

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 680
99TH GENERAL ASSEMBLY

Reported from the Committee on Economic Development, April 13, 2017, with recommendation that the Senate Committee Substitute do pass.

1268S.03C

ADRIANE D. CROUSE, Secretary.

AN ACT

To repeal sections 620.800, 620.803, 620.806, 620.809, and 620.2005, RSMo, and to enact in lieu thereof eleven new sections relating to job training.

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

Section A. Sections 620.800, 620.803, 620.806, 620.809, and 620.2005, RSMo, are repealed and eleven new sections enacted in lieu thereof, to be known as sections 160.2700, 160.2705, 160.2710, 160.2715, 160.2720, 160.2725, 620.800, 620.803, 620.806, 620.809, and 620.2005, to read as follows:

160.2700. For purposes of this section, "adult high school" means a school that:

(1) Is for individuals who do not have a high school diploma and who are twenty-one years of age or older;

(2) Offers an industry certification program or programs and a high school diploma in a manner that allows students to earn a diploma at the same time that they earn an industry certification;

(3) Offers on-site child care for children of enrolled students attending the school; and

(4) Is not eligible to receive funding under sections 160.415 or 163.031.

160.2705. 1. The department of elementary and secondary education shall authorize, before January 1, 2018, a Missouri-based nonprofit organization meeting the criteria under subsection 2 of this section to establish and operate four adult high schools, with:

(1) One adult high school to be located in a city not within a

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

6 county;

7 (2) One adult high school to be located in any county of the third
8 classification without a township form of government and with more
9 than forty-one thousand but fewer than forty-five thousand inhabitants
10 or a county contiguous to that county;

11 (3) One adult high school to be located in any county of the first
12 classification with more than two hundred sixty thousand but fewer
13 than three hundred thousand inhabitants or a county contiguous to
14 that county; and

15 (4) One adult high school to be located in any county of the first
16 classification with more than one hundred fifty thousand but fewer
17 than two hundred thousand inhabitants.

18 2. The department of elementary and secondary education shall
19 grant the authorization described under subsection 1 of this section
20 based on a bid process conducted in accordance with the rules and
21 regulations governing purchasing through the office of
22 administration. The successful bidder shall:

23 (1) Demonstrate the ability to establish, within twenty-one
24 months of the receipt of the authorization, four adult high schools
25 offering high school diplomas, an industry certification program or
26 programs, and on-site child care for children of the students attending
27 the high schools;

28 (2) Commit at least two million dollars in investment for the
29 purpose of establishing the necessary infrastructure to operate four
30 adult high schools;

31 (3) Demonstrate substantial and positive experience in providing
32 services, including industry certifications and job placement services,
33 to adults twenty-one years of age or older whose educational and
34 training opportunities have been limited by educational disadvantages,
35 disabilities, homelessness, criminal history, or similar circumstances;

36 (4) Establish a partnership with a state-supported postsecondary
37 education institution or more than one such partnership, if a
38 partnership or partnerships are necessary in order to meet the
39 requirements for an adult high school;

40 (5) Establish a comprehensive plan that sets forth how the adult
41 high schools will help address the need for a sufficiently trained
42 workforce in the surrounding region for each adult high school;

43 **(6) Establish partnerships and strategies for engaging the**
44 **community and business leaders in carrying out the goals of each adult**
45 **high school;**

46 **(7) Establish the ability to meet quality standards through**
47 **certified teachers and programs that support each student in his or her**
48 **goal to find a more rewarding job;**

49 **(8) Establish a plan for assisting students in overcoming barriers**
50 **to educational success including, but not limited to, educational**
51 **disadvantages; homelessness; criminal history; disability, including**
52 **learning disability such as dyslexia; and similar circumstances;**

53 **(9) Establish a process for determining outcomes of the adult**
54 **high school, including outcomes related to a student's ability to find a**
55 **more rewarding job through the attainment of a high school diploma**
56 **and job training and certification; and**

57 **(10) No bids shall include an administrative fee greater than ten**
58 **percent.**

59 **3. (1) The department of elementary and secondary education**
60 **shall establish academic requirements for students to obtain high**
61 **school diplomas.**

