FIRST REGULAR SESSION

HOUSE BILL NO. 680

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES HANAWAY, SPRENG, ZWEIFEL, DARROUGH, CORCORAN, DEMPSEY, SCHNEIDER, BIVINS (Co-sponsors), HAMPTON, ST. ONGE, SHOEMAKER (8), REINHART, SMITH (14), HUNTER, DUSENBERG, STEFANICK, KING, AVERY, LEMBKE, GUEST AND MUNZLINGER.

Read 1st time March 13, 2003, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

2122L.01I

AN ACT

To repeal sections 100.710, 100.840, 100.850, and 178.892, RSMo, and to enact in lieu thereof eight new sections relating to job retention programs in the department of economic development, with contingent expiration dates.

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

Section A. Sections 100.710, 100.840, 100.850, and 178.892, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 100.710, 100.840, 100.850, 135.290, 135.291, 135.292, 135.293, and 178.892, to read as follows:

100.710. As used in sections 100.700 to 100.850, the following terms mean:

(1) "Assessment", an amount of up to five percent of the gross wages paid in one year by an eligible industry to all eligible employees in new jobs, or up to ten percent if the economic development project is located within a distressed community as defined in section 135.530, RSMo;

(2) "Board", the Missouri development finance board as created by section 100.265;

(3) "Certificates", the revenue bonds or notes authorized to be issued by the board pursuant to section 100.840;

(4) "Credit", the amount agreed to between the board and an eligible industry, but not to exceed the assessment attributable to the eligible industry's project;

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

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

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

(7) "Economic development project":

(a) The acquisition of any real property by the board, the eligible industry, or its affiliate; or

(b) The fee ownership of real property by the eligible industry or its affiliate; and

(c) For both paragraphs (a) and (b) of subdivision (7) of this section, "economic development project" shall also include the development of the real property including construction, installation, or equipping of a project, including fixtures and equipment, and facilities necessary or desirable for improvement of the real property, including surveys; site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries and other surface obstructions; filling, grading and provision of drainage, storm water retention, installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications and similar facilities; off-site construction of utility extensions to the boundaries of the real property; and the acquisition, installation, or equipping of facilities on the real property, for use and occupancy by the eligible industry or its affiliates;

(8) "Eligible employee", a person employed on a full-time basis in a new job at the economic development project averaging at least thirty-five hours per week who was not employed by the eligible industry or a related taxpayer in this state at any time during the twelve-month period immediately prior to being employed at the economic development project**. For an essential industry, a person employed on a full-time basis in an existing job at the economic development project averaging at least thirty-five hours per week may be considered an eligible employee for the purposes of the program authorized by sections 100.700 to 100.850**;

(9) "Eligible industry", a business located within the state of Missouri which is engaged in interstate or intrastate commerce for the purpose of manufacturing, processing or assembling products, conducting research and development, or providing services in interstate commerce, office industries, or agricultural processing, but excluding retail, health or professional services. "Eligible industry" does not include a business which closes or substantially reduces its operation at one location in the state and relocates substantially the same operation to another location in the state. This does not prohibit a business from expanding its operations at another location in the state provided that existing operations of a similar nature located within the state are not closed or substantially reduced. This also does not prohibit a business from moving its operations from one location in the state to another location in the state for the purpose of expanding such operation provided that the board determines that such expansion cannot reasonably be accommodated within the municipality in which such business is located, or in the case of a business located in an incorporated area of the county, within the county in which such business is located, after conferring with the chief elected official of such municipality or county

and taking into consideration any evidence offered by such municipality or county regarding the ability to accommodate such expansion within such municipality or county. An eligible industry must:

(a) Invest a minimum of fifteen million dollars, or ten million dollars for an office industry, in an economic development project; and

(b) Create a minimum of one hundred new jobs for eligible employees at the economic development project or a minimum of five hundred jobs if the economic development project is an office industry or a minimum of two hundred new jobs if the economic development project is an office industry located within a distressed community as defined in section 135.530, RSMo**. An industry that meets the definition of "essential industry" may be considered an eligible industry for the purposes of the program authorized by sections 100.700 to 100.850**;

(10) **"Essential industry", a business that otherwise meets the definition of eligible industry, except that an essential industry shall:**

(a) Be a targeted industry;

(b) Be located in a home rule city with more than twenty-six thousand but less than twenty-seven thousand inhabitants that is located in any county with a charter form of government and with more than one million inhabitants;

