

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for
2 Senate Bill No. 133, Page 35, Section 143.161, Line 28, by inserting after all of said section and line
3 the following:
4

5 "620.2005. 1. As used in sections 620.2000 to 620.2020, the following terms mean:

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

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

10 (3) "Contractor", a person, employer, or business entity that enters into an agreement to
11 perform any service or work or to provide a certain product in exchange for valuable consideration.
12 This definition shall include but not be limited to a general contractor, subcontractor, independent
13 contractor, contract employee, project manager, or a recruiting or staffing entity;

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

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

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

26 (7) "Employee", a person employed by a qualified company, excluding:

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

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

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1 (8) "Existing Missouri business", a qualified company that, for the ten-year period
2 preceding submission of a notice of intent to the department, had a physical location in Missouri and
3 full-time employees who routinely performed job duties within Missouri;

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

12 (10) "Industrial development authority", an industrial development authority organized
13 under chapter 349 that has entered into a formal written memorandum of understanding with an
14 entity of the United States Department of Defense regarding a qualified military project;

15 (11) "Infrastructure projects", highways, roads, streets, bridges, sewers, traffic control
16 systems and devices, water distribution and supply systems, curbing, sidewalks, storm water and
17 drainage systems, broadband internet infrastructure, and any other similar public improvements, but
18 in no case shall infrastructure projects include private structures;

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

23 (13) "Manufacturing capital investment", expenditures made by a qualified manufacturing
24 company to retool or reconfigure a manufacturing project facility directly related to the
25 manufacturing of a new product or the expansion or modification of the manufacture of an existing
26 product;

27 (14) "Memorandum of understanding", an agreement executed by an industrial development
28 authority and an entity of the United States Department of Defense, a copy of which is provided to
29 the department of economic development, that states, but is not limited to:

30 (a) A requirement for the military to provide the total number of existing jobs, jobs directly
31 created by a qualified military project, and average salaries of such jobs to the industrial
32 development authority and the department of economic development annually for the term of the
33 benefit;

34 (b) A requirement for the military to provide an accounting of the expenditures of capital
35 investment made by the military directly related to the qualified military project to the industrial
36 development authority and the department of economic development annually for the term of the
37 benefit;

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

4 (d) A requirement for the industrial development authority to provide proof to the
5 department of economic development of the payment made to the qualified military project
6 annually, including the amount of such payment;

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

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

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

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

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

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

22 (17) "New direct local revenue", the present value of the dollar amount of direct net new tax
23 revenues of the local political subdivisions likely to be produced by the project over a ten-year
24 period as calculated by the department, excluding local earnings tax, and net new utility revenues,
25 provided the local incentives include a discount or other direct incentives from utilities owned or
26 operated by the political subdivision;

27 (18) "New job", the number of full-time employees located at the project facility that
28 exceeds the project facility base employment less any decrease in the number of full-time
29 employees at related facilities below the related facility base employment. No job that was created
30 prior to the date of the notice of intent shall be deemed a new job;

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

33 (20) "New product", a new model or line of a manufactured good that has not been
34 manufactured in Missouri by a qualified manufacturing company at any time prior to the date of the
35 notice of intent, or an existing brand, model, or line of a manufactured good that is redesigned;

36 (21) "Notice of intent", a form developed by the department and available online, completed
37 by the qualified company, and submitted to the department stating the qualified company's intent to
38 request benefits under this program. The notice of intent shall be accompanied with a detailed plan
39 by the qualifying company to make good faith efforts to employ, at a minimum, commensurate with

1 the percentage of minority populations in the state of Missouri, as reported in the previous decennial
2 census, the following: racial minorities, contractors who are racial minorities, and contractors that,
3 in turn, employ at a minimum racial minorities commensurate with the percentage of minority
4 populations in the state of Missouri, as reported in the previous decennial census. At a minimum,
5 such plan shall include monitoring the effectiveness of outreach and recruitment strategies in
6 attracting diverse applicants and linking with different or additional referral sources in the event that
7 recruitment efforts fail to produce a diverse pipeline of applicants;

8 (22) "Percent of local incentives", the amount of local incentives divided by the amount of
9 new direct local revenue;

10 (23) "Program", the Missouri works program established in sections 620.2000 to 620.2020;

11 (24) "Project facility", the building or buildings used by a qualified company at which new
12 or retained jobs and any new capital investment are or will be located or by a qualified
13 manufacturing company at which a manufacturing capital investment is or will be located. A
14 project facility may include separate buildings located within sixty miles of each other such that
15 their purpose and operations are interrelated; provided that where the buildings making up the
16 project facility are not located within the same county, the average wage of the new payroll shall
17 exceed the applicable percentage of the highest county average wage among the counties in which
18 the buildings are located. Upon approval by the department, a subsequent project facility may be
19 designated if the qualified company demonstrates a need to relocate to the subsequent project
20 facility at any time during the project period. For qualified military projects, the term "project
21 facility" means the military base or installation at which such qualified military project is or shall be
22 located;

23 (25) "Project facility base employment", the greater of the number of full-time employees
24 located at the project facility on the date of the notice of intent or, for the twelve-month period prior
25 to the date of the notice of intent, the average number of full-time employees located at the project
26 facility. In the event the project facility has not been in operation for a full twelve-month period, the
27 average number of full-time employees for the number of months the project facility has been in
28 operation prior to the date of the notice of intent;

29 (26) "Project facility base payroll", the annualized payroll for the project facility base
30 employment or the total amount of taxable wages paid by the qualified company to full-time
31 employees of the qualified company located at the project facility in the twelve months prior to the
32 notice of intent. For purposes of calculating the benefits under this program, the amount of base
33 payroll shall increase each year based on an appropriate measure, as determined by the department;

