

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

Offered By

1 AMEND House Committee Substitute for Senate Bill No. 665, Page 14, Section 414.082, Line 27,  
2 by inserting after all of said section and line the following:

3  
4 620.1950. Sections 620.1950 to 620.1958 shall be known and may be cited as the "Show  
5 Me Rural Jobs Act".

6 620.1951. As used in sections 620.1950 to 620.1958, the following terms mean:

7 (1) "Affiliate", a person that directly, or indirectly through one or more intermediaries,  
8 controls, is controlled by, or is under common control with another person or entity. For the  
9 purpose of sections 620.1950 to 620.1958, a person is "controlled by" another person if the  
10 controlling person holds, directly or indirectly, the majority voting or ownership interest in the  
11 controlled person or has control over the day-to-day operations of the controlled person by contract  
12 or by law;

13 (2) "Approved investment company", an entity approved by the department under section  
14 620.1953;

15 (3) "Closing date", the date on which an approved investment company collects all of the  
16 amounts specified under subsection 6 of section 620.1953;

17 (4) "Credit-eligible capital contribution", an investment of cash by a person or entity subject  
18 to taxes under section 375.916 or chapter 143, 148, or 153, excluding withholding tax imposed  
19 under sections 143.191 to 143.265, in an approved investment company that equals the amount  
20 specified on a tax credit certificate issued under subsection 5 of section 620.1953. Such investment  
21 shall purchase an equity interest in the approved investment company or purchase, at par value or  
22 premium, a debt instrument that has a maturity date at least five years from the date of investment;

23 (5) "Department", the Missouri department of agriculture;

24 (6) "Funding", any capital or equity investment in a rural business concern or any loan to a  
25 rural business concern with a final maturity at least two years after the date of issuance;

26 (7) "Growth capital", cash investments in an approved investment company in the amount  
27 as stated on the notice issued under subsection 5 of section 620.1953 and comprised of at least sixty  
28 percent of credit-eligible capital contributions;

29 (8) "Operating company", any company except for a publicly traded business;

30 (9) "Principal business operations", the location where at least sixty percent of the business's  
31 employees work or where employees that are paid at least sixty percent of the business's payroll  
32 work. A business that has agreed to relocate, using the proceeds of its funding so that it meets the  
33 requirements of this definition shall be deemed to have its principal business operations in the new  
34 location provided that it satisfies this definition within one hundred eighty days after funding;

35 (10) "Rural area", a location:

36 (a) That is not within a city or town with a population greater than eighty thousand

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1 according to the most recent decennial United States census or the urbanized area contiguous and  
 2 adjacent to such a city or town; or

3 (b) Determined to be "rural in character" by the director of the department;

4 (11) "Rural business concern", an operating company that:

5 (a) Has its principal business operations in one or more rural areas in Missouri;

6 (b) Has fewer than two hundred fifty employees or had a federal adjusted gross income less  
 7 than fifteen million dollars in the preceding tax year; and

8 (c) Engages in industries related to manufacturing, plant sciences, technology, or  
 9 agricultural technology or, if not engaged in such industries, the department makes a determination  
 10 that the targeted funding will be highly beneficial to the economic growth of the state. In making  
 11 such a determination, the department may consider input, if any, from the Missouri agricultural and  
 12 small business development authority.

13 620.1952. 1. There is hereby created in the state treasury the "Show Me Rural Jobs Fund",  
 14 which shall consist of moneys collected under sections 620.1950 to 620.1958. The state treasurer  
 15 shall be custodian of the fund. In accordance with sections 30.170 and 30.180, the state treasurer  
 16 may approve disbursements. The fund shall be a dedicated fund and, upon appropriation, moneys in  
 17 the fund shall be used solely for the administration of sections 620.1950 to 620.1958.

18 2. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining  
 19 in the fund at the end of the biennium shall not revert to the credit of the general revenue fund.

20 3. The state treasurer shall invest moneys in the fund in the same manner as other funds are  
 21 invested. Any interest and moneys earned on such investments shall be credited to the fund.

22 620.1953. 1. Beginning October 1, 2016, the department shall accept applications for  
 23 approved investment companies. The application shall include:

24 (1) The amount of growth capital sought by the applicant;

25 (2) Either:

26 (a) A copy of the applicant's or its affiliate's license as a rural business investment company  
 27 under 7 U.S.C. Section 2009cc or as a small business investment company under 15 U.S.C. Section  
 28 681 and evidence demonstrating that the applicant or its affiliates have invested at least one hundred  
 29 million dollars in operating companies and at least fifty million dollars in operating companies  
 30 located in rural areas; or

31 (b) Evidence demonstrating that the applicant or its affiliates have invested in at least one  
 32 hundred fifty million dollars in limited partnerships or limited liability companies through one or  
 33 more federal tax credit program administered by an agency of this state and evidence that the  
 34 applicant has domiciled in this state for the five years preceding its application;

35 (3) An estimate of the number of jobs that will be created or retained in Missouri as a result  
 36 of the applicant's funding;

37 (4) A business plan for the applicant's proposed funding that includes a revenue impact  
 38 assessment prepared by a nationally recognized third-party independent economic forecasting firm  
 39 and that projects state and local tax revenue to be generated by the applicant's funding under its ten-  
 40 year business plan;

41 (5) An affidavit from each investor stating a commitment to make a credit-eligible capital  
 42 contribution in support of the business plan and the amount of such credit-eligible capital  
 43 contribution; and

44 (6) A nonrefundable application fee of five thousand dollars.

