

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for Senate Bill No. 18, Page 5, Section 37.850, Line 35, by
2 inserting after all of said section the following:

3 "143.121. 1. The Missouri adjusted gross income of a resident individual shall be the
4 taxpayer's federal adjusted gross income subject to the modifications in this section.

5 2. There shall be added to the taxpayer's federal adjusted gross income:

6 (1) The amount of any federal income tax refund received for a prior year which resulted in
7 a Missouri income tax benefit;

8 (2) Interest on certain governmental obligations excluded from federal gross income by
9 Section 103 of the Internal Revenue Code. The previous sentence shall not apply to interest on
10 obligations of the state of Missouri or any of its political subdivisions or authorities and shall not
11 apply to the interest described in subdivision (1) of subsection 3 of this section. The amount added
12 pursuant to this subdivision shall be reduced by the amounts applicable to such interest that would
13 have been deductible in computing the taxable income of the taxpayer except only for the application
14 of Section 265 of the Internal Revenue Code. The reduction shall only be made if it is at least five
15 hundred dollars;

16 (3) The amount of any deduction that is included in the computation of federal taxable
17 income pursuant to Section 168 of the Internal Revenue Code as amended by the Job Creation and
18 Worker Assistance Act of 2002 to the extent the amount deducted relates to property purchased on or
19 after July 1, 2002, but before July 1, 2003, and to the extent the amount deducted exceeds the
20 amount that would have been deductible pursuant to Section 168 of the Internal Revenue Code of
21 1986 as in effect on January 1, 2002;

22 (4) The amount of any deduction that is included in the computation of federal taxable
23 income for net operating loss allowed by Section 172 of the Internal Revenue Code of 1986, as
24 amended, other than the deduction allowed by Section 172(b)(1)(G) and Section 172(i) of the
25 Internal Revenue Code of 1986, as amended, for a net operating loss the taxpayer claims in the tax
26 year in which the net operating loss occurred or carries forward for a period of more than twenty
27 years and carries backward for more than two years. Any amount of net operating loss taken against
28 federal taxable income but disallowed for Missouri income tax purposes pursuant to this subdivision
29 after June 18, 2002, may be carried forward and taken against any income on the Missouri income
30 tax return for a period of not more than twenty years from the year of the initial loss; and

31 (5) For nonresident individuals in all taxable years ending on or after December 31, 2006,
32 the amount of any property taxes paid to another state or a political subdivision of another state for

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1 which a deduction was allowed on such nonresident's federal return in the taxable year unless such
2 state, political subdivision of a state, or the District of Columbia allows a subtraction from income
3 for property taxes paid to this state for purposes of calculating income for the income tax for such
4 state, political subdivision of a state, or the District of Columbia.

5 3. There shall be subtracted from the taxpayer's federal adjusted gross income the following
6 amounts to the extent included in federal adjusted gross income:

7 (1) Interest or dividends on obligations of the United States and its territories and
8 possessions or of any authority, commission or instrumentality of the United States to the extent
9 exempt from Missouri income taxes pursuant to the laws of the United States. The amount
10 subtracted pursuant to this subdivision shall be reduced by any interest on indebtedness incurred to
11 carry the described obligations or securities and by any expenses incurred in the production of
12 interest or dividend income described in this subdivision. The reduction in the previous sentence
13 shall only apply to the extent that such expenses including amortizable bond premiums are deducted
14 in determining the taxpayer's federal adjusted gross income or included in the taxpayer's Missouri
15 itemized deduction. The reduction shall only be made if the expenses total at least five hundred
16 dollars;

17 (2) The portion of any gain, from the sale or other disposition of property having a higher
18 adjusted basis to the taxpayer for Missouri income tax purposes than for federal income tax purposes
19 on December 31, 1972, that does not exceed such difference in basis. If a gain is considered a
20 long-term capital gain for federal income tax purposes, the modification shall be limited to one-half
21 of such portion of the gain;

22 (3) The amount necessary to prevent the taxation pursuant to this chapter of any annuity or
23 other amount of income or gain which was properly included in income or gain and was taxed
24 pursuant to the laws of Missouri for a taxable year prior to January 1, 1973, to the taxpayer, or to a
25 decedent by reason of whose death the taxpayer acquired the right to receive the income or gain, or
26 to a trust or estate from which the taxpayer received the income or gain;

27 (4) Accumulation distributions received by a taxpayer as a beneficiary of a trust to the extent
28 that the same are included in federal adjusted gross income;

29 (5) The amount of any state income tax refund for a prior year which was included in the
30 federal adjusted gross income;

31 (6) The portion of capital gain specified in section 135.357 that would otherwise be included
32 in federal adjusted gross income;

