

FIRST REGULAR SESSION

SENATE BILL NO. 189

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHMITT.

Read 1st time January 27, 2011, and ordered printed.

TERRY L. SPIELER, Secretary.

0836S.011

AN ACT

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

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Section A. Sections 620.1878 and 620.1881, RSMo, are repealed and two
2 new sections enacted in lieu thereof, to be known as sections 620.1878 and
3 620.1881, to read as follows:

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

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

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

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

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

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 from which jobs are being relocated or the county average wage for their project
20 shall be the county average wage for the county from which the employees are
21 being relocated;

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

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

24 (7) **"Dormant manufacturing plant", any parcel or parcels of real**
25 **property encompassing not less than two hundred fifty acres that,**
26 **within six years of the date of the notice of intent:**

27 (a) **Was predominantly used for manufacturing or assembly and**
28 **employed not less than three thousand persons but has since ceased all**
29 **activity;**

30 (b) **Has been found, by an ordinance adopted by the governing**
31 **body, to be a blighted area and designated for redevelopment; and**

32 (c) **Such real property:**

33 a. **Is located in a census tract with, according to United States**
34 **Census Bureau's American Community Survey based on the most recent**
35 **of five-year period estimated data in which the estimate ends in either**
36 **zero or five, a poverty rate of fifteen percent or more, or the median**
37 **household income is below the statewide median household income or**
38 **the metropolitan median household income for the metropolitan**
39 **statistical area in which the property is located; or**

40 b. **Involves funding provided by a federal agency of at least one**
41 **million dollars to facilitate the redevelopment of such property;**

42 (8) **"Dormant manufacturing plant zone", includes and**
43 **encompasses:**

44 (a) **Any dormant manufacturing plant;**

45 (b) **All parcels of real property which are immediately**
46 **contiguous and adjacent to such dormant manufacturing plant; and**

47 (c) **All parcels of real property with boundaries which are within**
48 **a distance of six thousand linear feet from the legal boundary or border**
49 **of such dormant manufacturing plant;**

50 (9) "Employee", a person employed by a qualified company;

51 [(8)] (10) "Full-time employee", an employee of the qualified company
52 that is scheduled to work an average of at least thirty-five hours per week for a
53 twelve-month period, and one for which the qualified company offers health
54 insurance and pays at least fifty percent of such insurance premiums;

55 [(9)] (11) "High-impact project", a qualified company that, within two

56 years from commencement of operations, creates one hundred or more new jobs;
57 [(10)] (12) "Local incentives", the present value of the dollar amount of
58 direct benefit received by a qualified company for a project facility from one or
59 more local political subdivisions, but shall not include loans or other funds
60 provided to the qualified company that must be repaid by the qualified company
61 to the political subdivision;

62 [(11)] (13) "NAICS", the 1997 edition of the North American Industry
63 Classification System as prepared by the Executive Office of the President, Office
64 of Management and Budget. Any NAICS sector, subsector, industry group or
65 industry identified in this section shall include its corresponding classification in
66 subsequent federal industry classification systems;

67 [(12)] (14) "New direct local revenue", the present value of the dollar
68 amount of direct net new tax revenues of the local political subdivisions likely to
69 be produced by the project over a ten-year period as calculated by the
70 department, excluding local earnings tax, and net new utility revenues, provided
71 the local incentives include a discount or other direct incentives from utilities
72 owned or operated by the political subdivision;

73 [(13)] (15) "New investment", the purchase or leasing of new tangible
74 assets to be placed in operation at the project facility, which will be directly
75 related to the new jobs;

76 [(14)] (16) "New job", the number of full-time employees located at the
77 project facility that exceeds the project facility base employment less any decrease
78 in the number of full-time employees at related facilities below the related facility
79 base employment. No job that was created prior to the date of the notice of intent
80 shall be deemed a new job. An employee that spends less than fifty percent of the
81 employee's work time at the facility is still considered to be located at a facility
82 if the employee receives his or her directions and control from that facility, is on
83 the facility's payroll, one hundred percent of the employee's income from such
84 employment is Missouri income, and the employee is paid at or above the state
85 average wage;

