

SENATE BILL NO. 32

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR BECK.

0256S.01I

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 620.2005 and 620.2010, RSMo, and to enact in lieu thereof two new sections relating to financial incentives for business development.

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

Section A. Sections 620.2005 and 620.2010, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 620.2005 and 620.2010, to read as follows:

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

(1) "Average wage", the **aggregate gross** new payroll divided by the **[number of new jobs] aggregate actual hours worked for new jobs multiplied by two thousand eighty**, or the **aggregate gross** payroll of the retained jobs divided by the **[number of retained jobs] aggregate actual hours worked for retained jobs multiplied by two thousand eighty**;

(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;

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

19 (4) "County average wage", the average wages in each
20 county as determined by the department for the most recently
21 completed full calendar year. However, if the computed
22 county average wage is above the statewide average wage, the
23 statewide average wage shall be deemed the county average
24 wage for such county for the purpose of determining
25 eligibility. The department shall publish the county
26 average wage for each county at least annually.

27 Notwithstanding the provisions of this subdivision to the
28 contrary, for any qualified company that in conjunction with
29 their project is relocating employees from a Missouri county
30 with a higher county average wage, the company shall obtain
31 the endorsement of the governing body of the community from
32 which jobs are being relocated or the county average wage
33 for their project shall be the county average wage for the
34 county from which the employees are being relocated;

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

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

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

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

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

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

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

64 (10) **"Gross wages", the total compensation paid by an**
65 **employer to an employee as reported in box 5 of the**
66 **employee's W-2;**

67 (11) "Industrial development authority", an industrial
68 development authority organized under chapter 349 that has
69 entered into a formal written memorandum of understanding
70 with an entity of the United States Department of Defense
71 regarding a qualified military project;

72 [(11)] (12) "Infrastructure projects", highways,
73 roads, streets, bridges, sewers, traffic control systems and
74 devices, water distribution and supply systems, curbing,
75 sidewalks, storm water and drainage systems, broadband
76 internet infrastructure, and any other similar public
77 improvements, but in no case shall infrastructure projects
78 include private structures;

79 [(12)] (13) "Local incentives", the present value of
80 the dollar amount of direct benefit received by a qualified
81 company for a project facility from one or more local
82 political subdivisions, but this term shall not include

83 loans or other funds provided to the qualified company that
84 shall be repaid by the qualified company to the political
85 subdivision;

86 [(13)] (14) "Manufacturing capital investment",
87 expenditures made by a qualified manufacturing company to
88 retool or reconfigure a manufacturing project facility
89 directly related to the manufacturing of a new product or
90 the expansion or modification of the manufacture of an
91 existing product;

92 [(14)] (15) "Memorandum of understanding", an
93 agreement executed by an industrial development authority
94 and an entity of the United States Department of Defense, a
95 copy of which is provided to the department of economic
96 development, that states, but is not limited to:

97 (a) A requirement for the military to provide the
98 total number of existing jobs, jobs directly created by a
99 qualified military project, and average salaries of such
100 jobs to the industrial development authority and the
101 department of economic development annually for the term of
102 the benefit;

103 (b) A requirement for the military to provide an
104 accounting of the expenditures of capital investment made by
105 the military directly related to the qualified military
106 project to the industrial development authority and the
107 department of economic development annually for the term of
108 the benefit;

109 (c) The process by which the industrial development
110 authority shall monetize the tax credits annually and any
111 transaction cost or administrative fee charged by the
112 industrial development authority to the military on an
113 annual basis;

114 (d) A requirement for the industrial development
115 authority to provide proof to the department of economic
116 development of the payment made to the qualified military
117 project annually, including the amount of such payment;

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

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

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

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

127 [(15)] (16) "NAICS" or "NAICS industry
128 classification", the classification provided by the most
129 recent edition of the North American Industry Classification
130 System as prepared by the Executive Office of the President,
131 Office of Management and Budget;

132 [(16)] (17) "New capital investment", shall include
133 costs incurred by the qualified company at the project
134 facility after acceptance by the qualified company of the
135 proposal for benefits from the department or the approval
136 notice of intent, whichever occurs first, for real or
137 personal property, and may include the value of finance or
138 capital leases for real or personal property for the term of
139 such lease at the project facility executed after acceptance
140 by the qualified company of the proposal for benefits from
141 the department or the approval of the notice of intent;

