

SENATE AMENDMENT NO. _____

Offered by _____ of _____

Amend SS/House Bill No. 2400, Page 1, Section A, Line 3,

2 by inserting after all of said line the following:

3 "135.110. 1. Any taxpayer who shall establish a new
 4 business facility shall be allowed a credit, each year for
 5 ten years, in an amount determined pursuant to subsection 2
 6 or 3 of this section, whichever is applicable, against the
 7 tax imposed by chapter 143, excluding withholding tax
 8 imposed by sections 143.191 to 143.265, or an insurance
 9 company which shall establish a new business facility by
 10 satisfying the requirements in subdivision (9) of section
 11 135.100 shall be allowed a credit against the tax otherwise
 12 imposed by chapter 148, and in the case of an insurance
 13 company exempt from the thirty percent employee requirement
 14 of section 135.230, against any obligation imposed pursuant
 15 to section 375.916, except that no taxpayer shall be
 16 entitled to multiple ten-year periods for subsequent
 17 expansions at the same facility, except as otherwise
 18 provided in this section. For the purpose of this section,
 19 the term "facility" shall mean, and be limited to, the
 20 facility or facilities which are located on the same site in
 21 which the new business facility is located, and in which the
 22 business conducted at such facility or facilities is
 23 directly related to the business conducted at the new
 24 business facility. Notwithstanding the provisions of this
 25 subsection, a taxpayer may be entitled to an additional ten-
 26 year period, and an additional six-year period after the

27 expiration of such additional ten-year period, if a new
28 business facility is expanded in the eighth, ninth or tenth
29 year of the current ten-year period or in subsequent years
30 following the expiration of the ten-year period, if the
31 number of new business facility employees attributed to such
32 expansion is at least twenty-five and the amount of new
33 business facility investment attributed to such expansion is
34 at least one million dollars. Credits may not be carried
35 forward but shall be claimed for the taxable year during
36 which commencement of commercial operations occurs at such
37 new business facility, and for each of the nine succeeding
38 taxable years. A letter of intent, as provided for in
39 section 135.258, must be filed with the department of
40 economic development no later than fifteen days prior to the
41 commencement of commercial operations at the new business
42 facility. The initial application for claiming tax credits
43 must be made in the taxpayer's tax period immediately
44 following the tax period in which commencement of commercial
45 operations began at the new business facility. This
46 provision shall have effect on all initial applications
47 filed on or after August 28, 1992. No credit shall be
48 allowed pursuant to this section unless the number of new
49 business facility employees engaged or maintained in
50 employment at the new business facility for the taxable year
51 for which the credit is claimed equals or exceeds two;
52 except that the number of new business facility employees
53 engaged or maintained in employment by a revenue-producing
54 enterprise other than a revenue-producing enterprise defined
55 in paragraphs (a) to (g) and (i) to (l) of subdivision (12)
56 of section 135.100 which establishes an office as defined in
57 subdivision (9) of section 135.100 shall equal or exceed
58 twenty-five.

59 2. For tax periods beginning after August 28, 1991, in
60 the case of a taxpayer operating an existing business
61 facility, the credit allowed by subsection 1 of this section
62 shall offset the greater of:

63 (1) Some portion of the income tax otherwise imposed
64 by chapter 143, excluding withholding tax imposed by
65 sections 143.191 to 143.265, or in the case of an insurance
66 company, the tax on the direct premiums, as defined in
67 chapter 148, and in the case of an insurance company exempt
68 from the thirty percent employee requirement of section
69 135.230, against any obligation imposed pursuant to section
70 375.916 with respect to such taxpayer's new business
71 facility income for the taxable year for which such credit
72 is allowed; or

