

FIRST REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 10**  
99TH GENERAL ASSEMBLY

---

Reported from the Committee on Economic Development, February 16, 2017, with recommendation that the Senate Committee Substitute do pass.

0517S.04C

ADRIANE D. CROUSE, Secretary.

---

**AN ACT**

To repeal sections 620.800, 620.803, 620.806, 620.809, and 620.2005, RSMo, and to enact in lieu thereof five new sections relating to financial incentives for job creation.

---

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

Section A. Sections 620.800, 620.803, 620.806, 620.809, and 620.2005, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 620.800, 620.803, 620.806, 620.809, and 620.2005, to read as follows:

620.800. The following additional terms used in sections 620.800 to 620.809 shall mean:

(1) "Agreement", the agreement between a qualified company, a community college district, and the department concerning a training project. Any such agreement shall comply with the provisions of section 620.017;

(2) "Board of trustees", the board of trustees of a community college district established under the provisions of chapter 178;

(3) "Certificate", a new or retained jobs training certificate issued under section 620.809;

(4) "Committee", the Missouri works job training joint legislative oversight committee, established under the provisions of section 620.803;

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

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

(7) "Full-time employee", an employee of the qualified company who is scheduled to work an average of at least thirty-five hours per week for a twelve-month period, and one to whom the qualified company offers health

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

17 insurance and pays at least fifty percent of such insurance premiums;

18 (8) "Local education agency", a community college, two-year state  
19 technical college, or technical career education center;

20 (9) "Missouri works training program", the training program established  
21 under sections 620.800 to 620.809;

22 (10) "New capital investment", costs incurred by the qualified company at  
23 the project facility [after acceptance by the qualified company of the proposal for  
24 benefits from the department or the approval of the notice of intent, whichever  
25 occurs first,] for real or personal property, that may include the value of finance  
26 or capital leases for real or personal property for the term of such lease at the  
27 project facility executed after acceptance by the qualified company of the proposal  
28 for benefits from the department or approval of the notice of intent;

29 (11) "New job", the number of full-time employees located at the project  
30 facility that exceeds the project facility base employment less any decrease in the  
31 number of full-time employees at related facilities below the related facility base  
32 employment. No job that was created prior to the date of the notice of intent  
33 shall be deemed a new job. An employee who spends less than fifty percent of his  
34 or her work time at the facility is still considered to be located at a facility if he  
35 or she receives his or her directions and control from that facility, is on the  
36 facility's payroll, one hundred percent of the employee's income from such  
37 employment is Missouri income, and the employee is paid at or above the  
38 applicable percentage of the county's average wage;

39 (12) "New jobs credit", the credit from withholding remitted by a qualified  
40 company provided under subsection 6 of section 620.809;

41 (13) "Notice of intent", a form developed by the department, completed by  
42 the qualified company, and submitted to the department that states the qualified  
43 company's intent to request benefits under this program;

44 (14) "Project facility", the building or buildings used by a qualified  
45 company at which new or retained jobs and any new capital investment are or  
46 will be located. A project facility may include separate buildings located within  
47 sixty miles of each other such that their purpose and operations are interrelated,  
48 provided that, if the buildings making up the project facility are not located  
49 within the same county, the average wage of the new payroll must exceed the  
50 applicable percentage of the highest county average wage among the counties in  
51 which the buildings are located. Upon approval by the department, a subsequent  
52 project facility may be designated if the qualified company demonstrates a need

53 to relocate to the subsequent project facility at any time during the project period;

54 (15) "Project facility base employment", the greater of the number of  
55 full-time employees located at the project facility on the date of the notice of  
56 intent or, for the twelve-month period prior to the date of the notice of intent, the  
57 average number of full-time employees located at the project facility. In the event  
58 the project facility has not been in operation for a full twelve-month period, the  
59 average number of full-time employees for the number of months the project  
60 facility has been in operation prior to the date of the notice of intent;

61 (16) "Qualified company", a firm, partnership, joint venture, association,  
62 private or public corporation whether organized for profit or not, or headquarters  
63 of such entity registered to do business in Missouri that is the owner or operator  
64 of a project facility, offers health insurance to all full-time employees of all  
65 facilities located in this state, and pays at least fifty percent of such insurance  
66 premiums. For the purposes of sections 620.800 to 620.809, the term "qualified  
67 company" shall not mean:

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

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

73 (c) Food services and drinking places (NAICS subsector 722);

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

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

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

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

84 b. After its bankruptcy petition has been filed, it produces proof, in a form  
85 and at times satisfactory to the department, that it is not delinquent in filing any  
86 tax returns or making any payment due to the state of Missouri, including but  
87 not limited to all tax payments due after the filing of the bankruptcy petition and  
88 under the terms of the plan of reorganization;

- 89 (g) Educational services (NAICS sector 61);  
90 (h) Religious organizations (NAICS industry group 8131);  
91 (i) Public administration (NAICS sector 92);  
92 (j) Ethanol distillation or production; or  
93 (k) Biodiesel production.

