

Journal of the Senate

SECOND REGULAR SESSION

FIRST EXTRA SESSION

SEVENTH DAY—TUESDAY, JULY 13, 2010

The Senate met pursuant to adjournment.

President Kinder in the Chair.

Reverend Carl Gauck offered the following prayer:

“Life makes warriors of us all. To emerge the victors, we must arm ourselves with the most potent of weapons. That weapon is prayer.”
(Rebbi Nachman of Breslov)

Gracious God, we do come to You now in prayer. We pray in thanksgiving for safe travel and Your abiding presence. We pray for encouragement that all the work that has been done is helpful to complete our work. We pray for open and dedicated minds so we might be helpful one to the other in the work before us. And we pray that our efforts may produce the outcome that is most beneficial. In Your Holy Name we pray. Amen.

The Pledge of Allegiance to the Flag was recited.

A quorum being established, the Senate proceeded with its business.

The Journals for Thursday, July 1, 2010 and Thursday, July 8, 2010 were read and approved.

Senator Engler announced that photographers from KCTV-5, Jefferson City News Tribune, KRCG-TV, KSHB NBC News, ABC 17 News, KOMU-TV and KMBC-TV were given permission to take pictures in the Senate Chamber today.

The following Senators were present during the day’s proceedings:

Present—Senators

Barnitz	Bartle	Bray	Callahan	Champion	Clemens	Crowell	Cunningham
Days	Dempsey	Engler	Goodman	Green	Griesheimer	Justus	Keaveny
Lager	Lembke	Mayer	McKenna	Pearce	Purgason	Ridgeway	Rupp
Schaefer	Schmitt	Scott	Shields	Shoemyer	Stouffer	Vogel	Wilson

Wright-Jones—33

Absent—Senators—None

Absent with leave—Senator Nodler—1

Vacancies—None

The Lieutenant Governor was present.

RESOLUTIONS

Senator Goodman offered Senate Resolution No. 43, regarding the Fifty-fifth Wedding Anniversary of Mr. and Mrs. Bill Gilbert, Mt. Vernon, which was adopted.

Senator Goodman offered Senate Resolution No. 44, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. Joe C. Pennington, Mt. Vernon, which was adopted.

Senator Wright-Jones offered Senate Resolution No. 45, regarding Father Urey Patrick Mark, SVD, St. Louis, which was adopted.

Senator Wright-Jones offered Senate Resolution No. 46, regarding Myah Chavers, St. Louis, which was adopted.

Senator Wright-Jones offered Senate Resolution No. 47, regarding Saint Louis World Changers, which was adopted.

Senator Pearce offered Senate Resolution No. 48, regarding Elm Spring Baptist Church, Kingsville, which was adopted.

Senator Clemens offered Senate Resolution No. 49, regarding Kris Sandgren, Nixa, which was adopted.

Senator McKenna offered Senate Resolution No. 50, regarding Nextstep for Life, Jefferson County, which was adopted.

Senators Shields and Vogel offered Senate Resolution No. 51, regarding State Employee Recognition Week, which was adopted.

Senator Lembke offered Senate Resolution No. 52, regarding Alex Reitz, St. Louis, which was adopted.

Senator Green offered Senate Resolution No. 53, regarding the One Hundredth Birthday of Polly Matthews, St. Louis, which was adopted.

Senator Goodman offered Senate Resolution No. 54, regarding Caleb Wilbanks, Cassville, which was adopted.

Senator Stouffer offered Senate Resolution No. 55, regarding the One Hundredth Birthday of Gladys Mais, Higginsville, which was adopted.

Senators Stouffer and Bartle offered Senate Resolution No. 56, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. Leon Hubbard, Blue Springs, which was adopted.

Senator Scott offered Senate Resolution No. 57, regarding Lieutenant Colonel Mark Edward Scott, which was adopted.

Senator Crowell offered Senate Resolution No. 58, regarding Lynn McKuin, which was adopted.

Senator Crowell offered Senate Resolution No. 59, regarding Claire Seyer, which was adopted.

REPORTS OF STANDING COMMITTEES

Senator Shields, Chairman of the Committee on Governmental Accountability and Fiscal Oversight,

submitted the following report:

Mr. President: Your Committee on Governmental Accountability and Fiscal Oversight, to which was referred **HCS** for **HB 2**, with **SCS**, begs leave to report that it has considered the same and recommends that the bill do pass.