142 [(17)] (18) "New direct local revenue", the present
143 value of the dollar amount of direct net new tax revenues of
144 the local political subdivisions likely to be produced by
145 the project over a ten-year period as calculated by the

146 department, excluding local earnings tax, and net new
147 utility revenues, provided the local incentives include a
148 discount or other direct incentives from utilities owned or
149 operated by the political subdivision;

150 [(18)] (19) "New job", the number of full-time
151 employees located at the project facility that exceeds the
152 project facility base employment less any decrease in the
153 number of full-time employees at related facilities below
154 the related facility base employment. No job that was
155 created prior to the date of the notice of intent shall be
156 deemed a new job;

157 [(19)] (20) "New payroll", the amount of **gross** wages
158 paid for all new jobs, located at the project facility
159 during the qualified company's tax year that exceeds the
160 project facility base payroll. **For a qualified company that
161 offers health insurance to all full-time employees of all
162 facilities located in this state, and certifies that it pays
163 one hundred percent of such insurance premiums, "new
164 payroll" shall include all amounts paid by the qualified
165 company for such insurance premiums;**

166 [(20)] (21) "New product", a new model or line of a
167 manufactured good that has not been manufactured in Missouri
168 by a qualified manufacturing company at any time prior to
169 the date of the notice of intent, or an existing brand,
170 model, or line of a manufactured good that is redesigned;

171 [(21)] (22) "Notice of intent", a form developed by
172 the department and available online, completed by the
173 qualified company, and submitted to the department stating
174 the qualified company's intent to request benefits under
175 this program. The notice of intent shall be accompanied
176 with a detailed plan by the qualifying company to make good
177 faith efforts to employ, at a minimum, commensurate with the

178 percentage of minority populations in the state of Missouri,
179 as reported in the previous decennial census, the following:
180 racial minorities, contractors who are racial minorities,
181 and contractors that, in turn, employ at a minimum racial
182 minorities commensurate with the percentage of minority
183 populations in the state of Missouri, as reported in the
184 previous decennial census. At a minimum, such plan shall
185 include monitoring the effectiveness of outreach and
186 recruitment strategies in attracting diverse applicants and
187 linking with different or additional referral sources in the
188 event that recruitment efforts fail to produce a diverse
189 pipeline of applicants. **The notice of intent shall be**
190 **accompanied by an affidavit signed by the qualified**
191 **company's human resources lead or chief financial officer**
192 **attesting to the estimated number of new jobs, position**
193 **types, and new payroll;**

194 [(22)] (23) "Percent of local incentives", the amount
195 of local incentives divided by the amount of new direct
196 local revenue;

197 [(23)] (24) "Program", the Missouri works program
198 established in sections 620.2000 to 620.2020;

199 [(24)] (25) "Project facility", the building or
200 buildings used by a qualified company at which new or
201 retained jobs and any new capital investment are or will be
202 located or by a qualified manufacturing company at which a
203 manufacturing capital investment is or will be located. A
204 project facility may include separate buildings located
205 within sixty miles of each other such that their purpose and
206 operations are interrelated; provided that where the
207 buildings making up the project facility are not located
208 within the same county, the average wage of the new **gross**
209 payroll shall exceed the applicable percentage of the

210 highest county average wage among the counties in which the
211 buildings are located. Upon approval by the department, a
212 subsequent project facility may be designated if the
213 qualified company demonstrates a need to relocate to the
214 subsequent project facility at any time during the project
215 period. For qualified military projects, the term "project
216 facility" means the military base or installation at which
217 such qualified military project is or shall be located;

218 [(25)] (26) "Project facility base employment", the
219 greater of the number of full-time employees located at the
220 project facility on the date of the notice of intent or, for
221 the twelve-month period prior to the date of the notice of
222 intent, the average number of full-time employees located at
223 the project facility. In the event the project facility has
224 not been in operation for a full twelve-month period, the
225 average number of full-time employees for the number of
226 months the project facility has been in operation prior to
227 the date of the notice of intent;