94 Notwithstanding any provision of this section to the contrary, the headquarters,  
95 administrative offices, or research and development facilities of an otherwise  
96 excluded business may qualify for benefits if the offices or facilities serve a  
97 multistate territory. In the event a national, state, or regional headquarters  
98 operation is not the predominant activity of a project facility, the jobs and  
99 investment of such operation shall be considered eligible for benefits under this  
100 section if the other requirements are satisfied;

101 (17) "Related company":

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

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

106 (c) Corporations, partnerships, trusts, or associations controlled by an  
107 individual, corporation, partnership, trust, or association in control of the  
108 qualified company. As used in this subdivision, "control of a corporation" shall  
109 mean ownership, directly or indirectly, of stock possessing at least fifty percent  
110 of the total combined voting power of all classes of stock entitled to vote; "control  
111 of a partnership or association" shall mean ownership of at least fifty percent of  
112 the capital or profits interest in such partnership or association; "control of a  
113 trust" shall mean ownership, directly or indirectly, of at least fifty percent of the  
114 beneficial interest in the principal or income of such trust; and "ownership" shall  
115 be determined as provided in Section 318 of the Internal Revenue Code of 1986,  
116 as amended;

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

121 (19) "Related facility base employment", the greater of the number of  
122 full-time employees located at all related facilities on the date of the notice of  
123 intent or, for the twelve-month period prior to the date of the notice of intent, the  
124 average number of full-time employees located at all related facilities of the

125 qualified company or a related company located in this state;

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

129 (21) "Retained jobs credit", the credit from withholding remitted by a  
130 qualified company provided under subsection 6 of section 620.809;

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

134 (23) "Training program", the Missouri works training program established  
135 under sections 620.800 to 620.809;

136 (24) "Training project", the project or projects established through the  
137 Missouri works training program for the creation or retention of jobs by providing  
138 education and training of workers;

139 (25) "Training project costs", all necessary and incidental costs of  
140 providing program services through the training program, including:

141 (a) Training materials and supplies;

142 (b) Wages and benefits of instructors, who may or may not be employed  
143 by the eligible industry, and the cost of training such instructors;

144 (c) Subcontracted services;

145 (d) On-the-job training;

146 (e) Training facilities and equipment;

147 (f) Skill assessment;

148 (g) Training project and curriculum development;

149 (h) Travel directly to the training project, including a coordinated  
150 transportation program for training if the training can be more effectively  
151 provided outside the community where the jobs are to be located;

152 (i) Payments to third-party training providers and to the eligible industry;

153 (j) Teaching and assistance provided by educational institutions in the  
154 state of Missouri;

155 (k) In-plant training analysis, including fees for professionals and  
156 necessary travel and expenses;

157 (l) Assessment and preselection tools;

158 (m) Publicity;

159 (n) Instructional services;

160 (o) Rental of instructional facilities with necessary utilities; and

161 (p) Payment of the principal, premium, and interest on certificates,  
162 including capitalized interest, issued to finance a project, and the funding and  
163 maintenance of a debt service reserve fund to secure such certificates;

164 (26) "Training project services", includes, but shall not be limited to, the  
165 following:

166 (a) Job training, which may include, but not be limited to, preemployment  
167 training, analysis of the specified training needs for a qualified company,  
168 development of training plans, and provision of training through qualified  
169 training staff;

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

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

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

173 (e) On-the-job training;

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

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

178 (h) Contracted or professional services; and

179 (i) Issuance of certificates, when applicable.

620.803. 1. The department shall establish a "Missouri Works Training  
2 Program" to assist qualified companies in the training of employees in new jobs  
3 and the retraining or upgrading of skills of full-time employees in retained jobs  
4 as provided in sections 620.800 to 620.809. The training program shall be funded  
5 through appropriations to the funds established under sections 620.806 and  
6 620.809. The department shall, to the maximum extent practicable, prioritize  
7 funding under the training program to assist qualified companies in targeted  
8 industries.

9 2. There is hereby created the "Missouri Works Job Training Joint  
10 Legislative Oversight Committee". The committee shall consist of three members  
11 of the Missouri senate appointed by the president pro tempore of the senate and  
12 three members of the house of representatives appointed by the speaker of the  
13 house. No more than two of the members of the senate and two of the members  
14 of the house of representatives shall be from the same political party. Members  
15 of the committee shall report to the governor, the president pro tempore of the  
16 senate, and the speaker of the house of representatives on all assistance to  
17 industries under the provisions of sections 620.800 to 620.809 provided during the

18 preceding fiscal year. The report of the committee shall be delivered no later  
19 than October first of each year. The director of the department shall report to the  
20 committee such information as the committee may deem necessary for its annual  
21 report. Members of the committee shall receive no compensation in addition to  
22 their salary as members of the general assembly but may receive their necessary  
23 expenses while attending the meetings of the committee, to be paid out of the  
24 joint contingent fund.