86 [(15)] (17) "New payroll", the amount of taxable wages of full-time
87 employees, excluding owners, located at the project facility that exceeds the
88 project facility base payroll. If full-time employment at related facilities is below
89 the related facility base employment, any decrease in payroll for full-time
90 employees at the related facilities below that related facility base payroll shall
91 also be subtracted to determine new payroll;

92 [(16)] (18) "Notice of intent", a form developed by the department,
93 completed by the qualified company and submitted to the department which
94 states the qualified company's intent to hire new jobs and request benefits under
95 this program;

96 [(17)] (19) "Percent of local incentives", the amount of local incentives
97 divided by the amount of new direct local revenue;

98 [(18)] (20) "Program", the Missouri quality jobs program provided in
99 sections 620.1875 to 620.1890;

100 [(19)] (21) "Project facility", the building used by a qualified company at
101 which the new jobs and new investment will be located. A project facility may
102 include separate buildings that are located within fifteen miles of each other or
103 within the same county such that their purpose and operations are interrelated;

104 [(20)] (22) "Project facility base employment", the greater of the number
105 of full-time employees located at the project facility on the date of the notice of
106 intent or for the twelve-month period prior to the date of the notice of intent, the
107 average number of full-time employees located at the project facility. In the event
108 the project facility has not been in operation for a full twelve-month period, the
109 average number of full-time employees for the number of months the project
110 facility has been in operation prior to the date of the notice of intent;

111 [(21)] (23) "Project facility base payroll", the total amount of taxable
112 wages paid by the qualified company to full-time employees of the qualified
113 company located at the project facility in the twelve months prior to the notice of
114 intent, not including the payroll of the owners of the qualified company unless the
115 qualified company is participating in an employee stock ownership plan. For
116 purposes of calculating the benefits under this program, the amount of base
117 payroll shall increase each year based on an appropriate measure, as determined
118 by the department;

119 [(22)] (24) "Project period", the time period that the benefits are provided
120 to a qualified company;

121 [(23)] (25) "Qualified company", a firm, partnership, joint venture,
122 association, private or public corporation whether organized for profit or not, or
123 headquarters of such entity registered to do business in Missouri that is the
124 owner or operator of a project facility, offers health insurance to all full-time
125 employees of all facilities located in this state, and pays at least fifty percent of
126 such insurance premiums. For the purposes of sections 620.1875 to 620.1890, the
127 term "qualified company" shall not include:

- 128 (a) Gambling establishments (NAICS industry group 7132);
129 (b) Retail trade establishments (NAICS sectors 44 and 45);
130 (c) Food and drinking places (NAICS subsector 722);
131 (d) Public utilities (NAICS 221 including water and sewer services);
132 (e) Any company that is delinquent in the payment of any nonprotested
133 taxes or any other amounts due the state or federal government or any other
134 political subdivision of this state;
135 (f) Any company that has filed for or has publicly announced its intention
136 to file for bankruptcy protection. However, a company that has filed for or has
137 publicly announced its intention to file for bankruptcy between January 1, 2009,
138 and December 31, 2009, may be a qualified company provided that such company:
139 a. Certifies to the department that it plans to reorganize and not to
140 liquidate; and
141 b. After its bankruptcy petition has been filed, it produces proof, in a form
142 and at times satisfactory to the department, that it is not delinquent in filing any
143 tax returns or making any payment due to the state of Missouri, including but
144 not limited to all tax payments due after the filing of the bankruptcy petition and
145 under the terms of the plan of reorganization. Any taxpayer who is awarded
146 benefits under this subsection and who files for bankruptcy under Chapter 7 of
147 the United States Bankruptcy Code, Title 11 U.S.C., shall immediately notify the
148 department and shall forfeit such benefits and shall repay the state an amount
149 equal to any state tax credits already redeemed and any withholding taxes
150 already retained;
151 (g) Educational services (NAICS sector 61);
152 (h) Religious organizations (NAICS industry group 8131);
153 (i) Public administration (NAICS sector 92);
154 (j) Ethanol distillation or production; or
155 (k) Biodiesel production. Notwithstanding any provision of this section
156 to the contrary, the headquarters or administrative offices of an otherwise
157 excluded business may qualify for benefits if the offices serve a multistate
158 territory. In the event a national, state, or regional headquarters operation is not
159 the predominant activity of a project facility, the new jobs and investment of such
160 headquarters operation is considered eligible for benefits under this section if the
161 other requirements are satisfied;
162 [(24)] (26) "Qualified renewable energy sources" shall not be construed
163 to include ethanol distillation or production or biodiesel production; however, it

