

FIRST REGULAR SESSION  
[ P E R F E C T E D ]  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 180**  
100TH GENERAL ASSEMBLY

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Reported from the Committee on Veterans and Military Affairs, February 21, 2019, with recommendation that the Senate Committee Substitute do pass.

Senate Committee Substitute for Senate Bill No. 180, adopted March 5, 2019.

Taken up for Perfection March 5, 2019. Bill declared Perfected and Ordered Printed, as amended.

ADRIANE D. CROUSE, Secretary.

0990S.02P

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**AN ACT**

To repeal sections 620.2005, 620.2010, and 620.2020, RSMo, and to enact in lieu thereof three new sections relating to the Missouri works program.

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

Section A. Sections 620.2005, 620.2010, and 620.2020, RSMo, are repealed  
2 and three new sections enacted in lieu thereof, to be known as sections 620.2005,  
3 620.2010, and 620.2020, to read as follows:

620.2005. 1. 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 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

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

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]  
31 **performed** job 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) **"Industrial development authority", an industrial development**  
43 **authority organized under chapter 349 that has entered into a formal**  
44 **written memorandum of understanding with an entity of the United**  
45 **States Department of Defense regarding a qualified military project;**

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

51 [(10)] (11) **"Memorandum of understanding", an agreement**

52 executed by an industrial development authority and an entity of the  
53 United States Department of Defense, a copy of which is provided to  
54 the department of economic development, that states, but is not limited  
55 to:

56 (a) A requirement for the military to provide the total number  
57 of existing jobs, jobs directly created by a qualified military project,  
58 and average salaries of such jobs to the industrial development  
59 authority and the department of economic development annually for  
60 the term of the benefit;

61 (b) A requirement for the military to provide an accounting of  
62 the expenditures of capital investment made by the military directly  
63 related to the qualified military project to the industrial development  
64 authority and the department of economic development annually for  
65 the term of the benefit;

66 (c) The process by which the industrial development authority  
67 shall monetize the tax credits annually and any transaction cost or  
68 administrative fee charged by the industrial development authority to  
69 the military on an annual basis;

70 (d) A requirement for the industrial development authority to  
71 provide proof to the department of economic development of the  
72 payment made to the qualified military project annually, including the  
73 amount of such payment;

74 (e) The schedule of the maximum amount of tax credits which  
75 may be authorized in each year for the project and the specified term  
76 of the benefit, as provided by the department of economic development;  
77 and

78 (f) A requirement that the annual benefit paid shall be the lesser  
79 of:

80 a. The maximum amount of tax credits authorized; or

81 b. The actual calculated benefit derived from the number of new  
82 jobs and average salaries;

83 (12) "NAICS" or "NAICS industry classification", the classification  
84 provided by the most recent edition of the North American Industry Classification  
85 System as prepared by the Executive Office of the President, Office of  
86 Management and Budget;

87 [(11)] (13) "New capital investment", shall include costs incurred by the  
88 qualified company at the project facility after acceptance by the qualified

89 company of the proposal for benefits from the department or the approval notice  
90 of intent, whichever occurs first, for real or personal property, and may include  
91 the value of finance or capital leases for real or personal property for the term of  
92 such lease at the project facility executed after acceptance by the qualified  
93 company of the proposal for benefits from the department or the approval of the  
94 notice of intent;

95 [(12)] (14) "New direct local revenue", the present value of the dollar  
96 amount of direct net new tax revenues of the local political subdivisions likely to  
97 be produced by the project over a ten-year period as calculated by the  
98 department, excluding local earnings tax, and net new utility revenues, provided  
99 the local incentives include a discount or other direct incentives from utilities  
100 owned or operated by the political subdivision;

101 [(13)] (15) "New job", the number of full-time employees located at the  
102 project facility that exceeds the project facility base employment less any decrease  
103 in the number of full-time employees at related facilities below the related facility  
104 base employment. No job that was created prior to the date of the notice of intent  
105 shall be deemed a new job;

106 [(14)] (16) "New payroll", the amount of wages paid for all new jobs,  
107 located at the project facility during the qualified company's tax year that exceeds  
108 the project facility base payroll;

109 [(15)] (17) "Notice of intent", a form developed by the department and  
110 available online, completed by the qualified company, and submitted to the  
111 department stating the qualified company's intent to request benefits under this  
112 program;

113 [(16)] (18) "Percent of local incentives", the amount of local incentives  
114 divided by the amount of new direct local revenue;

