FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
HOUSE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 68
100TH GENERAL ASSEMBLY
2019

0509H.03T

AN ACT

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


135.100. As used in sections 135.100 to 135.150 the following terms shall mean:

(1) "Commencement of commercial operations" shall be deemed to occur during the first taxable tax year for which the new business facility is first available for use by the taxpayer, or first capable of being used by the taxpayer, in the revenue-producing enterprise in which the taxpayer intends to use the new business facility;

(2) "Existing business facility", any facility in this state which was employed by the taxpayer claiming the credit in the operation of a revenue-producing enterprise immediately prior to an expansion, acquisition, addition, or replacement;

(3) "Facility", any building used as a revenue-producing enterprise located within the state, including the land on which the facility is located and all machinery, equipment and other real and depreciable tangible personal property acquired for use at and located at or within such facility and used in connection

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

(4) "NAICS", the North American Industrial Classification System as such classifications are defined in the 2007 edition of the North American Industrial Classification System;

(5) "New business facility", a facility which satisfies the following requirements:

(a) Such facility is employed by the taxpayer in the operation of a revenue-producing enterprise. Such facility shall not be considered a new business facility in the hands of the taxpayer if the taxpayer's only activity with respect to such facility is to lease it to another person or persons. If the taxpayer employs only a portion of such facility in the operation of a revenue-producing enterprise, and leases another portion of such facility to another person or persons or does not otherwise use such other portions in the operation of a revenue-producing enterprise, the portion employed by the taxpayer in the operation of a revenue-producing enterprise shall be considered a new business facility, if the requirements of paragraphs (b), (c), (d) and (e) of this subdivision are satisfied;

(b) Such facility is acquired by, or leased to, the taxpayer after December 31, 1983. A facility shall be deemed to have been acquired by, or leased to, the taxpayer after December 31, 1983, if the transfer of title to the taxpayer, the transfer of possession pursuant to a binding contract to transfer title to the taxpayer, or the commencement of the term of the lease to the taxpayer occurs after December 31, 1983, or, if the facility is constructed, erected or installed by or on behalf of the taxpayer, such construction, erection or installation is commenced after December 31, 1983;

(c) If such facility was acquired by the taxpayer from another person or persons and such facility was employed immediately prior to the transfer of title to such facility to the taxpayer, or to the commencement of the term of the lease of such facility to the taxpayer, by any other person or persons in the operation of a revenue-producing enterprise, the operation of the same or a substantially similar revenue-producing enterprise is not continued by the taxpayer at such facility;

(d) Such facility is not a replacement business facility, as defined in subdivision (11) of this section; and

(e) The new business facility investment exceeds one hundred thousand dollars during the tax period in which the credits are claimed;
(6) "New business facility employee", a person employed by the taxpayer in the operation of a new business facility during the taxable tax year for which the credit allowed by section 135.110 is claimed, except that truck drivers and rail and barge vehicle operators shall not constitute new business facility employees. A person shall be deemed to be so employed if such person performs duties in connection with the operation of the new business facility on:

(a) A regular, full-time basis; or

(b) A part-time basis, provided such person is customarily performing such duties an average of at least twenty hours per week; or

(c) A seasonal basis, provided such person performs such duties for at least eighty percent of the season customary for the position in which such person is employed;

(7) "New business facility income", the Missouri taxable income, as defined in chapter 143, derived by the taxpayer from the operation of the new business facility. For the purpose of apportionment as prescribed in this subdivision, the term "Missouri taxable income" means, in the case of insurance companies, direct premiums as defined in chapter 148. If a taxpayer has income derived from the operation of a new business facility as well as from other activities conducted within this state, the Missouri taxable income derived by the taxpayer from the operation of the new business facility shall be determined by multiplying the taxpayer's Missouri taxable income, computed in accordance with chapter 143, or in the case of an insurance company, computed in accordance with chapter 148, by a fraction, the numerator of which is the property factor, as defined in paragraph (a) of this subdivision, plus the payroll factor, as defined in paragraph (b) of this subdivision, and the denominator of which is two:

(a) The property factor is a fraction, the numerator of which is the new business facility investment certified for the tax period, and the denominator of which is the average value of all the taxpayer's real and depreciable tangible personal property owned or rented and used in this state during the tax period. The average value of all such property shall be determined as provided in chapter 32;

(b) The payroll factor is a fraction, the numerator of which is the total amount paid during the tax period by the taxpayer for compensation to persons qualifying as new business facility employees, as determined by subsection 4 of section 135.110, at the new business facility, and the denominator of which is the total amount paid in this state during the tax period by the taxpayer for...
compensation. The compensation paid in this state shall be determined as
provided in chapter 32. For the purpose of this subdivision, "other activities
conducted within this state" shall include activities previously conducted at the
expanded, acquired or replaced facility at any time during the tax period
immediately prior to the tax period in which commencement of commercial
operations occurred;

(8) "New business facility investment", the value of [real and depreciable
tangible personal] property, acquired by the taxpayer as part of the new business
facility, which is used by the taxpayer in the operation of the new business
facility, during the [taxable] tax year for which the credit allowed by section
135.110 is claimed, except that trucks, truck-trailers, truck semitrailers, rail
vehicles, barge vehicles, aircraft, and other rolling stock for hire, track, switches,
barges, bridges, tunnels, and rail yards and spurs shall not constitute new
business facility investments. For the purposes of sections 135.100 to
135.150, property may be acquired by the taxpayer by purchase, lease,
or license, including the right to use software and hardware via on-
demand network access to a shared pool of configurable computing
resources as long as the rights are used at the new business
class. The total value of such property during such [taxable] tax year shall
be:

(a) Its original cost if owned by the taxpayer; or

(b) Eight times the net annual rental rate or license, if leased or
licensed by the taxpayer. The net annual rental or license rate shall be the
annual rental or license rate paid by the taxpayer less any annual rental or
license rate received by the taxpayer from subrentals or sublicenses. The new
business facility investment shall be determined by dividing by twelve the sum
of the total value of such property on the last business day of each calendar
month of the [taxable] tax year. If the new business facility is in operation for
less than an entire [taxable] tax year, the new business facility investment shall
be determined by dividing the sum of the total value of such property on the last
business day of each full calendar month during the portion of such [taxable] tax
year during which the new business facility was in operation by the number of
full calendar months during such period;

(9) "Office", a regional, national, or international headquarters, a
telemarketing operation, a computer operation, an insurance company, a
passenger transportation ticket/reservation system, or a credit card billing and
processing center. For the purposes of this subdivision, "headquarters" means the administrative management of at least four integrated facilities operated by the taxpayer or related taxpayer. An office, as defined in this subdivision, when established must create and maintain positions for a minimum number of twenty-five new business facility employees as defined in subdivision (6) of this section;

(10) "Related taxpayer" shall mean:

(a) A corporation, partnership, trust, or association controlled by the taxpayer;

(b) An individual, corporation, partnership, trust, or association in control of the taxpayer; or

(c) A corporation, partnership, trust, or association controlled by an individual, corporation, partnership, trust, or association in control of the taxpayer. For the purposes of sections 135.100 to 135.150, "control of a corporation" shall mean ownership, directly or indirectly, of stock possessing at least fifty percent of the total combined voting power of all classes of stock entitled to vote; "control of a partnership or association" shall mean ownership of at least fifty percent of the capital or profits interest in such partnership or association; and "control of a trust" shall mean ownership, directly or indirectly, of at least fifty percent of the beneficial interest in the principal or income of such trust; ownership shall be determined as provided in Section 318 of the U.S. Internal Revenue Code;

(11) "Replacement business facility", a facility otherwise described in subdivision (3) of this section, hereafter referred to in this subdivision as "new facility", which replaces another facility, hereafter referred to in this subdivision as "old facility", located within the state, which the taxpayer or a related taxpayer previously operated but discontinued operating on or before the close of the first taxable tax year in which the credit allowed by this section is claimed. A new facility shall be deemed to replace an old facility if the following conditions are met:

(a) The old facility was operated by the taxpayer or a related taxpayer during the taxpayer's or related taxpayer's taxable tax period immediately preceding the taxable tax year in which commencement of commercial operations occurs at the new facility; and

(b) The old facility was employed by the taxpayer or a related taxpayer in the operation of a revenue-producing enterprise and the taxpayer continues the operation of the same or substantially similar revenue-producing enterprise at the
new facility.

