

FIRST REGULAR SESSION

HOUSE BILL NO. 1028

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HOUGH.

2154L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 178.760, 178.761, 178.762, 178.763, 178.764, 178.892, 178.893, 178.894, 178.895, 178.896, 620.470, 620.472, 620.474, 620.475, 620.476, 620.478, 620.479, 620.480, 620.481, and 620.482, RSMo, and to enact in lieu thereof four new sections relating to the compete Missouri training program.

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

Section A. Sections 178.760, 178.761, 178.762, 178.763, 178.764, 178.892, 178.893, 178.894, 178.895, 178.896, 620.470, 620.472, 620.474, 620.475, 620.476, 620.478, 620.479, 620.480, 620.481, and 620.482, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 620.800, 620.803, 620.806, and 620.809, to read as follows:

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

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

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

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

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

(5) "Compete Missouri Training Program", the training program established under sections 620.800 to 620.809.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

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

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

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

20 (9) "Local education agency", a community college, two-year state technical college,
21 or a technical career education center;

22 (10) "New capital investment", shall include funds spent by the qualified company
23 at the project facility after the approval of the notice of intent for real or personal
24 property, and may include the present value of finance or capital leases for real or personal
25 property for the term of such lease at the project facility executed after approval of the
26 notice of intent;

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

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

38 (13) "Notice of intent", a form developed by the department, completed by the
39 qualified company and submitted to the department which states the qualified company's
40 intent to request benefits under this program;

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

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

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

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

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

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

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

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

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

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

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

82

83 Any taxpayer who is awarded benefits under this subsection and who files for bankruptcy
84 under Chapter 7 of the United States Bankruptcy Code, Title 11 U.S.C., shall immediately
85 notify the department and shall forfeit such benefits and shall repay the state an amount

86 equal to any state tax credits already redeemed and any withholding taxes already
87 retained;

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

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

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

91 (j) Ethanol distillation or production; or

92 (k) Biodiesel production.

93

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

100 (17) "Related company" means:

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

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

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

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

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

121 **time employees located at all related facilities of the qualified company or a related**
122 **company located in this state;**

123 **(20) "Retained job", the average number of full-time employees of a qualified**
124 **company located at the project facility during each month for the calendar year preceding**
125 **the year in which the notice of intent is submitted;**

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

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

131 **(23) "Training program", the compete Missouri training program established**
132 **under sections 620.800 to 620.809;**

133 **(24) "Training project", the project or projects established through the compete**
134 **Missouri training program for the creation or retention of jobs by providing education and**
135 **training of workers;**

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

138 **(a) Training materials and supplies;**

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

141 **(c) Subcontracted services;**

142 **(d) On-the-job training;**

143 **(e) Training facilities and equipment;**

144 **(f) Skill assessment;**

145 **(g) Training project and curriculum development;**

146 **(h) Travel directly to the training project, including a coordinated transportation**
147 **program for trainings if the training can be more effectively provided outside the**
148 **community where the jobs are to be located;**

149 **(i) Payments to third party training providers and to the eligible industry;**

150 **(j) Teaching and assistance provided by educational institutions in the state of**
151 **Missouri;**

152 **(k) In-plant training analysis, including fees for professionals and necessary travel**
153 **and expenses;**

154 **(l) Assessment and preselection tools;**

155 **(m) Publicity;**

156 **(n) Instructional services;**

- 157 (o) Rental of instructional facilities with necessary utilities; and
158 (p) Payment of the principal, premium, and interest on certificates, including
159 capitalized interest, issued to finance a project, and the funding and maintenance of a debt
160 service reserve fund to secure such certificates;
- 161 (26) "Training project services", includes, but shall not be limited to, the following:
162 (a) Job training, which may include, but not be limited to, preemployment training,
163 analysis of the specified training needs for a qualified company, development of training
164 plans, and provision of training through qualified training staff;
165 (b) Adult basic education and job-related instruction;
166 (c) Vocational and skill-assessment services and testing;
167 (d) Training facilities, equipment, materials, and supplies;
168 (e) On-the-job training;
169 (f) Administrative expenses equal to fifteen percent of the total training costs;
170 (g) Subcontracted services with state institutions of higher education, private
171 colleges or universities, or other federal, state, or local agencies;
172 (h) Contracted or professional services; and
173 (i) Issuance of certificates, when applicable.

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

8 2. There is hereby created the "Compete Missouri Job Training Joint Legislative
9 Oversight Committee". The committee shall consist of three members of the Missouri
10 senate appointed by the president pro tem of the senate; and three members of the house
11 of representatives appointed by the speaker of the house. No more than two of the
12 members of the senate and two of the members of the house of representatives shall be
13 from the same political party. Members of the committee shall report to the governor, the
14 president pro tem of the senate and the speaker of the house of representatives on all
15 assistance to industries under the provisions of sections 620.800 to 620.809 provided during
16 the preceding fiscal year. The report of the committee shall be delivered no later than
17 October first of each year. The director of the department shall report to the committee
18 such information as the committee may deem necessary for its annual report. Members
19 of the committee shall receive no compensation in addition to their salary as members of

20 the general assembly, but may receive their necessary expenses while attending the
21 meetings of the committee, to be paid out of the joint contingent fund.

22 **3. The department shall publish guidelines and may promulgate rules and**
23 **regulations governing the training program. Any rule or portion of a rule, as that term is**
24 **defined in section 536.010, that is created under the authority delegated in this section shall**
25 **become effective only if it complies with and is subject to all of the provisions of chapter**
26 **536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and**
27 **if any of the powers vested with the general assembly pursuant to chapter 536 to review,**
28 **to delay the effective date, or to disapprove and annul a rule are subsequently held**
29 **unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted**
30 **after August 28, 2011, shall be invalid and void.**

31 **4. The department shall make program applications and guidelines available on-**
32 **line.**

33 **5. The department may contract with other entities, including businesses,**
34 **industries, other state agencies and the political subdivisions of the state for the purposes**
35 **of carrying out the provisions of the training program established in sections 620.800 to**
36 **620.809. Any assistance through the training program shall be provided pursuant to an**
37 **agreement.**

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

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

11 **2. The department may provide financial assistance through the training program**
12 **to qualified companies that create new jobs which will result in the need for training, or**
13 **that make new capital investment relating directly to the retention of retained jobs in an**
14 **amount at least five times greater than the amount of any financial assistance. Financial**
15 **assistance may also be provided to a consortium of qualified companies organized for the**

16 purpose of providing for common training to the consortium members' employees. Funds
17 in the compete Missouri job development fund shall be appropriated, for financial
18 assistance through the training program, by the general assembly to the department and
19 shall be administered by a local educational agency certified by the department for such
20 purpose. Except for state-sponsored preemployment training, no qualified company shall
21 receive more than fifty percent of its training program costs from the compete Missouri job
22 development fund. No funds shall be awarded or reimbursed to any qualified company
23 for the training, retraining or upgrading of skills of potential employees with the purpose
24 of replacing or supplanting employees engaged in an authorized work stoppage. Upon
25 approval by the department, training project costs, except the purchase of training
26 equipment and training facilities, shall be eligible for reimbursement with funds from the
27 compete Missouri job development fund. Notwithstanding any provision of law to the
28 contrary, no qualified company within a service industry shall be eligible for assistance
29 under this subsection unless such qualified company provides services in interstate
30 commerce, which shall mean that the qualified company derives a majority of its annual
31 revenues from out of the state.

