

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

Offered By

1 AMEND Senate Bill No. 36, Page 1, Section A, Line 3, by inserting after all of said section and line  
2 the following:

3  
4 "620.2020. 1. The department shall respond to a written request, by or on behalf of a  
5 qualified company or qualified military project, for a proposed benefit award under the provisions of  
6 this program within five business days of receipt of such request. The department shall respond to a  
7 written request, by or on behalf of a qualified manufacturing company, for a proposed benefit award  
8 under the provisions of this program within fifteen business days of receipt of such request. Such  
9 response shall contain either a proposal of benefits for the qualified company or qualified military  
10 project, or a written response refusing to provide such a proposal and stating the reasons for such  
11 refusal. A qualified company or qualified military project that intends to seek benefits under the  
12 program shall submit to the department a notice of intent. The department shall respond within  
13 thirty days to a notice of intent with an approval or a rejection, provided that the department may  
14 withhold approval or provide a contingent approval until it is satisfied that proper documentation of  
15 eligibility has been provided. The department shall certify or reject the qualifying company's plan  
16 outlined in their notice of intent as satisfying good faith efforts made to employ, at a minimum,  
17 commensurate with the percentage of minority populations in the state of Missouri, as reported in  
18 the previous decennial census, the following: racial minorities, contractors who are racial minorities,  
19 and contractors that, in turn, employ at a minimum racial minorities commensurate with the  
20 percentage of minority populations in the state of Missouri, as reported in the previous decennial  
21 census. Failure to respond on behalf of the department shall result in the notice of intent being  
22 deemed approved. A qualified company receiving approval for program benefits may receive  
23 additional benefits for subsequent new jobs at the same facility after the full initial project period if  
24 the applicable minimum job requirements are met. There shall be no limit on the number of project  
25 periods a qualified company may participate in the program, and a qualified company may elect to  
26 file a notice of intent to begin a new project period concurrent with an existing project period if the  
27 applicable minimum job requirements are achieved, the qualified company provides the department  
28 with the required annual reporting, and the qualified company is in compliance with this program  
29 and any other state programs in which the qualified company is currently or has previously  
30 participated. However, the qualified company shall not receive any further program benefits under  
31 the original approval for any new jobs created after the date of the new notice of intent, and any jobs  
32 created before the new notice of intent shall not be included as new jobs for purposes of the benefit  
33 calculation for the new approval. When a qualified company has filed and received approval of a  
34 notice of intent and subsequently files another notice of intent, the department shall apply the  
35 definition of project facility under subdivision (24) of section 620.2005 to the new notice of intent  
36 as well as all previously approved notices of intent and shall determine the application of the

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

1 definitions of new job, new payroll, project facility base employment, and project facility base  
2 payroll accordingly.

3 2. Notwithstanding any provision of law to the contrary, the benefits available to the  
4 qualified company under any other state programs for which the company is eligible and which  
5 utilize withholding tax from the new or retained jobs of the company shall first be credited to the  
6 other state program before the withholding retention level applicable under this program will begin  
7 to accrue. If any qualified company also participates in a job training program utilizing withholding  
8 tax, the company shall retain no withholding tax under this program, but the department shall issue a  
9 refundable tax credit for the full amount of benefit allowed under this program. The calendar year  
10 annual maximum amount of tax credits which may be issued to a qualifying company that also  
11 participates in a job training program shall be increased by an amount equivalent to the withholding  
12 tax retained by that company under a jobs training program.

13 3. (1) A qualified company or qualified military project receiving benefits under this  
14 program shall provide an annual report of the number of jobs, along with minority jobs created or  
15 retained, and such other information as may be required by the department to document the basis for  
16 program benefits available no later than ninety days prior to the end of the qualified company's or  
17 industrial development authority's tax year immediately following the tax year for which the  
18 benefits provided under the program are attributed. In such annual report, if the average wage is  
19 below the applicable percentage of the county average wage, the qualified company or qualified  
20 military project has not maintained the employee insurance as required, if the department after a  
21 review determines the qualifying company fails to satisfy other aspects of their notice of intent,  
22 including failure to make good faith efforts to employ, at a minimum, commensurate with the  
23 percentage of minority populations in the state of Missouri, as reported in the previous decennial  
24 census, the following: racial minorities, contractors who are racial minorities, and contractors that,  
25 in turn, employ at a minimum racial minorities commensurate with the percentage of minority  
26 populations in the state of Missouri, as reported in the previous decennial census, or if the number of  
27 jobs is below the number required, the qualified company or qualified military project shall not  
28 receive tax credits or retain the withholding tax for the balance of the project period. Failure to  
29 timely file the annual report required under this section shall result in the forfeiture of tax credits  
30 attributable to the year for which the reporting was required and a recapture of withholding taxes  
31 retained by the qualified company or qualified military project during such year.