25 3. The department shall publish guidelines and may promulgate rules and  
26 regulations governing the training program. Any rule or portion of a rule, as that  
27 term is defined in section 536.010, that is created under the authority delegated  
28 in this section shall become effective only if it complies with and is subject to all  
29 of the provisions of chapter 536 and, if applicable, section 536.028. This section  
30 and chapter 536 are nonseverable and if any of the powers vested with the  
31 general assembly pursuant to chapter 536 to review, to delay the effective date,  
32 or to disapprove and annul a rule are subsequently held unconstitutional, then  
33 the grant of rulemaking authority and any rule proposed or adopted after August  
34 28, 2013, shall be invalid and void.

35 4. The department shall make program applications and guidelines  
36 available online.

37 5. The department may contract with other entities for the purposes of  
38 [carrying out the provisions of] **advertising, marketing, or promoting** the  
39 training program established in sections 620.800 to 620.809. Any assistance  
40 through the training program shall be provided under an agreement.

41 6. Prior to the authorization of any application submitted through the  
42 training program, the department shall verify the applicant's tax payment status  
43 and offset any delinquencies as provided in section 135.815.

44 7. Any taxpayer who is awarded benefits under sections 620.800 to  
45 620.809 and who files for bankruptcy under Chapter 7 of the United States  
46 Bankruptcy Code, Title 11 U.S.C., as amended shall immediately notify the  
47 department, shall forfeit such benefits, and shall repay the state an amount equal  
48 to any state tax credits already redeemed and any withholding taxes already  
49 retained.

50 8. **(1) Beginning on August 28, 2017, any local public school**  
51 **district providing training assistance under the provisions of sections**  
52 **620.800 to 620.809 may continue to provide such assistance to any**  
53 **project that has received approval prior to August 28, 2017. Thereafter,**

54 such school districts shall not provide training assistance for which the  
55 aggregate training costs exceed the aggregate amount of training costs  
56 attributable to projects for which the local school district was  
57 providing assistance as of August 28, 2017.

58 (2) Beginning August 28, 2017, the department shall not approve  
59 any local public school district as a provider of training assistance  
60 under the provisions of sections 620.800 to 620.809 which was not  
61 already approved as a provider as of August 28, 2017.

62 (3) If funding provided by the state for training projects under  
63 sections 620.800 to 620.809 is reduced below the amount appropriated  
64 for the fiscal year beginning on or after July 1, 2016, the amount of  
65 funding provided to local school districts that have been approved as  
66 a provider of training assistance under sections 620.800 to 620.809 shall  
67 be reduced proportionately.

620.806. 1. The Missouri job development fund, formerly established in  
2 the state treasury by section 620.478, shall now be known as the "Missouri Works  
3 Job Development Fund" and shall be administered by the department for the  
4 training program. The fund shall consist of all moneys which may be  
5 appropriated to it by the general assembly and also any gifts, contributions,  
6 grants, or bequests received from federal, private or other sources, including, but  
7 not limited to, any block grant or other sources of funding relating to job training,  
8 school-to-work transition, welfare reform, vocational and technical training,  
9 housing, infrastructure, development, and human resource investment programs  
10 which may be provided by the federal government or other sources.

11 2. The department may provide financial assistance through the training  
12 program to qualified companies that create new jobs which will result in the need  
13 for training, or that make new capital investment relating directly to the  
14 retention of jobs in an amount at least five times greater than the amount of any  
15 financial assistance. Financial assistance may also be provided to a consortium  
16 of a **majority of** qualified companies organized to provide common training to  
17 the consortium members' employees. Funds in the Missouri works job  
18 development fund shall be appropriated, for financial assistance through the  
19 training program, by the general assembly to the department and shall be  
20 administered by a local educational agency certified by the department for such  
21 purpose. Except for state-sponsored preemployment training, no qualified  
22 company shall receive more than fifty percent of its training program costs from



23 the Missouri works job development fund. No funds shall be awarded or  
24 reimbursed to any qualified company for the training, retraining, or upgrading  
25 of skills of potential employees with the purpose of replacing or supplanting  
26 employees engaged in an authorized work stoppage. Upon approval by the  
27 department, training project costs, except the purchase of training equipment and  
28 training facilities, shall be eligible for reimbursement with funds from the  
29 Missouri works job development fund. Notwithstanding any provision of law to  
30 the contrary, no qualified company within a service industry shall be eligible for  
31 assistance under this subsection unless such qualified company provides services  
32 in interstate commerce, which shall mean that the qualified company derives a  
33 majority of its annual revenues from out of the state.

34 3. The department may provide assistance, through appropriations made  
35 from the Missouri works job development fund, to business and technology  
36 centers. Such assistance shall not include the lending of the state's credit for the  
37 payment of any liability of the fund. Such centers may be established by Missouri  
38 community colleges, or state-owned postsecondary technical colleges, to provide  
39 business and training services for growth industries as determined by current  
40 labor market information.