33 (7) The amount that would have been deducted in the computation of federal taxable income
34 pursuant to Section 168 of the Internal Revenue Code as in effect on January 1, 2002, to the extent
35 that amount relates to property purchased on or after July 1, 2002, but before July 1, 2003, and to the
36 extent that amount exceeds the amount actually deducted pursuant to Section 168 of the Internal
37 Revenue Code as amended by the Job Creation and Worker Assistance Act of 2002;

38 (8) For all tax years beginning on or after January 1, 2005, the amount of any income
39 received for military service while the taxpayer serves in a combat zone which is included in federal
40 adjusted gross income and not otherwise excluded therefrom. As used in this section, "combat zone"
41 means any area which the President of the United States by Executive Order designates as an area in

1 which Armed Forces of the United States are or have engaged in combat. Service is performed in a
 2 combat zone only if performed on or after the date designated by the President by Executive Order
 3 as the date of the commencing of combat activities in such zone, and on or before the date designated
 4 by the President by Executive Order as the date of the termination of combatant activities in such
 5 zone; [and]

6 (9) For all tax years ending on or after July 1, 2002, with respect to qualified property that is
 7 sold or otherwise disposed of during a taxable year by a taxpayer and for which an addition
 8 modification was made under subdivision (3) of subsection 2 of this section, the amount by which
 9 addition modification made under subdivision (3) of subsection 2 of this section on qualified
 10 property has not been recovered through the additional subtractions provided in subdivision (7) of
 11 this subsection;

12 (10) For all tax years beginning on or after January 1, 2013, one-half of the amount of any
 13 capital gains to the extent such capital gains are included in federal adjusted gross income. This
 14 subdivision shall not apply to any capital gains that are subtracted under subdivision (2) or (6) of this
 15 subsection.

16 4. There shall be added to or subtracted from the taxpayer's federal adjusted gross income
 17 the taxpayer's share of the Missouri fiduciary adjustment provided in section 143.351.

18 5. There shall be added to or subtracted from the taxpayer's federal adjusted gross income
 19 the modifications provided in section 143.411.

20 6. In addition to the modifications to a taxpayer's federal adjusted gross income in this
 21 section, to calculate Missouri adjusted gross income there shall be subtracted from the taxpayer's
 22 federal adjusted gross income any gain recognized pursuant to Section 1033 of the Internal Revenue
 23 Code of 1986, as amended, arising from compulsory or involuntary conversion of property as a
 24 result of condemnation or the imminence thereof.

25 7. (1) As used in this subsection, "qualified health insurance premium" means the amount
 26 paid during the tax year by such taxpayer for any insurance policy primarily providing health care
 27 coverage for the taxpayer, the taxpayer's spouse, or the taxpayer's dependents.

28 (2) In addition to the subtractions in subsection 3 of this section, one hundred percent of the
 29 amount of qualified health insurance premiums shall be subtracted from the taxpayer's federal
 30 adjusted gross income to the extent the amount paid for such premiums is included in federal taxable
 31 income. The taxpayer shall provide the department of revenue with proof of the amount of qualified
 32 health insurance premiums paid.

33 8. (1) Beginning January 1, 2009, in addition to the subtractions provided in this section,
 34 one hundred percent of the cost incurred by a taxpayer for a home energy audit conducted by an
 35 entity certified by the department of natural resources under section 640.153 or the implementation
 36 of any energy efficiency recommendations made in such an audit shall be subtracted from the
 37 taxpayer's federal adjusted gross income to the extent the amount paid for any such activity is
 38 included in federal taxable income. The taxpayer shall provide the department of revenue with a
 39 summary of any recommendations made in a qualified home energy audit, the name and certification
 40 number of the qualified home energy auditor who conducted the audit, and proof of the amount paid
 41 for any activities under this subsection for which a deduction is claimed. The taxpayer shall also

1 provide a copy of the summary of any recommendations made in a qualified home energy audit to
2 the department of natural resources.

3 (2) At no time shall a deduction claimed under this subsection by an individual taxpayer or
4 taxpayers filing combined returns exceed one thousand dollars per year or cumulatively exceed two
5 thousand dollars per taxpayer or taxpayers filing combined returns.

6 (3) Any deduction claimed under this subsection shall be claimed for the tax year in which
7 the qualified home energy audit was conducted or in which the implementation of the energy
8 efficiency recommendations occurred. If implementation of the energy efficiency recommendations
9 occurred during more than one year, the deduction may be claimed in more than one year, subject to
10 the limitations provided under subdivision (2) of this subsection.

11 (4) A deduction shall not be claimed for any otherwise eligible activity under this subsection
12 if such activity qualified for and received any rebate or other incentive through a state-sponsored
13 energy program or through an electric corporation, gas corporation, electric cooperative, or
14 municipally owned utility.

15 9. The provisions of subsection 8 of this section shall expire on December 31, 2013.

16 143.451. 1. Missouri taxable income of a corporation shall include all income derived from
17 sources within this state.