(c) Have maintained at least two thousand jobs at the proposed economic development project site each year for a period of four years preceding the year in which application for the program authorized by sections 100.700 to 100.850 is made and during the year in which the application is made;

(d) For the duration of the certificates, retain at the proposed economic development project site the level of employment that existed at the site in the taxable year immediately preceding the year in which application for the program authorized by sections 100.700 to 100.850 is made; and

(e) Invest a minimum of five hundred million dollars in the economic development project by the end of the third year after the issuance of the certificates pursuant to this program;

(11) "New job", a job in a new or expanding eligible industry not including jobs of recalled workers, replacement jobs or jobs that formerly existed in the eligible industry in the state**. For an essential industry, an existing job may be considered a new job for the purposes of the program authorized by sections 100.700 to 100.850**;

[(11)**] (12)** "Office industry", a regional, national or international headquarters, a telecommunications operation, a computer operation, an insurance company, or a credit card billing and processing center;

[(12)**] (13)** "Program costs", all necessary and incidental costs of providing program services including payment of the principal of premium, if any, and interest on certificates, including capitalized interest, issued to finance a project, and funding and maintenance of a debt service reserve fund to secure such certificates. Program costs shall include:

(a) Obligations incurred for labor and obligations incurred to contractors, subcontractors, builders and materialmen in connection with the acquisition, construction, installation or equipping of an economic development project;

(b) The cost of acquiring land or rights in land and any cost incidental thereto, including recording fees;

(c) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation or equipping of an economic development project which is not paid by the contractor or contractors or otherwise provided for;

(d) All costs of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations and supervision of construction, as well as the costs for the performance of all the duties required by or consequent upon the acquisition, construction, installation or equipping of an economic development project;

(e) All costs which are required to be paid under the terms of any contract or contracts for the acquisition, construction, installation or equipping of an economic development project; and

(f) All other costs of a nature comparable to those described in this subdivision;

[(13)**] (14)** "Program services", administrative expenses of the board, including contracted professional services, and the cost of issuance of certificates**;**

(15) "Targeted industry", an industry or one of a cluster of industries that is identified by the department as critical to the state's economic security and growth and affirmed as such by the joint committee on economic development policy and planning established in section 620.602, RSMo.

100.840. 1. To provide funds for the present payment of the costs of economic development projects, the board may borrow money and issue and sell certificates payable from a sufficient portion of the future receipts of payments authorized by the agreement. **[**The total amount of outstanding certificates sold by the board shall not exceed seventy-five million dollars.**]** The receipts shall be pledged to the payment of principal of and interest on the certificates. Certificates may be sold at public sale or at private sale at par, premium, or discount of not less than ninety-five percent of the par value thereof, at the discretion of the board, and may bear interest at such rate or rates as the board shall determine, notwithstanding the provisions of section 108.170, RSMo, to the contrary. Certificates may be issued with respect to a single project or multiple projects and may contain terms or conditions as the board may provide by resolution authorizing the issuance of the certificates.

2. Certificates issued to refund other certificates may be sold at public sale or at private sale as provided in this section with the proceeds from the sale to be used for the payment of the certificates being refunded. The refunding certificates may be exchanged in payment and discharge of the certificates being refunded, in installments at different times or an entire issue or series at one time. Refunding certificates may be sold or exchanged at any time on, before, or after the maturity of the outstanding certificates to be refunded. Certificates may be issued for the purpose of refunding a like, greater or lesser principal amount of certificates and may bear a higher, lower or equivalent rate of interest than the certificates being renewed or refunded.

3. The board shall determine if revenues provided in the agreement are sufficient to secure the faithful performance of obligations in the agreement.

4. Certificates issued pursuant to this section shall not be deemed to be an indebtedness of the state or the board or of any political subdivision of the state.

100.850. 1. The approved company shall remit to the board a job development assessment fee, not to exceed five percent of the gross wages of each eligible employee whose job was created as a result of the economic development project, or not to exceed ten percent if the economic development project is located within a distressed community as defined in section 135.530, RSMo, for the purpose of retiring bonds which fund the economic development project.

2. Any approved company remitting an assessment as provided in subsection 1 of this section shall make its payroll books and records available to the board at such reasonable times as the board shall request and shall file with the board documentation respecting the assessment as the board may require.

3. Any assessment remitted pursuant to subsection 1 of this section shall cease on the date the bonds are retired.

4. Any approved company which has paid an assessment for debt reduction shall be allowed a tax credit equal to the amount of the assessment. The tax credit may be claimed against taxes otherwise imposed by chapters 143 and 148, RSMo, except withholding taxes imposed [under the provisions of] **pursuant to** sections 143.191 to 143.265, RSMo, which were incurred during the tax period in which the assessment was made.

