

FIRST REGULAR SESSION

SENATE BILL NO. 323

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR DIXON.

Read 1st time February 13, 2013, and ordered printed.

TERRY L. SPIELER, Secretary.

1503S.011

AN ACT

To repeal section 135.960, RSMo, and to enact in lieu thereof six new sections relating to job creation incentives.

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

Section A. Section 135.960, RSMo, is repealed and six new sections
2 enacted in lieu thereof, to be known as sections 135.960, 620.2000, 620.2005,
3 620.2010, 620.2015, and 620.2020, to read as follows:

135.960. 1. Any governing authority that desires to have any portion of
2 a city or unincorporated area of a county under its control designated as an
3 enhanced enterprise zone shall hold a public hearing for the purpose of obtaining
4 the opinion and suggestions of those persons who will be affected by such
5 designation. [The governing authority shall notify the director of such hearing
6 at least thirty days prior thereto and shall publish notice of such hearing in a
7 newspaper of general circulation in the area to be affected by such designation
8 at least twenty days prior to the date of the hearing but not more than thirty
9 days prior to such hearing. Such notice shall state the time, location, date, and
10 purpose of the hearing. The director, or the director's designee, shall attend such
11 hearing.]

12 2. After a public hearing is held as required in subsection 1 of this
13 section, the governing authority may [file a petition with the department
14 requesting the designation of], **by a majority vote of the members of the**
15 **governing authority, adopt an ordinance or resolution designating** a
16 specific area as an enhanced enterprise zone. Such [petition] **ordinance** shall
17 include, in addition to a description of the physical, social, and economic
18 characteristics of the area:

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

19 (1) A plan to provide adequate police protection within the area;

20 (2) A specific and practical process for individual businesses to obtain
21 waivers from burdensome local regulations, ordinances, and orders which serve
22 to discourage economic development within the area to be designated an
23 enhanced enterprise zone, except that such waivers shall not substantially
24 endanger the health or safety of the employees of any such business or the
25 residents of the area;

26 (3) A description of what other specific actions will be taken to support
27 and encourage private investment within the area;

28 (4) A plan to ensure that resources are available to assist area residents
29 to participate in increased development through self-help efforts and in
30 ameliorating any negative effects of designation of the area as an enhanced
31 enterprise zone;

32 (5) A statement describing the projected positive and negative effects of
33 designation of the area as an enhanced enterprise zone;

34 (6) A specific plan to provide assistance to any person or business
35 dislocated as a result of activities within the enhanced enterprise zone. Such
36 plan shall determine the need of dislocated persons for relocation assistance;
37 provide, prior to displacement, information about the type, location, and price of
38 comparable housing or commercial property; provide information concerning state
39 and federal programs for relocation assistance and provide other advisory services
40 to displaced persons. Public agencies may choose to provide assistance under the
41 Uniform Relocation and Real Property Acquisition Act, 42 U.S.C. Section 4601,
42 et seq., to meet the requirements of this subdivision; and

43 (7) A description or plan that demonstrates the requirements of subsection
44 4 of section 135.953.

45 3. An enhanced enterprise zone designation shall [be effective upon such
46 approval by the department and shall] expire in twenty-five years.

47 4. Each designated enhanced enterprise zone board shall report to the
48 director on an annual basis regarding the status of the zone and business activity
49 within the zone.

**620.2000. Sections 620.2000 to 620.2020 shall be known and may
2 be cited as the "Missouri Works 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) "Employee", a person employed by a qualified company,
28 excluding owners of the qualified company unless the qualified
29 company is participating in an employee stock ownership plan;

30 (7) "Existing Missouri business", a qualified company that, for the
31 ten-year period preceding submission of a notice of intent to the
32 department, had a physical location in Missouri and full-time
33 employees who routinely perform job duties within Missouri;

34 (8) "Full-time employee", an employee of the qualified company
35 that is scheduled to work an average of at least thirty-five hours per
36 week for a twelve-month period, and one for which the qualified
37 company offers health insurance and pays at least fifty percent of such
38 insurance premiums. An employee that spends less than fifty percent
39 of the employee's work time at the facility shall be considered to be
40 located at a facility if the employee receives his or her directions and

