

SENATE SUBSTITUTE
FOR
SENATE COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 10

AN ACT

To repeal sections 620.800, 620.803, 620.806, 620.809, and 620.2005, RSMo, and to enact in lieu thereof five new sections relating to financial incentives for job creation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
AS FOLLOWS:

1 Section A. Sections 620.800, 620.803, 620.806, 620.809, and
2 620.2005, RSMo, are repealed and five new sections enacted in
3 lieu thereof, to be known as sections 620.800, 620.803, 620.806,
4 620.809, and 620.2005, to read as follows:

5 620.800. The following additional terms used in sections
6 620.800 to 620.809 shall mean:

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

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

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

16 (4) "Committee", the Missouri works job training joint

1 legislative oversight committee, established under the provisions
2 of section 620.803;

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

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

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

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

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

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

25 (11) "New job", the number of full-time employees located
26 at the project facility that exceeds the project facility base
27 employment less any decrease in the number of full-time employees
28 at related facilities below the related facility base employment.

1 No job that was created prior to the date of the notice of intent
2 shall be deemed a new job. An employee who spends less than
3 fifty percent of his or her work time at the facility is still
4 considered to be located at a facility if he or she receives his
5 or her directions and control from that facility, is on the
6 facility's payroll, one hundred percent of the employee's income
7 from such employment is Missouri income, and the employee is paid
8 at or above the applicable percentage of the county's average
9 wage;

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

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

17 (14) "Project facility", the building or buildings used by
18 a qualified company at which new or retained jobs and any new
19 capital investment are or will be located. A project facility
20 may include separate buildings located within sixty miles of each
21 other such that their purpose and operations are interrelated,
22 provided that, if the buildings making up the project facility
23 are not located within the same county, the average wage of the
24 new payroll must exceed the applicable percentage of the highest
25 county average wage among the counties in which the buildings are
26 located. Upon approval by the department, a subsequent project
27 facility may be designated if the qualified company demonstrates
28 a need to relocate to the subsequent project facility at any time

1 during the project period;

2 (15) "Project facility base employment", the greater of the
3 number of full-time employees located at the project facility on
4 the date of the notice of intent or, for the twelve-month period
5 prior to the date of the notice of intent, the average number of
6 full-time employees located at the project facility. In the
7 event the project facility has not been in operation for a full
8 twelve-month period, the average number of full-time employees
9 for the number of months the project facility has been in
10 operation prior to the date of the notice of intent;

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

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

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

25 (c) Food services and drinking places (NAICS subsector
26 722);

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

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

4 (f) Any company requesting benefits for retained jobs that
5 has filed for or has publicly announced its intention to file for
6 bankruptcy protection. However, a company that has filed for or
7 has publicly announced its intention to file for bankruptcy may
8 be a qualified company provided that such company:

9 a. Certifies to the department that it plans to reorganize
10 and not to liquidate; and

11 b. After its bankruptcy petition has been filed, it
12 produces proof, in a form and at times satisfactory to the
13 department, that it is not delinquent in filing any tax returns
14 or making any payment due to the state of Missouri, including but
15 not limited to all tax payments due after the filing of the
16 bankruptcy petition and under the terms of the plan of
17 reorganization;

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

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

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

21 (j) Ethanol distillation or production; or

22 (k) Biodiesel production.

23
24 Notwithstanding any provision of this section to the contrary,
25 the headquarters, administrative offices, or research and
26 development facilities of an otherwise excluded business may
27 qualify for benefits if the offices or facilities serve a
28 multistate territory. In the event a national, state, or

1 regional headquarters operation is not the predominant activity
2 of a project facility, the jobs and investment of such operation
3 shall be considered eligible for benefits under this section if
4 the other requirements are satisfied;

5 (17) "Related company":

