

FIRST REGULAR SESSION

SENATE BILL NO. 296

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS SCHMITT, LAMPING, ENGLER, CUNNINGHAM,
RICHARD, PARSON, GOODMAN, AND SCHAEFER.

Read 1st time February 17, 2011, and ordered printed.

TERRY L. SPIELER, Secretary.

1370S.011

AN ACT

To repeal sections 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 four new sections relating to the compete Missouri training program.

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

Section A. Sections 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178.896, 620.470, 620.472, 620.474, 620.475, 620.476, 620.478, 620.479, 620.480, 620.481, and 620.482, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 620.800, 620.803, 620.806, and 620.809, to read as follows:

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

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

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

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

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

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

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 must 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 credits 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 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.**

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

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

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

13 (3) "Capital investment", an investment in research and
14 development, working capital, and real and tangible personal
15 business property except inventory or property intended for sale to
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.]

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

5 (1) Retained jobs credit from withholding shall be based

6 upon the wages paid to the employees in the retained jobs;

7 (2) A portion of the total payments made by the employer
8 under section 143.221 shall be designated as the retained 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 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.]

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

2 [178.892. As used in sections 178.892 to 178.896, 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 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.]

[178.893. 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 job
8 development and training of the department of economic
9 development and the office of administration about the potential
10 project. The division of job development and training shall
11 evaluate the proposed project within the overall job training efforts
12 of the state to ensure that the project will not duplicate other job
13 training programs. The department of economic development shall
14 have fourteen days from receipt of the application to approve or
15 disapprove projects. If no response is received by the community
16 college within fourteen days the projects are approved. Any project
17 that is disapproved must be in writing stating the reasons for the
18 disapproval. If an agreement is entered into, the district and the
19 employer shall notify the department of revenue within fifteen
20 calendar days. An agreement 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 training program fund and
26 disbursed by the division of job development and training in
27 respect of new jobs credit from withholding to be received or
28 derived from new 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.

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
to regular appropriations by the general assembly. The division

15 shall disburse such appropriated funds in a timely manner into the
16 special funds established by community college districts for
17 projects, which funds shall be used to pay program costs, including
18 the principal of, premium, if any, and interest on certificates issued
19 by the district to finance or refinance, in whole or in part, a
20 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 paid
40 to the department of revenue by the employer. Reimbursements
41 made by all employers to the Missouri community college job
42 training program fund shall be no less than all allocations made by
43 the division of job development and training to all community college
44 districts for all projects. The employer shall remit the amount of
45 the new job credit to the department of revenue in the same
46 manner as provided in sections 143.191 to 143.265.

47 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.]

[620.475. 1. The department shall establish an industry

2 quality and productivity improvement program to help industries
3 and businesses evaluate and enhance quality and productivity, and
4 to encourage the private sector to develop long-range goals to
5 improve quality and productivity and improve the competitive
6 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.]

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

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

20 program, the industry quality and productivity improvement
21 program and assistance to community college business and
22 technology centers shall be obtained from appropriations made by
23 the general assembly from the fund. No funds shall be awarded or
24 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.]

✓