

SECOND REGULAR SESSION

HOUSE BILL NO. 1709

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES HOUGH (Sponsor), TALBOY, KRATKY, LONG, SMITH (71),
BROWN (50), RIZZO, FRAKER, SWEARINGEN, HAEFNER, WEBBER, BRANDOM, BROWN (116),
McMANUS, McGEOGHEGAN, HINSON, SCHARNHORST, RICHARDSON,
TORPEY AND SIFTON (Co-sponsors).

5507L.01I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 178.760, 178.761, 178.762, 178.763, 178.764, 178.892, 178.893, 178.894, 178.895, 178.896, 620.470, 620.472, 620.474, 620.475, 620.476, 620.478, 620.479, 620.480, 620.481, and 620.482, RSMo, and to enact in lieu thereof five new sections relating to tax incentives for business development.

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

Section A. Sections 178.760, 178.761, 178.762, 178.763, 178.764, 178.892, 178.893, 178.894, 178.895, 178.896, 620.470, 620.472, 620.474, 620.475, 620.476, 620.478, 620.479, 620.480, 620.481, and 620.482, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 620.3000, 620.3005, 620.3010, 620.3015, and 620.3020, to read as follows:

620.3000. Sections 620.3000 to 620.3020 shall be known and may be cited as the "Missouri Works Program".

620.3005. As used in sections 620.3000 to 620.3020, the following terms mean:

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

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

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

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

9 county average wage is above the statewide average wage, the statewide average wage shall
10 be deemed the county average wage for such county for the purpose of determining
11 eligibility. The department shall publish the county average wage for each county at least
12 annually. Notwithstanding the provisions of this subdivision to the contrary, for any
13 qualified company that in conjunction with their project is relocating employees from a
14 Missouri county with a higher county average wage, the company shall obtain the
15 endorsement of the governing body of the community from which jobs are being relocated
16 or the county average wage for their project shall be the county average wage for the
17 county from which the employees are being relocated;

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

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

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

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

24 (8) "Full-time employee", an employee of the qualified company that is scheduled
25 to work an average of at least thirty-five hours per week for a twelve-month period, and
26 one for which the qualified company offers health insurance and pays at least fifty percent
27 of such insurance premiums;

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

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

35 (11) "New capital investment", shall include costs incurred by the qualified
36 company at the project facility after acceptance by the qualified company of the proposal
37 for benefits from the department or the approval notice of intent, whichever occurs first,
38 for real or personal property, and may include the value of finance or capital leases for real
39 or personal property for the term of such lease at the project facility executed after
40 acceptance by the qualified company of the proposal for benefits from the department or
41 the approval of the notice of intent;

42 (12) "New direct local revenue", the present value of the dollar amount of direct
43 net new tax revenues of the local political subdivisions likely to be produced by the project
44 over a ten-year period as calculated by the department, excluding local earnings tax, and

45 net new utility revenues, provided the local incentives include a discount or other direct
46 incentives from utilities owned or operated by the political subdivision;

47 (13) "New job", the number of full-time employees located at the project facility
48 that exceeds the project facility base employment less any decrease in the number of full-
49 time employees at related facilities below the related facility base employment. No job that
50 was created prior to the date of the notice of intent shall be deemed a new job. An
51 employee that spends less than fifty percent of the employee's work time at the facility shall
52 be considered to be located at a facility if the employee receives his or her directions and
53 control from that facility, is on the facility's payroll, one hundred percent of the employee's
54 income from such employment is Missouri income, and the employee is paid at or above
55 the applicable percentage of the county average wage;

56 (14) "New payroll", the amount of wages paid for all new jobs, excluding owners
57 of the qualified company unless the qualified company is participating in an employee
58 stock ownership plan, located at the project facility during the qualified company's tax
59 year that exceeds the project facility base payroll;

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

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

65 (17) "Program", the compete Missouri program established in sections 620.3000
66 to 620.3020;

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

76 (19) "Project facility base employment", the greater of the number of full-time
77 employees located at the project facility on the date of the notice of intent or, for the twelve-
78 month period prior to the date of the notice of intent, the average number of full-time
79 employees located at the project facility. In the event the project facility has not been in
80 operation for a full twelve-month period, the average number of full-time employees for

81 the number of months the project facility has been in operation prior to the date of the
82 notice of intent;

83 (20) "Project facility base payroll", the total amount of wages paid by the qualified
84 company to full-time employees of the qualified company located at the project facility in
85 the twelve months prior to the notice of intent, not including the payroll of the owners of
86 the qualified company unless the qualified company is participating in an employee stock
87 ownership plan. For purposes of calculating the benefits under this program, the amount
88 of base payroll shall increase each year based on an appropriate measure, as determined
89 by the department;

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

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

95 (23) "Qualified company", a firm, partnership, joint venture, association, private
96 or public corporation whether organized for profit or not, or headquarters of such entity
97 registered to do business in Missouri that is the owner or operator of a project facility,
98 offers health insurance to all full-time employees of all facilities located in this state, and
99 pays at least fifty percent of such insurance premiums. For the purposes of sections
100 620.3000 to 620.3020, the term "qualified company" shall not include:

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

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

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

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

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

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

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

115 b. After its bankruptcy petition has been filed, it produces proof, in a form and at
116 times satisfactory to the department, that it is not delinquent in filing any tax returns or
117 making any payment due to the state of Missouri, including but not limited to all tax

118 **payments due after the filing of the bankruptcy petition and under the terms of the plan**
119 **of reorganization.**

120
121 **Any taxpayer who is awarded benefits under this subsection and who files for bankruptcy**
122 **under Chapter 7 of the United States Bankruptcy Code, Title 11 U.S.C., shall immediately**
123 **notify the department and shall forfeit such benefits and shall repay the state an amount**
124 **equal to any state tax credits already redeemed and any withholding taxes already**
125 **retained;**

126 **(g) Educational services (NAICS sector 61);**

127 **(h) Religious organizations (NAICS industry group 8131);**

128 **(i) Public administration (NAICS sector 92);**

129 **(j) Ethanol distillation or production; or**

130 **(k) Biodiesel production.**

131
132 **Notwithstanding any provision of this section to the contrary, the headquarters,**
133 **administrative offices, or research and development facilities of an otherwise excluded**
134 **business may qualify for benefits if the offices or facilities serve a multistate territory. In**
135 **the event a national, state, or regional headquarters operation is not the predominant**
136 **activity of a project facility, the jobs and investment of such operation shall be considered**
137 **eligible for benefits under this section if the other requirements are satisfied;**