73 (2) Up to fifty percent or, in the case of an economic
74 development project located within a distressed community as
75 defined in section 135.530, seventy-five percent of the
76 business income tax otherwise imposed by chapter 143,
77 excluding withholding tax imposed by sections 143.191 to
78 143.265, or in the case of an insurance company, the tax on
79 the direct premiums, as defined in chapter 148, and in the
80 case of an insurance company exempt from the thirty percent
81 employee requirement of section 135.230, against any
82 obligation imposed pursuant to section 375.916 if the
83 business operates no other facilities in Missouri. In the
84 case of an existing business facility operating more than
85 one facility in Missouri, the credit allowed in subsection 1
86 of this section shall offset up to the greater of the
87 portion prescribed in subdivision (1) of this subsection or
88 twenty-five percent or, in the case of an economic
89 development project located within a distressed community as
90 defined in section 135.530, thirty-five percent of the
91 business' tax, except that no taxpayer operating more than

92 one facility in Missouri shall be allowed to offset more
93 than twenty-five percent or, in the case of an economic
94 development project located within a distressed community as
95 defined in section 135.530, thirty-five percent of the
96 taxpayer's business income tax in any tax period under the
97 method prescribed in this subdivision. Such credit shall be
98 an amount equal to the sum of one hundred dollars or, in the
99 case of an economic development project located within a
100 distressed community as defined in section 135.530, one
101 hundred fifty dollars for each new business facility
102 employee plus one hundred dollars or, in the case of an
103 economic development project located within a distressed
104 community as defined in section 135.530, one hundred fifty
105 dollars for each one hundred thousand dollars, or major
106 fraction thereof (which shall be deemed to be fifty-one
107 percent or more) in new business facility investment. For
108 the purpose of this section, tax credits earned by a
109 taxpayer, who establishes a new business facility because it
110 satisfies the requirements of paragraph (c) of subdivision
111 (5) of section 135.100, shall offset the greater of the
112 portion prescribed in subdivision (1) of this subsection or
113 up to fifty percent or, in the case of an economic
114 development project located within a distressed community as
115 defined in section 135.530, seventy-five percent of the
116 business' tax provided the business operates no other
117 facilities in Missouri. In the case of a business operating
118 more than one facility in Missouri, the credit allowed in
119 subsection 1 of this section shall offset up to the greater
120 of the portion prescribed in subdivision (1) of this
121 subsection or twenty-five percent or, in the case of an
122 economic development project located within a distressed
123 community as defined in section 135.530, thirty-five percent
124 of the business' tax, except that no taxpayer operating more

125 than one facility in Missouri shall be allowed to offset
126 more than twenty-five percent or, in the case of an economic
127 development project located within a distressed community as
128 defined in section 135.530, thirty-five percent of the
129 taxpayer's business income tax in any tax period under the
130 method prescribed in this subdivision.

131 3. For tax periods beginning after August 28, 1991, in
132 the case of a taxpayer not operating an existing business
133 facility, the credit allowed by subsection 1 of this section
134 shall offset the greater of:

135 (1) Some portion of the income tax otherwise imposed
136 by chapter 143, excluding withholding tax imposed by
137 sections 143.191 to 143.265, or in the case of an insurance
138 company, the tax on the direct premiums, as defined in
139 chapter 148, and in the case of an insurance company exempt
140 from the thirty percent employee requirement of section
141 135.230, against any obligation imposed pursuant to section
142 375.916 with respect to such taxpayer's new business
143 facility income for the taxable year for which such credit
144 is allowed; or

145 (2) Up to one hundred percent of the business income
146 tax otherwise imposed by chapter 143, excluding withholding
147 tax imposed by sections 143.191 to 143.265, or in the case
148 of an insurance company, the tax on the direct premiums, as
149 defined in chapter 148, and in the case of an insurance
150 company exempt from the thirty percent employee requirement
151 of section 135.230, against any obligation imposed pursuant
152 to section 375.916 if the business has no other facilities
153 operating in Missouri. In the case of a taxpayer not
154 operating an existing business and operating more than one
155 facility in Missouri, the credit allowed by subsection 1 of
156 this section shall offset up to the greater of the portion
157 prescribed in subdivision (1) of this subsection or twenty-