620.809. 1. The Missouri community college job training program fund,  
2 formerly established in the state treasury by section 178.896, shall now be known  
3 as the "Missouri Works Community College New Jobs Training Fund" and shall  
4 be administered by the department for the training program. The department of  
5 revenue shall credit to the fund, as received, all new jobs credits. The fund shall  
6 also consist of any gifts, contributions, grants, or bequests received from federal,  
7 private, or other sources. The general assembly, however, shall not provide for  
8 any transfer of general revenue funds into the fund. Moneys in the fund shall be  
9 disbursed to the department under regular appropriations by the general  
10 assembly. The department shall disburse such appropriated funds in a timely  
11 manner into the special funds established by community college districts for  
12 training projects, which funds shall be used to pay training project costs. Such  
13 disbursements shall be made to the special fund for each training project [in the  
14 same proportion as the new jobs credit remitted by the qualified company  
15 participating in such project bears to the total new jobs credit from withholding  
16 remitted by all qualified companies participating in projects during the period for  
17 which the disbursement is made] **as provided under subsection 5 of this**  
18 **section.** All moneys remaining in the fund at the end of any fiscal year shall not

19 lapse to the general revenue fund, as provided in section 33.080, but shall remain  
20 in the fund.

21           2. The Missouri community college job retention training program fund,  
22 formerly established in the state treasury by section 178.764, shall now be known  
23 as the "Missouri Works Community College Job Retention Training Fund" and  
24 shall be administered by the department for the Missouri works training  
25 program. The department of revenue shall credit to the fund, as received, all  
26 retained jobs credits. The fund shall also consist of any gifts, contributions,  
27 grants, or bequests received from federal, private, or other sources. The general  
28 assembly, however, shall not provide for any transfer of general revenue funds  
29 into the fund. Moneys in the fund shall be disbursed to the department under  
30 regular appropriations by the general assembly. The department shall disburse  
31 such appropriated funds in a timely manner into the special funds established by  
32 community college districts for projects, which funds shall be used to pay training  
33 program costs, including the principal, premium, and interest on certificates  
34 issued by the district to finance or refinance, in whole or in part, a project. Such  
35 disbursements by the department shall be made to the special fund for each  
36 project [in the same proportion as the retained jobs credit from withholding  
37 remitted by the qualified company participating in such project bears to the total  
38 retained jobs credit from withholding remitted by qualified companies  
39 participating in projects during the period for which the disbursement is made]  
40 **as provided under subsection 5 of this section.** All moneys remaining in  
41 the fund at the end of any fiscal year shall not lapse to the general revenue fund,  
42 as provided in section 33.080, but shall remain in the fund.

43           3. The department of revenue shall develop such forms as are necessary  
44 to demonstrate accurately each qualified company's new jobs credit paid into the  
45 Missouri works community college new jobs training fund or retained jobs credit  
46 paid into the Missouri works community college job retention training fund. The  
47 new or retained jobs credits shall be accounted as separate from the normal  
48 withholding tax paid to the department of revenue by the qualified  
49 company. Reimbursements made by all qualified companies to the Missouri  
50 works community college new jobs training fund and the Missouri works  
51 community college job retention training fund shall be no less than all allocations  
52 made by the department to all community college districts for all projects. The  
53 qualified company shall remit the amount of the new or retained jobs credit, as  
54 applicable, to the department of revenue in the same manner as provided in

55 sections 143.191 to 143.265.

56 4. A community college district, with the approval of the department in  
57 consultation with the office of administration, may enter into an agreement to  
58 establish a training project and provide training project services to a qualified  
59 company. As soon as possible after initial contact between a community college  
60 district and a potential qualified company regarding the possibility of entering  
61 into an agreement, the district shall inform the department of the potential  
62 training project. The department shall evaluate the proposed training project  
63 within the overall job training efforts of the state to ensure that the training  
64 project will not duplicate other job training programs. The department shall have  
65 fourteen days from receipt of a notice of intent to approve or disapprove a  
66 training project. If no response is received by the qualified company within  
67 fourteen days, the training project shall be deemed approved. Disapproval of any  
68 training project shall be made in writing and state the reasons for such  
69 disapproval. If an agreement is entered into, the district and the qualified  
70 company shall notify the department of revenue within fifteen calendar days. In  
71 addition to any provisions required under subsection 5 of this section for a  
72 qualified company applying to receive a retained job credit, an agreement may  
73 provide, but shall not be limited to:

74 (1) Payment of training project costs, which may be paid from one or a  
75 combination of the following sources:

76 (a) Funds appropriated by the general assembly to the Missouri works  
77 community college new jobs training program fund or Missouri works community  
78 college job retention training program fund, as applicable, and disbursed by the  
79 department for the purposes consistent with sections 620.800 to 620.809;

80 (b) **Funds appropriated by the general assembly from the general**  
81 **revenue fund and disbursed by the department for the purposes**  
82 **consistent with sections 620.800 to 620.809;**

83 (c) Tuition, student fees, or special charges fixed by the board of trustees  
84 to defray training project costs in whole or in part;

85 (2) Payment of training project costs which shall not be deferred for a  
86 period longer than eight years;

87 (3) Costs of on-the-job training for employees which shall include wages  
88 or salaries of participating employees. Payments for on-the-job training shall not  
89 exceed the average of fifty percent of the total wages paid by the qualified  
90 company to each participant during the period of training. Payment for

91 on-the-job training may continue for up to six months from the date the training  
92 begins;

93 (4) A provision which fixes the minimum amount of new or retained jobs  
94 credits, **general revenue fund appropriations**, or tuition and fee payments  
95 which shall be paid for training project costs; and

96 (5) Any payment required to be made by a qualified company. This  
97 payment shall constitute a lien upon the qualified company's business property  
98 until paid, shall have equal priority with ordinary taxes and shall not be divested  
99 by a judicial sale. Property subject to such lien may be sold for sums due and  
100 delinquent at a tax sale, with the same forfeitures, penalties, and consequences  
101 as for the nonpayment of ordinary taxes. The purchasers at tax sale shall obtain  
102 the property subject to the remaining payments.