138 **(24) "Related company", shall mean:**

139 **(a) A corporation, partnership, trust, or association controlled by the qualified**
140 **company;**

141 **(b) An individual, corporation, partnership, trust, or association in control of the**
142 **qualified company; or**

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

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

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

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

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

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

(27) "Related facility base payroll", the total amount of taxable wages paid by the qualified company to full-time employees of the qualified company located at a related facility in the twelve months prior to the filing of the notice of intent, not including the payroll of the owners of the qualified company unless the qualified company is participating in an employee stock ownership plan. For purposes of calculating the benefits under this program, the amount of related facility base payroll shall increase each year based on an appropriate measure, as determined by the department;

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

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

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

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

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

620.3010. 1. In exchange for the consideration provided by the new tax revenues and other economic stimuli that will be generated by the new jobs created, a qualified company shall be eligible to receive the following benefits under this program:

(1) A qualified company may, for a period of five years from the date the new jobs are created, or for a period of six years from the date the new jobs are created if the qualified company is an existing Missouri business, retain an amount equal to the

7 withholding tax as calculated under subdivision (32) of section 620.3005 from the new jobs
8 that would otherwise be withheld and remitted by the qualified company under the
9 provisions of sections 143.191 to 143.265 if:

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

12 (b) The qualified company is in a targeted industry and creates ten or more new
13 jobs, and the average wage of the new payroll equals or exceeds ninety percent of the
14 county average wage; or

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

20 (2) In addition to any other benefits available under this subsection, a qualified
21 company that satisfies paragraph (a) of subdivision (1) of this subsection shall also be
22 entitled to tax credits issued each year for a period of five years from the date the new jobs
23 are created in an amount not to exceed two percent of new payroll; provided that in no
24 event may the total amount of benefits provided to a qualified company under this
25 subsection exceed five percent of the new payroll in any calendar year;

26 (3) In addition to any other benefits available under this subsection, a qualified
27 company that satisfies paragraph (b) of subdivision (1) of this subsection shall also be
28 entitled to tax credits issued each year for a period of five years from the date the new jobs
29 are created in an amount not to exceed three percent of new payroll; provided that in no
30 event may the total amount of benefits provided to a qualified company under this
31 subsection exceed six percent of the new payroll in any calendar year.

32 2. In addition to any benefits available under subsection 1 of this section, the
33 department may award additional tax credits issued each year for a period of five years
34 from the date the new jobs are created as follows:

35 (1) A qualified company that satisfies paragraph (a) of subdivision (1) of subsection
36 1 of this section may be awarded tax credits in an amount not to exceed four percent of new
37 payroll; provided that in no event may the total amount of benefits awarded to a qualified
38 company under this section exceed nine percent of new payroll in any calendar year;

39 (2) A qualified company that satisfies paragraph (b) of subdivision (1) of subsection
40 1 of this section may be awarded tax credits in an amount not to exceed six percent of new
41 payroll; provided that in no event may the total amount of benefits provided to the
42 qualified company under this section exceed twelve percent of new payroll in any calendar
43 year;

(3) The amount of tax credits awarded to a qualified company under this subsection shall not exceed the projected net fiscal benefit to the state, as determined by the department, and shall not exceed the least amount necessary to obtain the qualified company's commitment to initiate the project. No benefits shall be available under this subsection for any qualified company that has performed significant, project-specific site work at the project facility or has publicly announced its intention to create new jobs or make new capital investment at the project facility prior to approval of its notice of intent;

(4) In determining the amount of tax credits to award to a qualified company under this subsection, the department shall consider the following factors:

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

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

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

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

(e) The level of economic distress in the area;

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

(g) The percent of local incentives committed;

(5) Upon approval of a notice of intent to receive tax credits under this subsection, the department and the qualified company shall enter into a written agreement covering the applicable project period. The agreement shall specify, at a minimum:

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

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

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

(d) Any other provisions the department may require.

3. In lieu of all other benefits provided under subsections 1 and 2 of this section, and in exchange for the consideration provided by the new tax revenues and other economic stimuli that will be generated by the new jobs created by the program, a qualified company that creates five or more jobs in a rural area may, for a period of three years from the date the new jobs were created, retain an amount equal to the withholding tax as calculated under subdivision (32) of section 620.3005 from the new jobs that would otherwise be withheld and remitted by the qualified company under the provisions of

81 sections 143.191 to 143.265 if the average wage of the new payroll equals or exceeds ninety
82 percent of the county average wage. Available under this program, the department may
83 authorize a qualified company meeting the requirements of this subsection and subsection
84 1 of this section to be issued tax credits, subject to a written agreement entered into by the
85 qualified company and the department containing detailed performance requirements and
86 repayment penalties in the event of nonperformance.

620.3015. 1. In exchange for the consideration provided by the tax revenues and
2 other economic stimuli that will be generated by the retention of jobs and the making of
3 new capital investment in this state, a qualified company may be eligible to receive the
4 benefits described in this section if the department determines that there is a significant
5 probability that the qualified company would relocate to another state in the absence of
6 the benefits authorized under this section. In no event shall the total amount of benefits
7 available to all qualified companies under this section exceed six million dollars in any
8 fiscal year.

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

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

22 (1) The qualified company shall agree to retain, for a period of ten years from the
23 date of approval of the notice of intent, at least one hundred twenty-five retained jobs; and

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

28 4. In awarding benefits under this section, the department shall consider the factors
29 set forth in subsection 2 of section 620.3010.

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

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

35 **(2) Clawback provisions, as may be required by the department; and**

36 **(3) Any other provisions the department may require.**

620.3020. 1. The department shall respond to a written request, by or on behalf of
2 **a qualified company, for a proposed benefit award under the provisions of this program**
3 **within five business days of receipt of such request. Such response shall contain either a**
4 **proposal of benefits for the qualified company, or a written response refusing to provide**
5 **such a proposal and stating the reasons for such refusal. A qualified company that intends**
6 **to seek benefits under the program shall submit to the department a notice of intent. The**
7 **department shall respond within thirty days to a notice of intent with an approval or a**
8 **rejection, provided that the department may withhold approval or provide a contingent**
9 **approval until it is satisfied that proper documentation of eligibility has been provided.**
10 **Failure to respond on behalf of the department shall result in the notice of intent being**
11 **deemed approved. A qualified company receiving approval for program benefits may**
12 **receive additional benefits for subsequent new jobs at the same facility after the full initial**
13 **project period if the applicable minimum job requirements are met. There shall be no**
14 **limit on the number of project periods a qualified company may participate in the**
15 **program, and a qualified company may elect to file a notice of intent to begin a new project**
16 **period concurrent with an existing project period if the applicable minimum job**
17 **requirements are achieved, the qualified company provides the department with the**
18 **required annual reporting, and the qualified company is in compliance with this program**
19 **and any other state programs in which the qualified company is currently or has**
20 **previously participated. However, the qualified company shall not receive any further**
21 **program benefits under the original approval for any new jobs created after the date of the**
22 **new notice of intent, and any jobs created before the new notice of intent shall not be**
23 **included as new jobs for purposes of the benefit calculation for the new approval. When**
24 **a qualified company has filed and received approval of a notice of intent and subsequently**
25 **files another notice of intent, the department shall apply the definition of project facility**
26 **under subdivision (18) of section 620.3005 to the new notice of intent as well as all**
27 **previously approved notices of intent and shall determine the application of the definitions**
28 **of new job, new payroll, project facility base employment, and project facility base payroll**
29 **accordingly.**