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

620.809. 1. The "Missouri Community College Job Training Program Fund"
2 formerly established in the state treasury by section 178.896 shall now be known as the
3 "Compete Missouri Community College New Jobs Training Fund", and shall be
4 administered by the department for the training program. The department of revenue
5 shall credit to the fund, as received, all new jobs credits. The fund shall also consist of any
6 gifts, contributions, grants, or bequests received from federal, private, or other sources.
7 The general assembly, however, shall not provide for any transfer of general revenue funds
8 into the fund. Moneys in the fund shall be disbursed to the department pursuant to
9 regular appropriations by the general assembly. The department shall disburse such
10 appropriated funds in a timely manner into the special funds established by community
11 college districts for training projects, which funds shall be used to pay training project
12 costs. Such disbursements shall be made to the special fund for each training project in
13 the same proportion as the new jobs credit remitted by the qualified company participating
14 in such project bears to the total new jobs credit from withholding remitted by all qualified

15 companies participating in projects during the period for which the disbursement is made.
16 All moneys remaining in the fund at the end of any fiscal year shall not lapse to the general
17 revenue fund, as provided in section 33.080, but shall remain in the fund.

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

38 3. The department of revenue shall develop such forms as are necessary to
39 demonstrate accurately each qualified company's new jobs credit paid into the compete
40 Missouri community college new jobs training fund or retained jobs credit paid into the
41 compete Missouri community college job retention training fund. The new or retained jobs
42 credits shall be accounted as separate from the normal withholding tax paid to the
43 department of revenue by the qualified company. Reimbursements made by all qualified
44 companies to the compete Missouri community college new jobs training fund and the
45 compete Missouri community college job retention training fund shall be no less than all
46 allocations made by the department to all community college districts for all projects. The
47 qualified company shall remit the amount of the new or retained jobs credit, as applicable,
48 to the department of revenue in the same manner as provided in sections 143.191 to
49 143.265.

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

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

68 **(a) Funds appropriated by the general assembly to the compete Missouri**
69 **community college new jobs training program fund or compete Missouri community**
70 **college job retention training program fund, as applicable, and disbursed by the**
71 **department for the purposes consistent with sections 620.800 to 620.809;**

72 **(b) Tuition, student fees, or special charges fixed by the board of trustees to defray**
73 **training project costs in whole or in part;**

74 **(2) Payment of training project costs shall not be deferred for a period longer than**
75 **eight years;**

76 **(3) Costs of on-the-job training for employees shall include wages or salaries of**
77 **participating employees. Payments for on-the-job training shall not exceed the average of**
78 **fifty percent of the total wages paid by the qualified company to each participant during**
79 **the period of training. Payment for on-the-job training may continue for up to six months**
80 **from the date the training begins;**

81 **(4) A provision which fixes the minimum amount of new or retained jobs credits,**
82 **or tuition and fee payments which shall be paid for training project costs;**

83 **(5) Any payment required to be made by a qualified company shall constitute a lien**
84 **upon the qualified company's business property until paid and have equal priority with**
85 **ordinary taxes and shall not be divested by a judicial sale. Property subject to such lien**

86 may be sold for sums due and delinquent at a tax sale, with the same forfeitures, penalties,
87 and consequences as for the nonpayment of ordinary taxes. The purchasers at tax sale
88 shall obtain the property subject to the remaining payments.

89 **5. Any qualified company that submits a notice of intent for retained job credits**
90 **shall enter into an agreement providing that the qualified company has:**

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

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

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

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

100 **(b) Is located in a border county of the state and represent a potential risk of**
101 **relocation from the state; or**

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

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

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

109 **(2) A portion of the total payments made by the qualified companies under sections**
110 **143.191 to 143.265 shall be designated as the new or retained jobs credit from withholding.**
111 **Such portion shall be an amount equal to two and one-half percent of the gross wages paid**
112 **by the qualified company for each of the first one hundred jobs included in the project and**
113 **one and one-half percent of the gross wages paid by the qualified company for each of the**
114 **remaining jobs included in the project. If business or employment conditions cause the**
115 **amount of the new or retained jobs credit from withholding to be less than the amount**
116 **projected in the agreement for any time period, then other withholding tax paid by the**
117 **qualified company under sections 143.191 to 143.265 shall be credited to the applicable**
118 **fund by the amount of such difference. The qualified company shall remit the amount of**
119 **the new or retained jobs credit to the department of revenue in the manner prescribed in**
120 **sections 143.191 to 143.265. When all training program costs have been paid, the new or**
121 **retained jobs credits shall cease;**

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

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

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

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

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

145 **7. To provide funds for the present payment of the training project costs of new or**
146 **retained jobs training project through the training program, a community college district**
147 **may borrow money and issue and sell certificates payable from a sufficient portion of the**
148 **future receipts of payments authorized by the agreement including disbursements from the**
149 **compete Missouri community college new jobs training fund or the compete Missouri**
150 **community college job retention training fund, to the special fund established by the**
151 **district for each project. The total amount of outstanding certificates sold by all**
152 **community college districts shall not exceed the total amount authorized pursuant to law**
153 **as of January 1, 2011, unless an increased amount is authorized in writing by a majority**
154 **of members of the committee. The certificates shall be marketed through financial**
155 **institutions authorized to do business in Missouri. The receipts shall be pledged to the**
156 **payment of principal of and interest on the certificates. Certificates may be sold at public**
157 **sale or at private sale at par, premium, or discount of not less than ninety-five percent of**

158 the par value thereof, at the discretion of the board of trustees, and may bear interest at
159 such rate or rates as the board of trustees shall determine, notwithstanding the provisions
160 of section 108.170 to the contrary. However, the provisions of chapter 176 shall not apply
161 to the issuance of such certificates. Certificates may be issued with respect to a single
162 project or multiple projects and may contain terms or conditions as the board of trustees
163 may provide by resolution authorizing the issuance of the certificates.