228 [(26)] (27) "Project facility base payroll", the
229 annualized **gross** payroll for the project facility base
230 employment or the total amount of [taxable] **gross** wages paid
231 by the qualified company to full-time employees of the
232 qualified company located at the project facility in the
233 twelve months prior to the notice of intent. For purposes
234 of calculating the benefits under this program, the amount
235 of base payroll shall increase each year based on an
236 appropriate measure, as determined by the department;

237 [(27)] (28) "Project period", the time period within
238 which benefits are awarded to a qualified company or within
239 which the qualified company is obligated to perform under an
240 agreement with the department, whichever is greater;

241 [(28)] (29) "Projected net fiscal benefit", the total
242 fiscal benefit to the state less any state benefits offered
243 to the qualified company, as determined by the department;

244 [(29)] (30) "Qualified company", a firm, partnership,
245 joint venture, association, private or public corporation
246 whether organized for profit or not, or headquarters of such
247 entity registered to do business in Missouri that is the
248 owner or operator of a project facility, certifies that it
249 offers health insurance to all full-time employees of all
250 facilities located in this state, and certifies that it pays
251 at least fifty percent of such insurance premiums. For the
252 purposes of sections 620.2000 to 620.2020, the term
253 "qualified company" shall not include:

254 (a) Gambling establishments (NAICS industry group
255 7132);

256 (b) Store front consumer-based retail trade
257 establishments (under NAICS sectors 44 and 45), except with
258 respect to any company headquartered in this state with a
259 majority of its full-time employees engaged in operations
260 not within the NAICS codes specified in this subdivision and
261 except for any such establishments located in a county of
262 the third or fourth classification;

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

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

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

270 (f) Any company requesting benefits for retained jobs
271 that has filed for or has publicly announced its intention
272 to file for bankruptcy protection. However, a company that

273 has filed for or has publicly announced its intention to
274 file for bankruptcy may be a qualified company provided that
275 such company:

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

278 b. After its bankruptcy petition has been filed, it
279 produces proof, in a form and at times satisfactory to the
280 department, that it is not delinquent in filing any tax
281 returns or making any payment due to the state of Missouri,
282 including but not limited to all tax payments due after the
283 filing of the bankruptcy petition and under the terms of the
284 plan of reorganization. Any taxpayer who is awarded
285 benefits under this subsection and who files for bankruptcy
286 under Chapter 7 of the United States Bankruptcy Code, Title
287 11 U.S.C., shall immediately notify the department and shall
288 forfeit such benefits and shall repay the state an amount
289 equal to any state tax credits already redeemed and any
290 withholding taxes already retained;

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

292 (h) Religious organizations (NAICS industry group
293 8131);

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

295 (j) Ethanol distillation or production;

296 (k) Biodiesel production; or

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

298 Notwithstanding any provision of this section to the
299 contrary, the headquarters, administrative offices, or
300 research and development facilities of an otherwise excluded
301 business may qualify for benefits if the offices or
302 facilities serve a multistate territory. In the event a
303 national, state, or regional headquarters operation is not

304 the predominant activity of a project facility, the jobs and
305 investment of such operation shall be considered eligible
306 for benefits under this section if the other requirements
307 are satisfied;

308 [(30)] (31) "Qualified manufacturing company", a
309 company that:

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

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

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

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

322 [(31)] (32) "Qualified military project", the
323 expansion or improvement of a military base or installation
324 within this state that causes:

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

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

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

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

335 For the purposes of this subdivision, part-time military or
336 civilian support personnel shall be converted to full-time
337 new jobs by, in hire date order, counting one full-time new
338 job for every thirty-five averaged hours worked per week by
339 part-time military or civilian support personnel in jobs
340 directly created by the qualified military project. For each
341 such full-time new job, the sum of the **gross** wages of the
342 part-time military or civilian support personnel combined
343 and converted to form the new job shall be the wage for the
344 one full-time new job. Each part-time military or civilian
345 support personnel whose job is combined and converted for
346 such a full-time new job shall be offered health insurance
347 as described in subparagraph b of paragraph (a) of this
348 subdivision;

349 ~~[(32)]~~ **(33)** "Related company", shall mean:

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

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

354 (c) Corporations, partnerships, trusts or associations
355 controlled by an individual, corporation, partnership,
356 trust, or association in control of the qualified company.