62 **(2) Requirements for a high school diploma shall be based on an**
63 **adult student's prior high school achievement and the remaining**
64 **credits and coursework that would be necessary for the student to**
65 **receive a high school diploma if he or she were in a traditional high**
66 **school setting. The adult student shall meet the requirements with the**
67 **same level of academic rigor as would otherwise be necessary to attain**
68 **such credits.**

69 **(3) The adult high school authorized under this section shall**
70 **award high school diplomas to students who successfully meet the**
71 **established academic requirements. The adult high school authorized**
72 **under this section shall confer the diploma as though the student**
73 **earned the diploma at a traditional high school. The diploma shall**
74 **have no differentiating marks, titles, or other symbols.**

75 **(4) Students at adult high schools may complete required**
76 **coursework at their own pace and as available through the adult high**
77 **school. They shall not be required to satisfy any specific number of**
78 **class minutes. The adult high school may also make classes available**
79 **to students online as may be appropriate.**

80 **(5) The department of elementary and secondary education shall**
81 **not create additional regulations or burdens on the adult high school**
82 **or the students attending the adult high schools beyond certifying**
83 **necessary credits and ensuring that students have sufficiently mastered**
84 **the subject matter to make them eligible for credit.**

160.2710. 1. Any person who is twenty-one years of age or older
2 **may enroll in an adult high school if he or she has not earned a high**
3 **school diploma.**

4 **2. An adult high school shall give a preference in admission to**
5 **those students who receive any local, state, or federal assistance in**
6 **which a person or family is required not to exceed a certain income**
7 **level in order to qualify for the assistance.**

160.2715. 1. An adult high school shall not receive state funding
2 **under sections 160.415 or 163.031 and shall not receive any local**
3 **funding that is intended to benefit traditional public schools or charter**
4 **schools in the state.**

5 **2. An adult high school may receive funding from public or**
6 **private sources, including from the nonprofit organization operating**
7 **the adult high school. If an adult high school receives funding from a**
8 **public source, it shall operate in a manner so as not to violate the**
9 **provisions of article IX, section 8, or article I, section 7, of the**
10 **Constitution of Missouri or the first amendment of the Constitution of**
11 **the United States.**

12 **3. The nonprofit organization operating an adult high school**
13 **shall ensure that funding for the adult high school enables it to operate**
14 **year-round.**

15 **4. The nonprofit organization operating an adult high school**
16 **shall set the following outcome expectations for the adult high school:**

17 **(1) Each year, at least seventy-five percent of the school's**
18 **students will graduate or continue working toward a high school**
19 **diploma and, if applicable, an industry certification;**

20 **(2) At least fifty percent of the school's graduates will attain an**
21 **industry certification or enroll in higher education or more advanced**
22 **skills training within six months of graduation;**

23 **(3) At least eighty-five percent of the school's graduates who do**
24 **not enroll in higher education or more advanced skills training will be**
25 **employed within six months of graduation; and**

26 **(4) The school's graduates who enter the workforce shall have,**
27 **on average, a wage rate at least twenty percent greater than the**
28 **average Missouri wage rate for individuals without high school**
29 **diplomas.**

160.2720. The nonprofit organization who receives the
2 **authorization described under section 160.2705 shall submit to the**
3 **department of elementary and secondary education, the joint**
4 **committee on education, and the offices of the governor, speaker of the**
5 **house of representatives, and president pro tempore of the senate an**
6 **annual report concerning evaluations of the adult high schools,**
7 **including the impact the adult high schools have had in meeting**
8 **industry needs in the state before December first of each year.**

160.2725. The department of elementary and secondary education
2 **may promulgate rules to implement the provisions of sections 160.2700**
3 **to 160.2720. Any rule or portion of a rule, as that term is defined in**
4 **section 536.010, that is created under the authority delegated in this**
5 **section shall become effective only if it complies with and is subject to**
6 **all of the provisions of chapter 536 and, if applicable, section**
7 **536.028. This section and chapter 536 are nonseverable, and if any of**
8 **the powers vested with the general assembly pursuant to chapter 536**
9 **to review, to delay the effective date, or to disapprove and annul a rule**
10 **are subsequently held unconstitutional, then the grant of rulemaking**
11 **authority and any rule proposed or adopted after August 28, 2017, shall**
12 **be invalid and void.**

