

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for Senate Bill No. 845, Page 8, Section 473.742, Line 84, by
2 inserting after all of said section and line the following:

3
4 "620.2020. 1. The department shall respond to a written request, by or on behalf of a
5 qualified company or qualified military project, for a proposed benefit award under the provisions of
6 this program within five business days of receipt of such request. The department shall respond to a
7 written request, by or on behalf of a qualified manufacturing company, for a proposed benefit award
8 under the provisions of this program within fifteen business days of receipt of such request. Such
9 response shall contain either a proposal of benefits for the qualified company or qualified military
10 project, or a written response refusing to provide such a proposal and stating the reasons for such
11 refusal. A qualified company or qualified military project that intends to seek benefits under the
12 program shall submit to the department a notice of intent. The department shall respond within
13 thirty days to a notice of intent with an approval or a rejection, provided that the department may
14 withhold approval or provide a contingent approval until it is satisfied that proper documentation of
15 eligibility has been provided. The department shall certify or reject the qualifying company's plan
16 outlined in their notice of intent as satisfying good faith efforts made to employ, at a minimum,
17 commensurate with the percentage of minority populations in the state of Missouri, as reported in
18 the previous decennial census, the following: racial minorities, contractors who are racial minorities,
19 and contractors that, in turn, employ at a minimum racial minorities commensurate with the
20 percentage of minority populations in the state of Missouri, as reported in the previous decennial
21 census. Failure to respond on behalf of the department shall result in the notice of intent being
22 deemed approved. A qualified company receiving approval for program benefits may receive
23 additional benefits for subsequent new jobs at the same facility after the full initial project period if
24 the applicable minimum job requirements are met. There shall be no limit on the number of project
25 periods a qualified company may participate in the program, and a qualified company may elect to
26 file a notice of intent to begin a new project period concurrent with an existing project period if the
27 applicable minimum job requirements are achieved, the qualified company provides the department
28 with the required annual reporting, and the qualified company is in compliance with this program
29 and any other state programs in which the qualified company is currently or has previously
30 participated. However, the qualified company shall not receive any further program benefits under
31 the original approval for any new jobs created after the date of the new notice of intent, and any jobs
32 created before the new notice of intent shall not be included as new jobs for purposes of the benefit
33 calculation for the new approval. When a qualified company has filed and received approval of a
34 notice of intent and subsequently files another notice of intent, the department shall apply the
35 definition of project facility under subdivision (24) of section 620.2005 to the new notice of intent
36 as well as all previously approved notices of intent and shall determine the application of the

Action Taken _____ Date _____

1 definitions of new job, new payroll, project facility base employment, and project facility base
2 payroll accordingly.

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

13 3. A qualified company or qualified military project receiving benefits under this program
14 shall provide an annual report of the number of jobs, along with minority jobs created or retained,
15 and such other information as may be required by the department to document the basis for program
16 benefits available no later than ninety days prior to the end of the qualified company's or industrial
17 development authority's tax year immediately following the tax year for which the benefits provided
18 under the program are attributed. In such annual report, if the average wage is below the applicable
19 percentage of the county average wage, the qualified company or qualified military project has not
20 maintained the employee insurance as required, if the department after a review determines the
21 qualifying company fails to satisfy other aspects of their notice of intent, including failure to make
22 good faith efforts to employ, at a minimum, commensurate with the percentage of minority
23 populations in the state of Missouri, as reported in the previous decennial census, the following:
24 racial minorities, contractors who are racial minorities, and contractors that, in turn, employ at a
25 minimum racial minorities commensurate with the percentage of minority populations in the state of
26 Missouri, as reported in the previous decennial census, or if the number of jobs is below the number
27 required, the qualified company or qualified military project shall not receive tax credits or retain
28 the withholding tax for the balance of the project period. If a statewide state of emergency exists for
29 more than sixteen months, a qualified company or industrial development authority shall be entitled
30 to a one-time suspension of program deadlines equal to the number of months such statewide state
31 of emergency existed with any partial month rounded to the next whole month. During such
32 suspension, the qualified company or industrial development authority shall not be entitled to retain
33 any withholding tax as calculated under subdivision (38) of section 620.2005 nor shall it earn any
34 awarded tax credit or receive any tax credit under the program for the suspension period. The
35 suspension period shall run consecutively and be available to a qualified company or industrial
36 development authority that, during the statewide state of emergency, submitted a notice of intent that
37 was approved or that was in year one or a subsequent year of benefits under a program agreement
38 with the department. The suspension period that runs consecutively and may be available to a
39 qualified company or industrial development authority as provided in this subsection may apply
40 retroactively. Any qualified company or industrial development authority requesting a suspension
41 pursuant to this subsection shall submit notice to the department on its provided form identifying the
42 requested start and end dates of the suspension, not to exceed the maximum number of months
43 available under this subsection. Such notice shall be submitted to the department not later than the
44 end of the twelfth month following the termination of the statewide state of emergency. No
45 suspension period shall start later than the date on which the statewide state of emergency was
46 terminated. The department and the qualified company or the industrial development authority shall
47 enter into a program agreement or shall amend an existing program agreement, as applicable, stating
48 the deadlines following the suspension period and updating the applicable wage requirements.
49 Failure to timely file the annual report required under this section [~~shall~~] may result in the forfeiture

