

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

125 department to file the report without penalty. A failure to
126 submit the report by the end of any extension granted by the
127 department shall result in the forfeiture of tax credits and
128 a recapture of withholding tax as provided in subdivision
129 (1) of this subsection. A qualified company that had an
130 annual report due between January 1, 2020, and September 1,
131 2021, shall not be subject to the forfeiture of tax credits
132 attributable to the year for which the reporting was
133 required or to the recapture of withholding taxes retained
134 by the qualified company or qualified military project
135 during such year so long as the annual report is filed with
136 the department by November 1, 2021.

137 4. The department may withhold the approval of any
138 benefits under this program until it is satisfied that
139 proper documentation has been provided, and shall reduce the
140 benefits to reflect any reduction in full-time employees or
141 payroll. Upon approval by the department, the qualified
142 company may begin the retention of the withholding taxes
143 when it reaches the required number of jobs and the average
144 wage meets or exceeds the applicable percentage of county
145 average wage. Tax credits, if any, may be issued upon
146 satisfaction by the department that the qualified company
147 has exceeded the applicable percentage of county average
148 wage and the required number of jobs; provided that, tax
149 credits awarded under subsection 7 of section 620.2010 may
150 be issued following the qualified company's acceptance of
151 the department's proposal and pursuant to the requirements
152 set forth in the written agreement between the department
153 and the qualified company under subsection 4 of section
154 620.2010.

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

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

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

171 7. (1) The maximum amount of tax credits that may be
172 authorized under this program for any fiscal year shall be
173 limited as follows, less the amount of any tax credits
174 previously obligated for that fiscal year under any of the
175 tax credit programs referenced in subsection 14 of this
176 section:

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

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

183 (c) For fiscal years beginning on or after July 1,
184 2015, but ending on or before June 30, 2020, no more than
185 one hundred sixteen million dollars in tax credits may be
186 authorized for each fiscal year; and

187 (d) For all fiscal years beginning on or after July 1,
188 2020, no more than one hundred six million dollars in tax
189 credits may be authorized for each fiscal year. The
190 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

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

253 10. Tax credits provided under this program may be
254 claimed against taxes otherwise imposed by chapters 143 and
255 148, and may not be carried forward, but shall be claimed
256 within one year of the close of the taxable year for which

257 they were issued. Tax credits provided under this program
258 may be transferred, sold, or assigned by filing a notarized
259 endorsement thereof with the department that names the
260 transferee, the amount of tax credit transferred, and the
261 value received for the credit, as well as any other
262 information reasonably requested by the department. For a
263 qualified company with flow-through tax treatment to its
264 members, partners, or shareholders, the tax credit shall be
265 allowed to members, partners, or shareholders in proportion
266 to their share of ownership on the last day of the qualified
267 company's tax period.

268 11. Prior to the issuance of tax credits or the
269 qualified company beginning to retain withholding taxes, the
270 department shall verify through the department of revenue
271 and any other applicable state department that the tax
272 credit applicant does not owe any delinquent income, sales,
273 or use tax or interest or penalties on such taxes, or any
274 delinquent fees or assessments levied by any state
275 department and through the department of commerce and
276 insurance that the applicant does not owe any delinquent
277 insurance taxes or other fees. Such delinquency shall not
278 affect the approval, except that any tax credits issued
279 shall be first applied to the delinquency and any amount
280 issued shall be reduced by the applicant's tax delinquency.
281 If the department of revenue, the department of commerce and
282 insurance, or any other state department concludes that a
283 taxpayer is delinquent after June fifteenth but before July
284 first of any year and the application of tax credits to such
285 delinquency causes a tax deficiency on behalf of the
286 taxpayer to arise, then the taxpayer shall be granted thirty
287 days to satisfy the deficiency in which interest, penalties,
288 and additions to tax shall be tolled. After applying all
289 available credits toward a tax delinquency, the

290 administering agency shall notify the appropriate department
291 and that department shall update the amount of outstanding
292 delinquent tax owed by the applicant. If any credits remain
293 after satisfying all insurance, income, sales, and use tax
294 delinquencies, the remaining credits shall be issued to the
295 applicant, subject to the restrictions of other provisions
296 of law.

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

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

304 14. Notwithstanding any provision of law to the
305 contrary, beginning August 28, 2013, no new benefits shall
306 be authorized for any project that had not received from the
307 department a proposal or approval for such benefits prior to
308 August 28, 2013, under the development tax credit program
309 created under sections 32.100 to 32.125, the rebuilding
310 communities tax credit program created under section
311 135.535, the enhanced enterprise zone tax credit program
312 created under sections 135.950 to 135.973, and the Missouri
313 quality jobs program created under sections 620.1875 to
314 620.1890. The provisions of this subsection shall not be
315 construed to limit or impair the ability of any
316 administering agency to authorize or issue benefits for any
317 project that had received an approval or a proposal from the
318 department under any of the programs referenced in this
319 subsection prior to August 28, 2013, or the ability of any
320 taxpayer to redeem any such tax credits or to retain any
321 withholding tax under an approval issued prior to that
322 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;

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

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

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

363 17. The department may adopt such rules, statements of
364 policy, procedures, forms, and guidelines as may be
365 necessary to carry out the provisions of sections 620.2000
366 to 620.2020. Any rule or portion of a rule, as that term is
367 defined in section 536.010, that is created under the
368 authority delegated in this section shall become effective
369 only if it complies with and is subject to all of the
370 provisions of chapter 536 and, if applicable, section
371 536.028. This section and chapter 536 are nonseverable and
372 if any of the powers vested with the general assembly
373 pursuant to chapter 536 to review, to delay the effective
374 date, or to disapprove and annul a rule are subsequently
375 held unconstitutional, then the grant of rulemaking
376 authority and any rule proposed or adopted after August 28,
377 2013, shall be invalid and void.

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

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

382 (2) If such program is reauthorized, the program
383 authorized under this section shall automatically sunset
384 twelve years after the effective date of the reauthorization
385 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.