

FIRST EXTRAORDINARY SESSION

SENATE BILL NO. 2

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR RIDGEWAY.

Read 1st time July 1, 2010, and ordered printed.

TERRY L. SPIELER, Secretary.

6009S.011

AN ACT

To repeal section 620.1881, RSMo, and to enact in lieu thereof two new sections relating to job growth.

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

Section A. Section 620.1881, RSMo, is repealed and two new sections
2 enacted in lieu thereof, to be known as sections 620.1881 and 620.1910, to read
3 as follows:

620.1881. 1. The department of economic development shall respond
2 within thirty days to a company who provides a notice of intent with either an
3 approval or a rejection of the notice of intent. The department shall give
4 preference to qualified companies and projects targeted at an area of the state
5 which has recently been classified as a disaster area by the federal
6 government. Failure to respond on behalf of the department of economic
7 development shall result in the notice of intent being deemed an approval for the
8 purposes of this section. A qualified company who is provided an approval for a
9 project shall be allowed a benefit as provided in this program in the amount and
10 duration provided in this section. A qualified company may receive additional
11 periods for subsequent new jobs at the same facility after the full initial period
12 if the minimum thresholds are met as set forth in sections 620.1875 to
13 620.1890. There is no limit on the number of periods a qualified company may
14 participate in the program, as long as the minimum thresholds are achieved and
15 the qualified company provides the department with the required reporting and
16 is in proper compliance for this program or other state programs. A qualified
17 company may elect to file a notice of intent to start a new project period
18 concurrent with an existing project period if the minimum thresholds are
19 achieved and the qualified company provides the department with the required

20 reporting and is in proper compliance for this program and other state programs;
21 however, the qualified company may not receive any further benefit under the
22 original approval for jobs created after the date of the new notice of intent, and
23 any jobs created before the new notice of intent may not be included as new jobs
24 for the purpose of benefit calculation in relation to the new approval. When a
25 qualified company has filed and received approval of a notice of intent and
26 subsequently files another notice of intent, the department shall apply the
27 definition of project facility under subdivision (19) of section 620.1878 to the new
28 notice of intent as well as all previously approved notices of intent and shall
29 determine the application of the definitions of new job, new payroll, project
30 facility base employment, and project facility base payroll accordingly.

31 2. Notwithstanding any provision of law to the contrary, any qualified
32 company that is awarded benefits under this program may not simultaneously
33 receive tax credits or exemptions under sections 135.100 to 135.150, sections
34 135.200 to 135.286, section 135.535, or sections 135.900 to 135.906, RSMo, at the
35 same project facility. The benefits available to the company under any other
36 state programs for which the company is eligible and which utilize withholding
37 tax from the new jobs of the company must first be credited to the other state
38 program before the withholding retention level applicable under the Missouri
39 quality jobs act will begin to accrue. These other state programs include, but are
40 not limited to, the new jobs training program under sections 178.892 to 178.896,
41 RSMo, the job retention program under sections 178.760 to 178.764, RSMo, the
42 real property tax increment allocation redevelopment act, sections 99.800 to
43 99.865, RSMo, or the Missouri downtown and rural economic stimulus act under
44 sections 99.915 to 99.980, RSMo. If any qualified company also participates in
45 the new jobs training program in sections 178.892 to 178.896, RSMo, the company
46 shall retain no withholding tax, but the department shall issue a refundable tax
47 credit for the full amount of benefit allowed under this subdivision. The calendar
48 year annual maximum amount of tax credits which may be issued to a qualifying
49 company that also participates in the new job training program shall be increased
50 by an amount equivalent to the withholding tax retained by that company under
51 the new jobs training program. However, if the combined benefits of the quality
52 jobs program and the new jobs training program exceed the projected state
53 benefit of the project, as determined by the department of economic development
54 through a cost-benefit analysis, the increase in the maximum tax credits shall be
55 limited to the amount that would not cause the combined benefits to exceed the

56 projected state benefit. Any taxpayer who is awarded benefits under this
57 program who knowingly hires individuals who are not allowed to work legally in
58 the United States shall immediately forfeit such benefits and shall repay the
59 state an amount equal to any state tax credits already redeemed and any
60 withholding taxes already retained.

