

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

Offered By

1 AMEND House Committee Substitute for Senate Bill No. 365, Page 1, Section 92.111, Line 4, by  
2 deleting the words "voters of such city pursuant to" and inserting in lieu thereof the words "qualified  
3 voters [~~of such city pursuant to~~] under"; and  
4

5 Further amend said bill, page, and section, Line 14, by inserting after the second occurrence of the  
6 word "city" the following: ". For all tax returns filed on or after January 1, 2021, "work done or  
7 services performed or rendered in the city" shall not include any work or services performed or  
8 rendered through telecommuting or otherwise performed or rendered remotely unless the location  
9 where such remote work or services were performed is located in the city"; and  
10

11 Further amend said bill and section, Page 2, Line 23, by inserting after all of said section and line  
12 the following:  
13

14 "92.115. 1. Any constitutional charter city which as of November 2, 2010, imposed or  
15 levied an earnings tax may continue to impose or levy an earnings tax, pursuant to sections 92.111  
16 to 92.200, if it submits to the qualified voters [~~of such city~~] as described in subdivisions (1) and (2)  
17 of this subsection on the next general municipal election date immediately following November 2,  
18 2010, and once every five years thereafter, the question whether to continue to impose and levy the  
19 earnings tax authorized pursuant to sections 92.111 to 92.200, and if a majority of qualified voters  
20 voting approve the continuance of the earnings tax at such election.

21 (1) If the earnings tax is imposed by a city not within a county, the qualified voters shall  
22 include individuals who reside in such city, individuals who reside in a county with a charter form of  
23 government and with more than nine hundred fifty thousand inhabitants, individuals who reside in a  
24 county with a charter form of government and with more than three hundred thousand but fewer  
25 than four hundred fifty thousand inhabitants, individuals who reside in a county with a charter form  
26 of government and with more than two hundred thousand but fewer than three hundred fifty  
27 thousand inhabitants, and individuals who reside in a county of the first classification with more  
28 than one hundred one thousand but fewer than one hundred fifteen thousand inhabitants.

29 (2) If the earnings tax is imposed by a home rule city with more than four hundred thousand  
30 inhabitants and located in more than one county, the qualified voters shall include individuals who  
31 reside in the counties in which all or part of such city is located.

32 2. The question submitted to the qualified voters [~~in any such city~~] shall contain the earnings  
33 tax percentage imposed and the name of the city submitting the question and shall otherwise contain  
34 exactly the following language:  
35

36 Shall the earnings tax of \_\_\_\_\_ %, imposed by the City of \_\_\_\_\_, be continued for a

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1 period of five (5) years commencing January 1 immediately following the date of this election?

2  Yes  No

3  
4 3. If the question whether to continue to impose and levy the earnings tax fails to be  
5 approved by the majority of qualified voters voting thereon, the earnings tax levied and imposed on  
6 November 2, 2010, shall be reduced pursuant to section 92.125 commencing January first of the  
7 calendar year following the date of the election held under this section or January first of the  
8 calendar year following the calendar year in which such election was authorized under this section  
9 but not held ~~[by such city]~~.

10 4. No city which has begun reductions of its earnings tax pursuant to section 92.125 may, by  
11 ordinance or any other means, with or without voter approval, stop or suspend such reduction."; and

12  
13 Further amend said bill, Page 10, Section 143.171, Line 43, by inserting after all of said section and  
14 line the following:

15  
16 "620.2005. 1. As used in sections 620.2000 to 620.2020, the following terms mean:

17 (1) "Average wage", the new payroll divided by the number of new jobs, or the payroll of  
18 the retained jobs divided by the number of retained jobs;

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

21 (3) "Contractor", a person, employer, or business entity that enters into an agreement to  
22 perform any service or work or to provide a certain product in exchange for valuable consideration.  
23 This definition shall include but not be limited to a general contractor, subcontractor, independent  
24 contractor, contract employee, project manager, or a recruiting or staffing entity;

25 (4) "County average wage", the average wages in each county as determined by the  
26 department for the most recently completed full calendar year. However, if the computed county  
27 average wage is above the statewide average wage, the statewide average wage shall be deemed the  
28 county average wage for such county for the purpose of determining eligibility. The department  
29 shall publish the county average wage for each county at least annually. Notwithstanding the  
30 provisions of this subdivision to the contrary, for any qualified company that in conjunction with  
31 their project is relocating employees from a Missouri county with a higher county average wage, the  
32 company shall obtain the endorsement of the governing body of the community from which jobs are  
33 being relocated or the county average wage for their project shall be the county average wage for the  
34 county from which the employees are being relocated;