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

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

10 (c) Corporations, partnerships, trusts, or associations
11 controlled by an individual, corporation, partnership, trust, or
12 association in control of the qualified company. As used in this
13 subdivision, "control of a corporation" shall mean ownership,
14 directly or indirectly, of stock possessing at least fifty
15 percent of the total combined voting power of all classes of
16 stock entitled to vote; "control of a partnership or association"
17 shall mean ownership of at least fifty percent of the capital or
18 profits interest in such partnership or association; "control of
19 a trust" shall mean ownership, directly or indirectly, of at
20 least fifty percent of the beneficial interest in the principal
21 or income of such trust; and "ownership" shall be determined as
22 provided in Section 318 of the Internal Revenue Code of 1986, as
23 amended;

24 (18) "Related facility", a facility operated by the
25 qualified company or a related company located in this state that
26 is directly related to the operations of the project facility or
27 in which operations substantially similar to the operations of
28 the project facility are performed;

1 (19) "Related facility base employment", the greater of the
2 number of full-time employees located at all related facilities
3 on the date of the notice of intent or, for the twelve-month
4 period prior to the date of the notice of intent, the average
5 number of full-time employees located at all related facilities
6 of the qualified company or a related company located in this
7 state;

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

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

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

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

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

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

28 (a) Training materials and supplies;

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

4 (c) Subcontracted services;

5 (d) On-the-job training;

6 (e) Training facilities and equipment;

7 (f) Skill assessment;

8 (g) Training project and curriculum development;

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

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

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

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

19 (l) Assessment and preselection tools;

20 (m) Publicity;

21 (n) Instructional services;

22 (o) Rental of instructional facilities with necessary
23 utilities; and

24 (p) Payment of the principal, premium, and interest on
25 certificates, including capitalized interest, issued to finance a
26 project, and the funding and maintenance of a debt service
27 reserve fund to secure such certificates;

28 (26) "Training project services", includes, but shall not

1 be limited to, the following:

2 (a) Job training, which may include, but not be limited to,
3 preemployment training, analysis of the specified training needs
4 for a qualified company, development of training plans, and
5 provision of training through qualified training staff;

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

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

8 (d) Training facilities, equipment, materials, and
9 supplies;

10 (e) On-the-job training;

11 (f) Administrative expenses equal to fifteen percent of the
12 total training costs;

13 (g) Subcontracted services with state institutions of
14 higher education, private colleges or universities, or other
15 federal, state, or local agencies;

16 (h) Contracted or professional services; and

17 (i) Issuance of certificates, when applicable.

18 620.803. 1. The department shall establish a "Missouri
19 Works Training Program" to assist qualified companies in the
20 training of employees in new jobs and the retraining or upgrading
21 of skills of full-time employees in retained jobs as provided in
22 sections 620.800 to 620.809. The training program shall be
23 funded through appropriations to the funds established under
24 sections 620.806 and 620.809. The department shall, to the
25 maximum extent practicable, prioritize funding under the training
26 program to assist qualified companies in targeted industries.

27 2. There is hereby created the "Missouri Works Job Training
28 Joint Legislative Oversight Committee". The committee shall

1 consist of three members of the Missouri senate appointed by the
2 president pro tempore of the senate and three members of the
3 house of representatives appointed by the speaker of the house.
4 No more than two of the members of the senate and two of the
5 members of the house of representatives shall be from the same
6 political party. Members of the committee shall report to the
7 governor, the president pro tempore of the senate, and the
8 speaker of the house of representatives on all assistance to
9 industries under the provisions of sections 620.800 to 620.809
10 provided during the preceding fiscal year. The report of the
11 committee shall be delivered no later than October first of each
12 year. The director of the department shall report to the
13 committee such information as the committee may deem necessary
14 for its annual report. Members of the committee shall receive no
15 compensation in addition to their salary as members of the
16 general assembly but may receive their necessary expenses while
17 attending the meetings of the committee, to be paid out of the
18 joint contingent fund.

19 3. The department shall publish guidelines and may
20 promulgate rules and regulations governing the training program.
21 Any rule or portion of a rule, as that term is defined in section
22 536.010, that is created under the authority delegated in this
23 section shall become effective only if it complies with and is
24 subject to all of the provisions of chapter 536 and, if
25 applicable, section 536.028. This section and chapter 536 are
26 nonseverable and if any of the powers vested with the general
27 assembly pursuant to chapter 536 to review, to delay the
28 effective date, or to disapprove and annul a rule are

1 subsequently held unconstitutional, then the grant of rulemaking
2 authority and any rule proposed or adopted after August 28, 2013,
3 shall be invalid and void.