41 control from that facility, is on the facility's payroll, one hundred
42 percent of the employee's income from such employment is Missouri
43 income, and the employee is paid at or above the applicable percentage
44 of the county average wage;

45 (9) "Local incentives", the present value of the dollar amount of
46 direct benefit received by a qualified company for a project facility
47 from one or more local political subdivisions, but this term shall not
48 include loans or other funds provided to the qualified company that
49 shall be repaid by the qualified company to the political subdivision;

50 (10) "NAICS" or "NAICS industry classification", the classification
51 provided by the most recent edition of the North American Industry
52 Classification System as prepared by the Executive Office of the
53 President, Office of Management and Budget;

54 (11) "New capital investment", shall include costs incurred by the
55 qualified company at the project facility after acceptance by the
56 qualified company of the proposal for benefits from the department or
57 the approval notice of intent, whichever occurs first, for real or
58 personal property, and may include the value of finance or capital
59 leases for real or personal property for the term of such lease at the
60 project facility executed after acceptance by the qualified company of
61 the proposal for benefits from the department or the approval of the
62 notice of intent;

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

70 (13) "New job", the number of full-time employees located at the
71 project facility that exceeds the project facility base employment less
72 any decrease in the number of full-time employees at related facilities
73 below the related facility base employment. No job that was created
74 prior to the date of the notice of intent shall be deemed a new job;

75 (14) "New payroll", the amount of wages paid for all new jobs
76 located at the project facility during the qualified company's tax year
77 that exceeds the project facility base payroll;

78 **(15) "Notice of intent", a form developed by the department and**
79 **available online, completed by the qualified company, and submitted to**
80 **the department stating the qualified company's intent to request**
81 **benefits under this program;**

82 **(16) "Percent of local incentives", the amount of local incentives**
83 **divided by the amount of new direct local revenue;**

84 **(17) "Program", the Missouri works program established in**
85 **sections 620.2000 to 620.2020;**

86 **(18) "Project facility", the building or buildings used by a**
87 **qualified company at which new or retained jobs and any new capital**
88 **investment are or will be located. A project facility may include**
89 **separate buildings located within sixty miles of each other such that**
90 **their purpose and operations are interrelated; provided that where the**
91 **buildings making up the project facility are not located within the same**
92 **county, the average wage of the new payroll shall exceed the applicable**
93 **percentage of the highest county average wage among the counties in**
94 **which the buildings are located. Upon approval by the department, a**
95 **subsequent project facility may be designated if the qualified company**
96 **demonstrates a need to relocate to the subsequent project facility at**
97 **any time during the project period;**

98 **(19) "Project facility base employment", the greater of the**
99 **number of full-time employees located at the project facility on the date**
100 **of the notice of intent or, for the twelve-month period prior to the date**
101 **of the notice of intent, the average number of full-time employees**
102 **located at the project facility. In the event the project facility has not**
103 **been in operation for a full twelve-month period, the average number**
104 **of full-time employees for the number of months the project facility has**
105 **been in operation prior to the date of the notice of intent;**

106 **(20) "Project facility base payroll", the annualized payroll for the**
107 **project facility base employment or the total amount of wages paid by**
108 **the qualified company to full-time employees of the qualified company**
109 **located at the project facility in the twelve months prior to the notice**
110 **of intent. For purposes of calculating the benefits under this program,**
111 **the amount of base payroll shall increase each year based on an**
112 **appropriate measure, as determined by the department;**

113 **(21) "Project period", the time period within which benefits are**

114 awarded to a qualified company or within which the qualified company
115 is obligated to perform under an agreement with the department,
116 whichever is greater;

117 (22) "Projected net fiscal benefit", the total fiscal benefit to the
118 state less any state benefits offered to the qualified company, as
119 determined by the department;

120 (23) "Qualified company", a firm, partnership, joint venture,
121 association, private or public corporation whether organized for profit
122 or not, or headquarters of such entity registered to do business in
123 Missouri that is the owner or operator of a project facility, certifies
124 that it offers health insurance to all full-time employees of all facilities
125 located in this state, and certifies that it pays at least fifty percent of
126 such insurance premiums. For the purposes of sections 620.2000 to
127 620.2020, the term "qualified company" shall not include:

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

129 (b) Store front consumer-based retail trade establishments
130 (under NAICS sectors 44 and 45), except with respect to any company
131 headquartered in this state with a majority of its full-time employees
132 engaged in operations not within the NAICS codes specified in this
133 subdivision;

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

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

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

140 (f) Any company requesting benefits for retained jobs that has
141 filed for or has publicly announced its intention to file for bankruptcy
142 protection. However, a company that has filed for or has publicly
143 announced its intention to file for bankruptcy, may be a qualified
144 company provided that such company:

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

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

150 state of Missouri, including but not limited to all tax payments due
151 after the filing of the bankruptcy petition and under the terms of the
152 plan of reorganization.

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

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

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

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

162 (j) Ethanol distillation or production;

163 (k) Biodiesel production; or

164 (l) Healthcare and social services (NAICS sector 62).

165 Notwithstanding any provision of this section to the contrary, the
166 headquarters, administrative offices, or research and development
167 facilities of an otherwise excluded business may qualify for benefits if
168 the offices or facilities serve a multistate territory. In the event a
169 national, state, or regional headquarters operation is not the
170 predominant activity of a project facility, the jobs and investment of
171 such operation shall be considered eligible for benefits under this
172 section if the other requirements are satisfied;

173 (24) "Related company", shall mean:

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

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

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

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

185 b. Ownership of at least fifty percent of the capital or profits

186 interest in such qualified company if it is a partnership or association;
187 c. Ownership, directly or indirectly, of at least fifty percent of
188 the beneficial interest in the principal or income of such qualified
189 company if it is a trust, and ownership shall be determined as provided
190 in Section 318 of the Internal Revenue Code of 1986, as amended;

191 (25) "Related facility", a facility operated by the qualified
192 company or a related company located in this state that is directly
193 related to the operations of the project facility or in which operations
194 substantially similar to the operations of the project facility are
195 performed;

196 (26) "Related facility base employment", the greater of the
197 number of full-time employees located at all related facilities on the
198 date of the notice of intent or, for the twelve-month period prior to the
199 date of the notice of intent, the average number of full-time employees
200 located at all related facilities of the qualified company or a related
201 company located in this state;

202 (27) "Related facility base payroll", the annualized payroll of the
203 related facility base payroll or the total amount of taxable wages paid
204 by the qualified company to full-time employees of the qualified
205 company located at a related facility in the twelve months prior to the
206 filing of the notice of intent. For purposes of calculating the benefits
207 under this program, the amount of related facility base payroll shall
208 increase each year based on an appropriate measure, as determined by
209 the department;

210 (28) "Rural area", a county in Missouri with a population less
211 than seventy-five thousand or that does not contain an individual city
212 with a population greater than fifty thousand according to the most
213 recent federal decennial census;

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

217 (30) "Withholding tax", the state tax imposed by sections 143.191
218 to 143.265. For purposes of this program, the withholding tax shall be
219 computed using a schedule as determined by the department based on
220 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 may, for a period of five
4 years from the date the new jobs are created, or for a period of six
5 years from the date the new jobs are created if the qualified company
6 is an existing Missouri business, retain an amount equal to the
7 withholding tax as calculated under subdivision (30) of section 620.2005
8 from the new jobs that would otherwise be withheld and remitted by
9 the qualified company under the provisions of sections 143.191 to
10 143.265 if:

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

14 (2) The qualified company creates two or more new jobs at a
15 project facility located in a rural area, the average wage of the new
16 payroll equals or exceeds ninety percent of the county average wage,
17 and the qualified company commits to making at least one hundred
18 thousand dollars of new capital investment at the project facility
19 within two years; or