45  
 46 The application may also include, but is not required to include, a letter of recommendation from  
 47 the Missouri agricultural and small business development authority.

48 2. The department shall make an application determination within thirty days of receipt in

1 the order in which applications are received. The department shall deem applications received on  
2 the same day as received simultaneously. Except as provided under subsection 4 of section  
3 620.1955, the department shall not approve more than one hundred twenty-five million dollars in  
4 growth capital and not more than one hundred million dollars in credit-eligible capital contributions  
5 under this section. If requests for growth capital exceed this limitation, the department shall  
6 proportionally reduce the growth capital and the credit-eligible capital contributions for each  
7 approved application as necessary to meet the limitation. No application by an applicant and its  
8 affiliates shall be approved for more than one third the limitation provided in this subsection.

9 3. The department shall deny an application submitted under this section if:

10 (1) The application fee is not paid in full;

11 (2) The applicant does not satisfy all the requirements under subdivision 2 of subsection 1  
12 of this section;

13 (3) The revenue impact assessment does not demonstrate that the applicant's business plan  
14 will result in a positive economic impact in Missouri over a ten-year period that exceeds the  
15 cumulative amount of tax credits the applicant seeks;

16 (4) Commitments for credit-eligible capital contributions do not equal at least sixty percent  
17 of the total growth capital sought under the applicant's business plan;

18 (5) The department has already approved the maximum amount of growth capital and  
19 credit-eligible capital contributions allowed under subsection 2 of this section; or

20 (6) The department determines that the applicant does not satisfy any other reasonable  
21 requirement. Such requirements shall apply to all applicants equally, and the department shall not  
22 apply this subdivision arbitrarily.

23 4. If the department denies an application, the applicant may provide additional information  
24 within fifteen days of the notice of denial to the department to complete, clarify, or cure defects in  
25 the application identified by the department, and the department shall reconsider the application and  
26 make a determination within fifteen days before approving any pending applications submitted after  
27 the denied applicant's original submission date.

28 5. The department shall not deny an application or reduce the requested growth capital for  
29 reasons other than those described under subsections 2 and 3 of this section. If the department  
30 approves an application, it shall provide written notice to the applicant stating:

31 (1) The applicant is an approved investment company;

32 (2) The approved amount of the growth capital; and

33 (3) A tax credit certificate for each investor whose affidavit was included in the application.

34  
35 The department shall provide a copy of such notice to the department of economic development.

36 6. After receiving notice of approval, an approved investment company shall:

37 (1) Within sixty days:

38 (a) Collect the credit-eligible capital contributions from each investor who was issued a tax  
39 credit certificate; and

40 (b) Collect one or more investments of cash that, if added to credit-eligible capital  
41 contributions, equals the approved investment company's growth capital.

42  
43 At least ten percent of the approved investment company's growth capital shall be composed of  
44 equity investments contributed by affiliates of the approved investment company, including  
45 employees, officers, and directors of such affiliates; and

46 (2) Within sixty-five days, deliver to the department and the department of economic  
47 development documentation sufficient to prove that the amounts described under subdivision 1 of  
48 this subsection have been collected.

1           7. If the approved investment company fails to fully comply with the provisions of  
2 subsection 6 of this section, the approved investment company's approval shall lapse and the  
3 corresponding growth capital and credit-eligible capital contributions under this division shall not  
4 count toward the limits on total growth capital and credit-eligible capital contributions under  
5 subsection 2 of this section. The department shall first award lapsed growth capital pro rata to each  
6 approved investment company that was awarded less than its requested growth capital, which the  
7 approved investment company may allocate to its investors in its discretion. Any remaining growth  
8 capital may be awarded by the department to new approved companies.

9           8. Application fees submitted to the department shall be credited to the show me rural jobs  
10 fund. No other fee shall be charged for the administration of tax credits by the department or the  
11 department of economic development.

12           620.1954. 1. There is hereby allowed a nonrefundable tax credit for taxpayers who make a  
13 credit-eligible capital contribution to an approved investment company and who receive a tax credit  
14 certificate issued under subsection 5 of section 620.1953. The credit may be claimed against taxes  
15 imposed under section 375.916 or chapter 143, 148, or 153, excluding withholding tax imposed  
16 under sections 143.191 to 143.265. The credit shall not be sold, transferred, or allocated to any  
17 other entity except an affiliate.

