

SECOND REGULAR SESSION

HOUSE BILL NO. 1246

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES LAUER (Sponsor), ZERR, DIEHL, TORPEY,
BROWN (116) AND LAIR (Co-sponsor).

5096L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 620.1878 and 620.1881, RSMo, and to enact in lieu thereof seven new sections relating to job development.

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

Section A. Sections 620.1878 and 620.1881, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 67.2055, 620.800, 620.803, 620.806, 620.809, 620.1878, and 620.1881, to read as follows:

67.2055. 1. As used in this section, unless the context clearly indicates otherwise, the following terms shall mean:

(1) "Facility", a location composed of real estate, buildings, fixtures, machinery, and equipment;

(2) "Municipality", any county, city, incorporated town, or village of the state;

(3) "NAICS", the 2007 edition of the North American Industry Classification System developed under the direction and guidance of the federal Office of Management and Budget. Any NAICS sector, subsector, industry group, or industry identified in this section shall include its corresponding classification in previous and subsequent federal industry classification systems;

(4) "Technology business facility", a facility purchased, constructed, extended, or improved under this section, provided that such business facility is engaged in:

(a) Wired telecommunications carriers (NAICS 517110);

(b) Data processing, hosting, and related services (NAICS 518210); or

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

15 (c) Internet publishing and broadcasting and web search portals (NAICS 519130),
16 at the business facility;

17 (5) "Technology business facility project" or "project", the purchase, construction,
18 extension, and improvement of technology business facilities, whether of the facility as a
19 whole or of any one or more of the facility's components of real estate, buildings, fixtures,
20 machinery, and equipment.

21 2. The governing body of any municipality may:

22 (1) Carry out technology business facility projects for economic development under
23 this section;

24 (2) Accept grants from the federal and state governments for technology business
25 facility project purposes, and may enter into such agreements as are not contrary to the
26 laws of this state and which may be required as a condition of grants by the federal
27 government or its agencies; and

28 (3) Receive gifts and donations from private sources to be used for technology
29 business facility project purposes.

30 3. The governing body of the municipality may enter into loan agreements, sell,
31 lease, or mortgage to private persons, partnerships, or corporations any one or more of the
32 components of a facility received, purchased, constructed, or extended by the municipality
33 for development of a technology business facility project. The loan agreement, installment
34 sale agreement, lease, or other such document shall contain such other terms as are agreed
35 upon between the municipality and the obligor, provided that such terms shall be
36 consistent with this section. When, in the judgment of the governing body of the
37 municipality, the technology business facility project will result in economic benefits to the
38 municipality, the governing body may lawfully enter into an agreement that includes
39 nominal monetary consideration to the municipality in exchange for the use of one or more
40 components of the facility.

41 4. Transactions involving the lease or rental of any components of a project under
42 this section shall be specifically exempted from the provisions of the local sales tax law as
43 defined in section 32.085, section 238.235, and sections 144.010 to 144.525 and 144.600 to
44 144.761, and from the computation of the tax levied, assessed, or payable under the local
45 sales tax law as defined in section 32.085, section 238.235, and sections 144.010 to 144.525
46 and 144.600 to 144.745.

47 5. Leasehold interests granted and held under this section shall not be subject to
48 property taxes.

49 6. Any payments in lieu of taxes expected to be made by any lessee of the project
50 shall be applied in accordance with this section. The lessee may reimburse the municipality

51 for its actual costs of administering the plan. All amounts paid in excess of such actual
52 costs shall, immediately upon receipt thereof, be disbursed by the municipality's treasurer
53 or other financial officer to each affected taxing entity in proportion to the current ad
54 valorem tax levy of each affected taxing entity.

55 7. The county assessor shall include the current assessed value of all property
56 within the affected taxing entities in the aggregate valuation of assessed property entered
57 upon the assessor's book and verified under section 137.245, and such value shall be used
58 for the purpose of the debt limitation on local government under section 26(b), article VI,
59 Constitution of Missouri.