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

26 2. In addition to any benefits available under subsection 1 of this
27 section, the department may award a qualified company that satisfies
28 subdivision (1) of subsection 1 of this section additional tax credits,
29 issued each year for a period of five years from the date the new jobs
30 are created, in an amount equal to or less than six percent of new
31 payroll; provided that in no event may the total amount of benefits
32 awarded to a qualified company under subsection 1 of this section and
33 this subsection exceed nine percent of new payroll in any calendar
34 year. The amount of tax credits awarded to a qualified company under
35 this subsection shall not exceed the projected net fiscal benefit to the
36 state, as determined by the department, and shall not exceed the least
37 amount necessary to obtain the qualified company's commitment to
38 initiate the project. In determining the amount of tax credits to award

39 to a qualified company under this subsection, the department shall
40 consider the following factors:

41 (1) The significance of the qualified company's need for program
42 benefits;

43 (2) The amount of projected net fiscal benefit to the state of the
44 project and the period in which the state would realize such net fiscal
45 benefit;

46 (3) The overall size and quality of the proposed project,
47 including the number of new jobs, new capital investment, proposed
48 wages, growth potential of the qualified company, the potential
49 multiplier effect of the project, and similar factors;

50 (4) The financial stability and creditworthiness of the qualified
51 company;

52 (5) The level of economic distress in the area;

53 (6) An evaluation of the competitiveness of alternative locations
54 for the project facility, as applicable; and

55 (7) The percent of local incentives committed.

56 3. Upon approval of a notice of intent to receive tax credits
57 under subsection 2 of this section, the department and the qualified
58 company shall enter into a written agreement covering the applicable
59 project period. The agreement shall specify, at a minimum:

60 (1) The committed number of new jobs, new payroll, and new
61 capital investment for each year during the project period;

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

65 (3) Clawback provisions, as may be required by the department;
66 and

67 (4) Any other provisions the department may require.

68 4. In addition to the benefits available under subsections 1 and
69 2 of this section, the department may award a qualified company that
70 satisfies subdivision (1) of subsection 1 of this section additional tax
71 credits, issued each year for a period of five years from the date the
72 new jobs are created, in an amount equal to or less than three percent
73 of new payroll; provided that in no event may the total amount of
74 benefits awarded to a qualified company under this section exceed

75 twelve percent of new payroll in any calendar year. The amount of tax
76 credits awarded to a qualified company under this subsection shall not
77 exceed the projected net fiscal benefit to the state, as determined by
78 the department, and shall not exceed the least amount necessary to
79 obtain the qualified company's commitment to initiate the project. In
80 determining the amount of tax credits to award to a qualified company
81 under this subsection, the department shall consider the factors
82 provided under subsection 2 of this section.

83 5. No benefits shall be available under this section for any
84 qualified company that has performed significant, project-specific site
85 work at the project facility, purchased machinery or equipment related
86 to the project, or has publicly announced its intention to create new
87 jobs or make new capital investment at the project facility prior to
88 approval of its notice of intent.

620.2015. 1. In exchange for the consideration provided by the
2 tax revenues and other economic stimuli that will be generated by the
3 retention of jobs and the making of new capital investment in this
4 state, a qualified company may be eligible to receive the benefits
5 described in this section if the department determines that there is a
6 significant probability that the qualified company would relocate to
7 another state in the absence of the benefits authorized under this
8 section. In no event shall the total amount of benefits available to all
9 qualified companies under this section exceed six million dollars in any
10 fiscal year.

11 2. A qualified company meeting the requirements of this section
12 may be authorized to retain an amount not to exceed one hundred
13 percent of the withholding tax from full-time jobs that would otherwise
14 be withheld and remitted by the qualified company under the
15 provisions of sections 143.191 to 143.265, for a period of ten years if the
16 average wage of the retained jobs equals or exceeds ninety percent of
17 the county average wage. In order to receive benefits under this
18 section, a qualified company shall enter into written agreement with
19 the department containing detailed performance requirements and
20 repayment penalties in event of nonperformance. The amount of
21 benefits awarded to a qualified company under this section shall not
22 exceed the projected net fiscal benefit and shall not exceed the least
23 amount necessary to obtain the qualified company's commitment to

24 retain the necessary number of jobs and make the required new capital
25 investment.