357 As used in this paragraph, "control of a qualified company"
358 shall mean:

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

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

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

371 [(33)] (34) "Related facility", a facility operated by
372 the qualified company or a related company located in this
373 state that is directly related to the operations of the
374 project facility or in which operations substantially
375 similar to the operations of the project facility are
376 performed;

377 [(34)] (35) "Related facility base employment", the
378 greater of the number of full-time employees located at all
379 related facilities on the date of the notice of intent or,
380 for the twelve-month period prior to the date of the notice
381 of intent, the average number of full-time employees located
382 at all related facilities of the qualified company or a
383 related company located in this state;

384 [(35)] (36) "Related facility base payroll", the
385 annualized **gross** payroll of the related facility base
386 payroll or the total amount of [taxable] **gross** wages paid by
387 the qualified company to full-time employees of the
388 qualified company located at a related facility in the
389 twelve months prior to the filing of the notice of intent.
390 For purposes of calculating the benefits under this program,
391 the amount of related facility base payroll shall increase
392 each year based on an appropriate measure, as determined by
393 the department;

394 [(36)] (37) "Rural area", a county in Missouri with a
395 population less than seventy-five thousand or that does not
396 contain an individual city with a population greater than

397 fifty thousand according to the most recent federal
398 decennial census;

399 **[(37)] (38)** "Tax credits", tax credits issued by the
400 department to offset the state taxes imposed by chapters 143
401 and 148, or which may be sold or refunded as provided for in
402 this program;

403 **(39) "Taxable wages", the employee's total**
404 **compensation subject to tax as reported in box 16 of the**
405 **employee's W-2;**

406 **[(38)] (40)** "Withholding tax", the state tax imposed
407 by sections 143.191 to 143.265. For purposes of this
408 program, the withholding tax shall be computed using a
409 schedule as determined by the department based on average
410 wages.

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

620.2010. 1. In exchange for the consideration
2 provided by the new tax revenues and other economic stimuli
3 that will be generated by the new jobs created, a qualified
4 company may, for a period of five years from the date the
5 new jobs are created, or for a period of six years from the
6 date the new jobs are created if the qualified company is an
7 existing Missouri business, retain an amount equal to the
8 withholding tax as calculated under subdivision (38) of
9 section 620.2005 from the new jobs that would otherwise be
10 withheld and remitted by the qualified company under the
11 provisions of sections 143.191 to 143.265 if:

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

15 (2) The qualified company creates two or more new jobs
16 at a project facility located in a rural area, the average

17 wage of the new payroll equals or exceeds ninety percent of
18 the county average wage, and the qualified company commits
19 to making at least one hundred thousand dollars of new
20 capital investment at the project facility within two years;
21 or

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

29 **(4) In the event that the average wage for all new**
30 **jobs fails to meet the average wage requirement pursuant to**
31 **subdivisions (1), (2), or (3) of this subsection, the**
32 **qualified company may retain withholding tax for the minimum**
33 **number of required jobs. The department may choose which**
34 **new jobs to include in the minimum number to be averaged**
35 **that will meet or exceed the average wage requirement.**

36 2. In addition to any benefits available under
37 subsection 1 of this section, the department may award a
38 qualified company that satisfies subdivision (1) of
39 subsection 1 of this section additional tax credits, issued
40 each year for a period of five years from the date the new
41 jobs are created, or for a period of six years from the date
42 the new jobs are created if the qualified company is an
43 existing Missouri business, in an amount equal to or less
44 than six percent of new [payroll] **taxable wages**; provided
45 that in no event may the total amount of benefits awarded to
46 a qualified company under this section exceed nine percent
47 of new [payroll] **taxable wages** in any calendar year. The
48 amount of tax credits awarded to a qualified company under

49 this subsection shall not exceed the projected net fiscal
50 benefit to the state, as determined by the department, and
51 shall not exceed the least amount necessary to obtain the
52 qualified company's commitment to initiate the project. In
53 determining the amount of tax credits to award to a
54 qualified company under this subsection or a qualified
55 manufacturing company under subsection 3 of this section,
56 the department shall consider the following factors:

57 (1) The significance of the qualified company's need
58 for program benefits;

59 (2) The amount of projected net fiscal benefit to the
60 state of the project and the period in which the state would
61 realize such net fiscal benefit;

62 (3) The overall size and quality of the proposed
63 project, including the number of new jobs, new capital
64 investment, manufacturing capital investment, proposed
65 wages, growth potential of the qualified company, the
66 potential multiplier effect of the project, and similar
67 factors;

68 (4) The financial stability and creditworthiness of
69 the qualified company;

70 (5) The level of economic distress in the area;

71 (6) An evaluation of the competitiveness of
72 alternative locations for the project facility, as
73 applicable; **[and]**

74 (7) The percent of local incentives committed;

75 **(8) Whether the qualified company participates in a**
76 **pre-apprenticeship program approved by the Missouri**
77 **department of higher education and workforce development; and**

78 **(9) The location of the headquarters of any contractor**
79 **used by the qualified company, with preference given to**
80 **contractors selected through an open bidding process that**

81 **are headquartered in Missouri and for whom at least eighty-**
82 **five percent of the workforce used for any work performed by**
83 **the contractor for a qualified company reside within fifty**
84 **miles of the site of such work.**

85 3. (1) The department may award tax credits to a
86 qualified manufacturing company that makes a manufacturing
87 capital investment of at least five hundred million dollars
88 not more than three years following the department's
89 approval of a notice of intent and the execution of an
90 agreement that meets the requirements of subsection 4 of
91 this section. Such tax credits shall be issued no earlier
92 than January 1, 2023, and may be issued each year for a
93 period of five years. A qualified manufacturing company may
94 qualify for an additional five-year period under this
95 subsection if it makes an additional manufacturing capital
96 investment of at least two hundred fifty million dollars
97 within five years of the department's approval of the
98 original notice of intent.

99 (2) The maximum amount of tax credits that any one
100 qualified manufacturing company may receive under this
101 subsection shall not exceed five million dollars per
102 calendar year. The aggregate amount of tax credits awarded
103 to all qualified manufacturing companies under this
104 subsection shall not exceed ten million dollars per calendar
105 year.

106 (3) If, at the project facility at any time during the
107 project period, the qualified manufacturing company
108 discontinues the manufacturing of the new product, or
109 discontinues the modification or expansion of an existing
110 product, and does not replace it with a subsequent or
111 additional new product or with a modification or expansion
112 of an existing product, the company shall immediately cease

113 receiving any benefit awarded under this subsection for the
114 remainder of the project period and shall forfeit all rights
115 to retain or receive any benefit awarded under this
116 subsection for the remainder of such period.

117 (4) Notwithstanding any other provision of law to the
118 contrary, any qualified manufacturing company that is
119 awarded benefits under this section shall not simultaneously
120 receive tax credits or exemptions under sections 100.700 to
121 100.850 for the jobs created or retained or capital
122 improvement that qualified for benefits under this section.
123 The provisions of subsection 5 of section 285.530 shall not
124 apply to a qualified manufacturing company that is awarded
125 benefits under this section.

126 4. Upon approval of a notice of intent to receive tax
127 credits under subsection 2, 3, 6, or 7 of this section, the
128 department and the qualified company shall enter into a
129 written agreement covering the applicable project period.
130 The agreement shall specify, at a minimum:

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

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

139 (3) Clawback provisions, as may be required by the
140 department;

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

145 (5) Any other provisions the department may require.

146 5. In lieu of the benefits available under subsections
147 1 and 2 of this section, and in exchange for the
148 consideration provided by the new tax revenues and other
149 economic stimuli that will be generated by the new jobs
150 created by the program, a qualified company may, for a
151 period of five years from the date the new jobs are created,
152 or for a period of six years from the date the new jobs are
153 created if the qualified company is an existing Missouri
154 business, retain an amount equal to the withholding tax as
155 calculated under subdivision (38) of section 620.2005 from
156 the new jobs that would otherwise be withheld and remitted
157 by the qualified company under the provisions of sections
158 143.191 to 143.265 equal to:

159 (1) Six percent of new **[payroll] taxable wages** for a
160 period of five years from the date the required number of
161 new jobs were created if the qualified company creates one
162 hundred or more new jobs and the average wage of the new
163 payroll equals or exceeds one hundred twenty percent of the
164 county average wage of the county in which the project
165 facility is located; or

166 (2) Seven percent of new **[payroll] taxable wages** for a
167 period of five years from the date the required number of
168 jobs were created if the qualified company creates one
169 hundred or more new jobs and the average wage of the new
170 payroll equals or exceeds one hundred forty percent of the
171 county average wage of the county in which the project
172 facility is located.