61 3. The types of projects and the amount of benefits to be provided are:

62 (1) Small and expanding business projects: in exchange for the
63 consideration provided by the new tax revenues and other economic stimuli that
64 will be generated by the new jobs created by the program, a qualified company
65 may retain an amount equal to the withholding tax as calculated under
66 subdivision (33) of section 620.1878 from the new jobs that would otherwise be
67 withheld and remitted by the qualified company under the provisions of sections
68 143.191 to 143.265, RSMo, for a period of three years from the date the required
69 number of new jobs were created if the average wage of the new payroll equals
70 or exceeds the county average wage or for a period of five years from the date the
71 required number of new jobs were created if the average wage of the new payroll
72 equals or exceeds one hundred twenty percent of the county average wage;

73 (2) Technology business projects: in exchange for the consideration
74 provided by the new tax revenues and other economic stimuli that will be
75 generated by the new jobs created by the program, a qualified company may
76 retain an amount equal to a maximum of five percent of new payroll for a period
77 of five years from the date the required number of jobs were created from the
78 withholding tax of the new jobs that would otherwise be withheld and remitted
79 by the qualified company under the provisions of sections 143.191 to 143.265,
80 RSMo, if the average wage of the new payroll equals or exceeds the county
81 average wage. An additional one-half percent of new payroll may be added to the
82 five percent maximum if the average wage of the new payroll in any year exceeds
83 one hundred twenty percent of the county average wage in the county in which
84 the project facility is located, plus an additional one-half percent of new payroll
85 may be added if the average wage of the new payroll in any year exceeds one
86 hundred forty percent of the average wage in the county in which the project
87 facility is located. The department shall issue a refundable tax credit for any
88 difference between the amount of benefit allowed under this subdivision and the
89 amount of withholding tax retained by the company, in the event the withholding
90 tax is not sufficient to provide the entire amount of benefit due to the qualified
91 company under this subdivision;

92 (3) High impact projects: in exchange for the consideration provided by
93 the new tax revenues and other economic stimuli that will be generated by the
94 new jobs created by the program, a qualified company may retain an amount from
95 the withholding tax of the new jobs that would otherwise be withheld and
96 remitted by the qualified company under the provisions of sections 143.191 to
97 143.265, RSMo, equal to three percent of new payroll for a period of five years
98 from the date the required number of jobs were created if the average wage of the
99 new payroll equals or exceeds the county average wage of the county in which the
100 project facility is located. For high-impact projects in a facility located within two
101 adjacent counties, the new payroll shall equal or exceed the higher county
102 average wage of the adjacent counties. The percentage of payroll allowed under
103 this subdivision shall be three and one-half percent of new payroll if the average
104 wage of the new payroll in any year exceeds one hundred twenty percent of the
105 county average wage in the county in which the project facility is located. The
106 percentage of payroll allowed under this subdivision shall be four percent of new
107 payroll if the average wage of the new payroll in any year exceeds one hundred
108 forty percent of the county average wage in the county in which the project
109 facility is located. An additional one percent of new payroll may be added to
110 these percentages if local incentives equal between ten percent and twenty-four
111 percent of the new direct local revenue; an additional two percent of new payroll
112 is added to these percentages if the local incentives equal between twenty-five
113 percent and forty-nine percent of the new direct local revenue; or an additional
114 three percent of payroll is added to these percentages if the local incentives equal
115 fifty percent or more of the new direct local revenue. The department shall issue
116 a refundable tax credit for any difference between the amount of benefit allowed
117 under this subdivision and the amount of withholding tax retained by the
118 company, in the event the withholding tax is not sufficient to provide the entire
119 amount of benefit due to the qualified company under this subdivision;

120 (4) Job retention projects: a qualified company may receive a tax credit
121 for the retention of jobs in this state, provided the qualified company and the
122 project meets all of the following conditions:

123 (a) For each of the twenty-four months preceding the year in which
124 application for the program is made the qualified company must have maintained
125 at least one thousand full-time employees at the employer's site in the state at
126 which the jobs are based, and the average wage of such employees must meet or
127 exceed the county average wage;

128 (b) The qualified company retained at the project facility the level of
129 full-time employees that existed in the taxable year immediately preceding the
130 year in which application for the program is made;

131 (c) The qualified company is considered to have a significant statewide
132 effect on the economy, and has been determined to represent a substantial risk
133 of relocation from the state by the quality jobs advisory task force established in
134 section 620.1887; provided, however, until such time as the initial at-large
135 members of the quality jobs advisory task force are appointed, this determination
136 shall be made by the director of the department of economic development;