HOUSE BILLS ON THIRD READING

HCS for **HB 2**, with **SCS**, entitled:

An Act to repeal sections 67.1461, 135.950, 135.957, 135.960, 135.963, 135.967, 137.106, 144.054, and 620.1881, RSMO, and section 135.953 as truly agreed to and finally passed in conference committee substitute for senate committee substitute for house committee substitute for house bill no. 1965, ninety-fifth general assembly, second regular session, and section 137.115 as truly agreed to and finally passed in senate committee substitute for senate bill no. 630, ninety-fifth general assembly, second regular session, and to enact in lieu thereof fifteen new sections relating to job growth.

Was taken up by Senator Ridgeway.

SCS for **HCS** for **HB 2**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR HOUSE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 2

An Act to amend chapter 620, RSMo, by adding thereto one new section relating to job growth.

Was taken up.

Senator Ridgeway moved that **SCS** for **HCS** for **HB 2** be adopted.

Senator Shields offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Committee Substitute for House Committee Substitute for House Bill No. 2, Page 7, Section 620.1910, Line 216, by inserting after all of said line the following:

“Section B. Because of the governor's authority under the provisions of Section IV, Article 8 of the Missouri Constitution to specifically designate matters to be considered in an extraordinary session of the general assembly and the inextricable nature of the matters designated in the governor's proclamation for this first extraordinary session, section A of this act shall not become effective except upon the passage and approval by signature of the governor of the truly agreed and finally passed version of house bill no. 1 as enacted during the first extraordinary session of the second regular session of the ninety-fifth general assembly.”; and

Further amend the title and enacting clause accordingly.

Senator Shields moved that the above amendment be adopted.

Senator Griesheimer assumed the Chair.

Senator Justus assumed the Chair.

Senator Stouffer assumed the Chair.

Senator Schmitt assumed the Chair.

Senator Pearce assumed the Chair.

Senator Engler assumed the Chair.

Senator Dempsey assumed the Chair.

On motion of Senator Shields, **SA 1** was adopted.

Senator Ridgeway moved that **SCS** for **HCS** for **HB 2**, as amended, be adopted.

At the request of Senator Ridgeway, **HCS** for **HB 2**, with **SCS**, as amended, was placed on the Informal Calendar.

MESSAGES FROM THE HOUSE

The following message was received from the House of Representatives through its Chief Clerk:

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House refuses to adopt Senate Committee Substitute as amended for House Committee Substitute for House Bill No. 1 and requests the Senate to recede from its position and failing to do so grant the House a conference thereon.

PRIVILEGED MOTIONS

Senator Crowell moved that the Senate refuse to recede from its position on **SCS** for **HCS** for **HB 1**, as amended, and grant the House a conference thereon, which motion prevailed.

CONFERENCE COMMITTEE APPOINTMENTS

President Pro Tem Shields appointed the following conference committee to act with a like committee from the House on **SCS** for **HCS** for **HB 1**, as amended: Senators Crowell, Pearce, Engler, Green and Keaveny.

HOUSE BILLS ON THIRD READING

Senator Ridgeway moved that **HCS** for **HB 2**, with **SCS**, as amended, be called from the Informal Calendar and again taken up for 3rd reading and final passage, which motion prevailed.

SCS for **HCS** for **HB 2**, as amended, was again taken up.

Senator Pearce assumed the Chair.

Senator Dempsey assumed the Chair.

Senator Rupp assumed the Chair.

Senator Purgason offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend Senate Committee Substitute for House Committee Substitute for House Bill No. 2, Pages 1-7, Section 620.1910, by striking all of said section from the bill and inserting in lieu thereof the following:

“620.1910. 1. This section shall be known and may be cited as the “Missouri Jobs Act”.

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

(1) “Approval”, a document submitted by the department to the Missouri business that states the benefits that may be provided under this section;

(2) “Capital investment”, expenditures made by a Missouri business directly related to the provision of goods or services by such business;

(3) “County average wage”, the same meaning as such term is defined in section 620.1878;

(4) “Department”, the department of economic development;

(5) “Full-time job”, a job for which a person is compensated for an average of at least thirty-five hours per week for a twelve-month period, and one for which the Missouri business offers health insurance and pays at least fifty percent of such insurance premiums;

(6) “Missouri business”, any corporation, association, joint stock association, partnership, or sole proprietorship organized, authorized, or existing under the laws of this state or any other state and doing business in this state;

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

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

(9) “Notice of intent”, a form developed by the department, completed by a Missouri business and submitted to the department which states the Missouri business intent to create new jobs or retain current jobs and make additional capital investment, as applicable, and request benefits under this section. The notice of intent shall specify the minimum number of such new or retained jobs and the minimum amount of such capital investment;

(10) “Retained job”, the number of full-time jobs of persons employed by the Missouri business that existed as of the last working day of the month immediately preceding the month in which notice of intent is submitted;

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

(12) “Withholding period”, the seven- or ten-year period in which a Missouri business may receive benefits under this section;

(13) “Withholding tax”, the same meaning as such term is defined in section 620.1878.