60 8. The governing body of any municipality may sell or otherwise dispose of the
61 property, buildings, or plants acquired under this section to private persons or
62 corporations for technology business facility project purposes upon approval by the
63 governing body. The terms and method of the sale or other disposal shall be established
64 by the governing body so as to reasonably protect the economic well-being of the
65 municipality and to promote the development of technology business facility projects. A
66 private person or corporation that initially transfers property to the municipality for the
67 purposes of a technology business facility project and does not charge a purchase price to
68 the municipality shall retain the right, upon request to the municipality, to have the
69 municipality retransfer the donated property to the person or corporation at no cost.

70 9. The provisions of this section shall not be construed to allow political
71 subdivisions to provide telecommunications services or telecommunications facilities to the
72 extent that they are prohibited from doing so by section 392.410.

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

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

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

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

10 (4) "Committee", the MO jobs training joint legislative oversight committee,
11 established by the department under the provisions of section 620.803;

12 (5) "MO Jobs Training Program", the training program established under sections
13 620.800 to 620.809;

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

- 15 (7) "Employee", a person employed by a qualified company;
- 16 (8) "Full-time employee", an employee of the qualified company that is scheduled
17 to work an average of at least thirty-five hours per week for a twelve-month period, and
18 one for which the qualified company offers health insurance and pays at least fifty percent
19 of such insurance premiums;
- 20 (9) "Local education agency", a community college, two-year state technical college,
21 or a technical career education center;
- 22 (10) "New capital investment", shall include funds spent by the qualified company
23 at the project facility after the approval of the notice of intent for real or personal
24 property, and may include the present value of finance or capital leases for real or personal
25 property for the term of such lease at the project facility executed after approval of the
26 notice of intent;
- 27 (11) "New job", the number of full-time employees located at the project facility
28 that exceeds the project facility base employment less any decrease in the number of
29 full-time employees at related facilities below the related facility base employment. No job
30 that was created prior to the date of the notice of intent shall be deemed a new job. An
31 employee that spends less than fifty percent of the employee's work time at the facility is
32 still considered to be located at a facility if the employee receives his or her directions and
33 control from that facility, is on the facility's payroll, one hundred percent of the employee's
34 income from such employment is Missouri income, and the employee is paid at or above
35 the applicable percentage of the county average wage;
- 36 (12) "New jobs credit", the credit from withholding remitted by a qualified
37 company provided under subsection 6 of section 620.809;
- 38 (13) "Notice of intent", a form developed by the department, completed by the
39 qualified company and submitted to the department which states the qualified company's
40 intent to request benefits under this program;
- 41 (14) "Project facility", the building or buildings used by a qualified company at
42 which new or retained jobs and any new capital investment are or will be located. A
43 project facility may include separate buildings located within sixty miles of each other such
44 that their purpose and operations are interrelated; provided, that where the buildings
45 making up the project facility are not located within the same county, the average wage of
46 the new payroll must exceed the highest county average wage among the counties in which
47 the buildings are located. Upon approval by the department, a subsequent project facility
48 may be designated if the qualified company demonstrates a need to relocate to the
49 subsequent project facility at any time during the project period;

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

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

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

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

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

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

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

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

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

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

82

83 **Any taxpayer who is awarded benefits under this subsection and who files for bankruptcy**
84 **under Chapter 7 of the United States Bankruptcy Code, Title 11 U.S.C., as amended shall**
85 **immediately notify the department and shall forfeit such benefits and shall repay the state**

86 **an amount equal to any state tax credits already redeemed and any withholding taxes**
87 **already retained;**

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

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

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

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

92 **(k) Biodiesel production.**

93

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

100 **(17) "Related company":**

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

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

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

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

118 **(19) "Related facility base employment", the greater of the number of full-time**
119 **employees located at all related facilities on the date of the notice of intent or, for the**
120 **twelve-month period prior to the date of the notice of intent, the average number of**

121 full-time employees located at all related facilities of the qualified company or a related
122 company located in this state;

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

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

128 (22) "Targeted industry", an industry or one of a cluster of industries identified
129 by the department by rule following a strategic planning process as being critical to the
130 state's economic security and growth;

131 (23) "Training program", the MO jobs training program established under
132 sections 620.800 to 620.809;

133 (24) "Training project", the project or projects established through the MO jobs
134 training program for the creation or retention of jobs by providing education and training
135 of workers;

136 (25) "Training project costs", all necessary and incidental costs of providing
137 program services through the training program, including:

138 (a) Training materials and supplies;

