

FIRST REGULAR SESSION

SENATE BILL NO. 279

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHMITT.

Read 1st time February 15, 2011, and ordered printed.

TERRY L. SPIELER, Secretary.

1406S.02I

AN ACT

To repeal sections 144.062, 178.760, 178.761, 178.762, 178.763, 178.764, 178.892, 178.893, 178.894, 178.895, 178.896, 620.470, 620.472, 620.474, 620.475, 620.476, 620.478, 620.479, 620.480, 620.481, and 620.482, RSMo, and to enact in lieu thereof ten new sections relating to tax incentives for business development.

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

Section A. Sections 144.062, 178.760, 178.761, 178.762, 178.763, 178.764, 178.892, 178.893, 178.894, 178.895, 178.896, 620.470, 620.472, 620.474, 620.475, 620.476, 620.478, 620.479, 620.480, 620.481, and 620.482, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as sections 144.062, 144.540, 620.800, 620.803, 620.806, 620.809, 620.2000, 620.2005, 620.2010, and 620.2020, to read as follows:

144.062. 1. With respect to exempt sales at retail of tangible personal property and materials for the purpose of constructing, repairing or remodeling facilities for:

(1) A county, other political subdivision or instrumentality thereof exempt from taxation under subdivision (10) of section 39 of article III of the Constitution of Missouri; or

(2) An organization sales to which are exempt from taxation under the provisions of subdivision (19) of subsection 2 of section 144.030; or

(3) Any institution of higher education supported by public funds or any private not-for-profit institution of higher education, exempt from taxation under subdivision (20) of subsection 2 of section 144.030; or

(4) Any private not-for-profit elementary or secondary school exempt from

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

13 taxation under subdivision (22) of subsection 2 of section 144.030; or

14 (5) Any authority exempt from taxation under subdivision (39) of
15 subsection 2 of section 144.030; or

16 (6) After June 30, 2007, the department of transportation or the state
17 highways and transportation commission; **or**

18 **(7) After August 28, 2011, any qualified company exempt from**
19 **taxation under section 144.540;**

20 hereinafter collectively referred to as exempt entities, such exemptions shall be
21 allowed for such purchases if the purchases are related to the entities' exempt
22 functions and activities. In addition, the sales shall not be rendered nonexempt
23 nor shall any material supplier or contractor be obligated to pay, collect or remit
24 sales tax with respect to such purchases made by or on behalf of an exempt entity
25 due to such purchases being billed to or paid for by a contractor or the exempt
26 entity contracting with any entity to render any services in relation to such
27 purchases, including but not limited to selection of materials, ordering, pickup,
28 delivery, approval on delivery, taking of delivery, transportation, storage,
29 assumption of risk of loss to materials or providing warranties on materials as
30 specified by contract, use of materials or other purchases for construction of the
31 building or other facility, providing labor, management services, administrative
32 services, design or technical services or advice to the exempt entity, whether or
33 not the contractor or other entity exercises dominion or control in any other
34 manner over the materials in conjunction with services or labor provided to the
35 exempt entity.

36 2. When any exempt entity contracts for the purpose of constructing,
37 repairing or remodeling facilities, and purchases of tangible personal property
38 and materials to be incorporated into or consumed in the construction of the
39 project are to be made on a tax-exempt basis, such entity shall furnish to the
40 contractor an exemption certificate authorizing such purchases for the
41 construction, repair or remodeling project. The form and content of such project
42 exemption certificate shall be approved by the director of revenue. The project
43 exemption certificate shall include but not be limited to:

44 (1) The exempt entity's name, address, Missouri tax identification number
45 and signature of authorized representative;

46 (2) The project location, description, and unique identification number;

47 (3) The date the contract is entered into, which is the earliest date
48 materials may be purchased for the project on a tax-exempt basis;

49 (4) The estimated project completion date; and

50 (5) The certificate expiration date. Such certificate is renewable for a
51 given project at the option of the exempt entity, only for the purpose of revising
52 the certificate expiration date as necessary to complete the project.

53 3. The contractor shall furnish the certificate prescribed in subsection 2
54 of this section to all subcontractors, and any contractor purchasing materials
55 shall present such certificate to all material suppliers as authorization to
56 purchase, on behalf of the exempt entity, all tangible personal property and
57 materials to be incorporated into or consumed in the construction of that project
58 and no other on a tax-exempt basis. Such suppliers shall execute to the
59 purchasing contractor invoices bearing the name of the exempt entity and the
60 project identification number. Nothing in this section shall be deemed to exempt
61 the purchase of any construction machinery, equipment or tools used in
62 constructing, repairing or remodeling facilities for the exempt entity. All invoices
63 for all personal property and materials purchased under a project exemption
64 certificate shall be retained by the purchasing contractor for a period of five years
65 and shall be subject to audit by the director of revenue.

66 4. Any excess resalable tangible personal property or materials which
67 were purchased for the project by a contractor under a project exemption
68 certificate but which were not incorporated into or consumed in the construction
69 of the project shall either be returned to the supplier for credit or the appropriate
70 sales or use tax on such excess property or materials shall be reported on a
71 return and paid by such contractor not later than the due date of the contractor's
72 Missouri sales or use tax return following the month in which it was determined
73 that the materials were not to be used in the project.

74 5. No contractor or material supplier shall, upon audit, be required to pay
75 tax on tangible personal property and materials incorporated into or consumed
76 in the construction of the project due to the failure of the exempt entity to revise
77 the certificate expiration date as necessary to complete any work required by the
78 contract. If it is determined that tax is owed on such property and materials due
79 to the failure of the exempt entity to revise such certificate expiration date, the
80 exempt entity shall be liable for the tax owed.

81 6. If an entity issues exemption certificates for the purchase of tangible
82 personal property and materials which are incorporated into or consumed in the
83 construction of its project and such entity is found not to have had the authority
84 granted by this section to issue such exemption certificates, then such entity shall

85 be liable for the tax owed on such personal property and materials. In addition,
86 if an entity which does have the authority granted by this section to issue
87 exemption certificates issues such certificates for the purchase of tangible
88 personal property and materials which are incorporated into or consumed in the
89 construction of a project, or part of a project, which is found not to be related to
90 such entity's exempt functions and activities, then such entity shall be liable for
91 the tax owed on such personal property and materials.

144.540. 1. The terms used in this section shall have the meaning
2 provided in section 620.2005, unless the context clearly indicates
3 otherwise. The following additional terms used in this section shall
4 mean:

5 (1) "Information technology company", a qualified company with
6 a primary NAICS code of 5182;

7 (2) "Taxpayer", the purchaser of tangible personal property or a
8 service that is subject to state or local sales or use tax and from whom
9 state or local sales or use tax is owed. "Taxpayer" shall not mean the
10 seller charged by law with collecting the sales tax from the purchaser.

11 2. Beginning August 28, 2011, in addition to the exemptions
12 granted under this chapter, the department of economic development
13 may approve a qualified company for an exemption of up to one
14 hundred percent of the state sales and use taxes defined, levied, or
15 calculated under sections 144.010 to 144.525, sections 144.600 to 144.761,
16 or section 238.235, for a period not to exceed three years from the date
17 of approval, of sales and leases of tangible personal property purchased
18 for use in the project facility, and of sales and leases of tangible
19 personal property and materials for the purpose of constructing,
20 repairing, or remodeling the project facility. To qualify for the
21 exemption provided in this subsection, the qualified company shall,
22 within a period of two years from the date of approval, create at least
23 twenty new jobs at the project facility with an average wage of the new
24 payroll equal to or excess of ninety percent of the county average wage.

25 3. Beginning August 28, 2011, in addition to the exemptions
26 granted under this chapter, the department of economic development
27 may approve an information technology company for an exemption of
28 up to one hundred percent of the state sales and use taxes defined,
29 levied, or calculated under sections 144.010 to 144.525, sections 144.600
30 to 144.761, or section 238.235 of electrical energy, gas, water, and other

31 utilities including telecommunication services purchased for use in the
32 project facility. The exemption may be for a period not to exceed five
33 years from the date of approval. The annual amount of the exemption
34 shall be equal to the difference between the amount of state sales and
35 use taxes that would otherwise be due for the twelve months
36 immediately following approval and the amount of state sales and use
37 taxes paid for the purchase of electrical energy, gas, water, and other
38 utilities including telecommunication services purchased for use in the
39 project facility for the twelve months immediately preceding approval.
40 To qualify for the exemption provided in this subsection, the qualified
41 company shall satisfy the requirements of subsection 2 of this section.

42 4. The governing body of a city, county, or other political
43 subdivision may approve a qualified company for an exemption of up
44 to one hundred percent of local sales and use taxes defined, levied, or
45 calculated under section 32.085 imposed by the governing body, of sales
46 and leases of tangible personal property purchased for use in the
47 project facility, and of sales and leases of building materials for the
48 purpose of constructing, repairing, or remodeling the project facility.
49 To qualify for the exemption provided in this subsection, the qualified
50 company shall satisfy the requirements of subsection 2 of this section.

51 5. The governing body of a city, county, or other political
52 subdivision may approve a qualified company that is also an
53 information technology company for an exemption of up to one hundred
54 percent of the local sales and use tax defined, levied, or calculated
55 under section 32.085 imposed by the governing body, of electrical
56 energy, gas, water, and other utilities including telecommunication
57 services purchased for use in the project facility. The exemption may
58 be for a period as approved by the political subdivision. The annual
59 amount of the exemption shall be equal to the difference between the
60 amount of local sales and use taxes that would otherwise be due for the
61 twelve months immediately following approval and the amount of local
62 sales and use taxes paid for the purchase of electrical energy, gas,
63 water, and other utilities including telecommunication services
64 purchased for use in the project facility for the twelve months
65 immediately preceding approval. To qualify for the exemption
66 provided in this subsection, the qualified company shall satisfy the
67 requirements of subsection 2 of this section.

68 **6. Any qualified company seeking an exemption from state sales**
69 **and use taxes under this section shall submit with its notice of intent**
70 **to seek benefits under the compete Missouri program established in**
71 **sections 620.2000 to 620.2020 such information as the department of**
72 **economic development may reasonably require to review the qualified**
73 **company's request for the exemption. The percentage of any exemption**
74 **from state sales or use taxes awarded to a qualified company under this**
75 **section shall not exceed the projected net fiscal benefit to the state**
76 **over a period of six years, as determined by the department of**
77 **economic development, and shall not exceed the least amount necessary**
78 **to obtain the qualified company's commitment to initiate the project.**
79 **In determining the percentage of the exemption to award to a qualified**
80 **company under this section, the department of economic development**
81 **shall consider the factors set forth in subsection 2 of section 620.2010.**

82 **7. Upon approval of an exemption from state sales and use taxes**
83 **under this section, the department of economic development shall**
84 **certify the taxpayer's eligibility to the department of revenue. The**
85 **department of revenue shall issue the qualified company an exemption**
86 **certificate in the amount and for the duration specified by the**
87 **department of economic development in its certification.**

88 **(1) Any qualified company approved for an exemption for state**
89 **sales and use taxes under this section shall certify, as part of its annual**
90 **report under 620.2020, the amount of state sales and use taxes**
91 **exempted under this section that would have otherwise been due**
92 **during the previous year.**

93 **(2) If the qualified company fails to satisfy any of the**
94 **requirements of this section at any time during the project period, the**
95 **qualified company shall remit to the department of revenue an amount**
96 **equal to the sales and use taxes exempted under this section, plus**
97 **interest of nine percent per annum from the date the exemption**
98 **certificate was issued. However, the director of the department of**
99 **economic development may, in his or her discretion, provide an**
100 **extension of up to two additional years or reduce such payment, if such**
101 **failure is caused by documented unforeseen events that negatively**
102 **affected the operations at the project facility that were not under the**
103 **control of the qualified company.**

104 **(3) The department of revenue shall credit any amounts remitted**

105 by the qualified company under this subsection to the fund to which
106 the sales and use taxes exempted would have otherwise been credited.

107 8. Upon approval of an exemption from local sales and use taxes
108 under this section, the governing body of the city, county, or other
109 political subdivision approving the exemption from local sales and use
110 taxes under this section shall certify the taxpayer's eligibility to the
111 department of revenue. The department of revenue shall issue the
112 qualified company an exemption certificate in the amount and for the
113 duration specified by the political subdivision in its certification.

114 (1) Any qualified company approved for an exemption from local
115 sales and use taxes under this section shall annually certify to the
116 governing body of the city, county, or other political subdivision the
117 amount of local sales and use taxes exempted under this section that
118 would have otherwise been due during the previous year.

119 (2) If the qualified company fails to satisfy any of the
120 requirements of this section at any time during the project period, the
121 qualified company shall remit to the department of revenue an amount
122 equal to the sales and use taxes exempted under this section, plus
123 interest of nine percent per annum from the date the exemption
124 certificate was issued. However, the governing body may, in its
125 discretion, provide an extension of up to two additional years or reduce
126 such payment, if such failure is caused by documented unforeseen
127 events that negatively affected the operations at the project facility
128 that were not under the control of the qualified company.