Notwithstanding the preceding provisions of this subdivision, a facility shall not be considered a replacement business facility if the taxpayer's new business facility investment, as computed in subsection 5 of section 135.110, in the new facility during the tax period in which the credits allowed in sections 135.110, 135.225, and 135.235 and the exemption allowed in section 135.220 are claimed exceed one million dollars or, if less, two hundred percent of the investment in the old facility by the taxpayer or related taxpayer, and if the total number of employees at the new facility exceeds the total number of employees at the old facility by at least two except that the total number of employees at the new facility exceeds the total number of employees at the old facility by at least twenty-five if an office as defined in subdivision (9) of this section is established by a revenue-producing enterprise other than a revenue-producing enterprise defined in paragraphs (a) to (g) and (i) to (l) of subdivision (12) of this section;

(12) "Revenue-producing enterprise" means:

(a) Manufacturing activities classified as NAICS 31-33;
(b) Agricultural activities classified as NAICS 11;
(c) Rail transportation terminal activities classified as NAICS 482;
(d) Motor freight transportation terminal activities classified as NAICS 484 and NAICS 4884;
(e) Public warehousing and storage activities classified as NAICS 493, miniwarehouse warehousing and warehousing self-storage;
(f) Water transportation terminal activities classified as NAICS 4832;
(g) Airports, flying fields, and airport terminal services classified as NAICS 481;
(h) Wholesale trade activities classified as NAICS 42;
(i) Insurance carriers activities classified as NAICS 524;
(j) Research and development activities classified as NAICS 5417;
(k) Farm implement dealer activities classified as NAICS 42382;
(l) Interexchange telecommunications services as defined in subdivision (20) of section 386.020 or training activities conducted by an interexchange telecommunications company as defined in subdivision (19) of section 386.020;
(m) Recycling activities classified as NAICS 42393;
(n) Office activities as defined in subdivision (9) of this section, notwithstanding NAICS classification;
(o) Mining activities classified as NAICS 21;
(p) Computer programming, data processing, and other computer-related activities classified as NAICS 5415;
(q) The administrative management of any of the foregoing activities; or
(r) Any combination of any of the foregoing activities;
(13) "Same or substantially similar revenue-producing enterprise", a revenue-producing enterprise in which the nature of the products produced or sold, or activities conducted, are similar in character and use or are produced, sold, performed, or conducted in the same or similar manner as in another revenue-producing enterprise;
(14) "Taxpayer", an individual proprietorship, corporation described in section 143.441 or 143.471, and partnership or an insurance company subject to the tax imposed by chapter 148, or in the case of an insurance company exempt from the thirty-percent employee requirement of section 135.230, to any obligation imposed [pursuant to] under section 375.916.

173.2553. 1. There is hereby established a "Fast Track Workforce Incentive Grant", and any moneys appropriated by the general assembly for this program shall be used to provide grants for Missouri citizens to attend an approved Missouri postsecondary institution of their choice in accordance with the provisions of this section.

2. The definitions of terms set forth in section 173.1102 shall be applicable to such terms as used in this section and section 173.2554. In addition, the following terms shall mean:

(1) "Board", the coordinating board for higher education;
(2) "Eligible student", an individual who:
   (a) Has completed and submitted a FAFSA for the academic year for which the grant is requested;
   (b) Is a citizen or permanent resident of the United States;
   (c) Is a Missouri resident as determined by reference to standards promulgated by the coordinating board;
   (d) Is enrolled, or plans to enroll, at least half-time as a student in an eligible undergraduate program of study offered by an approved public, private, or virtual institution, as defined in section 173.1102;
   (e) Has an adjusted gross income, as reported on the FAFSA, that does not exceed eighty thousand dollars for married filing joint taxpayers or forty thousand dollars for all other taxpayers; and
   (f) Is twenty-five years of age or older at the time of enrollment
or has not been enrolled in an educational program for the prior two academic years;

(3) "Eligible program of study", a program of instruction:
(a) Resulting in the award of a certificate, undergraduate degree, or other industry-recognized credential; and
(b) That has been designated by the coordinating board as preparing students to enter an area of occupational shortage as determined by the board;

(4) "FAFSA", the Free Application for Federal Student Aid, as maintained by the United States Department of Education;

(5) "Fast track grant", an amount of moneys paid by the state of Missouri to a student under the provisions of this section;

(6) "Graduation", completion of a program of study as indicated by the award of a certificate, undergraduate degree, or other industry-recognized credential;

(7) "Qualifying employment", full-time employment of a Missouri resident at a workplace located within the state of Missouri, or self-employment while a Missouri resident, with at least fifty percent of an individual's annual income coming from self-employment, either of which result in required returns of income in accordance with section 143.481;

(8) "Recipient", an eligible student or renewal student who receives a fast track grant under the provisions of this section;

(9) "Renewal student", an eligible student who remains in compliance with the provisions of this section, has received a grant as an initial recipient, maintains a cumulative grade-point average of at least two and one-half on a four-point scale or the equivalent, makes satisfactory academic degree progress as defined by the institution, with the exception of grade-point average, and has not received a bachelor's degree.

3. Standards of eligibility for renewed assistance shall be the same as for an initial award of financial assistance; except that, for renewal, an applicant shall demonstrate a grade-point average of two and one-half on a four-point scale, or the equivalent on another scale.

4. Eligibility for a grant expires upon the earliest of:
(1) Receipt of the grant for four semesters or the equivalent;
(2) Receipt of a bachelor's degree; or
(3) Reaching two hundred percent of the time typically required to complete the program of study.

5. The coordinating board shall initially designate eligible programs of study by January 1, 2020, in connection with local education institutions, regional business organizations, and other stakeholders. The coordinating board shall annually review the list of eligible programs of study and make changes to the program list as it determines appropriate.

6. The coordinating board shall be the administrative agency for the implementation of the program established by this section and section 173.2554. The coordinating board shall promulgate reasonable rules and regulations for the exercise of its functions and the effectuation of the purposes of this section and section 173.2554. The coordinating board shall prescribe the form and the time and method of filing applications and supervise the processing thereof. The coordinating board shall determine the criteria for eligibility of applicants and shall evaluate each applicant's eligibility. The coordinating board shall select qualified recipients to receive grants, make such awards of financial assistance to qualified recipients, and determine the manner and method of payment to the recipients.

7. The coordinating board shall determine eligibility for renewed assistance on the basis of annual applications. As a condition to consideration for initial or renewed assistance, the coordinating board may require the applicant and the applicant's spouse to execute forms of consent authorizing the director of revenue to compare financial information submitted by the applicant with the Missouri individual income tax returns of the applicant, and the applicant's spouse, for the taxable year immediately preceding the year for which application is made, and to report any discrepancies to the coordinating board.

8. Grants shall be awarded in an amount equal to the actual tuition and general fees charged of an eligible student, after all federal nonloan aid, state student aid, and any other governmental student financial aid are applied. If a grant amount is reduced to zero due to the receipt of other aid, the eligible student shall receive an award of up to five hundred dollars or the remaining cost of attendance as calculated by the institution after all nonloan student aid has been applied, whichever is less, per academic term.
9. If appropriated funds are insufficient to fund the program as described, students applying for renewed assistance shall be given priority until all funds are expended.

10. A recipient of financial assistance may transfer from one approved public, private, or virtual institution to another without losing eligibility for assistance under this section, but the coordinating board shall make any necessary adjustments in the amount of the award. If a recipient of financial assistance at any time is entitled to a refund of any tuition or fees under the rules and regulations of the institution in which he or she is enrolled, the institution shall pay the portion of the refund that may be attributed to the grant to the coordinating board. The coordinating board shall use these refunds to make additional awards under the provisions of this section.

11. Subject to the requirements of subsections 2, 3, and 4 of this section, a student is eligible for a fast track grant under this section if the student meets all of the following criteria:

   (1) The student has successfully completed counseling explaining the benefits and obligations of the program under this section, including the terms and conditions of the promissory note under subdivision (2) of this subsection and the consequences of noncompliance specified in section 173.2554; and

   (2) The student executes a promissory note acknowledging that the fast track grant moneys awarded under this section will be converted to a loan, and agreeing to repay that loan if he or she fails to satisfy the following conditions:

       (a) Maintenance of at least half-time enrollment in an eligible program, with an interruption of qualifying enrollment of no more than twelve consecutive months from the last day of the most recent payment period during which the student received a fast track award;

       (b) Graduation from an approved institution; or

       (c) Residency within the state of Missouri within twelve months after the date of the student's graduation and for a period of not less than three years and qualifying employment within twelve months of the student's graduation and for a period of not less than three years. Residency and qualifying employment obligations may be deferred if the recipient's studies continue after graduation.