5. **In no event shall the aggregate amount of tax credits authorized by this section exceed eleven million dollars annually.**

6. The director of revenue shall issue a refund to the approved company to the extent that the amount of credits allowed in subsection 4 of this section exceed the amount of the approved company's income tax.

135.290. As used in sections 135.290 to 135.293, the following terms mean:

(1) "Continuation of commercial operations", shall be deemed to occur during the

first taxable year following the taxable year during which the business entered into an agreement with the department pursuant to section 135.293 in order to receive the tax exemption, tax credits, and refundable credits authorized by sections 135.290 to 135.293;

(2) "Department", the department of economic development;

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

(4) "Enterprise zone", an enterprise zone created pursuant to section 135.210 that includes all or part of a home rule city with more than twenty-six thousand but less than twenty-seven thousand inhabitants that is located in any county with a charter form of government and with more than one million inhabitants;

(5) "Facility", any building used as a revenue-producing enterprise located within an enterprise zone, including the land on which the facility is located and all machinery, equipment, and other real and depreciable tangible personal property acquired for use at and located at or within such facility and used in connection with the operation of such facility;

(6) "NAICS", the industrial classification as such classifications are defined in the 1997 edition of the North American Industrial Classification System Manual as prepared by the Executive Office of the President, Office of Management and Budget;

(7) "Retained business facility", a facility in an enterprise zone operated by the taxpayer which satisfies the following requirements as determined by the department and included in an agreement with the department:

(a) The taxpayer agrees to a capital investment project at the facility of at least five hundred million dollars to take place over a period of two consecutive taxable years ending no later than the fifth taxable year after continuation of commercial operations;

(b) The taxpayer has maintained at least two thousand employees per year at the facility for each of the five taxable years preceding the year of continuation of commercial operations;

(c) The taxpayer agrees to maintain at least the level of employment that it had at the facility in the taxable year immediately preceding the year of continuation of commercial operations for ten consecutive taxable years beginning with the year of the continuation of commercial operations. Temporary layoffs necessary to implement the capital investment project will not be considered a violation of this requirement;

(d) The taxpayer agrees that the amount of the average wage paid by the taxpayer at the facility will exceed the average wage paid within the county in which the facility is located for ten consecutive taxable years beginning with the year of the continuation of commercial operations;

(e) Significant local incentives with respect to the project or retained facility have

been committed, which incentives may consist of:

a. Cash or in-kind incentives derived from any nonstate source, including incentives provided by the affected political subdivisions, private industry or local chambers of commerce or similar such organizations; or

b. Relief from local taxes;

(f) Receiving the tax exemption, tax credits, and refunds is a major factor in the taxpayer's decision to retain its operations at the facility in Missouri and go forward with the capital investment project, and not receiving the exemption, credits, and refunds will result in the taxpayer moving its operations out of Missouri; and

(g) There is at least one other state that the taxpayer verifies is being considered as the site to which the facility's operations will be relocated;

(8) "Retained business facility employee", a person employed by the taxpayer in the operation of a retained business facility during the taxable year for which the credit allowed by section 135.291 is claimed, except that truck drivers and rail and barge vehicle operators shall not constitute retained business facility employees. A person shall be deemed to be so employed if such person performs duties in connection with the operation of the retained business facility on a regular, full-time basis. The number of retained business facility employees during any taxable year shall be determined by dividing by twelve the sum of the number of individuals employed on the last business day of each month of such taxable year. If the retained business facility is in operation for less than the entire taxable year, the number of retained business facility employees shall be determined by dividing the sum of the number of individuals employed on the last business day of each full calendar month during the portion of such taxable year during which the retained business facility was in operation by the number of full calendar months during such period;

(9) "Retained business facility income", the Missouri taxable income, as defined in chapter 143, RSMo, derived by the taxpayer from the operation of the retained business facility. If a taxpayer has income derived from the operation of a retained business facility as well as from other activities conducted within this state, the Missouri taxable income derived by the taxpayer from the operation of the retained business facility shall be determined by multiplying the taxpayer's Missouri taxable income, computed in accordance with chapter 143, RSMo, by a fraction, the numerator of which is the property factor, as defined in paragraph (a) of this subdivision, plus the payroll factor, as defined in paragraph (b) of this subdivision, and the denominator of which is two:

(a) The "property factor" is a fraction, the numerator of which is the retained business facility investment certified for the tax period, and the denominator of which is

the average value of all the taxpayer's real and depreciable tangible personal property owned or rented and used in this state during the tax period. The average value of all such property shall be determined as provided in chapter 32, RSMo;

(b) The "payroll factor" is a fraction, the numerator of which is the total amount paid during the tax period by the taxpayer for compensation to persons qualifying as retained business facility employees at the retained business facility, and the denominator of which is the total amount paid in this state during the tax period by the taxpayer for compensation. The compensation paid in this state shall be determined as provided in chapter 32, RSMo;

(10) "Retained business facility investment", the value of real and depreciable tangible personal property, acquired by the taxpayer as part of the retained business facility after the date of continuation of commercial operations, which is used by the taxpayer in the operation of the retained business facility, during the taxable year for which the credit allowed by section 135.291 is claimed, except that trucks, truck-trailers, truck semitrailers, rail vehicles, barge vehicles, aircraft and other rolling stock for hire, track, switches, barges, bridges, tunnels, and rail yards and spurs shall not constitute retained business facility investments. The total value of such property during such taxable year shall be:

(a) Its original cost if owned by the taxpayer; or

(b) Eight times the net annual rental rate, if leased by the taxpayer. The net annual rental rate shall be the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals. The retained business facility investment shall be determined by dividing by twelve the sum of the total value of such property on the last business day of each calendar month of the taxable year. If the retained business facility is in operation for less than an entire taxable year, the retained business facility investment shall be determined by dividing the sum of the total value of such property on the last business day of each full calendar month during the portion of such taxable year during which the retained business facility was in operation by the number of full calendar months during such period;

(11) "Revenue-producing enterprise", manufacturing activities classified as NAICS 336211.

135.291. 1. Notwithstanding any provision in chapter 143, RSMo, to the contrary, one-half of the Missouri taxable income attributed to an approved retained business facility that is earned by a taxpayer operating the approved retained business facility may be exempt from taxation pursuant to chapter 143, RSMo. That portion of income attributed to the retained business facility shall be determined in a manner prescribed in paragraph

(b) of subdivision (9) of section 135.290, except that compensation paid to truck drivers, or rail or barge vehicle operators shall be excluded from the fraction.

2. Any taxpayer that operates an approved retained business facility in an enterprise zone may be allowed a credit, each year for ten years, in an amount determined pursuant to subsection 3 or 4 of this section, whichever is applicable, against the tax imposed in chapter 143, RSMo, excluding withholding tax imposed in sections 143.191 to 143.265, RSMo, as follows:

(1) The credit allowed for each retained business facility employee shall be four hundred dollars, except that for each retained business facility employee that exceeds the level of employment set forth in paragraph (b) of subdivision (7) of section 135.290, the credit shall be five hundred dollars. Transfers from another facility operated by the taxpayer in the state will not count as retained business facility employees;

(2) An additional credit of four hundred dollars shall be granted for each twelve-month period that a retained business facility employee is a resident of an enterprise zone;

(3) An additional credit of four hundred dollars shall be granted for each twelve-month period that the person employed as a retained business facility employee is a person who, at the time of such employment by the new business facility, met the criteria as set forth in section 135.240;

(4) To the extent that expenses incurred by a retained business facility in an enterprise zone for the training of persons employed in the operation of the retained business facility is not covered by an existing federal, state, or local program, such retained business facility shall be eligible for a full tax credit equal to eighty percent of that portion of such training expenses which are in excess of four hundred dollars for each trainee who is a resident of an enterprise zone or who was at the time of such employment at the retained business facility unemployable or difficult to employ as defined in section 135.240, provided such credit shall not exceed four hundred dollars for each employee trained;

(5) The credit allowed for retained business facility investment shall be equal to the sum of ten percent of the first ten thousand dollars of such qualifying investment, plus five percent of the next ninety thousand dollars of such qualifying investment, plus two percent of all remaining qualifying investments within an enterprise zone. The taxpayer's retained business facility investment shall be reduced by the amount of investment made by the taxpayer or related taxpayer which was subsequently transferred to the retained business facility from another Missouri facility and for which credits authorized in this section are not being earned.

