

FIRST EXTRAORDINARY SESSION

SENATE BILL NO. 4

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KRAUS.

Read 1st time September 6, 2011, and ordered printed.

TERRY L. SPIELER, Secretary.

0015S.02I

AN ACT

To repeal sections 620.1878 and 620.1881, RSMo, and to enact in lieu thereof two new sections relating to the Missouri quality jobs act.

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

Section A. Sections 620.1878 and 620.1881, RSMo, are repealed and two
2 new sections enacted in lieu thereof, to be known as sections 620.1878 and
3 620.1881, to read as follows:

620.1878. For the purposes of sections 620.1875 to 620.1890, the following
2 terms shall mean:

3 (1) "Approval", a document submitted by the department to the qualified
4 company that states the benefits that may be provided by this program;

5 (2) "Average wage", the new payroll divided by the number of new jobs;

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

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

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

19 from which jobs are being relocated or the county average wage for their project
20 shall be the county average wage for the county from which the employees are
21 being relocated;

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

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

24 (7) "Employee", a person employed by a qualified company;

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

29 (9) "High-impact project", a qualified company that, within two years from
30 commencement of operations, creates one hundred or more new jobs;

31 (10) "Local incentives", the present value of the dollar amount of direct
32 benefit received by a qualified company for a project facility from one or more
33 local political subdivisions, but shall not include loans or other funds provided to
34 the qualified company that must be repaid by the qualified company to the
35 political subdivision;

36 (11) "NAICS", the 1997 edition of the North American Industry
37 Classification System as prepared by the Executive Office of the President, Office
38 of Management and Budget. Any NAICS sector, subsector, industry group or
39 industry identified in this section shall include its corresponding classification in
40 subsequent federal industry classification systems;

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

47 (13) **"New capital investment", shall include costs incurred by the**
48 **qualified company at the project facility after acceptance by the**
49 **qualified company of the proposal for benefits from the department or**
50 **the approval of the notice of intent, whichever occurs first, for real or**
51 **personal property, and may include the value of finance or capital**
52 **leases for real or personal property for the term of such lease at the**
53 **project facility executed after acceptance by the qualified company of**
54 **the proposal for benefits from the department or approval of the notice**

55 **of intent;**

56 (14) "New investment", the purchase or leasing of new tangible assets to
57 be placed in operation at the project facility, which will be directly related to the
58 new jobs;

59 [(14)] (15) "New job", the number of full-time employees located at the
60 project facility that exceeds the project facility base employment less any decrease
61 in the number of full-time employees at related facilities below the related facility
62 base employment. No job that was created prior to the date of the notice of intent
63 shall be deemed a new job. An employee that spends less than fifty percent of the
64 employee's work time at the facility is still considered to be located at a facility
65 if the employee receives his or her directions and control from that facility, is on
66 the facility's payroll, one hundred percent of the employee's income from such
67 employment is Missouri income, and the employee is paid at or above the state
68 average wage;

69 [(15)] (16) "New payroll", the amount of taxable wages of full-time
70 employees, excluding owners, located at the project facility that exceeds the
71 project facility base payroll. If full-time employment at related facilities is below
72 the related facility base employment, any decrease in payroll for full-time
73 employees at the related facilities below that related facility base payroll shall
74 also be subtracted to determine new payroll;

75 [(16)] (17) "Notice of intent", a form developed by the department,
76 completed by the qualified company and submitted to the department which
77 states the qualified company's intent to hire new jobs and request benefits under
78 this program;

79 [(17)] (18) "Percent of local incentives", the amount of local incentives
80 divided by the amount of new direct local revenue;

81 [(18)] (19) "Program", the Missouri quality jobs program provided in
82 sections 620.1875 to 620.1890;

83 [(19)] (20) "Project facility", the building used by a qualified company at
84 which the new jobs and new investment will be located. A project facility may
85 include separate buildings that are located within fifteen miles of each other or
86 within the same county such that their purpose and operations are interrelated;

87 [(20)] (21) "Project facility base employment", the greater of the number
88 of full-time employees located at the project facility on the date of the notice of
89 intent or for the twelve-month period prior to the date of the notice of intent, the
90 average number of full-time employees located at the project facility. In the event

91 the project facility has not been in operation for a full twelve-month period, the
92 average number of full-time employees for the number of months the project
93 facility has been in operation prior to the date of the notice of intent;