12. Persons who receive fast track grants under this section shall
be required to submit proof of residency and qualifying employment to
the coordinating board for higher education within thirty days of
completing each twelve months of qualifying employment until the
three year employment obligation is fulfilled.

13. Under section 23.253 of the Missouri sunset act:
(1) The provisions of the new program authorized under this
section shall sunset automatically three years after the effective date
of this section, unless reauthorized by an act of the general assembly;
and
(2) If such program is reauthorized, the program authorized
under this section shall sunset automatically six years after the
effective date of the reauthorization; and
(3) This section shall terminate on December thirty-first of the
calendar year immediately following the calendar year in which the
program authorized under this section is sunset.

173.2554. 1. Except as provided in subsection 2 of this section,
if a student who received a fast track grant under section 173.2553 fails
to comply with the terms of the promissory note under subdivision (2)
of subsection 11 of section 173.2553, including failure to satisfy the
conditions in paragraphs (a), (b), or (c) of such subdivision, the fast
track grant shall be converted to a loan. This loan shall accrue interest
at the federal direct loan interest rate for Direct Subsidized
Undergraduate Loans in effect at the time the student enters the
eligible program. Interest shall be calculated from the date the
recipient enters repayment. For a recipient who fulfills some, but not
all, of his or her three-year residency and employment obligations, the
amount of the fast track grant that is converted to a loan shall be
reduced by one-third for each period of twelve months of residency and
employment as verified by the proof of residency and qualifying
employment required in subsection 12 of section 173.2553.

2. The coordinating board shall provide for a waiver under the
fast track grant if the grant is not converted to a loan under subsection
1 of this section for a recipient who fails to comply with terms of the
agreement under paragraphs (a), (b), or (c) of subdivision (2) of
subsection 11 of section 173.2553 due to his or her total and permanent
disability or death, the total and permanent disability or death of his
or her spouse or child, or if such recipient or recipient's spouse is
providing service to any branch of the Armed Forces of the United States and is transferred out of state and is no longer able to maintain Missouri residency as a result of such service. The waiver shall specify standards for the board's determination of total and permanent disability or death standards for the board's determination of total and permanent disability or death, or military transfer status, and a process for seeking a waiver under this subsection.

3. The coordinating board shall deposit in the fast track workforce incentive grant fund all repayments of principal and interest on the loans under subsection 1 of this section.

4. The coordinating board shall establish a procedure and guidelines for granting deferments or forbearances of fast track grants that have converted to loans and are in repayment status for recipients who:

   (1) Are enrolled at least half-time at an institution of higher education;
   (2) Experience economic hardship;
   (3) Have a medical condition limiting their ability to continue repayment including, but not limited to, illness, disability, or pregnancy; or
   (4) Are providing service to any branch of the Armed Forces of the United States.

5. The coordinating board shall establish a procedure and guidelines for granting loan discharge for fast track grants that have been converted to loans and are in repayment for recipients who are unable to fulfill the repayment obligation due to their total and permanent disability or death or the total and permanent disability or death of their spouse or child.

6. (1) There is hereby created in the state treasury the "Fast Track Workforce Incentive Grant Fund". The state treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180, the state treasurer may approve disbursements. The fund shall be a dedicated fund and, upon appropriation, moneys in the fund shall be used solely by the coordinating board for the purposes of this section and section 173.2553.

   (2) Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium
shall not revert to the credit of the general revenue fund.

(3) The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

7. The coordinating board shall have the authority to promulgate rules to implement the provisions of this section and section 173.2553. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028. This section and chapter 536 are nonseverable, and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2019, shall be invalid and void.

620.511. 1. There is hereby established the "Missouri Workforce Development Board", formerly known as the Missouri workforce investment board, and hereinafter referred to as "the board" in sections 620.511 to 620.513.

2. The purpose of the board is to provide workforce investment activities, through statewide and local workforce investment systems, that increase the employment, retention, and earnings of participants, and increase occupational skill attainment by participants, and, as a result, improve the quality of the workforce, reduce welfare dependency, and enhance the productivity and competitiveness of the state of Missouri. The board shall be the state's advisory board pertaining to workforce preparation policy.

3. The board shall meet the requirements of the federal Workforce Innovation and Opportunity Act [of 2014], hereinafter referred to as the "WIOA", P.L. 113-128, as amended. Should another federal law supplant the WIOA, all references in sections 620.511 to 620.513 to the WIOA shall apply as well to the new federal law.

4. Composition of the board shall comply with the WIOA. Board members appointed by the governor shall be subject to the advice and consent of the senate. Consistent with the requirements of the WIOA, the governor shall designate one member of the board to be its chairperson.

5. Each member of the board shall serve for a term of four years, subject
to the pleasure of the governor, and until a successor is duly appointed. In the event of a vacancy on the board, the vacancy shall be filled in the same manner as the original appointment and said replacement shall serve the remainder of the original appointee's unexpired term.

6. Of the members initially appointed to the WIOA, formerly known as the WIA, board, one-fourth shall be appointed for a term of four years, one-fourth shall be appointed for a term of three years, one-fourth shall be appointed for a term of two years, and one-fourth shall be appointed for a term of one year.

7. WIOA board members shall receive no compensation, but shall be reimbursed for all necessary expenses actually incurred in the performance of their duties.

8. The department may include on its website a list of the names of the members of the board, including the names of members of local workforce development boards, along with information on how to contact such boards.

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

(8) "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
insurance and pays at least fifty percent of such insurance premiums;

[(8)] (9) "Local education agency", a community college district, two-year state technical college, or technical career education center;

[(9)] (10) "Missouri [works training] one start program", the training program established under sections 620.800 to 620.809;

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

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

[(12)] (13) "New jobs credit", the credit from withholding remitted by a qualified company provided under subsection 7 of section 620.809;

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

[(14)] (15) "Project facility", the building or buildings used by a qualified company at which new or retained jobs and any new capital investment are or will be located. A project facility may include separate buildings located within sixty miles of each other such that their purpose and operations are interrelated, provided that, if the buildings making up the project facility are not located within the same county, the average wage of the new payroll must exceed the applicable percentage of the highest county average wage among the counties in which the buildings are located. Upon approval by the department, a subsequent project facility may be designated if the qualified company demonstrates a need to relocate to the subsequent project facility at any time during the project period;
"Project facility base employment", the greater of the number of full-time employees located at the project facility on the date of the notice of intent or, for the twelve-month period prior to the date of the notice of intent, the average number of full-time employees located at the project facility. In the event the project facility has not been in operation for a full twelve-month period, the average number of full-time employees for the number of months the project facility has been in operation prior to the date of the notice of intent;

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

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

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

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

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

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

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

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

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

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

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

[(17)] (18) "Related company":
(a) A corporation, partnership, trust, or association controlled by the
qualified company;
(b) An individual, corporation, partnership, trust, or association in control
of the qualified company; or
(c) Corporations, partnerships, trusts, or associations controlled by an
individual, corporation, partnership, trust, or association in control of the
qualified company. As used in this subdivision, "control of a corporation" shall
mean ownership, directly or indirectly, of stock possessing at least fifty percent
of the total combined voting power of all classes of stock entitled to vote; "control
of a partnership or association" shall mean ownership of at least fifty percent of
the capital or profits interest in such partnership or association; "control of a
trust" shall mean ownership, directly or indirectly, of at least fifty percent of the
beneficial interest in the principal or income of such trust; and "ownership" shall
be determined as provided in Section 318 of the Internal Revenue Code of 1986,
as amended;

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

[(19)] (20) "Related facility base employment", the greater of the number
of full-time employees located at all related facilities on the date of the notice of
intent or, for the twelve-month period prior to the date of the notice of intent, the
average number of full-time employees located at all related facilities of the
qualified company or a related company located in this state;
"Retained jobs", the average number of full-time employees of a qualified company located at the project facility during each month for the calendar year preceding the year in which the notice of intent is submitted;