3. The credits allowed in subsection 2 of this section shall offset the greater of:

(1) Some portion of the income tax otherwise imposed in chapter 143, RSMo, excluding withholding tax imposed in sections 143.191 to 143.265, RSMo, with respect to such taxpayer's retained business facility income for the taxable year for which such credit is allowed; or

(2) If the taxpayer operates no other facility in Missouri, the credits allowed in subsection 2 of this section shall offset up to fifty percent or, in the case of an economic development project located in a distressed community as defined in section 135.530, seventy-five percent of the business income tax otherwise imposed in chapter 143, RSMo, excluding withholding tax imposed in sections 143.191 to 143.265, RSMo, if the business operates no other facilities in Missouri;

(3) If the taxpayer operates more than one facility in Missouri, the credits allowed in subsection 2 of this section shall offset up to the greater of the portion prescribed in subdivision (1) of this subsection or twenty-five percent or, in the case of an economic development project located within a distressed community as defined in section 135.530, thirty-five percent of the business' tax, except that no taxpayer operating more than one facility in Missouri shall be allowed to offset more than twenty-five percent or, in the case of an economic development project located within a distressed community as defined in section 135.530, thirty-five percent of the taxpayer's business income tax in any tax period pursuant to the method prescribed in this subdivision.

4. In the case where a person employed by the retained business facility is a resident of the enterprise zone for less than a twelve-month period, or in the case where a person employed as a retained business facility employee is a person who, at the time of such employment by the retained business facility, met the criteria as set forth in section 135.240, is employed for less than a twelve-month period, the credits allowed by subdivisions (2) and (3) of subsection 2 of this section shall be determined by multiplying the dollar amount of the credit by a fraction, the numerator of which is the number of calendar days during the taxpayer's tax year for which such credits are claimed, in which the person met the requirements prescribed in subdivision (2) or (3) of subsection 2 of this section and the denominator of which is three hundred sixty-five;

5. Notwithstanding any provision of law to the contrary, any taxpayer who claims the exemption and credits allowed in sections 135.290 to 135.293, shall not be eligible to receive the exemption allowed in section 135.220, the credits allowed in sections 135.225 and 135.235, and the refund authorized by section 135.245 or the tax credits allowed in section 135.110. The taxpayer shall elect among the options. To perfect the election, the taxpayer shall attach written notification of such election to the taxpayer's initial application for claiming tax credits. The election shall be irreversible once perfected.

6. A taxpayer shall not receive the income exemption described in subsection 1 of this section and the tax credits described in subsection 2 of this section for any year in which the terms and conditions of sections 135.290 to 135.293 are not met. Such incentives shall not exceed the fifteen-year limitation pursuant to subsection 1 of section 135.230 or the seven-year limitation pursuant to subsection 5 of section 135.230.

7. The initial application for claiming tax credits must be made in the taxpayer's tax period immediately following the tax period in which commencement of commercial operations began at the new business facility.

8. Credits may not be carried forward but shall be claimed for the taxable year during which continuation of commercial operations occurs at such retained business facility, and for each of the nine succeeding taxable years.

135.292. 1. Any taxpayer operating an approved retained business facility that is located within a state enterprise zone established pursuant to sections 135.200 to 135.256 may make an application to the department of economic development for an income tax refund.

2. Such refunds shall be approved only if the amount of tax credits certified for the taxpayer in the taxable year exceeded the company's total Missouri tax on taxable income in that year by an amount equal to at least one million dollars. In such cases, a portion of tax credits earned shall constitute an overpayment of taxes and may be refunded to the taxpayer in the manner authorized by this section.

3. The department shall evaluate and may approve such applications based upon the importance of the approved retained business facility to the economy of Missouri, the company's investment of at least five hundred million dollars in facilities or equipment, and the number of jobs to be created or retained. Such applications may be approved annually for no longer than five successive years. The maximum amount of refund that may be awarded to the manufacturer or assembler shall not exceed two million dollars per year. Notwithstanding other provisions of law to the contrary, if the taxpayer's tax credits issued pursuant to sections 135.290 to 135.293 for a taxable year exceed the taxpayer's taxable income by more than two million dollars the credits may be carried forward for five years or until used, whichever is earlier, and may be included in refund amounts otherwise authorized by this section.

135.293. 1. A taxpayer shall apply to the department for approval to participate in the program authorized by sections 135.290 to 135.293. The application shall be in a form prescribed by and contain all information requested by the department to determine eligibility for the program and for the department to make its decision whether to approve the taxpayer for participation in the program.