3. The department shall respond within thirty days to a Missouri business that provides a notice of intent with either an approval or a rejection of the notice of intent. Failure to respond on behalf of the department shall result in the notice of intent being deemed an approval for the purposes of this section.

4. A Missouri business which commits to make a capital investment of at least seventy-five thousand dollars per retained job within no more than two years of the date the Missouri business begins to retain withholding tax under this section may, upon the department's approval of a notice of intent and the execution of an agreement that meets the requirements of subsection 9 of this section,

but no earlier than January 1, 2012, retain one hundred percent of the withholding tax from full-time jobs at the facility for a period of ten years. Except as otherwise allowed under subsection 7 of this section, the commencement of the withholding period may be delayed by no more than twenty-four months after execution of the agreement at the option of the Missouri business. Such Missouri business shall be eligible for participation in the Missouri quality jobs program in sections 620.1875 to 620.1890 for any new jobs for which it does not retain withholding tax under this section, provided all qualifications for such program are met.

5. A Missouri business which adds five or more new jobs which have an average wage as defined in section 135.950 for such new jobs that are equal to or exceed the lower of county average wage for Missouri as determined by the department using NAICS industry classifications but not lower than sixty percent of the statewide average wage and provides health insurance for all full-time jobs and pays at least fifty percent of the premiums of said insurance may, upon approval of a notice of intent by the department, retain all withholding tax from new jobs for a period of three years from the date of approval of the notice of intent or for a period of five years if the Missouri business pays wages for the new jobs equal to or greater than one hundred twenty percent of county average wage. Notwithstanding any other provision of law to the contrary, a Missouri business that is awarded benefits under this section shall not receive any tax credit or exemption or be entitled to retain withholding under sections 100.700 to 100.850, sections 135.100 to 135.150, sections 135.200 to 135.286, section 135.535, sections 135.900 to 135.906, sections 135.950 to 135.970, or section 620.1881 for the same jobs.

6. Notwithstanding any other provision of law to the contrary, the maximum amount of withholding tax that may be retained by any one Missouri business under this section shall not exceed ten million dollars per calendar year. The aggregate amount of withholding tax that may be retained by all Missouri businesses under this section shall not exceed fifteen million dollars per calendar year.

7. Notwithstanding any other provision of law to the contrary, any Missouri business that is awarded benefits under this section shall not simultaneously receive tax credits or exemptions under sections 100.700 to 100.850, sections 135.100 to 135.150, sections 135.200 to 135.286, section 135.535, or sections 135.900 to 135.906 for the jobs created or retained or capital improvement which qualified for benefits under this section. The benefits available to the Missouri business under any other state programs for which the Missouri business is eligible and which utilize withholding tax from the jobs at the facility shall first be credited to the other state program before the applicable withholding period for benefits provided under this section shall begin. These other state programs include, but are not limited to, the new jobs training program under sections 178.892 to 178.896, the job retention program under sections 178.760 to 178.764, the real property tax increment allocation redevelopment act under sections 99.800 to 99.865, or the Missouri downtown and rural economic stimulus act under sections 99.915 to 99.980. If any Missouri business also participates in the new jobs training program in sections 178.892 to 178.896, such Missouri business shall not retain any withholding tax that has already been allocated for use in the new jobs training program. Any Missouri business that is awarded benefits under this program and knowingly hires individuals who are not allowed to work legally in the United States shall immediately forfeit such benefits and shall repay the state an amount equal to any withholding taxes already retained. Subsection 5 of section 285.530 shall not apply to Missouri businesses which are awarded benefits under this program.

8. The department may promulgate rules to implement the provisions of this section. 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 under 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 the effective date of this section shall be invalid and void.

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

(1) If the amount of capital investment made by the Missouri business is not made within the two-year period provided for such investment, the Missouri business shall immediately cease retaining any withholding tax with respect to jobs at the facility and it shall forfeit all rights to retain withholding tax for the remainder of the withholding period. In addition, the Missouri business shall repay any amounts of withholding tax retained plus interest of five percent per annum.