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

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

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

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

10 (4) "Committee", the Missouri works job training joint legislative oversight
11 committee, established under the provisions of section 620.803;

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

13 (6) "Employee", a person employed by a qualified company;

14 (7) "Full-time employee", an employee of the qualified company who is
15 scheduled to work an average of at least thirty-five hours per week for a
16 twelve-month period, and one to whom the qualified company offers health
17 insurance and pays at least fifty percent of such insurance premiums;

18 (8) "Local education agency", a community college, two-year state
19 technical college, or technical career education center;

20 (9) "Missouri works training program", the training program established
21 under sections 620.800 to 620.809;

22 (10) "New capital investment", costs incurred by the qualified company at
23 the project facility [after acceptance by the qualified company of the proposal for
24 benefits from the department or the approval of the notice of intent, whichever
25 occurs first,] for real or personal property, that may include the value of finance
26 or capital leases for real or personal property for the term of such lease at the
27 project facility executed after acceptance by the qualified company of the proposal
28 for benefits from the department or approval of the notice of intent;

29 (11) "New job", the number of full-time employees located at the project
30 facility that exceeds the project facility base employment less any decrease in the
31 number of full-time employees at related facilities below the related facility base
32 employment. No job that was created prior to the date of the notice of intent
33 shall be deemed a new job. An employee who spends less than fifty percent of his
34 or her work time at the facility is still considered to be located at a facility if he
35 or she receives his or her directions and control from that facility, is on the
36 facility's payroll, one hundred percent of the employee's income from such
37 employment is Missouri income, and the employee is paid at or above the
38 applicable percentage of the county's average wage;

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

41 (13) "Notice of intent", a form developed by the department, completed by
42 the qualified company, and submitted to the department that states the qualified
43 company's intent to request benefits under this program;

44 (14) "Project facility", the building or buildings used by a qualified
45 company at which new or retained jobs and any new capital investment are or
46 will be located. A project facility may include separate buildings located within
47 sixty miles of each other such that their purpose and operations are interrelated,
48 provided that, if the buildings making up the project facility are not located
49 within the same county, the average wage of the new payroll must exceed the

50 applicable percentage of the highest county average wage among the counties in
51 which the buildings are located. Upon approval by the department, a subsequent
52 project facility may be designated if the qualified company demonstrates a need
53 to relocate to the subsequent project facility at any time during the project period;

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

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

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

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

73 (c) Food services and drinking places (NAICS subsector 722);

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

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

78 (f) Any company requesting benefits for retained jobs that has filed for or
79 has publicly announced its intention to file for bankruptcy protection. However,
80 a company that has filed for or has publicly announced its intention to file for
81 bankruptcy may be a qualified company provided that such company:

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

84 b. After its bankruptcy petition has been filed, it produces proof, in a form
85 and at times satisfactory to the department, that it is not delinquent in filing any

86 tax returns or making any payment due to the state of Missouri, including but
87 not limited to all tax payments due after the filing of the bankruptcy petition and
88 under the terms of the plan of reorganization;

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

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

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

92 (j) Ethanol distillation or production; or

93 (k) Biodiesel production.

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

101 (17) "Related company":

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

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

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

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

121 (19) "Related facility base employment", the greater of the number of

122 full-time employees located at all related facilities on the date of the notice of
123 intent or, for the twelve-month period prior to the date of the notice of intent, the
124 average number of full-time employees located at all related facilities of the
125 qualified company or a related company located in this state;

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

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

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

134 (23) "Training program", the Missouri works training program established
135 under sections 620.800 to 620.809;

136 (24) "Training project", the project or projects established through the
137 Missouri works training program for the creation or retention of jobs by providing
138 education and training of workers;

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

141 (a) Training materials and supplies;

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

144 (c) Subcontracted services;

145 (d) On-the-job training;

146 (e) Training facilities and equipment;

147 (f) Skill assessment;

148 (g) Training project and curriculum development;

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

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

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

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

157 (l) Assessment and preselection tools;