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

6 5. The department may contract with other entities for the
7 purposes of [carrying out the provisions of] advertising,
8 marketing, or promoting the training program established in
9 sections 620.800 to 620.809. Any assistance through the training
10 program shall be provided under an agreement.

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

15 7. Any taxpayer who is awarded benefits under sections
16 620.800 to 620.809 and who files for bankruptcy under Chapter 7
17 of the United States Bankruptcy Code, Title 11 U.S.C., as amended
18 shall immediately notify the department, shall forfeit such
19 benefits, and shall repay the state an amount equal to any state
20 tax credits already redeemed and any withholding taxes already
21 retained.

22 620.806. 1. The Missouri job development fund, formerly
23 established in the state treasury by section 620.478, shall now
24 be known as the "Missouri Works Job Development Fund" and shall
25 be administered by the department for the training program. The
26 fund shall consist of all moneys which may be appropriated to it
27 by the general assembly and also any gifts, contributions,
28 grants, or bequests received from federal, private or other

1 sources, including, but not limited to, any block grant or other
2 sources of funding relating to job training, school-to-work
3 transition, welfare reform, vocational and technical training,
4 housing, infrastructure, development, and human resource
5 investment programs which may be provided by the federal
6 government or other sources.

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

1 funds from the Missouri works job development fund.
2 Notwithstanding any provision of law to the contrary, no
3 qualified company within a service industry shall be eligible for
4 assistance under this subsection unless such qualified company
5 provides services in interstate commerce, which shall mean that
6 the qualified company derives a majority of its annual revenues
7 from out of the state.

8 3. The department may provide assistance, through
9 appropriations made from the Missouri works job development fund,
10 to business and technology centers. Such assistance shall not
11 include the lending of the state's credit for the payment of any
12 liability of the fund. Such centers may be established by
13 Missouri community colleges, or state-owned postsecondary
14 technical colleges, to provide business and training services for
15 growth industries as determined by current labor market
16 information.

17 620.809. 1. The Missouri community college job training
18 program fund, formerly established in the state treasury by
19 section 178.896, shall now be known as the "Missouri Works
20 Community College New Jobs Training Fund" and shall be
21 administered by the department for the training program. The
22 department of revenue shall credit to the fund, as received, all
23 new jobs credits. The fund shall also consist of any gifts,
24 contributions, grants, or bequests received from federal,
25 private, or other sources. The general assembly, however, shall
26 not provide for any transfer of general revenue funds into the
27 fund. Moneys in the fund shall be disbursed to the department
28 under regular appropriations by the general assembly. The

1 department shall disburse such appropriated funds in a timely
2 manner into the special funds established by community college
3 districts for training projects, which funds shall be used to pay
4 training project costs. Such disbursements shall be made to the
5 special fund for each training project [in the same proportion as
6 the new jobs credit remitted by the qualified company
7 participating in such project bears to the total new jobs credit
8 from withholding remitted by all qualified companies
9 participating in projects during the period for which the
10 disbursement is made] as provided under subsection 5 of this
11 section. All moneys remaining in the fund at the end of any
12 fiscal year shall not lapse to the general revenue fund, as
13 provided in section 33.080, but shall remain in the fund.

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

1 used to pay training program costs, including the principal,
2 premium, and interest on certificates issued by the district to
3 finance or refinance, in whole or in part, a project. Such
4 disbursements by the department shall be made to the special fund
5 for each project [in the same proportion as the retained jobs
6 credit from withholding remitted by the qualified company
7 participating in such project bears to the total retained jobs
8 credit from withholding remitted by qualified companies
9 participating in projects during the period for which the
10 disbursement is made] as provided under subsection 5 of this
11 section. All moneys remaining in the fund at the end of any
12 fiscal year shall not lapse to the general revenue fund, as
13 provided in section 33.080, but shall remain in the fund.