129 (3) The department of revenue shall credit any amounts remitted
130 by the qualified company under this subsection to the city, county, or
131 other political subdivision approving the exemption.

132 9. The department of economic development and the department
133 of revenue shall jointly prescribe such rules and regulations necessary
134 to carry out the provisions of this section. Any rule or portion of a
135 rule, as that term is defined in section 536.010, that is created under
136 the authority delegated in this section shall become effective only if it
137 complies with and is subject to all of the provisions of chapter 536 and,
138 if applicable, section 536.028. This section and chapter 536 are
139 nonseverable and if any of the powers vested with the general assembly
140 pursuant to chapter 536 to review, to delay the effective date, or to
141 disapprove and annul a rule are subsequently held unconstitutional,

142 then the grant of rulemaking authority and any rule proposed or
143 adopted after August 28, 2011, shall be invalid and void.

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

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

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

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

11 (4) "Committee", the compete Missouri job training joint
12 legislative oversight committee, established by the department under
13 the provisions of section 620.803;

14 (5) "Compete Missouri training program", the training program
15 established under sections 620.800 to 620.809;

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

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

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

24 (9) "Local education agency", a community college, two-year state
25 technical college, or a technical career education center;

26 (10) "New capital investment", shall include funds spent by the
27 qualified company at the project facility after the approval of the
28 notice of intent for real or personal property, and may include the
29 present value of finance or capital leases for real or personal property
30 for the term of such lease at the project facility executed after approval
31 of the notice of intent;

32 (11) "New job", the number of full-time employees located at the
33 project facility that exceeds the project facility base employment less
34 any decrease in the number of full-time employees at related facilities
35 below the related facility base employment. No job that was created

36 prior to the date of the notice of intent shall be deemed a new job. An
37 employee that spends less than fifty percent of the employee's work
38 time at the facility is still considered to be located at a facility if the
39 employee receives his or her directions and control from that facility,
40 is on the facility's payroll, one hundred percent of the employee's
41 income from such employment is Missouri income, and the employee is
42 paid at or above the applicable percentage of the county average wage;

43 (12) "New jobs credit", the credit from withholding remitted by
44 a qualified company provided under subsection 6 of section 620.809;

45 (13) "Notice of intent", a form developed by the department,
46 completed by the qualified company and submitted to the department
47 which states the qualified company's intent to request benefits under
48 this program;

49 (14) "Project facility", the building or buildings used by a
50 qualified company at which new or retained jobs and any new capital
51 investment are or will be located. A project facility may include
52 separate buildings located within sixty miles of each other such that
53 their purpose and operations are interrelated; provided, that where the
54 buildings making up the project facility are not located within the same
55 county, the average wage of the new payroll shall exceed the highest
56 county average wage among the counties in which the buildings are
57 located. Upon approval by the department, a subsequent project
58 facility may be designated if the qualified company demonstrates a
59 need to relocate to the subsequent project facility at any time during
60 the project period;

61 (15) "Project facility base employment", the greater of the
62 number of full-time employees located at the project facility on the date
63 of the notice of intent or, for the twelve-month period prior to the date
64 of the notice of intent, the average number of full-time employees
65 located at the project facility. In the event the project facility has not
66 been in operation for a full twelve-month period, the average number
67 of full-time employees for the number of months the project facility has
68 been in operation prior to the date of the notice of intent;

69 (16) "Qualified company", a firm, partnership, joint venture,
70 association, private or public corporation whether organized for profit
71 or not, or headquarters of such entity registered to do business in
72 Missouri that is the owner or operator of a project facility, offers health

73 insurance to all full-time employees of all facilities located in this state,
74 and pays at least fifty percent of such insurance premiums. For the
75 purposes of sections 620.800 to 620.809, the term "qualified company"
76 shall not include:

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

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

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

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

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

88 (f) Any company requesting benefits for retained jobs that has
89 filed for or has publicly announced its intention to file for bankruptcy
90 protection. However, a company that has filed for or has publicly
91 announced its intention to file for bankruptcy, may be a qualified
92 company provided that such company:

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

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

101 Any taxpayer who is awarded benefits under this subsection and who
102 files for bankruptcy under Chapter 7 of the United States Bankruptcy
103 Code, Title 11 U.S.C., shall immediately notify the department and shall
104 forfeit such benefits and shall repay the state an amount equal to any
105 state tax credits already redeemed and any withholding taxes already
106 retained;

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

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

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

110 (j) Ethanol distillation or production; or

111 (k) Biodiesel production.

112 Notwithstanding any provision of this section to the contrary, the
113 headquarters, administrative offices or research and development
114 facilities of an otherwise excluded business may qualify for benefits if
115 the offices or facilities serve a multistate territory. In the event a
116 national, state, or regional headquarters operation is not the
117 predominant activity of a project facility, the jobs and investment of
118 such operation shall be considered eligible for benefits under this
119 section if the other requirements are satisfied;

120 (17) "Related company" means:

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

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

125 (c) Corporations, partnerships, trusts or associations controlled
126 by an individual, corporation, partnership, trust or association in
127 control of the qualified company. As used in this subdivision, "control
128 of a corporation" shall mean ownership, directly or indirectly, of stock
129 possessing at least fifty percent of the total combined voting power of
130 all classes of stock entitled to vote, "control of a partnership or
131 association" shall mean ownership of at least fifty percent of the capital
132 or profits interest in such partnership or association, "control of a
133 trust" shall mean ownership, directly or indirectly, of at least fifty
134 percent of the beneficial interest in the principal or income of such
135 trust, and ownership shall be determined as provided in Section 318 of
136 the Internal Revenue Code of 1986, as amended;

137 (18) "Related facility", a facility operated by the qualified
138 company or a related company located in this state that is directly
139 related to the operations of the project facility or in which operations
140 substantially similar to the operations of the project facility are
141 performed;

142 (19) "Related facility base employment", the greater of the
143 number of full-time employees located at all related facilities on the
144 date of the notice of intent or for the twelve-month period prior to the
145 date of the notice of intent, the average number of full-time employees
146 located at all related facilities of the qualified company or a related

147 **company located in this state;**

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

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

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

158 **(23) "Training program", the compete Missouri training program**
159 **established under sections 620.800 to 620.809.**

160 **(24) "Training project", the project or projects established**
161 **through the compete Missouri training program for the creation or**
162 **retention of jobs by providing education and training of workers;**

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

165 **(a) Training materials and supplies;**

166 **(b) Wages and benefits of instructors, who may or may not be**
167 **employed by the eligible industry, and the cost of training such**
168 **instructors;**

169 **(c) Subcontracted services;**

170 **(d) On-the-job training;**

171 **(e) Training facilities and equipment;**

172 **(f) Skill assessment;**

173 **(g) Training project and curriculum development;**

174 **(h) Travel directly to the training project, including a**
175 **coordinated transportation program for trainings if the training can be**
176 **more effectively provided outside the community where the jobs are to**
177 **be located;**

178 **(i) Payments to third party training providers and to the eligible**
179 **industry;**

180 **(j) Teaching and assistance provided by educational institutions**
181 **in the state of Missouri;**

182 **(k) In-plant training analysis, including fees for professionals**
183 **and necessary travel and expenses;**

- 184 **(l) Assessment and preselection tools;**
185 **(m) Publicity;**
186 **(n) Instructional services;**
187 **(o) Rental of instructional facilities with necessary utilities; and**
188 **(p) Payment of the principal, premium, and interest on**
189 **certificates, including capitalized interest, issued to finance a project,**
190 **and the funding and maintenance of a debt service reserve fund to**
191 **secure such certificates;**
- 192 **(26) "Training project services", includes, but shall not be limited**
193 **to, the following:**
- 194 **(a) Job training, which may include, but not be limited to,**
195 **preemployment training, analysis of the specified training needs for a**
196 **qualified company, development of training plans, and provision of**
197 **training through qualified training staff;**
- 198 **(b) Adult basic education and job-related instruction;**
199 **(c) Vocational and skill-assessment services and testing;**
200 **(d) Training facilities, equipment, materials, and supplies;**
201 **(e) On-the-job training;**
202 **(f) Administrative expenses equal to fifteen percent of the total**
203 **training costs;**
- 204 **(g) Subcontracted services with state institutions of higher**
205 **education, private colleges or universities, or other federal, state, or**
206 **local agencies;**
- 207 **(h) Contracted or professional services; and**
208 **(i) Issuance of certificates, when applicable.**

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

10 2. There is hereby created the "Compete Missouri Job Training
11 Joint Legislative Oversight Committee". The committee shall consist of
12 three members of the Missouri senate appointed by the president pro

13 tem of the senate; and three members of the house of representatives
14 appointed by the speaker of the house. No more than two of the
15 members of the senate and two of the members of the house of
16 representatives shall be from the same political party. Members of the
17 committee shall report to the governor, the president pro tem of the
18 senate and the speaker of the house of representatives on all assistance
19 to industries under the provisions of sections 620.800 to 620.809
20 provided during the preceding fiscal year. The report of the committee
21 shall be delivered no later than October first of each year. The director
22 of the department shall report to the committee such information as the
23 committee may deem necessary for its annual report. Members of the
24 committee shall receive no compensation in addition to their salary as
25 members of the general assembly, but may receive their necessary
26 expenses while attending the meetings of the committee, to be paid out
27 of the joint contingent fund.

28 3. The department shall publish guidelines and may promulgate
29 rules and regulations governing the training program. Any rule or
30 portion of a rule, as that term is defined in section 536.010, that is
31 created under the authority delegated in this section shall become
32 effective only if it complies with and is subject to all of the provisions
33 of chapter 536 and, if applicable, section 536.028. This section and
34 chapter 536 are nonseverable and if any of the powers vested with the
35 general assembly pursuant to chapter 536 to review, to delay the
36 effective date, or to disapprove and annul a rule are subsequently held
37 unconstitutional, then the grant of rulemaking authority and any rule
38 proposed or adopted after August 28, 2011, shall be invalid and void.

39 4. The department shall make program applications and
40 guidelines available on-line.

41 5. The department may contract with other entities, including
42 businesses, industries, other state agencies and the political
43 subdivisions of the state for the purposes of carrying out the provisions
44 of the training program established in sections 620.800 to 620.809. Any
45 assistance through the training program shall be provided pursuant to
46 an agreement.

47 6. Prior to the authorization of any application submitted
48 through the training program, the department shall verify the
49 applicant's tax payment status and offset any delinquencies as provided

50 in section 135.815.

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

13 2. The department may provide financial assistance through the
14 training program to qualified companies that create new jobs which
15 will result in the need for training, or that make new capital
16 investment relating directly to the retention of retained jobs in an
17 amount at least five times greater than the amount of any financial
18 assistance. Financial assistance may also be provided to a consortium
19 of qualified companies organized for the purpose of providing for
20 common training to the consortium members' employees. Funds in the
21 compete Missouri job development fund shall be appropriated, for
22 financial assistance through the training program, by the general
23 assembly to the department and shall be administered by a local
24 educational agency certified by the department for such
25 purpose. Except for state-sponsored preemployment training, no
26 qualified company shall receive more than fifty percent of its training
27 program costs from the compete Missouri job development fund. No
28 funds shall be awarded or reimbursed to any qualified company for the
29 training, retraining, or upgrading of skills of potential employees with
30 the purpose of replacing or supplanting employees engaged in an
31 authorized work stoppage. Upon approval by the department, training
32 project costs, except the purchase of training equipment and training
33 facilities, shall be eligible for reimbursement with funds from the
34 compete Missouri job development fund. Notwithstanding any
35 provision of law to the contrary, no qualified company within a service
36 industry shall be eligible for assistance under this subsection unless

37 such qualified company provides services in interstate commerce,
38 which shall mean that the qualified company derives a majority of its
39 annual revenues from out of the state.

40 3. The department may provide assistance, through
41 appropriations made from the compete Missouri job development fund,
42 to business and technology centers. Such assistance shall not include
43 the lending of the state's credit for the payment of any liability of the
44 fund. Such centers may be established by Missouri community colleges,
45 or a state-owned postsecondary technical college, to provide business
46 and training services for growth industries as determined by current
47 labor market information.

620.809. 1. The "Missouri Community College Job Training
2 Program Fund" formerly established in the state treasury by section
3 178.896 shall now be known as the "Compete Missouri Community
4 College New Jobs Training Fund", and shall be administered by the
5 department for the training program. The department of revenue shall
6 credit to the fund, as received, all new jobs credits. The fund shall also
7 consist of any gifts, contributions, grants, or bequests received from
8 federal, private, or other sources. The general assembly, however, shall
9 not provide for any transfer of general revenue funds into the
10 fund. Moneys in the fund shall be disbursed to the department
11 pursuant to regular appropriations by the general assembly. The
12 department shall disburse such appropriated funds in a timely manner
13 into the special funds established by community college districts for
14 training projects, which funds shall be used to pay training project
15 costs. Such disbursements shall be made to the special fund for each
16 training project in the same proportion as the new jobs credit remitted
17 by the qualified company participating in such project bears to the
18 total new jobs credit from withholding remitted by all qualified
19 companies participating in projects during the period for which the
20 disbursement is made. All moneys remaining in the fund at the end of
21 any fiscal year shall not lapse to the general revenue fund, as provided
22 in section 33.080, but shall remain in the fund.