18 2. A corporation described in subdivision (1) of subsection 1 of section 143.441 shall include
19 in its Missouri taxable income all income from sources within this state, including that from the
20 transaction of business in this state and that from the transaction of business partly done in this state
21 and partly done in another state or states. However:

22 (1) Where income results from a transaction partially in this state and partially in another
23 state or states, and income and deductions of the portion in the state cannot be segregated, then such
24 portions of income and deductions shall be allocated in this state and the other state or states as will
25 distribute to this state a portion based upon the portion of the transaction in this state and the portion
26 in such other state or states.

27 (2) The taxpayer may elect to compute the portion of income from all sources in this state in
28 the following manner, or the manner set forth in subdivision (3) of this subsection:

29 (a) The income from all sources shall be determined as provided, excluding therefrom the
30 figures for the operation of any bridge connecting this state with another state.

31 (b) The amount of sales which are transactions wholly in this state shall be added to one-half
32 of the amount of sales which are transactions partly within this state and partly without this state, and
33 the amount thus obtained shall be divided by the total sales or in cases where sales do not express the
34 volume of business, the amount of business transacted wholly in this state shall be added to one-half
35 of the amount of business transacted partly in this state and partly outside this state and the amount
36 thus obtained shall be divided by the total amount of business transacted, and the net income shall be
37 multiplied by the fraction thus obtained, to determine the proportion of income to be used to arrive at
38 the amount of Missouri taxable income. The investment or reinvestment of its own funds, or sale of
39 any such investment or reinvestment, shall not be considered as sales or other business transacted for
40 the determination of said fraction.

41 [(3)] (c) For the purposes of this [section] subdivision, a transaction involving the sale of

1 tangible property is:

2 [(a)] a. "Wholly in this state" if both the seller's shipping point and the purchaser's
3 destination point are in this state;

4 [(b)] b. "Partly within this state and partly without this state" if the seller's shipping point is
5 in this state and the purchaser's destination point is outside this state, or the seller's shipping point is
6 outside this state and the purchaser's destination point is in this state;

7 [(c)] c. Not "wholly in this state" or not "partly within this state and partly without this state"
8 only if both the seller's shipping point and the purchaser's destination point are outside this state[;] .

9 (d) For purposes of this subdivision:

10 a. The purchaser's destination point shall be determined without regard to the FOB point or
11 other conditions of the sale[,] ; and

12 b. The seller's shipping point is determined without regard to the location of the seller's
13 principle office or place of business.

14 (3) The taxpayer may elect to compute the portion of income from all sources in this state in
15 the following manner:

16 (a) The income from all sources shall be determined as provided, excluding therefrom the
17 figures for the operation of any bridge connecting this state with another state;

18 (b) The amount of sales which are transactions in this state shall be divided by the total sales,
19 and the net income shall be multiplied by the fraction thus obtained, to determine the proportion of
20 income to be used to arrive at the amount of Missouri taxable income. The investment or
21 reinvestment of its own funds, or sale of any such investment or reinvestment, shall not be
22 considered as sales or other business transacted for the determination of said fraction;

23 (c) For the purposes of this subdivision, a transaction involving the sale of tangible property
24 is:

25 a. "In this state" if the purchaser's destination point is in this state;

26 b. Not "in this state" if the purchaser's destination point is outside this state;

27 (d) For purposes of this subdivision, the purchaser's destination point shall be determined
28 without regard to the FOB point or other conditions of the sale and shall not be in this state if the
29 purchaser received the tangible personal property from the seller in this state for delivery to the
30 purchaser's location outside this state.

31 (4) For purposes of this subsection, the following words shall, unless the context otherwise
32 requires, have the following meaning:

33 (a) "Administration services" include, but are not limited to, clerical, fund or shareholder
34 accounting, participant record keeping, transfer agency, bookkeeping, data processing, custodial,
35 internal auditing, legal and tax services performed for an investment company;

36 (b) "Affiliate", the meaning as set forth in 15 U.S.C. Section 80a-2(a)(3)(C), as may be
37 amended from time to time;

38 (c) "Distribution services" include, but are not limited to, the services of advertising,
39 servicing, marketing, underwriting or selling shares of an investment company, but, in the case of
40 advertising, servicing or marketing shares, only where such service is performed by a person who is,
41 or in the case of a closed end company, was, either engaged in the services of underwriting or selling

1 investment company shares or affiliated with a person that is engaged in the service of underwriting
2 or selling investment company shares. In the case of an open end company, such service of
3 underwriting or selling shares must be performed pursuant to a contract entered into pursuant to 15
4 U.S.C. Section 80a-15(b), as from time to time amended;

5 (d) "Investment company", any person registered under the federal Investment Company Act
6 of 1940, as amended from time to time, (the act) or a company which would be required to register
7 as an investment company under the act except that such person is exempt to such registration
8 pursuant to Section 80a-3(c)(1) of the act;