94 ~~[(21)]~~ **(22)** "Project facility base payroll", the total amount of taxable
95 wages paid by the qualified company to full-time employees of the qualified
96 company located at the project facility in the twelve months prior to the notice of
97 intent, not including the payroll of the owners of the qualified company unless the
98 qualified company is participating in an employee stock ownership plan. For
99 purposes of calculating the benefits under this program, the amount of base
100 payroll shall increase each year based on an appropriate measure, as determined
101 by the department;

102 ~~[(22)]~~ **(23)** "Project period", the time period that the benefits are provided
103 to a qualified company;

104 **(24) "Projected net fiscal benefit", the total fiscal benefit to the**
105 **state less any state benefits offered to the qualified company;**

106 ~~[(23)]~~ **(25)** "Qualified company", a firm, partnership, joint venture,
107 association, private or public corporation whether organized for profit or not, or
108 headquarters of such entity registered to do business in Missouri that is the
109 owner or operator of a project facility, offers health insurance to all full-time
110 employees of all facilities located in this state, and pays at least fifty percent of
111 such insurance premiums. For the purposes of sections 620.1875 to 620.1890, the
112 term "qualified company" shall not include:

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

114 (b) Retail trade establishments (NAICS sectors 44 and 45);

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

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

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

120 (f) Any company that has filed for or has publicly announced its intention
121 to file for bankruptcy protection. However, a company that has filed for or has
122 publicly announced its intention to file for bankruptcy between January 1, 2009,
123 and December 31, 2009, may be a qualified company provided that such company:

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

126 b. After its bankruptcy petition has been filed, it produces proof, in a form

127 and at times satisfactory to the department, that it is not delinquent in filing any
128 tax returns or making any payment due to the state of Missouri, including but
129 not limited to all tax payments due after the filing of the bankruptcy petition and
130 under the terms of the plan of reorganization. Any taxpayer who is awarded
131 benefits under this subsection and who files for bankruptcy under Chapter 7 of
132 the United States Bankruptcy Code, Title 11 U.S.C., shall immediately notify the
133 department and shall forfeit such benefits and shall repay the state an amount
134 equal to any state tax credits already redeemed and any withholding taxes
135 already retained;

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

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

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

139 (j) Ethanol distillation or production; or

140 (k) Biodiesel production. Notwithstanding any provision of this section
141 to the contrary, the headquarters or administrative offices of an otherwise
142 excluded business may qualify for benefits if the offices serve a multistate
143 territory. In the event a national, state, or regional headquarters operation is not
144 the predominant activity of a project facility, the new jobs and investment of such
145 headquarters operation is considered eligible for benefits under this section if the
146 other requirements are satisfied;

147 [(24)] **(26)** "Qualified renewable energy sources" shall not be construed
148 to include ethanol distillation or production or biodiesel production; however, it
149 shall include:

150 (a) Open-looped biomass;

151 (b) Close-looped biomass;

152 (c) Solar;

153 (d) Wind;

154 (e) Geothermal; and

155 (f) Hydropower;

156 [(25)] **(27)** "Related company" means:

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

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

161 (c) Corporations, partnerships, trusts or associations controlled by an
162 individual, corporation, partnership, trust or association in control of the

163 qualified company. As used in this subdivision, "control of a corporation" shall
164 mean ownership, directly or indirectly, of stock possessing at least fifty percent
165 of the total combined voting power of all classes of stock entitled to vote, "control
166 of a partnership or association" shall mean ownership of at least fifty percent of
167 the capital or profits interest in such partnership or association, "control of a
168 trust" shall mean ownership, directly or indirectly, of at least fifty percent of the
169 beneficial interest in the principal or income of such trust, and ownership shall
170 be determined as provided in Section 318 of the Internal Revenue Code of 1986,
171 as amended;

172 [(26)] **(28)** "Related facility", a facility operated by the qualified company
173 or a related company located in this state that is directly related to the operations
174 of the project facility;

175 [(27)] **(29)** "Related facility base employment", the greater of the number
176 of full-time employees located at all related facilities on the date of the notice of
177 intent or for the twelve-month period prior to the date of the notice of intent, the
178 average number of full-time employees located at all related facilities of the
179 qualified company or a related company located in this state;

180 [(28)] **(30)** "Related facility base payroll", the total amount of taxable
181 wages paid by the qualified company to full-time employees of the qualified
182 company located at a related facility in the twelve months prior to the filing of
183 the notice of intent, not including the payroll of the owners of the qualified
184 company unless the qualified company is participating in an employee stock
185 ownership plan. For purposes of calculating the benefits under this program, the
186 amount of related facility base payroll shall increase each year based on an
187 appropriate measure, as determined by the department;