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

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

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

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

192 **12. The provisions of the new program authorized under sections 620.800 to**
193 **620.809 shall sunset automatically on July 1, 2018, unless reauthorized by an act of the**
194 **general assembly.**

 [178.760. As used in sections 178.760 to 178.764, the following terms
2 mean:

3 (1) "Agreement", the agreement between an employer and a community
4 college district concerning a project. An agreement may be for a period not to
5 exceed ten years when the program services associated with a project are not in
6 excess of five hundred thousand dollars. For a project where the associated
7 program costs are greater than five hundred thousand dollars, the agreement may
8 not exceed a period of eight years;

9 (2) "Board of trustees", the board of trustees of a community college
10 district;

11 (3) "Capital investment", an investment in research and development,
12 working capital, and real and tangible personal business property except
13 inventory or property intended for sale to customers. Trucks, truck trailers, truck
14 semi-trailers, rail and barge vehicles and other rolling stock for hire, track,
15 switches, barges, bridges, tunnels, rail yards, and spurs shall not qualify as a
16 capital investment. The amount of such investment shall be the original cost of
17 the property if owned, or eight times the net annual rental rate if leased;

18 (4) "Certificate", industrial retained jobs training certificates issued under
19 section 178.763;

20 (5) "Date of commencement of the project", the date of the agreement;

21 (6) "Employee", the person employed in a retained job;

22 (7) "Employer", the person maintaining retained jobs in conjunction with
23 a project;

24 (8) "Industry", a business located within this state which enters into an
25 agreement with a community college district and which is engaged in interstate
26 or intrastate commerce for the purpose of manufacturing, processing, or
27 assembling products, conducting research and development, or providing services
28 in interstate commerce, but excluding retail services;

29 (9) "Program costs", all necessary and incidental costs of providing
30 program services, including payment of the principal, premium, and interest on
31 certificates, including capitalized interest, issued to finance a project, funding and
32 maintenance of a debt service reserve fund to secure such certificates and wages,
33 salaries and benefits of employees participating in on-the-job training;

34 (10) "Program services" includes, but is not limited to, the following:

35 (a) Retained jobs training;

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

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

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

39 (e) On-the-job training;

40 (f) Administrative expenses equal to seventeen percent of the total
41 training costs, two percent to be paid to the department of economic development
42 for deposit into the Missouri job development fund created under section
43 620.478;

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

46 (h) Contracted or professional services; and

47 (i) Issuance of certificates;

48 (11) "Project", a training arrangement which is the subject of an
49 agreement entered into between the community college district and an employer
50 to provide program services that is not also the subject of an agreement entered
51 into between a community college district and an employer to provide program
52 services under sections 178.892 to 178.896;

53 (12) "Retained job", a job in a stable industry, not including jobs for
54 recalled workers, which was in existence for at least two consecutive calendar
55 years preceding the year in which the application for the retained jobs training
56 program was made;

57 (13) "Retained jobs credit from withholding", the credit as provided in
58 section 178.762;

59 (14) "Retained jobs training program", or "program", the project or
60 projects established by a community college district for the retention of jobs, by
61 providing education and training of workers for existing jobs for stable industry
62 in the state;

63 (15) "Stable industry", a business that otherwise meets the definition of
64 industry and retains existing jobs. To be a stable industry, the business shall
65 have:

66 (a) Maintained at least one hundred employees per year at the employer's
67 site in the state at which the jobs are based, for each of the two calendar years
68 preceding the year in which application for the program is made;

69 (b) Retained at that site the level of employment that existed in the
70 taxable year immediately preceding the year in which application for the program
71 is made; and

72 (c) Made or agree to make a capital investment aggregating at least one
73 million dollars to acquire or improve long-term assets (including leased facilities)
74 such as property, plant, or equipment (excluding program costs) at the employer's
75 site in the state at which jobs are based over a period of three consecutive
76 calendar years, as certified by the employer and:

77 a. Have made substantial investment in new technology requiring the
78 upgrading of worker's skills; or

79 b. Be located in a border county of the state and represent a potential risk
80 of relocation from the state; or

81 c. Be determined to represent a substantial risk of relocation from the
82 state by the director of the department of economic development;

83 (16) "Total training costs", costs of training, including supplies, wages
84 and benefits of instructors, subcontracted services, on-the-job training, training
85 facilities, equipment, skill assessment, and all program services excluding
86 issuance of certificates.]
87

2 [178.761. A community college district, with the approval of the
3 department of economic development in consultation with the office of
4 administration, may enter into an agreement to establish a project and provide
5 program services to an employer. As soon as possible after initial contact
6 between a community college district and a potential employer regarding the
7 possibility of entering into an agreement, the district shall inform the division of
8 workforce development of the department of economic development and the
9 office of administration about the potential project. The division of workforce
10 development shall evaluate the proposed project within the overall job training
11 efforts of the state to ensure that the project will not duplicate other job training
12 programs. The department of economic development shall have fourteen days
13 from receipt of the application to approve or disapprove projects. If no response
14 is received by the community college within fourteen days, the projects are
15 approved. Any project that is disapproved must be in writing stating the reasons
16 for the disapproval. If an agreement is entered into, the district and the employer
17 shall notify the department of revenue within fifteen calendar days. An
18 agreement may provide, but is not limited to:

19 (1) Payment of program costs, including deferred costs, which may be
20 paid from one or a combination of the following sources:

21 (a) Funds appropriated by the general assembly from the Missouri
22 community college job retention program fund and disbursed by the division of
23 workforce development in respect of retained jobs credit from withholding to be
24 received or derived from retained employment resulting from the project;

25 (b) Tuition, student fees, or special charges fixed by the board of trustees
26 to defray program costs in whole or in part;

27 (c) Guarantee of payments to be received under paragraph (a) or (b) of
28 this subdivision;

29 (2) Payment of program costs shall not be deferred for a period longer
30 than ten years if program costs do not exceed five hundred thousand dollars, or
31 eight years if program costs exceed five hundred thousand dollars from the date
32 of commencement of the project;

33 (3) Costs of on-the-job training for employees shall include wages or
34 salaries of participating employees. Payments for on-the-job training shall not
35 exceed the average of fifty percent of the total percent of the total wages paid by
36 the employer to each participant during the period of training. Payment for
37 on-the-job training may continue for up to six months from the date of the
employer's capital investment;