26 3. In order to be eligible to receive benefits under this section,
27 the qualified company shall meet each of the following conditions:

28 (1) The qualified company shall agree to retain, for a period of
29 ten years from the date of approval of the notice of intent, at least fifty
30 retained jobs; and

31 (2) The qualified company shall agree to make a new capital
32 investment at the project facility within three years of the approval in
33 an amount equal to one-half the total benefits, available under this
34 section, which are offered to the qualified company by the department.

35 4. In awarding benefits under this section, the department shall
36 consider the factors set forth in subsection 2 of section 620.2010.

37 5. Upon approval of a notice of intent to request benefits under
38 this section, the department and the qualified company shall enter into
39 a written agreement covering the applicable project period. The
40 agreement shall specify, at a minimum:

41 (1) The committed number of retained jobs, payroll, and new
42 capital investment for each year during the project period;

43 (2) Clawback provisions, as may be required by the department;
44 and

45 (3) Any other provisions the department may require.

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 approval.
30 When a qualified company has filed and received approval of a notice
31 of intent and subsequently files another notice of intent, the
32 department shall apply the definition of project facility under
33 subdivision (18) 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 or retained jobs of the company shall
41 first be credited to the other state program before the withholding
42 retention level applicable under this program will begin to accrue. If
43 any qualified company also participates in a job training program
44 utilizing withholding tax, the company shall retain no withholding tax
45 under this program, but the department shall issue a refundable tax
46 credit for the full amount of benefit allowed under this program. The
47 calendar year annual maximum amount of tax credits which may be
48 issued to a qualifying company that also participates in a job training
49 program shall be increased by an amount equivalent to the withholding
50 tax retained by that company under a 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 no later than ninety days prior to
55 the end of the qualified company's tax year immediately following the
56 tax year for which the benefits provided under the program are
57 attributed. In such annual report, if the average wage is below the
58 applicable percentage of the county average wage, the qualified
59 company has not maintained the employee insurance as required, or if
60 the number of jobs is below the number required, the qualified
61 company shall not receive tax credits or retain the withholding tax for
62 the balance of the project period. Failure to timely file the annual
63 report required under this section shall result in the forfeiture of tax
64 credits attributable to the year for which the reporting was required
65 and a recapture of withholding taxes retained by the qualified company
66 during such year.

67 4. The department may withhold the approval of any benefits
68 under this program until it is satisfied that proper documentation has
69 been provided, and shall reduce the benefits to reflect any reduction in
70 full-time employees or payroll. Upon approval by the department, the
71 qualified company may begin the retention of the withholding taxes
72 when it reaches the required number of jobs and the average wage
73 meets or exceeds the applicable percentage of county average
74 wage. Tax credits, if any, may be issued upon satisfaction by the
75 department that the qualified company has exceeded the applicable
76 percentage of county average wage and the required number of jobs.

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

85 6. Any taxpayer who is awarded benefits under this program who
86 knowingly hires individuals who are not allowed to work legally in the
87 United States shall immediately forfeit such benefits and shall repay
88 the state an amount equal to any state tax credits already redeemed

89 and any withholding taxes already retained.

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

95 (1) For the fiscal year beginning on July 1, 2013, but ending on
96 or before June 30, 2014, no more than one hundred and six million
97 dollars in tax credits may be authorized;

98 (2) For the fiscal year beginning on July 1, 2014, but ending on
99 or before June 30, 2015, no more than one hundred and eleven million
100 dollars in tax credits may be authorized; and

101 (3) For any fiscal year beginning on or after July 1, 2015, no
102 more than one hundred and sixteen million dollars in tax credits may
103 be authorized for each fiscal year.

