

**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.