23 2. The "Missouri Community College Job Retention Training
24 Program Fund" formerly established in the state treasury by section
25 178.764, shall now be known as the "Compete Missouri Community
26 College Job Retention Training Fund", and shall be administered by the

27 department for the compete Missouri training program. The
28 department of revenue shall credit to the fund, as received, all retained
29 jobs credits. The fund shall also consist of any gifts, contributions,
30 grants, or bequests received from federal, private, or other
31 sources. The general assembly, however, shall not provide for any
32 transfer of general revenue funds into the fund. Moneys in the fund
33 shall be disbursed to the department pursuant to regular
34 appropriations by the general assembly. The department shall disburse
35 such appropriated funds in a timely manner into the special funds
36 established by community college districts for projects, which funds
37 shall be used to pay training program costs, including the principal,
38 premium, and interest on certificates issued by the district to finance
39 or refinance, in whole or in part, a project. Such disbursements by the
40 department shall be made to the special fund for each project in the
41 same proportion as the retained jobs credit from withholding remitted
42 by the qualified company participating in such project bears to the
43 total retained jobs credit from withholding remitted by qualified
44 companies participating in projects during the period for which the
45 disbursement is made. All moneys remaining in the fund at the end of
46 any fiscal year shall not lapse to the general revenue fund, as provided
47 in section 33.080, but shall remain in the fund.

48 3. The department of revenue shall develop such forms as are
49 necessary to demonstrate accurately each qualified company's new jobs
50 credit paid into the compete Missouri community college new jobs
51 training fund or retained jobs credit paid into the compete Missouri
52 community college job retention training fund. The new or retained
53 jobs credits shall be accounted as separate from the normal
54 withholding tax paid to the department of revenue by the qualified
55 company. Reimbursements made by all qualified companies to the
56 compete Missouri community college new jobs training fund and the
57 compete Missouri community college job retention training fund shall
58 be no less than all allocations made by the department to all community
59 college districts for all projects. The qualified company shall remit the
60 amount of the new or retained jobs credit, as applicable, to the
61 department of revenue in the same manner as provided in sections
62 143.191 to 143.265.

63 4. A community college district, with the approval of the

64 department in consultation with the office of administration, may enter
65 into an agreement to establish a training project and provide training
66 project services to a qualified company. As soon as possible after
67 initial contact between a community college district and a potential
68 qualified company regarding the possibility of entering into an
69 agreement, the district shall inform the department of the potential
70 training project. The department shall evaluate the proposed training
71 project within the overall job training efforts of the state to ensure that
72 the training project will not duplicate other job training programs. The
73 department shall have fourteen days from receipt of a notice of intent
74 to approve or disapprove training projects. If no response is received
75 by the qualified company within fourteen days, the training project
76 shall be deemed approved. Disapproval of any training project shall be
77 made in writing and state the reasons for such disapproval. If an
78 agreement is entered into, the district and the qualified company shall
79 notify the department of revenue within fifteen calendar days. In
80 addition to any provisions required under subsection 5 of this section
81 for a qualified company applying to receive a retained job credit, an
82 agreement may provide, but shall not be limited to:

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

85 (a) Funds appropriated by the general assembly to the compete
86 Missouri community college new jobs training program fund or compete
87 Missouri community college job retention training program fund, as
88 applicable, and disbursed by the department for the purposes
89 consistent with sections 620.800 to 620.809;

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

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

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

100 (4) A provision which fixes the minimum amount of new or

101 retained jobs credits, or tuition and fee payments which shall be paid
102 for training project costs;

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

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

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

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

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

124 (a) Has made substantial investment in new technology requiring
125 the upgrading of employee skills; or

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

128 (c) Has been determined to represent a substantial risk of
129 relocation from the state by the director of the department of economic
130 development.

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

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

137 (2) A portion of the total payments made by the qualified

138 companies under sections 143.191 to 143.265 shall be designated as the
139 new or retained jobs credit from withholding. Such portion shall be an
140 amount equal to two and one-half percent of the gross wages paid by
141 the qualified company for each of the first one hundred jobs included
142 in the project and one and one-half percent of the gross wages paid by
143 the qualified company for each of the remaining jobs included in the
144 project. If business or employment conditions cause the amount of the
145 new or retained jobs credit from withholding to be less than the
146 amount projected in the agreement for any time period, then other
147 withholding tax paid by the qualified company under sections 143.191
148 to 143.265 shall be credited to the applicable fund by the amount of
149 such difference. The qualified company shall remit the amount of the
150 new or retained jobs credit to the department of revenue in the manner
151 prescribed in sections 143.191 to 143.265. When all training program
152 costs have been paid, the new or retained jobs credit shall cease;

153 (3) The community college district participating in a project
154 shall establish a special fund for and in the name of the training
155 project. All funds appropriated by the general assembly from the funds
156 established under subsections 1 and 2 of this section, and disbursed by
157 the department for the training project and other amounts received by
158 the district for training project costs as required by the agreement
159 shall be deposited in the special fund. Amounts held in the special fund
160 shall be used and disbursed by the district only to pay training project
161 costs for such training project. The special fund may be divided into
162 such accounts and subaccounts as shall be provided in the agreement,
163 and amounts held therein may be invested in the same manner as the
164 district's other funds;

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

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

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

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

183 **7. To provide funds for the present payment of the training**
184 **project costs of new or retained jobs training project through the**
185 **training program, a community college district may borrow money and**
186 **issue and sell certificates payable from a sufficient portion of the**
187 **future receipts of payments authorized by the agreement including**
188 **disbursements from the compete Missouri community college new jobs**
189 **training fund or the compete Missouri community college job retention**
190 **training fund, to the special fund established by the district for each**
191 **project. The total amount of outstanding certificates sold by all**
192 **community college districts shall not exceed the total amount**
193 **authorized pursuant to law as of January 1, 2011, unless an increased**
194 **amount is authorized in writing by a majority of members of the**
195 **committee. The certificates shall be marketed through financial**
196 **institutions authorized to do business in Missouri. The receipts shall**
197 **be pledged to the payment of principal of and interest on the**
198 **certificates. Certificates may be sold at public sale or at private sale**
199 **at par, premium, or discount of not less than ninety-five percent of the**
200 **par value thereof, at the discretion of the board of trustees, and may**
201 **bear interest at such rate or rates as the board of trustees shall**
202 **determine, notwithstanding the provisions of section 108.170 to the**
203 **contrary. However, the provisions of chapter 176 shall not apply to the**
204 **issuance of such certificates. Certificates may be issued with respect**
205 **to a single project or multiple projects and may contain terms or**
206 **conditions as the board of trustees may provide by resolution**
207 **authorizing the issuance of the certificates.**

208 **8. Certificates issued to refund other certificates may be sold at**
209 **public sale or at private sale as provided in this section with the**
210 **proceeds from the sale to be used for the payment of the certificates**
211 **being refunded. The refunding certificates may be exchanged in**

212 payment and discharge of the certificates being refunded, in
213 installments at different times or an entire issue or series at one
214 time. Refunding certificates may be sold or exchanged at any time on,
215 before, or after the maturity of the outstanding certificates to be
216 refunded. They may be issued for the purpose of refunding a like,
217 greater, or lesser principal amount of certificates and may bear a
218 higher, lower, or equivalent rate of interest than the certificates being
219 renewed or refunded.

220 9. Before certificates are issued, the board of trustees shall
221 publish once a notice of its intention to issue the certificates, stating
222 the amount, the purpose, and the project or projects for which the
223 certificates are to be issued. A person with standing may, within
224 fifteen days after the publication of the notice, by action in the circuit
225 court of a county in the district, appeal the decision of the board of
226 trustees to issue the certificates. The action of the board of trustees in
227 determining to issue the certificates shall be final and conclusive
228 unless the circuit court finds that the board of trustees has exceeded
229 its legal authority. An action shall not be brought which questions the
230 legality of the certificates, the power of the board of trustees to issue
231 the certificates, the effectiveness of any proceedings relating to the
232 authorization of the project, or the authorization and issuance of the
233 certificates from and after fifteen days from the publication of the
234 notice of intention to issue.

235 10. The board of trustees shall make a finding based on
236 information supplied by the qualified company that revenues provided
237 in the agreement are sufficient to secure the faithful performance of
238 obligations in the agreement.

239 11. Certificates issued under this section shall not be deemed to
240 be an indebtedness of the state or the community college district or of
241 any other political subdivision of the state, and the principal and
242 interest on any certificates shall be payable only from the sources
243 provided in subdivision (1) of subsection 4 of this section which are
244 pledged in the agreement.

245 12. The provisions of the new program authorized under sections
246 620.800 to 620.809 shall sunset automatically on July 1, 2018, unless
247 reauthorized by an act of the general assembly.

620.2000. Sections 620.2000 to 620.2020 and section 144.540 shall

2 be known and may be cited as the "Compete Missouri Program".

620.2005. As used in sections 620.2000 to 620.2020, the following
2 terms mean:

3 (1) "Average wage", the new payroll divided by the number of
4 new jobs, or the payroll of the retained jobs divided by the number of
5 retained jobs;

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

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

23 (4) "Department", the Missouri department of economic
24 development;

25 (5) "Director", the director of the department of economic
26 development;

27 (6) "Dormant manufacturing plant", any parcel or parcels of real
28 property encompassing not less than two hundred fifty acres that,
29 within six years of the date of the notice of intent:

30 (a) Was predominantly used for manufacturing or assembly and
31 employed not less than three thousand persons but has since ceased all
32 activity;

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

35 (c) Such real property:

36 a. Is located in a census tract with, according to United States

37 Census Bureau's American Community Survey based on the most recent
38 of five-year period estimated data in which the estimate ends in either
39 zero or five, a poverty rate of fifteen percent or more, or the median
40 household income is below the statewide median household income or
41 the metropolitan median household income for the metropolitan
42 statistical area in which the property is located; or

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

45 (7) "Dormant manufacturing plant zone", includes and
46 encompasses:

47 (a) Any dormant manufacturing plant;

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

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

53 (8) "Employee", a person employed by a qualified company;

54 (9) "Existing Missouri business", a qualified company that, for the
55 ten-year period preceding submission of a notice of intent to the
56 department, had a physical location in Missouri and full-time
57 employees who routinely perform job duties within Missouri;

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

63 (11) "Local incentives", the present value of the dollar amount of
64 direct benefit received by a qualified company for a project facility
65 from one or more local political subdivisions, but this term shall not
66 include loans or other funds provided to the qualified company that
67 shall be repaid by the qualified company to the political subdivision;

68 (12) "NAICS" or "NAICS industry classification", the classification
69 provided by the most recent edition of the North American Industry
70 Classification System as prepared by the Executive Office of the
71 President, Office of Management and Budget;

72 (13) "New capital investment", shall include funds spent by the
73 qualified company at the project facility after the approval of the

74 notice of intent for real or personal property, and may include the
75 present value of finance or capital leases for real or personal property
76 for the term of such lease at the project facility executed after approval
77 of the notice of intent;

78 (14) "New direct local revenue", the present value of the dollar
79 amount of direct net new tax revenues of the local political
80 subdivisions likely to be produced by the project over a ten-year period
81 as calculated by the department, excluding local earnings tax, and net
82 new utility revenues, provided the local incentives include a discount
83 or other direct incentives from utilities owned or operated by the
84 political subdivision;

85 (15) "New job", the number of full-time employees located at the
86 project facility that exceeds the project facility base employment less
87 any decrease in the number of full-time employees at related facilities
88 below the related facility base employment. No job that was created
89 prior to the date of the notice of intent shall be deemed a new job. An
90 employee that spends less than fifty percent of the employee's work
91 time at the facility shall be considered to be located at a facility if the
92 employee receives his or her directions and control from that facility,
93 is on the facility's payroll, one hundred percent of the employee's
94 income from such employment is Missouri income, and the employee is
95 paid at or above the applicable percentage of the county average wage;

96 (16) "New payroll", the amount of wages earned by all full-time
97 employees, excluding owners of the qualified company unless the
98 qualified company is participating in an employee stock ownership
99 plan, located at the project facility during the qualified company's tax
100 year that exceeds the project facility base payroll;

101 (17) "Notice of intent", a form developed by the department and
102 available online, completed by the qualified company, and submitted to
103 the department stating the qualified company's intent to request
104 benefits under this program;

105 (18) "Percent of local incentives", the amount of local incentives
106 divided by the amount of new direct local revenue;

107 (19) "Program", the compete Missouri program established in
108 sections 620.2000 to 620.2020;

109 (20) "Project facility", the building or buildings used by a
110 qualified company at which new or retained jobs and any new capital

