

FIRST REGULAR SESSION

HOUSE BILL NO. 1146

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE ROWDEN.

2516H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 620.1881 and 620.1910, RSMo, and to enact in lieu thereof two new sections relating to programs administered by the department of economic development.

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

Section A. Sections 620.1881 and 620.1910, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 620.1881 and 620.1910, to read as follows:

620.1881. 1. The department of economic development shall respond within thirty days to a company who provides a notice of intent with either an approval or a rejection of the notice of intent. The department shall give preference to qualified companies and projects targeted at an area of the state which has recently been classified as a disaster area by the federal government. Failure to respond on behalf of the department of economic development shall result in the notice of intent being deemed an approval for the purposes of this section. A qualified company who is provided an approval for a project shall be allowed a benefit as provided in this program in the amount and duration provided in this section. A qualified company may receive additional periods for subsequent new jobs at the same facility after the full initial period if the minimum thresholds are met as set forth in sections 620.1875 to 620.1890. There is no limit on the number of periods a qualified company may participate in the program, as long as the minimum thresholds are achieved and the qualified company provides the department with the required reporting and is in proper compliance for this program or other state programs. A qualified company may elect to file a notice of intent to start a new project period concurrent with an existing project period if the minimum thresholds are achieved and the qualified company provides the department with the required reporting and is in proper compliance for this program and other state programs; however, the qualified company may not

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.

18 receive any further benefit under the original approval for jobs created after the date of the new
19 notice of intent, and any jobs created before the new notice of intent may not be included as new
20 jobs for the purpose of benefit calculation in relation to the new approval. When a qualified
21 company has filed and received approval of a notice of intent and subsequently files another
22 notice of intent, the department shall apply the definition of project facility under subdivision
23 (19) of section 620.1878 to the new notice of intent as well as all previously approved notices
24 of intent and shall determine the application of the definitions of new job, new payroll, project
25 facility base employment, and project facility base payroll accordingly.

26 2. Notwithstanding any provision of law to the contrary, any qualified company that is
27 awarded benefits under this program may not simultaneously receive tax credits or exemptions
28 under sections 135.100 to 135.150, sections 135.200 to 135.286, section 135.535, or sections
29 135.900 to 135.906 at the same project facility. The benefits available to the company under any
30 other state programs for which the company is eligible and which utilize withholding tax from
31 the new jobs of the company must first be credited to the other state program before the
32 withholding retention level applicable under the Missouri quality jobs act will begin to accrue.
33 These other state programs include, but are not limited to, the Missouri works jobs training
34 program under sections 620.800 to 620.809, the real property tax increment allocation
35 redevelopment act, sections 99.800 to 99.865, or the Missouri downtown and rural economic
36 stimulus act under sections 99.915 to 99.980. If any qualified company also participates in the
37 Missouri works jobs training program in sections 620.800 to 620.809, the company shall retain
38 no withholding tax, but the department shall issue a refundable tax credit for the full amount of
39 benefit allowed under this [subdivision] **subsection**. The calendar year annual maximum amount
40 of tax credits which may be issued to a qualifying company that also participates in the new job
41 training program shall be increased by an amount equivalent to the withholding tax retained by
42 that company under the new jobs training program. However, if the combined benefits of the
43 quality jobs program and the new jobs training program exceed the projected state benefit of the
44 project, as determined by the department of economic development through a cost-benefit
45 analysis, the increase in the maximum tax credits shall be limited to the amount that would not
46 cause the combined benefits to exceed the projected state benefit. Any taxpayer who is awarded
47 benefits under this program who knowingly hires individuals who are not allowed to work
48 legally in the United States shall immediately forfeit such benefits and shall repay the state an
49 amount equal to any state tax credits already redeemed and any withholding taxes already
50 retained.

