

# SENATE AMENDMENT NO. \_\_\_\_\_

Offered by \_\_\_\_\_ Of \_\_\_\_\_

Amend SS/SCS/Senate Bill No. 354, Page 1, Section TITLE, Line 5,

2 by inserting after "provision" the following: "and an  
3 emergency clause for a certain section"; and  
4 Further amend said bill, page 26, Section 620.1039,  
5 line 170, by inserting after all of said line the following:  
6 "620.2020. 1. The department shall respond to a  
7 written request, by or on behalf of a qualified company or  
8 qualified military project, for a proposed benefit award  
9 under the provisions of this program within five business  
10 days of receipt of such request. The department shall  
11 respond to a written request, by or on behalf of a qualified  
12 manufacturing company, for a proposed benefit award under  
13 the provisions of this program within fifteen business days  
14 of receipt of such request. Such response shall contain  
15 either a proposal of benefits for the qualified company or  
16 qualified military project, or a written response refusing  
17 to provide such a proposal and stating the reasons for such  
18 refusal. A qualified company or qualified military project  
19 that intends to seek benefits under the program shall submit  
20 to the department a notice of intent. The department shall  
21 respond within thirty days to a notice of intent with an  
22 approval or a rejection, provided that the department may  
23 withhold approval or provide a contingent approval until it  
24 is satisfied that proper documentation of eligibility has  
25 been provided. The department shall certify or reject the  
26 qualifying company's plan outlined in their notice of intent

27 as satisfying good faith efforts made to employ, at a  
28 minimum, commensurate with the percentage of minority  
29 populations in the state of Missouri, as reported in the  
30 previous decennial census, the following: racial minorities,  
31 contractors who are racial minorities, and contractors that,  
32 in turn, employ at a minimum racial minorities commensurate  
33 with the percentage of minority populations in the state of  
34 Missouri, as reported in the previous decennial census.  
35 Failure to respond on behalf of the department shall result  
36 in the notice of intent being deemed approved. A qualified  
37 company receiving approval for program benefits may receive  
38 additional benefits for subsequent new jobs at the same  
39 facility after the full initial project period if the  
40 applicable minimum job requirements are met. There shall be  
41 no limit on the number of project periods a qualified  
42 company may participate in the program, and a qualified  
43 company may elect to file a notice of intent to begin a new  
44 project period concurrent with an existing project period if  
45 the applicable minimum job requirements are achieved, the  
46 qualified company provides the department with the required  
47 annual reporting, and the qualified company is in compliance  
48 with this program and any other state programs in which the  
49 qualified company is currently or has previously  
50 participated. However, the qualified company shall not  
51 receive any further program benefits under the original  
52 approval for any new jobs created after the date of the new  
53 notice of intent, and any jobs created before the new notice  
54 of intent shall not be included as new jobs for purposes of  
55 the benefit calculation for the new approval. When a  
56 qualified company has filed and received approval of a  
57 notice of intent and subsequently files another notice of  
58 intent, the department shall apply the definition of project  
59 facility under subdivision (24) of section 620.2005 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, the benefits available to the qualified company under any other state programs for which the company is eligible and which utilize withholding tax from the new or retained jobs of the company shall first be credited to the other state program before the withholding retention level applicable under this program will begin to accrue. If any qualified company also participates in a job training program utilizing withholding tax, the company shall retain no withholding tax under this program, but the department shall issue a refundable tax credit for the full amount of benefit allowed under this program. The calendar year annual maximum amount of tax credits which may be issued to a qualifying company that also participates in a job training program shall be increased by an amount equivalent to the withholding tax retained by that company under a jobs training program.

3. (1) A qualified company or qualified military project receiving benefits under this program shall provide an annual report of the number of jobs, along with minority jobs created or retained, and such other information as may be required by the department to document the basis for program benefits available no later than ninety days prior to the end of the qualified company's or industrial development authority's tax year immediately following the tax year for which the benefits provided under the program are attributed. In such annual report, if the average wage is below the applicable percentage of the county average wage, the qualified company or qualified military project

has not maintained the employee insurance as required, if the department after a review determines the qualifying company fails to satisfy other aspects of their notice of intent, including failure to make good faith efforts to employ, at a minimum, commensurate with the percentage of minority populations in the state of Missouri, as reported in the previous decennial census, the following: racial minorities, contractors who are racial minorities, and contractors that, in turn, employ at a minimum racial minorities commensurate with the percentage of minority populations in the state of Missouri, as reported in the previous decennial census, or if the number of jobs is below the number required, the qualified company or qualified military project shall not receive tax credits or retain the withholding tax for the balance of the project period. Failure to timely file the annual report required under this section shall result in the forfeiture of tax credits attributable to the year for which the reporting was required and a recapture of withholding taxes retained by the qualified company or qualified military project during such year.

(2) If a qualified company fails to timely file the annual report required in subdivision (1) of this subsection, the department shall communicate with an employee that is separate from the original point of contact for the department, provided such employee is designated in writing by the qualified company and preferably of an equivalent or higher supervisory role than the original point of contact, and using multiple means of communications if necessary, to inform the qualified company of the failure to timely file the annual report. If the qualified company requests an extension in writing to the department within thirty days following the deadline to file the annual

report, the department shall grant one thirty day extension 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.

