

SENATE AMENDMENT NO. _____

Offered by _____ Of _____

Amend SCS/Senate Bill No. 5, Page 4, Section 68.075, Line 87,

2 by inserting after all of said line the following:

3 "620.2020. 1. The department shall respond to a
4 written request, by or on behalf of a qualified company or
5 qualified military project, for a proposed benefit award
6 under the provisions of this program within five business
7 days of receipt of such request. The department shall
8 respond to a written request, by or on behalf of a qualified
9 manufacturing company, for a proposed benefit award under
10 the provisions of this program within fifteen business days
11 of receipt of such request. Such response shall contain
12 either a proposal of benefits for the qualified company or
13 qualified military project, or a written response refusing
14 to provide such a proposal and stating the reasons for such
15 refusal. A qualified company or qualified military project
16 that intends to seek benefits under the program shall submit
17 to the department a notice of intent. The department shall
18 respond within thirty days to a notice of intent with an
19 approval or a rejection, provided that the department may
20 withhold approval or provide a contingent approval until it
21 is satisfied that proper documentation of eligibility has
22 been provided. The department shall certify or reject the
23 qualifying company's plan outlined in their notice of intent
24 as satisfying good faith efforts made to employ, at a
25 minimum, commensurate with the percentage of minority
26 populations in the state of Missouri, as reported in the

27 previous decennial census, the following: racial minorities,
28 contractors who are racial minorities, and contractors that,
29 in turn, employ at a minimum racial minorities commensurate
30 with the percentage of minority populations in the state of
31 Missouri, as reported in the previous decennial census.

32 Failure to respond on behalf of the department shall result
33 in the notice of intent being deemed approved. A qualified
34 company receiving approval for program benefits may receive
35 additional benefits for subsequent new jobs at the same
36 facility after the full initial project period if the
37 applicable minimum job requirements are met. There shall be
38 no limit on the number of project periods a qualified
39 company may participate in the program, and a qualified
40 company may elect to file a notice of intent to begin a new
41 project period concurrent with an existing project period if
42 the applicable minimum job requirements are achieved, the
43 qualified company provides the department with the required
44 annual reporting, and the qualified company is in compliance
45 with this program and any other state programs in which the
46 qualified company is currently or has previously
47 participated. However, the qualified company shall not
48 receive any further program benefits under the original
49 approval for any new jobs created after the date of the new
50 notice of intent, and any jobs created before the new notice
51 of intent shall not be included as new jobs for purposes of
52 the benefit calculation for the new approval. When a
53 qualified company has filed and received approval of a
54 notice of intent and subsequently files another notice of
55 intent, the department shall apply the definition of project
56 facility under subdivision (24) of section 620.2005 to the
57 new notice of intent as well as all previously approved
58 notices of intent and shall determine the application of the

59 definitions of new job, new payroll, project facility base
60 employment, and project facility base payroll accordingly.

61 2. Notwithstanding any provision of law to the
62 contrary, the benefits available to the qualified company
63 under any other state programs for which the company is
64 eligible and which utilize withholding tax from the new or
65 retained jobs of the company shall first be credited to the
66 other state program before the withholding retention level
67 applicable under this program will begin to accrue. If any
68 qualified company also participates in a job training
69 program utilizing withholding tax, the company shall retain
70 no withholding tax under this program, but the department
71 shall issue a refundable tax credit for the full amount of
72 benefit allowed under this program. The calendar year
73 annual maximum amount of tax credits which may be issued to
74 a qualifying company that also participates in a job
75 training program shall be increased by an amount equivalent
76 to the withholding tax retained by that company under a jobs
77 training program.