51 3. The types of projects and the amount of benefits to be provided are:

52 (1) Small and expanding business projects: in exchange for the consideration provided
53 by the new tax revenues and other economic stimuli that will be generated by the new jobs

54 created by the program, a qualified company may retain an amount equal to the withholding tax
55 as calculated under subdivision (33) of section 620.1878 from the new jobs that would otherwise
56 be withheld and remitted by the qualified company under the provisions of sections 143.191 to
57 143.265 for a period of three years from the date the required number of new jobs were created
58 if the average wage of the new payroll equals or exceeds the county average wage or for a period
59 of five years from the date the required number of new jobs were created if the average wage of
60 the new payroll equals or exceeds one hundred twenty percent of the county average wage;

61 (2) Technology business projects: in exchange for the consideration provided by the new
62 tax revenues and other economic stimuli that will be generated by the new jobs created by the
63 program, a qualified company may retain an amount equal to a maximum of five percent of new
64 payroll for a period of five years from the date the required number of jobs were created from
65 the withholding tax of the new jobs that would otherwise be withheld and remitted by the
66 qualified company under the provisions of sections 143.191 to 143.265 if the average wage of
67 the new payroll equals or exceeds the county average wage. An additional one-half percent of
68 new payroll may be added to the five percent maximum if the average wage of the new payroll
69 in any year exceeds one hundred twenty percent of the county average wage in the county in
70 which the project facility is located, plus an additional one-half percent of new payroll may be
71 added if the average wage of the new payroll in any year exceeds one hundred forty percent of
72 the average wage in the county in which the project facility is located. The department shall
73 issue a refundable tax credit for any difference between the amount of benefit allowed under this
74 subdivision and the amount of withholding tax retained by the company, in the event the
75 withholding tax is not sufficient to provide the entire amount of benefit due to the qualified
76 company under this subdivision;

77 (3) High impact projects: in exchange for the consideration provided by the new tax
78 revenues and other economic stimuli that will be generated by the new jobs created by the
79 program, a qualified company may retain an amount from the withholding tax of the new jobs
80 that would otherwise be withheld and remitted by the qualified company under the provisions
81 of sections 143.191 to 143.265, equal to three percent of new payroll for a period of five years
82 from the date the required number of jobs were created if the average wage of the new payroll
83 equals or exceeds the county average wage of the county in which the project facility is located.
84 For high-impact projects in a facility located within two adjacent counties, the new payroll shall
85 equal or exceed the higher county average wage of the adjacent counties. The percentage of
86 payroll allowed under this subdivision shall be three and one-half percent of new payroll if the
87 average wage of the new payroll in any year exceeds one hundred twenty percent of the county
88 average wage in the county in which the project facility is located. The percentage of payroll
89 allowed under this subdivision shall be four percent of new payroll if the average wage of the

90 new payroll in any year exceeds one hundred forty percent of the county average wage in the
91 county in which the project facility is located. An additional one percent of new payroll may be
92 added to these percentages if local incentives equal between ten percent and twenty-four percent
93 of the new direct local revenue; an additional two percent of new payroll is added to these
94 percentages if the local incentives equal between twenty-five percent and forty-nine percent of
95 the new direct local revenue; or an additional three percent of payroll is added to these
96 percentages if the local incentives equal fifty percent or more of the new direct local revenue.
97 The department shall issue a refundable tax credit for any difference between the amount of
98 benefit allowed under this subdivision and the amount of withholding tax retained by the
99 company, in the event the withholding tax is not sufficient to provide the entire amount of benefit
100 due to the qualified company under this subdivision;

101 (4) Job retention projects: a qualified company may receive a tax credit for the retention
102 of jobs in this state, provided the qualified company and the project meets all of the following
103 conditions:

104 (a) For each of the twenty-four months preceding the year in which application for the
105 program is made the qualified company must have maintained at least one thousand full-time
106 employees at the employer's site in the state at which the jobs are based, and the average wage
107 of such employees must meet or exceed the county average wage;

108 (b) The qualified company retained at the project facility the level of full-time employees
109 that existed in the taxable year immediately preceding the year in which application for the
110 program is made;

111 (c) The qualified company is considered to have a significant statewide effect on the
112 economy, and has been determined to represent a substantial risk of relocation from the state by
113 the quality jobs advisory task force established in section 620.1887; provided, however, until
114 such time as the initial at-large members of the quality jobs advisory task force are appointed,
115 this determination shall be made by the director of the department of economic development;