139 (b) Wages and benefits of instructors, who may or may not be employed by the
140 eligible industry, and the cost of training such instructors;

141 (c) Subcontracted services;

142 (d) On-the-job training;

143 (e) Training facilities and equipment;

144 (f) Skill assessment;

145 (g) Training project and curriculum development;

146 (h) Travel directly to the training project, including a coordinated transportation
147 program for trainings if the training can be more effectively provided outside the
148 community where the jobs are to be located;

149 (i) Payments to third party training providers and to the eligible industry;

150 (j) Teaching and assistance provided by educational institutions in the state of
151 Missouri;

152 (k) In-plant training analysis, including fees for professionals and necessary travel
153 and expenses;

154 (l) Assessment and preselection tools;

155 (m) Publicity;

156 (n) Instructional services;

- 157 **(o) Rental of instructional facilities with necessary utilities; and**
158 **(p) Payment of the principal, premium, and interest on certificates, including**
159 **capitalized interest, issued to finance a project, and the funding and maintenance of a debt**
160 **service reserve fund to secure such certificates;**
- 161 **(26) "Training project services", includes, but shall not be limited to, the following:**
162 **(a) Job training, which may include, but not be limited to, preemployment training,**
163 **analysis of the specified training needs for a qualified company, development of training**
164 **plans, and provision of training through qualified training staff;**
165 **(b) Adult basic education and job-related instruction;**
166 **(c) Vocational and skill-assessment services and testing;**
167 **(d) Training facilities, equipment, materials, and supplies;**
168 **(e) On-the-job training;**
169 **(f) Administrative expenses equal to fifteen percent of the total training costs;**
170 **(g) Subcontracted services with state institutions of higher education, private**
171 **colleges or universities, or other federal, state, or local agencies;**
172 **(h) Contracted or professional services; and**
173 **(i) Issuance of certificates, when applicable.**

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

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

20 general assembly, but may receive their necessary expenses while attending the meetings
21 of the committee, to be paid out of the joint contingent fund.

22 3. The department shall publish guidelines and may promulgate rules and
23 regulations governing the training program. Any rule or portion of a rule, as that term is
24 defined in section 536.010, that is created under the authority delegated in this section shall
25 become effective only if it complies with and is subject to all of the provisions of chapter
26 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and
27 if any of the powers vested with the general assembly pursuant to chapter 536 to review,
28 to delay the effective date, or to disapprove and annul a rule are subsequently held
29 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted
30 after the effective date of this act, shall be invalid and void.

31 4. The department shall make program applications and guidelines available
32 on-line.

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

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

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

10 2. The department may provide financial assistance through the training program
11 to qualified companies that create new jobs which will result in the need for training, or
12 that make new capital investment relating directly to the retention of retained jobs in an
13 amount at least five times greater than the amount of any financial assistance. Financial
14 assistance may also be provided to a consortium of qualified companies organized for the
15 purpose of providing for common training to the consortium members' employees. Funds

16 in the MO jobs development fund shall be appropriated, for financial assistance through
17 the training program, by the general assembly to the department and shall be administered
18 by a local educational agency certified by the department for such purpose. Except for
19 state-sponsored preemployment training, no qualified company shall receive more than
20 fifty percent of its training program costs from the MO jobs development fund. No funds
21 shall be awarded or reimbursed to any qualified company for the training, retraining, or
22 upgrading of skills of potential employees with the purpose of replacing or supplanting
23 employees engaged in an authorized work stoppage. Upon approval by the department,
24 training project costs, except the purchase of training equipment and training facilities,
25 shall be eligible for reimbursement with funds from the MO jobs development fund.
26 Notwithstanding any provision of law to the contrary, no qualified company within a
27 service industry shall be eligible for assistance under this subsection unless such qualified
28 company provides services in interstate commerce, which shall mean that the qualified
29 company derives a majority of its annual revenues from out of the state.

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

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

16 All moneys remaining in the fund at the end of any fiscal year shall not lapse to the general
17 revenue fund, as provided in section 33.080, but shall remain in the fund.

