

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

60 new notice of intent as well as all previously approved
61 notices of intent and shall determine the application of the
62 definitions of new job, new payroll, project facility base
63 employment, and project facility base payroll accordingly.

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

81 3. (1) A qualified company or qualified military
82 project receiving benefits under this program shall provide
83 an annual report of the number of jobs, along with minority
84 jobs created or retained, and such other information as may
85 be required by the department to document the basis for
86 program benefits available no later than ninety days prior
87 to the end of the qualified company's or industrial
88 development authority's tax year immediately following the
89 tax year for which the benefits provided under the program
90 are attributed. In such annual report, if the average wage
91 is below the applicable percentage of the county average
92 wage, the qualified company or qualified military project

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

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

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

140 4. The department may withhold the approval of any
141 benefits under this program until it is satisfied that
142 proper documentation has been provided, and shall reduce the
143 benefits to reflect any reduction in full-time employees or
144 payroll. Upon approval by the department, the qualified
145 company may begin the retention of the withholding taxes
146 when it reaches the required number of jobs and the average
147 wage meets or exceeds the applicable percentage of county
148 average wage. Tax credits, if any, may be issued upon
149 satisfaction by the department that the qualified company
150 has exceeded the applicable percentage of county average
151 wage and the required number of jobs; provided that, tax
152 credits awarded under subsection 7 of section 620.2010 may
153 be issued following the qualified company's acceptance of
154 the department's proposal and pursuant to the requirements
155 set forth in the written agreement between the department
156 and the qualified company under subsection 4 of section
157 620.2010.

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.

256 10. Tax credits provided under this program may be
257 claimed against taxes otherwise imposed by chapters 143 and
258 148, and may not be carried forward, but shall be claimed
259 within one year of the close of the taxable year for which
260 they were issued. Tax credits provided under this program
261 may be transferred, sold, or assigned by filing a notarized
262 endorsement thereof with the department that names the
263 transferee, the amount of tax credit transferred, and the
264 value received for the credit, as well as any other
265 information reasonably requested by the department. For a
266 qualified company with flow-through tax treatment to its
267 members, partners, or shareholders, the tax credit shall be
268 allowed to members, partners, or shareholders in proportion
269 to their share of ownership on the last day of the qualified
270 company's tax period.

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

322 subsection prior to August 28, 2013, or the ability of any
323 taxpayer to redeem any such tax credits or to retain any
324 withholding tax under an approval issued prior to that
325 date. The provisions of this subsection shall not be
326 construed to limit or in any way impair the ability of any
327 governing authority to provide any local abatement or
328 designate a new zone under the enhanced enterprise zone
329 program created by sections 135.950 to 135.963.

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

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

336 (2) Receive benefits under the provisions of section
337 620.1910 for the same jobs.

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

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

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

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

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

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

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

366 17. The department may adopt such rules, statements of
367 policy, procedures, forms, and guidelines as may be
368 necessary to carry out the provisions of sections 620.2000
369 to 620.2020. Any rule or portion of a rule, as that term is
370 defined in section 536.010, that is created under the
371 authority delegated in this section shall become effective
372 only if it complies with and is subject to all of the
373 provisions of chapter 536 and, if applicable, section
374 536.028. This section and chapter 536 are nonseverable and
375 if any of the powers vested with the general assembly
376 pursuant to chapter 536 to review, to delay the effective
377 date, or to disapprove and annul a rule are subsequently
378 held unconstitutional, then the grant of rulemaking
379 authority and any rule proposed or adopted after August 28,
380 2013, shall be invalid and void.

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

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

385 (2) If such program is reauthorized, the program
386 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.