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

41 **3. A qualified company receiving benefits under this program shall provide an**
42 **annual report of the number of jobs and such other information as may be required by the**
43 **department to document the basis for program benefits available. In such annual report,**
44 **if the average wage is below the applicable percentage of the county average wage, the**
45 **qualified company has not maintained the employee insurance as required, or if the**
46 **number of jobs is below the number required, the qualified company shall not receive tax**
47 **credits or retain the withholding tax for the balance of the project period.**

48 **4. The department may withhold the approval of any benefits under this program**
49 **until it is satisfied that proper documentation has been provided, and shall reduce the**
50 **benefits to reflect any reduction in full-time employees or payroll. Upon approval by the**
51 **department, the qualified company may begin the retention of the withholding taxes when**
52 **it reaches the required number of jobs and the average wage meets or exceeds the**
53 **applicable percentage of county average wage. Tax credits, if any, may be issued upon**
54 **satisfaction by the department that the qualified company has exceeded the applicable**
55 **percentage of county average wage and the required number of jobs.**

56 **5. Any qualified company approved for benefits under this program shall provide**
57 **to the department, upon request, any and all information and records reasonably required**
58 **to monitor compliance with program requirements. This program shall be considered a**
59 **business recruitment tax credit under subdivision (4) of subsection 2 of section 135.800,**
60 **and any qualified company approved for benefits under this program shall be subject to**
61 **the provisions of section 135.800 to 135.830.**

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

66 **7. The maximum amount of tax credits that may be authorized under this program**
67 **for any fiscal year shall be limited as follows, less the amount of any tax credits previously**
68 **obligated for that fiscal year under any of the tax credit programs referenced in subsection**
69 **13 of this section:**

70 **(1) For the fiscal year beginning on July 1, 2012, but ending on or before June 30,**
71 **2013, no more than one hundred and eleven million dollars in tax credits may be**
72 **authorized;**

73 **(2) For the fiscal year beginning on July 1, 2013, but ending on or before June 30,**
74 **2014, no more than one hundred and twenty-six million dollars in tax credits may be**
75 **authorized; and**

76 **(3) For any fiscal year beginning on or after July 1, 2014, no more than one**
77 **hundred and forty-one million dollars in tax credits may be authorized for each fiscal year.**

78 **8. For tax credits for the creation of new jobs under section 620.3010, the**
79 **department shall allocate the annual tax credits based on the date of the approval,**
80 **reserving such tax credits based on the department's best estimate of new jobs and new**
81 **payroll of the project, and any other applicable factors in determining the amount of**
82 **benefits available to the qualified company under this program. However, the annual**
83 **issuance of tax credits shall be subject to annual verification of actual payroll by the**
84 **department. Any authorization of tax credits shall expire if, within two years from the date**
85 **of commencement of operations, or approval if applicable, the qualified company has failed**
86 **to meet the applicable minimum job requirements. The qualified company may retain**
87 **authorized amounts from the withholding tax under the project once the applicable**
88 **minimum job requirements have been met for the duration of the project period. No**
89 **benefits shall be provided under this program until the qualified company meets the**
90 **applicable minimum new job requirements. In the event the qualified company does not**
91 **meet the applicable minimum new job requirements, the qualified company may submit**
92 **a new notice of intent or the department may provide a new approval for a new project of**
93 **the qualified company at the project facility or other facilities.**

94 **9. Tax credits provided under this program may be claimed against taxes otherwise**
95 **imposed by chapters 143 and 148, and may not be carried forward, but shall be claimed**
96 **within one year of the close of the taxable year for which they were issued. Tax credits**
97 **provided under this program may be transferred, sold, or assigned by filing a notarized**
98 **endorsement thereof with the department that names the transferee, the amount of tax**
99 **credit transferred, and the value received for the credit, as well as any other information**
100 **reasonably requested by the department. For a qualified company with flow-through tax**
101 **treatment to its members, partners, or shareholders, the tax credit shall be allowed to**

members, partners, or shareholders in proportion to their share of ownership on the last day of the qualified company's tax period.

10. Prior to the issuance of tax credits or the qualified company beginning to retain withholding taxes, the department shall verify through the department of revenue and any other applicable state department, that the tax credit applicant does not owe any delinquent income, sales, or use tax or interest or penalties on such taxes, or any delinquent fees or assessments levied by any state department and through the department of insurance, financial institutions and professional registration that the applicant does not owe any delinquent insurance taxes or other fees. Such delinquency shall not affect the approval, except that any tax credits issued shall be first applied to the delinquency and any amount issued shall be reduced by the applicant's tax delinquency. If the department of revenue, the department of insurance, financial institutions and professional registration, or any other state department concludes that a taxpayer is delinquent after June fifteenth but before July first of any year and the application of tax credits to such delinquency causes a tax deficiency on behalf of the taxpayer to arise, then the taxpayer shall be granted thirty days to satisfy the deficiency in which interest, penalties, and additions to tax shall be tolled. After applying all available credits toward a tax delinquency, the administering agency shall notify the appropriate department and that department shall update the amount of outstanding delinquent tax owed by the applicant. If any credits remain after satisfying all insurance, income, sales, and use tax delinquencies, the remaining credits shall be issued to the applicant, subject to the restrictions of other provisions of law.