34 (27) "Project period", the time period within which benefits are awarded to a qualified
35 company or within which the qualified company is obligated to perform under an agreement with
36 the department, whichever is greater;

37 (28) "Projected net fiscal benefit", the total fiscal benefit to the state less any state benefits
38 offered to the qualified company, as determined by the department;

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

- (a) Gambling establishments (NAICS industry group 7132);
- (b) Store front consumer-based retail trade establishments (under NAICS sectors 44 and 45), except with respect to any company headquartered in this state with a majority of its full-time employees engaged in operations not within the NAICS codes specified in this subdivision and except for any such establishments located in a county of the second, third, or fourth classification;
- (c) Food and drinking places (NAICS subsector 722);
- (d) Public utilities (NAICS 221 including water and sewer services);
- (e) Any company that is delinquent in the payment of any nonprotested taxes or any other amounts due the state or federal government or any other political subdivision of this state;
- (f) Any company requesting benefits for retained jobs that has filed for or has publicly announced its intention to file for bankruptcy protection. However, a company that has filed for or has publicly announced its intention to file for bankruptcy may be a qualified company provided that such company:
 - a. Certifies to the department that it plans to reorganize and not to liquidate; and
 - b. After its bankruptcy petition has been filed, it produces proof, in a form and at times satisfactory to the department, that it is not delinquent in filing any tax returns or making any payment due to the state of Missouri, including but not limited to all tax payments due after the filing of the bankruptcy petition and under the terms of the plan of reorganization. Any taxpayer who is awarded benefits under this subsection and who files for bankruptcy under Chapter 7 of the United States Bankruptcy Code, Title 11 U.S.C., shall immediately notify the department and shall forfeit such benefits and shall repay the state an amount equal to any state tax credits already redeemed and any withholding taxes already retained;
- (g) Educational services (NAICS sector 61);
- (h) Religious organizations (NAICS industry group 8131);
- (i) Public administration (NAICS sector 92);
- (j) Ethanol distillation or production;
- (k) Biodiesel production; or
- (l) Health care and social services (NAICS sector 62).

Notwithstanding any provision of this section to the contrary, the headquarters, administrative offices, or research and development facilities of an otherwise excluded business may qualify for benefits if the offices or facilities serve a multistate territory. In the event a national, state, or regional headquarters operation is not the predominant activity of a project facility, the jobs and

1 investment of such operation shall be considered eligible for benefits under this section if the other
2 requirements are satisfied;

3 (30) "Qualified manufacturing company", a company that:

4 (a) Is a qualified company that manufactures motor vehicles (NAICS group 3361);

5 (b) Manufactures goods at a facility in Missouri;

6 (c) Manufactures a new product or has commenced making a manufacturing capital
7 investment to the project facility necessary for the manufacturing of such new product, or modifies
8 or expands the manufacture of an existing product or has commenced making a manufacturing
9 capital investment for the project facility necessary for the modification or expansion of the
10 manufacture of such existing product; and

11 (d) Continues to meet the requirements of paragraphs (a) to (c) of this subdivision for the
12 project period;

13 (31) "Qualified military project", the expansion or improvement of a military base or
14 installation within this state that causes:

15 (a) An increase of ten or more part-time or full-time military or civilian support personnel:

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

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

19 (b) Investment in real or personal property at the base or installation expressly for the
20 purposes of serving a new or expanded military activity or unit.

21
22 For the purposes of this subdivision, part-time military or civilian support personnel shall be
23 converted to full-time new jobs by, in hire date order, counting one full-time new job for every
24 thirty-five averaged hours worked per week by part-time military or civilian support personnel in
25 jobs directly created by the qualified military project. For each such full-time new job, the sum of
26 the wages of the part-time military or civilian support personnel combined and converted to form
27 the new job shall be the wage for the one full-time new job. Each part-time military or civilian
28 support personnel whose job is combined and converted for such a full-time new job shall be offered
29 health insurance as described in subparagraph b of paragraph (a) of this subdivision;

30 (32) "Related company", shall mean:

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

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

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

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

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

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

(33) "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;

(34) "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;

(35) "Related facility base payroll", the annualized payroll of the related facility base payroll or 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. 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;

(36) "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;

(37) "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;

(38) "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.

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

620.2015. 1. In exchange for the consideration provided by the tax revenues and other economic stimuli that will be generated by the retention of jobs and the making of new capital investment in this state, a qualified company may be eligible to receive the benefits described in this section if the department determines that there is a significant probability that the qualified company would relocate to another state in the absence of the benefits authorized under this section. In no event shall the total amount of benefits available to all qualified companies under this section exceed ~~six~~ ten million dollars in any fiscal year.

2. A qualified company meeting the requirements of this section may be authorized to retain an amount not to exceed one hundred percent of the withholding tax from full-time jobs that would otherwise be withheld and remitted by the qualified company under the provisions of sections 143.191 to 143.265 for a period of ten years if the average wage of the retained jobs equals or exceeds ninety percent of the county average wage. In order to receive benefits under this section, a

1 qualified company shall enter into written agreement with the department containing detailed
2 performance requirements and repayment penalties in event of nonperformance. The amount of
3 benefits awarded to a qualified company under this section shall not exceed the projected net fiscal
4 benefit and shall not exceed the least amount necessary to obtain the qualified company's
5 commitment to retain the necessary number of jobs and make the required new capital investment.

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

8 (1) The qualified company shall agree to retain, for a period of ten years from the date of
9 approval of the notice of intent, at least fifty retained jobs; and

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

13 4. In awarding benefits under this section, the department shall consider the factors set forth
14 in subsection 2 of section 620.2010.

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

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

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

21 (3) Any other provisions the department may require."; and
22

23 Further amend said bill by amending the title, enacting clause, and intersectional references
24 accordingly.