the new jobs that would otherwise be withheld and
35 remitted by the qualified company under the provisions of sections 143.191 to 143.265 for a period of
36 three years from the date the required number of new jobs were created if the average wage of the new
37 payroll equals or exceeds the county average wage or for a period of five years from the date the required
38 number of new jobs were created if the average wage of the new payroll equals or exceeds one hundred
39 twenty percent of the county average wage;

40 (2) Technology business projects: in exchange for the consideration provided by the new tax

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

15 (3) High impact projects: in exchange for the consideration provided by the new tax revenues
16 and other economic stimuli that will be generated by the new jobs created by the program, a qualified
17 company may retain an amount from the withholding tax of the new jobs that would otherwise be
18 withheld and remitted by the qualified company under the provisions of sections 143.191 to 143.265,
19 equal to three percent of new payroll for a period of five years from the date the required number of jobs
20 were created if the average wage of the new payroll equals or exceeds the county average wage of the
21 county in which the project facility is located. For high-impact projects in a facility located within two
22 adjacent counties, the new payroll shall equal or exceed the higher county average wage of the adjacent
23 counties. The percentage of payroll allowed under this subdivision shall be three and one-half percent of
24 new payroll if the average wage of the new payroll in any year exceeds one hundred twenty percent of the
25 county average wage in the county in which the project facility is located. The percentage of payroll
26 allowed under this subdivision shall be four percent of new payroll if the average wage of the new payroll
27 in any year exceeds one hundred forty percent of the county average wage in the county in which the
28 project facility is located. An additional one percent of new payroll may be added to these percentages if
29 local incentives equal between ten percent and twenty-four percent of the new direct local revenue; an
30 additional two percent of new payroll is added to these percentages if the local incentives equal between
31 twenty-five percent and forty-nine percent of the new direct local revenue; or an additional three percent
32 of payroll is added to these percentages if the local incentives equal fifty percent or more of the new direct
33 local revenue. The department shall issue a refundable tax credit for any difference between the amount
34 of benefit allowed under this subdivision and the amount of withholding tax retained by the company, in
35 the event the withholding tax is not sufficient to provide the entire amount of benefit due to the qualified
36 company under this subdivision;

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

39 (a) For each of the twenty-four months preceding the year in which application for the program is
40 made the qualified company must have maintained at least one thousand full-time employees at the

1 employer's site in the state at which the jobs are based, and the average wage of such employees must
2 meet or exceed the county average wage;

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

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

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

14 (e) The local taxing entities shall provide local incentives of at least fifty percent of the new
15 direct local revenues created by the project over a ten-year period. The quality jobs advisory task force
16 may recommend to the department of economic development that appropriate penalties be applied to the
17 company for violating the agreement. The amount of the job retention credit granted may be equal to up
18 to fifty percent of the amount of withholding tax generated by the full-time jobs at the project facility for a
19 period of five years. The calendar year annual maximum amount of tax credit that may be issued to any
20 qualified company for a job retention project or combination of job retention projects shall be seven
21 hundred fifty thousand dollars per year, but the maximum amount may be increased up to one million
22 dollars if such action is proposed by the department and approved by the quality jobs advisory task force
23 established in section 620.1887; provided, however, until such time as the initial at-large members of the
24 quality jobs advisory task force are appointed, this determination shall be made by the director of the
25 department of economic development. In considering such a request, the task force shall rely on economic
26 modeling and other information supplied by the department when requesting the increased limit on behalf
27 of the job retention project. In no event shall the total amount of all tax credits issued for the entire job
28 retention program under this subdivision exceed three million dollars annually. Notwithstanding the
29 above, no tax credits shall be issued for job retention projects approved by the department after August
30 30, 2013;

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

37 (a) A qualified company meeting the requirements of this subdivision may be authorized to retain
38 an amount not to exceed one hundred percent of the withholding tax from full-time jobs that would
39 otherwise be withheld and remitted by the qualified company under the provisions of sections 143.191 to
40 143.265, for a period of ten years if the average wage of the retained jobs equals or exceeds ninety percent

1 of the county average wage. In order to receive benefits under this subdivision, a qualified company shall
2 enter into a written agreement, with the department, containing detailed performance requirements and
3 repayment penalties in the event of nonperformance. The amount of benefits awarded to a qualified
4 company under this subdivision shall not exceed the projected net fiscal benefit and shall not exceed the
5 least amount necessary to obtain the qualified company's commitment to retain the necessary number of
6 jobs and make the required new capital investment;

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

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

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

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

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

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

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

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

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

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

26 (d) Upon approval of a notice of intent to request benefits under this subdivision, the department
27 and the qualified company shall enter into a written agreement covering the applicable project period.