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

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

13. Notwithstanding any provision of law to the contrary, beginning August 28, 2012, no new benefits shall be authorized for any project that had not received from the department a proposal or approval for such benefits prior to August 28, 2012, under the business facility tax credit program created under sections 135.110 to 135.150 and section 135.258, the business use incentives for large scale development program created under sections 100.700 to 100.850, the development tax credit program created under sections 32.100 to 32.125, the rebuilding communities tax credit program created under section 135.535, the enhanced enterprise zone tax credit program created under sections 135.950 to 135.973, and the Missouri quality jobs program created under sections 620.1875 to 620.1890. The provisions of this subsection shall not be construed to limit or impair the

ability of any administering agency to authorize or issue benefits for any project that had received an approval or a proposal from the department under any of the programs referenced in this subsection prior to August 28, 2012, or the ability of any taxpayer to redeem any such tax credits or to retain any withholding tax under an approval issued prior to that date. The provisions of this subsection shall not be construed to limit or in any way impair the ability of any governing authority to provide any local abatement or designate a new zone under the enhanced enterprise zone program created by sections 135.950 to 135.963. Notwithstanding any provision of law to the contrary, no qualified company that is awarded benefits under this program shall simultaneously receive benefits under the programs referenced in this subsection at the same project facility.

14. If any provision of sections 620.3000 to 620.3020 or application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or application of these sections which can be given effect without the invalid provisions or application, and to this end, the provisions of sections 620.3000 to 620.3020 are hereby declared severable.

15. By no later than January 1, 2013, and the first day of each calendar quarter thereafter, the department shall present a quarterly report to the general assembly detailing the benefits authorized under this program during the immediately preceding calendar quarter to the extent such information may be disclosed under state and federal law. The report shall include, at a minimum:

- (1) A list of all approved and disapproved applicants for each tax credit;
- (2) A list of the aggregate amount of new or retained jobs that are directly attributable to the tax credits authorized;
- (3) A statement of the aggregate amount of new capital investment directly attributable to the tax credits authorized;
- (4) Documentation of the estimated net state fiscal benefit for each authorized project and, to the extent available, the actual benefit realized upon completion of such project or activity; and
- (5) The department's response time for each request for a proposed benefit award under this program.

16. The department may adopt such rules, statements of policy, procedures, forms, and guidelines as may be necessary to carry out the provisions of sections 620.3000 to 620.3020. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective

date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2012, shall be invalid and void.

17. Under section 23.253 of the Missouri sunset act:

(1) The provisions of the new program authorized under sections 620.3000 to 620.3020 shall automatically sunset six years after the effective date of this section unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of this reauthorization of sections 620.3000 to 620.3020; and

(3) Sections 620.3000 to 620.3020 shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under sections 620.3000 to 620.3020 is sunset.

[178.760. As used in sections 178.760 to 178.764, the following terms mean:

(1) "Agreement", the agreement between an employer and a community 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 the associated program costs are greater than five hundred thousand dollars, the agreement may not exceed a period of eight years;

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

(3) "Capital investment", an investment in research and development, working capital, and real and tangible personal business property except inventory or property intended for sale to customers. Trucks, truck trailers, truck semi-trailers, rail and barge vehicles and other rolling stock for hire, track, switches, barges, bridges, tunnels, rail yards, and spurs shall not qualify as a capital investment. The amount of such investment shall be the original cost of the property if owned, or eight times the net annual rental rate if leased;

(4) "Certificate", industrial retained jobs training certificates issued under section 178.763;

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

(6) "Employee", the person employed in a retained job;

(7) "Employer", the person maintaining retained jobs in conjunction with a project;

(8) "Industry", a business located within this state 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;

(9) "Program costs", all necessary and incidental costs of providing program services, including payment of the principal, premium, 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;

(10) "Program services" includes, but is not limited to, the following:

(a) Retained 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 seventeen percent of the total training costs, two percent to be paid to the department of economic development for deposit into the Missouri job development fund created under section 620.478;

(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;

(11) "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 that is not also the subject of an agreement entered into between a community college district and an employer to provide program services under sections 178.892 to 178.896;

(12) "Retained job", a job in a stable industry, not including jobs for recalled workers, which was in existence for at least two consecutive calendar years preceding the year in which the application for the retained jobs training program was made;

(13) "Retained jobs credit from withholding", the credit as provided in section 178.762;

(14) "Retained jobs training program", or "program", the project or projects established by a community college district for the retention of jobs, by providing education and training of workers for existing jobs for stable industry in the state;

(15) "Stable industry", a business that otherwise meets the definition of industry and retains existing jobs. To be a stable industry, the business shall have:

(a) Maintained at least one hundred employees per year at the employer's site in the state at which the jobs are based, for each of the two calendar years preceding the year in which application for the program is made;

(b) Retained at that site the level of employment that existed in the taxable year immediately preceding the year in which application for the program is made; and

(c) Made or agree to make a capital investment aggregating at least one million dollars to acquire or improve long-term assets (including leased facilities) such as property, plant, or equipment (excluding program costs) at the employer's site in the state at which jobs are based over a period of three consecutive calendar years, as certified by the employer and:

a. Have made substantial investment in new technology requiring the upgrading of worker's skills; or

b. Be located in a border county of the state and represent a potential risk of relocation from the state; or

c. Be determined to represent a substantial risk of relocation from the state by the director of the department of economic development;

(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.]

[178.761. A community college district, with the approval of the department of economic development in consultation with the office of administration, may enter into an agreement to establish a project and provide program services to an employer. As soon as possible after initial contact between a community college district and a potential employer regarding the possibility of entering into an agreement, the district shall inform the division of workforce development of the department of economic development and the office of administration about the potential project. The division of workforce development shall evaluate the proposed project within the overall job training efforts of the state to ensure that the project will not duplicate other job training programs. The department of economic development shall have fourteen days from receipt of the application to approve or disapprove projects. If no response is received by the community college within fourteen days, the projects are approved. Any project that is disapproved must be in writing stating the reasons for the disapproval. If an agreement is entered into, the district and the employer shall notify the department of revenue within fifteen calendar days. An agreement may provide, but is not limited to:

(1) Payment of program costs, including deferred costs, which may be paid from one or a combination of the following sources:

(a) Funds appropriated by the general assembly from the Missouri community college job retention program fund and disbursed by the division of workforce development in respect of retained jobs credit from withholding to be received or derived from retained employment resulting from the project;

(b) Tuition, student fees, or special charges fixed by the board of trustees to defray program costs in whole or in part;

(c) Guarantee of payments to be received under paragraph (a) or (b) of this subdivision;

(2) Payment of program costs shall not be deferred for a period longer than ten years if program costs do not exceed five hundred thousand dollars, or eight years if program costs exceed five hundred thousand dollars from the date of commencement of the project;

(3) Costs of on-the-job training for employees shall include wages or salaries of participating employees. Payments for on-the-job training shall not exceed the average of fifty percent of the total percent of the total wages paid by the employer to each participant during the period of training. Payment for on-the-job training may continue for up to six months from the date of the employer's capital investment;

(4) A provision which fixes the minimum amount of retained jobs credit from withholding, or tuition and fee payments which shall be paid for program costs;

(5) Any payment required to be made by an employer is a lien upon the employer's business property until paid and has equal precedence with ordinary taxes and shall not be divested by a judicial sale. Property subject to the lien may be sold for sums due and delinquent at a tax sale, with the same forfeitures, penalties, and consequences as for the nonpayment of ordinary taxes. The purchasers at tax sale obtain the property subject to the remaining payments.]