116 (d) The qualified company in the project facility will cause to be invested a minimum
117 of seventy million dollars in new investment prior to the end of two years or will cause to be
118 invested a minimum of thirty million dollars in new investment prior to the end of two years and
119 maintain an annual payroll of at least seventy million dollars during each of the years for which
120 a credit is claimed; and

121 (e) The local taxing entities shall provide local incentives of at least fifty percent of the
122 new direct local revenues created by the project over a ten-year period. The quality jobs advisory
123 task force may recommend to the department of economic development that appropriate
124 penalties be applied to the company for violating the agreement. The amount of the job retention
125 credit granted may be equal to up to fifty percent of the amount of withholding tax generated by

126 the full-time jobs at the project facility for a period of five years. The calendar year annual
127 maximum amount of tax credit that may be issued to any qualified company for a job retention
128 project or combination of job retention projects shall be seven hundred fifty thousand dollars per
129 year, but the maximum amount may be increased up to one million dollars if such action is
130 proposed by the department and approved by the quality jobs advisory task force established in
131 section 620.1887; provided, however, until such time as the initial at-large members of the
132 quality jobs advisory task force are appointed, this determination shall be made by the director
133 of the department of economic development. In considering such a request, the task force shall
134 rely on economic modeling and other information supplied by the department when requesting
135 the increased limit on behalf of the job retention project. In no event shall the total amount of
136 all tax credits issued for the entire job retention program under this subdivision exceed three
137 million dollars annually. Notwithstanding the above, no tax credits shall be issued for job
138 retention projects approved by the department after August 30, 2013;

139 (5) Small business job retention and flood survivor relief: a qualified company may
140 receive a tax credit under sections 620.1875 to 620.1890 for the retention of jobs and flood
141 survivor relief in this state for each job retained over a three-year period, provided that:

142 (a) The qualified company did not receive any state or federal benefits, incentives, or tax
143 relief or abatement in locating its facility in a flood plain;

144 (b) The qualified company and related companies have fewer than one hundred
145 employees at the time application for the program is made;

146 (c) The average wage of the qualified company's and related companies' employees must
147 meet or exceed the county average wage;

148 (d) All of the qualified company's and related companies' facilities are located in this
149 state;

150 (e) The facilities at the primary business site in this state have been directly damaged by
151 floodwater rising above the level of a five hundred year flood at least two years, but fewer than
152 eight years, prior to the time application is made;

153 (f) The qualified company made significant efforts to protect the facilities prior to any
154 impending danger from rising floodwaters;

155 (g) For each year it receives tax credits under sections 620.1875 to 620.1890, the
156 qualified company and related companies retained, at the company's facilities in this state, at
157 least the level of full-time, year-round employees that existed in the taxable year immediately
158 preceding the year in which application for the program is made; and

159 (h) In the years it receives tax credits under sections 620.1875 to 620.1890, the company
160 cumulatively invests at least two million dollars in capital improvements in facilities and
161 equipment located at such facilities that are not located within a five hundred year flood plain

162 as designated by the Federal Emergency Management Agency, and amended from time to time.
163 The amount of the small business job retention and flood survivor relief credit granted may be
164 equal to up to one hundred percent of the amount of withholding tax generated by the full-time
165 jobs at the project facility for a period of three years. The calendar year annual maximum
166 amount of tax credit that may be issued to any qualified company for a small business job
167 retention and survivor relief project shall be two hundred fifty thousand dollars per year, but the
168 maximum amount may be increased up to five hundred thousand dollars if such action is
169 proposed by the department and approved by the quality jobs advisory task force established in
170 section 620.1887. In considering such a request, the task force shall rely on economic modeling
171 and other information supplied by the department when requesting an increase in the limit on
172 behalf of the small business job retention and flood survivor relief project. In no event shall the
173 total amount of all tax credits issued for the entire small business job retention and flood survivor
174 relief program under this subdivision exceed five hundred thousand dollars annually.
175 Notwithstanding the provisions of this subdivision to the contrary, no tax credits shall be issued
176 for small business job retention and flood survivor relief projects approved by the department
177 after August 30, 2010.