115 [(17)] (19) "Program", the Missouri works program established in  
116 sections 620.2000 to 620.2020;

117 [(18)] (20) "Project facility", the building or buildings used by a qualified  
118 company at which new or retained jobs and any new capital investment are or  
119 will be located. A project facility may include separate buildings located within  
120 sixty miles of each other such that their purpose and operations are interrelated;  
121 provided that where the buildings making up the project facility are not located  
122 within the same county, the average wage of the new payroll shall exceed the  
123 applicable percentage of the highest county average wage among the counties in  
124 which the buildings are located. Upon approval by the department, a subsequent

125 project facility may be designated if the qualified company demonstrates a need  
126 to relocate to the subsequent project facility at any time during the project  
127 period. **For qualified military projects, the term "project facility" means**  
128 **the military base or installation at which such qualified military**  
129 **project is or shall be located;**

130 [(19)] **(21)** "Project facility base employment", the greater of the number  
131 of full-time employees located at the project facility on the date of the notice of  
132 intent or, for the twelve-month period prior to the date of the notice of intent, the  
133 average number of full-time employees located at the project facility. In the event  
134 the project facility has not been in operation for a full twelve-month period, the  
135 average number of full-time employees for the number of months the project  
136 facility has been in operation prior to the date of the notice of intent;

137 [(20)] **(22)** "Project facility base payroll", the annualized payroll for the  
138 project facility base employment or the total amount of **taxable** wages paid by  
139 the qualified company to full-time employees of the qualified company located at  
140 the project facility in the twelve months prior to the notice of intent. For  
141 purposes of calculating the benefits under this program, the amount of base  
142 payroll shall increase each year based on an appropriate measure, as determined  
143 by the department;

144 [(21)] **(23)** "Project period", the time period within which benefits are  
145 awarded to a qualified company or within which the qualified company is  
146 obligated to perform under an agreement with the department, whichever is  
147 greater;

148 [(22)] **(24)** "Projected net fiscal benefit", the total fiscal benefit to the  
149 state less any state benefits offered to the qualified company, as determined by  
150 the department;

151 [(23)] **(25)** "Qualified company", a firm, partnership, joint venture,  
152 association, private or public corporation whether organized for profit or not, or  
153 headquarters of such entity registered to do business in Missouri that is the  
154 owner or operator of a project facility, certifies that it offers health insurance to  
155 all full-time employees of all facilities located in this state, and certifies that it  
156 pays at least fifty percent of such insurance premiums. For the purposes of  
157 sections 620.2000 to 620.2020, the term "qualified company" shall not include:

- 158 (a) Gambling establishments (NAICS industry group 7132);  
159 (b) Store front consumer-based retail trade establishments (under NAICS  
160 sectors 44 and 45), except with respect to any company headquartered in this

161 state with a majority of its full-time employees engaged in operations not within  
162 the NAICS codes specified in this subdivision;

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

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

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

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

172 a. Certifies to the department that it plans to reorganize and not to  
173 liquidate; and

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

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

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

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

187 (j) Ethanol distillation or production;

188 (k) Biodiesel production; or

189 (l) Health care and social services (NAICS sector 62). Notwithstanding  
190 any provision of this section to the contrary, the headquarters, administrative  
191 offices, or research and development facilities of an otherwise excluded business  
192 may qualify for benefits if the offices or facilities serve a multistate territory. In  
193 the event a national, state, or regional headquarters operation is not the  
194 predominant activity of a project facility, the jobs and investment of such  
195 operation shall be considered eligible for benefits under this section if the other  
196 requirements are satisfied;

197            [(24)] **(26) "Qualified military project", the expansion or**  
198 **improvement of a military base or installation within this state that**  
199 **causes:**

200            **(a) An increase of ten or more military or civilian support**  
201 **personnel:**

202            **a. Whose average salaries equal or exceed ninety percent of the**  
203 **county average wage; and**

204            **b. Who are offered health insurance, with an entity of the United**  
205 **States Department of Defense paying at least fifty percent of such**  
206 **insurance premiums; and**

207            **(b) Investment in real or personal property at the base or**  
208 **installation expressly for the purposes of serving a new or expanded**  
209 **military activity or unit;**

210            **(27) "Related company", shall mean:**

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

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

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

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

222            b. Ownership of at least fifty percent of the capital or [profits] **profit**  
223 interest in such qualified company if it is a partnership or association;

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

228            [(25)] **(28) "Related facility", a facility operated by the qualified company**  
229 **or a related company located in this state that is directly related to the operations**  
230 **of the project facility or in which operations substantially similar to the**  
231 **operations of the project facility are performed;**