137 (d) The qualified company in the project facility will cause to be invested
138 a minimum of seventy million dollars in new investment prior to the end of two
139 years or will cause to be invested a minimum of thirty million dollars in new
140 investment prior to the end of two years and maintain an annual payroll of at
141 least seventy million dollars during each of the years for which a credit is
142 claimed; and

143 (e) The local taxing entities shall provide local incentives of at least fifty
144 percent of the new direct local revenues created by the project over a ten-year
145 period. The quality jobs advisory task force may recommend to the department
146 of economic development that appropriate penalties be applied to the company for
147 violating the agreement. The amount of the job retention credit granted may be
148 equal to up to fifty percent of the amount of withholding tax generated by the
149 full-time jobs at the project facility for a period of five years. The calendar year
150 annual maximum amount of tax credit that may be issued to any qualified
151 company for a job retention project or combination of job retention projects shall
152 be seven hundred fifty thousand dollars per year, but the maximum amount may
153 be increased up to one million dollars if such action is proposed by the
154 department and approved by the quality jobs advisory task force established in
155 section 620.1887; provided, however, until such time as the initial at-large
156 members of the quality jobs advisory task force are appointed, this determination
157 shall be made by the director of the department of economic development. In
158 considering such a request, the task force shall rely on economic modeling and
159 other information supplied by the department when requesting the increased
160 limit on behalf of the job retention project. In no event shall the total amount of
161 all tax credits issued for the entire job retention program under this subdivision
162 exceed three million dollars annually. Notwithstanding the above, no tax credits
163 shall be issued for job retention projects approved by the department after August

164 30, 2013;

165 (5) Small business job retention and flood survivor relief: a qualified
166 company may receive a tax credit under sections 620.1875 to 620.1890 for the
167 retention of jobs and flood survivor relief in this state for each job retained over
168 a three-year period, provided that:

169 (a) The qualified company did not receive any state or federal benefits,
170 incentives, or tax relief or abatement in locating its facility in a flood plain;

171 (b) The qualified company and related companies have fewer than one
172 hundred employees at the time application for the program is made;

173 (c) The average wage of the qualified company's and related companies'
174 employees must meet or exceed the county average wage;

175 (d) All of the qualified company's and related companies' facilities are
176 located in this state;

177 (e) The facilities at the primary business site in this state have been
178 directly damaged by floodwater rising above the level of a five hundred year flood
179 at least two years, but fewer than eight years, prior to the time application is
180 made;

181 (f) The qualified company made significant efforts to protect the facilities
182 prior to any impending danger from rising floodwaters;

183 (g) For each year it receives tax credits under sections 620.1875 to
184 620.1890, the qualified company and related companies retained, at the
185 company's facilities in this state, at least the level of full-time, year-round
186 employees that existed in the taxable year immediately preceding the year in
187 which application for the program is made; and

188 (h) In the years it receives tax credits under sections 620.1875 to
189 620.1890, the company cumulatively invests at least two million dollars in capital
190 improvements in facilities and equipment located at such facilities that are not
191 located within a five hundred year flood plain as designated by the Federal
192 Emergency Management Agency, and amended from time to time. The amount
193 of the small business job retention and flood survivor relief credit granted may
194 be equal to up to one hundred percent of the amount of withholding tax generated
195 by the full-time jobs at the project facility for a period of three years. The
196 calendar year annual maximum amount of tax credit that may be issued to any
197 qualified company for a small business job retention and survivor relief project
198 shall be two hundred fifty thousand dollars per year, but the maximum amount
199 may be increased up to five hundred thousand dollars if such action is proposed

200 by the department and approved by the quality jobs advisory task force
201 established in section 620.1887. In considering such a request, the task force
202 shall rely on economic modeling and other information supplied by the
203 department when requesting an increase in the limit on behalf of the small
204 business job retention and flood survivor relief project. In no event shall the total
205 amount of all tax credits issued for the entire small business job retention and
206 flood survivor relief program under this subdivision exceed five hundred thousand
207 dollars annually. Notwithstanding the provisions of this subdivision to the
208 contrary, no tax credits shall be issued for small business job retention and flood
209 survivor relief projects approved by the department after August 30, 2010.