178 4. The qualified company shall provide an annual report of the number of jobs and such
179 other information as may be required by the department to document the basis for the benefits
180 of this program. The department may withhold the approval of any benefits until it is satisfied
181 that proper documentation has been provided, and shall reduce the benefits to reflect any
182 reduction in full-time employees or new payroll. Upon approval by the department, the qualified
183 company may begin the retention of the withholding taxes when it reaches the minimum number
184 of new jobs and the average wage exceeds the county average wage. Tax credits, if any, may be
185 issued upon satisfaction by the department that the qualified company has exceeded the county
186 average wage and the minimum number of new jobs. In such annual report, if the average wage
187 is below the county average wage, the qualified company has not maintained the employee
188 insurance as required, or if the number of new jobs is below the minimum, the qualified
189 company shall not receive tax credits or retain the withholding tax for the balance of the benefit
190 period. In the case of a qualified company that initially filed a notice of intent and received an
191 approval from the department for high-impact benefits and the minimum number of new jobs
192 in an annual report is below the minimum for high-impact projects, the company shall not
193 receive tax credits for the balance of the benefit period but may continue to retain the
194 withholding taxes if it otherwise meets the requirements of a small and expanding business under
195 this program.

196 5. The maximum calendar year annual tax credits issued for the entire program shall not
197 exceed eighty million dollars. Notwithstanding any provision of law to the contrary, the

198 maximum annual tax credits authorized under section 135.535 are hereby reduced from ten
199 million dollars to eight million dollars, with the balance of two million dollars transferred to this
200 program. There shall be no limit on the amount of withholding taxes that may be retained by
201 approved companies under this program.

202 6. The department shall allocate the annual tax credits based on the date of the approval,
203 reserving such tax credits based on the department's best estimate of new jobs and new payroll
204 of the project, and the other factors in the determination of benefits of this program. However,
205 the annual issuance of tax credits is subject to the annual verification of the actual new payroll.
206 The allocation of tax credits for the period assigned to a project shall expire if, within two years
207 from the date of commencement of operations, or approval if applicable, the minimum
208 thresholds have not been achieved. The qualified company may retain authorized amounts from
209 the withholding tax under this section once the minimum new jobs thresholds are met for the
210 duration of the project period. No benefits shall be provided under this program until the
211 qualified company meets the minimum new jobs thresholds. In the event the qualified company
212 does not meet the minimum new job threshold, the qualified company may submit a new notice
213 of intent or the department may provide a new approval for a new project of the qualified
214 company at the project facility or other facilities.

215 7. For a qualified company with flow-through tax treatment to its members, partners, or
216 shareholders, the tax credit shall be allowed to members, partners, or shareholders in proportion
217 to their share of ownership on the last day of the qualified company's tax period.

218 8. Tax credits may be claimed against taxes otherwise imposed by chapters 143 and 148,
219 and may not be carried forward but shall be claimed within one year of the close of the taxable
220 year for which they were issued, except as provided under subdivision (4) of subsection 3 of this
221 section.

222 9. Tax credits authorized by this section may be transferred, sold, or assigned by filing
223 a notarized endorsement thereof with the department that names the transferee, the amount of
224 tax credit transferred, and the value received for the credit, as well as any other information
225 reasonably requested by the department.