232            [(26)] **(29) "Related facility base employment", the greater of the number**

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

237 [(27)] **(30)** "Related facility base payroll", the annualized payroll of the  
238 related facility base payroll or the total amount of taxable wages paid by the  
239 qualified company to full-time employees of the qualified company located at a  
240 related facility in the twelve months prior to the filing of the notice of intent. For  
241 purposes of calculating the benefits under this program, the amount of related  
242 facility base payroll shall increase each year based on an appropriate measure,  
243 as determined by the department;

244 [(28)] **(31)** "Rural area", a county in Missouri with a population less than  
245 seventy-five thousand or that does not contain an individual city with a  
246 population greater than fifty thousand according to the most recent federal  
247 decennial census;

248 [(29)] **(32)** "Tax credits", tax credits issued by the department to offset  
249 the state taxes imposed by chapters 143 and 148, or which may be sold or  
250 refunded as provided for in this program;

251 [(30)] **(33)** "Withholding tax", the state tax imposed by sections 143.191  
252 to 143.265. For purposes of this program, the withholding tax shall be computed  
253 using a schedule as determined by the department based on average wages[; and

254 (31)].

255 **2.** This section is subject to the provisions of section 196.1127.

620.2010. 1. In exchange for the consideration provided by the new tax  
2 revenues and other economic stimuli that will be generated by the new jobs  
3 created, a qualified company may, for a period of five years from the date the new  
4 jobs are created, or for a period of six years from the date the new jobs are  
5 created if the qualified company is an existing Missouri business, retain an  
6 amount equal to the withholding tax as calculated under subdivision [(30)] **(33)**  
7 of section 620.2005 from the new jobs that would otherwise be withheld and  
8 remitted by the qualified company under the provisions of sections 143.191 to  
9 143.265 if:

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

13 (2) The qualified company creates two or more new jobs at a project



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

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

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

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

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

41 (3) The overall size and quality of the proposed project, including the  
42 number of new jobs, new capital investment, proposed wages, growth potential of  
43 the qualified company, the potential multiplier effect of the project, and similar  
44 factors;

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

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

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

49 (7) The percent of local incentives committed.

50           3. Upon approval of a notice of intent to receive tax credits under  
51 subsections 2 and 5 of this section, the department and the qualified company  
52 shall enter into a written agreement covering the applicable project period. The  
53 agreement shall specify, at a minimum:

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

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

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

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

61           4. In lieu of the benefits available under sections 1 and 2 of this section,  
62 and in exchange for the consideration provided by the new tax revenues and other  
63 economic stimuli that will be generated by the new jobs created by the program,  
64 a qualified company may, for a period of five years from the date the new jobs are  
65 created, or for a period of six years from the date the new jobs are created if the  
66 qualified company is an existing Missouri business, retain an amount equal to the  
67 withholding tax as calculated under subdivision [(30)] **(33)** of section 620.2005  
68 from the new jobs that would otherwise be withheld and remitted by the qualified  
69 company under the provisions of sections 143.191 to 143.265 equal to:

70           (1) Six percent of new payroll for a period of five years from the date the  
71 required number of new jobs were created if the qualified company creates one  
72 hundred or more new jobs and the average wage of the new payroll equals or  
73 exceeds one hundred twenty percent of the county average wage of the county in  
74 which the project facility is located; or

75           (2) Seven percent of new payroll for a period of five years from the date  
76 the required number of jobs were created if the qualified company creates one  
77 hundred or more new jobs and the average wage of the new payroll equals or  
78 exceeds one hundred forty percent of the county average wage of the county in  
79 which the project facility is located.

80 The department shall issue a refundable tax credit for any difference between the  
81 amount of benefit allowed under this subsection and the amount of withholding  
82 tax retained by the company, in the event the withholding tax is not sufficient to  
83 provide the entire amount of benefit due to the qualified company under this  
84 subsection.

85           5. In addition to the benefits available under subsection 4 of this section,

86 the department may award a qualified company that satisfies the provisions of  
87 subsection 4 of this section additional tax credits, issued each year for a period  
88 of five years from the date the new jobs are created, or for a period of six years  
89 from the date the new jobs are created if the qualified company is an existing  
90 Missouri business, in an amount equal to or less than three percent of new  
91 payroll; provided that in no event may the total amount of benefits awarded to  
92 a qualified company under this section exceed nine percent of new payroll in any  
93 calendar year. The amount of tax credits awarded to a qualified company under  
94 this subsection shall not exceed the projected net fiscal benefit to the state, as  
95 determined by the department, and shall not exceed the least amount necessary  
96 to obtain the qualified company's commitment to initiate the project. In  
97 determining the amount of tax credits to award to a qualified company under this  
98 subsection, the department shall consider the factors provided under subsection  
99 2 of this section.

