

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By

1 AMEND Senate Substitute No. 2 for Senate Committee Substitute for Senate Bill No. 802, Page 3,  
2 Section 37.020, Line 68, by inserting immediately after all of said section and line the following:

3  
4 "620.1940 1. This section shall be known and may be cited as the "Missouri Minority  
5 Business Loan Program".

6 2. As used in this section, unless the context clearly indicates otherwise, the following terms  
7 mean:

8 (1) "Commission", the Missouri minority business advocacy commission established under  
9 section 37.014;

10 (2) "Department", the department of economic development;

11 (3) "Member of a minority", any individual who has been subjected to racial or ethnic  
12 prejudice or cultural bias because of their identity as a member of a group without regard to their  
13 individual qualities. Such groups shall include, but not be limited to, groups based on race, color,  
14 religion, sex, or national origin;

15 (4) "Minority business enterprise", a socially and economically disadvantaged small  
16 business concern that is organized for profit, that is performing a commercially useful function, and  
17 that is owned and controlled by another minority business enterprise or one or more members of a  
18 minority, at least fifty percent of whom are resident citizens of this state;

19 (5) "Owned and controlled", one or more entities control at least sixty percent of the  
20 management and daily business operations of the business, and:

21 (a) For a corporation, one or more entities own at least sixty percent of the voting stock; or

22 (b) For all other forms of businesses, one or more entities own at least sixty percent of the  
23 business;

24 (6) "Qualified entity", a planning and development district, a small business investment  
25 corporation, a bank-based community development corporation, or other entity that meets the  
26 requirements established by the department;

27 (7) "Socially and economically disadvantaged small business concern", the same meaning as  
28 ascribed under the Small Business Act, 15 U.S.C.S., Section 637(a). However, an individual whose  
29 personal net worth exceeds five hundred thousand dollars shall not be considered economically  
30 disadvantaged.

31 3. The department may loan or grant funds to a qualified entity for the purpose of  
32 establishing loan revolving funds to assist in financing the economic development of minority  
33 businesses. The moneys loaned or granted by the department shall be drawn from the general  
34 revenue fund and shall not exceed twenty-nine million dollars in the aggregate.

35 4. Qualified entities that receive moneys pursuant to this provision shall use such moneys to  
36 make loans to minority businesses consistent with requirements established by the department.

Action Taken \_\_\_\_\_ Date \_\_\_\_\_

1 Such requirements shall include, at a minimum:

2 (1) The minority business shall be a private, for-profit enterprise;

3 (2) If the minority business enterprise is a proprietorship, the borrower shall be a resident  
4 citizen of this state or, if the minority business enterprise is a corporation or partnership, at least  
5 fifty percent of the owners shall be resident citizens of this state;

6 (3) The borrower shall have at least five percent equity interest in the minority business  
7 enterprise;

8 (4) The borrower shall demonstrate an ability to repay the loan;

9 (5) The borrower shall not be in default of any previous loan from the state or federal  
10 government;

11 (6) Loan proceeds shall be used for financing project costs associated with the development  
12 or expansion of a small business including, but not limited to, fixed assets, working capital, start-up  
13 costs, rental payments, interest expenses during construction, and professional fees related to the  
14 project; and

15 (7) Loan proceeds shall not be used to pay off existing debt for loan consolidation purposes;  
16 to finance the acquisition, construction, improvement, or operation of real property which shall be  
17 held primarily for sale or investment; to provide for or free funds for speculation in any kind of  
18 property; or as a loan to owners, partners, or stockholders of the applicant that do not change  
19 ownership interest by the applicant. However, this shall not apply to ordinary compensation for  
20 services rendered in the course of business.

21 5. The maximum amount that may be loaned to any one borrower shall not exceed fifty  
22 percent of the total project costs or five million dollars, whichever is less. No loan shall exceed  
23 seven years if for working capital, ten years if for machinery, or fifteen years if for land and  
24 buildings. The interest rate on the loan may range from two percent below or two percent above the  
25 Federal Reserve discount rate.

26 6. The commission shall review each loan before issuance, and no loan shall be made to any  
27 borrower until the loan has been reviewed and approved by the commission.

28 7. If this program expires or is terminated, moneys not loaned or granted by the department  
29 to qualified entities under this section and moneys not loaned by qualified entities shall be deposited  
30 to the credit of the general revenue fund.