226 10. Prior to the issuance of tax credits, the department shall verify through the
227 department of revenue, or any other state department, that the tax credit applicant does not owe
228 any delinquent income, sales, or use tax or interest or penalties on such taxes, or any delinquent
229 fees or assessments levied by any state department and through the department of insurance,
230 financial institutions and professional registration that the applicant does not owe any delinquent
231 insurance taxes. Such delinquency shall not affect the authorization of the application for such
232 tax credits, except that at issuance credits shall be first applied to the delinquency and any
233 amount issued shall be reduced by the applicant's tax delinquency. If the department of revenue

234 or the department of insurance, financial institutions and professional registration, or any other
235 state department, concludes that a taxpayer is delinquent after June fifteenth but before July first
236 of any year and the application of tax credits to such delinquency causes a tax deficiency on
237 behalf of the taxpayer to arise, then the taxpayer shall be granted thirty days to satisfy the
238 deficiency in which interest, penalties, and additions to tax shall be tolled. After applying all
239 available credits toward a tax delinquency, the administering agency shall notify the appropriate
240 department and that department shall update the amount of outstanding delinquent tax owed by
241 the applicant. If any credits remain after satisfying all insurance, income, sales, and use tax
242 delinquencies, the remaining credits shall be issued to the applicant, subject to the restrictions
243 of other provisions of law.

244 11. Except as provided under subdivision (4) of subsection 3 of this section, the director
245 of revenue shall issue a refund to the qualified company to the extent that the amount of credits
246 allowed in this section exceeds the amount of the qualified company's income tax.

247 12. An employee of a qualified company will receive full credit for the amount of tax
248 withheld as provided in section 143.211.

249 13. If any provision of sections 620.1875 to 620.1890 or application thereof to any
250 person or circumstance is held invalid, the invalidity shall not affect other provisions or
251 application of these sections which can be given effect without the invalid provisions or
252 application, and to this end, the provisions of sections 620.1875 to 620.1890 are hereby declared
253 severable.

620.1910. 1. This section shall be known and may be cited as the "Manufacturing Jobs
2 Act".

3 2. As used in this section, the following terms mean:

4 (1) "Approval", a document submitted by the department to the qualified manufacturing
5 company or qualified supplier that states the benefits that may be provided under this section;

6 (2) "Capital investment", expenditures made by a qualified manufacturing company to
7 retool or reconfigure a manufacturing facility directly related to the manufacturing of a new
8 product or the expansion or modification of the manufacture of an existing product;

9 (3) "County average wage", the same meaning as such term is defined in section
10 620.1878;

11 (4) "Department", the department of economic development;

12 (5) "Facility", a building or buildings located in Missouri at which the qualified
13 manufacturing company manufactures a product;

14 (6) "Full-time job", a job for which a person is compensated for an average of at least
15 thirty-five hours per week for a twelve-month period, and one for which the qualified

16 manufacturing company or qualified supplier offers health insurance and pays at least fifty
17 percent of such insurance premiums;

18 (7) "NAICS industry classification", the most recent edition of the North American
19 Industry Classification System as prepared by the Executive Office of the President, Office of
20 Management and Budget;

21 (8) "New job", the same meaning as such term is defined in section 620.1878;

22 (9) "New product", a new model or line of a manufactured good that has not been
23 manufactured in Missouri by the qualified manufacturing company at any time prior to the date
24 of the notice of intent, or an existing brand, model, or line of a manufactured good that is
25 redesigned with more than seventy-five percent new exterior body parts and incorporates new
26 powertrain options;

27 (10) "Notice of intent", a form developed by the department, completed by the qualified
28 manufacturing company or qualified supplier and submitted to the department which states the
29 qualified manufacturing company's or qualified supplier's intent to create new jobs or retain
30 current jobs and make additional capital investment, as applicable, and request benefits under
31 this section. The notice of intent shall specify the minimum number of such new or retained jobs
32 and the minimum amount of such capital investment;

33 (11) "Qualified manufacturing company", a business with a NAICS code of 33611 that:

34 (a) Manufactures goods at a facility in Missouri;

35 (b) In the case of the manufacture of a new product, commits to make a capital
36 investment of at least seventy-five thousand dollars per retained job within no more than two
37 years of the date the qualified manufacturing company begins to retain withholding tax under this
38 section, or in the case of the modification or expansion of the manufacture of an existing product,
39 commits to make a capital investment of at least fifty thousand dollars per retained job within
40 no more than two years of the date the qualified manufacturing company begins to retain
41 withholding tax under this section;