28 The agreement shall specify, at a minimum:

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

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

32 c. Any other provisions the department may require;

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

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

40 (a) In addition to satisfying each of the requirements of subdivision (5) of this subsection, a

1 qualified company requesting tax credits under this subdivision shall provide to the department, prior to
2 approval, evidence of commitments for the financing of any applicable new capital investment. The new
3 capital investment shall be made at the project facility within three years of the date of approval;

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

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

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

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

13 d. Any other provisions the department may require;

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

21 [(5)] (9) Small business job retention and flood survivor relief: a qualified company may receive
22 a tax credit under sections 620.1875 to 620.1890 for the retention of jobs and flood survivor relief in this
23 state for each job retained over a three-year period, provided that:

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

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

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

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

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

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

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

40 (h) In the years it receives tax credits under sections 620.1875 to 620.1890, the company

1 cumulatively invests at least two million dollars in capital improvements in facilities and equipment
2 located at such facilities that are not located within a five hundred year flood plain as designated by the
3 Federal Emergency Management Agency, and amended from time to time. The amount of the small
4 business job retention and flood survivor relief credit granted may be equal to up to one hundred percent
5 of the amount of withholding tax generated by the full-time jobs at the project facility for a period of three
6 years. The calendar year annual maximum amount of tax credit that may be issued to any qualified
7 company for a small business job retention and survivor relief project shall be two hundred fifty thousand
8 dollars per year, but the maximum amount may be increased up to five hundred thousand dollars if such
9 action is proposed by the department and approved by the quality jobs advisory task force established in
10 section 620.1887. In considering such a request, the task force shall rely on economic modeling and other
11 information supplied by the department when requesting an increase in the limit on behalf of the small
12 business job retention and flood survivor relief project. In no event shall the total amount of all tax credits
13 issued for the entire small business job retention and flood survivor relief program under this subdivision
14 exceed five hundred thousand dollars annually. Notwithstanding the provisions of this subdivision to the
15 contrary, no tax credits shall be issued for small business job retention and flood survivor relief projects
16 approved by the department after August 30, 2010.

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

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

39 6. The department shall allocate the annual tax credits based on the date of the approval,
40 reserving such tax credits based on the department's best estimate of new jobs and new payroll of the

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

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

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

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

21 10. Prior to the issuance of tax credits, the department shall verify through the department of
22 revenue, or any other state department, that the tax credit applicant does not owe any delinquent income,
23 sales, or use tax or interest or penalties on such taxes, or any delinquent fees or assessments levied by any
24 state department and through the department of insurance, financial institutions and professional
25 registration that the applicant does not owe any delinquent insurance taxes. Such delinquency shall not
26 affect the authorization of the application for such tax credits, except that at issuance credits shall be first
27 applied to the delinquency and any amount issued shall be reduced by the applicant's tax delinquency. If
28 the department of revenue or the department of insurance, financial institutions and professional
29 registration, or any other state department, concludes that a taxpayer is delinquent after June fifteenth but
30 before July first of any year and the application of tax credits to such delinquency causes a tax deficiency
31 on behalf of the taxpayer to arise, then the taxpayer shall be granted thirty days to satisfy the deficiency in
32 which interest, penalties, and additions to tax shall be tolled. After applying all available credits toward a
33 tax delinquency, the administering agency shall notify the appropriate department and that department
34 shall update the amount of outstanding delinquent tax owed by the applicant. If any credits remain after
35 satisfying all insurance, income, sales, and use tax delinquencies, the remaining credits shall be issued to
36 the applicant, subject to the restrictions of other provisions of law.

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

40 12. An employee of a qualified company will receive full credit for the amount of tax withheld as

1 provided in section 143.211.

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

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

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

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

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

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

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

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

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

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

36 (a) If a qualified company fails to meet any requirements of this section, including the applicable
37 number of new jobs created or new capital investment within two years from the date of approval of its
38 notice of intent, the qualified company shall repay the face amount of all tax credits received from the
39 department, plus interest of nine percent per annum from the date the tax credits were issued. However,
40 the director may, in his or her discretion, provide an extension up to two additional years or reduce such

1 payment, if such failure is caused by documented unforeseen events that negatively affected the
2 operations at the project facility that were not under the control of the qualified company;

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

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

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

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

31
32 Further amend said bill by amending the title, enacting clause, and intersectional references
33 accordingly.