103 5. (1) **For projects that are funded exclusively under paragraph**  
104 **(a) of subdivision (1) of subsection 4 of this section, the department**  
105 **shall disburse such funds to the special fund for each training project**  
106 **in the same proportion as the new jobs or retained jobs credits**  
107 **remitted by the qualified company participating in such project bears**  
108 **to the total new jobs or retained jobs credits from withholding remitted**  
109 **by all qualified companies participating in projects during the period**  
110 **for which the disbursement is made.**

111 (2) **For projects that are funded through a combination of funds**  
112 **under paragraphs (a) and (b) of subdivision (1) of subsection 4 of this**  
113 **section, the department shall disburse funds appropriated under**  
114 **paragraph (b) of subdivision (1) of subsection 4 of this section to the**  
115 **special fund for each training project upon commencement of the**  
116 **project. The department shall disburse funds appropriated under**  
117 **paragraph (a) of subdivision (1) of subsection 4 of this section to the**  
118 **special fund for each training project in the same proportion as the**  
119 **new jobs or retained jobs credits remitted by the qualified company**  
120 **participating in such project bears to the total new jobs or retained**  
121 **jobs credits from withholding remitted by all qualified companies**  
122 **participating in projects during the period for which the disbursement**  
123 **is made, reduced by the amount of funds appropriated under paragraph**  
124 **(b) of subdivision (1) of subsection 4 of this section.**

125 6. Any qualified company that submits a notice of intent for retained job  
126 credits shall enter into an agreement, providing that the qualified company has:

127 (1) Maintained at least one hundred full-time employees per year at the  
128 project facility for the calendar year preceding the year in which the application  
129 is made;

130 (2) Retained, at the project facility, the same number of employees that  
131 existed in the taxable year immediately preceding the year in which application  
132 is made; and

133 (3) Made or agrees to make a new capital investment of greater than five  
134 times the amount of any award under this training program at the project facility  
135 over a period of two consecutive calendar years, as certified by the qualified  
136 company and:

137 (a) Has made substantial investment in new technology requiring the  
138 upgrading of employee skills; or

139 (b) Is located in a border county of the state and represents a potential  
140 risk of relocation from the state; or

141 (c) Has been determined to represent a substantial risk of relocation from  
142 the state by the director of the department of economic development.

143 [6.] 7. If an agreement provides that all or part of the training program  
144 costs are to be met by receipt of new or retained jobs credit, such new or retained  
145 jobs credit from withholding shall be determined and paid as follows:

146 (1) New or retained jobs credit shall be based upon the wages paid to the  
147 employees in the new or retained jobs;

148 (2) A portion of the total payments made by the qualified companies under  
149 sections 143.191 to 143.265 shall be designated as the new or retained jobs credit  
150 from withholding. Such portion shall be an amount equal to two and one-half  
151 percent of the gross wages paid by the qualified company for each of the first one  
152 hundred jobs included in the project and one and one-half percent of the gross  
153 wages paid by the qualified company for each of the remaining jobs included in  
154 the project. If business or employment conditions cause the amount of the new  
155 or retained jobs credit from withholding to be less than the amount projected in  
156 the agreement for any time period, then other withholding tax paid by the  
157 qualified company under sections 143.191 to 143.265 shall be credited to the  
158 applicable fund by the amount of such difference. The qualified company shall  
159 remit the amount of the new or retained jobs credit to the department of revenue  
160 in the manner prescribed in sections 143.191 to 143.265. When all training  
161 program costs have been paid, the new or retained jobs credits shall cease;

162 (3) The community college district participating in a project shall

163 establish a special fund for and in the name of the training project. All funds  
164 appropriated by the general assembly from the funds established under  
165 subsections 1 and 2 of this section and disbursed by the department for the  
166 training project and other amounts received by the district for training project  
167 costs as required by the agreement shall be deposited in the special  
168 fund. Amounts held in the special fund shall be used and disbursed by the  
169 district only to pay training project costs for such training project. The special  
170 fund may be divided into such accounts and subaccounts as shall be provided in  
171 the agreement, and amounts held therein may be invested in the same manner  
172 as the district's other funds;

173 (4) Any disbursement for training project costs received from the  
174 department under sections 620.800 to 620.809 and deposited into the training  
175 project's special fund may be irrevocably pledged by a community college district  
176 for the payment of the principal, premium, and interest on the certificate issued  
177 by a community college district to finance or refinance, in whole or in part, such  
178 training project;

179 (5) The qualified company shall certify to the department of revenue that  
180 the new or retained jobs credit is in accordance with an agreement and shall  
181 provide other information the department of revenue may require;

182 (6) An employee participating in a training project shall receive full credit  
183 under section 143.211 for the amount designated as a new or retained jobs credit;

184 (7) If an agreement provides that all or part of training program costs are  
185 to be met by receipt of new or retained jobs credit, the provisions of this  
186 subsection shall also apply to any successor to the original qualified company  
187 until the principal and interest on the certificates have been paid.