111 investment are or will be located. A project facility may include
112 separate buildings located within sixty miles of each other such that
113 their purpose and operations are interrelated; provided that where the
114 buildings making up the project facility are not located within the same
115 county, the average wage of the new payroll shall exceed the highest
116 county average wage among the counties in which the buildings are
117 located. Upon approval by the department, a subsequent project
118 facility may be designated if the qualified company demonstrates a
119 need to relocate to the subsequent project facility at any time during
120 the project period;

121 (21) "Project facility base employment", the greater of the
122 number of full-time employees located at the project facility on the date
123 of the notice of intent or, for the twelve-month period prior to the date
124 of the notice of intent, the average number of full-time employees
125 located at the project facility. In the event the project facility has not
126 been in operation for a full twelve-month period, the average number
127 of full-time employees for the number of months the project facility has
128 been in operation prior to the date of the notice of intent;

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

138 (23) "Project period", the time period within which benefits are
139 awarded to a qualified company or within which the qualified company
140 is obligated to perform pursuant to an agreement with the department,
141 whichever is greater;

142 (24) "Projected net fiscal benefit", the total fiscal benefit to the
143 state less any state benefits offered to the qualified company, as
144 determined by the department;

145 (25) "Qualified company", a firm, partnership, joint venture,
146 association, private or public corporation whether organized for profit
147 or not, or headquarters of such entity registered to do business in

148 Missouri that is the owner or operator of a project facility, offers health
149 insurance to all full-time employees of all facilities located in this state,
150 and pays at least fifty percent of such insurance premiums. For the
151 purposes of sections 620.2000 to 620.2020, the term "qualified company"
152 shall not include:

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

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

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

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

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

164 (f) Any company that has filed for or has publicly announced its
165 intention to file for bankruptcy protection. However, a company that
166 has filed for or has publicly announced its intention to file for
167 bankruptcy, may be a qualified company provided that such company:

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

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

176 Any taxpayer who is awarded benefits under this subsection and who
177 files for bankruptcy under Chapter 7 of the United States Bankruptcy
178 Code, Title 11 U.S.C., shall immediately notify the department and shall
179 forfeit such benefits and shall repay the state an amount equal to any
180 state tax credits already redeemed and any withholding taxes already
181 retained;

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

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

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

185 (j) Ethanol distillation or production; or

186 (k) Biodiesel production.

187 Notwithstanding any provision of this section to the contrary, the
188 headquarters, administrative offices, or research and development
189 facilities of an otherwise excluded business may qualify for benefits if
190 the offices or facilities serve a multistate territory. In the event a
191 national, state, or regional headquarters operation is not the
192 predominant activity of a project facility, the jobs and investment of
193 such operation shall be considered eligible for benefits under this
194 section if the other requirements are satisfied;

195 (26) "Related company", shall mean:

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

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

200 (c) Corporations, partnerships, trusts or associations controlled
201 by an individual, corporation, partnership, trust, or association in
202 control of the qualified company. As used in this paragraph, "control
203 of a qualified company" shall mean:

204 a. Ownership, directly or indirectly, of stock possessing at least
205 fifty percent of the total combined voting power of all classes of stock
206 entitled to vote in the case of a qualified company that is a corporation;

207 b. Ownership of at least fifty percent of the capital or profits
208 interest in such qualified company if it is a partnership or association;

209 c. Ownership, directly or indirectly, of at least fifty percent of
210 the beneficial interest in the principal or income of such qualified
211 company if it is a trust, and ownership shall be determined as provided
212 in Section 318 of the Internal Revenue Code of 1986, as amended;

213 (27) "Related facility", a facility operated by the qualified
214 company or a related company located in this state that is directly
215 related to the operations of the project facility or in which operations
216 substantially similar to the operations of the project facility are
217 performed;

218 (28) "Related facility base employment", the greater of the
219 number of full-time employees located at all related facilities on the
220 date of the notice of intent or, for the twelve-month period prior to the
221 date of the notice of intent, the average number of full-time employees

222 located at all related facilities of the qualified company or a related
223 company located in this state;

224 (29) "Related facility base payroll", the total amount of taxable
225 wages paid by the qualified company to full-time employees of the
226 qualified company located at a related facility in the twelve months
227 prior to the filing of the notice of intent, not including the payroll of
228 the owners of the qualified company unless the qualified company is
229 participating in an employee stock ownership plan. For purposes of
230 calculating the benefits under this program, the amount of related
231 facility base payroll shall increase each year based on an appropriate
232 measure, as determined by the department;

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

237 (31) "Targeted industry", an industry or one of a cluster of
238 industries identified by the department, by rule following a strategic
239 planning process, as being critical to the state's economic security and
240 growth;

241 (32) "Tax credits", tax credits issued by the department to offset
242 the state taxes imposed by chapters 143 and 148, or which may be sold
243 or refunded as provided for in this program; and

244 (33) "Withholding tax", the state tax imposed by sections 143.191
245 to 143.265. For purposes of this program, the withholding tax shall be
246 computed using a schedule as determined by the department based on
247 average wages.

620.2010. 1. In exchange for the consideration provided by the
2 new tax revenues and other economic stimuli that will be generated by
3 the new jobs created, a qualified company shall be eligible to receive
4 the following benefits under this program:

5 (1) A qualified company may, for a period of five years from the
6 date the new jobs are created, or for a period of six years from the date
7 the new jobs are created if the qualified company is an existing
8 Missouri business, retain an amount equal to the withholding tax as
9 calculated under subdivision (33) of section 620.2005 from the new jobs
10 that would otherwise be withheld and remitted by the qualified
11 company under the provisions of sections 143.191 to 143.265 if:

12 (a) The qualified company creates twenty or more new jobs, and
13 the average wage of the new payroll equals or exceeds ninety percent
14 of the county average wage;

15 (b) The qualified company is in a targeted industry and creates
16 ten or more new jobs, and the average wage of the new payroll equals
17 or exceeds ninety percent of the county average wage;

18 (c) The qualified company creates two or more new jobs at a
19 project facility located within a zone designated pursuant to section
20 135.950 to 135.963, the average wage of the new payroll equals or
21 exceeds eighty percent of the county average wage, and the qualified
22 company commits to making at least one hundred thousand dollars in
23 new capital investment at the project facility within two years of
24 approval; or

25 (d) The qualified company creates two or more new jobs, at a
26 project facility located within a dormant manufacturing zone, with an
27 average wage of the new payroll equal to or exceeding eighty percent
28 of the county average wage;

29 (2) In addition to any other benefits available under this
30 subsection, a qualified company that satisfies paragraph (a) of
31 subdivision (1) of this subsection shall also be entitled to tax credits
32 issued each year for a period of five years from the date the new jobs
33 are created in an amount not to exceed two percent of new payroll from
34 the new jobs created; provided that in no event may the total amount
35 of benefits provided to a qualified company under this subsection
36 exceed five percent of the new payroll in any calendar year;

37 (3) In addition to any other benefits available under this
38 subsection, a qualified company that satisfies paragraph (b) of
39 subdivision (1) of this subsection shall also be entitled to tax credits
40 issued each year for a period of five years from the date the new jobs
41 are created in an amount not to exceed three percent of new payroll
42 from the new jobs created; provided that in no event may the total
43 amount of benefits provided to a qualified company under this
44 subsection exceed six percent of the new payroll in any calendar year.

45 2. In addition to any benefits available under subsection 1 of this
46 section, the department may award additional tax credits issued each
47 year for a period of five years from the date the new jobs are created
48 as follows:

49 (1) A qualified company that satisfies paragraph (a) of
50 subdivision (1) of subsection 1 of this section may be awarded tax
51 credits in an amount not to exceed four percent of new payroll from the
52 new jobs created; provided that in no event may the total amount of
53 benefits awarded to a qualified company under this section exceed nine
54 percent of new payroll in any calendar year;

55 (2) A qualified company that satisfies paragraph (b) of
56 subdivision (1) of subsection 1 of this section may be awarded tax
57 credits in an amount not to exceed six percent of new payroll from the
58 new jobs created; provided that in no event may the total amount of
59 benefits provided to the qualified company under this section exceed
60 twelve percent of new payroll in any calendar year;

61 (3) The amount of tax credits awarded to a qualified company
62 under this subsection shall not exceed the projected net fiscal benefit
63 to the state, as determined by the department, and shall not exceed the
64 least amount necessary to obtain the qualified company's commitment
65 to initiate the project. No benefits shall be available under this
66 subsection for any qualified company that has performed significant,
67 project-specific site work at the project facility or has publicly
68 announced its intention to create new jobs or make new capital
69 investment at the project facility prior to approval of its notice of
70 intent;

71 (4) In determining the amount of tax credits to award to a
72 qualified company under this subsection, the department shall consider
73 the following factors:

74 (a) The significance of the qualified company's need for program
75 benefits;

76 (b) The amount of projected net fiscal benefit to the state of the
77 project and the period in which the state would realize such net fiscal
78 benefit;

79 (c) The overall size and quality of the proposed project,
80 including the number of new jobs, new capital investment, proposed
81 wages, growth potential of the qualified company, the potential
82 multiplier effect of the project, and similar factors;

83 (d) The financial stability and creditworthiness of the qualified
84 company;

85 (e) The level of economic distress in the area;

86 (f) An evaluation of the competitiveness of alternative locations
87 for the project facility, as applicable; and

88 (g) The percent of local incentives committed;

89 (5) Upon approval of a notice of intent to receive tax credits
90 under this subsection, the department and the qualified company shall
91 enter into a written agreement covering the applicable project
92 period. The agreement shall specify, at a minimum:

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

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

98 (c) Clawback provisions, as may be required by the department;
99 and

100 (d) Any other provisions the department may require.

101 3. In lieu of all other benefits available under this program, the
102 department may authorize a qualified company meeting the
103 requirements of this subsection and subsection 1 of this section to be
104 issued tax credits in an amount not to exceed seven percent of new
105 payroll from the new jobs created projected over a period of five years
106 from the date the required number of new jobs are to be created, or, if
107 the qualified company is in a targeted industry, the department may
108 authorize tax credits in an amount not to exceed nine percent of new
109 payroll from the new jobs created, projected over a period of five
110 years. The amount of tax credits awarded to a qualified company under
111 this subsection shall not exceed the projected net fiscal benefit to the
112 state, as determined by the department, and may not exceed the least
113 amount necessary to obtain the qualified company's commitment to
114 initiate the project.

115 (1) Prior to approval, a qualified company requesting benefits
116 under this subsection shall provide evidence of commitments for the
117 financing of any applicable new capital investment. The new capital
118 investment shall be made at the project facility within two years of the
119 date of approval.

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

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

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

131 **(b) The date or time period during which the tax credits shall be**
132 **issued, which may be immediately or over a period not to exceed two**
133 **years from the date of approval;**

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

136 **(d) Any other provisions the department may require.**

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

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

150 **(b) If, during any year of the project period, the average wage of**
151 **the new payroll paid by the qualified company fails to equal or exceed**
152 **the applicable percentage of the county average wage, or the qualified**
153 **company fails to offer and pay fifty percent of the premium for health**
154 **insurance to all of its full-time employees located in this state, the**
155 **company shall refund to the state an amount equal to the face amount**
156 **of all tax credits received from the department under this program,**
157 **divided by the number of years in the project period. In addition to the**
158 **refund, the qualified company shall pay interest of nine percent per**
159 **annum from the date the tax credits were issued on the amount of the**

160 refund;

161 (c) If the qualified company fails to meet its payroll commitment
162 for any year during the project period, it shall refund to the state a
163 portion of its total benefit received under this section based on the
164 following formula: the total amount of tax credits received by the
165 qualified company, divided by the number of years during the project
166 period, and multiplied by a fraction, the numerator of which is the
167 contractually agreed-upon amount of payroll for that year minus the
168 actual amount of payroll made by the company during the year, and the
169 denominator of which is the contractually agreed upon amount of
170 payroll made for that same year. In addition to the refund, the
171 qualified company shall pay interest of nine percent per annum from
172 the date the tax credits were issued on the amount of the refund;

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

183 (5) The maximum amount of tax credits that may be authorized
184 under this subsection for any fiscal year shall be limited as follows:

185 (a) For the fiscal year beginning on July 1, 2011, but ending on
186 or before June 30, 2012, no more than fifteen million dollars in tax
187 credits may be authorized;

188 (b) For the fiscal year beginning on July 1, 2012, but ending on
189 or before June 30, 2013, no more than thirty million dollars in tax
190 credits may be authorized;

191 (c) For the fiscal year beginning on July 1, 2013, but ending on
192 or before June 30, 2014, no more than forty-five million dollars in tax
193 credits may be authorized; and

194 (d) For any fiscal year beginning on or after July 1, 2014, no
195 more than sixty million dollars in tax credits may be authorized.

196 4. In addition to any benefits available under this section, any

197 qualified company meeting the requirements of section 144.540 may be
198 eligible for a tax exemption as provided in section 144.540.