14 3. The department of revenue shall develop such forms as
15 are necessary to demonstrate accurately each qualified company's
16 new jobs credit paid into the Missouri works community college
17 new jobs training fund or retained jobs credit paid into the
18 Missouri works community college job retention training fund.
19 The new or retained jobs credits shall be accounted as separate
20 from the normal withholding tax paid to the department of revenue
21 by the qualified company. Reimbursements made by all qualified
22 companies to the Missouri works community college new jobs
23 training fund and the Missouri works community college job
24 retention training fund shall be no less than all allocations
25 made by the department to all community college districts for all
26 projects. The qualified company shall remit the amount of the
27 new or retained jobs credit, as applicable, to the department of
28 revenue in the same manner as provided in sections 143.191 to

1 143.265.

2 4. A community college district, with the approval of the
3 department in consultation with the office of administration, may
4 enter into an agreement to establish a training project and
5 provide training project services to a qualified company. As
6 soon as possible after initial contact between a community
7 college district and a potential qualified company regarding the
8 possibility of entering into an agreement, the district shall
9 inform the department of the potential training project. The
10 department shall evaluate the proposed training project within
11 the overall job training efforts of the state to ensure that the
12 training project will not duplicate other job training programs.
13 The department shall have fourteen days from receipt of a notice
14 of intent to approve or disapprove a training project. If no
15 response is received by the qualified company within fourteen
16 days, the training project shall be deemed approved. Disapproval
17 of any training project shall be made in writing and state the
18 reasons for such disapproval. If an agreement is entered into,
19 the district and the qualified company shall notify the
20 department of revenue within fifteen calendar days. In addition
21 to any provisions required under subsection 5 of this section for
22 a qualified company applying to receive a retained job credit, an
23 agreement may provide, but shall not be limited to:

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

26 (a) Funds appropriated by the general assembly to the
27 Missouri works community college new jobs training program fund
28 or Missouri works community college job retention training

1 program fund, as applicable, and disbursed by the department for
2 the purposes consistent with sections 620.800 to 620.809;

3 (b) Funds appropriated by the general assembly from the
4 general revenue fund and disbursed by the department for the
5 purposes consistent with sections 620.800 to 620.809;

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

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

11 (3) Costs of on-the-job training for employees which shall
12 include wages or salaries of participating employees. Payments
13 for on-the-job training shall not exceed the average of fifty
14 percent of the total wages paid by the qualified company to each
15 participant during the period of training. Payment for
16 on-the-job training may continue for up to six months from the
17 date the training begins;

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

22 (5) Any payment required to be made by a qualified company.
23 This payment shall constitute a lien upon the qualified company's
24 business property until paid, shall have equal priority with
25 ordinary taxes and shall not be divested by a judicial sale.
26 Property subject to such lien may be sold for sums due and
27 delinquent at a tax sale, with the same forfeitures, penalties,
28 and consequences as for the nonpayment of ordinary taxes. The

1 purchasers at tax sale shall obtain the property subject to the
2 remaining payments.

3 5. (1) For projects that are funded exclusively under
4 paragraph (a) of subdivision (1) of subsection 4 of this section,
5 the department shall disburse such funds to the special fund for
6 each training project in the same proportion as the new jobs or
7 retained jobs credits remitted by the qualified company
8 participating in such project bears to the total new jobs or
9 retained jobs credits from withholding remitted by all qualified
10 companies participating in projects during the period for which
11 the disbursement is made.

12 (2) For projects that are funded through a combination of
13 funds under paragraphs (a) and (b) of subdivision (1) of
14 subsection 4 of this section, the department shall disburse funds
15 appropriated under paragraph (b) of subdivision (1) of subsection
16 4 of this section to the special fund for each training project
17 upon commencement of the project. The department shall disburse
18 funds appropriated under paragraph (a) of subdivision (1) of
19 subsection 4 of this section to the special fund for each
20 training project in the same proportion as the new jobs or
21 retained jobs credits remitted by the qualified company
22 participating in such project bears to the total new jobs or
23 retained jobs credits from withholding remitted by all qualified
24 companies participating in projects during the period for which
25 the disbursement is made, reduced by the amount of funds
26 appropriated under paragraph (b) of subdivision (1) of subsection
27 4 of this section.