100       6. No benefits shall be available under this section for any qualified  
101 company that has performed significant, project-specific site work at the project  
102 facility, purchased machinery or equipment related to the project, or has publicly  
103 announced its intention to make new capital investment at the project facility  
104 prior to receipt of a proposal for benefits under this section or approval of its  
105 notice of intent, whichever occurs first.

106       **7. In lieu of any other benefits under this chapter, the**  
107 **department of economic development may award a tax credit to an**  
108 **industrial development authority for a qualified military project in an**  
109 **amount equal to the estimated withholding taxes associated with the**  
110 **civilian and military new jobs located at the facility and directly**  
111 **impacted by the project. The amount of the tax credit shall be**  
112 **calculated by multiplying:**

113           **(1) The average percentage of tax withheld, as provided by the**  
114 **department of revenue to the department of economic development;**

115           **(2) The average salaries of the jobs directly created by the**  
116 **qualified military project; and**

117           **(3) The number of jobs directly created by the qualified military**  
118 **project.**

119 **If the amount of the tax credit represents the least amount necessary**  
120 **to accomplish the qualified military project, the tax credits may be**  
121 **issued, but no tax credits shall be issued for a term longer than fifteen**

122 **years. No qualified military project shall be eligible for tax credits**  
123 **under this subsection unless the department of economic development**  
124 **determines the qualified military project shall achieve a net positive**  
125 **fiscal impact to the state.**

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

33 project facility base payroll accordingly.

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

46           3. A qualified company **or qualified military project** receiving benefits  
47 under this program shall provide an annual report of the number of jobs and such  
48 other information as may be required by the department to document the basis  
49 for program benefits available no later than ninety days prior to the end of the  
50 qualified company's **or industrial development authority's** tax year  
51 immediately following the tax year for which the benefits provided under the  
52 program are attributed. In such annual report, if the average wage is below the  
53 applicable percentage of the county average wage, the qualified company **or**  
54 **qualified military project** has not maintained the employee insurance as  
55 required, or if the number of jobs is below the number required, the qualified  
56 company **or qualified military project** shall not receive tax credits or retain  
57 the withholding tax for the balance of the project period. Failure to timely file  
58 the annual report required under this section shall result in the forfeiture of tax  
59 credits attributable to the year for which the reporting was required and a  
60 recapture of withholding taxes retained by the qualified company **or qualified**  
61 **military project** during such year.

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

69 department that the qualified company has exceeded the applicable percentage  
70 of county average wage and the required number of jobs.

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

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

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

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

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

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

96         8. For tax credits for the creation of new jobs under section 620.2010, the  
97 department shall allocate the annual tax credits based on the date of the  
98 approval, reserving such tax credits based on the department's best estimate of  
99 new jobs and new payroll of the project, and any other applicable factors in  
100 determining the amount of benefits available to the qualified company **or**  
101 **qualified military project** under this program. However, the annual issuance  
102 of tax credits shall be subject to annual verification of actual payroll by the  
103 department **or, for qualified military projects, annual verification of**  
104 **average salary for the jobs directly created by the qualified military**

105 **project.** Any authorization of tax credits shall expire if, within two years from  
106 the date of commencement of operations, or approval if applicable, the qualified  
107 company has failed to meet the applicable minimum job requirements. The  
108 qualified company may retain authorized amounts from the withholding tax  
109 under the project once the applicable minimum job requirements have been met  
110 for the duration of the project period. No benefits shall be provided under this  
111 program until the qualified company **or qualified military project** meets the  
112 applicable minimum new job requirements. In the event the qualified company  
113 **or qualified military project** does not meet the applicable minimum new job  
114 requirements, the qualified company **or qualified military project** may submit  
115 a new notice of intent or the department may provide a new approval for a new  
116 project of the qualified company **or qualified military project** at the project  
117 facility or other facilities.