104 8. For tax credits for the creation of new jobs under section
105 620.2010, the department shall allocate the annual tax credits based on
106 the date of the approval, reserving such tax credits based on the
107 department's best estimate of new jobs and new payroll of the project,
108 and any other applicable factors in determining the amount of benefits
109 available to the qualified company under this program. However, the
110 annual issuance of tax credits shall be subject to annual verification of
111 actual payroll by the department. Any authorization of tax credits shall
112 expire if, within two years from the date of commencement of
113 operations, or approval if applicable, the qualified company has failed
114 to meet the applicable minimum job requirements. The qualified
115 company may retain authorized amounts from the withholding tax
116 under the project once the applicable minimum job requirements have
117 been met for the duration of the project period. No benefits shall be
118 provided under this program until the qualified company meets the
119 applicable minimum new job requirements. In the event the qualified
120 company does not meet the applicable minimum new job requirements,
121 the qualified company may submit a new notice of intent or the
122 department may provide a new approval for a new project of the
123 qualified company at the project facility or other 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 chapter 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, 2013, no new benefits shall be authorized for any
170 project that had not received from the department a proposal or
171 approval for such benefits prior to August 28, 2013, under the
172 development tax credit program created under sections 32.100 to 32.125,
173 the rebuilding communities tax credit program created under section
174 135.535, the enhanced enterprise zone tax credit program created under
175 sections 135.950 to 135.973, and the Missouri quality jobs program
176 created under sections 620.1875 to 620.1890. The provisions of this
177 subsection shall not be construed to limit or impair the ability of any
178 administering agency to authorize or issue benefits for any project that
179 had received an approval or a proposal from the department under any
180 of the programs referenced in this subsection prior to August 28, 2013,
181 or the ability of any taxpayer to redeem any such tax credits or to
182 retain any withholding tax under an approval issued prior to that
183 date. The provisions of this subsection shall not be construed to limit
184 or in any way impair the ability of any governing authority to provide
185 any local abatement or designate a new zone under the enhanced
186 enterprise zone program created by sections 135.950 to
187 135.963. Notwithstanding any provision of law to the contrary, no
188 qualified company that is awarded benefits under this program shall:

189 (1) Simultaneously receive benefits under the programs
190 referenced in this subsection at the same project facility; or

191 (2) Receive benefits under the provisions of section 620.1910 for
192 the same jobs.

193 14. If any provision of sections 620.2000 to 620.2020 or
194 application thereof to any person or circumstance is held invalid, the
195 invalidity shall not affect other provisions or application of these
196 sections which can be given effect without the invalid provisions or
197 application, and to this end, the provisions of sections 620.2000 to

198 **620.2020 are hereby declared severable.**

199 **15. By no later than January 1, 2014, and the first day of each**
200 **calendar quarter thereafter, the department shall present a quarterly**
201 **report to the general assembly detailing the benefits authorized under**
202 **this program during the immediately preceding calendar quarter to the**
203 **extent such information may be disclosed under state and federal**
204 **law. The report shall include, at a minimum:**

205 **(1) A list of all approved and disapproved applicants for each tax**
206 **credit;**

207 **(2) A list of the aggregate amount of new or retained jobs that**
208 **are directly attributable to the tax credits authorized;**

209 **(3) A statement of the aggregate amount of new capital**
210 **investment directly attributable to the tax credits authorized;**

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

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

216 **16. The department may adopt such rules, statements of policy,**
217 **procedures, forms, and guidelines as may be necessary to carry out the**
218 **provisions of sections 620.2000 to 620.2020. Any rule or portion of a**
219 **rule, as that term is defined in section 536.010, that is created under**
220 **the authority delegated in this section shall become effective only if it**
221 **complies with and is subject to all of the provisions of chapter 536 and,**
222 **if applicable, section 536.028. This section and chapter 536 are**
223 **nonseverable and if any of the powers vested with the general assembly**
224 **pursuant to chapter 536 to review, to delay the effective date, or to**
225 **disapprove and annul a rule are subsequently held unconstitutional,**
226 **then the grant of rulemaking authority and any rule proposed or**
227 **adopted after August 28, 2013, shall be invalid and void.**

228 **17. Under section 23.253 of the Missouri sunset act:**

229 **(1) The provisions of the new program authorized under sections**
230 **620.2000 to 620.2020 shall automatically sunset six years after the**
231 **effective date of this section unless reauthorized by an act of the**
232 **general assembly; and**

233 **(2) If such program is reauthorized, the program authorized**

234 under this section shall automatically sunset twelve years after the
235 effective date of this reauthorization of sections 620.2000 to 620.2020;
236 and

237 (3) Sections 620.2000 to 620.2020 shall terminate on September
238 first of the calendar year immediately following the calendar year in
239 which the program authorized under sections 620.2000 to 620.2020 is
240 sunset.

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