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

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

9 2. There is hereby created the "Missouri Works Job Training Joint
10 Legislative Oversight Committee". The committee shall consist of three members
11 of the Missouri senate appointed by the president pro tempore of the senate and
12 three members of the house of representatives appointed by the speaker of the
13 house. No more than two of the members of the senate and two of the members
14 of the house of representatives shall be from the same political party. Members

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

25 3. The department shall publish guidelines and may promulgate rules and
26 regulations governing the training program. Any rule or portion of a rule, as that
27 term is defined in section 536.010, that is created under the authority delegated
28 in this section shall become effective only if it complies with and is subject to all
29 of the provisions of chapter 536 and, if applicable, section 536.028. This section
30 and chapter 536 are nonseverable and if any of the powers vested with the
31 general assembly pursuant to chapter 536 to review, to delay the effective date,
32 or to disapprove and annul a rule are subsequently held unconstitutional, then
33 the grant of rulemaking authority and any rule proposed or adopted after August
34 28, 2013, shall be invalid and void.

35 4. The department shall make program applications and guidelines
36 available online.

37 5. The department may contract with other entities, **not to exceed fifty**
38 **thousand dollars annually**, for the purposes of [carrying out the provisions of]
39 **advertising, marketing, or promoting** the training program established in
40 sections 620.800 to 620.809. Any assistance through the training program shall
41 be provided under an agreement.

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

45 7. Any taxpayer who is awarded benefits under sections 620.800 to
46 620.809 and who files for bankruptcy under Chapter 7 of the United States
47 Bankruptcy Code, Title 11 U.S.C., as amended shall immediately notify the
48 department, shall forfeit such benefits, and shall repay the state an amount equal
49 to any state tax credits already redeemed and any withholding taxes already
50 retained.

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

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

34 3. The department may provide assistance, through appropriations made
35 from the Missouri works job development fund, to business and technology
36 centers. Such assistance shall not include the lending of the state's credit for the

37 payment of any liability of the fund. Such centers may be established by Missouri
38 community colleges, or state-owned postsecondary technical colleges, to provide
39 business and training services for growth industries as determined by current
40 labor market information.

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

21 2. The Missouri community college job retention training program fund,
22 formerly established in the state treasury by section 178.764, shall now be known
23 as the "Missouri Works Community College Job Retention Training Fund" and
24 shall be administered by the department for the Missouri works training
25 program. The department of revenue shall credit to the fund, as received, all
26 retained jobs credits. The fund shall also consist of any gifts, contributions,
27 grants, or bequests received from federal, private, or other sources. The general
28 assembly, however, shall not provide for any transfer of general revenue funds
29 into the fund. Moneys in the fund shall be disbursed to the department under
30 regular appropriations by the general assembly. The department shall disburse
31 such appropriated funds in a timely manner into the special funds established by
32 community college districts for projects, which funds shall be used to pay training

33 program costs, including the principal, premium, and interest on certificates
34 issued by the district to finance or refinance, in whole or in part, a project. Such
35 disbursements by the department shall be made to the special fund for each
36 project [in the same proportion as the retained jobs credit from withholding
37 remitted by the qualified company participating in such project bears to the total
38 retained jobs credit from withholding remitted by qualified companies
39 participating in projects during the period for which the disbursement is made]
40 **as provided under subsection 5 of this section.** All moneys remaining in
41 the fund at the end of any fiscal year shall not lapse to the general revenue fund,
42 as provided in section 33.080, but shall remain in the fund.

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

56 4. A community college district, with the approval of the department in
57 consultation with the office of administration, may enter into an agreement to
58 establish a training project and provide training project services to a qualified
59 company. As soon as possible after initial contact between a community college
60 district and a potential qualified company regarding the possibility of entering
61 into an agreement, the district shall inform the department of the potential
62 training project. The department shall evaluate the proposed training project
63 within the overall job training efforts of the state to ensure that the training
64 project will not duplicate other job training programs. The department shall have
65 fourteen days from receipt of a notice of intent to approve or disapprove a
66 training project. If no response is received by the qualified company within
67 fourteen days, the training project shall be deemed approved. Disapproval of any
68 training project shall be made in writing and state the reasons for such