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

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

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

38 (a) Owners of the qualified company unless the qualified company is participating in an  
39 employee stock ownership plan; or

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

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

45 (9) "Full-time employee", an employee of the qualified company that is scheduled to work  
46 an average of at least thirty-five hours per week for a twelve-month period, and one for which the  
47 qualified company offers health insurance and pays at least fifty percent of such insurance  
48 premiums. An employee that spends less than fifty percent of the employee's work time at the  
49 facility shall be considered to be located at a facility if the employee receives his or her directions

1 and control from that facility, is on the facility's payroll, one hundred percent of the employee's  
2 income from such employment is Missouri income, and the employee is paid at or above the  
3 applicable percentage of the county average wage;

4 (10) "Industrial development authority", an industrial development authority organized  
5 under chapter 349 that has entered into a formal written memorandum of understanding with an  
6 entity of the United States Department of Defense regarding a qualified military project;

7 (11) "Infrastructure projects", highways, roads, streets, bridges, sewers, traffic control  
8 systems and devices, water distribution and supply systems, curbing, sidewalks, storm water and  
9 drainage systems, broadband internet infrastructure, and any other similar public improvements, but  
10 in no case shall infrastructure projects include private structures;

11 (12) "Local incentives", the present value of the dollar amount of direct benefit received by  
12 a qualified company for a project facility from one or more local political subdivisions, but this term  
13 shall not include loans or other funds provided to the qualified company that shall be repaid by the  
14 qualified company to the political subdivision;

15 (13) "Manufacturing capital investment", expenditures made by a qualified manufacturing  
16 company to retool or reconfigure a manufacturing project facility directly related to the  
17 manufacturing of a new product or the expansion or modification of the manufacture of an existing  
18 product;

19 (14) "Memorandum of understanding", an agreement executed by an industrial development  
20 authority and an entity of the United States Department of Defense, a copy of which is provided to  
21 the department of economic development, that states, but is not limited to:

22 (a) A requirement for the military to provide the total number of existing jobs, jobs directly  
23 created by a qualified military project, and average salaries of such jobs to the industrial  
24 development authority and the department of economic development annually for the term of the  
25 benefit;

26 (b) A requirement for the military to provide an accounting of the expenditures of capital  
27 investment made by the military directly related to the qualified military project to the industrial  
28 development authority and the department of economic development annually for the term of the  
29 benefit;

30 (c) The process by which the industrial development authority shall monetize the tax credits  
31 annually and any transaction cost or administrative fee charged by the industrial development  
32 authority to the military on an annual basis;

33 (d) A requirement for the industrial development authority to provide proof to the  
34 department of economic development of the payment made to the qualified military project  
35 annually, including the amount of such payment;

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

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

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

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

42 (15) "NAICS" or "NAICS industry classification", the classification provided by the most  
43 recent edition of the North American Industry Classification System as prepared by the Executive  
44 Office of the President, Office of Management and Budget;

45 (16) "New capital investment", shall include costs incurred by the qualified company at the  
46 project facility after acceptance by the qualified company of the proposal for benefits from the  
47 department or the approval notice of intent, whichever occurs first, for real or personal property, and  
48 may include the value of finance or capital leases for real or personal property for the term of such  
49 lease at the project facility executed after acceptance by the qualified company of the proposal for

1 benefits from the department or the approval of the notice of intent;

2 (17) "New direct local revenue", the present value of the dollar amount of direct net new tax  
3 revenues of the local political subdivisions likely to be produced by the project over a ten-year  
4 period as calculated by the department, excluding local earnings tax, and net new utility revenues,  
5 provided the local incentives include a discount or other direct incentives from utilities owned or  
6 operated by the political subdivision;

7 (18) "New job", the number of full-time employees located at the project facility that  
8 exceeds the project facility base employment less any decrease in the number of full-time  
9 employees at related facilities below the related facility base employment. No job that was created  
10 prior to the date of the notice of intent shall be deemed a new job;

11 (19) "New payroll", the amount of wages paid for all new jobs, located at the project facility  
12 during the qualified company's tax year that exceeds the project facility base payroll;

13 (20) "New product", a new model or line of a manufactured good that has not been  
14 manufactured in Missouri by a qualified manufacturing company at any time prior to the date of the  
15 notice of intent, or an existing brand, model, or line of a manufactured good that is redesigned;