(2) In the event that such capital investment shortfall is due to economic conditions beyond the control of the Missouri business, the director may, at the Missouri business' request, suspend rather than terminate its privilege to retain withholding tax under this section for up to three years. Any such suspension shall extend the withholding period by the same amount of time. No more than one such suspension shall be granted to a Missouri business.

10. Prior to March first each year, the department shall provide a report to the general assembly including the names of participating Missouri businesses, location of such businesses, the annual amount of benefits provided, the estimated net state fiscal impact including direct and indirect new state taxes derived, and the number of new jobs created or jobs retained.

11. Under section 23.253 of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset six years after the effective date of this section unless reauthorized by an act of the general assembly; and

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

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

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

2. Notwithstanding any provision of law to the contrary, any qualified company that is awarded benefits under this program may not simultaneously receive tax credits or exemptions under sections 135.100 to 135.150, sections 135.200 to 135.286, section 135.535, or sections 135.900 to 135.906, RSMo, at the same project facility. The benefits available to the company under any other state programs for which the company is eligible and which utilize withholding tax from the new jobs of the company must first be credited to the other state program before the withholding retention level applicable under the Missouri quality jobs act will begin to accrue. These other state programs include, but are not limited to, the new jobs training program under sections 178.892 to 178.896, RSMo, the job retention program under sections 178.760 to 178.764, RSMo, the real property tax increment allocation redevelopment act, sections 99.800 to 99.865, RSMo, or the Missouri downtown and rural economic stimulus act under sections 99.915 to 99.980, RSMo. If any qualified company also participates in the new jobs training program in sections 178.892 to 178.896, RSMo, the company shall retain no withholding tax, but the department shall issue a refundable tax credit for the full amount of benefit allowed under this subdivision. The calendar year annual maximum amount of tax credits which may be issued to a qualifying company that also participates in the new job training program shall be increased by an amount equivalent to the withholding tax retained by that company under the new jobs training program. However, if the combined benefits of the quality jobs program and the new jobs training program exceed the projected state benefit of the project, as determined by the department of economic development through a cost-benefit analysis, the increase in the maximum tax credits shall be limited to the amount that would not cause the combined benefits to exceed the projected state benefit. Any taxpayer who is awarded benefits under this program who knowingly hires individuals who are not allowed to work legally in the United States shall immediately forfeit such benefits and shall repay the state an amount equal to any state tax credits already redeemed and any withholding taxes already retained.

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

(1) Small and expanding business projects: in exchange for the consideration provided by the new tax revenues and other economic stimuli that will be generated by the new jobs created by the program, a qualified company may retain an amount equal to the withholding tax as calculated under subdivision (33) of section 620.1878 from the new jobs that would otherwise be withheld and remitted by the qualified company under the provisions of sections 143.191 to 143.265, RSMo, for a period of three years from the date the required number of new jobs were created if the average wage of the new payroll equals or exceeds

the county average wage or for a period of five years from the date the required number of new jobs were created if the average wage of the new payroll equals or exceeds one hundred twenty percent of the county average wage;

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

(3) High impact projects: in exchange for the consideration provided by the new tax revenues and other economic stimuli that will be generated by the new jobs created by the program, a qualified company may retain an amount from the withholding tax of the new jobs that would otherwise be withheld and remitted by the qualified company under the provisions of sections 143.191 to 143.265, RSMo, equal to three percent of new payroll for a period of five years from the date the required number of jobs were created if the average wage of the new payroll equals or exceeds the county average wage of the county in which the project facility is located. For high-impact projects in a facility located within two adjacent counties, the new payroll shall equal or exceed the higher county average wage of the adjacent counties. The percentage of payroll allowed under this subdivision shall be three and one-half percent of new payroll if the average wage of the new payroll in any year exceeds one hundred twenty percent of the county average wage in the county in which the project facility is located. The percentage of payroll allowed under this subdivision shall be four percent of new payroll if the average wage of the new payroll in any year exceeds one hundred forty percent of the county average wage in the county in which the project facility is located. An additional one percent of new payroll may be added to these percentages if local incentives equal between ten percent and twenty-four percent of the new direct local revenue; an additional two percent of new payroll is added to these percentages if the local incentives equal between twenty-five percent and forty-nine percent of the new direct local revenue; or an additional three percent of payroll is added to these percentages if the local incentives equal fifty percent or more of the new direct local revenue. The department shall issue a refundable tax credit for any difference between the amount of benefit allowed under this subdivision and the amount of withholding tax retained by the company, in the event the withholding tax is not sufficient to provide the entire amount of benefit due to the qualified company under this subdivision;