9 (e) "Investment funds service corporation" includes any corporation or S corporation doing
10 business in the state which derives more than fifty percent of its gross income in the ordinary course
11 of business from the provision directly or indirectly of management, distribution or administration
12 services to or on behalf of an investment company or from trustees, sponsors and participants of
13 employee benefit plans which have accounts in an investment company. An investment funds
14 service corporation shall include any corporation or S corporation providing management services as
15 an investment advisory firm registered under Section 203 of the Investment Advisors Act of 1940, as
16 amended from time to time, regardless of the percentage of gross revenues consisting of fees from
17 management services provided to or on behalf of an investment company;

18 (f) "Management services" include but are not limited to, the rendering of investment advice
19 directly or indirectly to an investment company making determinations as to when sales and
20 purchases of securities are to be made on behalf of the investment company, or the selling or
21 purchasing of securities constituting assets of an investment company, and related activities, but only
22 where such activity or activities are performed:

23 a. Pursuant to a contract with the investment company entered into pursuant to 15 U.S.C.
24 Section 80a-15(a), as from time to time amended;

25 b. For a person that has entered into such contract with the investment company; or

26 c. For a person that is affiliated with a person that has entered into such contract with an
27 investment company;

28 (g) "Qualifying sales", gross income derived from the provision directly or indirectly of
29 management, distribution or administration services to or on behalf of an investment company or
30 from trustees, sponsors and participants of employee benefit plans which have accounts in an
31 investment company. For purposes of this section, gross income is defined as that amount of income
32 earned from qualifying sources without deduction of expenses related to the generation of such
33 income;

34 (h) "Residence", presumptively the fund shareholder's mailing address on the records of the
35 investment company. If, however, the investment company or the investment funds service
36 corporation has actual knowledge that the fund shareholder's primary residence or principal place of
37 business is different than the fund shareholder's mailing address such presumption shall not control.
38 To the extent an investment funds service corporation does not have access to the records of the
39 investment company, the investment funds service corporation may employ reasonable methods to
40 determine the investment company fund shareholder's residence.

41 (5) Notwithstanding other provisions of law to the contrary, qualifying sales of an

1 investment funds service corporation, or S corporation, shall be considered wholly in this state only
2 to the extent that the fund shareholders of the investment companies, to which the investment funds
3 service corporation, or S corporation, provide services, are resided in this state. Wholly in this
4 state qualifying sales of an investment funds service corporation, or S corporation, shall be
5 determined as follows:

6 (a) By multiplying the investment funds service corporation's total dollar amount of
7 qualifying sales from services provided to each investment company by a fraction, the numerator of
8 which shall be the average of the number of shares owned by the investment company's fund
9 shareholders resided in this state at the beginning of and at the end of the investment company's
10 taxable year that ends with or within the investment funds service corporation's taxable year, and the
11 denominator of which shall be the average of the number of shares owned by the investment
12 company's fund shareholders everywhere at the beginning of and at the end of the investment
13 company's taxable year that ends with or within the investment funds service corporation's taxable
14 year;

15 (b) A separate computation shall be made to determine the wholly in this state qualifying
16 sales from each investment company. The qualifying sales for each investment company shall be
17 multiplied by the respective percentage of each fund, as calculated pursuant to paragraph (a) of this
18 subdivision. The product of this equation shall result in the wholly in this state qualifying sales. The
19 qualifying sales for each investment company which are not wholly in this state will be considered
20 wholly without this state;

21 (c) To the extent an investment funds service corporation has sales which are not qualifying
22 sales, those nonqualified sales shall be apportioned to this state based on the methodology utilized by
23 the investment funds service corporation without regard to this subdivision.

24 3. Any corporation described in subdivision (1) of subsection 1 of section 143.441 organized
25 in this state or granted a permit to operate in this state for the transportation or care of passengers
26 shall report its gross earnings within the state on intrastate business and shall also report its gross
27 earnings on all interstate business done in this state which report shall be subject to inquiry for the
28 purpose of determining the amount of income to be included in Missouri taxable income. The
29 previous sentence shall not apply to a railroad.