210 4. The qualified company shall provide an annual report of the number
211 of jobs and such other information as may be required by the department to
212 document the basis for the benefits of this program. The department may
213 withhold the approval of any benefits until it is satisfied that proper
214 documentation has been provided, and shall reduce the benefits to reflect any
215 reduction in full-time employees or new payroll. Upon approval by the
216 department, the qualified company may begin the retention of the withholding
217 taxes when it reaches the minimum number of new jobs and the average wage
218 exceeds the county average wage. Tax credits, if any, may be issued upon
219 satisfaction by the department that the qualified company has exceeded the
220 county average wage and the minimum number of new jobs. In such annual
221 report, if the average wage is below the county average wage, the qualified
222 company has not maintained the employee insurance as required, or if the
223 number of new jobs is below the minimum, the qualified company shall not
224 receive tax credits or retain the withholding tax for the balance of the benefit
225 period. In the case of a qualified company that initially filed a notice of intent
226 and received an approval from the department for high- impact benefits and the
227 minimum number of new jobs in an annual report is below the minimum for
228 high-impact projects, the company shall not receive tax credits for the balance of
229 the benefit period but may continue to retain the withholding taxes if it otherwise
230 meets the requirements of a small and expanding business under this program.

231 5. The maximum calendar year annual tax credits issued for the entire
232 program shall not exceed eighty million dollars, **except as provided in this**
233 **subsection. Beginning January 1, 2012, fifteen million dollars of such**
234 **eighty million dollars shall be used for retaining withholding tax by all**
235 **qualified manufacturing companies under section**

236 **620.1910.** Notwithstanding any provision of law to the contrary, the maximum
237 annual tax credits authorized under section 135.535, RSMo, are hereby reduced
238 from ten million dollars to eight million dollars, with the balance of two million
239 dollars transferred to this program. There shall be no limit on the amount of
240 withholding taxes that may be retained by approved companies under this
241 program.

242 6. The department shall allocate the annual tax credits based on the date
243 of the approval, reserving such tax credits based on the department's best
244 estimate of new jobs and new payroll of the project, and the other factors in the
245 determination of benefits of this program. However, the annual issuance of tax
246 credits is subject to the annual verification of the actual new payroll. The
247 allocation of tax credits for the period assigned to a project shall expire if, within
248 two years from the date of commencement of operations, or approval if applicable,
249 the minimum thresholds have not been achieved. The qualified company may
250 retain authorized amounts from the withholding tax under this section once the
251 minimum new jobs thresholds are met for the duration of the project period. No
252 benefits shall be provided under this program until the qualified company meets
253 the minimum new jobs thresholds. In the event the qualified company does not
254 meet the minimum new job threshold, the qualified company may submit a new
255 notice of intent or the department may provide a new approval for a new project
256 of the qualified company at the project facility or other facilities.

257 7. For a qualified company with flow-through tax treatment to its
258 members, partners, or shareholders, the tax credit shall be allowed to members,
259 partners, or shareholders in proportion to their share of ownership on the last
260 day of the qualified company's tax period.

261 8. Tax credits may be claimed against taxes otherwise imposed by
262 chapters 143 and 148, RSMo, and may not be carried forward but shall be claimed
263 within one year of the close of the taxable year for which they were issued, except
264 as provided under subdivision (4) of subsection 3 of this section.

265 9. Tax credits authorized by this section may be transferred, sold, or
266 assigned by filing a notarized endorsement thereof with the department that
267 names the transferee, the amount of tax credit transferred, and the value received
268 for the credit, as well as any other information reasonably requested by the
269 department.

270 10. Prior to the issuance of tax credits, the department shall verify
271 through the department of revenue, or any other state department, that the tax

272 credit applicant does not owe any delinquent income, sales, or use tax or interest
273 or penalties on such taxes, or any delinquent fees or assessments levied by any
274 state department and through the department of insurance, financial institutions
275 and professional registration that the applicant does not owe any delinquent
276 insurance taxes. Such delinquency shall not affect the authorization of the
277 application for such tax credits, except that at issuance credits shall be first
278 applied to the delinquency and any amount issued shall be reduced by the
279 applicant's tax delinquency. If the department of revenue or the department of
280 insurance, financial institutions and professional registration, or any other state
281 department, concludes that a taxpayer is delinquent after June fifteenth but
282 before July first of any year and the application of tax credits to such delinquency
283 causes a tax deficiency on behalf of the taxpayer to arise, then the taxpayer shall
284 be granted thirty days to satisfy the deficiency in which interest, penalties, and
285 additions to tax shall be tolled. After applying all available credits toward a tax
286 delinquency, the administering agency shall notify the appropriate department
287 and that department shall update the amount of outstanding delinquent tax owed
288 by the applicant. If any credits remain after satisfying all insurance, income,
289 sales, and use tax delinquencies, the remaining credits shall be issued to the
290 applicant, subject to the restrictions of other provisions of law.