188 [(29)] **(31)** "Rural area", a county in Missouri with a population less than
189 seventy-five thousand or that does not contain an individual city with a
190 population greater than fifty thousand according to the most recent federal
191 decennial census;

192 [(30)] **(32)** "Small and expanding business project", a qualified company
193 that within two years of the date of the approval creates a minimum of twenty
194 new jobs if the project facility is located in a rural area or a minimum of forty
195 new jobs if the project facility is not located in a rural area and creates fewer
196 than one hundred new jobs regardless of the location of the project facility;

197 [(31)] **(33)** "Tax credits", tax credits issued by the department to offset
198 the state income taxes imposed by chapters 143 and 148, or which may be sold

199 or refunded as provided for in this program;

200 [(32)] (34) "Technology business project", a qualified company that within
201 two years of the date of the approval creates a minimum of ten new jobs involved
202 in the operations of a company:

203 (a) Which is a technology company, as determined by a regulation
204 promulgated by the department under the provisions of section 620.1884 or
205 classified by NAICS codes;

206 (b) Which owns or leases a facility which produces electricity derived from
207 qualified renewable energy sources, or produces fuel for the generation of
208 electricity from qualified renewable energy sources, but does not include any
209 company that has received the alcohol mixture credit, alcohol credit, or small
210 ethanol producer credit pursuant to 26 U.S.C. Section 40 of the tax code in the
211 previous tax year;

212 (c) Which researches, develops, or manufactures power system technology
213 for: aerospace; space; defense; hybrid vehicles; or implantable or wearable
214 medical devices; or

215 (d) Which is a clinical molecular diagnostic laboratory focused on
216 detecting and monitoring infections in immunocompromised patient populations;

217 [(33)] (35) "Withholding tax", the state tax imposed by sections 143.191
218 to 143.265. For purposes of this program, the withholding tax shall be computed
219 using a schedule as determined by the department based on average wages.

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)] **(20)** of section 620.1878 to
28 the new notice of intent as well as all previously approved notices of intent and
29 shall 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 at the same
35 project facility. The benefits available to the company under any other state
36 programs for which the company is eligible and which utilize withholding tax
37 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 the job retention program under sections 178.760 to 178.764, the real property tax
42 increment allocation redevelopment act, sections 99.800 to 99.865, or the Missouri
43 downtown and rural economic stimulus act under sections 99.915 to 99.980. If
44 any qualified company also participates in the new jobs training program in
45 sections 178.892 to 178.896, the company shall retain no withholding tax, but the
46 department shall issue a refundable tax credit for the full amount of benefit
47 allowed under this [subdivision] **subsection**. The calendar year annual
48 maximum amount of tax credits which may be issued to a qualifying company
49 that also participates in the new job training program shall be increased by an
50 amount equivalent to the withholding tax retained by that company under the
51 new jobs training program. However, if the combined benefits of the quality jobs

52 program and the new jobs training program exceed the projected state benefit of
53 the project, as determined by the department of economic development through
54 a cost-benefit analysis, the increase in the maximum tax credits shall be limited
55 to the amount that would not cause the combined benefits to exceed the projected
56 state benefit. Any taxpayer who is awarded benefits under this program who
57 knowingly hires individuals who are not allowed to work legally in the United
58 States shall immediately forfeit such benefits and shall repay the state an
59 amount equal to any state tax credits already redeemed and any withholding
60 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)] (35) of section 620.1878 from the new jobs that would otherwise
67 be withheld and remitted by the qualified company under the provisions of
68 sections 143.191 to 143.265 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 if
80 the average wage of the new payroll equals or exceeds the county average wage.
81 An additional one-half percent of new payroll may be added to the five percent
82 maximum if the average wage of the new payroll in any year exceeds one hundred
83 twenty percent of the county average wage in the county in which the project
84 facility is located, plus an additional one-half percent of new payroll may be
85 added if the average wage of the new payroll in any year exceeds one hundred
86 forty percent of the average wage in the county in which the project facility is
87 located. The department shall issue a refundable tax credit for any difference

88 between the amount of benefit allowed under this subdivision and the amount of
89 withholding tax retained by the company, in the event the withholding tax is not
90 sufficient to provide the entire amount of benefit due to the qualified company
91 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, equal to three percent of new payroll for a period of five years from the
98 date the required number of jobs were created if the average wage of the new
99 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) Job retention projects: In lieu of the benefits provided under**
166 **subdivision (4) of this subsection and in exchange for the consideration**
167 **provided by the tax revenues and other economic stimuli that will be**
168 **generated by the retention of jobs and new capital investment in this**
169 **state, a qualified company may be eligible to receive the benefits**
170 **described in this subdivision if the department determines that there**
171 **is a significant probability that the qualified company would relocate**
172 **to another state in the absence of the benefits authorized under this**
173 **subdivision;**