30 4. A corporation described in subdivision (2) of subsection 1 of section 143.441 shall include
31 in its Missouri taxable income all income arising from all sources in this state and all income from
32 each transportation service wholly within this state, from each service where the only lines of such
33 corporation used are those in this state, and such proportion of revenue from each service where the
34 facilities of such corporation in this state and in another state or states are used, as the mileage used
35 over the lines of such corporation in the state shall bear to the total mileage used over the lines of
36 such corporation. The taxpayer may elect to compute the portion of income from all sources within
37 this state in the following manner:

38 (1) The income from all sources shall be determined as provided;

39 (2) The amount of investment of such corporation on December thirty-first of each year in
40 this state in fixed transportation facilities, real estate and improvements, plus the value on December
41 thirty-first of each year of any fixed transportation facilities, real estate and improvements in this

1 state leased from any other railroad shall be divided by the sum of the total amount of investment of
 2 such corporation on December thirty-first of each year in fixed transportation facilities, real estate
 3 and improvements, plus the value on December thirty-first of each year, of any fixed transportation
 4 facilities, real estate and improvements leased from any other railroad. Where any fixed
 5 transportation facilities, real estate or improvements are leased by more than one railroad, such
 6 portion of the value shall be used by each railroad as the rental paid by each shall bear to the rental
 7 paid by all lessees. The income shall be multiplied by the fraction thus obtained to determine the
 8 proportion to be used to arrive at the amount of Missouri taxable income.

9 5. A corporation described in subdivision (3) of subsection 1 of section 143.441 shall include
 10 in its Missouri taxable income one-half of the net income from the operation of a bridge between this
 11 and another state. If any such bridge is owned or operated by a railroad corporation or corporations,
 12 or by a corporation owning a railroad corporation using such bridge, then the figures for operation of
 13 such bridge may be included in the return of such railroad or railroads; or if such bridge is owned or
 14 operated by any other corporation which may now or hereafter be required to file an income tax
 15 return, one-half of the income or loss to such corporation from such bridge may be included in such
 16 return by adding or subtracting same to or from another net income or loss shown by the return.

17 6. A corporation described in subdivision (4) of subsection 1 of section 143.441 shall include
 18 in its Missouri taxable income all income arising from all sources within this state. Income shall
 19 include revenue from each telephonic or telegraphic service rendered wholly within this state; from
 20 each service rendered for which the only facilities of such corporation used are those in this state;
 21 and from each service rendered over the facilities of such corporation in this state and in other state
 22 or states, such proportion of such revenue as the mileage involved in this state shall bear to the total
 23 mileage involved over the lines of said company in all states. The taxpayer may elect to compute the
 24 portion of income from all sources within this state in the following manner:

25 (1) The income from all sources shall be determined as provided;

26 (2) The amount of investment of such corporation on December thirty-first of each year in
 27 this state in telephonic or telegraphic facilities, real estate and improvements thereon, shall be
 28 divided by the amount of the total investment of such corporation on December thirty-first of each
 29 year in telephonic or telegraphic facilities, real estate and improvements. The income of the
 30 taxpayer shall be multiplied by fraction thus obtained to determine the proportion to be used to arrive
 31 at the amount of Missouri taxable income.

32 7. From the income determined in subsections 2, 3, 4, 5 and 6 of this section to be from all
 33 sources within this state shall be deducted such of the deductions for expenses in determining
 34 Missouri taxable income as were incurred in this state to produce such income and all losses actually
 35 sustained in this state in the business of the corporation.

36 8. If a corporation derives only part of its income from sources within Missouri, its Missouri
 37 taxable income shall only reflect the effect of the following listed deductions to the extent applicable
 38 to Missouri. The deductions are: (a) its deduction for federal income taxes pursuant to section
 39 143.171, and (b) the effect on Missouri taxable income of the deduction for net operating loss
 40 allowed by Section 172 of the Internal Revenue Code. The extent applicable to Missouri shall be
 41 determined by multiplying the amount that would otherwise affect Missouri taxable income by the

ratio for the year of the Missouri taxable income of the corporation for the year divided by the Missouri taxable income for the year as though the corporation had derived all of its income from sources within Missouri. For the purpose of the preceding sentence, Missouri taxable income shall not reflect the listed deductions.

9. Any investment funds service corporation organized as a corporation or S corporation which has any shareholders resided in this state shall be subject to Missouri income tax as provided in this chapter.

144.010. 1. The following words, terms, and phrases when used in sections 144.010 to 144.525 have the meanings ascribed to them in this section, except when the context indicates a different meaning:

(1) "Admission" includes seats and tables, reserved or otherwise, and other similar accommodations and charges made therefor and amount paid for admission, exclusive of any admission tax imposed by the federal government or by sections 144.010 to 144.525;

(2) "Business" includes any activity engaged in by any person, or caused to be engaged in by him, with the object of gain, benefit or advantage, either direct or indirect, and the classification of which business is of such character as to be subject to the terms of sections 144.010 to 144.525. The isolated or occasional sale of tangible personal property, service, substance, or thing, by a person not engaged in such business, does not constitute engaging in business within the meaning of sections 144.010 to 144.525 unless the total amount of the gross receipts from such sales, exclusive of receipts from the sale of tangible personal property by persons which property is sold in the course of the partial or complete liquidation of a household, farm or nonbusiness enterprise, exceeds three thousand dollars in any calendar year. The provisions of this subdivision shall not be construed to make any sale of property which is exempt from sales tax or use tax on June 1, 1977, subject to that tax thereafter;