"Retained jobs credit", the credit from withholding remitted by a qualified company provided under subsection 7 of section 620.809;

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

"Training program", the Missouri one start program established under sections 620.800 to 620.809;

"Training project", the project or projects established through the Missouri one start program for the creation or retention of jobs by providing education and training of workers;

"Training project costs", may include all necessary and incidental costs of providing program services through the training program, including such as:

(a) Training materials and supplies;
(b) Wages and benefits of instructors, who may or may not be employed by the eligible industry, and the cost of training such instructors;
(c) Subcontracted services;
(d) On-the-job training;
(e) Training facilities and equipment;
(f) Skill assessment;
(g) Training project and curriculum development;
(h) Travel directly to the training project, including a coordinated transportation program for training if the training can be more effectively provided outside the community where the jobs are to be located;
(i) Payments to third-party training providers and to the eligible industry;
(j) Teaching and assistance provided by educational institutions in the state of Missouri;
(k) In-plant training analysis, including fees for professionals and necessary travel and expenses;
(l) Assessment and preselection tools;
(m) Publicity;
(n) Instructional services;
o) Rental of instructional facilities with necessary utilities; and
(p) Payment of the principal, premium, and interest on certificates, including capitalized interest, issued to finance a project, and the funding and maintenance of a debt service reserve fund to secure such certificates;

[(26)] (27) "Training project services", [includes] may include, but shall not be limited to, the following:

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

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

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

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

(e) On-the-job training;

(f) Administrative expenses [equal to fifteen percent of the total training costs] at a reasonable amount determined by the department;

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

(h) Contracted or professional services; and

(i) Issuance of certificates, when applicable.

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

2. There is hereby created the "Missouri [Works] One Start Job Training Joint Legislative Oversight Committee". The committee shall consist of three members of the Missouri senate appointed by the president pro tempore of the senate and three members of the house of representatives appointed by the speaker of the house. No more than two of the members of the senate and two of the members of the house of representatives shall be from the same political party. Members of the committee shall report to the governor, the president pro tempore of the senate, and the speaker of the house of representatives on all assistance to [industries] qualified companies under the provisions of sections
The report of the committee shall be delivered no later than October first of each year. The director of the department shall report to the committee such information as the committee may deem necessary for its annual report. Members of the committee shall receive no compensation in addition to their salary as members of the general assembly but may receive their necessary expenses while attending the meetings of the committee, to be paid out of the joint contingent fund.

3. The department shall publish guidelines and may promulgate rules and regulations governing the training program. In establishing such guidelines and promulgating such rules and regulations, the department shall consider such factors as the potential number of new jobs to be created, the potential number of new minority jobs created, the amount of new capital investment in new facilities and equipment, the significance of state benefits to the qualified company's decision to locate or expand in Missouri, the economic need of the affected community, and the importance of the qualified company to the economic development of the state. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2013, shall be invalid and void.

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

5. The department may contract with other entities, not to exceed fifty thousand dollars annually, for the purposes of advertising, marketing, or promoting the training program established in sections 620.800 to 620.809. Any assistance through the training program shall be provided under an agreement.

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

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

8. The department may require repayment of all benefits awarded, increased by an additional amount that shall provide the state a reasonable rate of return, to any qualified company under sections 620.800 to 620.809 that fails to maintain the new or retained jobs within five years of approval of the benefits or that leaves the state within five years of approval of the benefits.

9. The department shall be authorized to contract with other entities, including businesses, industries, other state agencies, and political subdivisions of the state for the purpose of implementing a training project under the provisions of sections 620.800 to 620.809.

620.806. 1. [The Missouri job development fund, formerly established in the state treasury by section 620.478, shall now] There is hereby created in the state treasury a fund to be known as the "Missouri [Works] One Start Job Development Fund" [and], that shall be administered by the department for the [training] purposes of the Missouri one start program. The fund shall consist of all moneys which may be appropriated to it by the general assembly and also any gifts, contributions, grants, or bequests received from federal, private or other sources, including, but not limited to, any block grant or other sources of funding relating to job training, school-to-work transition, welfare reform, vocational and technical training, housing, infrastructure, development, and human resource investment programs which may be provided by the federal government or other sources. The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

2. The department may provide financial assistance through the training program to qualified companies that create new jobs which will result in the need for training, or that make new capital investment relating directly to the
retention of jobs in an amount at least five times greater than the amount of any financial assistance. Financial assistance may also be provided to a consortium of a majority of qualified companies organized to provide common training to the consortium members' employees. Funds in the Missouri job development fund shall be appropriated, for financial assistance through the training program, by the general assembly to the department and shall be administered by a local educational agency certified by the department for such purpose. Except for state-sponsored preemployment training, no qualified company shall receive more than fifty percent of its training program costs from the Missouri job development fund. No funds shall be awarded or reimbursed to any qualified company for the training, retraining, or upgrading of skills of potential employees with the purpose of replacing or supplanting employees engaged in an authorized work stoppage. Upon approval by the department, training project costs, except the purchase of training equipment and training facilities, shall be eligible for reimbursement with funds from the Missouri job development fund. Notwithstanding any provision of law to the contrary, no qualified company within a service industry shall be eligible for assistance under this subsection unless such qualified company provides services in interstate commerce, which shall mean that the qualified company derives a majority of its annual revenues from out of the state.

3. [The department may provide assistance, through appropriations made from the Missouri works job development fund, to business and technology centers. Such assistance shall not include the lending of the state's credit for the payment of any liability of the fund. Such centers may be established by Missouri community colleges, or state-owned postsecondary technical colleges, to provide business and training services for growth industries as determined by current labor market information.] Upon appropriation, a local education agency may petition the department to utilize the Missouri one start job development fund in order to create or improve training facilities, training equipment, training staff, training expertise, training programming, and administration. The department shall review all petitions and may award funds from the Missouri one start job development fund for reimbursement of training project costs and training project services as it deems necessary.

4. The department may promulgate rules to implement the
provisions of this section. Any rule or portion of a rule, as that term is
defined in section 536.010 that is created under the authority delegated
in this section shall become effective only if it complies with and is
subject to all of the provisions of chapter 536 and, if applicable, section
536.028. This section and chapter 536 are nonseverable and if any of
the powers vested with the general assembly pursuant to chapter 536
to review, to delay the effective date, or to disapprove and annul a rule
are subsequently held unconstitutional, then the grant of rulemaking
authority and any rule proposed or adopted after August 28, 2019, shall
be invalid and void.

620.809. 1. [The Missouri community college job training program fund,
formerly established in the state treasury by section 178.896, shall now] There
is hereby established in the state treasury a fund to be known as the
"Missouri [Works] One Start Community College New Jobs Training Fund"
and, that shall be administered by the department for the training
program. The department of revenue shall credit to the fund, as received, all new
jobs credits. For existing Missouri businesses creating new jobs, the
training project may include retained jobs. The fund shall also consist of
any gifts, contributions, grants, or bequests received from federal, private, or
other sources. The general assembly, however, shall not provide for any transfer
of general revenue funds into the fund. Moneys in the fund shall be disbursed
to the department under regular appropriations by the general assembly. The
department shall have the discretion to determine the appropriate
amount of funds to allocate per training project. The department shall
disburse such appropriated funds in a timely manner into the special funds
established by community college districts for training projects, which funds shall
be used to pay training project costs. Such disbursements shall be made to the
special fund for each training project as provided under subsection 5 of this
section. All moneys remaining in the fund at the end of any fiscal year shall not
lapse to the general revenue fund, as provided in section 33.080, but shall remain
in the fund.

2. [The Missouri community college job retention training program fund,
formerly established in the state treasury by section 178.764, shall now] There
is hereby created in the state treasury a fund to be known as the "Missouri
[Works] One Start Community College Job Retention Training Fund" [and],
that shall be administered by the department for the Missouri [works training]
one start program. The department of revenue shall credit to the fund, as received, all retained jobs credits. For existing Missouri businesses retaining jobs, the training project may include new jobs. The fund shall also consist of any gifts, contributions, grants, or bequests received from federal, private, or other sources. The general assembly, however, shall not provide for any transfer of general revenue funds into the fund. Moneys in the fund shall be disbursed to the department under regular appropriations by the general assembly. The department shall have the discretion to determine the appropriate amount of funds to allocate per training project. The department shall disburse such appropriated funds in a timely manner into the special funds established by community college districts for projects, which funds shall be used to pay training program costs, including the principal, premium, and interest on certificates issued by the district to finance or refinance, in whole or in part, a project. Such disbursements by the department shall be made to the special fund for each project as provided under subsection 5 of this section. All moneys remaining in the fund at the end of any fiscal year shall not lapse to the general revenue fund, as provided in section 33.080, but shall remain in the fund.