620.2020. 1. The department shall respond to a written request,
2 by or on behalf of a qualified company, for a proposed benefit award
3 under the provisions of this program within five business days of
4 receipt of such request. Such response shall contain either a proposal
5 of benefits for the qualified company, or a written response refusing to
6 provide such a proposal and stating the reasons for such refusal. A
7 qualified company that intends to seek benefits under the program
8 shall submit to the department a notice of intent. The department shall
9 respond within thirty days to a notice of intent with an approval or a
10 rejection, provided that the department may withhold approval or
11 provide a contingent approval until it is satisfied that proper
12 documentation of eligibility has been provided. Failure to respond on
13 behalf of the department shall result in the notice of intent being
14 deemed approved. A qualified company receiving approval for program
15 benefits may receive additional benefits for subsequent new jobs at the
16 same facility after the full initial project period if the applicable
17 minimum job requirements are met. There shall be no limit on the
18 number of project periods a qualified company may participate in the
19 program, and a qualified company may elect to file a notice of intent to
20 begin a new project period concurrent with an existing project period
21 if the applicable minimum job requirements are achieved, the qualified
22 company provides the department with the required annual reporting,
23 and the qualified company is in compliance with this program and any
24 other state programs in which the qualified company is currently or
25 has previously participated. However, the qualified company shall not
26 receive any further program benefits under the original approval for
27 any new jobs created after the date of the new notice of intent, and any
28 jobs created before the new notice of intent shall not be included as
29 new jobs for purposes of the benefit calculation for the new
30 approval. When a qualified company has filed and received approval
31 of a notice of intent and subsequently files another notice of intent, the
32 department shall apply the definition of project facility under
33 subdivision (20) of section 620.2005 to the new notice of intent as well
34 as all previously approved notices of intent and shall determine the
35 application of the definitions of new job, new payroll, project facility

36 base employment, and project facility base payroll accordingly.

37 2. Notwithstanding any provision of law to the contrary, the
38 benefits available to the qualified company under any other state
39 programs for which the company is eligible and which utilize
40 withholding tax from the new jobs of the company shall first be
41 credited to the other state program before the withholding retention
42 level applicable under this program will begin to accrue. If any
43 qualified company also participates in a job training program utilizing
44 withholding tax, the company shall retain no withholding tax under
45 this program, but the department shall issue a refundable tax credit for
46 the full amount of benefit allowed under this program. The calendar
47 year annual maximum amount of tax credits which may be issued to a
48 qualifying company that also participates in the new job training
49 program shall be increased by an amount equivalent to the withholding
50 tax retained by that company under the new jobs training program.

51 3. A qualified company receiving benefits under this program
52 shall provide an annual report of the number of jobs and such other
53 information as may be required by the department to document the
54 basis for program benefits available, including any exemption from
55 state sales and use taxes pursuant to section 140.540. In such annual
56 report, if the average wage is below the applicable percentage of the
57 county average wage, the qualified company has not maintained the
58 employee insurance as required, or if the number of jobs is below the
59 number required, the qualified company shall not receive tax credits
60 or retain the withholding tax for the balance of the project period.

61 4. Except as provided in subsection 3 of section 620.2010, the
62 department may withhold the approval of any benefits provided under
63 this program until it is satisfied that proper documentation has been
64 provided, and shall reduce the benefits to reflect any reduction in full-
65 time employees or payroll. Upon approval by the department, the
66 qualified company may begin the retention of the withholding taxes
67 when it reaches the required number of jobs and the average wage
68 meets or exceeds the applicable percentage of county average
69 wage. Tax credits, if any, may be issued upon satisfaction by the
70 department that the qualified company has met or exceeded the
71 applicable percentage of county average wage and the required number
72 of jobs.

73 **5. Any qualified company approved for benefits under this**
74 **program shall provide to the department, upon request, any and all**
75 **information and records reasonably required to monitor compliance**
76 **with program requirements. This program shall be considered a**
77 **business recruitment tax credit under subdivision (4) of subsection 2**
78 **of section 135.800, and any qualified company approved for benefits**
79 **under this program shall be subject to the provisions of section 135.800**
80 **to 135.830.**

81 **6. Any taxpayer who is awarded benefits under this program who**
82 **knowingly hires individuals who are not allowed to work legally in the**
83 **United States shall immediately forfeit such benefits and shall repay**
84 **the state an amount equal to any state tax credits already redeemed**
85 **and any withholding taxes already retained.**

86 **7. The maximum amount of tax credits that may be authorized**
87 **under this program for any fiscal year shall be limited as follows, less**
88 **the amount of any tax credits previously obligated for that fiscal year**
89 **under any of the tax credit programs referenced in subsection 13 of this**
90 **section:**

91 **(1) For the fiscal year beginning on July 1, 2011, but ending on**
92 **or before June 30, 2012, no more than one hundred and eleven million**
93 **dollars in tax credits may be authorized;**

94 **(2) For the fiscal year beginning on July 1, 2012, but ending on**
95 **or before June 30, 2013, no more than one hundred and twenty-six**
96 **million dollars in tax credits may be authorized; and**

97 **(3) For any fiscal year beginning on or after July 1, 2013, no**
98 **more than one hundred and forty-one million dollars in tax credits may**
99 **be authorized for each fiscal year.**

100 **8. For tax credits for the creation of new jobs under section**
101 **620.2010, the department shall allocate the annual tax credits based on**
102 **the date of the approval, reserving such tax credits based on the**
103 **department's best estimate of new jobs and new payroll of the project,**
104 **and any other applicable factors in determining the amount of benefits**
105 **available to the qualified company under this program. However, the**
106 **annual issuance of tax credits shall be subject to annual verification of**
107 **actual payroll by the department. Except with respect to tax credits**
108 **provided pursuant to subsection 3 of section 620.2010:**

109 **(1) Any authorization of tax credits shall expire if, within two**

110 years from the date of commencement of operations, or approval if
111 applicable, the qualified company has failed to meet the applicable
112 minimum job requirements;

113 (2) The qualified company may retain authorized amounts from
114 the withholding tax under the project once the applicable minimum job
115 requirements have been met for the duration of the project period; and

116 (3) No benefits shall be provided under this program until the
117 qualified company meets the applicable minimum new job
118 requirements.

119 In the event the qualified company does not meet the applicable
120 minimum new job requirements, the qualified company may submit a
121 new notice of intent or the department may provide a new approval for
122 a new project of the qualified company at the project facility or other
123 facilities.

124 9. Tax credits provided under this program may be claimed
125 against taxes otherwise imposed by chapters 143 and 148, and may not
126 be carried forward, but shall be claimed within one year of the close of
127 the taxable year for which they were issued. Tax credits provided
128 under this program may be transferred, sold, or assigned by filing a
129 notarized endorsement thereof with the department that names the
130 transferee, the amount of tax credit transferred, and the value received
131 for the credit, as well as any other information reasonably requested
132 by the department. For a qualified company with flow-through tax
133 treatment to its members, partners, or shareholders, the tax credit shall
134 be allowed to members, partners, or shareholders in proportion to their
135 share of ownership on the last day of the qualified company's tax
136 period.

137 10. Prior to the issuance of tax credits or the qualified company
138 beginning to retain withholding taxes, the department shall verify
139 through the department of revenue and any other applicable state
140 department, that the tax credit applicant does not owe any delinquent
141 income, sales, or use tax or interest or penalties on such taxes, or any
142 delinquent fees or assessments levied by any state department and
143 through the department of insurance, financial institutions and
144 professional registration that the applicant does not owe any
145 delinquent insurance taxes or other fees. Such delinquency shall not
146 affect the approval, except that any tax credits issued shall be first

147 applied to the delinquency and any amount issued shall be reduced by
148 the applicant's tax delinquency. If the department of revenue, the
149 department of insurance, financial institutions and professional
150 registration, or any other state department concludes that a taxpayer
151 is delinquent after June fifteenth but before July first of any year and
152 the application of tax credits to such delinquency causes a tax
153 deficiency on behalf of the taxpayer to arise, then the taxpayer shall be
154 granted thirty days to satisfy the deficiency in which interest,
155 penalties, and additions to tax shall be tolled. After applying all
156 available credits toward a tax delinquency, the administering agency
157 shall notify the appropriate department and that department shall
158 update the amount of outstanding delinquent tax owed by the
159 applicant. If any credits remain after satisfying all insurance, income,
160 sales, and use tax delinquencies, the remaining credits shall be issued
161 to the applicant, subject to the restrictions of other provisions of law.

162 11. The director of revenue shall issue a refund to the qualified
163 company to the extent that the amount of tax credits allowed under this
164 program exceeds the amount of the qualified company's tax liability
165 under chapters 143 or 148.

166 12. An employee of a qualified company shall receive full credit
167 for the amount of tax withheld as provided in section 143.211.

168 13. Notwithstanding any provision of law to the contrary,
169 beginning August 28, 2011, no new projects shall be approved and no
170 new tax credits shall be authorized under the business facility tax
171 credit program created pursuant to sections 135.110 to 135.150 and
172 section 135.258, the business use incentives for large scale development
173 program created pursuant to sections 100.700 to 100.850, the
174 development tax credit program created pursuant to sections 32.100 to
175 32.125, the rebuilding communities tax credit program created pursuant
176 to section 135.535, the enhanced enterprise zone tax credit program
177 created pursuant to sections 135.950 to 135.973, and the Missouri
178 quality jobs program created pursuant to sections 620.1875 to
179 620.1890. The provisions of this subsection shall not be construed to
180 limit or impair the ability of any administering agency to issue tax
181 credits for any project approved prior to August 28, 2011, or the ability
182 of any taxpayer to redeem any such tax credits or to retain any
183 withholding tax under an approval issued prior to that date. The

184 provisions of this subsection shall not be construed to limit or in any
185 way impair the ability of any governing authority to provide any local
186 abatement or designate a new zone under the enhanced enterprise zone
187 program created by sections 135.950 to 135.963.

188 14. If any provision of sections 620.2000 to 620.2020 or
189 application thereof to any person or circumstance is held invalid, the
190 invalidity shall not affect other provisions or application of these
191 sections which can be given effect without the invalid provisions or
192 application, and to this end, the provisions of sections 620.2000 to
193 620.2020 are hereby declared severable.

194 15. By no later than January 1, 2012, and the first day of each
195 calendar quarter thereafter, the department shall present a quarterly
196 report to the general assembly detailing the benefits authorized under
197 this program during the immediately preceding calendar quarter to the
198 extent such information may be disclosed under state and federal
199 law. The report shall include, at a minimum:

200 (1) A list of all approved and disapproved applicants for each tax
201 credit;

202 (2) A list of the aggregate amount of new jobs that are directly
203 attributable to the tax credits authorized;

204 (3) A statement of the aggregate amount of new capital
205 investment directly attributable to the tax credits authorized;

206 (4) Documentation of the estimated net state fiscal benefit for
207 each authorized project and, to the extent available, the actual benefit
208 realized upon completion of such project or activity; and

209 (5) The department's response time for each request for a
210 proposed benefit award under this program.

211 16. The department may adopt such rules, statements of policy,
212 procedures, forms, and guidelines as may be necessary to carry out the
213 provisions of sections 620.2000 to 620.2020. Any rule or portion of a
214 rule, as that term is defined in section 536.010, that is created under
215 the authority delegated in this section shall become effective only if it
216 complies with and is subject to all of the provisions of chapter 536 and,
217 if applicable, section 536.028. This section and chapter 536 are
218 nonseverable and if any of the powers vested with the general assembly
219 pursuant to chapter 536 to review, to delay the effective date, or to
220 disapprove and annul a rule are subsequently held unconstitutional,

221 then the grant of rulemaking authority and any rule proposed or
222 adopted after August 28, 2011, shall be invalid and void.

223 17. Under section 23.253 of the Missouri sunset act:

224 (1) The provisions of the new program authorized under sections
225 620.2000 to 620.2020 shall automatically sunset six years after the
226 effective date of this section unless reauthorized by an act of the
227 general assembly; and

228 (2) If such program is reauthorized, the program authorized
229 under this section shall automatically sunset twelve years after the
230 effective date of this reauthorization of sections 620.2000 to 620.2020;
231 and

232 (3) Sections 620.2000 to 620.2020 shall terminate on September
233 first if the calendar year immediately following the calendar year in
234 which the program authorized under sections 620.2000 to 620.2020 is
235 sunset.