31 8. Notwithstanding any other provision under this section to the contrary, if federal funds  
32 are not available for commitments made by a qualified entity to provide assistance under any federal  
33 loan program administered by such qualified entity in coordination with the Economic Development  
34 Administration, such qualified entity may use funds that are not otherwise committed to provide  
35 assistance in its loan revolving fund for the purpose of providing temporary funding for such  
36 commitments. If a qualified entity uses uncommitted funds in its loan revolving fund to provide  
37 such temporary funding, the district shall use funds repaid to the district under the temporarily  
38 funded federal loan program to replenish the funds used to provide the temporary funding. Funds  
39 used by a qualified entity to provide temporary funding under this subsection shall be repaid to the  
40 qualified entity's loan revolving fund no later than twelve months after the date the qualified entity  
41 provides the temporary funding. A qualified entity shall not use uncommitted funds in its loan  
42 revolving fund to provide temporary funding under this subsection on more than two occasions  
43 during a calendar year. A qualified entity may provide temporary funding for multiple  
44 commitments on each such occasion. The maximum aggregate amount of uncommitted funds in a  
45 loan revolving fund that may be used for such purposes during a calendar year shall not exceed  
46 seventy percent of the uncommitted funds in the loan revolving fund on the date the qualified entity  
47 first provides temporary funding during the calendar year.

48 9. If the department determines that a qualified entity provides loans to minority businesses

1 in a manner inconsistent with the provisions of this section, then the department shall withhold the  
2 amount of such loans from any additional grant of funds under this section to such qualified entity.  
3 If the department determines, after notifying such qualified entity twice in writing and providing  
4 such qualified entity a reasonable opportunity to comply, that a qualified entity has consistently  
5 failed to comply with this subsection, the department shall declare such qualified entity in default  
6 under this section. Upon receipt of notice thereof from the department, such qualified entity shall  
7 immediately cease providing loans under this section, shall refund all funds held in its revolving  
8 loan fund to the department for distribution to other qualified entities, and, if required by the  
9 department, shall convey all administrative and management control of loans provided by it under  
10 this section to the department.

11 10. If the department determines that a qualified entity administering a revolving loan fund  
12 under the provisions of this subsection is not actively engaged in lending as defined by the rules and  
13 regulations of the department, after notifying such qualified entity, the commission, and each  
14 legislative member whose district such qualified entity is located, in whole or in part, twice in  
15 writing and after providing such qualified entity a reasonable opportunity to take corrective action,  
16 the department shall declare such qualified entity in default under this section. Upon receipt of  
17 notice thereof from the department, such qualified entity shall immediately cease providing loans  
18 under this section, shall refund all funds held in its revolving loan fund to the department for  
19 distribution to other qualified entities, and, if required by the department, shall convey all  
20 administrative and management control of loans provided by it under this section to the department.

21 11. The department shall develop a program that will assist minority business enterprises by  
22 guaranteeing bid, performance, and payment bonds that such minority business enterprises are  
23 required to obtain in order to contract with federal agencies, state agencies, or political subdivisions  
24 of the state. The department, as it determines necessary, may secure letters of credit to guarantee  
25 bid, performance, and payment bonds under this subsection. Moneys for such program shall be  
26 drawn from the moneys allocated under subsection 3 of this section to assist the financing of  
27 minority economic development and shall not exceed five million dollars in the aggregate.

28 12. The department may promulgate rules to implement the provisions of this section. Any  
29 rule or portion of a rule, as that term is defined in section 536.010, that is created under the  
30 authority delegated in this section shall become effective only if it complies with and is subject to  
31 all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter  
32 536 are nonseverable, and if any of the powers vested with the general assembly pursuant to chapter  
33 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held  
34 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after  
35 August 28, 2018, shall be invalid and void.

36 13. Under section 23.253 of the Missouri sunset act: (1) The provisions of the  
37 new program authorized under this section shall automatically sunset six years after the effective  
38 date of this section unless reauthorized by an act of the general assembly;

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

41 (3) This section shall terminate on September first of the calendar year immediately  
42 following the calendar year in which the program authorized under this section is sunset."; and

43  
44 Further amend said bill by amending the title, enacting clause, and intersectional references  
45 accordingly.