1 of tax credits attributable to the year for which the reporting was required and a recapture of
2 withholding taxes retained by the qualified company or qualified military project during such year.

3 4. The department may withhold the approval of any benefits under this program until it is
4 satisfied that proper documentation has been provided, and shall reduce the benefits to reflect any
5 reduction in full-time employees or payroll. Upon approval by the department, the qualified
6 company may begin the retention of the withholding taxes when it reaches the required number of
7 jobs and the average wage meets or exceeds the applicable percentage of county average wage. Tax
8 credits, if any, may be issued upon satisfaction by the department that the qualified company has
9 exceeded the applicable percentage of county average wage and the required number of jobs;
10 provided that, tax credits awarded under subsection 7 of section 620.2010 may be issued following
11 the qualified company's acceptance of the department's proposal and pursuant to the requirements
12 set forth in the written agreement between the department and the qualified company under
13 subsection 4 of section 620.2010.

14 5. Any qualified company or qualified military project approved for benefits under this
15 program shall provide to the department, upon request, any and all information and records
16 reasonably required to monitor compliance with program requirements. This program shall be
17 considered a business recruitment tax credit under subdivision (4) of subsection 2 of section
18 135.800, and any qualified company or qualified military project approved for benefits under this
19 program shall be subject to the provisions of sections 135.800 to 135.830.

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

24 7. (1) The maximum amount of tax credits that may be authorized under this program for
25 any fiscal year shall be limited as follows, less the amount of any tax credits previously obligated
26 for that fiscal year under any of the tax credit programs referenced in subsection 14 of this section:

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

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

31 (c) For fiscal years beginning on or after July 1, 2015, but ending on or before June 30,
32 2020, no more than one hundred sixteen million dollars in tax credits may be authorized for each
33 fiscal year; and

34 (d) For all fiscal years beginning on or after July 1, 2020, no more than one hundred six
35 million dollars in tax credits may be authorized for each fiscal year. The provisions of this
36 paragraph shall not apply to tax credits issued to qualified companies under a notice of intent filed
37 prior to July 1, 2020.

38 (2) For all fiscal years beginning on or after July 1, 2020, in addition to the amount of tax
39 credits that may be authorized under paragraph (d) of subdivision (1) of this subsection, an
40 additional ten million dollars in tax credits may be authorized for each fiscal year for the purpose of
41 the completion of infrastructure projects directly connected with the creation or retention of jobs
42 under the provisions of sections 620.2000 to 620.2020 and an additional ten million dollars in tax
43 credits may be authorized for each fiscal year for a qualified manufacturing company based on a
44 manufacturing capital investment as set forth in section 620.2010.

45 8. For all fiscal years beginning on or after July 1, 2020, the maximum total amount of
46 withholding tax that may be authorized for retention for the creation of new jobs under the
47 provisions of sections 620.2000 to 620.2020 by qualified companies with a project facility base
48 employment of at least fifty shall not exceed seventy-five million dollars for each fiscal year. The
49 provisions of this subsection shall not apply to withholding tax authorized for retention for the

1 creation of new jobs by qualified companies with a project facility base employment of less than
2 fifty.