16 (21) "Notice of intent", a form developed by the department and available online, completed  
17 by the qualified company, and submitted to the department stating the qualified company's intent to  
18 request benefits under this program. The notice of intent shall be accompanied with a detailed plan  
19 by the qualifying company to make good faith efforts to employ, at a minimum, commensurate with  
20 the percentage of minority populations in the state of Missouri, as reported in the previous decennial  
21 census, the following: racial minorities, contractors who are racial minorities, and contractors that,  
22 in turn, employ at a minimum racial minorities commensurate with the percentage of minority  
23 populations in the state of Missouri, as reported in the previous decennial census. At a minimum,  
24 such plan shall include monitoring the effectiveness of outreach and recruitment strategies in  
25 attracting diverse applicants and linking with different or additional referral sources in the event that  
26 recruitment efforts fail to produce a diverse pipeline of applicants;

27 (22) "Percent of local incentives", the amount of local incentives divided by the amount of  
28 new direct local revenue;

29 (23) "Program", the Missouri works program established in sections 620.2000 to 620.2020;

30 (24) "Project facility", the building or buildings used by a qualified company at which new  
31 or retained jobs and any new capital investment are or will be located or by a qualified  
32 manufacturing company at which a manufacturing capital investment is or will be located. A  
33 project facility may include separate buildings located within sixty miles of each other such that  
34 their purpose and operations are interrelated; provided that where the buildings making up the  
35 project facility are not located within the same county, the average wage of the new payroll shall  
36 exceed the applicable percentage of the highest county average wage among the counties in which  
37 the buildings are located. Upon approval by the department, a subsequent project facility may be  
38 designated if the qualified company demonstrates a need to relocate to the subsequent project  
39 facility at any time during the project period. For qualified military projects, the term "project  
40 facility" means the military base or installation at which such qualified military project is or shall be  
41 located;

42 (25) "Project facility base employment", the greater of the number of full-time employees  
43 located at the project facility on the date of the notice of intent or, for the twelve-month period prior  
44 to the date of the notice of intent, the average number of full-time employees located at the project  
45 facility. In the event the project facility has not been in operation for a full twelve-month period, the  
46 average number of full-time employees for the number of months the project facility has been in  
47 operation prior to the date of the notice of intent;

48 (26) "Project facility base payroll", the annualized payroll for the project facility base  
49 employment or the total amount of taxable wages paid by the qualified company to full-time

1 employees of the qualified company located at the project facility in the twelve months prior to the  
 2 notice of intent. For purposes of calculating the benefits under this program, the amount of base  
 3 payroll shall increase each year based on an appropriate measure, as determined by the department;

4 (27) "Project period", the time period within which benefits are awarded to a qualified  
 5 company or within which the qualified company is obligated to perform under an agreement with  
 6 the department, whichever is greater;

7 (28) "Projected net fiscal benefit", the total fiscal benefit to the state less any state benefits  
 8 offered to the qualified company, as determined by the department;

9 (29) "Qualified company", a firm, partnership, joint venture, association, private or public  
 10 corporation whether organized for profit or not, or headquarters of such entity registered to do  
 11 business in Missouri that is the owner or operator of a project facility, certifies that it offers health  
 12 insurance to all full-time employees of all facilities located in this state, and certifies that it pays at  
 13 least fifty percent of such insurance premiums. For the purposes of sections 620.2000 to 620.2020,  
 14 the term "qualified company" shall not include:

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

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

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

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

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

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

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

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

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

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

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

40 (j) Ethanol distillation or production;

41 (k) Biodiesel production; or

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

43  
 44 Notwithstanding any provision of this section to the contrary, the headquarters, administrative  
 45 offices, or research and development facilities of an otherwise excluded business may qualify for  
 46 benefits if the offices or facilities serve a multistate territory. In the event a national, state, or  
 47 regional headquarters operation is not the predominant activity of a project facility, the jobs and  
 48 investment of such operation shall be considered eligible for benefits under this section if the other  
 49 requirements are satisfied;

1 (30) "Qualified manufacturing company", a company that:  
 2 (a) Is a qualified company that manufactures motor vehicles (NAICS group 3361);  
 3 (b) Manufactures goods at a facility in Missouri;  
 4 (c) Manufactures a new product or has commenced making a manufacturing capital  
 5 investment to the project facility necessary for the manufacturing of such new product, or modifies  
 6 or expands the manufacture of an existing product or has commenced making a manufacturing  
 7 capital investment for the project facility necessary for the modification or expansion of the  
 8 manufacture of such existing product; and  
 9 (d) Continues to meet the requirements of paragraphs (a) to (c) of this subdivision for the  
 10 project period;

11 (31) "Qualified military project", the expansion or improvement of a military base or  
 12 installation within this state that causes:  
 13 (a) An increase of ten or more part-time or full-time military or civilian support personnel:  
 14 a. Whose average salaries equal or exceed ninety percent of the county average wage; and  
 15 b. Who are offered health insurance, with an entity of the United States Department of  
 16 Defense paying at least fifty percent of such insurance premiums; and  
 17 (b) Investment in real or personal property at the base or installation expressly for the  
 18 purposes of serving a new or expanded military activity or unit.