2. The department may issue an approval contingent upon the successful execution of an agreement between the department and the taxpayer seeking approval of a facility as a retained business facility which shall include, but not be limited to, the following:

(1) A detailed description of the project that is the subject of the agreement;

(2) A requirement that the taxpayer shall annually report to the department the total amount of salaries and wages paid to eligible employees in retained business facility jobs, and any other information the department requires to confirm compliance with the requirements of sections 135.290 to 135.293;

(3) A requirement that the taxpayer shall provide written notification to the director not more than thirty days after the taxpayer makes or receives a proposal that would transfer the taxpayer's state tax liability obligations to a successor taxpayer;

(4) A requirement that the taxpayer shall maintain operations at the facility location for at least ten years at a certain employment level;

(5) The requirements otherwise required by sections 135.290 to 135.293; and

(6) A provision for repayment of incentives upon breach of the agreement.

178.892. As used in sections 178.892 to 178.896, the following terms mean:

(1) "Agreement", the agreement, between an employer and a junior college district, concerning a project. An agreement may be for a period not to exceed ten years when the program services associated with a project are not in excess of five hundred thousand dollars. For a project where associated program costs are greater than five hundred thousand dollars, the agreement may not exceed a period of eight years. No agreement shall be entered into between an employer and a community college district which involves the training of potential employees with the purpose of replacing or supplanting employees engaged in an authorized work stoppage;

(2) "Board of trustees", the board of trustees of a junior college district;

(3) "Certificate", industrial new jobs training certificates issued pursuant to section 178.895;

(4) "Date of commencement of the project", the date of the agreement;

(5) "Employee", the person employed in a new job;

(6) "Employer", the person providing new jobs in conjunction with a project;

(7) **"Essential industry", a business that otherwise meets the definition of "industry", but that creates new jobs instead of maintaining jobs. To be an essential industry, the business shall have maintained at least two thousand jobs each year for a period of four years preceding the year in which application for the program authorized by sections 178.892 to 178.896 is made and shall be located in a home rule city with more than twenty-six thousand but less than twenty-seven thousand inhabitants that is located in any county with a charter form of government and with more than one million**

inhabitants;

(8) "Existing job", a job in an essential industry that pays wages or salary greater than the average of the county in which the project will be located;

(9) "Industry", a business located within the state of Missouri which enters into an agreement with a community college district and which is engaged in interstate or intrastate commerce for the purpose of manufacturing, processing, or assembling products, conducting research and development, or providing services in interstate commerce, but excluding retail services. "Industry" does not include a business which closes or substantially reduces its operation in one area of the state and relocates substantially the same operation in another area of the state. This does not prohibit a business from expanding its operations in another area of the state provided that existing operations of a similar nature are not closed or substantially reduced;

[(8)**] (10)** "New job", a job in a new or expanding industry not including jobs of recalled workers, or replacement jobs or other jobs that formerly existed in the industry in the state**. For an essential industry, an existing job shall be considered a new job for the purposes of the new jobs training program**;

[(9)**] (11)** "New jobs credit from withholding", the credit as provided in section 178.894;

[(10)**] (12)** "New jobs training program" or "program", the project or projects established by a community college district for the creation of jobs by providing education and training of workers for new jobs for new or expanding industry in the state;

[(11)**] (13)** "Program costs", all necessary and incidental costs of providing program services including payment of the principal of, premium, if any, and interest on certificates, including capitalized interest, issued to finance a project, funding and maintenance of a debt service reserve fund to secure such certificates and wages, salaries and benefits of employees participating in on-the-job training;

[(12)**] (14)** "Program services" includes, but is not limited to, the following:

(a) New jobs training;

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

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

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

(e) On-the-job training;

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

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

(h) Contracted or professional services; and

(i) Issuance of certificates;

[(13)] **(15)** "Project", a training arrangement which is the subject of an agreement entered into between the community college district and an employer to provide program services;

[(14)] **(16)** "Total training costs", costs of training, including supplies, wages and benefits of instructors, subcontracted services, on-the-job training, training facilities, equipment, skill assessment and all program services excluding issuance of certificates.

Section B. The repeal and reenactment of sections 100.710, 100.840, 100.850, and 178.892 and the enactment of sections 135.290, 135.291, 135.292, and 135.293 of section A of this act shall expire on January 1, 2006, if no essential industry retention projects have been approved by the department of economic development by December 31, 2005. If an essential industry retention project has been approved by the department of economic development by December 31, 2005, the repeal and reenactment of sections 100.710, 100.840, 100.850, and 178.892 and the enactment of sections 135.290, 135.291, 135.292, and 135.293 of section A of this act shall expire on January 1, 2020. The director of the department of economic development shall notify the Revisor of Statutes whether any projects have been approved by December 31, 2005.