158 five percent or, in the case of an economic development
159 project located within a distressed community as defined in
160 section 135.530, thirty-five percent of the business' tax,
161 except that no taxpayer operating more than one facility in
162 Missouri shall be allowed to offset more than twenty-five
163 percent or, in the case of an economic development project
164 located within a distressed community as defined in section
165 135.530, thirty-five percent of the taxpayer's business
166 income tax in any tax period under the method prescribed in
167 this subdivision. Such credit shall be an amount equal to
168 the sum of seventy-five dollars or, in the case of an
169 economic development project located within a distressed
170 community as defined in section 135.530, one hundred twenty-
171 five dollars for each new business facility employee plus
172 seventy-five dollars or, in the case of an economic
173 development project located within a distressed community as
174 defined in section 135.530, one hundred twenty-five dollars
175 for each one hundred thousand dollars, or major fraction
176 thereof (which shall be deemed to be fifty-one percent or
177 more) in new business facility investment.

178 4. The number of new business facility employees
179 during any taxable year shall be determined by dividing by
180 twelve the sum of the number of individuals employed on the
181 last business day of each month of such taxable year. If
182 the new business facility is in operation for less than the
183 entire taxable year, the number of new business facility
184 employees shall be determined by dividing the sum of the
185 number of individuals employed on the last business day of
186 each full calendar month during the portion of such taxable
187 year during which the new business facility was in operation
188 by the number of full calendar months during such period.
189 For the purpose of computing the credit allowed by this
190 section in the case of a facility which qualifies as a new

191 business facility because it qualifies as a separate
192 facility pursuant to subsection 6 of this section, and, in
193 the case of a new business facility which satisfies the
194 requirements of paragraph (c) of subdivision (5) of section
195 135.100, or subdivision (11) of section 135.100, the number
196 of new business facility employees at such facility shall be
197 reduced by the average number of individuals employed,
198 computed as provided in this subsection, at the facility
199 during the taxable year immediately preceding the taxable
200 year in which such expansion, acquisition, or replacement
201 occurred and shall further be reduced by the number of
202 individuals employed by the taxpayer or related taxpayer
203 that was subsequently transferred to the new business
204 facility from another Missouri facility and for which
205 credits authorized in this section are not being earned,
206 whether such credits are earned because of an expansion,
207 acquisition, relocation or the establishment of a new
208 facility.

209 5. For the purpose of computing the credit allowed by
210 this section in the case of a facility which qualifies as a
211 new business facility because it qualifies as a separate
212 facility pursuant to subsection 6 of this section, and, in
213 the case of a new business facility which satisfies the
214 requirements of paragraph (c) of subdivision (5) of section
215 135.100 or subdivision (11) of section 135.100, the amount
216 of the taxpayer's new business facility investment in such
217 facility shall be reduced by the average amount, computed as
218 provided in subdivision (8) of section 135.100 for new
219 business facility investment, of the investment of the
220 taxpayer, or related taxpayer immediately preceding such
221 expansion or replacement or at the time of acquisition.
222 Furthermore, the amount of the taxpayer's new business
223 facility investment shall also be reduced by the amount of

224 investment employed by the taxpayer or related taxpayer
225 which was subsequently transferred to the new business
226 facility from another Missouri facility and for which
227 credits authorized in this section are not being earned,
228 whether such credits are earned because of an expansion,
229 acquisition, relocation or the establishment of a new
230 facility.

231 6. If a facility, which does not constitute a new
232 business facility, is expanded by the taxpayer, the
233 expansion shall be considered a separate facility eligible
234 for the credit allowed by this section if:

235 (1) The taxpayer's new business facility investment in
236 the expansion during the tax period in which the credits
237 allowed in this section are claimed exceeds one hundred
238 thousand dollars, or, if less, one hundred percent of the
239 investment in the original facility prior to expansion and
240 if the number of new business facility employees engaged or
241 maintained in employment at the expansion facility for the
242 taxable year for which credit is claimed equals or exceeds
243 two, except that the number of new business facility
244 employees engaged or maintained in employment at the
245 expansion facility for the taxable year for which the credit
246 is claimed equals or exceeds twenty-five if an office as
247 defined in subdivision (9) of section 135.100 is established
248 by a revenue-producing enterprise other than a revenue-
249 producing enterprise defined in paragraphs (a) to (g) and
250 (i) to (l) of subdivision (12) of section 135.100 and the
251 total number of employees at the facility after the
252 expansion is at least two greater than the total number of
253 employees before the expansion, except that the total number
254 of employees at the facility after the expansion is at least
255 greater than the number of employees before the expansion by
256 twenty-five, if an office as defined in subdivision (9) of