[178.762. If an agreement provides that all or part of program costs are to be met by receipt of retained jobs credit from withholding, such retained jobs credit from withholding shall be determined and paid as follows:

(1) Retained jobs credit from withholding shall be based upon the wages paid to the employees in the retained jobs;

(2) A portion of the total payments made by the employer under section 143.221 shall be designated as the retained jobs credit from withholding. Such portion shall be an amount equal to two and one-half percent of the gross wages paid by the employer for each of the first one hundred jobs included in the project and one and one-half percent of the gross wages paid by the employer for each of the remaining jobs included in the project. If business or employment conditions cause the amount of the retained jobs credit from withholding to be less than the amount projected in the agreement for any time period, then other withholding tax paid by the employer under section 143.221 shall be credited to the Missouri community college retained job training fund by the amount of such difference. The employer shall remit the amount of the retained jobs credit to the department of revenue in the manner prescribed in section 178.764. When all program costs, including the principal, premium, and interest on the certificates have been paid, the employer credits shall cease;

(3) The community college district participating in a project shall establish a special fund for and in the name of the project. All funds appropriated by the general assembly from the Missouri community college job training retention program fund and disbursed by the division of workforce development for the project and other amounts received by the district in respect of the project

and required by the agreement to be used to pay program costs for the project shall be deposited in the special fund. Amounts held in the special fund may be used and disbursed by the district only to pay program costs for the project. The special fund may be divided into such accounts and subaccounts as shall be provided in the agreement, and amounts held therein may be invested in investments which are legal for the investment of the district's other funds;

(4) Any disbursement in respect of a project received from the division of workforce development under sections 178.760 to 178.764 and the special fund into which it is paid may be irrevocably pledged by a community college district for the payment of the principal, premium, and interest on the certificate issued by a community college district to finance or refinance, in whole or in part, the project;

(5) The employer shall certify to the department of revenue that the credit from withholding is in accordance with an agreement and shall provide other information the department may require;

(6) An employee participating in a project will receive full credit for the amount designated as a retained jobs credit from withholding and withheld as provided in section 143.221;

(7) If an agreement provides that all or part of program costs are to be met by receipt of retained jobs credit from withholding, the provisions of this subsection shall also apply to any successor to the original employer until such time as the principal and interest on the certificates have been paid.]

[178.763. 1. To provide funds for the present payment of the costs of retained jobs training programs, a community college district may borrow money and issue and sell certificates payable from a sufficient portion of the future receipts of payments authorized by the agreement including disbursements from the Missouri community college job retention training program to the special fund established by the district for each project. The total amount of outstanding certificates sold by all community college districts shall not exceed fifteen million dollars, unless an increased amount is authorized in writing by a majority of members of the Missouri job training joint legislative oversight committee. The certificates shall be marketed through financial institutions authorized to do business in Missouri.

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 of trustees, and may bear interest at such rate or rates as the board of trustees shall determine, notwithstanding the provisions of section 108.170 to the contrary. However, chapter 176 does not apply to the issuance of these certificates. Certificates may be issued with respect to a single project or multiple projects and may contain terms or conditions as the board of trustees 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. They 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. Before certificates are issued, the board of trustees shall publish once a notice of its intention to issue the certificates, stating the amount, the purpose, and the project or projects for which the certificates are to be issued. A person may, within fifteen days after the publication of the notice, by action in the circuit court of a county in the district, appeal the decision of the board of trustees to issue the certificates. The action of the board of trustees in determining to issue the certificates is final and conclusive unless the circuit court finds that the board of trustees has exceeded its legal authority. An action shall not be brought which questions the legality of the certificates, the power of the board of trustees to issue the certificates, the effectiveness of any proceedings relating to the authorization of the project, or the authorization and issuance of the certificates from and after fifteen days from the publication of the notice of intention to issue.

4. The board of trustees shall make a finding based on information supplied by the employer that revenues provided in the agreement are sufficient to secure the faithful performance of obligations in the agreement.

5. Certificates issued under this section shall not be deemed to be an indebtedness of the state or the community college district or of any other political subdivision of the state, and the principal and interest on such certificates shall be payable only from the sources provided in subdivision (1) of section 178.761 which are pledged in the agreement.

6. The department of economic development shall coordinate the retained jobs training program, and may promulgate rules that districts will use in developing projects with industrial retained jobs training proposals which shall include rules providing for the coordination of such proposals with the service delivery areas established in the state to administer federal funds pursuant to the federal Workforce Investment Act. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536.

7. No community college district may sell certificates as described in this section after July 1, 2014.]

[178.764. 1. There is hereby established within the state treasury a special fund, to be known as the "Missouri Community College Job Retention Training Program Fund", to be administered by the division of workforce

development. The department of revenue shall credit to the community college job retention training program fund, as received, all retained jobs credit from withholding remitted by employers pursuant to section 178.762. The fund shall also consist of any gifts, contributions, grants, or bequests received from federal, private, or other sources. The general assembly, however, shall not provide for any transfer of general revenue funds into the community college job retention training program fund. Moneys in the Missouri community college job retention training program fund shall be disbursed to the division of workforce development pursuant to regular appropriations by the general assembly. The division shall disburse such appropriated funds in a timely manner into the special funds established by community college districts for projects, which funds shall be used to pay program costs, including the principal, premium, and interest on certificates issued by the district to finance or refinance, in whole or in part, a project. Such disbursements by the division of workforce development shall be made to the special fund for each project in the same proportion as the retained jobs credit from withholding remitted by the employer participating in such project bears to the total retained jobs credit from withholding remitted by all employers participating in projects during the period for which the disbursement is made. Moneys for retained jobs training programs established under sections 178.760 to 178.764 shall be obtained from appropriations made by the general assembly from the Missouri community college job retention training program fund. All moneys remaining in the Missouri community college job retention training program fund at the end of any fiscal year shall not lapse to the general revenue fund, as provided in section 33.080, but shall remain in the Missouri community college job retention training program fund.