78 3. (1) A qualified company or qualified military
79 project receiving benefits under this program shall provide
80 an annual report of the number of jobs, along with minority
81 jobs created or retained, and such other information as may
82 be required by the department to document the basis for
83 program benefits available no later than ninety days prior
84 to the end of the qualified company's or industrial
85 development authority's tax year immediately following the
86 tax year for which the benefits provided under the program
87 are attributed. In such annual report, if the average wage
88 is below the applicable percentage of the county average
89 wage, the qualified company or qualified military project
90 has not maintained the employee insurance as required, if
91 the department after a review determines the qualifying

92 company fails to satisfy other aspects of their notice of
93 intent, including failure to make good faith efforts to
94 employ, at a minimum, commensurate with the percentage of
95 minority populations in the state of Missouri, as reported
96 in the previous decennial census, the following: racial
97 minorities, contractors who are racial minorities, and
98 contractors that, in turn, employ at a minimum racial
99 minorities commensurate with the percentage of minority
100 populations in the state of Missouri, as reported in the
101 previous decennial census, or if the number of jobs is below
102 the number required, the qualified company or qualified
103 military project shall not receive tax credits or retain the
104 withholding tax for the balance of the project period.
105 Failure to timely file the annual report required under this
106 section shall result in the forfeiture of tax credits
107 attributable to the year for which the reporting was
108 required and a recapture of withholding taxes retained by
109 the qualified company or qualified military project during
110 such year.

111 (2) If a qualified company fails to timely file the
112 annual report required in subdivision (1) of this
113 subsection, the department shall communicate with an
114 employee that is separate from the original point of contact
115 for the department, provided such employee is designated in
116 writing by the qualified company and preferably of an
117 equivalent or higher supervisory role than the original
118 point of contact, and using multiple means of communications
119 if necessary, to inform the qualified company of the failure
120 to timely file the annual report. If the qualified company
121 requests an extension in writing to the department within
122 thirty days following the deadline to file the annual
123 report, the department shall grant one thirty day extension
124 beginning on the date that the request was received by the

department to file the report without penalty. A failure to submit the report by the end of any extension granted by the department shall result in the forfeiture of tax credits and a recapture of withholding tax as provided in subdivision (1) of this subsection. A qualified company that had an annual report due between January 1, 2020, and September 1, 2021, shall not be subject to the forfeiture of tax credits attributable to the year for which the reporting was required or to the recapture of withholding taxes retained by the qualified company or qualified military project during such year so long as the annual report is filed with the department by November 1, 2021.

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

5. Any qualified company or qualified military project approved for benefits under this program shall provide to the department, upon request, any and all information and

records reasonably required to monitor compliance with program requirements. This program shall be considered a business recruitment tax credit under subdivision (4) of subsection 2 of section 135.800, and any qualified company or qualified military project approved for benefits under this program shall be subject to the provisions of sections 135.800 to 135.830.

6. 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.

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

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

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

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

(d) For all fiscal years beginning on or after July 1, 2020, no more than one hundred six million dollars in tax credits may be authorized for each fiscal year. The provisions of this paragraph shall not apply to tax credits

191 issued to qualified companies under a notice of intent filed
192 prior to July 1, 2020.

193 (2) For all fiscal years beginning on or after July 1,
194 2020, in addition to the amount of tax credits that may be
195 authorized under paragraph (d) of subdivision (1) of this
196 subsection, an additional ten million dollars in tax credits
197 may be authorized for each fiscal year for the purpose of
198 the completion of infrastructure projects directly connected
199 with the creation or retention of jobs under the provisions
200 of sections 620.2000 to 620.2020 and an additional ten
201 million dollars in tax credits may be authorized for each
202 fiscal year for a qualified manufacturing company based on a
203 manufacturing capital investment as set forth in section
204 620.2010.

205 8. For all fiscal years beginning on or after July 1,
206 2020, the maximum total amount of withholding tax that may
207 be authorized for retention for the creation of new jobs
208 under the provisions of sections 620.2000 to 620.2020 by
209 qualified companies with a project facility base employment
210 of at least fifty shall not exceed seventy-five million
211 dollars for each fiscal year. The provisions of this
212 subsection shall not apply to withholding tax authorized for
213 retention for the creation of new jobs by qualified
214 companies with a project facility base employment of less
215 than fifty.