28 6. Any qualified company that submits a notice of intent

1 for retained job credits shall enter into an agreement, providing
2 that the qualified company has:

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

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

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

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

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

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

21 [6.] 7. If an agreement provides that all or part of the
22 training program costs are to be met by receipt of new or
23 retained jobs credit, such new or retained jobs credit from
24 withholding shall be determined and paid as follows:

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

27 (2) A portion of the total payments made by the qualified
28 companies under sections 143.191 to 143.265 shall be designated

1 as the new or retained jobs credit from withholding. Such
2 portion shall be an amount equal to two and one-half percent of
3 the gross wages paid by the qualified company for each of the
4 first one hundred jobs included in the project and one and
5 one-half percent of the gross wages paid by the qualified company
6 for each of the remaining jobs included in the project. If
7 business or employment conditions cause the amount of the new or
8 retained jobs credit from withholding to be less than the amount
9 projected in the agreement for any time period, then other
10 withholding tax paid by the qualified company under sections
11 143.191 to 143.265 shall be credited to the applicable fund by
12 the amount of such difference. The qualified company shall remit
13 the amount of the new or retained jobs credit to the department
14 of revenue in the manner prescribed in sections 143.191 to
15 143.265. When all training program costs have been paid, the new
16 or retained jobs credits shall cease;

17 (3) The community college district participating in a
18 project shall establish a special fund for and in the name of the
19 training project. All funds appropriated by the general assembly
20 from the funds established under subsections 1 and 2 of this
21 section and disbursed by the department for the training project
22 and other amounts received by the district for training project
23 costs as required by the agreement shall be deposited in the
24 special fund. Amounts held in the special fund shall be used and
25 disbursed by the district only to pay training project costs for
26 such training project. The special fund may be divided into such
27 accounts and subaccounts as shall be provided in the agreement,
28 and amounts held therein may be invested in the same manner as

1 the district's other funds;

2 (4) Any disbursement for training project costs received
3 from the department under sections 620.800 to 620.809 and
4 deposited into the training project's special fund may be
5 irrevocably pledged by a community college district for the
6 payment of the principal, premium, and interest on the
7 certificate issued by a community college district to finance or
8 refinance, in whole or in part, such training project;

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

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

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

21 [7.] 8. To provide funds for the present payment of the
22 training project costs of new or retained jobs training project
23 through the training program, a community college district may
24 borrow money and issue and sell certificates payable from a
25 sufficient portion of the future receipts of payments authorized
26 by the agreement including disbursements from the Missouri works
27 community college new jobs training fund or the Missouri works
28 community college job retention training fund, to the special

1 fund established by the district for each project. The total
2 amount of outstanding certificates sold by all community college
3 districts shall not exceed the total amount authorized under law
4 as of January 1, 2013, unless an increased amount is authorized
5 in writing by a majority of members of the committee. The
6 certificates shall be marketed through financial institutions
7 authorized to do business in Missouri. The receipts shall be
8 pledged to the payment of principal of and interest on the
9 certificates. Certificates may be sold at public sale or at
10 private sale at par, premium, or discount of not less than
11 ninety-five percent of the par value thereof, at the discretion
12 of the board of trustees, and may bear interest at such rate or
13 rates as the board of trustees shall determine, notwithstanding
14 the provisions of section 108.170 to the contrary. However, the
15 provisions of chapter 176 shall not apply to the issuance of such
16 certificates. Certificates may be issued with respect to a
17 single project or multiple projects and may contain terms or
18 conditions as the board of trustees may provide by resolution
19 authorizing the issuance of the certificates.