2 [178.760. As used in sections 178.760 to 178.764, the
following terms mean:

3 (1) "Agreement", the agreement between an employer and
4 a community college district concerning a project. An agreement
5 may be for a period not to exceed ten years when the program
6 services associated with a project are not in excess of five hundred
7 thousand dollars. For a project where the associated program costs
8 are greater than five hundred thousand dollars, the agreement may
9 not exceed a period of eight years;

10 (2) "Board of trustees", the board of trustees of a community
11 college district;

12 (3) "Capital investment", an investment in research and
13 development, working capital, and real and tangible personal
14 business property except inventory or property intended for sale to
15 customers. Trucks, truck trailers, truck semi-trailers, rail and
16 barge vehicles and other rolling stock for hire, track, switches,
17 barges, bridges, tunnels, rail yards, and spurs shall not qualify as
18 a capital investment. The amount of such investment shall be the
19 original cost of the property if owned, or eight times the net annual
20 rental rate if leased;

21 (4) "Certificate", industrial retained jobs training

22 certificates issued under section 178.763;

23 (5) "Date of commencement of the project", the date of the
24 agreement;

25 (6) "Employee", the person employed in a retained job;

26 (7) "Employer", the person maintaining retained jobs in
27 conjunction with a project;

28 (8) "Industry", a business located within this state which
29 enters into an agreement with a community college district and
30 which is engaged in interstate or intrastate commerce for the
31 purpose of manufacturing, processing, or assembling products,
32 conducting research and development, or providing services in
33 interstate commerce, but excluding retail services;

34 (9) "Program costs", all necessary and incidental costs of
35 providing program services, including payment of the principal,
36 premium, and interest on certificates, including capitalized
37 interest, issued to finance a project, funding and maintenance of a
38 debt service reserve fund to secure such certificates and wages,
39 salaries and benefits of employees participating in on-the-job
40 training;

41 (10) "Program services" includes, but is not limited to, the
42 following:

43 (a) Retained jobs training;

44 (b) Adult basic education and job-related instruction;

45 (c) Vocational and skill-assessment services and testing;

46 (d) Training facilities, equipment, materials, and supplies;

47 (e) On-the-job training;

48 (f) Administrative expenses equal to seventeen percent of
49 the total training costs, two percent to be paid to the department
50 of economic development for deposit into the Missouri job
51 development fund created under section 620.478;

52 (g) Subcontracted services with state institutions of higher
53 education, private colleges or universities, or other federal, state,
54 or local agencies;

55 (h) Contracted or professional services; and

56 (i) Issuance of certificates;

57 (11) "Project", a training arrangement which is the subject

58 of an agreement entered into between the community college
59 district and an employer to provide program services that is not
60 also the subject of an agreement entered into between a community
61 college district and an employer to provide program services under
62 sections 178.892 to 178.896;

63 (12) "Retained job", a job in a stable industry, not including
64 jobs for recalled workers, which was in existence for at least two
65 consecutive calendar years preceding the year in which the
66 application for the retained jobs training program was made;

67 (13) "Retained jobs credit from withholding", the credit as
68 provided in section 178.762;

69 (14) "Retained jobs training program", or "program", the
70 project or projects established by a community college district for
71 the retention of jobs, by providing education and training of
72 workers for existing jobs for stable industry in the state;

73 (15) "Stable industry", a business that otherwise meets the
74 definition of industry and retains existing jobs. To be a stable
75 industry, the business shall have:

76 (a) Maintained at least one hundred employees per year at
77 the employer's site in the state at which the jobs are based, for
78 each of the two calendar years preceding the year in which
79 application for the program is made;

80 (b) Retained at that site the level of employment that
81 existed in the taxable year immediately preceding the year in
82 which application for the program is made; and

83 (c) Made or agree to make a capital investment aggregating
84 at least one million dollars to acquire or improve long-term assets
85 (including leased facilities) such as property, plant, or equipment
86 (excluding program costs) at the employer's site in the state at
87 which jobs are based over a period of three consecutive calendar
88 years, as certified by the employer and:

89 a. Have made substantial investment in new technology
90 requiring the upgrading of worker's skills; or

91 b. Be located in a border county of the state and represent
92 a potential risk of relocation from the state; or

93 c. Be determined to represent a substantial risk of

94 relocation from the state by the director of the department of
95 economic development;

96 (16) "Total training costs", costs of training, including
97 supplies, wages and benefits of instructors, subcontracted services,
98 on-the-job training, training facilities, equipment, skill assessment,
99 and all program services excluding issuance of certificates.]

[178.761. A community college district, with the approval
2 of the department of economic development in consultation with the
3 office of administration, may enter into an agreement to establish
4 a project and provide program services to an employer. As soon as
5 possible after initial contact between a community college district
6 and a potential employer regarding the possibility of entering into
7 an agreement, the district shall inform the division of workforce
8 development of the department of economic development and the
9 office of administration about the potential project. The division of
10 workforce development shall evaluate the proposed project within
11 the overall job training efforts of the state to ensure that the
12 project will not duplicate other job training programs. The
13 department of economic development shall have fourteen days from
14 receipt of the application to approve or disapprove projects. If no
15 response is received by the community college within fourteen days,
16 the projects are approved. Any project that is disapproved must be
17 in writing stating the reasons for the disapproval. If an agreement
18 is entered into, the district and the employer shall notify the
19 department of revenue within fifteen calendar days. An agreement
20 may provide, but is not limited to:

21 (1) Payment of program costs, including deferred costs,
22 which may be paid from one or a combination of the following
23 sources:

24 (a) Funds appropriated by the general assembly from the
25 Missouri community college job retention program fund and
26 disbursed by the division of workforce development in respect of
27 retained jobs credit from withholding to be received or derived from
28 retained employment resulting from the project;

29 (b) Tuition, student fees, or special charges fixed by the
30 board of trustees to defray program costs in whole or in part;

31 (c) Guarantee of payments to be received under paragraph
32 (a) or (b) of this subdivision;

33 (2) Payment of program costs shall not be deferred for a
34 period longer than ten years if program costs do not exceed five
35 hundred thousand dollars, or eight years if program costs exceed
36 five hundred thousand dollars from the date of commencement of
37 the project;

38 (3) Costs of on-the-job training for employees shall include
39 wages or salaries of participating employees. Payments for
40 on-the-job training shall not exceed the average of fifty percent of
41 the total percent of the total wages paid by the employer to each
42 participant during the period of training. Payment for on-the-job
43 training may continue for up to six months from the date of the
44 employer's capital investment;

45 (4) A provision which fixes the minimum amount of
46 retained jobs credit from withholding, or tuition and fee payments
47 which shall be paid for program costs;

48 (5) Any payment required to be made by an employer is a
49 lien upon the employer's business property until paid and has
50 equal precedence with ordinary taxes and shall not be divested by
51 a judicial sale. Property subject to the lien may be sold for sums
52 due and delinquent at a tax sale, with the same forfeitures,
53 penalties, and consequences as for the nonpayment of ordinary
54 taxes. The purchasers at tax sale obtain the property subject to
55 the remaining payments.]

2 [178.762. If an agreement provides that all or part of
3 program costs are to be met by receipt of retained jobs credit from
4 withholding, such retained jobs credit from withholding shall be
5 determined and paid as follows:

6 (1) Retained jobs credit from withholding shall be based
7 upon the wages paid to the employees in the retained jobs;

8 (2) A portion of the total payments made by the employer
9 under section 143.221 shall be designated as the retained jobs
10 credit from withholding. Such portion shall be an amount equal to
11 two and one-half percent of the gross wages paid by the employer
for each of the first one hundred jobs included in the project and

12 one and one-half percent of the gross wages paid by the employer
13 for each of the remaining jobs included in the project. If business
14 or employment conditions cause the amount of the retained jobs
15 credit from withholding to be less than the amount projected in the
16 agreement for any time period, then other withholding tax paid by
17 the employer under section 143.221 shall be credited to the
18 Missouri community college retained job training fund by the
19 amount of such difference. The employer shall remit the amount
20 of the retained jobs credit to the department of revenue in the
21 manner prescribed in section 178.764. When all program costs,
22 including the principal, premium, and interest on the certificates
23 have been paid, the employer credits shall cease;

24 (3) The community college district participating in a project
25 shall establish a special fund for and in the name of the
26 project. All funds appropriated by the general assembly from the
27 Missouri community college job training retention program fund
28 and disbursed by the division of workforce development for the
29 project and other amounts received by the district in respect of the
30 project and required by the agreement to be used to pay program
31 costs for the project shall be deposited in the special
32 fund. Amounts held in the special fund may be used and disbursed
33 by the district only to pay program costs for the project. The
34 special fund may be divided into such accounts and subaccounts as
35 shall be provided in the agreement, and amounts held therein may
36 be invested in investments which are legal for the investment of
37 the district's other funds;

38 (4) Any disbursement in respect of a project received from
39 the division of workforce development under sections 178.760 to
40 178.764 and the special fund into which it is paid may be
41 irrevocably pledged by a community college district for the payment
42 of the principal, premium, and interest on the certificate issued by
43 a community college district to finance or refinance, in whole or in
44 part, the project;

45 (5) The employer shall certify to the department of revenue
46 that the credit from withholding is in accordance with an
47 agreement and shall provide other information the department may

48 require;

49 (6) An employee participating in a project will receive full
50 credit for the amount designated as a retained jobs credit from
51 withholding and withheld as provided in section 143.221;

52 (7) If an agreement provides that all or part of program
53 costs are to be met by receipt of retained jobs credit from
54 withholding, the provisions of this subsection shall also apply to
55 any successor to the original employer until such time as the
56 principal and interest on the certificates have been paid.]

[178.763. 1. To provide funds for the present payment of
2 the costs of retained jobs training programs, a community college
3 district may borrow money and issue and sell certificates payable
4 from a sufficient portion of the future receipts of payments
5 authorized by the agreement including disbursements from the
6 Missouri community college job retention training program to the
7 special fund established by the district for each project. The total
8 amount of outstanding certificates sold by all community college
9 districts shall not exceed fifteen million dollars, unless an
10 increased amount is authorized in writing by a majority of
11 members of the Missouri job training joint legislative oversight
12 committee. The certificates shall be marketed through financial
13 institutions authorized to do business in Missouri.

14 The receipts shall be pledged to the payment of principal of and
15 interest on the certificates. Certificates may be sold at public sale
16 or at private sale at par, premium, or discount of not less than
17 ninety-five percent of the par value thereof, at the discretion of the
18 board of trustees, and may bear interest at such rate or rates as
19 the board of trustees shall determine, notwithstanding the
20 provisions of section 108.170 to the contrary. However, chapter 176
21 does not apply to the issuance of these certificates. Certificates
22 may be issued with respect to a single project or multiple projects
23 and may contain terms or conditions as the board of trustees may
24 provide by resolution authorizing the issuance of the certificates.

25 2. Certificates issued to refund other certificates may be
26 sold at public sale or at private sale as provided in this section
27 with the proceeds from the sale to be used for the payment of the

28 certificates being refunded. The refunding certificates may be
29 exchanged in payment and discharge of the certificates being
30 refunded, in installments at different times or an entire issue or
31 series at one time. Refunding certificates may be sold or exchanged
32 at any time on, before, or after the maturity of the outstanding
33 certificates to be refunded. They may be issued for the purpose of
34 refunding a like, greater, or lesser principal amount of certificates
35 and may bear a higher, lower, or equivalent rate of interest than
36 the certificates being renewed or refunded.

37 3. Before certificates are issued, the board of trustees shall
38 publish once a notice of its intention to issue the certificates,
39 stating the amount, the purpose, and the project or projects for
40 which the certificates are to be issued. A person may, within
41 fifteen days after the publication of the notice, by action in the
42 circuit court of a county in the district, appeal the decision of the
43 board of trustees to issue the certificates. The action of the board
44 of trustees in determining to issue the certificates is final and
45 conclusive unless the circuit court finds that the board of trustees
46 has exceeded its legal authority. An action shall not be brought
47 which questions the legality of the certificates, the power of the
48 board of trustees to issue the certificates, the effectiveness of any
49 proceedings relating to the authorization of the project, or the
50 authorization and issuance of the certificates from and after fifteen
51 days from the publication of the notice of intention to issue.

52 4. The board of trustees shall make a finding based on
53 information supplied by the employer that revenues provided in the
54 agreement are sufficient to secure the faithful performance of
55 obligations in the agreement.

56 5. Certificates issued under this section shall not be deemed
57 to be an indebtedness of the state or the community college district
58 or of any other political subdivision of the state, and the principal
59 and interest on such certificates shall be payable only from the
60 sources provided in subdivision (1) of section 178.761 which are
61 pledged in the agreement.

62 6. The department of economic development shall
63 coordinate the retained jobs training program, and may promulgate

64 rules that districts will use in developing projects with industrial
65 retained jobs training proposals which shall include rules providing
66 for the coordination of such proposals with the service delivery
67 areas established in the state to administer federal funds pursuant
68 to the federal Workforce Investment Act. No rule or portion of a
69 rule promulgated pursuant to the authority of this section shall
70 become effective unless it has been promulgated pursuant to
71 chapter 536.

72 7. No community college district may sell certificates as
73 described in this section after July 1, 2014.]