2. The department of revenue shall develop such forms as are necessary to demonstrate accurately each employer's retained jobs credit from withholding paid into the Missouri community college job retention training program fund.

The retained jobs credit from withholding shall be accounted as separate from the normal withholding tax paid to the department of revenue by the employer. Reimbursements made by all employers to the Missouri community college job retention training program fund shall be no less than all allocations made by the division of workforce development to all community college districts for all job retention projects. The employer shall remit the amount of the retained job credit to the department of revenue in the same manner as provided in sections 143.191 to 143.265.]

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

(1) "Agreement", the agreement, between an employer and a community 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

6 excess of five hundred thousand dollars. For a project where associated program
7 costs are greater than five hundred thousand dollars, the agreement may not
8 exceed a period of eight years. No agreement shall be entered into between an
9 employer and a community college district which involves the training of
10 potential employees with the purpose of replacing or supplanting employees
11 engaged in an authorized work stoppage;

12 (2) "Board of trustees", the board of trustees of a community college
13 district;

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

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

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

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

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

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

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

40 (10) "New job", a job in a new or expanding industry not including jobs
41 of recalled workers, or replacement jobs or other jobs that formerly existed in the
42 industry in the state. For an essential industry, an existing job shall be considered
43 a new job for the purposes of the new job training programs;

44 (11) "New jobs credit from withholding", the credit as provided in
45 section 178.894;

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

(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;

(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;

(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;

(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.]

[178.893. A community college district, with the approval of the department of economic development in consultation with the office of administration, may enter into an agreement to establish a project and provide program services to an employer. As soon as possible after initial contact between a community college district and a potential employer regarding the possibility of entering into an agreement, the district shall inform the division of job development and training of the department of economic development and the office of administration about the potential project. The division of job development and training shall evaluate the proposed project within the overall job training efforts of the state to ensure that the project will not duplicate other job training programs. The department of economic development shall have fourteen days from receipt of the application to approve or disapprove projects. If no response is received by the community college within fourteen days the projects are approved. Any project that is disapproved must be in writing stating the reasons for the disapproval. If an agreement is entered into, the district and the employer shall notify the department of revenue within fifteen calendar days. An agreement may provide, but is not limited to:

(1) Payment of program costs, including deferred costs, which may be paid from one or a combination of the following sources:

(a) Funds appropriated by the general assembly from the Missouri community college job training program fund and disbursed by the division of job development and training in respect of new jobs credit from withholding to be received or derived from new employment resulting from the project;

(b) Tuition, student fees, or special charges fixed by the board of trustees to defray program costs in whole or in part;

(c) Guarantee of payments to be received under paragraph (a) or (b) of this subdivision;

(2) Payment of program costs shall not be deferred for a period longer than ten years if program costs do not exceed five hundred thousand dollars, or eight years if program costs exceed five hundred thousand dollars from the date of commencement of the project;

(3) Costs of on-the-job training for employees, shall include wages or salaries of participating employees. Payments for on-the-job training shall not exceed the average of fifty percent of the total percent of the total wages paid by the employer to each participant during the period of training.

Payment for on-the-job training may continue for up to six months after the placement of the participant in the new job;

(4) A provision which fixes the minimum amount of new jobs credit from withholding, or tuition and fee payments which shall be paid for program costs;

(5) Any payment required to be made by an employer is a lien upon the employer's business property until paid and has equal precedence with ordinary taxes and shall not be divested by a judicial sale. Property subject to the lien may be sold for sums due and delinquent at a tax sale, with the same forfeitures, penalties, and consequences as for the nonpayment of ordinary taxes. The purchasers at tax sale obtain the property subject to the remaining payments.]

[178.894. If an agreement provides that all or part of program costs are to be met by receipt of new jobs credit from withholding, such new jobs credit from withholding shall be determined and paid as follows:

(1) New jobs credit from withholding shall be based upon the wages paid to the employees in the new jobs;

(2) A portion of the total payments made by the employer pursuant to section 143.221 shall be designated as the new jobs credit from withholding. Such portion shall be an amount equal to two and one-half percent of the gross wages paid by the employer for each of the first one hundred jobs included in the project and one and one-half percent of the gross wages paid by the employer for each of the remaining jobs included in the project. If business or employment conditions cause the amount of the new jobs credit from withholding to be less than the amount projected in the agreement for any time period, then other withholding tax paid by the employer pursuant to section 143.221 shall be credited to the Missouri community college job training fund by the amount of such difference. The employer shall remit the amount of the new jobs credit to

the department of revenue in the manner prescribed in section 178.896. When all program costs, including the principal of, premium, if any, and interest on the certificates have been paid, the employer credits shall cease;

(3) The community college district participating in a project shall establish a special fund for and in the name of the project. All funds appropriated by the general assembly from the Missouri community college job training program fund and disbursed by the division of job development and training for the project and other amounts received by the district in respect of the project and required by the agreement to be used to pay program costs for the project shall be deposited in the special fund. Amounts held in the special fund may be used and disbursed by the district only to pay program costs for the project. The special fund may be divided into such accounts and subaccounts as shall be provided in the agreement, and amounts held therein may be invested in investments which are legal for the investment of the district's other funds;

(4) Any disbursement in respect of a project received from the division of job development and training under the provisions of sections 178.892 to 178.896 and the special fund into which it is paid may be irrevocably pledged by a community college district for the payment of the principal of, premium, if any, and interest on the certificate issued by a community college district to finance or refinance, in whole or in part, the project;

(5) The employer shall certify to the department of revenue that the credit from withholding is in accordance with an agreement and shall provide other information the department may require;

(6) An employee participating in a project will receive full credit for the amount designated as a new jobs credit from withholding and withheld as provided in section 143.221;

(7) If an agreement provides that all or part of program costs are to be met by receipt of new jobs credit from withholding, the provisions of this subsection shall also apply to any successor to the original employer until such time as the principal and interest on the certificates have been paid.]

[178.895. 1. To provide funds for the present payment of the costs of new jobs training programs, a community college district may borrow money and issue and sell certificates payable from a sufficient portion of the future receipts of payments authorized by the agreement including disbursements from the Missouri community college job training program to the special fund established by the district for each project. The total amount of outstanding certificates sold by all community college districts shall not exceed twenty million dollars, unless an increased amount is authorized in writing by a majority of members of the Missouri job training joint legislative oversight committee. The certificates shall be marketed through financial institutions authorized to do business in Missouri. 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,

14 at the discretion of the board of trustees, and may bear interest at such rate or
15 rates as the board of trustees shall determine, notwithstanding the provisions of
16 section 108.170 to the contrary. However, chapter 176 does not apply to the
17 issuance of these certificates. Certificates may be issued with respect to a single
18 project or multiple projects and may contain terms or conditions as the board of
19 trustees may provide by resolution authorizing the issuance of the certificates.