188 [7.] 8. To provide funds for the present payment of the training project  
189 costs of new or retained jobs training project through the training program, a  
190 community college district may borrow money and issue and sell certificates  
191 payable from a sufficient portion of the future receipts of payments authorized by  
192 the agreement including disbursements from the Missouri works community  
193 college new jobs training fund or the Missouri works community college job  
194 retention training fund, to the special fund established by the district for each  
195 project. The total amount of outstanding certificates sold by all community  
196 college districts shall not exceed the total amount authorized under law as of  
197 January 1, 2013, unless an increased amount is authorized in writing by a  
198 majority of members of the committee. The certificates shall be marketed

199 through financial institutions authorized to do business in Missouri. The receipts  
200 shall be pledged to the payment of principal of and interest on the  
201 certificates. Certificates may be sold at public sale or at private sale at par,  
202 premium, or discount of not less than ninety-five percent of the par value thereof,  
203 at the discretion of the board of trustees, and may bear interest at such rate or  
204 rates as the board of trustees shall determine, notwithstanding the provisions of  
205 section 108.170 to the contrary. However, the provisions of chapter 176 shall not  
206 apply to the issuance of such certificates. Certificates may be issued with respect  
207 to a single project or multiple projects and may contain terms or conditions as the  
208 board of trustees may provide by resolution authorizing the issuance of the  
209 certificates.

210 [8.] 9. Certificates issued to refund other certificates may be sold at  
211 public sale or at private sale as provided in this section, with the proceeds from  
212 the sale to be used for the payment of the certificates being refunded. The  
213 refunding certificates may be exchanged in payment and discharge of the  
214 certificates being refunded, in installments at different times or an entire issue  
215 or series at one time. Refunding certificates may be sold or exchanged at any  
216 time on, before, or after the maturity of the outstanding certificates to be  
217 refunded. They may be issued for the purpose of refunding a like, greater, or  
218 lesser principal amount of certificates and may bear a rate of interest that is  
219 higher, lower, or equivalent to that of the certificates being renewed or refunded.

220 [9.] 10. Before certificates are issued, the board of trustees shall publish  
221 once a notice of its intention to issue the certificates, stating the amount, the  
222 purpose, and the project or projects for which the certificates are to be issued. A  
223 person with standing may, within fifteen days after the publication of the notice,  
224 by action in the circuit court of a county in the district, appeal the decision of the  
225 board of trustees to issue the certificates. The action of the board of trustees in  
226 determining to issue the certificates shall be final and conclusive unless the  
227 circuit court finds that the board of trustees has exceeded its legal authority. An  
228 action shall not be brought which questions the legality of the certificates, the  
229 power of the board of trustees to issue the certificates, the effectiveness of any  
230 proceedings relating to the authorization of the project, or the authorization and  
231 issuance of the certificates from and after fifteen days from the publication of the  
232 notice of intention to issue.

233 [10.] 11. The board of trustees shall make a finding based on information  
234 supplied by the qualified company that revenues provided in the agreement are

235 sufficient to secure the faithful performance of obligations in the agreement.

236 [11.] **12.** Certificates issued under this section shall not be deemed to be  
237 an indebtedness of the state, the community college district, or any other political  
238 subdivision of the state, and the principal and interest on any certificates shall  
239 be payable only from the sources provided in subdivision (1) of subsection 4 of  
240 this section which are pledged in the agreement.

241 [12.] **13.** Pursuant to section 23.253 of the Missouri sunset act:

242 (1) The new program authorized under sections 620.800 to 620.809 shall  
243 automatically sunset July 1, 2019, unless reauthorized by an act of the general  
244 assembly; and

245 (2) If such program is reauthorized, the program authorized under  
246 sections 620.800 to 620.809 shall automatically sunset twelve years after the  
247 effective date of the reauthorization of sections 620.800 to 620.809; and

248 (3) Sections 620.800 to 620.809 shall terminate on September first of the  
249 calendar year immediately following the calendar year in which a program  
250 authorized under sections 620.800 to 620.809 is sunset.