[178.764. 1. There is hereby established within the state
2 treasury a special fund, to be known as the "Missouri Community
3 College Job Retention Training Program Fund", to be administered
4 by the division of workforce development. The department of
5 revenue shall credit to the community college job retention training
6 program fund, as received, all retained jobs credit from withholding
7 remitted by employers pursuant to section 178.762. The fund shall
8 also consist of any gifts, contributions, grants, or bequests received
9 from federal, private, or other sources. The general assembly,
10 however, shall not provide for any transfer of general revenue
11 funds into the community college job retention training program
12 fund. Moneys in the Missouri community college job retention
13 training program fund shall be disbursed to the division of
14 workforce development pursuant to regular appropriations by the
15 general assembly. The division shall disburse such appropriated
16 funds in a timely manner into the special funds established by
17 community college districts for projects, which funds shall be used
18 to pay program costs, including the principal, premium, and
19 interest on certificates issued by the district to finance or
20 refinance, in whole or in part, a project. Such disbursements by
21 the division of workforce development shall be made to the special
22 fund for each project in the same proportion as the retained jobs
23 credit from withholding remitted by the employer participating in
24 such project bears to the total retained jobs credit from withholding
25 remitted by all employers participating in projects during the
26 period for which the disbursement is made. Moneys for retained

27 jobs training programs established under sections 178.760 to
28 178.764 shall be obtained from appropriations made by the general
29 assembly from the Missouri community college job retention
30 training program fund. All moneys remaining in the Missouri
31 community college job retention training program fund at the end
32 of any fiscal year shall not lapse to the general revenue fund, as
33 provided in section 33.080, but shall remain in the Missouri
34 community college job retention training program fund.

35 2. The department of revenue shall develop such forms as
36 are necessary to demonstrate accurately each employer's retained
37 jobs credit from withholding paid into the Missouri community
38 college job retention training program fund.

39 The retained jobs credit from withholding shall be accounted as
40 separate from the normal withholding tax paid to the department
41 of revenue by the employer.

42 Reimbursements made by all employers to the Missouri community
43 college job retention training program fund shall be no less than all
44 allocations made by the division of workforce development to all
45 community college districts for all job retention projects. The
46 employer shall remit the amount of the retained job credit to the
47 department of revenue in the same manner as provided in sections
48 143.191 to 143.265.]

[178.892. As used in sections 178.892 to 178.896, the
2 following terms mean:

3 (1) "Agreement", the agreement, between an employer and
4 a community college district, concerning a project. An agreement
5 may be for a period not to exceed ten years when the program
6 services associated with a project are not in excess of five hundred
7 thousand dollars. For a project where associated program costs are
8 greater than five hundred thousand dollars, the agreement may not
9 exceed a period of eight years. No agreement shall be entered into
10 between an employer and a community college district which
11 involves the training of potential employees with the purpose of
12 replacing or supplanting employees engaged in an authorized work
13 stoppage;

14 (2) "Board of trustees", the board of trustees of a community

15 college district;

16 (3) "Certificate", industrial new jobs training certificates
17 issued pursuant to section 178.895;

18 (4) "Date of commencement of the project", the date of the
19 agreement;

20 (5) "Employee", the person employed in a new job;

21 (6) "Employer", the person providing new jobs in
22 conjunction with a project;

23 (7) "Essential industry", a business that otherwise meets
24 the definition of industry but instead of creating new jobs
25 maintains existing jobs. To be an essential industry, the business
26 must have maintained at least two thousand jobs each year for a
27 period of four years preceding the year in which application for the
28 program authorized by sections 178.892 to 178.896 is made and
29 must be located in a home rule city with more than twenty-six
30 thousand but less than twenty-seven thousand inhabitants located
31 in any county with a charter form of government and with more
32 than one million inhabitants;

33 (8) "Existing job", a job in an essential industry that pays
34 wages or salary greater than the average of the county in which the
35 project will be located;

36 (9) "Industry", a business located within the state of
37 Missouri which enters into an agreement with a community college
38 district and which is engaged in interstate or intrastate commerce
39 for the purpose of manufacturing, processing, or assembling
40 products, conducting research and development, or providing
41 services in interstate commerce, but excluding retail
42 services. "Industry" does not include a business which closes or
43 substantially reduces its operation in one area of the state and
44 relocates substantially the same operation in another area of the
45 state. This does not prohibit a business from expanding its
46 operations in another area of the state provided that existing
47 operations of a similar nature are not closed or substantially
48 reduced;

49 (10) "New job", a job in a new or expanding industry not
50 including jobs of recalled workers, or replacement jobs or other jobs

51 that formerly existed in the industry in the state. For an essential
52 industry, an existing job shall be considered a new job for the
53 purposes of the new job training programs;

54 (11) "New jobs credit from withholding", the credit as
55 provided in section 178.894;

56 (12) "New jobs training program" or "program", the project
57 or projects established by a community college district for the
58 creation of jobs by providing education and training of workers for
59 new jobs for new or expanding industry in the state;

60 (13) "Program costs", all necessary and incidental costs of
61 providing program services including payment of the principal of,
62 premium, if any, and interest on certificates, including capitalized
63 interest, issued to finance a project, funding and maintenance of a
64 debt service reserve fund to secure such certificates and wages,
65 salaries and benefits of employees participating in on-the-job
66 training;

67 (14) "Program services" includes, but is not limited to, the
68 following:

- 69 (a) New jobs training;
70 (b) Adult basic education and job-related instruction;
71 (c) Vocational and skill-assessment services and testing;
72 (d) Training facilities, equipment, materials, and supplies;
73 (e) On-the-job training;

74 (f) Administrative expenses equal to fifteen percent of the
75 total training costs;

76 (g) Subcontracted services with state institutions of higher
77 education, private colleges or universities, or other federal, state,
78 or local agencies;

79 (h) Contracted or professional services; and

80 (i) Issuance of certificates;

81 (15) "Project", a training arrangement which is the subject
82 of an agreement entered into between the community college
83 district and an employer to provide program services;

84 (16) "Total training costs", costs of training, including
85 supplies, wages and benefits of instructors, subcontracted services,
86 on-the-job training, training facilities, equipment, skill assessment

87 and all program services excluding issuance of certificates.]

2 [178.893. A community college district, with the approval
3 of the department of economic development in consultation with the
4 office of administration, may enter into an agreement to establish
5 a project and provide program services to an employer. As soon as
6 possible after initial contact between a community college district
7 and a potential employer regarding the possibility of entering into
8 an agreement, the district shall inform the division of job
9 development and training of the department of economic
10 development and the office of administration about the potential
11 project. The division of job development and training shall
12 evaluate the proposed project within the overall job training efforts
13 of the state to ensure that the project will not duplicate other job
14 training programs. The department of economic development shall
15 have fourteen days from receipt of the application to approve or
16 disapprove projects. If no response is received by the community
17 college within fourteen days the projects are approved. Any project
18 that is disapproved must be in writing stating the reasons for the
19 disapproval. If an agreement is entered into, the district and the
20 employer shall notify the department of revenue within fifteen
21 calendar days. An agreement may provide, but is not limited to:

22 (1) Payment of program costs, including deferred costs,
23 which may be paid from one or a combination of the following
24 sources:

25 (a) Funds appropriated by the general assembly from the
26 Missouri community college job training program fund and
27 disbursed by the division of job development and training in
28 respect of new jobs credit from withholding to be received or
29 derived from new employment resulting from the project;

30 (b) Tuition, student fees, or special charges fixed by the
31 board of trustees to defray program costs in whole or in part;

32 (c) Guarantee of payments to be received under paragraph
33 (a) or (b) of this subdivision;

34 (2) Payment of program costs shall not be deferred for a
35 period longer than ten years if program costs do not exceed five
hundred thousand dollars, or eight years if program costs exceed

36 five hundred thousand dollars from the date of commencement of
37 the project;

38 (3) Costs of on-the-job training for employees, shall include
39 wages or salaries of participating employees. Payments for
40 on-the-job training shall not exceed the average of fifty percent of
41 the total percent of the total wages paid by the employer to each
42 participant during the period of training.

43 Payment for on-the-job training may continue for up to six months
44 after the placement of the participant in the new job;

45 (4) A provision which fixes the minimum amount of new
46 jobs credit from withholding, or tuition and fee payments which
47 shall be paid for program costs;

48 (5) Any payment required to be made by an employer is a
49 lien upon the employer's business property until paid and has
50 equal precedence with ordinary taxes and shall not be divested by
51 a judicial sale. Property subject to the lien may be sold for sums
52 due and delinquent at a tax sale, with the same forfeitures,
53 penalties, and consequences as for the nonpayment of ordinary
54 taxes. The purchasers at tax sale obtain the property subject to
55 the remaining payments.]

[178.894. If an agreement provides that all or part of
2 program costs are to be met by receipt of new jobs credit from
3 withholding, such new jobs credit from withholding shall be
4 determined and paid as follows:

5 (1) New jobs credit from withholding shall be based upon
6 the wages paid to the employees in the new jobs;

7 (2) A portion of the total payments made by the employer
8 pursuant to section 143.221 shall be designated as the new jobs
9 credit from withholding. Such portion shall be an amount equal to
10 two and one-half percent of the gross wages paid by the employer
11 for each of the first one hundred jobs included in the project and
12 one and one-half percent of the gross wages paid by the employer
13 for each of the remaining jobs included in the project. If business
14 or employment conditions cause the amount of the new jobs credit
15 from withholding to be less than the amount projected in the
16 agreement for any time period, then other withholding tax paid by

17 the employer pursuant to section 143.221 shall be credited to the
18 Missouri community college job training fund by the amount of
19 such difference. The employer shall remit the amount of the new
20 jobs credit to the department of revenue in the manner prescribed
21 in section 178.896. When all program costs, including the principal
22 of, premium, if any, and interest on the certificates have been paid,
23 the employer credits shall cease;

24 (3) The community college district participating in a project
25 shall establish a special fund for and in the name of the
26 project. All funds appropriated by the general assembly from the
27 Missouri community college job training program fund and
28 disbursed by the division of job development and training for the
29 project and other amounts received by the district in respect of the
30 project and required by the agreement to be used to pay program
31 costs for the project shall be deposited in the special
32 fund. Amounts held in the special fund may be used and disbursed
33 by the district only to pay program costs for the project. The
34 special fund may be divided into such accounts and subaccounts as
35 shall be provided in the agreement, and amounts held therein may
36 be invested in investments which are legal for the investment of
37 the district's other funds;

38 (4) Any disbursement in respect of a project received from
39 the division of job development and training under the provisions
40 of sections 178.892 to 178.896 and the special fund into which it is
41 paid may be irrevocably pledged by a community college district for
42 the payment of the principal of, premium, if any, and interest on
43 the certificate issued by a community college district to finance or
44 refinance, in whole or in part, the project;

45 (5) The employer shall certify to the department of revenue
46 that the credit from withholding is in accordance with an
47 agreement and shall provide other information the department may
48 require;

49 (6) An employee participating in a project will receive full
50 credit for the amount designated as a new jobs credit from
51 withholding and withheld as provided in section 143.221;

52 (7) If an agreement provides that all or part of program

53 costs are to be met by receipt of new jobs credit from withholding,
54 the provisions of this subsection shall also apply to any successor
55 to the original employer until such time as the principal and
56 interest on the certificates have been paid.]

[178.895. 1. To provide funds for the present payment of
2 the costs of new jobs training programs, a community college
3 district may borrow money and issue and sell certificates payable
4 from a sufficient portion of the future receipts of payments
5 authorized by the agreement including disbursements from the
6 Missouri community college job training program to the special
7 fund established by the district for each project. The total amount
8 of outstanding certificates sold by all community college districts
9 shall not exceed twenty million dollars, unless an increased amount
10 is authorized in writing by a majority of members of the Missouri
11 job training joint legislative oversight committee. The certificates
12 shall be marketed through financial institutions authorized to do
13 business in Missouri. The receipts shall be pledged to the payment
14 of principal of and interest on the certificates. Certificates may be
15 sold at public sale or at private sale at par, premium, or discount
16 of not less than ninety-five percent of the par value thereof, at the
17 discretion of the board of trustees, and may bear interest at such
18 rate or rates as the board of trustees shall determine,
19 notwithstanding the provisions of section 108.170 to the
20 contrary. However, chapter 176 does not apply to the issuance of
21 these certificates. Certificates may be issued with respect to a
22 single project or multiple projects and may contain terms or
23 conditions as the board of trustees may provide by resolution
24 authorizing the issuance of the certificates.

25 2. Certificates issued to refund other certificates may be
26 sold at public sale or at private sale as provided in this section
27 with the proceeds from the sale to be used for the payment of the
28 certificates being refunded. The refunding certificates may be
29 exchanged in payment and discharge of the certificates being
30 refunded, in installments at different times or an entire issue or
31 series at one time. Refunding certificates may be sold or exchanged
32 at any time on, before, or after the maturity of the outstanding

33 certificates to be refunded. They may be issued for the purpose of
34 refunding a like, greater, or lesser principal amount of certificates
35 and may bear a higher, lower, or equivalent rate of interest than
36 the certificates being renewed or refunded.