174 **(a) A qualified company meeting the requirements of this**
175 **subdivision may be authorized to retain an amount not to exceed one**
176 **hundred percent of the withholding tax from full-time jobs that would**
177 **otherwise be withheld and remitted by the qualified company under the**
178 **provisions of sections 143.191 to 143.265, for a period of ten years if the**
179 **average wage of the retained jobs equals or exceeds ninety percent of**
180 **the county average wage. In order to receive benefits under this**
181 **subdivision, a qualified company shall enter into a written agreement,**
182 **with the department, containing detailed performance requirements**
183 **and repayment penalties in the event of nonperformance. The amount**
184 **of benefits awarded to a qualified company under this subdivision shall**
185 **not exceed the projected net fiscal benefit and shall not exceed the**
186 **least amount necessary to obtain the qualified company's commitment**
187 **to retain the necessary number of jobs and make the required new**
188 **capital investment;**

189 **(b) In order to be eligible to receive benefits under this**
190 **subdivision, the qualified company shall meet each of the following**
191 **conditions:**

192 **a. The qualified company shall agree to retain, for a period of**
193 **ten years from the date of approval of the notice of intent, at least one**
194 **hundred and twenty-five full-time employees; and**

195 **b. The qualified company shall agree to make a new capital**
196 **investment at the project facility within three years from the approval**

197 of the notice of intent in an amount equal to one half the total benefits
198 provided under this subdivision, which are offered to the qualified
199 company by the department;

200 (c) In awarding benefits under this subdivision, the department
201 shall consider the following factors:

202 a. The significance of the qualified company's need for program
203 benefits;

204 b. The amount of projected net fiscal benefit to the state of the
205 project and the period in which the state would realize such net fiscal
206 benefit;

207 c. The overall size and quality of the proposed project, including
208 the number of new jobs, new capital investment, proposed wages,
209 growth potential of the qualified company, the potential multiplier
210 effect of the project, and similar factors;

211 d. The financial stability and creditworthiness of the qualified
212 company;

213 e. The level of economic distress in the area;

214 f. An evaluation of the competitiveness of alternative locations
215 for the project facility, as applicable;

216 (d) Upon approval of a notice of intent to request benefits under
217 this subdivision, the department and the qualified company shall enter
218 into a written agreement covering the applicable project period. The
219 agreement shall specify, at a minimum:

220 a. The committed number of full-time employees, payroll, and
221 new capital investment for each year during the project period;

222 b. Clawback provisions, as may be required by the department;
223 and

224 c. Any other provisions the department may require;

225 (6) In no event shall the total amount of all benefits provided in
226 subsection (5) of this section for all qualified companies under this
227 subdivision exceed six million dollars for all fiscal years beginning on
228 or after July 1, 2011, but ending on or before June 30, 2014;

229 (7) A qualified company meeting the requirements of subdivision
230 (5) of this subsection may elect a one-time issuance of tax credits in an
231 amount not to exceed eighty percent of the amount the qualified
232 company may otherwise be eligible to retain for a period of ten years
233 under subdivision (5) of this subsection;

234 (a) In addition to satisfying each of the requirements of
235 subdivision (5) of this subsection, a qualified company requesting tax
236 credits under this subdivision shall provide to the department, prior to
237 approval, evidence of commitments for the financing of any applicable
238 new capital investment. The new capital investment shall be made at
239 the project facility within three years of the date of approval;

240 (b) Upon approval of a notice of intent to request tax credits
241 under this subdivision, the department and the qualified company shall
242 enter into a written agreement covering the applicable project
243 period. The agreement shall specify, at a minimum:

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

246 b. The date or time period during which the tax credits shall be
247 issued, which may be immediately or over a period not to exceed three
248 years from the date of approval;

249 c. Penalties, including the recapture of tax credits awarded
250 under this subdivision, for failure to satisfy the requirements provided
251 under this subdivision and subdivision (5) of this subsection; and

252 d. Any other provisions the department may require.

