

# SENATE BILL NO. 785

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR BECK.

3054S.02I

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  
2 repealed and two new sections enacted in lieu thereof, to be  
3 known as sections 620.2005 and 620.2010, to read as follows:

620.2005. 1. As used in sections 620.2000 to  
2 620.2020, the following terms mean:

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

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

12 (3) "Contractor", a person, employer, or business  
13 entity that enters into an agreement to perform any service  
14 or work or to provide a certain product in exchange for  
15 valuable consideration. This definition shall include but  
16 not be limited to a general contractor, subcontractor,  
17 independent contractor, contract employee, project manager,  
18 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 new**  
34 **jobs to include in the minimum number to be averaged that**  
35 **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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