69 disapproval. If an agreement is entered into, the district and the qualified
70 company shall notify the department of revenue within fifteen calendar days. In
71 addition to any provisions required under subsection 5 of this section for a
72 qualified company applying to receive a retained job credit, an agreement may
73 provide, but shall not be limited to:

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

76 (a) Funds appropriated by the general assembly to the Missouri works
77 community college new jobs training program fund or Missouri works community
78 college job retention training program fund, as applicable, and disbursed by the
79 department for the purposes consistent with sections 620.800 to 620.809;

80 (b) **Funds appropriated by the general assembly from the general**
81 **revenue fund and disbursed by the department for the purposes**
82 **consistent with sections 620.800 to 620.809;**

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

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

87 (3) Costs of on-the-job training for employees which shall include wages
88 or salaries of participating employees. Payments for on-the-job training shall not
89 exceed the average of fifty percent of the total wages paid by the qualified
90 company to each participant during the period of training. Payment for
91 on-the-job training may continue for up to six months from the date the training
92 begins;

93 (4) A provision which fixes the minimum amount of new or retained jobs
94 credits, **general revenue fund appropriations**, or tuition and fee payments
95 which shall be paid for training project costs; and

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

103 5. (1) **For projects that are funded exclusively under paragraph**
104 **(a) of subdivision (1) of subsection 4 of this section, the department**

105 shall disburse such funds to the special fund for each training project
106 in the same proportion as the new jobs or retained jobs credits
107 remitted by the qualified company participating in such project bears
108 to the total new jobs or retained jobs credits from withholding remitted
109 by all qualified companies participating in projects during the period
110 for which the disbursement is made.

111 (2) Subject to appropriation, for projects that are funded through
112 a combination of funds under paragraphs (a) and (b) of subdivision (1)
113 of subsection 4 of this section, the department shall disburse funds
114 appropriated under paragraph (b) of subdivision (1) of subsection 4 of
115 this section to the special fund for each training project upon
116 commencement of the project. The department shall disburse funds
117 appropriated under paragraph (a) of subdivision (1) of subsection 4 of
118 this section to the special fund for each training project in the same
119 proportion as the new jobs or retained jobs credits remitted by the
120 qualified company participating in such project bears to the total new
121 jobs or retained jobs credits from withholding remitted by all qualified
122 companies participating in projects during the period for which the
123 disbursement is made, reduced by the amount of funds appropriated
124 under paragraph (b) of subdivision (1) of subsection 4 of this section.

125 6. Any qualified company that submits a notice of intent for retained job
126 credits shall enter into an agreement, providing that the qualified company has:

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

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

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

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

139 (b) Is located in a border county of the state and represents a potential
140 risk of relocation from the state; or

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

143 [6.] 7. If an agreement provides that all or part of the training program
144 costs are to be met by receipt of new or retained jobs credit, such new or retained
145 jobs credit from withholding shall be determined and paid as follows:

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

148 (2) A portion of the total payments made by the qualified companies under
149 sections 143.191 to 143.265 shall be designated as the new or retained jobs credit
150 from withholding. Such portion shall be an amount equal to two and one-half
151 percent of the gross wages paid by the qualified company for each of the first one
152 hundred jobs included in the project and one and one-half percent of the gross
153 wages paid by the qualified company for each of the remaining jobs included in
154 the project. If business or employment conditions cause the amount of the new
155 or retained jobs credit from withholding to be less than the amount projected in
156 the agreement for any time period, then other withholding tax paid by the
157 qualified company under sections 143.191 to 143.265 shall be credited to the
158 applicable fund by the amount of such difference. The qualified company shall
159 remit the amount of the new or retained jobs credit to the department of revenue
160 in the manner prescribed in sections 143.191 to 143.265. When all training
161 program costs have been paid, the new or retained jobs credits shall cease;

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

173 (4) Any disbursement for training project costs received from the
174 department under sections 620.800 to 620.809 and deposited into the training
175 project's special fund may be irrevocably pledged by a community college district
176 for the payment of the principal, premium, and interest on the certificate issued

177 by a community college district to finance or refinance, in whole or in part, such
178 training project;