37 3. Before certificates are issued, the board of trustees shall
38 publish once a notice of its intention to issue the certificates,
39 stating the amount, the purpose, and the project or projects for
40 which the certificates are to be issued. A person may, within
41 fifteen days after the publication of the notice, by action in the
42 circuit court of a county in the district, appeal the decision of the
43 board of trustees to issue the certificates. The action of the board
44 of trustees in determining to issue the certificates is final and
45 conclusive unless the circuit court finds that the board of trustees
46 has exceeded its legal authority. An action shall not be brought
47 which questions the legality of the certificates, the power of the
48 board of trustees to issue the certificates, the effectiveness of any
49 proceedings relating to the authorization of the project, or the
50 authorization and issuance of the certificates from and after fifteen
51 days from the publication of the notice of intention to issue.

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

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

61 6. The department of economic development shall
62 coordinate the new jobs training program, and may promulgate
63 rules that districts will use in developing projects with new and
64 expanding industrial new jobs training proposals which shall
65 include rules providing for the coordination of such proposals with
66 the service delivery areas established in the state to administer
67 federal funds pursuant to the federal Job Training Partnership
68 Act. No rule or portion of a rule promulgated under the authority

69 of sections 178.892 to 178.896 shall become effective unless it has
70 been promulgated pursuant to the provisions of chapter 536. All
71 rulemaking authority delegated prior to June 27, 1997, is of no
72 force and effect and repealed; however, nothing in this section shall
73 be interpreted to repeal or affect the validity of any rule filed or
74 adopted prior to June 27, 1997, if such rule complied with the
75 provisions of chapter 536. The provisions of this section and
76 chapter 536 are nonseverable and if any of the powers vested with
77 the general assembly pursuant to chapter 536, including the ability
78 to review, to delay the effective date, or to disapprove and annul a
79 rule or portion of a rule, are subsequently held unconstitutional,
80 then the purported grant of rulemaking authority and any rule so
81 proposed and contained in the order of rulemaking shall be invalid
82 and void.

83 7. No community college district may sell certificates as
84 described in this section after July 1, 2018.]

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

21 training shall be made to the special fund for each project in the
22 same proportion as the new jobs credit from withholding remitted
23 by the employer participating in such project bears to the total new
24 jobs credit from withholding remitted by all employers
25 participating in projects during the period for which the
26 disbursement is made. Moneys for new jobs training programs
27 established under the provisions of sections 178.892 to 178.896
28 shall be obtained from appropriations made by the general
29 assembly from the Missouri community college job training
30 program fund. All moneys remaining in the Missouri community
31 college job training program fund at the end of any fiscal year shall
32 not lapse to the general revenue fund, as provided in section
33 33.080, but shall remain in the Missouri community college job
34 training program fund.

35 2. The department of revenue shall develop such forms as
36 are necessary to demonstrate accurately each employer's new jobs
37 credit from withholding paid into the Missouri community college
38 job training program fund. The new jobs credit from withholding
39 shall be accounted as separate from the normal withholding tax
40 paid to the department of revenue by the
41 employer. Reimbursements made by all employers to the Missouri
42 community college job training program fund shall be no less than
43 all allocations made by the division of job development and training
44 to all community college districts for all projects. The employer
45 shall remit the amount of the new job credit to the department of
46 revenue in the same manner as provided in sections 143.191 to
47 143.265.

48 3. Sections 178.892 to 178.896 shall expire July 1, 2028.]

[620.470. As used in sections 620.470 to 620.481, unless the
2 context clearly requires otherwise, the following terms mean:

3 (1) "Department", the Missouri department of economic
4 development;

5 (2) "Fund", the Missouri job development fund as
6 established by section 620.478;

7 (3) "Industry", an entity the objective of which is to supply
8 a service or the objective of which is the commercial production and

9 sale of an article of trade or commerce. The term includes a
10 consortium of such entities organized for the purpose of providing
11 for common training to the member entities' employees, provided
12 that the consortium as a whole meets the requirements for
13 participation in this program;

14 (4) "Manufacturing", the making or processing of raw
15 materials into a finished product, especially by means of large-scale
16 machines of industry.]

[620.472. 1. The department shall establish a new or
2 expanding industry training program, the purpose of which is to
3 provide assistance for new or expanding industries for the training,
4 retraining or upgrading of the skills of potential
5 employees. Training may include preemployment training, and
6 services may include analysis of the specified training needs for
7 such company, development of training plans, and provision of
8 training through qualified training staff. Such program may fund
9 in-plant training analysis, curriculum development, assessment
10 and preselection tools, publicity for the program, instructional
11 services, rental of instructional facilities with necessary utilities,
12 access to equipment and supplies, other necessary services, overall
13 program direction, and an adequate staff to carry out an effective
14 training program. In addition, the program may fund a
15 coordinated transportation program for trainings if the training can
16 be more effectively provided outside the community where the jobs
17 are to be located. In-plant training analysis shall include fees for
18 professionals and necessary travel and expenses. Such program
19 may also provide assistance in the locating of skilled employees
20 and in the locating of additional sources of job training
21 funds. Such program shall be operated with appropriations made
22 by the general assembly from the fund.

23 2. Assistance under the new or expanding industry training
24 program may be available only for industries who certify to the
25 department that their investments relate directly to a projected
26 increase in employment which will result in the need for training
27 of newly hired employees or the retraining or upgrading of the
28 skills of existing employees for new jobs created by the new or

29 expanding industry's investment.

30 3. The department shall issue rules and regulations
31 governing the awarding of funds administered through the new or
32 expanding industry training program. When promulgating these
33 rules and regulations, the department shall consider such factors
34 as the potential number of new permanent jobs to be created, the
35 amount of private sector investment in new facilities and
36 equipment, the significance of state funding to the industry's
37 decision to locate or expand in Missouri, the economic need of the
38 affected community, and the importance of the industry to the
39 economic development of Missouri.]

2 [620.474. 1. The department shall establish a basic
3 industry retraining program, the purpose of which is to provide
4 assistance for industries in Missouri for the retraining and
5 upgrading of employees' skills which are required to support new
6 investment. Such program shall be operated with appropriations
7 made by the general assembly from the fund.

8 2. Assistance under the basic industry retraining program
9 may be made available for industries in Missouri which make new
10 investments without the creation of new employment.

11 3. The department shall issue rules and regulations
12 governing the awarding of funds administered through the basic
13 industry retraining fund. When promulgating these rules and
14 regulations, the department shall consider such factors as the
15 number of jobs in jeopardy of being lost if retraining does not occur,
16 the amount of private sector investment in new facilities and
17 equipment, the ratio of jobs retained versus investment, the cost of
18 normal, ongoing training required for the industry, the economic
19 need of the affected community, and the importance of the industry
to the economic development of Missouri.]

2 [620.475. 1. The department shall establish an industry
3 quality and productivity improvement program to help industries
4 and businesses evaluate and enhance quality and productivity, and
5 to encourage the private sector to develop long-range goals to
6 improve quality and productivity and improve the competitive
position of private businesses. The quality and productivity

7 improvement program shall include seminars, workshops and short
8 courses on subjects such as long-range planning, new management
9 techniques, automated manufacturing, innovative uses of new
10 materials and the latest philosophies of management and quality
11 improvement. The program shall be available to existing Missouri
12 manufacturing, distribution and service businesses.

13 2. The department may develop quality and productivity
14 improvement centers at university and community college
15 campuses throughout the state as the demand and need is
16 determined. The department shall have the authority to contract
17 with individuals who possess particular knowledge, ability and
18 expertise in the various subjects which may be essential to the
19 program's goals. Seminars, workshops, short courses and specific
20 not for credit classes shall be developed on and off campus for
21 personnel engaged in manufacturing, distribution and service
22 businesses. At the discretion of the department, the University of
23 Missouri and Lincoln University extension services, the continuing
24 education offices of the regional universities and community
25 colleges may be used for the promotion and coordination of the
26 off-campus courses that are offered.

27 3. Activities eligible for reimbursement in the industry
28 quality and productivity program shall include:

29 (1) The cost of seminars, workshops, short courses and
30 specific not for credit classes;

31 (2) The wages of instructors;

32 (3) Productivity materials and supplies, including the
33 purchase of packaged productivity programs when appropriate;

34 (4) Travel directly related to the program;

35 (5) Tuition payments to third-party productivity providers
36 and to businesses; and

37 (6) Teaching and assistance provided by educational
38 institutions in the state.

39 4. No industry receiving assistance under the industry
40 quality and productivity improvement program shall be reimbursed
41 for more than fifty percent of the total costs of its participation in
42 the program.]

2 [620.476. Activities eligible for reimbursement by funds
3 administered through the new or expanding industry program and
4 the basic industry retraining program shall include: the wages of
5 instructors, who may or may not be employees of the industry;
6 training development costs, including the cost of training of
7 instructors; training materials and supplies, including the purchase
8 of packaged training programs when appropriate; travel directly
9 related to the training program; tuition payments to third-party
10 training providers and to the industry; teaching and assistance
11 provided by educational institutions in the state of Missouri;
12 on-the-job training; and the leasing, but not the purchase, of
training equipment and space.]

2 [620.478. 1. There is hereby established in the state
3 treasury a special fund to be known as the "Missouri Job
4 Development Fund". The fund shall consist of all moneys which
5 may be appropriated to it by the general assembly and also any
6 gifts, contributions, grants or bequests received from federal,
7 private or other sources. Appropriations made from the fund shall
8 be for the purpose of providing contractual services through the
9 department of elementary and secondary education for vocational
10 related training or retraining provided by public or private training
11 institutions within Missouri; and for contracted services through
12 the department of economic development for vocational related
13 training or retraining provided by public or private training
14 institutions located outside of Missouri; and for vocational related
15 training or retraining provided on site, within Missouri, by any
16 proprietorship, partnership or corporate entity. Except for
17 state-sponsored preemployment training, no applicant shall receive
18 more than fifty percent of its project training or retraining costs
19 from the development fund. Moneys to operate the new or
20 expanding industry training program, the basic industry retraining
21 program, the industry quality and productivity improvement
22 program and assistance to community college business and
23 technology centers shall be obtained from appropriations made by
24 the general assembly from the fund. No funds shall be awarded or
reimbursed to any industry for the training, retraining or

25 upgrading of skills of potential employees with the purpose of
26 replacing or supplanting employees engaged in an authorized work
27 stoppage.

28 2. The Missouri job development fund shall be able to
29 receive any block grant or other sources of funding relating to job
30 training, school-to-work transition, welfare reform, vocational and
31 technical training, housing, infrastructure development and human
32 resource investment programs which may be provided by the
33 federal government or other sources.]

[620.479. The department is authorized to contract with
2 other entities, including businesses, industries, other state agencies
3 and the political subdivisions of the state, for the purpose of
4 carrying out the provisions of sections 620.470 to 620.481.]

[620.480. To efficiently carry out the responsibilities of the
2 division of job development and training and to improve job
3 training program coordination, the commissioner of administration
4 shall authorize the division to directly negotiate with and contract
5 for job training and related services with administrative entities
6 designated pursuant to the requirements of the Job Training
7 Partnership Act and any subsequent amendments and any other
8 agencies or entities which may be designated to administer job
9 training and related services pursuant to any succeeding federal or
10 state legislative or regulatory requirements.]

[620.481. There is hereby created the "Missouri Job
2 Training Joint Legislative Oversight Committee". The committee
3 shall consist of three members of the Missouri senate appointed by
4 the president pro tem of the senate; three members of the house of
5 representatives appointed by the speaker of the house. No more
6 than two of the members of the senate and two of the members of
7 the house of representatives shall be from the same political
8 party. Members of the Missouri job training joint legislative
9 oversight committee shall report to the governor, the president pro
10 tem of the senate and the speaker of the house of representatives
11 on all assistance to industries under the provisions of sections
12 620.470 to 620.481 provided during the preceding fiscal year and
13 the customized job training program administered by the

14 department of elementary and secondary education. The report of
15 the committee shall be delivered no later than October first of each
16 year. The director of the department of economic development
17 shall report to the committee such information as the committee
18 may deem necessary for its annual report. Members of the
19 committee shall receive no compensation in addition to their salary
20 as members of the general assembly, but may receive their
21 necessary expenses while attending the meetings of the committee,
22 to be paid out of the joint contingent fund.]

[620.482. 1. The department may provide assistance,
2 through appropriations made from the Missouri job development
3 fund, to business and technology centers. Such assistance may not
4 include the lending of the state's credit for the payment of any
5 liability of the fund. Such centers may be established by Missouri
6 community colleges, or a state-owned postsecondary technical
7 college, to provide business and training services in disciplines
8 which shall include, but not be limited to, environmental health
9 and safety, industrial electrical technology, machine tool
10 technology, industrial management and technology, computer
11 consulting and computer-aided drafting, microcomputer training
12 and telecommunications training.

13 2. The department of economic development shall
14 promulgate rules and regulations as are necessary to implement
15 the provisions of sections 620.470 to 620.482. No rule or portion of
16 a rule promulgated under the authority of sections 620.470 to
17 620.482 shall become effective unless it has been promulgated
18 pursuant to the provisions of section 536.024.]

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