3. The department of revenue shall develop such forms as are necessary to demonstrate accurately each qualified company’s new jobs credit paid into the Missouri community college new jobs training fund or retained jobs credit paid into the Missouri community college job retention training fund. The new or retained jobs credits shall be accounted as separate from the normal withholding tax paid to the department of revenue by the qualified company. Reimbursements made by all qualified companies to the Missouri community college new jobs training fund and the Missouri community college job retention training fund shall be no less than all allocations made by the department to all community college districts for all projects. The qualified company shall remit the amount of the new or retained jobs credit, as applicable, to the department of revenue in the same manner as provided in sections 143.191 to 143.265.

4. A community college district, with the approval of the department in consultation with the office of administration, may enter into an agreement to establish a training project and provide training project services to a qualified company. As soon as possible after initial contact between a community college district and a potential qualified company regarding the possibility of entering into an agreement, the community college district shall inform the department
of the potential training project. The department shall evaluate the proposed training project within the overall job training efforts of the state to ensure that the training project will not duplicate other job training programs. The department shall have fourteen days from receipt of a notice of intent to approve or disapprove a training project. If no response is received by the qualified company within fourteen days, the training project shall be deemed approved. Disapproval of any training project shall be made in writing and state the reasons for such disapproval. If an agreement is entered into, the district and the qualified company shall notify the department of revenue within fifteen calendar days. In addition to any provisions required under subsection 6 of this section for a qualified company applying to receive a new or retained job credit, an agreement may provide, but shall not be limited to:

1. Payment of training project costs, which may be paid from one or a combination of the following sources:
   a. Funds appropriated by the general assembly to the Missouri works one start community college new jobs training program fund or Missouri works one start community college job retention training program fund, as applicable, and disbursed by the department for the purposes consistent with sections 620.800 to 620.809;
   b. Funds appropriated by the general assembly from the general revenue fund and disbursed by the department for the purposes consistent with sections 620.800 to 620.809;
   c. Tuition, student fees, or special charges fixed by the board of trustees to defray training project costs in whole or in part;
2. Payment of training project costs which shall not be deferred for a period longer than eight years;
3. Costs of on-the-job training for employees which shall include wages or salaries of participating employees. Payments for on-the-job training shall not exceed the average of fifty percent of the total wages paid by the qualified company to each participant during the period of training. Payment for on-the-job training may continue for up to six months from the date the training begins;
4. A provision which fixes the minimum amount of new or retained jobs credits, general revenue fund appropriations, or tuition and fee payments which shall be paid for training project costs; and
5. Any payment required to be made by a qualified company. This
payment shall constitute a lien upon the qualified company's business property until paid, shall have equal priority with ordinary taxes and shall not be divested by a judicial sale. Property subject to such lien may be sold for sums due and delinquent at a tax sale, with the same forfeitures, penalties, and consequences as for the nonpayment of ordinary taxes. The purchasers at a tax sale shall obtain the property subject to the remaining payments.

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

(2) Subject to appropriation, for projects that are funded through a combination of funds under paragraphs (a) and (b) of subdivision (1) of subsection 4 of this section, the department shall disburse funds appropriated under paragraph (b) of subdivision (1) of subsection 4 of this section to the special fund for each training project upon commencement of the project. The department shall disburse funds appropriated under paragraph (a) of subdivision (1) of subsection 4 of this section to the special fund for each training project in the same proportion as the new jobs or retained jobs credits remitted by the qualified company participating in such project bears to the total new jobs or retained jobs credits from withholding remitted by all qualified companies participating in projects during the period for which the disbursement is made, reduced by the amount of funds appropriated under paragraph (b) of subdivision (1) of subsection 4 of this section.

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

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

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

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

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

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

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

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

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

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

(3) The community college district participating in a project shall establish a special fund for and in the name of the training project. All funds appropriated by the general assembly from the funds established under subsections 1 and 2 of this section and disbursed by the department for the training project and other amounts received by the district for training project costs as required by the agreement shall be deposited in the special fund. Amounts held in the special fund shall be used and disbursed by the district only to pay training project costs for such training project. The special fund may be divided into such accounts and subaccounts as shall be provided in
the agreement, and amounts held therein may be invested in the same manner as the district’s other funds;

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

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

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

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

8. To provide funds for the present payment of the training project costs of new or retained jobs training project through the training program, a community college district may borrow money and issue and sell certificates payable from a sufficient portion of the future receipts of payments authorized by the agreement including disbursements from the Missouri [works] one start community college new jobs training fund or the Missouri [works] one start community college job retention training fund, to the special fund established by the community college district for each project. The total amount of outstanding certificates sold by all community college districts shall not exceed the total amount authorized under law as of January 1, 2013, unless an increased amount is authorized in writing by a majority of members of the committee. The certificates shall be marketed through financial institutions authorized to do business in Missouri. The receipts shall be pledged to the payment of principal of and interest on the certificates. Certificates may be sold at public sale or at private sale at par, premium, or discount of not less than ninety-five percent of the par value thereof, at the discretion of the board of trustees, and may bear interest at such rate or rates as the board of trustees shall determine, notwithstanding the provisions of section 108.170 to the contrary. However, the provisions of chapter 176 shall not apply to the issuance of such
certificates. Certificates may be issued with respect to a single project or multiple projects and may contain terms or conditions as the board of trustees may provide by resolution authorizing the issuance of the certificates.

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

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

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

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

13. Pursuant to section 23.253 of the Missouri sunset act:

(1) The program authorized under sections 620.800 to 620.809 shall be
reauthorized as of August 28, 2018, and shall expire on August 28, 2030; and
(2) If such program is reauthorized, the program authorized under
sections 620.800 to 620.809 shall automatically sunset twelve years after the
effective date of the reauthorization of sections 620.800 to 620.809; and
(3) Sections 620.800 to 620.809 shall terminate on September first of the
calendar year immediately following the calendar year in which a program
authorized under sections 620.800 to 620.809 is sunset.

14. Any agreement or obligation entered into by the department
that was made under the provisions of sections 620.800 to 620.809 prior
to the effective date of this section shall remain in effect according to
the provisions of such agreement or obligation.

620.2005. As used in sections 620.2000 to 620.2020, the following terms
mean:
(1) "Average wage", the new payroll divided by the number of new jobs,
or the payroll of the retained jobs divided by the number of retained jobs;
(2) "Commencement of operations", the starting date for the qualified
company's first new employee, which shall be no later than twelve months from
the date of the approval;
(3) "Contractor", a person, employer, or business entity that
enters into an agreement to perform any service or work or to provide
a certain product in exchange for valuable consideration. This
definition shall include but not be limited to a general contractor,
subcontractor, independent contractor, contract employee, project
manager, or a recruiting or staffing entity;
[(3)] (4) "County average wage", the average wages in each county as
determined by the department for the most recently completed full calendar
year. However, if the computed county average wage is above the statewide
average wage, the statewide average wage shall be deemed the county average
wage for such county for the purpose of determining eligibility. The department
shall publish the county average wage for each county at least
annually. Notwithstanding the provisions of this subdivision to the contrary, for
any qualified company that in conjunction with their project is relocating
employees from a Missouri county with a higher county average wage, the
company shall obtain the endorsement of the governing body of the community
from which jobs are being relocated or the county average wage for their project
shall be the county average wage for the county from which the employees are
being relocated;

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

[(5)] (6) "Director", the director of the department of economic development;

[(6)] (7) "Employee", a person employed by a qualified company, excluding:

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

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

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

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

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

(11) "Local incentives", the present value of the dollar amount of direct benefit received by a qualified company for a project facility from one or more local political subdivisions, but this term shall not include loans or other funds provided to the qualified company that shall be repaid by the qualified company to the political subdivision;
(12) "Manufacturing capital investment", expenditures made by a qualified manufacturing company to retool or reconfigure a manufacturing project facility directly related to the manufacturing of a new product or the expansion or modification of the manufacture of an existing product;