257 section 135.100 is established by a revenue-producing
258 enterprise other than a revenue-producing enterprise defined
259 in paragraphs (a) to (g) and (i) to (l) of subdivision (12)
260 of section 135.100; and

261 (2) The expansion otherwise constitutes a new business
262 facility. The taxpayer's investment in the expansion and in
263 the original facility prior to expansion shall be determined
264 in the manner provided in subdivision (8) of section 135.100.

265 7. No credit shall be allowed pursuant to this section
266 to a public utility, as such term is defined in section
267 386.020. Notwithstanding any provision of this subsection to
268 the contrary, motor carriers, barge lines or railroads
269 engaged in transporting property for hire, or any
270 interexchange telecommunications company or local exchange
271 telecommunications company that establishes a new business
272 facility shall be eligible to qualify for credits allowed in
273 this section.

274 8. For the purposes of the credit described in this
275 section, in the case of a corporation described in section
276 143.471 or partnership, in computing Missouri's tax
277 liability, this credit shall be allowed to the following:

278 (1) The shareholders of the corporation described in
279 section 143.471;

280 (2) The partners of the partnership. This credit
281 shall be apportioned to the entities described in
282 subdivisions (1) and (2) of this subsection in proportion to
283 their share of ownership on the last day of the taxpayer's
284 tax period.

285 9. Notwithstanding any provision of law to the
286 contrary, any employee-owned engineering firm classified as
287 SIC 8711, architectural firm as classified SIC 8712, or
288 accounting firm classified SIC 8721 establishing a new
289 business facility because it qualifies as a headquarters as

290 defined in subsection 10 of this section, shall be allowed
291 the credits described in subsection 11 of this section under
292 the same terms and conditions prescribed in sections 135.100
293 to 135.150; provided:

294 (1) Such facility maintains an average of at least
295 five hundred new business facility employees as defined in
296 subdivision (6) of section 135.100 during the taxpayer's tax
297 period in which such credits are being claimed; and

298 (2) Such facility maintains an average of at least
299 twenty million dollars in new business facility investment
300 as defined in subdivision (8) of section 135.100 during the
301 taxpayer's tax period in which such credits are being
302 claimed.

303 10. For the purpose of the credits allowed in
304 subsection 9 of this section:

305 (1) "Employee-owned" means the business employees own
306 directly or indirectly, including through an employee stock
307 ownership plan or trust at least:

308 (a) Seventy-five percent of the total business stock,
309 if the taxpayer is a corporation described in section
310 143.441; or

311 (b) One hundred percent of the interest in the
312 business if the taxpayer is a corporation described in
313 section 143.471, a partnership, or a limited liability
314 company; and

315 (2) "Headquarters" means:

316 (a) The administrative management of at least three
317 integrated facilities operated by the taxpayer or related
318 taxpayer; and

319 (b) The taxpayer's business has been headquartered in
320 this state for more than fifty years.

321 11. The tax credits allowed in subsection 9 of this
322 section shall be the greater of:

323 (1) Four hundred dollars for each new business
324 facility employee as computed in subsection 4 of this
325 section and four percent of new business facility investment
326 as computed in subsection 5 of this section; or

327 (2) Five hundred dollars for each new business
328 facility employee as computed in subsection 4 of this
329 section, and five hundred dollars of each one hundred
330 thousand dollars of new business facility investment as
331 computed in subsection 5 of this section.

332 12. For the purpose of the credit described in
333 subsection 9 of this section, in the case of a small
334 corporation described in section 143.471, or a partnership,
335 or a limited liability company, the credits allowed in
336 subsection 9 of this section shall be apportioned in
337 proportion to the share of ownership of each shareholder,
338 partner or stockholder on the last day of the taxpayer's tax
339 period for which such credits are being claimed.