38 (4) A provision which fixes the minimum amount of retained jobs credit
39 from withholding, or tuition and fee payments which shall be paid for program
40 costs;

41 (5) Any payment required to be made by an employer is a lien upon the
42 employer's business property until paid and has equal precedence with ordinary
43 taxes and shall not be divested by a judicial sale. Property subject to the lien may
44 be sold for sums due and delinquent at a tax sale, with the same forfeitures,
45 penalties, and consequences as for the nonpayment of ordinary taxes. The
46 purchasers at tax sale obtain the property subject to the remaining payments.]
47

2 [178.762. If an agreement provides that all or part of program costs are
3 to be met by receipt of retained jobs credit from withholding, such retained jobs
4 credit from withholding shall be determined and paid as follows:

5 (1) Retained jobs credit from withholding shall be based upon the wages
6 paid to the employees in the retained jobs;

7 (2) A portion of the total payments made by the employer under section
8 143.221 shall be designated as the retained jobs credit from withholding. Such
9 portion shall be an amount equal to two and one-half percent of the gross wages
10 paid by the employer for each of the first one hundred jobs included in the project
11 and one and one-half percent of the gross wages paid by the employer for each
12 of the remaining jobs included in the project. If business or employment
13 conditions cause the amount of the retained jobs credit from withholding to be
14 less than the amount projected in the agreement for any time period, then other
15 withholding tax paid by the employer under section 143.221 shall be credited to
16 the Missouri community college retained job training fund by the amount of such
17 difference. The employer shall remit the amount of the retained jobs credit to the
18 department of revenue in the manner prescribed in section 178.764. When all
19 program costs, including the principal, premium, and interest on the certificates
20 have been paid, the employer credits shall cease;

21 (3) The community college district participating in a project shall
22 establish a special fund for and in the name of the project. All funds appropriated
23 by the general assembly from the Missouri community college job training
24 retention program fund and disbursed by the division of workforce development
25 for the project and other amounts received by the district in respect of the project
26 and required by the agreement to be used to pay program costs for the project
27 shall be deposited in the special fund. Amounts held in the special fund may be
28 used and disbursed by the district only to pay program costs for the project. The
29 special fund may be divided into such accounts and subaccounts as shall be
30 provided in the agreement, and amounts held therein may be invested in
31 investments which are legal for the investment of the district's other funds;

32 (4) Any disbursement in respect of a project received from the division
33 of workforce development under sections 178.760 to 178.764 and the special
fund into which it is paid may be irrevocably pledged by a community college

34 district for the payment of the principal, premium, and interest on the certificate
 35 issued by a community college district to finance or refinance, in whole or in part,
 36 the project;

37 (5) The employer shall certify to the department of revenue that the credit
 38 from withholding is in accordance with an agreement and shall provide other
 39 information the department may require;

40 (6) An employee participating in a project will receive full credit for the
 41 amount designated as a retained jobs credit from withholding and withheld as
 42 provided in section 143.221;

43 (7) If an agreement provides that all or part of program costs are to be
 44 met by receipt of retained jobs credit from withholding, the provisions of this
 45 subsection shall also apply to any successor to the original employer until such
 46 time as the principal and interest on the certificates have been paid.]
 47

[178.763. 1. To provide funds for the present payment of the costs of
 2 retained jobs training programs, a community college district may borrow money
 3 and issue and sell certificates payable from a sufficient portion of the future
 4 receipts of payments authorized by the agreement including disbursements from
 5 the Missouri community college job retention training program to the special
 6 fund established by the district for each project. The total amount of outstanding
 7 certificates sold by all community college districts shall not exceed fifteen
 8 million dollars, unless an increased amount is authorized in writing by a majority
 9 of members of the Missouri job training joint legislative oversight committee.
 10 The certificates shall be marketed through financial institutions authorized to do
 11 business in Missouri. The receipts shall be pledged to the payment of principal
 12 of and interest on the certificates. Certificates may be sold at public sale or at
 13 private sale at par, premium, or discount of not less than ninety-five percent of
 14 the par value thereof, at the discretion of the board of trustees, and may bear
 15 interest at such rate or rates as the board of trustees shall determine,
 16 notwithstanding the provisions of section 108.170 to the contrary. However,
 17 chapter 176 does not apply to the issuance of these certificates. Certificates may
 18 be issued with respect to a single project or multiple projects and may contain
 19 terms or conditions as the board of trustees may provide by resolution authorizing
 20 the issuance of the certificates.

21 2. Certificates issued to refund other certificates may be sold at public
 22 sale or at private sale as provided in this section with the proceeds from the sale
 23 to be used for the payment of the certificates being refunded. The refunding
 24 certificates may be exchanged in payment and discharge of the certificates being
 25 refunded, in installments at different times or an entire issue or series at one time.
 26 Refunding certificates may be sold or exchanged at any time on, before, or after
 27 the maturity of the outstanding certificates to be refunded. They may be issued
 28 for the purpose of refunding a like, greater, or lesser principal amount of

29 certificates and may bear a higher, lower, or equivalent rate of interest than the
 30 certificates being renewed or refunded.

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

43 4. The board of trustees shall make a finding based on information
 44 supplied by the employer that revenues provided in the agreement are sufficient
 45 to secure the faithful performance of obligations in the agreement.

46 5. Certificates issued under this section shall not be deemed to be an
 47 indebtedness of the state or the community college district or of any other
 48 political subdivision of the state, and the principal and interest on such
 49 certificates shall be payable only from the sources provided in subdivision (1) of
 50 section 178.761 which are pledged in the agreement.

51 6. The department of economic development shall coordinate the retained
 52 jobs training program, and may promulgate rules that districts will use in
 53 developing projects with industrial retained jobs training proposals which shall
 54 include rules providing for the coordination of such proposals with the service
 55 delivery areas established in the state to administer federal funds pursuant to the
 56 federal Workforce Investment Act. No rule or portion of a rule promulgated
 57 pursuant to the authority of this section shall become effective unless it has been
 58 promulgated pursuant to chapter 536.

59 7. No community college district may sell certificates as described in this
 60 section after July 1, 2014.]