253 (c) By no later than thirty days following the effective date of
254 this act, and the first day of October each year thereafter, the
255 department shall provide to the budget committee of the house of
256 representatives and the appropriations committee of the senate a
257 request for an appropriation for the tax credits authorized under this
258 subdivision. Appropriations made under the provisions of this
259 subdivision shall provide the amount of tax credits which may be
260 authorized during the fiscal year immediately following the fiscal year
261 in which such appropriation is made. Appropriations provided under
262 this subdivision shall only be made in the annual appropriation bill
263 relating to public debt;

264 (d) There is hereby created in the state treasury the "Missouri
265 Quality Jobs Retention Tax Credit Program Fund", which shall consist
266 of money appropriated under this subsection. The state treasurer shall
267 be custodian of the fund and may approve disbursements from the fund
268 in accordance with sections 30.170 and 30.180. Upon appropriation,
269 money in the fund shall be used solely for the administration of this
270 subdivision. Notwithstanding the provisions of section 33.080 to the

271 **contrary, any moneys remaining in the fund for tax credits which have**
272 **been authorized but not yet redeemed at the end of the fiscal year shall**
273 **not revert to the credit of the general revenue fund. Any moneys**
274 **remaining in the fund at the end of the fiscal year for any tax credits**
275 **which remain unauthorized at the end of the fiscal year shall revert to**
276 **the credit of the general revenue fund. Provisions of section 32.057 to**
277 **the contrary notwithstanding, the department of revenue shall notify**
278 **the director of the department upon redemption of each tax credit**
279 **authorized under the provisions of this subdivision. Upon such**
280 **notification, an amount equal to the tax credits redeemed shall be**
281 **transferred from the fund created in this subdivision to the general**
282 **revenue fund. In the event the department determines that any tax**
283 **credit authorized under this subsection is precluded from being**
284 **redeemed due to contractual agreement entered into by the department**
285 **and the tax credit applicant or is otherwise precluded by law from**
286 **being redeemed, an amount equal to such tax credit shall be**
287 **transferred from the fund created in this subdivision to the general**
288 **revenue fund. The state treasurer shall invest moneys in the fund in**
289 **the same manner as other funds are invested. Any interest and moneys**
290 **earned on such investments shall be credited to the general revenue**
291 **fund at the end of each fiscal year;**

292 **[(5)] (8) Small business job retention and flood survivor relief: a**
293 **qualified company may receive a tax credit under sections 620.1875 to 620.1890**
294 **for the retention of jobs and flood survivor relief in this state for each job retained**
295 **over a three-year period, provided that:**

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

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

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

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

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

307 made;

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

310 (g) For each year it receives tax credits under sections 620.1875 to
311 620.1890, the qualified company and related companies retained, at the
312 company's facilities in this state, at least the level of full-time, year-round
313 employees that existed in the taxable year immediately preceding the year in
314 which application for the program is made; and

315 (h) In the years it receives tax credits under sections 620.1875 to
316 620.1890, the company cumulatively invests at least two million dollars in capital
317 improvements in facilities and equipment located at such facilities that are not
318 located within a five hundred year flood plain as designated by the Federal
319 Emergency Management Agency, and amended from time to time. The amount
320 of the small business job retention and flood survivor relief credit granted may
321 be equal to up to one hundred percent of the amount of withholding tax generated
322 by the full-time jobs at the project facility for a period of three years. The
323 calendar year annual maximum amount of tax credit that may be issued to any
324 qualified company for a small business job retention and survivor relief project
325 shall be two hundred fifty thousand dollars per year, but the maximum amount
326 may be increased up to five hundred thousand dollars if such action is proposed
327 by the department and approved by the quality jobs advisory task force
328 established in section 620.1887. In considering such a request, the task force
329 shall rely on economic modeling and other information supplied by the
330 department when requesting an increase in the limit on behalf of the small
331 business job retention and flood survivor relief project. In no event shall the total
332 amount of all tax credits issued for the entire small business job retention and
333 flood survivor relief program under this subdivision exceed five hundred thousand
334 dollars annually. Notwithstanding the provisions of this subdivision to the
335 contrary, no tax credits shall be issued for small business job retention and flood
336 survivor relief projects approved by the department after August 30, 2010.