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

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

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

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

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

(18) "New product", a new model or line of a manufactured good that has not been manufactured in Missouri by a qualified manufacturing company at any time prior to the date of the notice of intent, or an existing brand, model, or line of a manufactured good that is redesigned;
"Notice of intent", a form developed by the department and available online, completed by the qualified company, and submitted to the department stating the qualified company's intent to request benefits under this program. The notice of intent shall be accompanied with a detailed plan by the qualifying company to make good faith efforts to employ, at a minimum, commensurate with the percentage of minority populations in the state of Missouri, as reported in the previous decennial census, the following: racial minorities, contractors who are racial minorities, and contractors that, in turn, employ at a minimum racial minorities commensurate with the percentage of minority populations in the state of Missouri, as reported in the previous decennial census. At a minimum, such plan shall include monitoring the effectiveness of outreach and recruitment strategies in attracting diverse applicants and linking with different or additional referral sources in the event that recruitment efforts fail to produce a diverse pipeline of applicants;

"Percent of local incentives", the amount of local incentives divided by the amount of new direct local revenue;

"Program", the Missouri works program established in sections 620.2000 to 620.2020;

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

"Project facility base employment", the greater of the number of full-time employees located at the project facility on the date of the notice of intent or, for the twelve-month period prior to the date of the notice of intent, the average number of full-time employees located at the project facility. In the event the project facility has not been in operation for a full twelve-month period, the
average number of full-time employees for the number of months the project
facility has been in operation prior to the date of the notice of intent;
[(20)] (24) "Project facility base payroll", the annualized payroll for the
project facility base employment or the total amount of wages paid by the
qualified company to full-time employees of the qualified company located at the
project facility in the twelve months prior to the notice of intent. For purposes
of calculating the benefits under this program, the amount of base payroll shall
increase each year based on an appropriate measure, as determined by the
department;
[(21)] (25) "Project period", the time period within which benefits are
awarded to a qualified company or within which the qualified company is
obligated to perform under an agreement with the department, whichever is
greater;
[(22)] (26) "Projected net fiscal benefit", the total fiscal benefit to the
state less any state benefits offered to the qualified company, as determined by
the department;
[(23)] (27) "Qualified company", a firm, partnership, joint venture,
association, private or public corporation whether organized for profit or not, or
headquarters of such entity registered to do business in Missouri that is the
owner or operator of a project facility, certifies that it offers health insurance to
all full-time employees of all facilities located in this state, and certifies that it
pays at least fifty percent of such insurance premiums. For the purposes of
sections 620.2000 to 620.2020, the term "qualified company" shall not include:
(a) Gambling establishments (NAICS industry group 7132);
(b) Store front consumer-based retail trade establishments (under NAICS
sectors 44 and 45), except with respect to any company headquartered in this
state with a majority of its full-time employees engaged in operations not within
the NAICS codes specified in this subdivision;
(c) Food and drinking places (NAICS subsector 722);
(d) Public utilities (NAICS 221 including water and sewer services);
(e) Any company that is delinquent in the payment of any nonprotested
taxes or any other amounts due the state or federal government or any other
political subdivision of this state;
(f) Any company requesting benefits for retained jobs that has filed for or
has publicly announced its intention to file for bankruptcy protection. However,
a company that has filed for or has publicly announced its intention to file for
bankruptcy may be a qualified company provided that such company:

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

b. After its bankruptcy petition has been filed, it produces proof, in a form and at times satisfactory to the department, that it is not delinquent in filing any tax returns or making any payment due to the state of Missouri, including but not limited to all tax payments due after the filing of the bankruptcy petition and under the terms of the plan of reorganization. Any taxpayer who is awarded benefits under this subsection and who files for bankruptcy under Chapter 7 of the United States Bankruptcy Code, Title 11 U.S.C., shall immediately notify the department and shall forfeit such benefits and shall repay the state an amount equal to any state tax credits already redeemed and any withholding taxes already retained;

(g) Educational services (NAICS sector 61);

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

(i) Public administration (NAICS sector 92);

(j) Ethanol distillation or production;

(k) Biodiesel production; or

(l) Health care and social services (NAICS sector 62).

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

(28) “Qualified manufacturing company”, a company that:

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

(b) Manufactures goods at a facility in Missouri;

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

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

[(24)] (29) "Related company", shall mean:

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

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

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

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

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

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

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

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

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

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

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

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

[(31)] (36) This section is subject to the provisions of section 196.1127.

620.2010. 1. In exchange for the consideration provided by the new tax revenues and other economic stimuli that will be generated by the new jobs created, a qualified company may, for a period of five years from the date the new jobs are created, or for a period of six years from the date the new jobs are created if the qualified company is an existing Missouri business, retain an amount equal to the withholding tax as calculated under subdivision [(30)] (35) of section 620.2005 from the new jobs that would otherwise be withheld and remitted by the qualified company under the provisions of sections 143.191 to 143.265 if:

(1) The qualified company creates ten or more new jobs, and the average wage of the new payroll equals or exceeds ninety percent of the county average wage;

(2) The qualified company creates two or more new jobs at a project facility located in a rural area, the average wage of the new payroll equals or exceeds ninety percent of the county average wage, and the qualified company commits to making at least one hundred thousand dollars of new capital investment at the project facility within two years; or

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

2. In addition to any benefits available under subsection 1 of this section,
the department may award a qualified company that satisfies subdivision (1) of subsection 1 of this section additional tax credits, issued each year for a period of five years from the date the new jobs are created, or for a period of six years from the date the new jobs are created if the qualified company is an existing Missouri business, in an amount equal to or less than six percent of new payroll; provided that in no event may the total amount of benefits awarded to a qualified company under this section exceed nine percent of new payroll in any calendar year. The amount of tax credits awarded to a qualified company under this subsection shall not exceed the projected net fiscal benefit to the state, as determined by the department, and shall not exceed the least amount necessary to obtain the qualified company’s commitment to initiate the project. In determining the amount of tax credits to award to a qualified company under this subsection or a qualified manufacturing company under subsection 3 of this section, the department shall consider the following factors:

1. The significance of the qualified company’s need for program benefits;
2. The amount of projected net fiscal benefit to the state of the project and the period in which the state would realize such net fiscal benefit;
3. The overall size and quality of the proposed project, including the number of new jobs, new capital investment, manufacturing capital investment, proposed wages, growth potential of the qualified company, the potential multiplier effect of the project, and similar factors;
4. The financial stability and creditworthiness of the qualified company;
5. The level of economic distress in the area;
6. An evaluation of the competitiveness of alternative locations for the project facility, as applicable; and
7. The percent of local incentives committed.

3. The department may award tax credits to a qualified manufacturing company that makes a manufacturing capital investment of at least five hundred million dollars not more than three years following the department’s approval of a notice of intent and the execution of an agreement that meets the requirements of subsection 4 of this section. Such tax credits shall be issued no earlier than January 1, 2023, and may be issued each year for a period of five years. A qualified manufacturing company may qualify for an additional five-year period under this subsection if it makes an additional manufacturing capital investment of at least two hundred fifty million
dollars within five years of the department’s approval of the original notice of intent.

(1) The maximum amount of tax credits that any one qualified manufacturing company may receive under this subsection shall not exceed five million dollars per calendar year. The aggregate amount of tax credits awarded to all qualified manufacturing companies under this subsection shall not exceed ten million dollars per calendar year.

(2) If, at the project facility at any time during the project period, the qualified manufacturing company discontinues the manufacturing of the new product, or discontinues the modification or expansion of an existing product, and does not replace it with a subsequent or additional new product or with a modification or expansion of an existing product, the company shall immediately cease receiving any benefit awarded under this subsection for the remainder of the project period and shall forfeit all rights to retain or receive any benefit awarded under this subsection for the remainder of such period.

(3) Notwithstanding any other provision of law to the contrary, any qualified manufacturing company that is awarded benefits under this section shall not simultaneously receive tax credits or exemptions under sections 100.700 to 100.850 for the jobs created or retained or capital improvement that qualified for benefits under this section. The provisions of subsection 5 of section 285.530 shall not apply to a qualified manufacturing company that is awarded benefits under this section.

[3.] 4. Upon approval of a notice of intent to receive tax credits under subsections 2 and 5 of this section, the department and the qualified company shall enter into a written agreement covering the applicable project period. The agreement shall specify, at a minimum:

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

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

(3) Clawback provisions, as may be required by the department; [and]

(4) Financial guarantee provisions as may be required by the
department, provided that financial guarantee provisions shall be
required by the department for tax credits awarded under subsection
7 of this section; and

(5) Any other provisions the department may require.