158           5. Any qualified company or qualified military project  
159 approved for benefits under this program shall provide to  
160 the department, upon request, any and all information and  
161 records reasonably required to monitor compliance with  
162 program requirements. This program shall be considered a  
163 business recruitment tax credit under subdivision (4) of  
164 subsection 2 of section 135.800, and any qualified company  
165 or qualified military project approved for benefits under  
166 this program shall be subject to the provisions of sections  
167 135.800 to 135.830.

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

174           7. (1) The maximum amount of tax credits that may be  
175 authorized under this program for any fiscal year shall be  
176 limited as follows, less the amount of any tax credits  
177 previously obligated for that fiscal year under any of the  
178 tax credit programs referenced in subsection 14 of this  
179 section:

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

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

186           (c) For fiscal years beginning on or after July 1,  
187 2015, but ending on or before June 30, 2020, no more than  
188 one hundred sixteen million dollars in tax credits may be  
189 authorized for each fiscal year; and

190 (d) For all fiscal years beginning on or after July 1,  
191 2020, no more than one hundred six million dollars in tax  
192 credits may be authorized for each fiscal year. The  
193 provisions of this paragraph shall not apply to tax credits  
194 issued to qualified companies under a notice of intent filed  
195 prior to July 1, 2020.

196 (2) For all fiscal years beginning on or after July 1,  
197 2020, in addition to the amount of tax credits that may be  
198 authorized under paragraph (d) of subdivision (1) of this  
199 subsection, an additional ten million dollars in tax credits  
200 may be authorized for each fiscal year for the purpose of  
201 the completion of infrastructure projects directly connected  
202 with the creation or retention of jobs under the provisions  
203 of sections 620.2000 to 620.2020 and an additional ten  
204 million dollars in tax credits may be authorized for each  
205 fiscal year for a qualified manufacturing company based on a  
206 manufacturing capital investment as set forth in section  
207 620.2010.

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

219 9. For tax credits for the creation of new jobs under  
220 section 620.2010, the department shall allocate the annual  
221 tax credits based on the date of the approval, reserving  
222 such tax credits based on the department's best estimate of

223 new jobs and new payroll of the project, and any other  
224 applicable factors in determining the amount of benefits  
225 available to the qualified company or qualified military  
226 project under this program; provided that, the department  
227 may reserve up to twenty-one and one-half percent of the  
228 maximum annual amount of tax credits that may be authorized  
229 under subsection 7 of this section for award under  
230 subsection 7 of section 620.2010. However, the annual  
231 issuance of tax credits shall be subject to annual  
232 verification of actual payroll by the department or, for  
233 qualified military projects, annual verification of average  
234 salary for the jobs directly created by the qualified  
235 military project. Any authorization of tax credits shall  
236 expire if, within two years from the date of commencement of  
237 operations, or approval if applicable, the qualified company  
238 has failed to meet the applicable minimum job requirements.  
239 The qualified company may retain authorized amounts from the  
240 withholding tax under the project once the applicable  
241 minimum job requirements have been met for the duration of  
242 the project period. No benefits shall be provided under  
243 this program until the qualified company or qualified  
244 military project meets the applicable minimum new job  
245 requirements or, for benefits awarded under subsection 7 of  
246 section 620.2010, until the qualified company has satisfied  
247 the requirements set forth in the written agreement between  
248 the department and the qualified company under subsection 4  
249 of section 620.2010. In the event the qualified company or  
250 qualified military project does not meet the applicable  
251 minimum new job requirements, the qualified company or  
252 qualified military project may submit a new notice of intent  
253 or the department may provide a new approval for a new  
254 project of the qualified company or qualified military  
255 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

289 taxpayer to arise, then the taxpayer shall be granted thirty  
290 days to satisfy the deficiency in which interest, penalties,  
291 and additions to tax shall be tolled. After applying all  
292 available credits toward a tax delinquency, the  
293 administering agency shall notify the appropriate department  
294 and that department shall update the amount of outstanding  
295 delinquent tax owed by the applicant. If any credits remain  
296 after satisfying all insurance, income, sales, and use tax  
297 delinquencies, the remaining credits shall be issued to the  
298 applicant, subject to the restrictions of other provisions  
299 of law.

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

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

307 14. Notwithstanding any provision of law to the  
308 contrary, beginning August 28, 2013, no new benefits shall  
309 be authorized for any project that had not received from the  
310 department a proposal or approval for such benefits prior to  
311 August 28, 2013, under the development tax credit program  
312 created under sections 32.100 to 32.125, the rebuilding  
313 communities tax credit program created under section  
314 135.535, the enhanced enterprise zone tax credit program  
315 created under sections 135.950 to 135.973, and the Missouri  
316 quality jobs program created under sections 620.1875 to  
317 620.1890. The provisions of this subsection shall not be  
318 construed to limit or impair the ability of any  
319 administering agency to authorize or issue benefits for any  
320 project that had received an approval or a proposal from the  
321 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 construed to limit or in any way impair the ability of any governing authority to provide any local abatement or designate a new zone under the enhanced enterprise zone program created by sections 135.950 to 135.963.

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

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

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

15. If any provision of sections 620.2000 to 620.2020 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 620.2000 to 620.2020 are hereby declared severable.

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

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

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

387 twelve years after the effective date of the reauthorization  
388 of sections 620.2000 to 620.2020; and

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

393 Further amend said bill, page 33, Section 620.3210,  
394 line 223, by inserting after all of said line the following:

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

403 Further amend the title and enacting clause accordingly.