

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By

1 AMEND Senate Committee Substitute for Senate Bill No. 184, Page 2, Section 620.800, Line 35,  
2 by inserting after the words "employees at" the following:

3  
4 "the project facility and at"; and  
5

6 Further amend said bill, Page 17, Section 620.809, Line 253, by inserting after said section and line  
7 the following:  
8

9 "620.2020. 1. The department shall respond to a written request, by or on behalf of a  
10 qualified company, for a proposed benefit award under the provisions of this program within five  
11 business days of receipt of such request. Such response shall contain either a proposal of benefits  
12 for the qualified company, or a written response refusing to provide such a proposal and stating the  
13 reasons for such refusal. A qualified company that intends to seek benefits under the program shall  
14 submit to the department a notice of intent. The department shall respond within thirty days to a  
15 notice of intent with an approval or a rejection, provided that the department may withhold approval  
16 or provide a contingent approval until it is satisfied that proper documentation of eligibility has been  
17 provided. Failure to respond on behalf of the department shall result in the notice of intent being  
18 deemed approved. A qualified company receiving approval for program benefits may receive  
19 additional benefits for subsequent new jobs at the same facility after the full initial project period if  
20 the applicable minimum job requirements are met. There shall be no limit on the number of project  
21 periods a qualified company may participate in the program, and a qualified company may elect to  
22 file a notice of intent to begin a new project period concurrent with an existing project period if the  
23 applicable minimum job requirements are achieved, the qualified company provides the department  
24 with the required annual reporting, and the qualified company is in compliance with this program  
25 and any other state programs in which the qualified company is currently or has previously  
26 participated. However, the qualified company shall not receive any further program benefits under  
27 the original approval for any new jobs created after the date of the new notice of intent, and any jobs  
28 created before the new notice of intent shall not be included as new jobs for purposes of the benefit  
29 calculation for the new approval. When a qualified company has filed and received approval of a  
30 notice of intent and subsequently files another notice of intent, the department shall apply the  
31 definition of project facility under subdivision (18) of section 620.2005 to the new notice of intent  
32 as well as all previously approved notices of intent and shall determine the application of the  
33 definitions of new job, new payroll, project facility base employment, and project facility base  
34 payroll accordingly.

35 2. Notwithstanding any provision of law to the contrary, the benefits available to the  
36 qualified company under any other state programs for which the company is eligible and which

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

9 3. A qualified company receiving benefits under this program shall provide an annual report  
10 of the number of jobs and such other information as may be required by the department to document  
11 the basis for program benefits available no later than ninety days prior to the end of the qualified  
12 company's tax year immediately following the tax year for which the benefits provided under the  
13 program are attributed. In such annual report, the qualified company shall provide monthly, wage,  
14 insurance, and number of jobs data for the project period year covered in such report, and if the  
15 average wage is below the applicable percentage of the county average wage, the qualified company  
16 has not maintained the employee insurance as required, or if the number of jobs is below the number  
17 required in any given month during the project period year covered in such report, the qualified  
18 company shall not receive tax credits or retain the withholding tax for the balance of the project  
19 period. Failure to timely file the annual report required under this section shall result in the  
20 forfeiture of tax credits attributable to the year for which the reporting was required and a recapture  
21 of withholding taxes retained by the qualified company during such year.

22 4. The department may withhold the approval of any benefits under this program until it is  
23 satisfied that proper documentation has been provided, and shall reduce the benefits to reflect any  
24 reduction in full-time employees or payroll. Upon approval by the department, the qualified  
25 company may begin the retention of the withholding taxes when it reaches the required number of  
26 jobs and the average wage meets or exceeds the applicable percentage of county average wage. Tax  
27 credits, if any, may be issued upon satisfaction by the department that the qualified company has  
28 exceeded the applicable percentage of county average wage and the required number of jobs.

29 5. Any qualified company approved for benefits under this program shall provide to the  
30 department, upon request, any and all information and records reasonably required to monitor  
31 compliance with program requirements. This program shall be considered a business recruitment  
32 tax credit under subdivision (4) of subsection 2 of section 135.800, and any qualified company  
33 approved for benefits under this program shall be subject to the provisions of sections 135.800 to  
34 135.830.

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

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

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

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

46 (3) For any fiscal year beginning on or after July 1, 2015, no more than one hundred sixteen  
47 million dollars in tax credits may be authorized for each fiscal year.

48 8. For tax credits for the creation of new jobs under section 620.2010, the department shall  
49 allocate the annual tax credits based on the date of the approval, reserving such tax credits based on

1 the department's best estimate of new jobs and new payroll of the project, and any other applicable  
2 factors in determining the amount of benefits available to the qualified company under this program.  
3 However, the annual issuance of tax credits shall be subject to annual verification of actual payroll  
4 by the department. Any authorization of tax credits shall expire if, within two years from the date of  
5 commencement of operations, or approval if applicable, the qualified company has failed to meet  
6 the applicable minimum job requirements. The qualified company may retain authorized amounts  
7 from the withholding tax under the project once the applicable minimum job requirements have  
8 been met for the duration of the project period. No benefits shall be provided under this program  
9 until the qualified company meets the applicable minimum new job requirements. In the event the  
10 qualified company does not meet the applicable minimum new job requirements, the qualified  
11 company may submit a new notice of intent or the department may provide a new approval for a  
12 new project of the qualified company at the project facility or other facilities.

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

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

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

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

45 13. Notwithstanding any provision of law to the contrary, beginning August 28, 2013, no  
46 new benefits shall be authorized for any project that had not received from the department a  
47 proposal or approval for such benefits prior to August 28, 2013, under the development tax credit  
48 program created under sections 32.100 to 32.125, the rebuilding communities tax credit program  
49 created under section 135.535, the enhanced enterprise zone tax credit program created under

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

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

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

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

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

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

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

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

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

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

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

17. Under section 23.253 of the Missouri sunset act:

(1) The provisions of the program authorized under sections 620.2000 to 620.2020 shall be reauthorized as of August 28, 2018, and shall expire on August 28, 2030; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of this reauthorization of sections 620.2000 to 620.2020; and

(3) Sections 620.2000 to 620.2020 shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under sections 620.2000 to 620.2020 is sunset."; and

- 1 Further amend said bill by amending the title, enacting clause, and intersectional references
- 2 accordingly.