19  
 20 For the purposes of this subdivision, part-time military or civilian support personnel shall be  
 21 converted to full-time new jobs by, in hire date order, counting one full-time new job for every  
 22 thirty-five averaged hours worked per week by part-time military or civilian support personnel in  
 23 jobs directly created by the qualified military project. For each such full-time new job, the sum of  
 24 the wages of the part-time military or civilian support personnel combined and converted to form  
 25 the new job shall be the wage for the one full-time new job. Each part-time military or civilian  
 26 support personnel whose job is combined and converted for such a full-time new job shall be offered  
 27 health insurance as described in subparagraph b of paragraph (a) of this subdivision;

28 (32) "Related company", shall mean:  
 29 (a) A corporation, partnership, trust, or association controlled by the qualified company;  
 30 (b) An individual, corporation, partnership, trust, or association in control of the qualified  
 31 company; or  
 32 (c) Corporations, partnerships, trusts or associations controlled by an individual,  
 33 corporation, partnership, trust, or association in control of the qualified company. As used in this  
 34 paragraph, "control of a qualified company" shall mean:  
 35 a. Ownership, directly or indirectly, of stock possessing at least fifty percent of the total  
 36 combined voting power of all classes of stock entitled to vote in the case of a qualified company that  
 37 is a corporation;  
 38 b. Ownership of at least fifty percent of the capital or profit interest in such qualified  
 39 company if it is a partnership or association;  
 40 c. Ownership, directly or indirectly, of at least fifty percent of the beneficial interest in the  
 41 principal or income of such qualified company if it is a trust, and ownership shall be determined as  
 42 provided in Section 318 of the Internal Revenue Code of 1986, as amended;

43 (33) "Related facility", a facility operated by the qualified company or a related company  
 44 located in this state that is directly related to the operations of the project facility or in which  
 45 operations substantially similar to the operations of the project facility are performed;

46 (34) "Related facility base employment", the greater of the number of full-time employees  
 47 located at all related facilities on the date of the notice of intent or, for the twelve-month period prior  
 48 to the date of the notice of intent, the average number of full-time employees located at all related  
 49 facilities of the qualified company or a related company located in this state;

1 (35) "Related facility base payroll", the annualized payroll of the related facility base  
 2 payroll or the total amount of taxable wages paid by the qualified company to full-time employees  
 3 of the qualified company located at a related facility in the twelve months prior to the filing of the  
 4 notice of intent. For purposes of calculating the benefits under this program, the amount of related  
 5 facility base payroll shall increase each year based on an appropriate measure, as determined by the  
 6 department;

7 (36) "Rural area", a county in Missouri with a population less than seventy-five thousand or  
 8 that does not contain an individual city with a population greater than fifty thousand according to  
 9 the most recent federal decennial census;

10 (37) "Tax credits", tax credits issued by the department to offset the state taxes imposed by  
 11 chapters 143 and 148, or which may be sold or refunded as provided for in this program;

12 (38) "Withholding tax", the state tax imposed by sections 143.191 to 143.265. For purposes  
 13 of this program, the withholding tax shall be computed using a schedule as determined by the  
 14 department based on average wages.

15 2. This section is subject to the provisions of section 196.1127."; and

16  
 17 Further amend said bill, Page 16, Section 620.2020, Line 245, by inserting after all of said section  
 18 and line the following:

19  
 20 ~~"[92.105. It is the intent of sections 92.105 to 92.125 that starting in 2011 voters in any city~~  
 21 ~~imposing an earnings tax will decide in local elections to continue the earnings tax. If the~~  
 22 ~~majority of local voters vote to continue the earnings tax, it will continue for five years and~~  
 23 ~~then will be voted on again. If a majority of voters in any city having an earnings tax vote~~  
 24 ~~against continuing the earnings tax, it will be phased out pursuant to section 92.125 in such~~  
 25 ~~city over a period of ten years. Further, sections 92.105 to 92.125 prohibit any Missouri city~~  
 26 ~~or town that does not, as of November 2, 2010, impose an earnings tax, from imposing such~~  
 27 ~~a tax on residents and businesses.]"; and~~

28  
 29 Further amend said bill by amending the title, enacting clause, and intersectional references  
 30 accordingly.