[4.] 5. In lieu of the benefits available under sections 1 and 2 of this
section, and in exchange for the consideration provided by the new tax revenues
and other economic stimuli that will be generated by the new jobs created by the
program, a qualified company may, for a period of five years from the date the
new jobs are created, or for a period of six years from the date the new jobs are
created if the qualified company is an existing Missouri business, retain an
amount equal to the withholding tax as calculated under subdivision [(30)] (35)
of section 620.2005 from the new jobs that would otherwise be withheld and
remitted by the qualified company under the provisions of sections 143.191 to
143.265 equal to:

(1) Six percent of new payroll for a period of five years from the date the
required number of new jobs were created if the qualified company creates one
hundred or more new jobs and the average wage of the new payroll equals or
exceeds one hundred twenty percent of the county average wage of the county in
which the project facility is located; or

(2) Seven percent of new payroll for a period of five years from the date
the required number of jobs were created if the qualified company creates one
hundred or more new jobs and the average wage of the new payroll equals or
exceeds one hundred forty percent of the county average wage of the county in
which the project facility is located.

The department shall issue a refundable tax credit for any difference between the
amount of benefit allowed under this subsection and the amount of withholding
tax retained by the company, in the event the withholding tax is not sufficient to
provide the entire amount of benefit due to the qualified company under this
subsection.

[5.] 6. In addition to the benefits available under subsection [4] 5 of this
section, the department may award a qualified company that satisfies the
provisions of subsection [4] 5 of this section additional tax credits, issued each
year for a period of five years from the date the new jobs are created, or for a
period of six years from the date the new jobs are created if the qualified company
is an existing Missouri business, in an amount equal to or less than three percent
of new payroll; provided that in no event may the total amount of benefits
awarded to a qualified company under this section exceed nine percent of new payroll in any calendar year. The amount of tax credits awarded to a qualified company under this subsection shall not exceed the projected net fiscal benefit to the state, as determined by the department, and shall not exceed the least amount necessary to obtain the qualified company's commitment to initiate the project. In determining the amount of tax credits to award to a qualified company under this subsection, the department shall consider the factors provided under subsection 2 of this section.

[6.] 7. In lieu of the benefits available under subsections 1, 2, 5, and 6 of this section, and in exchange for the consideration provided by the new tax revenues and other economic stimuli that will be generated by the new jobs and new capital investment created by the program, the department may award a qualified company that satisfies the provisions of subdivision (1) of subsection 1 of this section tax credits, issued within one year following the qualified company's acceptance of the department's proposal for benefits, in an amount equal to or less than nine percent of new payroll. The amount of tax credits awarded to a qualified company under this subsection shall not exceed the projected net fiscal benefit to the state, as determined by the department, and shall not exceed the least amount necessary to obtain the qualified company's commitment to initiate the project. In determining the amount of tax credits to award to a qualified company under this subsection, the department shall consider the factors provided under subsection 2 of this section and the qualified company's commitment to new capital investment and new job creation within the state for a period of not less than ten years. For the purposes of this subsection, each qualified company shall have an average wage of the new payroll that equals or exceeds one hundred percent of the county average wage. Notwithstanding the provisions of section 620.2020 to the contrary, this subsection, shall expire on June 30, 2025.

8. No benefits shall be available under this section for any qualified company that has performed significant, project-specific site work at the project facility, purchased machinery or equipment related to the project, or has publicly announced its intention to make new capital investment or manufacturing capital investment at the project facility prior to receipt of a proposal for benefits under this section or approval of its notice of intent, whichever occurs
170 first.

620.2020. 1. The department shall respond to a written request, by or on behalf of a qualified company, for a proposed benefit award under the provisions of this program within five business days of receipt of such request. The department shall respond to a written request, by or on behalf of a qualified manufacturing company, for a proposed benefit award under the provisions of this program within fifteen business days of receipt of such request. Such response shall contain either a proposal of benefits for the qualified company, or a written response refusing to provide such a proposal and stating the reasons for such refusal. A qualified company that intends to seek benefits under the program shall submit to the department a notice of intent. The department shall respond within thirty days to a notice of intent with an approval or a rejection, provided that the department may withhold approval or provide a contingent approval until it is satisfied that proper documentation of eligibility has been provided. The department shall certify or reject the qualifying company's plan outlined in their notice of intent as satisfying good faith efforts made to employ, at a minimum, commensurate with the percentage of minority populations in the state of Missouri, as reported in the previous decennial census, the following: racial minorities, contractors who are racial minorities, and contractors that, in turn, employ at a minimum racial minorities commensurate with the percentage of minority populations in the state of Missouri, as reported in the previous decennial census. Failure to respond on behalf of the department shall result in the notice of intent being deemed approved. A qualified company receiving approval for program benefits may receive additional benefits for subsequent new jobs at the same facility after the full initial project period if the applicable minimum job requirements are met. There shall be no limit on the number of project periods a qualified company may participate in the program, and a qualified company may elect to file a notice of intent to begin a new project period concurrent with an existing project period if the applicable minimum job requirements are achieved, the qualified company provides the department with the required annual reporting, and the qualified company is in compliance with this program and any other state programs in which the qualified company is currently or has previously participated. However, the qualified company shall not receive any further program benefits under the original approval for any new jobs created after the
date of the new notice of intent, and any jobs created before the new notice of intent shall not be included as new jobs for purposes of the benefit calculation for the new approval. When a qualified company has filed and received approval of a notice of intent and subsequently files another notice of intent, the department shall apply the definition of project facility under subdivision [(19)] 22 of section 620.2005 to the new notice of intent as well as all previously approved notices of intent and shall determine the application of the definitions of new job, new payroll, project facility base employment, and project facility base payroll accordingly.

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

3. A qualified company receiving benefits under this program shall provide an annual report of the number of jobs, along with minority jobs created or retained, and such other information as may be required by the department to document the basis for program benefits available no later than ninety days prior to the end of the qualified company's tax year immediately following the tax year for which the benefits provided under the program are attributed. In such annual report, if the average wage is below the applicable percentage of the county average wage, the qualified company has not maintained the employee insurance as required, if the department after a review determines the qualifying company fails to satisfy other aspects of their notice of intent, including failure to make good faith efforts to employ, at a minimum, commensurate with the percentage of minority populations in the state of Missouri, as reported in the previous decennial census, the following: racial minorities, contractors who are racial minorities, and contractors that, in turn, employ at a minimum
racial minorities commensurate with the percentage of minority populations in the state of Missouri, as reported in the previous decennial census, or if the number of jobs is below the number required, the qualified company shall not receive tax credits or retain the withholding tax for the balance of the project period. Failure to timely file the annual report required under this section shall result in the forfeiture of tax credits attributable to the year for which the reporting was required and a recapture of withholding taxes retained by the qualified company during such year.

4. The department may withhold the approval of any benefits under this program until it is satisfied that proper documentation has been provided, and shall reduce the benefits to reflect any reduction in full-time employees or payroll. Upon approval by the department, the qualified company may begin the retention of the withholding taxes when it reaches the required number of jobs and the average wage meets or exceeds the applicable percentage of county average wage. Tax credits, if any, may be issued upon satisfaction by the department that the qualified company has exceeded the applicable percentage of county average wage and the required number of jobs; provided that, tax credits awarded under subsection 7 of section 620.2010 may be issued following the qualified company's acceptance of the department's proposal and pursuant to the requirements set forth in the written agreement between the department and the qualified company under subsection 4 of section 620.2010.

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

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

7. (1) The maximum amount of tax credits that may be authorized under this program for any fiscal year shall be limited as follows, less the amount of any
tax credits previously obligated for that fiscal year under any of the tax credit programs referenced in subsection [13] 14 of this section:

[(1)] (a) For the fiscal year beginning on July 1, 2013, but ending on or before June 30, 2014, no more than one hundred six million dollars in tax credits may be authorized;

[(2)] (b) For the fiscal year beginning on July 1, 2014, but ending on or before June 30, 2015, no more than one hundred eleven million dollars in tax credits may be authorized; [and]

[(3)] (c) For any fiscal [year] years beginning on or after July 1, 2015, but ending on or before June 30, 2020, no more than one hundred sixteen million dollars in tax credits may be authorized for each fiscal year; and

(d) For all fiscal years beginning on or after July 1, 2020, no more than one hundred six million dollars in tax credits may be authorized for each fiscal year. The provisions of this paragraph shall not apply to tax credits issued to qualified companies under a notice of intent filed prior to July 1, 2020.