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

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

the county average wage;

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

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

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

(e) The local taxing entities shall provide local incentives of at least fifty percent of the new direct local revenues created by the project over a ten-year period. The quality jobs advisory task force may recommend to the department of economic development that appropriate penalties be applied to the company for violating the agreement. The amount of the job retention credit granted may be equal to up to fifty percent of the amount of withholding tax generated by the full-time jobs at the project facility for a period of five years. The calendar year annual maximum amount of tax credit that may be issued to any qualified company for a job retention project or combination of job retention projects shall be seven hundred fifty thousand dollars per year, but the maximum amount may be increased up to one million dollars if such action is proposed by the department and approved by the quality jobs advisory task force established in section 620.1887; provided, however, until such time as the initial at-large members of the quality jobs advisory task force are appointed, this determination shall be made by the director of the department of economic development. In considering such a request, the task force shall rely on economic modeling and other information supplied by the department when requesting the increased limit on behalf of the job retention project. In no event shall the total amount of all tax credits issued for the entire job retention program under this subdivision exceed three million dollars annually. Notwithstanding the above, no tax credits shall be issued for job retention projects approved by the department after August 30, 2013;

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

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

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

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

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

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

time application is made;

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

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

(h) In the years it receives tax credits under sections 620.1875 to 620.1890, the company cumulatively invests at least two million dollars in capital improvements in facilities and equipment located at such facilities that are not located within a five hundred year flood plain as designated by the Federal Emergency Management Agency, and amended from time to time. The amount of the small business job retention and flood survivor relief credit granted may be equal to up to one hundred percent of the amount of withholding tax generated by the full-time jobs at the project facility for a period of three years. The calendar year annual maximum amount of tax credit that may be issued to any qualified company for a small business job retention and survivor relief project shall be two hundred fifty thousand dollars per year, but the maximum amount may be increased up to five hundred thousand dollars if such action is proposed by the department and approved by the quality jobs advisory task force established in section 620.1887. In considering such a request, the task force shall rely on economic modeling and other information supplied by the department when requesting an increase in the limit on behalf of the small business job retention and flood survivor relief project. In no event shall the total amount of all tax credits issued for the entire small business job retention and flood survivor relief program under this subdivision exceed five hundred thousand dollars annually. Notwithstanding the provisions of this subdivision to the contrary, no tax credits shall be issued for small business job retention and flood survivor relief projects approved by the department after August 30, 2010.

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

5. **Except as otherwise provided in this subsection**, the maximum calendar year annual tax credits issued for the entire program shall not exceed eighty million dollars. **Beginning January 1, 2012, the**

maximum calendar year annual tax credits issued for the entire program shall be reduced by fifteen million dollars and shall not exceed sixty-five million dollars. The fifteen million dollar reduction to the maximum calendar year annual tax credits available for issuance for the entire program shall be used for the retention of withholding taxes authorized under section 620.1910. Notwithstanding any provision of law to the contrary, the maximum annual tax credits authorized under section 135.535, RSMo, are hereby reduced from ten million dollars to eight million dollars, with the balance of two million dollars transferred to this program. There shall be no limit on the amount of withholding taxes that may be retained by approved companies under this program.

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

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

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

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

10. Prior to the issuance of tax credits, the department shall verify through the department of revenue, or any other state department, that the tax credit applicant does not owe any delinquent income, sales, or use tax or interest or penalties on such taxes, or any delinquent fees or assessments levied by any state department and through the department of insurance, financial institutions and professional registration that the applicant does not owe any delinquent insurance taxes. Such delinquency shall not affect the authorization of the application for such tax credits, except that at issuance credits shall be first applied to the delinquency and any amount issued shall be reduced by the applicant's tax delinquency. If the department of revenue or the department of insurance, financial institutions and professional registration, or any other state department, concludes that a taxpayer is delinquent after June fifteenth but before July first of any year and the application of tax credits to such delinquency causes a tax deficiency on behalf of the taxpayer to arise, then the taxpayer shall be granted thirty days to satisfy the deficiency in which interest, penalties, and additions to tax shall be tolled. After applying all available credits toward a tax delinquency, the administering agency shall notify the appropriate department and that department shall update the

amount of outstanding delinquent tax owed by the applicant. If any credits remain after satisfying all insurance, income, sales, and use tax delinquencies, the remaining credits shall be issued to the applicant, subject to the restrictions of other provisions of law.