18           2. On the closing date, the taxpayer shall earn a vested credit equal to the amount of the  
19 taxpayer's credit-eligible capital contribution to the approved investment company as specified on  
20 the tax credit certificate. The taxpayer may claim up to twenty percent of the credit authorized  
21 under this section for each of the five tax years beginning on or after July 1, 2018, exclusive of  
22 amounts carried forward under subsection 3 of this section.

23           3. If the amount of the credit for a tax year exceeds the taxpayer's tax liability for that year,  
24 the excess shall be carried forward and claimed during the next five tax years. A taxpayer claiming  
25 a credit under this section shall submit a copy of the tax credit certificate with the taxpayer's return  
26 for each tax year the credit is claimed.

27           4. The maximum amount of credits claimed in any one fiscal year by all taxpayers shall not  
28 exceed fifteen million dollars, exclusive of amounts carried forward under subsection 3 of this  
29 section.

30           620.1955. 1. The department of economic development shall revoke a tax credit certificate  
31 issued under subsection 5 of section 620.1953 if any of the following occur with respect to an  
32 approved investment company before it exits the program in accordance with subsection 5 of this  
33 section:

34           (1) The approved investment company does not invest one hundred percent of its growth  
35 capital in funding within two years of the closing date;

36           (2) The approved investment company, after investing one hundred percent of its growth  
37 capital in funding, fails to maintain that investment for the five years after the closing date. An  
38 investment that is sold or repaid, in whole or in part, shall be deemed maintained if the approved  
39 investment company reinvests an amount equal to the returned or recovered portion, excluding any  
40 profits realized, in other funding within twelve months of the receipt of the returned or recovered  
41 portion. Amounts received periodically by an approved investment company shall be deemed  
42 continually invested in funding if the amounts are reinvested in funding for one or more rural  
43 business concerns by the end of the following calendar year;

44           (3) The approved investment company, before exiting the program, makes a distribution or  
45 payment that results in the approved investment fund having less than one hundred percent of its  
46 growth capital invested in fundings or available for investment in fundings and held as cash or other  
47 marketable securities;

48           (4) The approved investment company invests more than twenty percent of its growth

1 capital in the same rural business concern, including amounts invested in affiliates of the rural  
2 business concern; or

3 (5) The approved investment company invests funding in a rural business concern that,  
4 directly or indirectly through an affiliate, owns, has the right to acquire an ownership interest,  
5 makes a loan to, or makes an investment in the approved investment company, an affiliate of the  
6 approved investment company, or an investor in the approved investment company. This subsection  
7 shall not apply to investments in publicly traded securities by a rural business concern or an owner  
8 or affiliate of such rural business concern. For purposes of this subdivision, an approved investment  
9 company shall not be considered an affiliate of a rural business concern solely as a result of its  
10 funding.

11 2. Before revoking one or more tax credit certificates under this division, the department of  
12 economic development shall notify the approved investment company of the reasons for the pending  
13 revocation. The approved investment company shall have ninety days from the date of such notice  
14 to correct the violations to the satisfaction of the department of economic development and avoid  
15 revocation of the tax credit certificate. The approved investment company shall be charged five  
16 thousand dollars per day for each day taken to correct the violations, and such amounts shall be  
17 deposited in the show me rural jobs fund.

18 3. If the department of economic development revokes a tax credit certificate, the  
19 department of revenue shall make an assessment for the amount of the credit claimed by the  
20 certificate holder before the certificate was revoked.

21 4. If tax credit certificates are revoked under this section, the associated growth capital and  
22 credit-eligible capital contributions do not count toward the limit on total growth capital and credit-  
23 eligible capital contributions described under subsection 2 of section 620.1953. The department of  
24 economic development shall first award reverted growth capital pro rata to each approved  
25 investment company that was awarded less than its requested growth capital. Any remaining  
26 growth capital may be awarded by the department of economic development to new approved  
27 investment companies.

28 5. After five years of the closing date, an approved investment company shall be allowed to  
29 leave the program if none of the approved investments company's tax credit certificates were  
30 revoked or are pending revocation. The department of economic development shall release an  
31 approved investment company from the program and the regulations of this act within thirty days of  
32 receiving a request to exit.