173 The department shall issue a refundable tax credit for any
174 difference between the amount of benefit allowed under this
175 subsection and the amount of withholding tax retained by the

176 company, in the event the withholding tax is not sufficient
177 to provide the entire amount of benefit due to the qualified
178 company under this subsection.

179 6. In addition to the benefits available under
180 subsection 5 of this section, the department may award a
181 qualified company that satisfies the provisions of
182 subsection 5 of this section additional tax credits, issued
183 each year for a period of five years from the date the new
184 jobs are created, or for a period of six years from the date
185 the new jobs are created if the qualified company is an
186 existing Missouri business, in an amount equal to or less
187 than three percent of new **[payroll] taxable wages**; provided
188 that in no event may the total amount of benefits awarded to
189 a qualified company under this section exceed nine percent
190 of new **[payroll] taxable wages** in any calendar year. The
191 amount of tax credits awarded to a qualified company under
192 this subsection shall not exceed the projected net fiscal
193 benefit to the state, as determined by the department, and
194 shall not exceed the least amount necessary to obtain the
195 qualified company's commitment to initiate the project. In
196 determining the amount of tax credits to award to a
197 qualified company under this subsection, the department
198 shall consider the factors provided under subsection 2 of
199 this section.

200 7. In lieu of the benefits available under subsections
201 1, 2, 5, and 6 of this section, and in exchange for the
202 consideration provided by the new tax revenues and other
203 economic stimuli that will be generated by the new jobs and
204 new capital investment created by the program, the
205 department may award a qualified company that satisfies the
206 provisions of subdivision (1) of subsection 1 of this
207 section tax credits, issued within one year following the

208 qualified company's acceptance of the department's proposal
209 for benefits, in an amount equal to or less than nine
210 percent of new **[payroll] taxable wages**. The amount of tax
211 credits awarded to a qualified company under this subsection
212 shall not exceed the projected net fiscal benefit to the
213 state, as determined by the department, and shall not exceed
214 the least amount necessary to obtain the qualified company's
215 commitment to initiate the project. In determining the
216 amount of tax credits to award to a qualified company under
217 this subsection, the department shall consider the factors
218 provided under subsection 2 of this section and the
219 qualified company's commitment to new capital investment and
220 new job creation within the state for a period of not less
221 than ten years. For the purposes of this subsection, each
222 qualified company shall have an average wage of the new
223 payroll that equals or exceeds one hundred percent of the
224 county average wage. Notwithstanding the provisions of
225 section 620.2020 to the contrary, this subsection shall
226 expire on June 30, 2025.

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

236 9. In lieu of any other benefits under this chapter,
237 the department of economic development may award a tax
238 credit to an industrial development authority for a
239 qualified military project in an amount equal to the

240 estimated withholding taxes associated with the part-time
241 and full-time civilian and military new jobs located at the
242 facility and directly impacted by the project. The amount
243 of the tax credit shall be calculated by multiplying:

244 (1) The average percentage of tax withheld, as
245 provided by the department of revenue to the department of
246 economic development;

247 (2) The average [salaries] **taxable wages** of the jobs
248 directly created by the qualified military project; and

249 (3) The number of jobs directly created by the
250 qualified military project.

251 If the amount of the tax credit represents the least amount
252 necessary to accomplish the qualified military project, the
253 tax credits may be issued, but no tax credits shall be
254 issued for a term longer than fifteen years. No qualified
255 military project shall be eligible for tax credits under
256 this subsection unless the department of economic
257 development determines the qualified military project shall
258 achieve a net positive fiscal impact to the state.

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