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

30 3. Before certificates are issued, the board of trustees shall publish once
31 a notice of its intention to issue the certificates, stating the amount, the purpose,
32 and the project or projects for which the certificates are to be issued. A person
33 may, within fifteen days after the publication of the notice, by action in the circuit
34 court of a county in the district, appeal the decision of the board of trustees to
35 issue the certificates. The action of the board of trustees in determining to issue
36 the certificates is final and conclusive unless the circuit court finds that the board
37 of trustees has exceeded its legal authority. An action shall not be brought which
38 questions the legality of the certificates, the power of the board of trustees to
39 issue the certificates, the effectiveness of any proceedings relating to the
40 authorization of the project, or the authorization and issuance of the certificates
41 from and after fifteen days from the publication of the notice of intention to issue.

42 4. The board of trustees shall determine if revenues provided in the
43 agreement are sufficient to secure the faithful performance of obligations in the
44 agreement.

45 5. Certificates issued under this section shall not be deemed to be an
46 indebtedness of the state or the community college district or of any other
47 political subdivision of the state and the principal and interest on such certificates
48 shall be payable only from the sources provided in subdivision (1) of section
49 178.893 which are pledged in the agreement.

50 6. The department of economic development shall coordinate the new
51 jobs training program, and may promulgate rules that districts will use in
52 developing projects with new and expanding industrial new jobs training
53 proposals which shall include rules providing for the coordination of such
54 proposals with the service delivery areas established in the state to administer
55 federal funds pursuant to the federal Job Training Partnership Act. No rule or
56 portion of a rule promulgated under the authority of sections 178.892 to 178.896
57 shall become effective unless it has been promulgated pursuant to the provisions

of chapter 536. All rulemaking authority delegated prior to June 27, 1997, is of no force and effect and repealed; however, nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to June 27, 1997, if such rule complied with the provisions of chapter 536. The provisions of this section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, including the ability to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule, are subsequently held unconstitutional, then the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void.

7. No community college district may sell certificates as described in this section after July 1, 2018.]

[178.896. 1. There is hereby established within the state treasury a special fund, to be known as the "Missouri Community College Job Training Program Fund", to be administered by the division of job development and training. The department of revenue shall credit to the community college job training program fund, as received, all new jobs credit from withholding remitted by employers pursuant to section 178.894. The fund shall also consist of any gifts, contributions, grants or bequests received from federal, private or other sources. The general assembly, however, shall not provide for any transfer of general revenue funds into the community college job training program fund. Moneys in the Missouri community college job training program fund shall be disbursed to the division of job development and training pursuant to regular appropriations by the general assembly. The division shall disburse such appropriated funds in a timely manner into the special funds established by community college districts for projects, which funds shall be used to pay program costs, including the principal of, premium, if any, and interest on certificates issued by the district to finance or refinance, in whole or in part, a project. Such disbursements by the division of job development and training shall be made to the special fund for each project in the same proportion as the new jobs credit from withholding remitted by the employer participating in such project bears to the total new jobs credit from withholding remitted by all employers participating in projects during the period for which the disbursement is made. Moneys for new jobs training programs established under the provisions of sections 178.892 to 178.896 shall be obtained from appropriations made by the general assembly from the Missouri community college job training program fund. All moneys remaining in the Missouri community college job training program fund at the end of any fiscal year shall not lapse to the general revenue fund, as provided in section 33.080, but shall remain in the Missouri community college job training program fund.

2. The department of revenue shall develop such forms as are necessary to demonstrate accurately each employer's new jobs credit from withholding paid into the Missouri community college job training program fund. The new jobs

credit from withholding shall be accounted as separate from the normal withholding tax paid to the department of revenue by the employer. Reimbursements made by all employers to the Missouri community college job training program fund shall be no less than all allocations made by the division of job development and training to all community college districts for all projects. The employer shall remit the amount of the new job credit to the department of revenue in the same manner as provided in sections 143.191 to 143.265.

3. Sections 178.892 to 178.896 shall expire July 1, 2028.]

[620.470. As used in sections 620.470 to 620.481, unless the context clearly requires otherwise, the following terms mean:

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

(2) "Fund", the Missouri job development fund as established by section 620.478;

(3) "Industry", an entity the objective of which is to supply a service or the objective of which is the commercial production and sale of an article of trade or commerce. The term includes a consortium of such entities organized for the purpose of providing for common training to the member entities' employees, provided that the consortium as a whole meets the requirements for participation in this program;

(4) "Manufacturing", the making or processing of raw materials into a finished product, especially by means of large-scale machines of industry.]

[620.472. 1. The department shall establish a new or expanding industry training program, the purpose of which is to provide assistance for new or expanding industries for the training, retraining or upgrading of the skills of potential employees. Training may include preemployment training, and services may include analysis of the specified training needs for such company, development of training plans, and provision of training through qualified training staff. Such program may fund in-plant training analysis, curriculum development, assessment and preselection tools, publicity for the program, instructional services, rental of instructional facilities with necessary utilities, access to equipment and supplies, other necessary services, overall program direction, and an adequate staff to carry out an effective training program. In addition, the program may fund a coordinated transportation program for trainings if the training can be more effectively provided outside the community where the jobs are to be located. In-plant training analysis shall include fees for professionals and necessary travel and expenses. Such program may also provide assistance in the locating of skilled employees and in the locating of additional sources of job training funds. Such program shall be operated with appropriations made by the general assembly from the fund.

2. Assistance under the new or expanding industry training program may be available only for industries who certify to the department that their investments relate directly to a projected increase in employment which will result in the need for training of newly hired employees or the retraining or

23 upgrading of the skills of existing employees for new jobs created by the new or
24 expanding industry's investment.

25 3. The department shall issue rules and regulations governing the
26 awarding of funds administered through the new or expanding industry training
27 program. When promulgating these rules and regulations, the department shall
28 consider such factors as the potential number of new permanent jobs to be
29 created, the amount of private sector investment in new facilities and equipment,
30 the significance of state funding to the industry's decision to locate or expand in
31 Missouri, the economic need of the affected community, and the importance of
32 the industry to the economic development of Missouri.]
33

2 [620.474. 1. The department shall establish a basic industry retraining
3 program, the purpose of which is to provide assistance for industries in Missouri
4 for the retraining and upgrading of employees' skills which are required to
5 support new investment. Such program shall be operated with appropriations
6 made by the general assembly from the fund.