216 9. For tax credits for the creation of new jobs under
217 section 620.2010, the department shall allocate the annual
218 tax credits based on the date of the approval, reserving
219 such tax credits based on the department's best estimate of
220 new jobs and new payroll of the project, and any other
221 applicable factors in determining the amount of benefits
222 available to the qualified company or qualified military
223 project under this program; provided that, the department

may reserve up to twenty-one and one-half percent of the maximum annual amount of tax credits that may be authorized under subsection 7 of this section for award under subsection 7 of section 620.2010. However, the annual issuance of tax credits shall be subject to annual verification of actual payroll by the department or, for qualified military projects, annual verification of average salary for the jobs directly created by the qualified military project. Any authorization of tax credits shall expire if, within two years from the date of commencement of operations, or approval if applicable, the qualified company has failed to meet the applicable minimum job requirements. The qualified company may retain authorized amounts from the withholding tax under the project once the applicable minimum job requirements have been met for the duration of the project period. No benefits shall be provided under this program until the qualified company or qualified military project meets the applicable minimum new job requirements or, for benefits awarded under subsection 7 of section 620.2010, until the qualified company has satisfied the requirements set forth in the written agreement between the department and the qualified company under subsection 4 of section 620.2010. In the event the qualified company or qualified military project does not meet the applicable minimum new job requirements, the qualified company or qualified military project may submit a new notice of intent or the department may provide a new approval for a new project of the qualified company or qualified military project at the project facility or other facilities.

10. Tax credits provided under this program may be claimed against taxes otherwise imposed by chapters 143 and 148, 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. Tax credits provided under this program 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. 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.

11. Prior to the issuance of tax credits or the qualified company beginning to retain withholding taxes, the department shall verify through the department of revenue and any other applicable 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 commerce and insurance that the applicant does not owe any delinquent insurance taxes or other fees. Such delinquency shall not affect the approval, except that any tax credits issued 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, the department of commerce and insurance, 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.

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

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

14. Notwithstanding any provision of law to the contrary, beginning August 28, 2013, no new benefits shall be authorized for any project that had not received from the department a proposal or approval for such benefits prior to August 28, 2013, under the development tax credit program created under sections 32.100 to 32.125, the rebuilding communities tax credit program created under section 135.535, the enhanced enterprise zone tax credit program created under sections 135.950 to 135.973, and the Missouri quality jobs program created under sections 620.1875 to 620.1890. The provisions of this subsection shall not be construed to limit or impair the ability of any administering agency to authorize or issue benefits for any project that had received an approval or a proposal from the department under any of the programs referenced in this subsection prior to August 28, 2013, or the ability of any taxpayer to redeem any such tax credits or to retain any withholding tax under an approval issued prior to that date. The provisions of this subsection shall not be

323 construed to limit or in any way impair the ability of any
324 governing authority to provide any local abatement or
325 designate a new zone under the enhanced enterprise zone
326 program created by sections 135.950 to 135.963.

327 Notwithstanding any provision of law to the contrary, no
328 qualified company that is awarded benefits under this
329 program shall:

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

333 (2) Receive benefits under the provisions of section
334 620.1910 for the same jobs.

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

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

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

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

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

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

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

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

18. Under section 23.253 of the Missouri sunset act:

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

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

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

390 Further amend said bill, page 11, Section 620.2250,
391 line 230, by inserting after all of said line the following:

392 "Section B. Because of the importance of economic
393 development to the state of Missouri, the repeal and
394 reenactment of section 620.2020 of this act is deemed
395 necessary for the immediate preservation of the public
396 health, welfare, peace, and safety, and is hereby declared
397 to be an emergency act within the meaning of the
398 constitution, and the repeal and reenactment of section
399 620.2020 of this act shall be in full force and effect upon
400 its passage and approval."; and

401 Further amend the title and enacting clause accordingly.