291 11. Except as provided under subdivision (4) of subsection 3 of this
292 section, the director of revenue shall issue a refund to the qualified company to
293 the extent that the amount of credits allowed in this section exceeds the amount
294 of the qualified company's income tax.

295 12. An employee of a qualified company will receive full credit for the
296 amount of tax withheld as provided in section 143.211, RSMo.

297 13. If any provision of sections 620.1875 to 620.1890 or application thereof
298 to any person or circumstance is held invalid, the invalidity shall not affect other
299 provisions or application of these sections which can be given effect without the
300 invalid provisions or application, and to this end, the provisions of sections
301 620.1875 to 620.1890 are hereby declared severable.

620.1910. 1. This section shall be known and may be cited as the
2 **"Manufacturing Jobs Act".**

3 **2. As used in this section, the following terms mean:**

4 **(1) "Approval", a document submitted by the department to the**
5 **qualified manufacturing company or qualified supplier that states the**
6 **benefits that may be provided under this section;**

7 (2) "Capital investment", expenditures made by a qualified
8 manufacturing company to retool or reconfigure a manufacturing
9 facility directly related to the manufacturing of a new product or the
10 expansion or modification of the manufacture of an existing product;

11 (3) "County average wage", the same meaning as such term is
12 defined in section 620.1878;

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

14 (5) "Facility", a building or buildings located in Missouri at which
15 the qualified manufacturing company manufactures a product;

16 (6) "Full-time job", a job for which a person is compensated for
17 an average of at least thirty-five hours per week for a twelve-month
18 period, and one for which the qualified manufacturing company or
19 qualified supplier offers health insurance and pays at least fifty
20 percent of such insurance premiums;

21 (7) "NAICS industry classification", the most recent edition of the
22 North American Industry Classification System as prepared by the
23 Executive Office of the President, Office of Management and Budget;

24 (8) "New job", the same meaning as such term is defined in
25 section 620.1878;

26 (9) "New product", a new model or line of a manufactured good
27 that has not been manufactured in Missouri by the qualified
28 manufacturing company at any time prior to the date of the notice of
29 intent, or an existing brand, model, or line of a manufactured good that
30 is redesigned with more than seventy-five percent new exterior body
31 parts and incorporates new powertrain options;

32 (10) "Notice of intent", a form developed by the department,
33 completed by the qualified manufacturing company or qualified
34 supplier and submitted to the department which states the qualified
35 manufacturing company's or qualified supplier's intent to create new
36 jobs or retain current jobs and make additional capital investment, as
37 applicable, and request benefits under this section. The notice of intent
38 shall specify the minimum number of such new or retained jobs and the
39 minimum amount of such capital investment;

40 (11) "Qualified manufacturing company", a business with a NAICS
41 code of 336 that:

42 (a) Manufactures goods at a facility in Missouri;

43 (b) In the case of the manufacture of a new product, commits to

44 make a capital investment of at least seventy-five thousand dollars per
45 retained job within no more than two years of the date the qualified
46 manufacturing company begins to retain withholding tax under this
47 section, or in the case of the modification or expansion of the
48 manufacture of an existing product, commits to make a capital
49 investment of at least fifty thousand dollars per retained job within no
50 more than two years of the date the qualified manufacturing company
51 begins to retain withholding tax under this section;

52 (c) Manufactures a new product or has commenced making
53 capital improvements to the facility necessary for the manufacturing
54 of such new product, or modifies or expands the manufacture of an
55 existing product or has commenced making capital improvements to
56 the facility necessary for the modification or expansion of the
57 manufacture of such existing product; and

58 (d) Continues to meet the requirements of paragraphs (a) to (c)
59 of this subdivision for the withholding period;

60 (12) "Qualified supplier", a manufacturing company that:

61 (a) Attests to the department that it derives more than ten
62 percent of the total annual sales of the company from sales to a
63 qualified manufacturing company;

64 (b) Adds five or more new jobs;

65 (c) Has an average wage, as defined in section 135.950, for such
66 new jobs that are equal to or exceed the lower of the county average
67 wage for Missouri as determined by the department using NAICS
68 industry classifications, but not lower than sixty percent of the
69 statewide average wage; and

70 (d) Provides health insurance to employees and pays at least
71 fifty percent of the premiums of such insurance;

72 (13) "Retained job", the number of full-time jobs of persons
73 employed by the qualified manufacturing company located at the
74 facility that existed as of the last working day of the month
75 immediately preceding the month in which notice of intent is
76 submitted;

77 (14) "Statewide average wage", an amount equal to the quotient
78 of the sum of the total gross wages paid for the corresponding four
79 calendar quarters divided by the average annual employment for such
80 four calendar quarters, which shall be computed using the Quarterly

81 **Census of Employment and Wages Data for All Private Ownership**
82 **Businesses in Missouri, as published by the Bureau of Labor Statistics**
83 **of the United States Department of Labor;**

84 **(15) "Withholding period", the seven- or ten-year period in which**
85 **a qualified manufacturing company may receive benefits under this**
86 **section;**

87 **(16) "Withholding tax", the same meaning as such term is defined**
88 **in section 620.1878.**

89 **3. The department shall respond within thirty days to a qualified**
90 **manufacturing company or a qualified supplier who provides a notice**
91 **of intent with either an approval or a rejection of the notice of**
92 **intent. Failure to respond on behalf of the department shall result in**
93 **the notice of intent being deemed an approval for the purposes of this**
94 **section.**

95 **4. A qualified manufacturing company that manufactures a new**
96 **product may, upon the department's approval of a notice of intent and**
97 **the execution of an agreement that meets the requirements of**
98 **subsection 9 of this section, but no earlier than January 1, 2012, retain**
99 **one hundred percent of the withholding tax from full-time jobs at the**
100 **facility for a period of ten years. A qualified manufacturing company**
101 **that modifies or expands the manufacture of an existing product may,**
102 **upon the department's approval of a notice of intent and the execution**
103 **of an agreement that meets the requirements of subsection 9 of this**
104 **section, but no earlier than January 1, 2012, retain fifty percent of the**
105 **withholding tax from full-time jobs at the facility for a period of seven**
106 **years. Except as otherwise allowed under subsection 7 of this section,**
107 **the commencement of the withholding period may be delayed by no**
108 **more than twenty-four months after execution of the agreement at the**
109 **option of the qualified manufacturing company. Such qualified**
110 **manufacturing company shall be eligible for participation in the**
111 **Missouri quality jobs program in sections 620.1875 to 620.1890 for any**
112 **new jobs for which it does not retain withholding tax under this**
113 **section, provided all qualifications for such program are met.**

114 **5. A qualified supplier may, upon approval of a notice of intent**
115 **by the department, retain all withholding tax from new jobs for a**
116 **period of three years from the date of approval of the notice of intent**
117 **or for a period of five years if the supplier pays wages for the new jobs**

118 equal to or greater than one hundred twenty percent of county average
119 wage. Notwithstanding any other provision of law to the contrary, a
120 qualified supplier that is awarded benefits under this section shall not
121 receive any tax credit or exemption or be entitled to retain withholding
122 under sections 100.700 to 100.850, sections 135.100 to 135.150, sections
123 135.200 to 135.286, section 135.535, sections 135.900 to 135.906, sections
124 135.950 to 135.970, or section 620.1881 for the same jobs.

125 6. Notwithstanding any other provision of law to the contrary,
126 the maximum amount of withholding tax that may be retained by any
127 one qualified manufacturing company under this section shall not
128 exceed ten million dollars per calendar year. The aggregate amount of
129 withholding tax that may be retained by all qualified manufacturing
130 companies under this section shall not exceed fifteen million dollars
131 per calendar year.