61

2 [178.764. 1. There is hereby established within the state treasury a
 3 special fund, to be known as the "Missouri Community College Job Retention
 4 Training Program Fund", to be administered by the division of workforce
 5 development. The department of revenue shall credit to the community college
 6 job retention training program fund, as received, all retained jobs credit from
 7 withholding remitted by employers pursuant to section 178.762. The fund shall
 8 also consist of any gifts, contributions, grants, or bequests received from federal,
 9 private, or other sources. The general assembly, however, shall not provide for
 10 any transfer of general revenue funds into the community college job retention
 training program fund. Moneys in the Missouri community college job retention

11 training program fund shall be disbursed to the division of workforce
 12 development pursuant to regular appropriations by the general assembly. The
 13 division shall disburse such appropriated funds in a timely manner into the
 14 special funds established by community college districts for projects, which funds
 15 shall be used to pay program costs, including the principal, premium, and interest
 16 on certificates issued by the district to finance or refinance, in whole or in part,
 17 a project. Such disbursements by the division of workforce development shall
 18 be made to the special fund for each project in the same proportion as the retained
 19 jobs credit from withholding remitted by the employer participating in such
 20 project bears to the total retained jobs credit from withholding remitted by all
 21 employers participating in projects during the period for which the disbursement
 22 is made. Moneys for retained jobs training programs established under sections
 23 178.760 to 178.764 shall be obtained from appropriations made by the general
 24 assembly from the Missouri community college job retention training program
 25 fund. All moneys remaining in the Missouri community college job retention
 26 training program fund at the end of any fiscal year shall not lapse to the general
 27 revenue fund, as provided in section 33.080, but shall remain in the Missouri
 28 community college job retention training program fund.

29 2. The department of revenue shall develop such forms as are necessary
 30 to demonstrate accurately each employer's retained jobs credit from withholding
 31 paid into the Missouri community college job retention training program fund.
 32

33 The retained jobs credit from withholding shall be accounted as separate from the
 34 normal withholding tax paid to the department of revenue by the employer.
 35 Reimbursements made by all employers to the Missouri community college job
 36 retention training program fund shall be no less than all allocations made by the
 37 division of workforce development to all community college districts for all job
 38 retention projects. The employer shall remit the amount of the retained job credit
 39 to the department of revenue in the same manner as provided in sections 143.191
 40 to 143.265.]
 41

2 [178.892. As used in sections 178.892 to 178.896, the following terms
 mean:

3 (1) "Agreement", the agreement, between an employer and a community
 4 college district, concerning a project. An agreement may be for a period not to
 5 exceed ten years when the program services associated with a project are not in
 6 excess of five hundred thousand dollars. For a project where associated program
 7 costs are greater than five hundred thousand dollars, the agreement may not
 8 exceed a period of eight years. No agreement shall be entered into between an
 9 employer and a community college district which involves the training of
 10 potential employees with the purpose of replacing or supplanting employees
 11 engaged in an authorized work stoppage;

- 12 (2) "Board of trustees", the board of trustees of a community college
13 district;
- 14 (3) "Certificate", industrial new jobs training certificates issued pursuant
15 to section 178.895;
- 16 (4) "Date of commencement of the project", the date of the agreement;
- 17 (5) "Employee", the person employed in a new job;
- 18 (6) "Employer", the person providing new jobs in conjunction with a
19 project;
- 20 (7) "Essential industry", a business that otherwise meets the definition of
21 industry but instead of creating new jobs maintains existing jobs. To be an
22 essential industry, the business must have maintained at least two thousand jobs
23 each year for a period of four years preceding the year in which application for
24 the program authorized by sections 178.892 to 178.896 is made and must be
25 located in a home rule city with more than twenty-six thousand but less than
26 twenty-seven thousand inhabitants located in any county with a charter form of
27 government and with more than one million inhabitants;
- 28 (8) "Existing job", a job in an essential industry that pays wages or salary
29 greater than the average of the county in which the project will be located;
- 30 (9) "Industry", a business located within the state of Missouri which
31 enters into an agreement with a community college district and which is engaged
32 in interstate or intrastate commerce for the purpose of manufacturing, processing,
33 or assembling products, conducting research and development, or providing
34 services in interstate commerce, but excluding retail services. "Industry" does not
35 include a business which closes or substantially reduces its operation in one area
36 of the state and relocates substantially the same operation in another area of the
37 state. This does not prohibit a business from expanding its operations in another
38 area of the state provided that existing operations of a similar nature are not
39 closed or substantially reduced;
- 40 (10) "New job", a job in a new or expanding industry not including jobs
41 of recalled workers, or replacement jobs or other jobs that formerly existed in the
42 industry in the state. For an essential industry, an existing job shall be considered
43 a new job for the purposes of the new job training programs;
- 44 (11) "New jobs credit from withholding", the credit as provided in
45 section 178.894;
- 46 (12) "New jobs training program" or "program", the project or projects
47 established by a community college district for the creation of jobs by providing
48 education and training of workers for new jobs for new or expanding industry in
49 the state;
- 50 (13) "Program costs", all necessary and incidental costs of providing
51 program services including payment of the principal of, premium, if any, and
52 interest on certificates, including capitalized interest, issued to finance a project,
53 funding and maintenance of a debt service reserve fund to secure such certificates
54 and wages, salaries and benefits of employees participating in on-the-job training;

- 55 (14) "Program services" includes, but is not limited to, the following:
- 56 (a) New jobs training;
- 57 (b) Adult basic education and job-related instruction;
- 58 (c) Vocational and skill-assessment services and testing;
- 59 (d) Training facilities, equipment, materials, and supplies;
- 60 (e) On-the-job training;
- 61 (f) Administrative expenses equal to fifteen percent of the total training
- 62 costs;
- 63 (g) Subcontracted services with state institutions of higher education,
- 64 private colleges or universities, or other federal, state, or local agencies;
- 65 (h) Contracted or professional services; and
- 66 (i) Issuance of certificates;
- 67 (15) "Project", a training arrangement which is the subject of an
- 68 agreement entered into between the community college district and an employer
- 69 to provide program services;
- 70 (16) "Total training costs", costs of training, including supplies, wages
- 71 and benefits of instructors, subcontracted services, on-the-job training, training
- 72 facilities, equipment, skill assessment and all program services excluding
- 73 issuance of certificates.]

74

2 [178.893. A community college district, with the approval of the

3 department of economic development in consultation with the office of

4 administration, may enter into an agreement to establish a project and provide

5 program services to an employer. As soon as possible after initial contact

6 between a community college district and a potential employer regarding the

7 possibility of entering into an agreement, the district shall inform the division of

8 job development and training of the department of economic development and

9 the office of administration about the potential project. The division of job

10 development and training shall evaluate the proposed project within the overall

11 job training efforts of the state to ensure that the project will not duplicate other

12 job training programs. The department of economic development shall have

13 fourteen days from receipt of the application to approve or disapprove projects.