20 [8.] 9. Certificates issued to refund other certificates
21 may be sold at public sale or at private sale as provided in this
22 section, with the proceeds from the sale to be used for the
23 payment of the certificates being refunded. The refunding
24 certificates may be exchanged in payment and discharge of the
25 certificates being refunded, in installments at different times
26 or an entire issue or series at one time. Refunding certificates
27 may be sold or exchanged at any time on, before, or after the
28 maturity of the outstanding certificates to be refunded. They

1 may be issued for the purpose of refunding a like, greater, or
2 lesser principal amount of certificates and may bear a rate of
3 interest that is higher, lower, or equivalent to that of the
4 certificates being renewed or refunded.

5 [9.] 10. Before certificates are issued, the board of
6 trustees shall publish once a notice of its intention to issue
7 the certificates, stating the amount, the purpose, and the
8 project or projects for which the certificates are to be issued.
9 A person with standing may, within fifteen days after the
10 publication of the notice, by action in the circuit court of a
11 county in the district, appeal the decision of the board of
12 trustees to issue the certificates. The action of the board of
13 trustees in determining to issue the certificates shall be final
14 and conclusive unless the circuit court finds that the board of
15 trustees has exceeded its legal authority. An action shall not
16 be brought which questions the legality of the certificates, the
17 power of the board of trustees to issue the certificates, the
18 effectiveness of any proceedings relating to the authorization of
19 the project, or the authorization and issuance of the
20 certificates from and after fifteen days from the publication of
21 the notice of intention to issue.

22 [10.] 11. The board of trustees shall make a finding based
23 on information supplied by the qualified company that revenues
24 provided in the agreement are sufficient to secure the faithful
25 performance of obligations in the agreement.

26 [11.] 12. Certificates issued under this section shall not
27 be deemed to be an indebtedness of the state, the community
28 college district, or any other political subdivision of the

1 state, and the principal and interest on any certificates shall
2 be payable only from the sources provided in subdivision (1) of
3 subsection 4 of this section which are pledged in the agreement.

4 [12.] 13. Pursuant to section 23.253 of the Missouri sunset
5 act:

6 (1) The new program authorized under sections 620.800 to
7 620.809 shall automatically sunset July 1, 2019, unless
8 reauthorized by an act of the general assembly; and

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

13 (3) Sections 620.800 to 620.809 shall terminate on
14 September first of the calendar year immediately following the
15 calendar year in which a program authorized under sections
16 620.800 to 620.809 is sunset.

17 620.2005. As used in sections 620.2000 to 620.2020, the
18 following terms mean:

19 (1) "Average wage", the new payroll divided by the number
20 of new jobs, or the payroll of the retained jobs divided by the
21 number of retained jobs;

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

25 (3) "County average wage", the average wages in each county
26 as determined by the department for the most recently completed
27 full calendar year. However, if the computed county average wage
28 is above the statewide average wage, the statewide average wage

1 shall be deemed the county average wage for such county for the
2 purpose of determining eligibility. The department shall publish
3 the county average wage for each county at least annually.

4 Notwithstanding the provisions of this subdivision to the
5 contrary, for any qualified company that in conjunction with
6 their project is relocating employees from a Missouri county with
7 a higher county average wage, the company shall obtain the
8 endorsement of the governing body of the community from which
9 jobs are being relocated or the county average wage for their
10 project shall be the county average wage for the county from
11 which the employees are being relocated;

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

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

16 (6) "Employee", a person employed by a qualified company,
17 excluding[:

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

20 (b) Owners of a noncontrolling interest in stock of a
21 qualified company that is publicly traded] owners;

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

27 (8) "Full-time employee", an employee of the qualified
28 company that is scheduled to work an average of at least

1 thirty-five hours per week for a twelve-month period, and one for
2 which the qualified company offers health insurance and pays at
3 least fifty percent of such insurance premiums. An employee that
4 spends less than fifty percent of the employee's work time at the
5 facility shall be considered to be located at a facility if the
6 employee receives his or her directions and control from that
7 facility, is on the facility's payroll, one hundred percent of
8 the employee's income from such employment is Missouri income,
9 and the employee is paid at or above the applicable percentage of
10 the county average wage;