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

129 10. Prior to the issuance of tax credits or the qualified company beginning  
130 to retain withholding taxes, the department shall verify through the department  
131 of revenue and any other applicable state department that the tax credit  
132 applicant does not owe any delinquent income, sales, or use tax or interest or  
133 penalties on such taxes, or any delinquent fees or assessments levied by any state  
134 department and through the department of insurance, financial institutions and  
135 professional registration that the applicant does not owe any delinquent  
136 insurance taxes or other fees. Such delinquency shall not affect the approval,  
137 except that any tax credits issued shall be first applied to the delinquency and  
138 any amount issued shall be reduced by the applicant's tax delinquency. If the  
139 department of revenue, the department of insurance, financial institutions and  
140 professional registration, or any other state department concludes that a taxpayer

141 is delinquent after June fifteenth but before July first of any year and the  
142 application of tax credits to such delinquency causes a tax deficiency on behalf of  
143 the taxpayer to arise, then the taxpayer shall be granted thirty days to satisfy the  
144 deficiency in which interest, penalties, and additions to tax shall be tolled. After  
145 applying all available credits toward a tax delinquency, the administering agency  
146 shall notify the appropriate department and that department shall update the  
147 amount of outstanding delinquent tax owed by the applicant. If any credits  
148 remain after satisfying all insurance, income, sales, and use tax delinquencies,  
149 the remaining credits shall be issued to the applicant, subject to the restrictions  
150 of other provisions of law.

151 11. The director of revenue shall issue a refund to the qualified company  
152 to the extent that the amount of tax credits allowed under this program exceeds  
153 the amount of the qualified company's tax liability under chapter 143 or 148.

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

156 13. Notwithstanding any provision of law to the contrary, beginning  
157 August 28, 2013, no new benefits shall be authorized for any project that had not  
158 received from the department a proposal or approval for such benefits prior to  
159 August 28, 2013, under the development tax credit program created under  
160 sections 32.100 to 32.125, the rebuilding communities tax credit program created  
161 under section 135.535, the enhanced enterprise zone tax credit program created  
162 under sections 135.950 to 135.973, and the Missouri quality jobs program created  
163 under sections 620.1875 to 620.1890. The provisions of this subsection shall not  
164 be construed to limit or impair the ability of any administering agency to  
165 authorize or issue benefits for any project that had received an approval or a  
166 proposal from the department under any of the programs referenced in this  
167 subsection prior to August 28, 2013, or the ability of any taxpayer to redeem any  
168 such tax credits or to retain any withholding tax under an approval issued prior  
169 to that date. The provisions of this subsection shall not be construed to limit or  
170 in any way impair the ability of any governing authority to provide any local  
171 abatement or designate a new zone under the enhanced enterprise zone program  
172 created by sections 135.950 to 135.963. Notwithstanding any provision of law to  
173 the contrary, no qualified company that is awarded benefits under this program  
174 shall:

175 (1) Simultaneously receive benefits under the programs referenced in this  
176 subsection at the same capital investment; or



177           (2) Receive benefits under the provisions of section 620.1910 for the same  
178 jobs.

179           14. If any provision of sections 620.2000 to 620.2020 or application thereof  
180 to any person or circumstance is held invalid, the invalidity shall not affect other  
181 provisions or application of these sections which can be given effect without the  
182 invalid provisions or application, and to this end, the provisions of sections  
183 620.2000 to 620.2020 are hereby declared severable.

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

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

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

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

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

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

199           16. The department may adopt such rules, statements of policy,  
200 procedures, forms, and guidelines as may be necessary to carry out the provisions  
201 of sections 620.2000 to 620.2020. Any rule or portion of a rule, as that term is  
202 defined in section 536.010, that is created under the authority delegated in this  
203 section shall become effective only if it complies with and is subject to all of the  
204 provisions of chapter 536 and, if applicable, section 536.028. This section and  
205 chapter 536 are nonseverable and if any of the powers vested with the general  
206 assembly pursuant to chapter 536 to review, to delay the effective date, or to  
207 disapprove and annul a rule are subsequently held unconstitutional, then the  
208 grant of rulemaking authority and any rule proposed or adopted after August 28,  
209 2013, shall be invalid and void.

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

211           (1) The provisions of the program authorized under sections 620.2000 to  
212 620.2020 shall be reauthorized as of August 28, 2018, and shall expire on August

213 28, 2030; and

214 (2) If such program is reauthorized, the program authorized under this  
215 section shall automatically sunset twelve years after the effective date of [this]  
216 **the** reauthorization of sections 620.2000 to 620.2020; and

217 (3) Sections 620.2000 to 620.2020 shall terminate on September first of  
218 the calendar year immediately following the calendar year in which the program  
219 authorized under sections 620.2000 to 620.2020 is sunset.

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