42 (c) Manufactures a new product or has commenced making capital improvements to the
43 facility necessary for the manufacturing of such new product, or modifies or expands the
44 manufacture of an existing product or has commenced making capital improvements to the
45 facility necessary for the modification or expansion of the manufacture of such existing product;
46 and

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

49 (12) "Qualified supplier", a manufacturing company that:

50 (a) Attests to the department that it derives more than ten percent of the total annual sales
51 of the company from sales to a qualified manufacturing company;

52 (b) Adds five or more new jobs;

53 (c) Has an average wage, as defined in section 135.950, for such new jobs that are equal
54 to or exceed the lower of the county average wage for Missouri as determined by the department
55 using NAICS industry classifications, but not lower than sixty percent of the statewide average
56 wage; and

57 (d) Provides health insurance for all full-time jobs and pays at least fifty percent of the
58 premiums of such insurance;

59 (13) "Retained job", the number of full-time jobs of persons employed by the qualified
60 manufacturing company located at the facility that existed as of the last working day of the
61 month immediately preceding the month in which notice of intent is submitted;

62 (14) "Statewide average wage", an amount equal to the quotient of the sum of the total
63 gross wages paid for the corresponding four calendar quarters divided by the average annual
64 employment for such four calendar quarters, which shall be computed using the Quarterly
65 Census of Employment and Wages Data for All Private Ownership Businesses in Missouri, as
66 published by the Bureau of Labor Statistics of the United States Department of Labor;

67 (15) "Withholding period", the seven- or ten-year period in which a qualified
68 manufacturing company may receive benefits under this section;

69 (16) "Withholding tax", the same meaning as such term is defined in section 620.1878.

70 3. The department shall respond within thirty days to a qualified manufacturing company
71 or a qualified supplier who provides a notice of intent with either an approval or a rejection of
72 the notice of intent. Failure to respond on behalf of the department shall result in the notice of
73 intent being deemed an approval for the purposes of this section.

74 4. A qualified manufacturing company that manufactures a new product may, upon the
75 department's approval of a notice of intent and the execution of an agreement that meets the
76 requirements of subsection 9 of this section, but no earlier than January 1, 2012, retain one
77 hundred percent of the withholding tax from full-time jobs at the facility for a period of ten years.
78 A qualified manufacturing company that modifies or expands the manufacture of an existing
79 product may, upon the department's approval of a notice of intent and the execution of an
80 agreement that meets the requirements of subsection 9 of this section, but no earlier than January
81 1, 2012, retain fifty percent of the withholding tax from full-time jobs at the facility for a period
82 of seven years. Except as otherwise allowed under subsection 7 of this section, the
83 commencement of the withholding period may be delayed by no more than twenty-four months
84 after execution of the agreement at the option of the qualified manufacturing company. Such
85 qualified manufacturing company shall be eligible for participation in the Missouri quality jobs
86 program in sections 620.1875 to 620.1890 for any new jobs for which it does not retain
87 withholding tax under this section, provided all qualifications for such program are met.

88 5. A qualified supplier may, upon approval of a notice of intent by the department, retain
89 all withholding tax from new jobs for a period of three years from the date of approval of the
90 notice of intent or for a period of five years if the supplier pays wages for the new jobs equal to
91 or greater than one hundred twenty percent of county average wage. Notwithstanding any other
92 provision of law to the contrary, a qualified supplier that is awarded benefits under this section
93 shall not receive any tax credit or exemption or be entitled to retain withholding under sections
94 100.700 to 100.850, sections 135.100 to 135.150, sections 135.200 to 135.286, section 135.535,
95 sections 135.900 to 135.906, sections 135.950 to 135.970, or section 620.1881 for the same jobs.

96 6. Notwithstanding any other provision of law to the contrary, the maximum amount of
97 withholding tax that may be retained by any one qualified manufacturing company under this
98 section shall not exceed ten million dollars per calendar year. The aggregate amount of
99 withholding tax that may be retained by all qualified manufacturing companies under this section
100 shall not exceed fifteen million dollars per calendar year.