337 4. The qualified company shall provide an annual report of the number
338 of jobs and such other information as may be required by the department to
339 document the basis for the benefits of this program. The department may
340 withhold the approval of any benefits until it is satisfied that proper
341 documentation has been provided, and shall reduce the benefits to reflect any
342 reduction in full-time employees or new payroll. Upon approval by the

343 department, the qualified company may begin the retention of the withholding
344 taxes when it reaches the minimum number of new jobs and the average wage
345 exceeds the county average wage. Tax credits, if any, may be issued upon
346 satisfaction by the department that the qualified company has exceeded the
347 county average wage and the minimum number of new jobs. In such annual
348 report, if the average wage is below the county average wage, the qualified
349 company has not maintained the employee insurance as required, or if the
350 number of new jobs is below the minimum, the qualified company shall not
351 receive tax credits or retain the withholding tax for the balance of the benefit
352 period. In the case of a qualified company that initially filed a notice of intent
353 and received an approval from the department for high-impact benefits and the
354 minimum number of new jobs in an annual report is below the minimum for
355 high-impact projects, the company shall not receive tax credits for the balance of
356 the benefit period but may continue to retain the withholding taxes if it otherwise
357 meets the requirements of a small and expanding business under this program.

358 5. The maximum calendar year annual tax credits issued for the entire
359 program shall not exceed eighty million dollars. Notwithstanding any provision
360 of law to the contrary, the maximum annual tax credits authorized under section
361 135.535 are hereby reduced from ten million dollars to eight million dollars, with
362 the balance of two million dollars transferred to this program. There shall be no
363 limit on the amount of withholding taxes that may be retained by approved
364 companies under this program.

365 6. The department shall allocate the annual tax credits based on the date
366 of the approval, reserving such tax credits based on the department's best
367 estimate of new jobs and new payroll of the project, and the other factors in the
368 determination of benefits of this program. However, the annual issuance of tax
369 credits is subject to the annual verification of the actual new payroll. The
370 allocation of tax credits for the period assigned to a project shall expire if, within
371 two years from the date of commencement of operations, or approval if applicable,
372 the minimum thresholds have not been achieved. The qualified company may
373 retain authorized amounts from the withholding tax under this section once the
374 minimum new jobs thresholds are met for the duration of the project period. No
375 benefits shall be provided under this program until the qualified company meets
376 the minimum new jobs thresholds. In the event the qualified company does not
377 meet the minimum new job threshold, the qualified company may submit a new
378 notice of intent or the department may provide a new approval for a new project

379 of the qualified company at the project facility or other facilities.

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

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

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

393 10. Prior to the issuance of tax credits, the department shall verify
394 through the department of revenue, or any other state department, that the tax
395 credit applicant does not owe any delinquent income, sales, or use tax or interest
396 or penalties on such taxes, or any delinquent fees or assessments levied by any
397 state department and through the department of insurance, financial institutions
398 and professional registration that the applicant does not owe any delinquent
399 insurance taxes. Such delinquency shall not affect the authorization of the
400 application for such tax credits, except that at issuance credits shall be first
401 applied to the delinquency and any amount issued shall be reduced by the
402 applicant's tax delinquency. If the department of revenue or the department of
403 insurance, financial institutions and professional registration, or any other state
404 department, concludes that a taxpayer is delinquent after June fifteenth but
405 before July first of any year and the application of tax credits to such delinquency
406 causes a tax deficiency on behalf of the taxpayer to arise, then the taxpayer shall
407 be granted thirty days to satisfy the deficiency in which interest, penalties, and
408 additions to tax shall be tolled. After applying all available credits toward a tax
409 delinquency, the administering agency shall notify the appropriate department
410 and that department shall update the amount of outstanding delinquent tax owed
411 by the applicant. If any credits remain after satisfying all insurance, income,
412 sales, and use tax delinquencies, the remaining credits shall be issued to the
413 applicant, subject to the restrictions of other provisions of law.

414 11. Except as provided under subdivision (4) of subsection 3 of this

415 section, the director of revenue shall issue a refund to the qualified company to
416 the extent that the amount of credits allowed in this section exceeds the amount
417 of the qualified company's income tax.

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

420 13. If any provision of sections 620.1875 to 620.1890 or application thereof
421 to any person or circumstance is held invalid, the invalidity shall not affect other
422 provisions or application of these sections which can be given effect without the
423 invalid provisions or application, and to this end, the provisions of sections
424 620.1875 to 620.1890 are hereby declared severable.

425 **14. Notwithstanding any provision of law to the contrary, no tax**
426 **credits provided under sections 620.1875 to 620.1890 shall be authorized**
427 **on or after August 28, 2017. The provisions of this subsection shall not**
428 **be construed to limit or in any way impair the department's ability to**
429 **issue tax credits authorized prior to August 18, 2017, or a taxpayer's**
430 **ability to redeem such tax credits.**

Bill ✓

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