164 shall include:

165 (a) Open-looped biomass;

166 (b) Close-looped biomass;

167 (c) Solar;

168 (d) Wind;

169 (e) Geothermal; and

170 (f) Hydropower;

171 [(25)] **(27)** "Related company" means:

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

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

176 (c) Corporations, partnerships, trusts or associations controlled by an
177 individual, corporation, partnership, trust or association in control of the
178 qualified company. As used in this subdivision, "control of a corporation" shall
179 mean ownership, directly or indirectly, of stock possessing at least fifty percent
180 of the total combined voting power of all classes of stock entitled to vote, "control
181 of a partnership or association" shall mean ownership of at least fifty percent of
182 the capital or profits interest in such partnership or association, "control of a
183 trust" shall mean ownership, directly or indirectly, of at least fifty percent of the
184 beneficial interest in the principal or income of such trust, and ownership shall
185 be determined as provided in Section 318 of the Internal Revenue Code of 1986,
186 as amended;

187 [(26)] **(28)** "Related facility", a facility operated by the qualified company
188 or a related company located in this state that is directly related to the operations
189 of the project facility;

190 [(27)] **(29)** "Related facility base employment", the greater of the number
191 of full-time employees located at all related facilities on the date of the notice of
192 intent or for the twelve-month period prior to the date of the notice of intent, the
193 average number of full-time employees located at all related facilities of the
194 qualified company or a related company located in this state;

195 [(28)] **(30)** "Related facility base payroll", the total amount of taxable
196 wages paid by the qualified company to full-time employees of the qualified
197 company located at a related facility in the twelve months prior to the filing of
198 the notice of intent, not including the payroll of the owners of the qualified
199 company unless the qualified company is participating in an employee stock

200 ownership plan. For purposes of calculating the benefits under this program, the
201 amount of related facility base payroll shall increase each year based on an
202 appropriate measure, as determined by the department;

203 [(29)] (31) "Rural area", a county in Missouri with a population less than
204 seventy-five thousand or that does not contain an individual city with a
205 population greater than fifty thousand according to the most recent federal
206 decennial census;

207 [(30)] (32) "Small and expanding business project", a qualified company
208 that within two years of the date of the approval creates **a minimum of ten**
209 **new jobs if the project facility is located in a dormant manufacturing**
210 **plant zone or** a minimum of twenty new jobs if the project facility is located in
211 a rural area or a minimum of forty new jobs if the project facility is not located
212 in a rural area and creates fewer than one hundred new jobs regardless of the
213 location of the project facility;

214 [(31)] (33) "Tax credits", tax credits issued by the department to offset
215 the state income taxes imposed by chapters 143 and 148, or which may be sold
216 or refunded as provided for in this program;

217 [(32)] (34) "Technology business project", a qualified company that within
218 two years of the date of the approval creates a minimum of ten new jobs involved
219 in the operations of a company:

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

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

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

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

234 [(33)] (35) "Withholding tax", the state tax imposed by sections 143.191
235 to 143.265. For purposes of this program, the withholding tax shall be computed

236 using a schedule as determined by the department based on average wages.