132 7. Notwithstanding any other provision of law to the contrary,
133 any qualified manufacturing company that is awarded benefits under
134 this section shall not simultaneously receive tax credits or exemptions
135 under sections 100.700 to 100.850, sections 135.100 to 135.150, sections
136 135.200 to 135.286, section 135.535, or sections 135.900 to 135.906 for the
137 jobs created or retained or capital improvement which qualified for
138 benefits under this section. The benefits available to the qualified
139 manufacturing company under any other state programs for which the
140 qualified manufacturing company is eligible and which utilize
141 withholding tax from the jobs at the facility shall first be credited to
142 the other state program before the applicable withholding period for
143 benefits provided under this section shall begin. These other state
144 programs include, but are not limited to, the new jobs training program
145 under sections 178.892 to 178.896, the job retention program under
146 sections 178.760 to 178.764, the real property tax increment allocation
147 redevelopment act under sections 99.800 to 99.865, or the Missouri
148 downtown and rural economic stimulus act under sections 99.915 to
149 99.980. If any qualified manufacturing company also participates in the
150 new jobs training program in sections 178.892 to 178.896, such qualified
151 manufacturing company shall not retain any withholding tax that has
152 already been allocated for use in the new jobs training program. Any
153 taxpayer who is awarded benefits under this program who knowingly
154 hires individuals who are not allowed to work legally in the United

155 States shall immediately forfeit such benefits and shall repay the state
156 an amount equal to any withholding taxes already retained. Subsection
157 5 of section 285.530 shall not apply to taxpayers awarded benefits under
158 this program.

159 8. The department may promulgate rules to implement the
160 provisions of this section. Any rule or portion of a rule, as that term is
161 defined in section 536.010, that is created under the authority delegated
162 in this section shall become effective only if it complies with and is
163 subject to all of the provisions of chapter 536 and, if applicable, section
164 536.028. This section and chapter 536 are nonseverable and if any of
165 the powers vested with the general assembly under chapter 536 to
166 review, to delay the effective date, or to disapprove and annul a rule
167 are subsequently held unconstitutional, then the grant of rulemaking
168 authority and any rule proposed or adopted after the effective date of
169 this section shall be invalid and void.

170 9. Within six months of completion of a notice of intent required
171 under this section, the qualified manufacturing company shall enter
172 into an agreement with the department that memorializes the content
173 of the notice of intent, the requirements of this section, and the
174 consequences for failing to meet such requirements, which shall include
175 the following:

176 (1) If the amount of capital investment made by the qualified
177 manufacturing company is not made within the two-year period
178 provided for such investment, the qualified manufacturing company
179 shall immediately cease retaining any withholding tax with respect to
180 jobs at the facility and it shall forfeit all rights to retain withholding
181 tax for the remainder of the withholding period. In addition, the
182 qualified manufacturing company shall repay any amounts of
183 withholding tax retained plus interest of five percent per
184 annum. However, in the event that such capital investment shortfall is
185 due to economic conditions beyond the control of the qualified
186 manufacturing company, the director may, at the qualified
187 manufacturing company's request, suspend rather than terminate its
188 privilege to retain withholding tax under this section for up to three
189 years. Any such suspension shall extend the withholding period by the
190 same amount of time. No more than one such suspension shall be
191 granted to a qualified manufacturing company;

192 **(2) If the qualified manufacturing company discontinues the**
193 **manufacturing of the new product and does not replace it with a**
194 **subsequent or additional new product manufactured at the facility at**
195 **any time during the withholding period, the qualified manufacturing**
196 **company shall immediately cease retaining any withholding tax with**
197 **respect to jobs at that facility and it shall forfeit all rights to retain**
198 **withholding tax for the remainder of the withholding period.**

199 **10. Prior to March first each year, the department shall provide**
200 **a report to the general assembly including the names of participating**
201 **qualified manufacturing companies or qualified suppliers, location of**
202 **such companies or suppliers, the annual amount of benefits provided,**
203 **the estimated net state fiscal impact including direct and indirect new**
204 **state taxes derived, and the number of new jobs created or jobs**
205 **retained.**

206 **11. Under section 23.253 of the Missouri sunset act:**

207 **(1) The provisions of the new program authorized under this**
208 **section shall automatically sunset six years after the effective date of**
209 **this section unless reauthorized by an act of the general assembly; and**

210 **(2) If such program is reauthorized, the program authorized**
211 **under this section shall automatically sunset twelve years after the**
212 **effective date of the reauthorization of this section; and**

213 **(3) This section shall terminate on September first of the**
214 **calendar year immediately following the calendar year in which the**
215 **program authorized under this section is sunset.**

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