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

17 (10) "NAICS" or "NAICS industry classification", the
18 classification provided by the most recent edition of the North
19 American Industry Classification System as prepared by the
20 Executive Office of the President, Office of Management and
21 Budget;

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

1 acceptance by the qualified company of the proposal for benefits
2 from the department or the approval of the notice of intent;

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

10 (13) "New job", the number of full-time employees located
11 at the project facility that exceeds the project facility base
12 employment less any decrease in the number of full-time employees
13 at related facilities below the related facility base employment.
14 No job that was created prior to the date of the notice of intent
15 shall be deemed a new job. In no event shall a benefit under
16 sections 620.2000 to 620.2020 be provided to any job other than a
17 new job. A job shall not be considered a new job merely because
18 of a change of ownership in the company, except when a company
19 ceases to do business and there is a break in employment, and the
20 company is subsequently restarted by new ownership. A company
21 will be considered to have ceased business and been restarted by
22 new ownership when all of the previous owners have been replaced
23 by new owners. Companies acquired with partial ownership and
24 which are qualified companies may be eligible to receive the
25 benefits under sections 620.2000 to 620.2020 for the remaining
26 term after the effective date of the acquisition;

27 (14) "New payroll", the amount of wages paid for all new
28 jobs, located at the project facility during the qualified

1 company's tax year that exceeds the project facility base
2 payroll;

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

7 (16) "Owner", a person with an ownership interest in a
8 company, including stockholders, partners, members of a limited
9 liability company, or any similarly situated individual; provided
10 however, that the term "owner" shall not include persons with
11 less than a ten percent ownership interest, persons whose
12 interest is solely through an employee stock ownership plan
13 (ESOP) qualified under the Employee Retirement Income Security
14 Act (ERISA) (Pub. L. 93-406), or persons who own only options to
15 purchase stock or other equity interest in the company and said
16 options have not yet been exercised; and provided further that
17 the person does not have the right to manage the company or
18 direct its operations either solely or as part of a larger group;

19 (17) "Percent of local incentives", the amount of local
20 incentives divided by the amount of new direct local revenue;

21 [(17)] (18) "Program", the Missouri works program
22 established in sections 620.2000 to 620.2020;

23 [(18)] (19) "Project facility", the building or buildings
24 used by a qualified company at which new or retained jobs and any
25 new capital investment are or will be located. A project
26 facility may include separate buildings located within sixty
27 miles of each other such that their purpose and operations are
28 interrelated; provided that where the buildings making up the

1 project facility are not located within the same county, the
2 average wage of the new payroll shall exceed the applicable
3 percentage of the highest county average wage among the counties
4 in which the buildings are located. Upon approval by the
5 department, a subsequent project facility may be designated if
6 the qualified company demonstrates a need to relocate to the
7 subsequent project facility at any time during the project
8 period;

9 [(19)] (20) "Project facility base employment", the greater
10 of the number of full-time employees located at the project
11 facility on the date of the notice of intent or, for the
12 twelve-month period prior to the date of the notice of intent,
13 the average number of full-time employees located at the project
14 facility. In the event the project facility has not been in
15 operation for a full twelve-month period, the average number of
16 full-time employees for the number of months the project facility
17 has been in operation prior to the date of the notice of intent.
18 In no event shall the benefits awarded under sections 620.2000 to
19 620.2020 be construed to apply to base employment;

20 [(20)] (21) "Project facility base payroll", the annualized
21 payroll for the project facility base employment or the total
22 amount of wages paid by the qualified company to full-time
23 employees of the qualified company located at the project
24 facility in the twelve months prior to the notice of intent. For
25 purposes of calculating the benefits under this program each
26 benefit year, the amount of base payroll shall [increase each
27 year based on an appropriate measure, as determined by the
28 department] be equal to or greater than the previous year's

1 amount and the number of employees in the base shall remain the
2 same. Companies may report numbers of employees in the base by
3 hire date or by position replacement and shall declare the method
4 in their application. The method selected shall remain in effect
5 for the full term of benefits;