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

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

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

188 [7.] 8. To provide funds for the present payment of the training project
189 costs of new or retained jobs training project through the training program, a
190 community college district may borrow money and issue and sell certificates
191 payable from a sufficient portion of the future receipts of payments authorized by
192 the agreement including disbursements from the Missouri works community
193 college new jobs training fund or the Missouri works community college job
194 retention training fund, to the special fund established by the district for each
195 project. The total amount of outstanding certificates sold by all community
196 college districts shall not exceed the total amount authorized under law as of
197 January 1, 2013, unless an increased amount is authorized in writing by a
198 majority of members of the committee. The certificates shall be marketed
199 through financial institutions authorized to do business in Missouri. The receipts
200 shall be pledged to the payment of principal of and interest on the
201 certificates. Certificates may be sold at public sale or at private sale at par,
202 premium, or discount of not less than ninety-five percent of the par value thereof,
203 at the discretion of the board of trustees, and may bear interest at such rate or
204 rates as the board of trustees shall determine, notwithstanding the provisions of
205 section 108.170 to the contrary. However, the provisions of chapter 176 shall not
206 apply to the issuance of such certificates. Certificates may be issued with respect
207 to a single project or multiple projects and may contain terms or conditions as the
208 board of trustees may provide by resolution authorizing the issuance of the
209 certificates.

210 [8.] 9. Certificates issued to refund other certificates may be sold at
211 public sale or at private sale as provided in this section, with the proceeds from
212 the sale to be used for the payment of the certificates being refunded. The

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

220 [9.] 10. Before certificates are issued, the board of trustees shall publish
221 once a notice of its intention to issue the certificates, stating the amount, the
222 purpose, and the project or projects for which the certificates are to be issued. A
223 person with standing may, within fifteen days after the publication of the notice,
224 by action in the circuit court of a county in the district, appeal the decision of the
225 board of trustees to issue the certificates. The action of the board of trustees in
226 determining to issue the certificates shall be final and conclusive unless the
227 circuit court finds that the board of trustees has exceeded its legal authority. An
228 action shall not be brought which questions the legality of the certificates, the
229 power of the board of trustees to issue the certificates, the effectiveness of any
230 proceedings relating to the authorization of the project, or the authorization and
231 issuance of the certificates from and after fifteen days from the publication of the
232 notice of intention to issue.

233 [10.] 11. The board of trustees shall make a finding based on information
234 supplied by the qualified company that revenues provided in the agreement are
235 sufficient to secure the faithful performance of obligations in the agreement.

236 [11.] 12. Certificates issued under this section shall not be deemed to be
237 an indebtedness of the state, the community college district, or any other political
238 subdivision of the state, and the principal and interest on any certificates shall
239 be payable only from the sources provided in subdivision (1) of subsection 4 of
240 this section which are pledged in the agreement.

241 [12.] 13. Pursuant to section 23.253 of the Missouri sunset act:

242 (1) The new program authorized under sections 620.800 to 620.809 shall
243 automatically sunset July 1, 2019, unless reauthorized by an act of the general
244 assembly; and

245 (2) If such program is reauthorized, the program authorized under
246 sections 620.800 to 620.809 shall automatically sunset twelve years after the
247 effective date of the reauthorization of sections 620.800 to 620.809; and

248 (3) Sections 620.800 to 620.809 shall terminate on September first of the

249 calendar year immediately following the calendar year in which a program
250 authorized under sections 620.800 to 620.809 is sunset.

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

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

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

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

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

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

23 (6) "Employee", a person employed by a qualified company, excluding:

24 (a) Owners of the qualified company unless the qualified company is
25 participating in an employee stock ownership plan; or

26 (b) Owners of a noncontrolling interest in stock of a qualified company
27 that is publicly traded;

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

32 (8) "Full-time employee", an employee of the qualified company that is
33 scheduled to work an average of at least thirty-five hours per week for a
34 twelve-month period, and one for which the qualified company offers health

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

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

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

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

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

65 (13) "New job", the number of full-time employees located at the project
66 facility that exceeds the project facility base employment less any decrease in the
67 number of full-time employees at related facilities below the related facility base
68 employment. No job that was created prior to the date of the notice of intent
69 shall be deemed a new job. **In no event shall a benefit under sections**
70 **620.2000 to 620.2020 be provided to any job other than a new job. A job**