(2) For all fiscal years beginning on or after July 1, 2020, in addition to the amount of tax credits that may be authorized under paragraph (d) of subdivision (1) of this subsection, an additional ten million dollars in tax credits may be authorized for each fiscal year for the purpose of the completion of infrastructure projects directly connected with the creation or retention of jobs under the provisions of section 620.2000 to 620.2020 and an additional ten million dollars in tax credits may be authorized for each fiscal year for a qualified manufacturing company based on a manufacturing capital investment as set forth in section 620.2010.

8. For all fiscal years beginning on or after July 1, 2020, the maximum total amount of withholding tax that may be authorized for retention for the creation of new jobs under the provisions of sections 620.2000 to 620.2020 by qualified companies with a project facility base employment of at least fifty shall not exceed seventy-five million dollars for each fiscal year. The provisions of this subsection shall not apply to withholding tax authorized for retention for the creation of new jobs by qualified companies with a project facility base employment of less than fifty.

9. For tax credits for the creation of new jobs under section 620.2010, the
department shall allocate the annual tax credits based on the date of the approval, reserving such tax credits based on the department’s best estimate of new jobs and new payroll of the project, and any other applicable factors in determining the amount of benefits available to the qualified company under this program; provided that, the department may reserve up to twenty-one and one-half percent of the maximum annual amount of tax credits that may be authorized under subsection 7 of this section for award under subsection 7 of section 620.2010. However, the annual issuance of tax credits shall be subject to annual verification of actual payroll by the department. Any authorization of tax credits shall expire if, within two years from the date of commencement of operations, or approval if applicable, the qualified company has failed to meet the applicable minimum job requirements. The qualified company may retain authorized amounts from the withholding tax under the project once the applicable minimum job requirements have been met for the duration of the project period. No benefits shall be provided under this program until the qualified company meets the applicable minimum new job requirements or, for benefits awarded under subsection 7 of section 620.2010, until the qualified company has satisfied the requirements set forth in the written agreement between the department and the qualified company under subsection 4 of section 620.2010. In the event the qualified company does not meet the applicable minimum new job requirements, the qualified company may submit a new notice of intent or the department may provide a new approval for a new project of the qualified company at the project facility or other facilities.

[9.] 10. Tax credits provided under this program may be claimed against taxes otherwise imposed by chapters 143 and 148, and may not be carried forward, but shall be claimed within one year of the close of the taxable year for which they were issued. Tax credits provided under this program may be transferred, sold, or assigned by filing a notarized endorsement thereof with the department that names the transferee, the amount of tax credit transferred, and the value received for the credit, as well as any other information reasonably requested by the department. For a qualified company with flow-through tax treatment to its members, partners, or shareholders, the tax credit shall be allowed to members, partners, or shareholders in proportion to their share of ownership on the last day of the qualified company's tax period.

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

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

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

[13.] 14. Notwithstanding any provision of law to the contrary, beginning
August 28, 2013, no new benefits shall be authorized for any project that had not
received from the department a proposal or approval for such benefits prior to
August 28, 2013, under the development tax credit program created under
sections 32.100 to 32.125, the rebuilding communities tax credit program created
under section 135.535, the enhanced enterprise zone tax credit program created
under sections 135.950 to 135.973, and the Missouri quality jobs program created
under sections 620.1875 to 620.1890. The provisions of this subsection shall not
be construed to limit or impair the ability of any administering agency to
authorize or issue benefits for any project that had received an approval or a proposal from the department under any of the programs referenced in this subsection prior to August 28, 2013, or the ability of any taxpayer to redeem any such tax credits or to retain any withholding tax under an approval issued prior to that date. The provisions of this subsection shall not be construed to limit or in any way impair the ability of any governing authority to provide any local abatement or designate a new zone under the enhanced enterprise zone program created by sections 135.950 to 135.963. Notwithstanding any provision of law to the contrary, no qualified company that is awarded benefits under this program shall:

(1) Simultaneously receive benefits under the programs referenced in this subsection at the same capital investment; or

(2) Receive benefits under the provisions of section 620.1910 for the same jobs.

[14.] 15. If any provision of sections 620.2000 to 620.2020 or application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or application of these sections which can be given effect without the invalid provisions or application, and to this end, the provisions of sections 620.2000 to 620.2020 are hereby declared severable.

[15.] 16. By no later than January 1, 2014, and the first day of each calendar quarter thereafter, the department shall present a quarterly report to the general assembly detailing the benefits authorized under this program during the immediately preceding calendar quarter to the extent such information may be disclosed under state and federal law. The report shall include, at a minimum:

(1) A list of all approved and disapproved applicants for each tax credit;

(2) A list of the aggregate amount of new or retained jobs that are directly attributable to the tax credits authorized;

(3) A statement of the aggregate amount of new capital investment directly attributable to the tax credits authorized;

(4) Documentation of the estimated net state fiscal benefit for each authorized project and, to the extent available, the actual benefit realized upon completion of such project or activity; and

(5) The department’s response time for each request for a proposed benefit award under this program.

[16.] 17. The department may adopt such rules, statements of policy, procedures, forms, and guidelines as may be necessary to carry out the provisions
of sections 620.2000 to 620.2020. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2013, shall be invalid and void.

[17.] 18. Under section 23.253 of the Missouri sunset act:
   (1) The provisions of the program authorized under sections 620.2000 to 620.2020 shall be reauthorized as of August 28, 2018, and shall expire on August 28, 2030; and
   (2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of sections 620.2000 to 620.2020; and
   (3) Sections 620.2000 to 620.2020 shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under sections 620.2000 to 620.2020 is sunset.

620.2475. 1. As used in this section, the following terms shall mean:
   (1) "Aerospace project", a project undertaken by or for the benefit of a qualified company with a North American Industry Classification System industry classification of 3364 involving the creation of at least two thousand new jobs within ten years following the approval of a notice of intent pursuant to section 620.2020 and for which the department of economic development has provided a proposal for benefits under job creation, worker training, and infrastructure development programs on or before June 10, 2014;
   (2) "Job creation, worker training, and infrastructure development programs", the Missouri works program established under sections 620.2000 to 620.2020, the Missouri business use incentives for large-scale development act established under sections 100.700 to 100.850, the Missouri [works] one start training program established under sections 620.800 to 620.809, and the real property tax increment allocation redevelopment act established under sections 99.800 to 99.865.

2. Provisions of law to the contrary notwithstanding, no benefits authorized under job creation, worker training, and infrastructure development
18 programs for an aerospace project shall be considered in determining compliance
19 with applicable limitations on the aggregate amount of benefits that may be
20 awarded annually or cumulatively under subdivision (3) of subsection 10 of
21 section 99.845, subsection 5 of section 100.850, subsection 8 of section 620.809,
22 and subsection 7 of section 620.2020. No aerospace project shall be authorized
23 for state benefits under job creation, worker training, and infrastructure
development programs that exceed, in the aggregate, one hundred fifty million
24 dollars annually under all such programs.
25 3. For any aerospace project receiving state benefits under this section,
26 the department of economic development shall deliver to the general assembly an
27 annual report providing detailed information on the state benefits received and
28 projected to be received by the aerospace project and shall also denote the number
29 of minorities that have been trained under the Missouri [works] one start
30 training program established under sections 620.800 to 620.809.
31 4. Any aerospace project receiving benefits under this section shall
32 annually report to the general assembly and the department of economic
development its minority and women employment outreach efforts.
33 5. For aerospace projects receiving benefits under this section, in no event
34 shall disbursements of new state revenues under sections 99.800 to 99.865 be
35 made to satisfy bond obligations incurred for improvements that do not directly
36 benefit such project.
37 6. For aerospace projects receiving benefits under this section, in the
38 tenth year following the approval of a notice of intent under sections 620.2000 to
39 620.2020, the department of economic development shall determine the net fiscal
40 benefit to the state resulting from such project and shall take any action
41 necessary to ensure a positive net fiscal benefit to the state by no later than the
42 last year in which the aerospace project receives benefits under this section.