14 If no response is received by the community college within fourteen days the

15 projects are approved. Any project that is disapproved must be in writing stating

16 the reasons for the disapproval. If an agreement is entered into, the district and

17 the employer shall notify the department of revenue within fifteen calendar days.

18 An agreement may provide, but is not limited to:

- 18 (1) Payment of program costs, including deferred costs, which may be
- 19 paid from one or a combination of the following sources:
- 20 (a) Funds appropriated by the general assembly from the Missouri
- 21 community college job training program fund and disbursed by the division of
- 22 job development and training in respect of new jobs credit from withholding to
- 23 be received or derived from new employment resulting from the project;

24 (b) Tuition, student fees, or special charges fixed by the board of trustees
 25 to defray program costs in whole or in part;

26 (c) Guarantee of payments to be received under paragraph (a) or (b) of
 27 this subdivision;

28 (2) Payment of program costs shall not be deferred for a period longer
 29 than ten years if program costs do not exceed five hundred thousand dollars, or
 30 eight years if program costs exceed five hundred thousand dollars from the date
 31 of commencement of the project;

32 (3) Costs of on-the-job training for employees, shall include wages or
 33 salaries of participating employees. Payments for on-the-job training shall not
 34 exceed the average of fifty percent of the total percent of the total wages paid by
 35 the employer to each participant during the period of training.

36 Payment for on-the-job training may continue for up to six months after the
 37 placement of the participant in the new job;

38 (4) A provision which fixes the minimum amount of new jobs credit
 39 from withholding, or tuition and fee payments which shall be paid for program
 40 costs;

41 (5) Any payment required to be made by an employer is a lien upon the
 42 employer's business property until paid and has equal precedence with ordinary
 43 taxes and shall not be divested by a judicial sale. Property subject to the lien may
 44 be sold for sums due and delinquent at a tax sale, with the same forfeitures,
 45 penalties, and consequences as for the nonpayment of ordinary taxes. The
 46 purchasers at tax sale obtain the property subject to the remaining payments.]
 47

2 [178.894. If an agreement provides that all or part of program costs are
 3 to be met by receipt of new jobs credit from withholding, such new jobs credit
 4 from withholding shall be determined and paid as follows:

5 (1) New jobs credit from withholding shall be based upon the wages paid
 6 to the employees in the new jobs;

7 (2) A portion of the total payments made by the employer pursuant to
 8 section 143.221 shall be designated as the new jobs credit from withholding.
 9 Such portion shall be an amount equal to two and one-half percent of the gross
 10 wages paid by the employer for each of the first one hundred jobs included in the
 11 project and one and one-half percent of the gross wages paid by the employer for
 12 each of the remaining jobs included in the project. If business or employment
 13 conditions cause the amount of the new jobs credit from withholding to be less
 14 than the amount projected in the agreement for any time period, then other
 15 withholding tax paid by the employer pursuant to section 143.221 shall be
 16 credited to the Missouri community college job training fund by the amount of
 17 such difference. The employer shall remit the amount of the new jobs credit to
 18 the department of revenue in the manner prescribed in section 178.896. When
 19 all program costs, including the principal of, premium, if any, and interest on the
 certificates have been paid, the employer credits shall cease;

20 (3) The community college district participating in a project shall
21 establish a special fund for and in the name of the project. All funds appropriated
22 by the general assembly from the Missouri community college job training
23 program fund and disbursed by the division of job development and training for
24 the project and other amounts received by the district in respect of the project and
25 required by the agreement to be used to pay program costs for the project shall
26 be deposited in the special fund. Amounts held in the special fund may be used
27 and disbursed by the district only to pay program costs for the project. The
28 special fund may be divided into such accounts and subaccounts as shall be
29 provided in the agreement, and amounts held therein may be invested in
30 investments which are legal for the investment of the district's other funds;

31 (4) Any disbursement in respect of a project received from the division
32 of job development and training under the provisions of sections 178.892 to
33 178.896 and the special fund into which it is paid may be irrevocably pledged by
34 a community college district for the payment of the principal of, premium, if any,
35 and interest on the certificate issued by a community college district to finance
36 or refinance, in whole or in part, the project;

37 (5) The employer shall certify to the department of revenue that the credit
38 from withholding is in accordance with an agreement and shall provide other
39 information the department may require;

40 (6) An employee participating in a project will receive full credit for the
41 amount designated as a new jobs credit from withholding and withheld as
42 provided in section 143.221;

43 (7) If an agreement provides that all or part of program costs are to be
44 met by receipt of new jobs credit from withholding, the provisions of this
45 subsection shall also apply to any successor to the original employer until such
46 time as the principal and interest on the certificates have been paid.]

47

2 [178.895. 1. To provide funds for the present payment of the costs of
3 new jobs training programs, a community college district may borrow money and
4 issue and sell certificates payable from a sufficient portion of the future receipts
5 of payments authorized by the agreement including disbursements from the
6 Missouri community college job training program to the special fund established
7 by the district for each project. The total amount of outstanding certificates sold
8 by all community college districts shall not exceed twenty million dollars, unless
9 an increased amount is authorized in writing by a majority of members of the
10 Missouri job training joint legislative oversight committee. The certificates shall
11 be marketed through financial institutions authorized to do business in Missouri.
12 The receipts shall be pledged to the payment of principal of and interest on the
13 certificates. Certificates may be sold at public sale or at private sale at par,
14 premium, or discount of not less than ninety-five percent of the par value thereof,
15 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

16 section 108.170 to the contrary. However, chapter 176 does not apply to the
17 issuance of these certificates. Certificates may be issued with respect to a single
18 project or multiple projects and may contain terms or conditions as the board of
19 trustees may provide by resolution authorizing the issuance of the certificates.

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

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

42 4. The board of trustees shall determine if revenues provided in the
43 agreement are sufficient to secure the faithful performance of obligations in the
44 agreement.

45 5. Certificates issued under this section shall not be deemed to be an
46 indebtedness of the state or the community college district or of any other
47 political subdivision of the state and the principal and interest on such certificates
48 shall be payable only from the sources provided in subdivision (1) of section
49 178.893 which are pledged in the agreement.