101 7. Notwithstanding any other provision of law to the contrary, any qualified
102 manufacturing company that is awarded benefits under this section shall not simultaneously
103 receive tax credits or exemptions under sections 100.700 to 100.850, sections 135.100 to
104 135.150, sections 135.200 to 135.286, section 135.535, or sections 135.900 to 135.906 for the
105 jobs created or retained or capital improvement which qualified for benefits under this section.
106 The benefits available to the qualified manufacturing company under any other state programs
107 for which the qualified manufacturing company is eligible and which utilize withholding tax
108 from the jobs at the facility shall first be credited to the other state program before the applicable
109 withholding period for benefits provided under this section shall begin. These other state
110 programs include, but are not limited to, the Missouri works jobs training program under sections
111 620.800 to 620.809, the real property tax increment allocation redevelopment act under sections
112 99.800 to 99.865, or the Missouri downtown and rural economic stimulus act under sections
113 99.915 to 99.980. If any qualified manufacturing company also participates in the Missouri
114 works jobs training program in sections 620.800 to 620.809, such qualified manufacturing
115 company shall not retain any withholding tax that has already been allocated for use in the [new
116 jobs training program] **Missouri works job training**. Any qualified manufacturing company
117 or qualified supplier that is awarded benefits under this program and knowingly hires individuals
118 who are not allowed to work legally in the United States shall immediately forfeit such benefits
119 and shall repay the state an amount equal to any withholding taxes already retained. Subsection
120 5 of section 285.530 shall not apply to qualified manufacturing companies or qualified suppliers
121 which are awarded benefits under this program.

122 8. The department may promulgate rules to implement the provisions of this section.
123 Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the

124 authority delegated in this section shall become effective only if it complies with and is subject
125 to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and
126 chapter 536 are nonseverable and if any of the powers vested with the general assembly under
127 chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are
128 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed
129 or adopted after the effective date of this section shall be invalid and void.

130 9. Within six months of completion of a notice of intent required under this section, the
131 qualified manufacturing company shall enter into an agreement with the department that
132 memorializes the content of the notice of intent, the requirements of this section, and the
133 consequences for failing to meet such requirements, which shall include the following:

134 (1) If the amount of capital investment made by the qualified manufacturing company
135 is not made within the two-year period provided for such investment, the qualified manufacturing
136 company shall immediately cease retaining any withholding tax with respect to jobs at the facility
137 and it shall forfeit all rights to retain withholding tax for the remainder of the withholding period.
138 In addition, the qualified manufacturing company shall repay any amounts of withholding tax
139 retained plus interest of five percent per annum. However, in the event that such capital
140 investment shortfall is due to economic conditions beyond the control of the qualified
141 manufacturing company, the director may, at the qualified manufacturing company's request,
142 suspend rather than terminate its privilege to retain withholding tax under this section for up to
143 three years. Any such suspension shall extend the withholding period by the same amount of
144 time. No more than one such suspension shall be granted to a qualified manufacturing company;

145 (2) If the qualified manufacturing company discontinues the manufacturing of the new
146 product and does not replace it with a subsequent or additional new product manufactured at the
147 facility at any time during the withholding period, the qualified manufacturing company shall
148 immediately cease retaining any withholding tax with respect to jobs at that facility and it shall
149 forfeit all rights to retain withholding tax for the remainder of the withholding period.

150 10. Prior to March first each year, the department shall provide a report to the general
151 assembly including the names of participating qualified manufacturing companies or qualified
152 suppliers, location of such companies or suppliers, the annual amount of benefits provided, the
153 estimated net state fiscal impact including direct and indirect new state taxes derived, and the
154 number of new jobs created or jobs retained.

155 11. Under section 23.253 of the Missouri sunset act:

156 (1) The provisions of the new program authorized under this section shall automatically
157 sunset October 12, 2016, unless reauthorized by an act of the general assembly; and

158 (2) If such program is reauthorized, the program authorized under this section shall
159 automatically sunset twelve years after the effective date of the reauthorization of this section;
160 and

161 (3) This section shall terminate on September first of the calendar year immediately
162 following the calendar year in which the program authorized under this section is sunset.

✓