18 2. The "Missouri Community College Job Retention Training Program Fund",
19 formerly established in the state treasury by section 178.764, shall now be known as the
20 "MO Jobs Community College Job Retention Training Fund", and shall be administered
21 by the department for the MO jobs training program. The department of revenue shall
22 credit to the fund, as received, all retained jobs credits. The fund shall also consist of any
23 gifts, contributions, grants, or bequests received from federal, private, or other sources.
24 The general assembly, however, shall not provide for any transfer of general revenue funds
25 into the fund. Moneys in the fund shall be disbursed to the department pursuant to
26 regular appropriations by the general assembly. The department shall disburse such
27 appropriated funds in a timely manner into the special funds established by community
28 college districts for projects, which funds shall be used to pay training program costs,
29 including the principal, premium, and interest on certificates issued by the district to
30 finance or refinance, in whole or in part, a project. Such disbursements by the department
31 shall be made to the special fund for each project in the same proportion as the retained
32 jobs credit from withholding remitted by the qualified company participating in such
33 project bears to the total retained jobs credit from withholding remitted by qualified
34 companies participating in projects during the period for which the disbursement is made.
35 All moneys remaining in the fund at the end of any fiscal year shall not lapse to the general
36 revenue fund, as provided in section 33.080, but shall remain in the fund.

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

48 4. A community college district, with the approval of the department in
49 consultation with the office of administration, may enter into an agreement to establish a
50 training project and provide training project services to a qualified company. As soon as
51 possible after initial contact between a community college district and a potential qualified

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

120 **(3) The community college district participating in a project shall establish a special**
121 **fund for and in the name of the training project. All funds appropriated by the general**
122 **assembly from the funds established under subsections 1 and 2 of this section, and**

123 **disbursed by the department for the training project and other amounts received by the**
124 **district for training project costs as required by the agreement shall be deposited in the**
125 **special fund. Amounts held in the special fund shall be used and disbursed by the district**
126 **only to pay training project costs for such training project. The special fund may be**
127 **divided into such accounts and subaccounts as shall be provided in the agreement, and**
128 **amounts held therein may be invested in the same manner as the district's other funds;**

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

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

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

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

143 **7. To provide funds for the present payment of the training project costs of new or**
144 **retained jobs training project through the training program, a community college district**
145 **may borrow money and issue and sell certificates payable from a sufficient portion of the**
146 **future receipts of payments authorized by the agreement including disbursements from the**
147 **MO jobs community college new jobs training fund or the MO jobs community college job**
148 **retention training fund, to the special fund established by the district for each project. The**
149 **total amount of outstanding certificates sold by all community college districts shall not**
150 **exceed the total amount authorized pursuant to law as of January 1, 2012, unless an**
151 **increased amount is authorized in writing by a majority of members of the committee. The**
152 **certificates shall be marketed through financial institutions authorized to do business in**
153 **Missouri. The receipts shall be pledged to the payment of principal of and interest on the**
154 **certificates. Certificates may be sold at public sale or at private sale at par, premium, or**
155 **discount of not less than ninety-five percent of the par value thereof, at the discretion of**
156 **the board of trustees, and may bear interest at such rate or rates as the board of trustees**
157 **shall determine, notwithstanding the provisions of section 108.170 to the contrary.**
158 **However, the provisions of chapter 176 shall not apply to the issuance of such certificates.**

159 Certificates may be issued with respect to a single project or multiple projects and may
160 contain terms or conditions as the board of trustees may provide by resolution authorizing
161 the issuance of the certificates.

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

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

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

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

190 **12. The provisions of the new program authorized under sections 620.800 to**
191 **620.809 shall sunset automatically on July 1, 2019, unless reauthorized by an act of the**
192 **general assembly.**

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

2 mean:

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

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

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

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

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

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

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

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

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

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

74 [(20)] (21) "Project facility base employment", the greater of the number of full-time
75 employees located at the project facility on the date of the notice of intent or for the
76 twelve-month period prior to the date of the notice of intent, the average number of full-time
77 employees located at the project facility. In the event the project facility has not been in
78 operation for a full twelve-month period, the average number of full-time employees for the
79 number of months the project facility has been in operation prior to the date of the notice of
80 intent;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

119 (j) Ethanol distillation or production; or

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

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

128 (a) Open-looped biomass;

129 (b) Close-looped biomass;

130 (c) Solar;

131 (d) Wind;

132 (e) Geothermal; and

133 (f) Hydropower;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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