32 (2) If a qualified company fails to timely file the annual report required in subdivision (1) of  
33 this subsection, the department shall communicate with an employee that is separate from the  
34 original point of contact for the department, provided such employee is designated in writing by the  
35 qualified company and preferably of an equivalent or higher supervisory role than the original point  
36 of contact, and using multiple means of communications if necessary, to inform the qualified  
37 company of the failure to timely file the annual report. If the qualified company requests an  
38 extension in writing to the department within thirty days following the deadline to file the annual  
39 report, the department shall grant one thirty-day extension beginning on the date that the request  
40 was received by the department to file the report without penalty. A failure to submit the report by  
41 the end of any extension granted by the department shall result in the forfeiture of tax credits and a  
42 recapture of withholding tax as provided in subdivision (1) of this subsection. A qualified company  
43 that had an annual report due between January 1, 2020, and September 1, 2021, shall not be subject  
44 to the forfeiture of tax credits attributable to the year for which the reporting was required or to the  
45 recapture of withholding taxes retained by the qualified company or qualified military project during  
46 such year so long as the annual report is filed with the department by November 1, 2021.

47 4. The department may withhold the approval of any benefits under this program until it is  
48 satisfied that proper documentation has been provided, and shall reduce the benefits to reflect any  
49 reduction in full-time employees or payroll. Upon approval by the department, the qualified

1 company may begin the retention of the withholding taxes when it reaches the required number of  
2 jobs and the average wage meets or exceeds the applicable percentage of county average wage. Tax  
3 credits, if any, may be issued upon satisfaction by the department that the qualified company has  
4 exceeded the applicable percentage of county average wage and the required number of jobs;  
5 provided that, tax credits awarded under subsection 7 of section 620.2010 may be issued following  
6 the qualified company's acceptance of the department's proposal and pursuant to the requirements  
7 set forth in the written agreement between the department and the qualified company under  
8 subsection 4 of section 620.2010.

9 5. Any qualified company or qualified military project approved for benefits under this  
10 program shall provide to the department, upon request, any and all information and records  
11 reasonably required to monitor compliance with program requirements. This program shall be  
12 considered a business recruitment tax credit under subdivision (4) of subsection 2 of section  
13 135.800, and any qualified company or qualified military project approved for benefits under this  
14 program shall be subject to the provisions of sections 135.800 to 135.830.

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

19 7. (1) The maximum amount of tax credits that may be authorized under this program for  
20 any fiscal year shall be limited as follows, less the amount of any tax credits previously obligated  
21 for that fiscal year under any of the tax credit programs referenced in subsection 14 of this section:

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

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

26 (c) For fiscal years beginning on or after July 1, 2015, but ending on or before June 30,  
27 2020, no more than one hundred sixteen million dollars in tax credits may be authorized for each  
28 fiscal year; and

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

33 (2) For all fiscal years beginning on or after July 1, 2020, in addition to the amount of tax  
34 credits that may be authorized under paragraph (d) of subdivision (1) of this subsection, an  
35 additional ten million dollars in tax credits may be authorized for each fiscal year for the purpose of  
36 the completion of infrastructure projects directly connected with the creation or retention of jobs  
37 under the provisions of sections 620.2000 to 620.2020 and an additional ten million dollars in tax  
38 credits may be authorized for each fiscal year for a qualified manufacturing company based on a  
39 manufacturing capital investment as set forth in section 620.2010.

40 8. For all fiscal years beginning on or after July 1, 2020, the maximum total amount of  
41 withholding tax that may be authorized for retention for the creation of new jobs under the  
42 provisions of sections 620.2000 to 620.2020 by qualified companies with a project facility base  
43 employment of at least fifty shall not exceed seventy-five million dollars for each fiscal year. The  
44 provisions of this subsection shall not apply to withholding tax authorized for retention for the  
45 creation of new jobs by qualified companies with a project facility base employment of less than  
46 fifty.

47 9. For tax credits for the creation of new jobs under section 620.2010, the department shall  
48 allocate the annual tax credits based on the date of the approval, reserving such tax credits based on  
49 the department's best estimate of new jobs and new payroll of the project, and any other applicable

1 factors in determining the amount of benefits available to the qualified company or qualified  
2 military project under this program; provided that, the department may reserve up to twenty-one and  
3 one-half percent of the maximum annual amount of tax credits that may be authorized under  
4 subsection 7 of this section for award under subsection 7 of section 620.2010. However, the annual  
5 issuance of tax credits shall be subject to annual verification of actual payroll by the department or,  
6 for qualified military projects, annual verification of average salary for the jobs directly created by  
7 the qualified military project. Any authorization of tax credits shall expire if, within two years from  
8 the date of commencement of operations, or approval if applicable, the qualified company has failed  
9 to meet the applicable minimum job requirements. The qualified company may retain authorized  
10 amounts from the withholding tax under the project once the applicable minimum job requirements  
11 have been met for the duration of the project period. No benefits shall be provided under this  
12 program until the qualified company or qualified military project meets the applicable minimum  
13 new job requirements or, for benefits awarded under subsection 7 of section 620.2010, until the  
14 qualified company has satisfied the requirements set forth in the written agreement between the  
15 department and the qualified company under subsection 4 of section 620.2010. In the event the  
16 qualified company or qualified military project does not meet the applicable minimum new job  
17 requirements, the qualified company or qualified military project may submit a new notice of intent  
18 or the department may provide a new approval for a new project of the qualified company or  
19 qualified military project at the project facility or other facilities.