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

31 2. Notwithstanding any provision of law to the contrary, any qualified
32 company that is awarded benefits under this program may not simultaneously
33 receive tax credits or exemptions under sections 135.100 to 135.150, sections
34 135.200 to 135.286, section 135.535, or sections 135.900 to 135.906 at the same
35 project facility. The benefits available to the company under any other state

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

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

62 (1) Small and expanding business projects: in exchange for the
63 consideration provided by the new tax revenues and other economic stimuli that
64 will be generated by the new jobs created by the program, a qualified company
65 may retain an amount equal to the withholding tax as calculated under
66 subdivision [(33)] **(35)** of section 620.1878 from the new jobs that would otherwise
67 be withheld and remitted by the qualified company under the provisions of
68 sections 143.191 to 143.265 **for a period of five years from the date the**
69 **required number of new jobs were created if the average wage of the**
70 **new payroll equals or exceeds one hundred twenty percent of the**
71 **county average wage or** for a period of three years from the date the required

72 number of new jobs were created if:

73 **(a)** The average wage of the new payroll equals or exceeds the county
74 average wage [or for a period of five years from the date the required number of
75 new jobs were created if the average wage of the new payroll equals or exceeds
76 one hundred twenty percent of the county average wage]; **or**

77 **(b) In the case of a project located in a dormant manufacturing**
78 **plant zone, if the average wage of the new payroll equals or exceeds**
79 **eighty percent of the county average wage;**

80 (2) Technology business projects: in exchange for the consideration
81 provided by the new tax revenues and other economic stimuli that will be
82 generated by the new jobs created by the program, a qualified company may
83 retain an amount equal to a maximum of five percent of new payroll for a period
84 of five years from the date the required number of jobs were created from the
85 withholding tax of the new jobs that would otherwise be withheld and remitted
86 by the qualified company under the provisions of sections 143.191 to 143.265 if
87 the average wage of the new payroll equals or exceeds the county average wage,
88 **or in the case of a project located in a dormant manufacturing plant**
89 **zone, if the average wage of the new payroll equals or exceeds eighty**
90 **percent of the county average wage.** An additional one-half percent of new
91 payroll may be added to the five percent maximum if the average wage of the new
92 payroll in any year exceeds one hundred twenty percent of the county average
93 wage in the county in which the project facility is located, plus an additional
94 one-half percent of new payroll may be added if the average wage of the new
95 payroll in any year exceeds one hundred forty percent of the average wage in the
96 county in which the project facility is located. The department shall issue a
97 refundable tax credit for any difference between the amount of benefit allowed
98 under this subdivision and the amount of withholding tax retained by the
99 company, in the event the withholding tax is not sufficient to provide the entire
100 amount of benefit due to the qualified company under this subdivision;

101 (3) High impact projects: in exchange for the consideration provided by
102 the new tax revenues and other economic stimuli that will be generated by the
103 new jobs created by the program, a qualified company may retain an amount from
104 the withholding tax of the new jobs that would otherwise be withheld and
105 remitted by the qualified company under the provisions of sections 143.191 to
106 143.265, equal to three percent of new payroll for a period of five years from the
107 date the required number of jobs were created if the average wage of the new

108 payroll equals or exceeds the county average wage of the county in which the
109 project facility is located, **or in the case of a project located in a dormant**
110 **manufacturing plant zone, if the average wage of the new payroll**
111 **equals or exceeds eighty percent of the county average wage.** For
112 high-impact projects in a facility located within two adjacent counties, the new
113 payroll shall equal or exceed the higher county average wage of the adjacent
114 counties. The percentage of payroll allowed under this subdivision shall be three
115 and one-half percent of new payroll if the average wage of the new payroll in any
116 year exceeds one hundred twenty percent of the county average wage in the
117 county in which the project facility is located. The percentage of payroll allowed
118 under this subdivision shall be four percent of new payroll if the average wage
119 of the new payroll in any year exceeds one hundred forty percent of the county
120 average wage in the county in which the project facility is located. An additional
121 one percent of new payroll may be added to these percentages if local incentives
122 equal between ten percent and twenty-four percent of the new direct local
123 revenue; an additional two percent of new payroll is added to these percentages
124 if the local incentives equal between twenty-five percent and forty-nine percent
125 of the new direct local revenue; or an additional three percent of payroll is added
126 to these percentages if the local incentives equal fifty percent or more of the new
127 direct local revenue. The department shall issue a refundable tax credit for any
128 difference between the amount of benefit allowed under this subdivision and the
129 amount of withholding tax retained by the company, in the event the withholding
130 tax is not sufficient to provide the entire amount of benefit due to the qualified
131 company under this subdivision;