620.2005. As used in sections 620.2000 to 620.2020, the following terms  
2 mean:

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

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

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



- 21 (4) "Department", the Missouri department of economic development;
- 22 (5) "Director", the director of the department of economic development;
- 23 (6) "Employee", a person employed by a qualified company, excluding[:
- 24 (a) Owners of the qualified company unless the qualified company is
- 25 participating in an employee stock ownership plan; or
- 26 (b) Owners of a noncontrolling interest in stock of a qualified company
- 27 that is publicly traded] **owners**;
- 28 (7) "Existing Missouri business", a qualified company that, for the
- 29 ten-year period preceding submission of a notice of intent to the department, had
- 30 a physical location in Missouri and full-time employees who routinely perform job
- 31 duties within Missouri;
- 32 (8) "Full-time employee", an employee of the qualified company that is
- 33 scheduled to work an average of at least thirty-five hours per week for a
- 34 twelve-month period, and one for which the qualified company offers health
- 35 insurance and pays at least fifty percent of such insurance premiums. An
- 36 employee that spends less than fifty percent of the employee's work time at the
- 37 facility shall be considered to be located at a facility if the employee receives his
- 38 or her directions and control from that facility, is on the facility's payroll, one
- 39 hundred percent of the employee's income from such employment is Missouri
- 40 income, and the employee is paid at or above the applicable percentage of the
- 41 county average wage;
- 42 (9) "Local incentives", the present value of the dollar amount of direct
- 43 benefit received by a qualified company for a project facility from one or more
- 44 local political subdivisions, but this term shall not include loans or other funds
- 45 provided to the qualified company that shall be repaid by the qualified company
- 46 to the political subdivision;
- 47 (10) "NAICS" or "NAICS industry classification", the classification
- 48 provided by the most recent edition of the North American Industry Classification
- 49 System as prepared by the Executive Office of the President, Office of
- 50 Management and Budget;
- 51 (11) "New capital investment", shall include costs incurred by the
- 52 qualified company at the project facility after acceptance by the qualified
- 53 company of the proposal for benefits from the department or the approval notice
- 54 of intent, whichever occurs first, for real or personal property, and may include
- 55 the value of finance or capital leases for real or personal property for the term of
- 56 such lease at the project facility executed after acceptance by the qualified

57 company of the proposal for benefits from the department or the approval of the  
58 notice of intent;

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

65 (13) "New job", the number of full-time employees located at the project  
66 facility that exceeds the project facility base employment less any decrease in the  
67 number of full-time employees at related facilities below the related facility base  
68 employment. No job that was created prior to the date of the notice of intent  
69 shall be deemed a new job. **In no event shall a benefit under sections**  
70 **620.2000 to 620.2020 be provided to any job other than a new job. A job**  
71 **shall not be considered a new job merely because of a change of**  
72 **ownership in the company, except when a company ceases to do**  
73 **business and there is a break in employment, and the company is**  
74 **subsequently restarted by new ownership. A company will be**  
75 **considered to have ceased business and been restarted by new**  
76 **ownership when all of the previous owners have been replaced by new**  
77 **owners. Companies acquired with partial ownership and which are**  
78 **qualified companies may be eligible to receive the benefits under**  
79 **sections 620.2000 to 620.2020 for the remaining term after the effective**  
80 **date of the acquisition;**

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

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

87 (16) "Owner", a person with an ownership interest in a company,  
88 including stockholders, partners, members of a limited liability  
89 company, or any similarly situated individual; provided however, that  
90 the term "owner" shall not include persons with less than a ten percent  
91 ownership interest, persons whose interest is solely through an  
92 employee stock ownership plan (ESOP) qualified under the Employee

93 **Retirement Income Security Act (ERISA) (Pub. L. 93-406), or persons**  
94 **who own only options to purchase stock or other equity interest in the**  
95 **company and said options have not yet been exercised; and provided**  
96 **further that the person does not have the right to manage the company**  
97 **or direct its operations either solely or as part of a larger group;**

98 (17) "Percent of local incentives", the amount of local incentives divided  
99 by the amount of new direct local revenue;

100 [(17)] (18) "Program", the Missouri works program established in  
101 sections 620.2000 to 620.2020;

102 [(18)] (19) "Project facility", the building or buildings used by a qualified  
103 company at which new or retained jobs and any new capital investment are or  
104 will be located. A project facility may include separate buildings located within  
105 sixty miles of each other such that their purpose and operations are interrelated;  
106 provided that where the buildings making up the project facility are not located  
107 within the same county, the average wage of the new payroll shall exceed the  
108 applicable percentage of the highest county average wage among the counties in  
109 which the buildings are located. Upon approval by the department, a subsequent  
110 project facility may be designated if the qualified company demonstrates a need  
111 to relocate to the subsequent project facility at any time during the project period;

112 [(19)] (20) "Project facility base employment", the greater of the number  
113 of full-time employees located at the project facility on the date of the notice of  
114 intent or, for the twelve-month period prior to the date of the notice of intent, the  
115 average number of full-time employees located at the project facility. In the event  
116 the project facility has not been in operation for a full twelve-month period, the  
117 average number of full-time employees for the number of months the project  
118 facility has been in operation prior to the date of the notice of intent. **In no**  
119 **event shall the benefits awarded under sections 620.2000 to 620.2020 be**  
120 **construed to apply to base employment;**