(3) "Captive wildlife", includes but is not limited to exotic partridges, gray partridge, northern bobwhite quail, ring-necked pheasant, captive waterfowl, captive white-tailed deer, captive elk, and captive furbearers held under permit issued by the Missouri department of conservation for hunting purposes. The provisions of this subdivision shall not apply to sales tax on a harvested animal;

(4) "Gross receipts", except as provided in section 144.012, means the total amount of the sale price of the sales at retail including any services other than charges incident to the extension of credit that are a part of such sales made by the businesses herein referred to, capable of being valued in money, whether received in money or otherwise; except that, the term "gross receipts" shall not include the sale price of property returned by customers when the full sale price thereof is refunded either in cash or by credit. In determining any tax due under sections 144.010 to 144.525 on the gross receipts, charges incident to the extension of credit shall be specifically exempted. For the purposes of sections 144.010 to 144.525 the total amount of the sale price above mentioned shall be deemed to be the amount received. It shall also include the lease or rental consideration where the right to continuous possession or use of any article of tangible personal property is granted under a lease or contract and such transfer of possession would be taxable if outright sale were made and, in such cases, the same shall be taxable as if outright sale were made and considered as a sale of such article, and the tax shall be computed and paid by the lessee upon the rentals paid;

(5) "Livestock", cattle, calves, sheep, swine, ratite birds, including but not limited to, ostrich and emu, aquatic products as defined in section 277.024, llamas, alpaca, buffalo, elk documented as obtained from a legal source and not from the wild, goats, horses, other equine, or rabbits raised in confinement for human consumption;

(6) "Motor vehicle leasing company" shall be a company obtaining a permit from the

1 director of revenue to operate as a motor vehicle leasing company. Not all persons renting or leasing
 2 trailers or motor vehicles need to obtain such a permit; however, no person failing to obtain such a
 3 permit may avail itself of the optional tax provisions of subsection 5 of section 144.070, as
 4 hereinafter provided;

5 (7) "Person" includes any individual, firm, copartnership, joint adventure, association,
 6 corporation, municipal or private, and whether organized for profit or not, state, county, political
 7 subdivision, state department, commission, board, bureau or agency, except the state transportation
 8 department, estate, trust, business trust, receiver or trustee appointed by the state or federal court,
 9 syndicate, or any other group or combination acting as a unit, and the plural as well as the singular
 10 number;

11 (8) "Purchaser" means a person who purchases tangible personal property or to whom are
 12 rendered services, receipts from which are taxable under sections 144.010 to 144.525;

13 (9) "Research or experimentation activities" are the development of an experimental or pilot
 14 model, plant process, formula, invention or similar property, and the improvement of existing
 15 property of such type. Research or experimentation activities do not include activities such as
 16 ordinary testing or inspection of materials or products for quality control, efficiency surveys,
 17 advertising promotions or research in connection with literary, historical or similar projects;

18 (10) "Sale" or "sales" includes installment and credit sales, and the exchange of properties as
 19 well as the sale thereof for money, every closed transaction constituting a sale, and means any
 20 transfer, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, of
 21 tangible personal property for valuable consideration and the rendering, furnishing or selling for a
 22 valuable consideration any of the substances, things and services herein designated and defined as
 23 taxable under the terms of sections 144.010 to 144.525;

24 (11) "Sale at retail" means any transfer made by any person engaged in business as defined
 25 herein of the ownership of, or title to, tangible personal property to the purchaser, for use or
 26 consumption and not for resale in any form as tangible personal property, for a valuable
 27 consideration; except that, for the purposes of sections 144.010 to 144.525 and the tax imposed
 28 thereby: (i) purchases of tangible personal property made by duly licensed physicians, dentists,
 29 optometrists and veterinarians and used in the practice of their professions shall be deemed to be
 30 purchases for use or consumption and not for resale; and (ii) the selling of computer printouts,
 31 computer output or microfilm or microfiche and computer-assisted photo compositions to a
 32 purchaser to enable the purchaser to obtain for his or her own use the desired information contained
 33 in such computer printouts, computer output on microfilm or microfiche and computer-assisted
 34 photo compositions shall be considered as the sale of a service and not as the sale of tangible
 35 personal property. Where necessary to conform to the context of sections 144.010 to 144.525 and
 36 the tax imposed thereby, the term "sale at retail" shall be construed to embrace:

37 (a) Sales of admission tickets, cash admissions, charges and fees to or in places of
 38 amusement, entertainment and recreation, games and athletic events including dance, theater,
 39 orchestra and other performing arts productions, commercial sports, spectator sports, gambling,
 40 racetracks, arcades, theme and amusement parks, water parks, circuses, carnivals, festivals, air
 41 shows, museums, marinas, motion picture theaters, and other commercial tourist attractions;