6 [(21)] (22) "Project period", the time period within which
7 benefits are awarded to a qualified company or within which the
8 qualified company is obligated to perform under an agreement with
9 the department, whichever is greater;

10 [(22)] (23) "Projected net fiscal benefit", the total
11 fiscal benefit to the state less any state benefits offered to
12 the qualified company, as determined by the department;

13 [(23)] (24) "Qualified company", a firm, partnership, joint
14 venture, association, private or public corporation whether
15 organized for profit or not, or headquarters of such entity
16 registered to do business in Missouri that is the owner or
17 operator of a project facility, certifies that it offers health
18 insurance to all full-time employees of all facilities located in
19 this state, and certifies that it pays at least fifty percent of
20 such insurance premiums. For the purposes of sections 620.2000
21 to 620.2020, the term "qualified company" shall not include:

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

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

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

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

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

6 (f) Any company requesting benefits for retained jobs that
7 has filed for or has publicly announced its intention to file for
8 bankruptcy protection. However, a company that has filed for or
9 has publicly announced its intention to file for bankruptcy may
10 be a qualified company provided that such company:

11 a. Certifies to the department that it plans to reorganize
12 and not to liquidate; and

13 b. After its bankruptcy petition has been filed, it
14 produces proof, in a form and at times satisfactory to the
15 department, that it is not delinquent in filing any tax returns
16 or making any payment due to the state of Missouri, including but
17 not limited to all tax payments due after the filing of the
18 bankruptcy petition and under the terms of the plan of
19 reorganization. Any taxpayer who is awarded benefits under this
20 subsection and who files for bankruptcy under Chapter 7 of the
21 United States Bankruptcy Code, Title 11 U.S.C., shall immediately
22 notify the department and shall forfeit such benefits and shall
23 repay the state an amount equal to any state tax credits already
24 redeemed and any withholding taxes already retained;

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

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

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

28 (j) Ethanol distillation or production;

- 1 (k) Biodiesel production; or
- 2 (l) Health care and social services (NAICS sector 62).

3
4 Notwithstanding any provision of this section to the contrary,
5 the headquarters, administrative offices, or research and
6 development facilities of an otherwise excluded business may
7 qualify for benefits if the offices or facilities serve a
8 multistate territory. In the event a national, state, or
9 regional headquarters operation is not the predominant activity
10 of a project facility, the jobs and investment of such operation
11 shall be considered eligible for benefits under this section if
12 the other requirements are satisfied;

13 [(24)] (25) "Related company", shall mean:

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

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

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

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

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

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

6 [(25)] (26) "Related facility", a facility operated by the
7 qualified company or a related company located in this state that
8 is directly related to the operations of the project facility or
9 in which operations substantially similar to the operations of
10 the project facility are performed;

11 [(26)] (27) "Related facility base employment", the greater
12 of the number of full-time employees located at all related
13 facilities on the date of the notice of intent or, for the
14 twelve-month period prior to the date of the notice of intent,
15 the average number of full-time employees located at all related
16 facilities of the qualified company or a related company located
17 in this state;

18 [(27)] (28) "Related facility base payroll", the annualized
19 payroll of the related facility base payroll or the total amount
20 of taxable wages paid by the qualified company to full-time
21 employees of the qualified company located at a related facility
22 in the twelve months prior to the filing of the notice of intent.
23 For purposes of calculating the benefits under this program, the
24 amount of related facility base payroll shall increase each year
25 based on an appropriate measure, as determined by the department;

26 [(28)] (29) "Rural area", a county in Missouri with a
27 population less than seventy-five thousand or that does not
28 contain an individual city with a population greater than fifty

1 thousand according to the most recent federal decennial census;

2 [(29)] (30) "Tax credits", tax credits issued by the
3 department to offset the state taxes imposed by chapters 143 and
4 148, or which may be sold or refunded as provided for in this
5 program;

6 [(30)] (31) "Withholding tax", the state tax imposed by
7 sections 143.191 to 143.265. For purposes of this program, the
8 withholding tax shall be computed using a schedule as determined
9 by the department based on average wages; [and

10 (31)]

11

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

13