121 [(20)] (21) "Project facility base payroll", the annualized payroll for the  
122 project facility base employment or the total amount of wages paid by the  
123 qualified company to full-time employees of the qualified company located at the  
124 project facility in the twelve months prior to the notice of intent. For purposes  
125 of calculating the benefits under this program **each benefit year**, the amount  
126 of base payroll shall [increase each year based on an appropriate measure, as  
127 determined by the department] **be equal to or greater than the previous**  
128 **year's amount and the number of employees in the base shall remain**

129 **the same. Companies may report numbers of employees in the base by**  
130 **hire date or by position replacement and shall declare the method in**  
131 **their application. The method selected shall remain in effect for the**  
132 **full term of benefits;**

133       [(21)] **(22)** "Project period", the time period within which benefits are  
134 awarded to a qualified company or within which the qualified company is  
135 obligated to perform under an agreement with the department, whichever is  
136 greater;

137       [(22)] **(23)** "Projected net fiscal benefit", the total fiscal benefit to the  
138 state less any state benefits offered to the qualified company, as determined by  
139 the department;

140       [(23)] **(24)** "Qualified company", a firm, partnership, joint venture,  
141 association, private or public corporation whether organized for profit or not, or  
142 headquarters of such entity registered to do business in Missouri that is the  
143 owner or operator of a project facility, certifies that it offers health insurance to  
144 all full-time employees of all facilities located in this state, and certifies that it  
145 pays at least fifty percent of such insurance premiums. For the purposes of  
146 sections 620.2000 to 620.2020, the term "qualified company" shall not include:

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

148       (b) Store front consumer-based retail trade establishments (under NAICS  
149 sectors 44 and 45), except with respect to any company headquartered in this  
150 state with a majority of its full-time employees engaged in operations not within  
151 the NAICS codes specified in this subdivision;

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

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

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

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

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

163       b. After its bankruptcy petition has been filed, it produces proof, in a form  
164 and at times satisfactory to the department, that it is not delinquent in filing any

165 tax returns or making any payment due to the state of Missouri, including but  
166 not limited to all tax payments due after the filing of the bankruptcy petition and  
167 under the terms of the plan of reorganization. Any taxpayer who is awarded  
168 benefits under this subsection and who files for bankruptcy under Chapter 7 of  
169 the United States Bankruptcy Code, Title 11 U.S.C., shall immediately notify the  
170 department and shall forfeit such benefits and shall repay the state an amount  
171 equal to any state tax credits already redeemed and any withholding taxes  
172 already retained;

- 173 (g) Educational services (NAICS sector 61);
- 174 (h) Religious organizations (NAICS industry group 8131);
- 175 (i) Public administration (NAICS sector 92);
- 176 (j) Ethanol distillation or production;
- 177 (k) Biodiesel production; or
- 178 (l) Health care and social services (NAICS sector 62).

179 Notwithstanding any provision of this section to the contrary, the headquarters,  
180 administrative offices, or research and development facilities of an otherwise  
181 excluded business may qualify for benefits if the offices or facilities serve a  
182 multistate territory. In the event a national, state, or regional headquarters  
183 operation is not the predominant activity of a project facility, the jobs and  
184 investment of such operation shall be considered eligible for benefits under this  
185 section if the other requirements are satisfied;

186 ~~[(24)]~~ **(25)** "Related company", shall mean:

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

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

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

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

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

200 c. Ownership, directly or indirectly, of at least fifty percent of the

201 beneficial interest in the principal or income of such qualified company if it is a  
202 trust, and ownership shall be determined as provided in Section 318 of the  
203 Internal Revenue Code of 1986, as amended;

204 [(25)] **(26)** "Related facility", a facility operated by the qualified company  
205 or a related company located in this state that is directly related to the operations  
206 of the project facility or in which operations substantially similar to the  
207 operations of the project facility are performed;

208 [(26)] **(27)** "Related facility base employment", the greater of the number  
209 of full-time employees located at all related facilities on the date of the notice of  
210 intent or, for the twelve-month period prior to the date of the notice of intent, the  
211 average number of full-time employees located at all related facilities of the  
212 qualified company or a related company located in this state;

213 [(27)] **(28)** "Related facility base payroll", the annualized payroll of the  
214 related facility base payroll or the total amount of taxable wages paid by the  
215 qualified company to full-time employees of the qualified company located at a  
216 related facility in the twelve months prior to the filing of the notice of intent. For  
217 purposes of calculating the benefits under this program, the amount of related  
218 facility base payroll shall increase each year based on an appropriate measure,  
219 as determined by the department;

220 [(28)] **(29)** "Rural area", a county in Missouri with a population less than  
221 seventy-five thousand or that does not contain an individual city with a  
222 population greater than fifty thousand according to the most recent federal  
223 decennial census;

224 [(29)] **(30)** "Tax credits", tax credits issued by the department to offset  
225 the state taxes imposed by chapters 143 and 148, or which may be sold or  
226 refunded as provided for in this program;

227 [(30)] **(31)** "Withholding tax", the state tax imposed by sections 143.191  
228 to 143.265. For purposes of this program, the withholding tax shall be computed  
229 using a schedule as determined by the department based on average wages; [and

230 (31)]

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

✓