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

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

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

143 (c) The qualified company is considered to have a significant statewide

144 effect on the economy, and has been determined to represent a substantial risk
145 of relocation from the state by the quality jobs advisory task force established in
146 section 620.1887; provided, however, until such time as the initial at-large
147 members of the quality jobs advisory task force are appointed, this determination
148 shall be made by the director of the department of economic development;

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

155 (e) The local taxing entities shall provide local incentives of at least fifty
156 percent of the new direct local revenues created by the project over a ten-year
157 period. The quality jobs advisory task force may recommend to the department
158 of economic development that appropriate penalties be applied to the company for
159 violating the agreement. The amount of the job retention credit granted may be
160 equal to up to fifty percent of the amount of withholding tax generated by the
161 full-time jobs at the project facility for a period of five years. The calendar year
162 annual maximum amount of tax credit that may be issued to any qualified
163 company for a job retention project or combination of job retention projects shall
164 be seven hundred fifty thousand dollars per year, but the maximum amount may
165 be increased up to one million dollars if such action is proposed by the
166 department and approved by the quality jobs advisory task force established in
167 section 620.1887; provided, however, until such time as the initial at-large
168 members of the quality jobs advisory task force are appointed, this determination
169 shall be made by the director of the department of economic development. In
170 considering such a request, the task force shall rely on economic modeling and
171 other information supplied by the department when requesting the increased
172 limit on behalf of the job retention project. In no event shall the total amount of
173 all tax credits issued for the entire job retention program under this subdivision
174 exceed three million dollars annually. Notwithstanding the above, no tax credits
175 shall be issued for job retention projects approved by the department after August
176 30, 2013;

177 (5) Small business job retention and flood survivor relief: a qualified
178 company may receive a tax credit under sections 620.1875 to 620.1890 for the
179 retention of jobs and flood survivor relief in this state for each job retained over

180 a three-year period, provided that:

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

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

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

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

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

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

195 (g) For each year it receives tax credits under sections 620.1875 to
196 620.1890, the qualified company and related companies retained, at the
197 company's facilities in this state, at least the level of full-time, year-round
198 employees that existed in the taxable year immediately preceding the year in
199 which application for the program is made; and

200 (h) In the years it receives tax credits under sections 620.1875 to
201 620.1890, the company cumulatively invests at least two million dollars in capital
202 improvements in facilities and equipment located at such facilities that are not
203 located within a five hundred year flood plain as designated by the Federal
204 Emergency Management Agency, and amended from time to time. The amount
205 of the small business job retention and flood survivor relief credit granted may
206 be equal to up to one hundred percent of the amount of withholding tax generated
207 by the full-time jobs at the project facility for a period of three years. The
208 calendar year annual maximum amount of tax credit that may be issued to any
209 qualified company for a small business job retention and survivor relief project
210 shall be two hundred fifty thousand dollars per year, but the maximum amount
211 may be increased up to five hundred thousand dollars if such action is proposed
212 by the department and approved by the quality jobs advisory task force
213 established in section 620.1887. In considering such a request, the task force
214 shall rely on economic modeling and other information supplied by the
215 department when requesting an increase in the limit on behalf of the small

216 business job retention and flood survivor relief project. In no event shall the total
217 amount of all tax credits issued for the entire small business job retention and
218 flood survivor relief program under this subdivision exceed five hundred thousand
219 dollars annually. Notwithstanding the provisions of this subdivision to the
220 contrary, no tax credits shall be issued for small business job retention and flood
221 survivor relief projects approved by the department after August 30, 2010.