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

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

13. If any provision of sections 620.1875 to 620.1890 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 620.1875 to 620.1890 are hereby declared severable.”; and

Further amend the title and enacting clause accordingly.

Senator Purgason moved that the above amendment be adopted.

Senator Pearce assumed the Chair.

Senator Engler raised the point of order that **SA 2** is out of order as it exceeds the scope of the Governor’s special session call.

The point of order was referred to the President Pro Tem who ruled it well taken.

Senator Purgason offered **SA 3**:

SENATE AMENDMENT NO. 3

Amend Senate Committee Substitute for House Committee Substitute for House Bill No. 2, Page 7, Section 620.1910, Line 216, by inserting immediately after all of said line the following:

“Section B. This act is hereby submitted to the qualified voters of this state for approval or rejection at an election which is hereby ordered and which shall be held and conducted on Tuesday next following the first Monday in November, 2010, pursuant to the laws and constitutional provisions of this state for the submission of referendum measures by the general assembly, and this act shall become effective when approved by a majority of the votes cast thereon at such election and not otherwise.”; and

Further amend the title accordingly.

Senator Purgason moved that the above amendment be adopted.

Senator Callahan raised the point of order that **SA 3** is out of order as it goes beyond the Governor’s special session call.

The point of order was referred to the President Pro Tem who ruled it well taken.

Senator Dempsey assumed the Chair.

Senator Callahan assumed the Chair.

Senator Purgason offered **SA 4**, which was read:

SENATE AMENDMENT NO. 4

Amend Senate Committee Substitute for House Committee Substitute for House Bill No. 2, Page 2, Section 620.1910, Line 41, by inserting immediately after the number “33611” the following:

“, **336212, 336214, 423830, or 423860**”.

Senator Purgason moved that the above amendment be adopted.

Senator Ridgeway raised the point of order that **SA 4** is out of order as it goes beyond the scope of the special session call.

The point of order was referred to the President Pro Tem who ruled it well taken.

Senator Stouffer assumed the Chair.

Senator Ridgeway moved that **SCS** for **HCS** for **HB 2**, as amended, be adopted, which motion prevailed.

On motion of Senator Ridgeway, **SCS** for **HCS** for **HB 2**, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators

Callahan	Clemens	Dempsey	Engler	Green	Griesheimer	Justus	Keaveny
Mayer	McKenna	Pearce	Ridgeway	Rupp	Schaefer	Schmitt	Shields
Shoemyer	Vogel	Wilson	Wright-Jones—20				

NAYS—Senators

Barnitz	Champion	Crowell	Goodman	Lager	Purgason	Stouffer—7
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Absent—Senators—None

Absent with leave—Senators

Bartle	Bray	Cunningham	Days	Lembke	Nodler	Scott—7
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Vacancies—None

The President declared the bill passed.

On motion of Senator Ridgeway, title to the bill was agreed to.

Senator Ridgeway moved that the vote by which the bill passed be reconsidered.

Senator Engler moved that motion lay on the table, which motion prevailed.

MESSAGES FROM THE HOUSE

The following message was received from the House of Representatives through its Chief Clerk:

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conference committee to act with a like committee from the Senate on **SCS** for **HCS** for **HB 1** as amended. Representatives: Viebrock, Franz, Leara, Burnett, and Roorda.

COMMUNICATIONS

July 12, 2010

Ms. Terry Spieler
Secretary of the Senate
State Capitol, Room 325
Jefferson City, MO 65101

Dear Ms. Spieler:

I am hereby removing Senator Chuck Purgason from the Senate Standing Committee on Governmental Accountability and Fiscal Oversight. I am appointing myself, Senator Charlie Shields to replace him on the Committee and also am appointing myself Chairman of said Committee, effective immediately.

Please don't hesitate to contact me if you have any questions.

Sincerely,
/s/ Charlie Shields
Charlie Shields

INTRODUCTIONS OF GUESTS

Senator Rupp introduced to the Senate, Shawn Gipperich, O'Fallon.

On motion of Senator Engler, the Senate adjourned until 11:15 a.m., Wednesday, July 14, 2010.

SENATE CALENDAR

EIGHTH DAY—WEDNESDAY, JULY 14, 2010

FORMAL CALENDAR

THIRD READING OF SENATE BILLS

SB 1-Crowell, et al (In Fiscal Oversight)

INFORMAL CALENDAR

BILLS IN CONFERENCE AND BILLS CARRYING REQUEST MESSAGES

In Conference

HCS for HB 1, with SCS, as amended (Crowell)

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