42 (b) Sales of electricity, electrical current, water and gas, natural or artificial, to domestic,
 43 commercial or industrial consumers;

44 (c) Sales of local and long distance telecommunications service to telecommunications
 45 subscribers and to others through equipment of telecommunications subscribers for the transmission
 46 of messages and conversations, and the sale, rental or leasing of all equipment or services pertaining
 47 or incidental thereto;

48 (d) Sales of service for transmission of messages by telegraph companies;

(e) Sales or charges for all rooms, meals and drinks furnished at any hotel, motel, tavern, inn, restaurant, eating house, drugstore, dining car, tourist camp, tourist cabin, or other place in which rooms, meals or drinks are regularly served to the public;

(f) Sales of tickets by every person operating a railroad, sleeping car, dining car, express car, boat, airplane, and such buses and trucks as are licensed by the division of motor carrier and railroad safety of the department of economic development of Missouri, engaged in the transportation of persons for hire;

(12) "Seller" means a person selling or furnishing tangible personal property or rendering services, on the receipts from which a tax is imposed pursuant to section 144.020;

(13) The noun "tax" means either the tax payable by the purchaser of a commodity or service subject to tax, or the aggregate amount of taxes due from the vendor of such commodities or services during the period for which he or she is required to report his or her collections, as the context may require;

(14) "Telecommunications service", for the purpose of this chapter, the transmission of information by wire, radio, optical cable, coaxial cable, electronic impulses, or other similar means. As used in this definition, "information" means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or any other symbols. Telecommunications service does not include the following if such services are separately stated on the customer's bill or on records of the seller maintained in the ordinary course of business:

(a) Access to the internet, access to interactive computer services or electronic publishing services, except the amount paid for the telecommunications service used to provide such access;

(b) Answering services and one-way paging services;

(c) Private mobile radio services which are not two-way commercial mobile radio services such as wireless telephone, personal communications services or enhanced specialized mobile radio services as defined pursuant to federal law; or

(d) Cable or satellite television or music services; and

(15) "Product which is intended to be sold ultimately for final use or consumption" means tangible personal property, or any service that is subject to state or local sales or use taxes, or any tax that is substantially equivalent thereto, in this state or any other state.

2. For purposes of the taxes imposed under sections 144.010 to 144.525, and any other provisions of law pertaining to sales or use taxes which incorporate the provisions of sections 144.010 to 144.525 by reference, the term "manufactured homes" shall have the same meaning given it in section 700.010.

3. Sections 144.010 to 144.525 may be known and quoted as the "Sales Tax Law".

144.018. 1. Notwithstanding any other provision of law to the contrary, except as provided under subsection 2 or 3 of this section, when a purchase of tangible personal property or service subject to tax is made for the purpose of resale, such purchase shall be either exempt or excluded under this chapter if the subsequent sale is:

(1) Subject to a tax in this or any other state;

(2) For resale;

(3) Excluded from tax under this chapter;

(4) Subject to tax but exempt under this chapter; or

(5) Exempt from the sales tax laws of another state, if the subsequent sale is in such other state.

The purchase of tangible personal property by a taxpayer shall not be deemed to be for resale if such property is used or consumed by the taxpayer in providing a service on which tax is not imposed by subsection 1 of section 144.020, except purchases made in fulfillment of any obligation under a defense contract with the United States government.

2. For purposes of subdivision (2) of subsection 1 of section 144.020, a place of amusement, entertainment or recreation, including games or athletic events, dance, theater, orchestra and other performing arts productions, commercial sports, spectator sports, gambling, racetracks, arcades, theme and amusement parks, water parks, circuses, carnivals, festivals, air shows, museums, marinas, motion picture theaters, and other commercial tourist attractions, shall remit tax on the amount paid for admissions or seating accommodations, or fees paid to, or in such place of amusement, entertainment or recreation. Any subsequent sale of such admissions or seating accommodations shall not be subject to tax if the initial sale was an arms length transaction for fair market value with an unaffiliated entity. If the sale of such admissions or seating accommodations is exempt or excluded from payment of sales and use taxes, the provisions of this subsection shall not require the place of amusement, entertainment, or recreation to remit tax on that sale.

3. For purposes of subdivision (6) of subsection 1 of section 144.020, a hotel, motel, tavern, inn, restaurant, eating house, drugstore, dining car, tourist cabin, tourist camp, or other place in which rooms, meals, or drinks are regularly served to the public shall remit tax on the amount of sales or charges for all rooms, meals, and drinks furnished at such hotel, motel, tavern, inn, restaurant, eating house, drugstore, dining car, tourist cabin, tourist camp, or other place in which rooms, meals, or drinks are regularly served to the public. Any subsequent sale of such rooms, meals, or drinks shall not be subject to tax if the initial sale was an arms length transaction for fair market value with an unaffiliated entity. If the sale of such rooms, meals, or drinks is exempt or excluded from payment of sales and use taxes, the provisions of this subsection shall not require the hotel, motel, tavern, inn, restaurant, eating house, drugstore, dining car, tourist cabin, tourist camp, or other place in which rooms, meals, or drinks are regularly served to the public to remit tax on that sale.