222 4. The qualified company shall provide an annual report of the number
223 of jobs and such other information as may be required by the department to
224 document the basis for the benefits of this program. The department may
225 withhold the approval of any benefits until it is satisfied that proper
226 documentation has been provided, and shall reduce the benefits to reflect any
227 reduction in full-time employees or new payroll. Upon approval by the
228 department, the qualified company may begin the retention of the withholding
229 taxes when it reaches the minimum number of new jobs and the average wage
230 exceeds the county average wage. Tax credits, if any, may be issued upon
231 satisfaction by the department that the qualified company has exceeded the
232 county average wage and the minimum number of new jobs. In such annual
233 report, if the average wage is below the county average wage, the qualified
234 company has not maintained the employee insurance as required, or if the
235 number of new jobs is below the minimum, the qualified company shall not
236 receive tax credits or retain the withholding tax for the balance of the benefit
237 period. In the case of a qualified company that initially filed a notice of intent
238 and received an approval from the department for high-impact benefits and the
239 minimum number of new jobs in an annual report is below the minimum for
240 high-impact projects, the company shall not receive tax credits for the balance of
241 the benefit period but may continue to retain the withholding taxes if it otherwise
242 meets the requirements of a small and expanding business under this program.

243 5. The maximum calendar year annual tax credits issued for the entire
244 program shall not exceed eighty million dollars. Notwithstanding any provision
245 of law to the contrary, the maximum annual tax credits authorized under section
246 135.535 are hereby reduced from ten million dollars to eight million dollars, with
247 the balance of two million dollars transferred to this program. There shall be no
248 limit on the amount of withholding taxes that may be retained by approved
249 companies under this program.

250 6. The department shall allocate the annual tax credits based on the date
251 of the approval, reserving such tax credits based on the department's best

252 estimate of new jobs and new payroll of the project, and the other factors in the
253 determination of benefits of this program. However, the annual issuance of tax
254 credits is subject to the annual verification of the actual new payroll. The
255 allocation of tax credits for the period assigned to a project shall expire if, within
256 two years from the date of commencement of operations, or approval if applicable,
257 the minimum thresholds have not been achieved. The qualified company may
258 retain authorized amounts from the withholding tax under this section once the
259 minimum new jobs thresholds are met for the duration of the project period. No
260 benefits shall be provided under this program until the qualified company meets
261 the minimum new jobs thresholds. In the event the qualified company does not
262 meet the minimum new job threshold, the qualified company may submit a new
263 notice of intent or the department may provide a new approval for a new project
264 of the qualified company at the project facility or other facilities.

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

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

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

278 10. Prior to the issuance of tax credits, the department shall verify
279 through the department of revenue, or any other state department, that the tax
280 credit applicant does not owe any delinquent income, sales, or use tax or interest
281 or penalties on such taxes, or any delinquent fees or assessments levied by any
282 state department and through the department of insurance, financial institutions
283 and professional registration that the applicant does not owe any delinquent
284 insurance taxes. Such delinquency shall not affect the authorization of the
285 application for such tax credits, except that at issuance credits shall be first
286 applied to the delinquency and any amount issued shall be reduced by the
287 applicant's tax delinquency. If the department of revenue or the department of

288 insurance, financial institutions and professional registration, or any other state
289 department, concludes that a taxpayer is delinquent after June fifteenth but
290 before July first of any year and the application of tax credits to such delinquency
291 causes a tax deficiency on behalf of the taxpayer to arise, then the taxpayer shall
292 be granted thirty days to satisfy the deficiency in which interest, penalties, and
293 additions to tax shall be tolled. After applying all available credits toward a tax
294 delinquency, the administering agency shall notify the appropriate department
295 and that department shall update the amount of outstanding delinquent tax owed
296 by the applicant. If any credits remain after satisfying all insurance, income,
297 sales, and use tax delinquencies, the remaining credits shall be issued to the
298 applicant, subject to the restrictions of other provisions of law.

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

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

305 13. If any provision of sections 620.1875 to 620.1890 or application thereof
306 to any person or circumstance is held invalid, the invalidity shall not affect other
307 provisions or application of these sections which can be given effect without the
308 invalid provisions or application, and to this end, the provisions of sections
309 620.1875 to 620.1890 are hereby declared severable.

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