50 6. The department of economic development shall coordinate the new
51 jobs training program, and may promulgate rules that districts will use in
52 developing projects with new and expanding industrial new jobs training
53 proposals which shall include rules providing for the coordination of such
54 proposals with the service delivery areas established in the state to administer
55 federal funds pursuant to the federal Job Training Partnership Act. No rule or
56 portion of a rule promulgated under the authority of sections 178.892 to 178.896
57 shall become effective unless it has been promulgated pursuant to the provisions
58 of chapter 536. All rulemaking authority delegated prior to June 27, 1997, is of

59 no force and effect and repealed; however, nothing in this section shall be
60 interpreted to repeal or affect the validity of any rule filed or adopted prior to
61 June 27, 1997, if such rule complied with the provisions of chapter 536. The
62 provisions of this section and chapter 536 are nonseverable and if any of the
63 powers vested with the general assembly pursuant to chapter 536, including the
64 ability to review, to delay the effective date, or to disapprove and annul a rule or
65 portion of a rule, are subsequently held unconstitutional, then the purported grant
66 of rulemaking authority and any rule so proposed and contained in the order of
67 rulemaking shall be invalid and void.

68 7. No community college district may sell certificates as described in this
69 section after July 1, 2018.]
70

[178.896. 1. There is hereby established within the state treasury a
2 special fund, to be known as the "Missouri Community College Job Training
3 Program Fund", to be administered by the division of job development and
4 training. The department of revenue shall credit to the community college job
5 training program fund, as received, all new jobs credit from withholding remitted
6 by employers pursuant to section 178.894. The fund shall also consist of any
7 gifts, contributions, grants or bequests received from federal, private or other
8 sources. The general assembly, however, shall not provide for any transfer of
9 general revenue funds into the community college job training program fund.
10 Moneys in the Missouri community college job training program fund shall be
11 disbursed to the division of job development and training pursuant to regular
12 appropriations by the general assembly. The division shall disburse such
13 appropriated funds in a timely manner into the special funds established by
14 community college districts for projects, which funds shall be used to pay
15 program costs, including the principal of, premium, if any, and interest on
16 certificates issued by the district to finance or refinance, in whole or in part, a
17 project. Such disbursements by the division of job development and training
18 shall be made to the special fund for each project in the same proportion as the
19 new jobs credit from withholding remitted by the employer participating in such
20 project bears to the total new jobs credit from withholding remitted by all
21 employers participating in projects during the period for which the disbursement
22 is made. Moneys for new jobs training programs established under the provisions
23 of sections 178.892 to 178.896 shall be obtained from appropriations made by the
24 general assembly from the Missouri community college job training program
25 fund. All moneys remaining in the Missouri community college job training
26 program fund at the end of any fiscal year shall not lapse to the general revenue
27 fund, as provided in section 33.080, but shall remain in the Missouri community
28 college job training program fund.

29 2. The department of revenue shall develop such forms as are necessary
30 to demonstrate accurately each employer's new jobs credit from withholding paid
31 into the Missouri community college job training program fund. The new jobs

32 credit from withholding shall be accounted as separate from the normal
 33 withholding tax paid to the department of revenue by the employer.
 34 Reimbursements made by all employers to the Missouri community college job
 35 training program fund shall be no less than all allocations made by the division
 36 of job development and training to all community college districts for all projects.
 37 The employer shall remit the amount of the new job credit to the department of
 38 revenue in the same manner as provided in sections 143.191 to 143.265.

39 3. Sections 178.892 to 178.896 shall expire July 1, 2028.]
 40

2 [620.470. As used in sections 620.470 to 620.481, unless the context
 clearly requires otherwise, the following terms mean:

3 (1) "Department", the Missouri department of economic development;
 4 (2) "Fund", the Missouri job development fund as established by section
 5 620.478;

6 (3) "Industry", an entity the objective of which is to supply a service or
 7 the objective of which is the commercial production and sale of an article of trade
 8 or commerce. The term includes a consortium of such entities organized for the
 9 purpose of providing for common training to the member entities' employees,
 10 provided that the consortium as a whole meets the requirements for participation
 11 in this program;

12 (4) "Manufacturing", the making or processing of raw materials into a
 13 finished product, especially by means of large-scale machines of industry.]
 14

2 [620.472. 1. The department shall establish a new or expanding industry
 training program, the purpose of which is to provide assistance for new or
 3 expanding industries for the training, retraining or upgrading of the skills of
 4 potential employees. Training may include preemployment training, and services
 5 may include analysis of the specified training needs for such company,
 6 development of training plans, and provision of training through qualified
 7 training staff. Such program may fund in-plant training analysis, curriculum
 8 development, assessment and preselection tools, publicity for the program,
 9 instructional services, rental of instructional facilities with necessary utilities,
 10 access to equipment and supplies, other necessary services, overall program
 11 direction, and an adequate staff to carry out an effective training program. In
 12 addition, the program may fund a coordinated transportation program for
 13 trainings if the training can be more effectively provided outside the community
 14 where the jobs are to be located. In-plant training analysis shall include fees for
 15 professionals and necessary travel and expenses. Such program may also provide
 16 assistance in the locating of skilled employees and in the locating of additional
 17 sources of job training funds. Such program shall be operated with
 18 appropriations made by the general assembly from the fund.

19 2. Assistance under the new or expanding industry training program may
 20 be available only for industries who certify to the department that their

21 investments relate directly to a projected increase in employment which will
22 result in the need for training of newly hired employees or the retraining or
23 upgrading of the skills of existing employees for new jobs created by the new or
24 expanding industry's investment.

25 3. The department shall issue rules and regulations governing the
26 awarding of funds administered through the new or expanding industry training
27 program. When promulgating these rules and regulations, the department shall
28 consider such factors as the potential number of new permanent jobs to be
29 created, the amount of private sector investment in new facilities and equipment,
30 the significance of state funding to the industry's decision to locate or expand in
31 Missouri, the economic need of the affected community, and the importance of
32 the industry to the economic development of Missouri.]
33

2 [620.474. 1. The department shall establish a basic industry retraining
3 program, the purpose of which is to provide assistance for industries in Missouri
4 for the retraining and upgrading of employees' skills which are required to
5 support new investment. Such program shall be operated with appropriations
6 made by the general assembly from the fund.

7 2. Assistance under the basic industry retraining program may be made
8 available for industries in Missouri which make new investments without the
9 creation of new employment.

10 3. The department shall issue rules and regulations governing the
11 awarding of funds administered through the basic industry retraining fund. When
12 promulgating these rules and regulations, the department shall consider such
13 factors as the number of jobs in jeopardy of being lost if retraining does not
14 occur, the amount of private sector investment in new facilities and equipment,
15 the ratio of jobs retained versus investment, the cost of normal, ongoing training
16 required for the industry, the economic need of the affected community, and the
17 importance of the industry to the economic development of Missouri.]