3 9. For tax credits for the creation of new jobs under section 620.2010, the department shall
4 allocate the annual tax credits based on the date of the approval, reserving such tax credits based on
5 the department's best estimate of new jobs and new payroll of the project, and any other applicable
6 factors in determining the amount of benefits available to the qualified company or qualified
7 military project under this program; provided that, the department may reserve up to twenty-one and
8 one-half percent of the maximum annual amount of tax credits that may be authorized under
9 subsection 7 of this section for award under subsection 7 of section 620.2010. However, the annual
10 issuance of tax credits shall be subject to annual verification of actual payroll by the department or,
11 for qualified military projects, annual verification of average salary for the jobs directly created by
12 the qualified military project. Any authorization of tax credits shall expire if, within two years from
13 the date of commencement of operations, or approval if applicable, the qualified company has failed
14 to meet the applicable minimum job requirements. The qualified company may retain authorized
15 amounts from the withholding tax under the project once the applicable minimum job requirements
16 have been met for the duration of the project period. No benefits shall be provided under this
17 program until the qualified company or qualified military project meets the applicable minimum
18 new job requirements or, for benefits awarded under subsection 7 of section 620.2010, until the
19 qualified company has satisfied the requirements set forth in the written agreement between the
20 department and the qualified company under subsection 4 of section 620.2010. In the event the
21 qualified company or qualified military project does not meet the applicable minimum new job
22 requirements, the qualified company or qualified military project may submit a new notice of intent
23 or the department may provide a new approval for a new project of the qualified company or
24 qualified military project at the project facility or other facilities.

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

34 11. Prior to the issuance of tax credits or the qualified company beginning to retain
35 withholding taxes, the department shall verify through the department of revenue and any other
36 applicable state department that the tax credit applicant does not owe any delinquent income, sales,
37 or use tax or interest or penalties on such taxes, or any delinquent fees or assessments levied by any
38 state department and through the department of commerce and insurance that the applicant does not
39 owe any delinquent insurance taxes or other fees. Such delinquency shall not affect the approval,
40 except that any tax credits issued shall be first applied to the delinquency and any amount issued
41 shall be reduced by the applicant's tax delinquency. If the department of revenue, the department of
42 commerce and insurance, or any other state department concludes that a taxpayer is delinquent after
43 June fifteenth but before July first of any year and the application of tax credits to such delinquency
44 causes a tax deficiency on behalf of the taxpayer to arise, then the taxpayer shall be granted thirty
45 days to satisfy the deficiency in which interest, penalties, and additions to tax shall be tolled. After
46 applying all available credits toward a tax delinquency, the administering agency shall notify the
47 appropriate department and that department shall update the amount of outstanding delinquent tax
48 owed by the applicant. If any credits remain after satisfying all insurance, income, sales, and use tax
49 delinquencies, the remaining credits shall be issued to the applicant, subject to the restrictions of

1 other provisions of law.

2 12. The director of revenue shall issue a refund to the qualified company to the extent that
3 the amount of tax credits allowed under this program exceeds the amount of the qualified company's
4 tax liability under chapter 143 or 148.

5 13. An employee of a qualified company shall receive full credit for the amount of tax
6 withheld as provided in section 143.211.

7 14. Notwithstanding any provision of law to the contrary, beginning August 28, 2013, no
8 new benefits shall be authorized for any project that had not received from the department a
9 proposal or approval for such benefits prior to August 28, 2013, under the development tax credit
10 program created under sections 32.100 to 32.125, the rebuilding communities tax credit program
11 created under section 135.535, the enhanced enterprise zone tax credit program created under
12 sections 135.950 to 135.973, and the Missouri quality jobs program created under sections 620.1875
13 to 620.1890. The provisions of this subsection shall not be construed to limit or impair the ability of
14 any administering agency to authorize or issue benefits for any project that had received an approval
15 or a proposal from the department under any of the programs referenced in this subsection prior to
16 August 28, 2013, or the ability of any taxpayer to redeem any such tax credits or to retain any
17 withholding tax under an approval issued prior to that date. The provisions of this subsection shall
18 not be construed to limit or in any way impair the ability of any governing authority to provide any
19 local abatement or designate a new zone under the enhanced enterprise zone program created by
20 sections 135.950 to 135.963. Notwithstanding any provision of law to the contrary, no qualified
21 company that is awarded benefits under this program shall:

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

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

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

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

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

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

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

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

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

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

1 August 28, 2013, shall be invalid and void.

2 18. Under section 23.253 of the Missouri sunset act:

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

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

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

11
12 Further amend said bill by amending the title, enacting clause, and intersectional references
13 accordingly.