20 10. Tax credits provided under this program may be claimed against taxes otherwise  
21 imposed by chapters 143 and 148, and may not be carried forward, but shall be claimed within one  
22 year of the close of the taxable year for which they were issued. Tax credits provided under this  
23 program may be transferred, sold, or assigned by filing a notarized endorsement thereof with the  
24 department that names the transferee, the amount of tax credit transferred, and the value received for  
25 the credit, as well as any other information reasonably requested by the department. For a qualified  
26 company with flow-through tax treatment to its members, partners, or shareholders, the tax credit  
27 shall be allowed to members, partners, or shareholders in proportion to their share of ownership on  
28 the last day of the qualified company's tax period.

29 11. Prior to the issuance of tax credits or the qualified company beginning to retain  
30 withholding taxes, the department shall verify through the department of revenue and any other  
31 applicable state department that the tax credit applicant does not owe any delinquent income, sales,  
32 or use tax or interest or penalties on such taxes, or any delinquent fees or assessments levied by any  
33 state department and through the department of commerce and insurance that the applicant does not  
34 owe any delinquent insurance taxes or other fees. Such delinquency shall not affect the approval,  
35 except that any tax credits issued shall be first applied to the delinquency and any amount issued  
36 shall be reduced by the applicant's tax delinquency. If the department of revenue, the department of  
37 commerce and insurance, or any other state department concludes that a taxpayer is delinquent after  
38 June fifteenth but before July first of any year and the application of tax credits to such delinquency  
39 causes a tax deficiency on behalf of the taxpayer to arise, then the taxpayer shall be granted thirty  
40 days to satisfy the deficiency in which interest, penalties, and additions to tax shall be tolled. After  
41 applying all available credits toward a tax delinquency, the administering agency shall notify the  
42 appropriate department and that department shall update the amount of outstanding delinquent tax  
43 owed by the applicant. If any credits remain after satisfying all insurance, income, sales, and use tax  
44 delinquencies, the remaining credits shall be issued to the applicant, subject to the restrictions of  
45 other provisions of law.

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

49 13. An employee of a qualified company shall receive full credit for the amount of tax

1 withheld as provided in section 143.211.

2 14. Notwithstanding any provision of law to the contrary, beginning August 28, 2013, no  
3 new benefits shall be authorized for any project that had not received from the department a  
4 proposal or approval for such benefits prior to August 28, 2013, under the development tax credit  
5 program created under sections 32.100 to 32.125, the rebuilding communities tax credit program  
6 created under section 135.535, the enhanced enterprise zone tax credit program created under  
7 sections 135.950 to 135.973, and the Missouri quality jobs program created under sections 620.1875  
8 to 620.1890. The provisions of this subsection shall not be construed to limit or impair the ability of  
9 any administering agency to authorize or issue benefits for any project that had received an approval  
10 or a proposal from the department under any of the programs referenced in this subsection prior to  
11 August 28, 2013, or the ability of any taxpayer to redeem any such tax credits or to retain any  
12 withholding tax under an approval issued prior to that date. The provisions of this subsection shall  
13 not be construed to limit or in any way impair the ability of any governing authority to provide any  
14 local abatement or designate a new zone under the enhanced enterprise zone program created by  
15 sections 135.950 to 135.963. Notwithstanding any provision of law to the contrary, no qualified  
16 company that is awarded benefits under this program shall:

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

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

20 15. If any provision of sections 620.2000 to 620.2020 or application thereof to any person or  
21 circumstance is held invalid, the invalidity shall not affect other provisions or application of these  
22 sections which can be given effect without the invalid provisions or application, and to this end, the  
23 provisions of sections 620.2000 to 620.2020 are hereby declared severable.

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

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

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

31 (3) A statement of the aggregate amount of new capital investment directly attributable to  
32 the tax credits authorized;

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

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

37 17. The department may adopt such rules, statements of policy, procedures, forms, and  
38 guidelines as may be necessary to carry out the provisions of sections 620.2000 to 620.2020. Any  
39 rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority  
40 delegated in this section shall become effective only if it complies with and is subject to all of the  
41 provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are  
42 nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to  
43 review, to delay the effective date, or to disapprove and annul a rule are subsequently held  
44 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after  
45 August 28, 2013, shall be invalid and void.

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

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

49 (2) If such program is reauthorized, the program authorized under this section shall

1 automatically sunset twelve years after the effective date of the reauthorization of sections 620.2000  
2 to 620.2020; and

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

6  
7 Further amend said bill by amending the title, enacting clause, and intersectional references  
8 accordingly.