340 13. For the purpose of the credit described in
341 subsection 9 of this section, tax credits earned, to the
342 extent such credits exceed the taxpayer's Missouri tax on
343 taxable business income, shall constitute an overpayment of
344 taxes and in such case, be refunded to the taxpayer provided
345 such refunds are used by the taxpayer to purchase specified
346 facility items. For the purpose of the refund as authorized
347 in this subsection, "specified facility items" means
348 equipment, computers, computer software, copiers, tenant
349 finishing, furniture and fixtures installed and in use at
350 the new business facility during the taxpayer's taxable
351 year. The taxpayer shall perfect such refund by attesting
352 in writing to the director, subject to the penalties of
353 perjury, the requirements prescribed in this subsection have
354 been met and submitting any other information the director
355 may require.

356 14. Notwithstanding any provision of law to the
357 contrary, any taxpayer may sell, assign, exchange, convey or
358 otherwise transfer tax credits allowed in subsection 9 of
359 this section under the terms and conditions prescribed in
360 subdivisions (1) and (2) of this subsection. Such taxpayer,
361 referred to as the assignor for the purpose of this
362 subsection, may sell, assign, exchange or otherwise transfer
363 earned tax credits:

364 (1) For no less than seventy-five percent of the par
365 value of such credits; and

366 (2) In an amount not to exceed one hundred percent of
367 such earned credits. The taxpayer acquiring the earned
368 credits referred to as the assignee for the purpose of this
369 subsection may use the acquired credits to offset up to one
370 hundred percent of the tax liabilities otherwise imposed by
371 chapter 143, excluding withholding tax imposed by sections
372 143.191 to 143.261, or chapter 148, or in the case of an
373 insurance company exempt from the thirty percent employee
374 requirement of section 135.230, against any obligation
375 imposed pursuant to section 375.916. Unused credits in the
376 hands of the assignee may be carried forward for up to five
377 tax periods, provided all such credits shall be claimed
378 within ten tax periods following the tax period in which
379 commencement of commercial operations occurred at the new
380 business facility. The assignor shall enter into a written
381 agreement with the assignee establishing the terms and
382 conditions of the agreement and shall perfect such transfer
383 by notifying the director in writing within thirty calendar
384 days following the effective date of the transfer and shall
385 provide any information as may be required by the director
386 to administer and carry out the provisions of this
387 subsection. Notwithstanding any other provision of law to
388 the contrary, the amount received by the assignor of such

389 tax credit shall be taxable as income of the assignor, and
390 the difference between the amount paid by the assignee and
391 the par value of the credits shall be taxable as income of
392 the assignee.

393 135.155. 1. Notwithstanding any provision of the law
394 to the contrary, no revenue-producing enterprise other than
395 headquarters as defined in subsection 10 of section 135.110
396 shall receive the incentives set forth in sections 135.100
397 to 135.150 for facilities commencing operations on or after
398 January 1, 2005. No headquarters shall receive the
399 incentives set forth in subsections 9 to 14 of section
400 135.110 for facilities commencing or expanding operations on
401 or after January 1, ~~2025~~ 2031.

402 2. Notwithstanding subsection 9 of section 135.110 to
403 the contrary, expansions at headquarters facilities shall
404 each be considered a separate new business facility and each
405 be entitled to the credits as set forth in subsections 9 to
406 14 of section 135.110 if the number of new business facility
407 employees attributed to each such expansion is at least
408 twenty-five and the amount of new business facility
409 investment attributed to each such expansion is at least one
410 million dollars. In any year in which a new business
411 facility is not created, the jobs and investment for that
412 year shall be included in calculating the credits for the
413 most recent new business facility and not an earlier created
414 new business facility.

415 3. Notwithstanding any provision of law to the
416 contrary, for headquarters, buildings on multiple
417 noncontiguous real properties shall be considered one
418 facility if the buildings are located within the same county
419 or within the same municipality."; and

420 Further amend the title and enacting clause accordingly.