71 **shall not be considered a new job merely because of a change of**
72 **ownership in the company;**

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

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

79 (16) "Percent of local incentives", the amount of local incentives divided
80 by the amount of new direct local revenue;

81 (17) "Program", the Missouri works program established in sections
82 620.2000 to 620.2020;

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

93 (19) "Project facility base employment", the greater of the number of
94 full-time employees located at the project facility on the date of the notice of
95 intent or, for the twelve-month period prior to the date of the notice of intent, the
96 average number of full-time employees located at the project facility. In the event
97 the project facility has not been in operation for a full twelve-month period, the
98 average number of full-time employees for the number of months the project
99 facility has been in operation prior to the date of the notice of intent. **In no**
100 **event shall the benefits awarded under sections 620.2000 to 620.2020 be**
101 **construed to apply to base employment;**

102 (20) "Project facility base payroll", the annualized payroll for the project
103 facility base employment or the total amount of wages paid by the qualified
104 company to full-time employees of the qualified company located at the project
105 facility in the twelve months prior to the notice of intent. For purposes of
106 calculating the benefits under this program **each benefit year**, the amount of

107 base payroll shall [increase each year based on an appropriate measure, as
108 determined by the department] **be equal to or greater than the previous**
109 **year's amount and the number of employees in the base shall remain**
110 **the same. Companies may report numbers of employees in the base by**
111 **hire date or by position replacement and shall declare the method in**
112 **their application. The method selected shall remain in effect for the**
113 **full term of benefits;**

114 (21) "Project period", the time period within which benefits are awarded
115 to a qualified company or within which the qualified company is obligated to
116 perform under an agreement with the department, whichever is greater;

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

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

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

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

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

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

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

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

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

143 b. After its bankruptcy petition has been filed, it produces proof, in a form
144 and at times satisfactory to the department, that it is not delinquent in filing any
145 tax returns or making any payment due to the state of Missouri, including but
146 not limited to all tax payments due after the filing of the bankruptcy petition and
147 under the terms of the plan of reorganization. Any taxpayer who is awarded
148 benefits under this subsection and who files for bankruptcy under Chapter 7 of
149 the United States Bankruptcy Code, Title 11 U.S.C., shall immediately notify the
150 department and shall forfeit such benefits and shall repay the state an amount
151 equal to any state tax credits already redeemed and any withholding taxes
152 already retained;

- 153 (g) Educational services (NAICS sector 61);
- 154 (h) Religious organizations (NAICS industry group 8131);
- 155 (i) Public administration (NAICS sector 92);
- 156 (j) Ethanol distillation or production;
- 157 (k) Biodiesel production; or
- 158 (l) Health care and social services (NAICS sector 62).

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

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

- 167 (a) A corporation, partnership, trust, or association controlled by the
168 qualified company;
- 169 (b) An individual, corporation, partnership, trust, or association in control
170 of the qualified company; or
- 171 (c) Corporations, partnerships, trusts or associations controlled by an
172 individual, corporation, partnership, trust, or association in control of the
173 qualified company. As used in this paragraph, "control of a qualified company"
174 shall mean:

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

178 b. Ownership of at least fifty percent of the capital or profits interest in

179 such qualified company if it is a partnership or association;

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

184 (25) "Related facility", a facility operated by the qualified company or a
185 related company located in this state that is directly related to the operations of
186 the project facility or in which operations substantially similar to the operations
187 of the project facility are performed;

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

193 (27) "Related facility base payroll", the annualized payroll of the related
194 facility base payroll or the total amount of taxable wages paid by the qualified
195 company to full-time employees of the qualified company located at a related
196 facility in the twelve months prior to the filing of the notice of intent. For
197 purposes of calculating the benefits under this program, the amount of related
198 facility base payroll shall increase each year based on an appropriate measure,
199 as determined by the department;

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

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

207 (30) "Withholding tax", the state tax imposed by sections 143.191 to
208 143.265. For purposes of this program, the withholding tax shall be computed
209 using a schedule as determined by the department based on average wages[; and

210 (31)].

211 This section is subject to the provisions of section 196.1127.

✓