7 2. Assistance under the basic industry retraining program may be made
8 available for industries in Missouri which make new investments without the
9 creation of new employment.

10 3. The department shall issue rules and regulations governing the
11 awarding of funds administered through the basic industry retraining fund. When
12 promulgating these rules and regulations, the department shall consider such
13 factors as the number of jobs in jeopardy of being lost if retraining does not
14 occur, the amount of private sector investment in new facilities and equipment,
15 the ratio of jobs retained versus investment, the cost of normal, ongoing training
16 required for the industry, the economic need of the affected community, and the
17 importance of the industry to the economic development of Missouri.]

2 [620.475. 1. The department shall establish an industry quality and
3 productivity improvement program to help industries and businesses evaluate and
4 enhance quality and productivity, and to encourage the private sector to develop
5 long-range goals to improve quality and productivity and improve the
6 competitive position of private businesses. The quality and productivity
7 improvement program shall include seminars, workshops and short courses on
8 subjects such as long-range planning, new management techniques, automated
9 manufacturing, innovative uses of new materials and the latest philosophies of
10 management and quality improvement. The program shall be available to
11 existing Missouri manufacturing, distribution and service businesses.

12 2. The department may develop quality and productivity improvement
13 centers at university and community college campuses throughout the state as the
14 demand and need is determined. The department shall have the authority to
15 contract with individuals who possess particular knowledge, ability and expertise
16 in the various subjects which may be essential to the program's goals. Seminars,
workshops, short courses and specific not for credit classes shall be developed

on and off campus for personnel engaged in manufacturing, distribution and service businesses. At the discretion of the department, the University of Missouri and Lincoln University extension services, the continuing education offices of the regional universities and community colleges may be used for the promotion and coordination of the off-campus courses that are offered.

3. Activities eligible for reimbursement in the industry quality and productivity program shall include:

(1) The cost of seminars, workshops, short courses and specific not for credit classes;

(2) The wages of instructors;

(3) Productivity materials and supplies, including the purchase of packaged productivity programs when appropriate;

(4) Travel directly related to the program;

(5) Tuition payments to third-party productivity providers and to businesses; and

(6) Teaching and assistance provided by educational institutions in the state.

4. No industry receiving assistance under the industry quality and productivity improvement program shall be reimbursed for more than fifty percent of the total costs of its participation in the program.]

[620.476. Activities eligible for reimbursement by funds administered through the new or expanding industry program and the basic industry retraining program shall include: the wages of instructors, who may or may not be employees of the industry; training development costs, including the cost of training of instructors; training materials and supplies, including the purchase of packaged training programs when appropriate; travel directly related to the training program; tuition payments to third-party training providers and to the industry; teaching and assistance provided by educational institutions in the state of Missouri; on-the-job training; and the leasing, but not the purchase, of training equipment and space.]

[620.478. 1. There is hereby established in the state treasury a special fund to be known as the "Missouri Job Development Fund". The fund shall consist of all moneys which may be appropriated to it by the general assembly and also any gifts, contributions, grants or bequests received from federal, private or other sources. Appropriations made from the fund shall be for the purpose of providing contractual services through the department of elementary and secondary education for vocational related training or retraining provided by public or private training institutions within Missouri; and for contracted services through the department of economic development for vocational related training or retraining provided by public or private training institutions located outside of Missouri; and for vocational related training or retraining provided on site, within Missouri, by any proprietorship, partnership or corporate entity. Except for state-sponsored preemployment training, no applicant shall receive more than

fifty percent of its project training or retraining costs from the development fund. Moneys to operate the new or expanding industry training program, the basic industry retraining program, the industry quality and productivity improvement program and assistance to community college business and technology centers shall be obtained from appropriations made by the general assembly from the fund. No funds shall be awarded or reimbursed to any industry for the training, retraining or upgrading of skills of potential employees with the purpose of replacing or supplanting employees engaged in an authorized work stoppage.

2. The Missouri job development fund shall be able to receive any block grant or other sources of funding relating to job training, school-to-work transition, welfare reform, vocational and technical training, housing, infrastructure development and human resource investment programs which may be provided by the federal government or other sources.]

[620.479. The department is authorized to contract with other entities, including businesses, industries, other state agencies and the political subdivisions of the state, for the purpose of carrying out the provisions of sections 620.470 to 620.481.]

[620.480. To efficiently carry out the responsibilities of the division of job development and training and to improve job training program coordination, the commissioner of administration shall authorize the division to directly negotiate with and contract for job training and related services with administrative entities designated pursuant to the requirements of the Job Training Partnership Act and any subsequent amendments and any other agencies or entities which may be designated to administer job training and related services pursuant to any succeeding federal or state legislative or regulatory requirements.]

[620.481. There is hereby created the "Missouri Job Training Joint Legislative Oversight Committee". The committee shall consist of three members of the Missouri senate appointed by the president pro tem of the senate; three members of the house of representatives appointed by the speaker of the house. No more than two of the members of the senate and two of the members of the house of representatives shall be from the same political party. Members of the Missouri job training joint legislative oversight committee shall report to the governor, the president pro tem of the senate and the speaker of the house of representatives on all assistance to industries under the provisions of sections 620.470 to 620.481 provided during the preceding fiscal year and the customized job training program administered by the department of elementary and secondary education. The report of the committee shall be delivered no later than October first of each year. The director of the department of economic development shall report to the committee such information as the committee may deem necessary for its annual report. Members of the committee shall receive no compensation in addition to their salary as members of the general

17 assembly, but may receive their necessary expenses while attending the meetings
18 of the committee, to be paid out of the joint contingent fund.]
19

2 [620.482. 1. The department may provide assistance, through
3 appropriations made from the Missouri job development fund, to business and
4 technology centers. Such assistance may not include the lending of the state's
5 credit for the payment of any liability of the fund. Such centers may be
6 established by Missouri community colleges, or a state-owned postsecondary
7 technical college, to provide business and training services in disciplines which
8 shall include, but not be limited to, environmental health and safety, industrial
9 electrical technology, machine tool technology, industrial management and
10 technology, computer consulting and computer-aided drafting, microcomputer
11 training and telecommunications training.

12 2. The department of economic development shall promulgate rules and
13 regulations as are necessary to implement the provisions of sections 620.470 to
14 620.482. No rule or portion of a rule promulgated under the authority of sections
15 620.470 to 620.482 shall become effective unless it has been promulgated
pursuant to the provisions of section 536.024.]

✓