4. The provisions of this section are intended to reject and abrogate earlier case law interpretations of the state's sales and use tax law with regard to sales for resale as extended in *Music City Centre Management, LLC v. Director of Revenue*, 295 S.W.3d 465, (Mo. 2009) and *ICC Management, Inc. v. Director of Revenue*, 290 S.W.3d 699, (Mo. 2009). The provisions of this section are intended to clarify the exemption or exclusion of purchases for resale from sales and use taxes as originally enacted in this chapter.

144.020. 1. A tax is hereby levied and imposed upon all sellers for the privilege of engaging in the business of selling tangible personal property or rendering taxable service at retail in this state. The rate of tax shall be as follows:

(1) Upon every retail sale in this state of tangible personal property, including but not limited to motor vehicles, trailers, motorcycles, mopeds, motortricycles, boats and outboard motors, a tax equivalent to four percent of the purchase price paid or charged, or in case such sale involves the exchange of property, a tax equivalent to four percent of the consideration paid or charged, including the fair market value of the property exchanged at the time and place of the exchange, except as otherwise provided in section 144.025;

(2) A tax equivalent to four percent of the amount paid for admission and seating accommodations, or fees paid to, or in any place of amusement, entertainment or recreation, or games and athletic events including dance, theater, orchestra and other performing arts productions, commercial sports, spectator sports, gambling, racetracks, arcades, theme and amusement parks, water parks, circuses, carnivals, festivals, air shows, museums, marinas, motion picture theaters, and other commercial tourist attractions;

(3) A tax equivalent to four percent of the basic rate paid or charged on all sales of electricity

1 or electrical current, water and gas, natural or artificial, to domestic, commercial or industrial
2 consumers;

3 (4) A tax equivalent to four percent on the basic rate paid or charged on all sales of local and
4 long distance telecommunications service to telecommunications subscribers and to others through
5 equipment of telecommunications subscribers for the transmission of messages and conversations
6 and upon the sale, rental or leasing of all equipment or services pertaining or incidental thereto;
7 except that, the payment made by telecommunications subscribers or others, pursuant to section
8 144.060, and any amounts paid for access to the internet or interactive computer services shall not be
9 considered as amounts paid for telecommunications services;

10 (5) A tax equivalent to four percent of the basic rate paid or charged for all sales of services
11 for transmission of messages of telegraph companies;

12 (6) A tax equivalent to four percent on the amount of sales or charges for all rooms, meals
13 and drinks furnished at any hotel, motel, tavern, inn, restaurant, eating house, drugstore, dining car,
14 tourist cabin, tourist camp or other place in which rooms, meals or drinks are regularly served to the
15 public;

16 (7) A tax equivalent to four percent of the amount paid or charged for intrastate tickets by
17 every person operating a railroad, sleeping car, dining car, express car, boat, airplane and such buses
18 and trucks as are licensed by the division of motor carrier and railroad safety of the department of
19 economic development of Missouri, engaged in the transportation of persons for hire;

20 (8) A tax equivalent to four percent of the amount paid or charged for rental or lease of
21 tangible personal property, provided that if the lessor or renter of any tangible personal property had
22 previously purchased the property under the conditions of "sale at retail" or leased or rented the
23 property and the tax was paid at the time of purchase, lease or rental, the lessor, sublessor, renter or
24 subrenter shall not apply or collect the tax on the subsequent lease, sublease, rental or subrental
25 receipts from that property. The purchase, rental or lease of motor vehicles, trailers, motorcycles,
26 mopeds, motortricycles, boats, and outboard motors shall be taxed and the tax paid as provided in
27 this section and section 144.070. In no event shall the rental or lease of boats and outboard motors
28 be considered a sale, charge, or fee to, for or in places of amusement, entertainment or recreation nor
29 shall any such rental or lease be subject to any tax imposed to, for, or in such places of amusement,
30 entertainment or recreation. Rental and leased boats or outboard motors shall be taxed under the
31 provisions of the sales tax laws as provided under such laws for motor vehicles and trailers. Tangible
32 personal property which is exempt from the sales or use tax under section 144.030 upon a sale
33 thereof is likewise exempt from the sales or use tax upon the lease or rental thereof.

34 2. All tickets sold which are sold under the provisions of sections 144.010 to 144.525 which
35 are subject to the sales tax shall have printed, stamped or otherwise endorsed thereon, the words
36 "This ticket is subject to a sales tax."; and

37
38 Further amend said bill by amending the title, enacting clause, and intersectional references
39 accordingly.