33 6. If the actual revenue impact from its funding through the date of the proposed  
34 distribution is:

35 (1) Less than sixty percent of the amount projected in the approved investment fund's  
36 business plan filed as part of its application for certification, then the state shall receive thirty  
37 percent of any distribution or payment to an equity holder in an approved investment fund in excess  
38 of the sum of the amount of equity capital invested in the approved investment fund by such equity  
39 holder and an amount equal to any projected increase in the equity holder's federal or state tax  
40 liability, including penalties and interest, related to the equity holder's ownership, management, or  
41 operation of the approved investment fund;

42 (2) Greater than sixty percent but less than one hundred percent of the amount projected in  
43 the approved investment fund's business plan filed as part of its application for certification, then the  
44 state shall receive fifteen percent of any distribution or payment to an equity holder in an approved  
45 investment fund in excess of the sum of the amount of equity capital invested in the approved  
46 investment fund by such equity holder and an amount equal to any projected increase in the equity  
47 holder's federal or state tax liability, including penalties and interest, related to the equity holder's  
48 ownership, management, or operation of the approved investment fund; or

1           (3) Equal to or greater than the amount projected in the approved investment fund's business  
2 plan filed as part of its application for certification, then the state shall receive zero percent of any  
3 distribution or payment to an equity holder in an approved investment fund in excess of the sum of  
4 the amount of equity capital invested in the approved investment fund by such equity holder and an  
5 amount equal to any projected increase in the equity holder's federal or state tax liability, including  
6 penalties and interest, related to the equity holder's ownership, management, or operation of the  
7 approved investment fund.

8           7. The department of economic development shall not revoke a tax credit certificate due to  
9 any actions of an approved investment company that occur after the date the department of  
10 economic development acknowledges an approved investment company's exit from the program.

11           620.1956. 1. Each approved investment company shall submit a report to the department of  
12 economic development and the department on or before the fifth business day after the second  
13 anniversary of the closing date containing:

14           (1) The approved investment company's bank statements evidencing each funding;

15           (2) The name and location of each business receiving funding, including evidence that the  
16 business qualified as a rural business concern at the time the investment was made; and

17           (3) The number of employment positions created or retained as a result of the approved  
18 investment company's fundings as of the December thirty-first of the preceding year;

19           2. On or before April thirtieth of each year following the year in which the report required  
20 under subsection 1 of this section is due, the approved investment company shall submit an annual  
21 report to the department of economic development and the department containing:

22           (1) The number of employment positions created or retained as a result of the approved  
23 investment company's fundings as of December thirty-first of the preceding calendar year;

24           (2) The average annual salary of such positions; and

25           (3) Any other information required by the department.

26           3. The department of revenue and the department may promulgate rules to implement the  
27 provisions of the show me rural jobs act. Any rule or portion of a rule, as that term is defined in  
28 section 536.010, that is created under the authority delegated in this section shall become effective  
29 only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable,  
30 section 536.028. This section and chapter 536 are nonseverable, and if any of the powers vested  
31 with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to  
32 disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking  
33 authority and any rule proposed or adopted after August 28, 2016, shall be invalid and void.

34           4. Under section 23.253 of the Missouri sunset act:

35           (1) The provisions of the new program authorized under sections 620.1950 to 620.1958  
36 shall automatically sunset on December thirty-first six years after the effective date, unless  
37 reauthorized by an act of the general assembly;

38           (2) If such program is reauthorized, the program authorized under this section shall  
39 automatically sunset on December thirty-first six years after the effective date of the reauthorization  
40 of this section; and

41           (3) This section shall terminate on September first of the calendar year immediately  
42 following the calendar year in which the program authorized under this section is sunset. However,  
43 nothing in this subsection shall preclude a taxpayer who makes a qualified equity investment prior  
44 to sunset of this section under the provisions of section 23.253 from claiming tax credits relating to  
45 such qualified equity investment for each credit allowance date.

46           620.1957. An approved investment fund, before making a funding, may request a written  
47 opinion from the department stating whether the business in which it proposes to invest is a rural  
48 business concern. The department shall respond to a request with its determination within fifteen

1 business days of receiving such request. If the department fails to respond within fifteen business  
2 days of receiving the request, the business for which determination is sought shall be considered a  
3 rural business concern.

4 620.1958. Prior to funding a rural business concern with growth capital, an approved  
5 investment company shall provide the department with at least two of the following three  
6 documents for the department's review:

7 (1) A letter from a commercial bank that conducts business in the state that attests that the  
8 rural business concern sought and was denied financing from such commercial bank similar to the  
9 funding currently sought from the approved investment company;

10 (2) An affidavit from the president or chief officer of the rural business concern stating that  
11 the company actively sought and was unable to secure sufficient financing similar to the funding  
12 currently sought from the approved investment company from other sources; or

13 (3) A letter from the state representative or state senator of the district in which the principal  
14 operations of the rural business concern is located that states such elected official's support for the  
15 funding.

16  
17 The department shall review such documents and shall provided notice of approval or denial to the  
18 approved investment company within fifteen days. Any funding not approved or denied within such  
19 fifteen-day period shall be deemed approved."; and

20  
21 Further amend said bill by amending the title, enacting clause, and intersectional references  
22 accordingly.