2 [620.475. 1. The department shall establish an industry quality and
3 productivity improvement program to help industries and businesses evaluate and
4 enhance quality and productivity, and to encourage the private sector to develop
5 long-range goals to improve quality and productivity and improve the
6 competitive position of private businesses. The quality and productivity
7 improvement program shall include seminars, workshops and short courses on
8 subjects such as long-range planning, new management techniques, automated
9 manufacturing, innovative uses of new materials and the latest philosophies of
10 management and quality improvement. The program shall be available to
11 existing Missouri manufacturing, distribution and service businesses.

12 2. The department may develop quality and productivity improvement
13 centers at university and community college campuses throughout the state as the
demand and need is determined. The department shall have the authority to

14 contract with individuals who possess particular knowledge, ability and expertise
 15 in the various subjects which may be essential to the program's goals. Seminars,
 16 workshops, short courses and specific not for credit classes shall be developed
 17 on and off campus for personnel engaged in manufacturing, distribution and
 18 service businesses. At the discretion of the department, the University of
 19 Missouri and Lincoln University extension services, the continuing education
 20 offices of the regional universities and community colleges may be used for the
 21 promotion and coordination of the off-campus courses that are offered.

22 3. Activities eligible for reimbursement in the industry quality and
 23 productivity program shall include:

24 (1) The cost of seminars, workshops, short courses and specific not for
 25 credit classes;

26 (2) The wages of instructors;

27 (3) Productivity materials and supplies, including the purchase of
 28 packaged productivity programs when appropriate;

29 (4) Travel directly related to the program;

30 (5) Tuition payments to third-party productivity providers and to
 31 businesses; and

32 (6) Teaching and assistance provided by educational institutions in the
 33 state.

34 4. No industry receiving assistance under the industry quality and
 35 productivity improvement program shall be reimbursed for more than fifty
 36 percent of the total costs of its participation in the program.]
 37

2 [620.476. Activities eligible for reimbursement by funds administered
 3 through the new or expanding industry program and the basic industry retraining
 4 program shall include: the wages of instructors, who may or may not be
 5 employees of the industry; training development costs, including the cost of
 6 training of instructors; training materials and supplies, including the purchase of
 7 packaged training programs when appropriate; travel directly related to the
 8 training program; tuition payments to third-party training providers and to the
 9 industry; teaching and assistance provided by educational institutions in the state
 10 of Missouri; on-the-job training; and the leasing, but not the purchase, of training
 11 equipment and space.]

2 [620.478. 1. There is hereby established in the state treasury a special
 3 fund to be known as the "Missouri Job Development Fund". The fund shall
 4 consist of all moneys which may be appropriated to it by the general assembly
 5 and also any gifts, contributions, grants or bequests received from federal, private
 6 or other sources. Appropriations made from the fund shall be for the purpose of
 7 providing contractual services through the department of elementary and
 8 secondary education for vocational related training or retraining provided by
 public or private training institutions within Missouri; and for contracted services

9 through the department of economic development for vocational related training
10 or retraining provided by public or private training institutions located outside of
11 Missouri; and for vocational related training or retraining provided on site, within
12 Missouri, by any proprietorship, partnership or corporate entity. Except for
13 state-sponsored preemployment training, no applicant shall receive more than
14 fifty percent of its project training or retraining costs from the development fund.
15 Moneys to operate the new or expanding industry training program, the basic
16 industry retraining program, the industry quality and productivity improvement
17 program and assistance to community college business and technology centers
18 shall be obtained from appropriations made by the general assembly from the
19 fund. No funds shall be awarded or reimbursed to any industry for the training,
20 retraining or upgrading of skills of potential employees with the purpose of
21 replacing or supplanting employees engaged in an authorized work stoppage.

22 2. The Missouri job development fund shall be able to receive any block
23 grant or other sources of funding relating to job training, school-to-work
24 transition, welfare reform, vocational and technical training, housing,
25 infrastructure development and human resource investment programs which may
26 be provided by the federal government or other sources.]
27

2 [620.479. The department is authorized to contract with other entities,
3 including businesses, industries, other state agencies and the political
4 subdivisions of the state, for the purpose of carrying out the provisions of
5 sections 620.470 to 620.481.]

2 [620.480. To efficiently carry out the responsibilities of the division of
3 job development and training and to improve job training program coordination,
4 the commissioner of administration shall authorize the division to directly
5 negotiate with and contract for job training and related services with
6 administrative entities designated pursuant to the requirements of the Job
7 Training Partnership Act and any subsequent amendments and any other agencies
8 or entities which may be designated to administer job training and related
9 services pursuant to any succeeding federal or state legislative or regulatory
10 requirements.]

2 [620.481. There is hereby created the "Missouri Job Training Joint
3 Legislative Oversight Committee". The committee shall consist of three
4 members of the Missouri senate appointed by the president pro tem of the senate;
5 three members of the house of representatives appointed by the speaker of the
6 house. No more than two of the members of the senate and two of the members
7 of the house of representatives shall be from the same political party. Members
8 of the Missouri job training joint legislative oversight committee shall report to
9 the governor, the president pro tem of the senate and the speaker of the house of
representatives on all assistance to industries under the provisions of sections

10 620.470 to 620.481 provided during the preceding fiscal year and the customized
11 job training program administered by the department of elementary and
12 secondary education. The report of the committee shall be delivered no later than
13 October first of each year. The director of the department of economic
14 development shall report to the committee such information as the committee
15 may deem necessary for its annual report. Members of the committee shall
16 receive no compensation in addition to their salary as members of the general
17 assembly, but may receive their necessary expenses while attending the meetings
18 of the committee, to be paid out of the joint contingent fund.]
19

2 [620.482. 1. The department may provide assistance, through
3 appropriations made from the Missouri job development fund, to business and
4 technology centers. Such assistance may not include the lending of the state's
5 credit for the payment of any liability of the fund. Such centers may be
6 established by Missouri community colleges, or a state-owned postsecondary
7 technical college, to provide business and training services in disciplines which
8 shall include, but not be limited to, environmental health and safety, industrial
9 electrical technology, machine tool technology, industrial management and
10 technology, computer consulting and computer-aided drafting, microcomputer
11 training and telecommunications training.

12 2. The department of economic development shall promulgate rules and
13 regulations as are necessary to implement the provisions of sections 620.470 to
14 620.482. No rule or portion of a rule promulgated under the authority of sections
15 620.470 to 620.482 shall become effective unless it has been promulgated
pursuant to the provisions of section 536.024.]