

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for
2 Senate Bill No. 83, Page 33, Section 140.730, Line 28, by inserting after all of said section the
3 following:

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

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

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

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

17 (3) The amount of any deduction that is included in the computation of federal taxable
18 income pursuant to Section 168 of the Internal Revenue Code as amended by the Job Creation and
19 Worker Assistance Act of 2002 to the extent the amount deducted relates to property purchased on or
20 after July 1, 2002, but before July 1, 2003, and to the extent the amount deducted exceeds the
21 amount that would have been deductible pursuant to Section 168 of the Internal Revenue Code of
22 1986 as in effect on January 1, 2002;

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

32 (5) For nonresident individuals in all taxable years ending on or after December 31, 2006,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 for any activities under this subsection for which a deduction is claimed. The taxpayer shall also
 2 provide a copy of the summary of any recommendations made in a qualified home energy audit to
 3 the department of natural resources.

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

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

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

16 9. The provisions of subsection 8 of this section shall expire on December 31, 2013."; and
 17

18 Further amend said bill, Page 35, Section 143.145, Line 78, by inserting after all of said section the
 19 following:

20 "143.451. 1. Missouri taxable income of a corporation shall include all income derived from
 21 sources within this state.

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

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

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

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

35 (b) The amount of sales which are transactions wholly in this state shall be added to one-half
 36 of the amount of sales which are transactions partly within this state and partly without this state, and
 37 the amount thus obtained shall be divided by the total sales or in cases where sales do not express the
 38 volume of business, the amount of business transacted wholly in this state shall be added to one-half
 39 of the amount of business transacted partly in this state and partly outside this state and the amount
 40 thus obtained shall be divided by the total amount of business transacted, and the net income shall be
 41 multiplied by the fraction thus obtained, to determine the proportion of income to be used to arrive at

the amount of Missouri taxable income. The investment or reinvestment of its own funds, or sale of any such investment or reinvestment, shall not be considered as sales or other business transacted for the determination of said fraction.

[(3)] (c) For the purposes of this [section] subdivision, a transaction involving the sale of tangible property is:

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

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

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

(d) For purposes of this subdivision:

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

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

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

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

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

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

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

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

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

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

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

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

1 (c) "Distribution services" include, but are not limited to, the services of advertising,
2 servicing, marketing, underwriting or selling shares of an investment company, but, in the case of
3 advertising, servicing or marketing shares, only where such service is performed by a person who is,
4 or in the case of a closed end company, was, either engaged in the services of underwriting or selling
5 investment company shares or affiliated with a person that is engaged in the service of underwriting
6 or selling investment company shares. In the case of an open end company, such service of
7 underwriting or selling shares must be performed pursuant to a contract entered into pursuant to 15
8 U.S.C. Section 80a-15(b), as from time to time amended;

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

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

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

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

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

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

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

38 (h) "Residence", presumptively the fund shareholder's mailing address on the records of the
39 investment company. If, however, the investment company or the investment funds service
40 corporation has actual knowledge that the fund shareholder's primary residence or principal place of
41 business is different than the fund shareholder's mailing address such presumption shall not control.

1 To the extent an investment funds service corporation does not have access to the records of the
2 investment company, the investment funds service corporation may employ reasonable methods to
3 determine the investment company fund shareholder's residence.

4 (5) Notwithstanding other provisions of law to the contrary, qualifying sales of an
5 investment funds service corporation, or S corporation, shall be considered wholly in this state only
6 to the extent that the fund shareholders of the investment companies, to which the investment funds
7 service corporation, or S corporation, provide services, are resided in this state. Wholly in this
8 state qualifying sales of an investment funds service corporation, or S corporation, shall be
9 determined as follows:

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

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

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

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

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

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

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

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

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

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

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

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

40 8. If a corporation derives only part of its income from sources within Missouri, its Missouri
41 taxable income shall only reflect the effect of the following listed deductions to the extent applicable

to Missouri. The deductions are: (a) its deduction for federal income taxes pursuant to section 143.171, and (b) the effect on Missouri taxable income of the deduction for net operating loss allowed by Section 172 of the Internal Revenue Code. The extent applicable to Missouri shall be 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."; and

Further amend said bill, Page 43, Section 143.790, Line 255, by inserting after all of said section the following:

"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

1 lease or contract and such transfer of possession would be taxable if outright sale were made and, in
 2 such cases, the same shall be taxable as if outright sale were made and considered as a sale of such
 3 article, and the tax shall be computed and paid by the lessee upon the rentals paid;

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

8 (6) "Motor vehicle leasing company" shall be a company obtaining a permit from the
 9 director of revenue to operate as a motor vehicle leasing company. Not all persons renting or leasing
 10 trailers or motor vehicles need to obtain such a permit; however, no person failing to obtain such a
 11 permit may avail itself of the optional tax provisions of subsection 5 of section 144.070, as
 12 hereinafter provided;

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

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

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

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

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

45 (a) Sales of admission tickets, cash admissions, charges and fees to or in places of
 46 amusement, entertainment and recreation, games and athletic events including dance, theater,
 47 orchestra and other performing arts productions, commercial sports, spectator sports, gambling,
 48 racetracks, arcades, theme and amusement parks, water parks, circuses, carnivals, festivals, air

1 shows, museums, marinas, motion picture theaters, and other commercial tourist attractions;

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

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

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

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

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

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

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

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

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

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

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

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

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

38 2. For purposes of the taxes imposed under sections 144.010 to 144.525, and any other
39 provisions of law pertaining to sales or use taxes which incorporate the provisions of sections
40 144.010 to 144.525 by reference, the term "manufactured homes" shall have the same meaning given
41 it in section 700.010.

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

43 144.018. 1. Notwithstanding any other provision of law to the contrary, except as provided
44 under subsection 2 or 3 of this section, when a purchase of tangible personal property or service
45 subject to tax is made for the purpose of resale, such purchase shall be either exempt or excluded
46 under this chapter if the subsequent sale is:

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

48 (2) For resale;

- 1 (3) Excluded from tax under this chapter;
 2 (4) Subject to tax but exempt under this chapter; or
 3 (5) Exempt from the sales tax laws of another state, if the subsequent sale is in such other
 4 state.

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

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

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

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

38
 39 Further amend said bill, Page 43, Section 144.020, Lines 16-17, by deleting all of said lines and
 40 inserting in lieu thereof the following:

41 "accommodations, or fees paid to, or in any place of amusement, entertainment or recreation, or
 42 games and athletic events including dance, theater, orchestra and other performing arts productions,
 43 commercial sports, spectator sports, gambling, racetracks, arcades, theme and amusement parks,
 44 water parks, circuses, carnivals, festivals, air shows, museums, marinas, motion picture theaters,
 45 and other commercial tourist attractions;"; and

46
 47 Further amend said bill by amending the title, enacting clause, and intersectional references

1 accordingly.