

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

Offered By

1 AMEND House Committee Substitute for Senate Bill No. 662, Page 1, in the Title, Lines 2 and 3, by  
2 deleting the words, "notice of sales tax modifications" and inserting in lieu thereof the word,  
3 "taxation"; and  
4

5 Further amend said bill, Page 1, Section A, Line 2, by inserting immediately after said line the  
6 following:  
7

8 "143.451. 1. Missouri taxable income of a corporation shall include all income derived from  
9 sources within this state.

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

14 (1) Where income results from a transaction partially in this state and partially in another  
15 state or states, and income and deductions of the portion in the state cannot be segregated, then such  
16 portions of income and deductions shall be allocated in this state and the other state or states as will  
17 distribute to this state a portion based upon the portion of the transaction in this state and the portion  
18 in such other state or states.

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

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

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

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

35 a. "Wholly in this state" if both the seller's shipping point and the purchaser's destination  
36 point are in this state;

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1           b. "Partly within this state and partly without this state" if the seller's shipping point is in this  
 2 state and the purchaser's destination point is outside this state, or the seller's shipping point is outside  
 3 this state and the purchaser's destination point is in this state;

4           c. Not "wholly in this state" or not "partly within this state and partly without this state" only  
 5 if both the seller's shipping point and the purchaser's destination point are outside this state.

6           (d) For purposes of this subdivision:

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

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

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

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

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

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

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

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

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

28          (e) For the purposes of this subdivision, a transaction involving the sale other than the sale of  
 29 tangible property is "in this state" if the taxpayer's market for the sales is in this state. The taxpayer's  
 30 market for sales is in this state:

31           a. In the case of sale, rental, lease, or license of real property, if and to the extent the property  
 32 is located in this state;

33           b. In the case of rental, lease, or license of tangible personal property, if and to the extent the  
 34 property is located in this state;

35           c. In the case of sale of a service, if and to the extent the benefit of the service is delivered to  
 36 a purchaser location in this state; and

37           d. In the case of intangible property:

38           (i) That is rented, leased, or licensed, if and to the extent the property is used in this state by  
 39 the rentee, lessee, or licensee, provided that intangible property utilized in marketing a good or  
 40 service to a consumer is "used in this state" if that good or service is purchased by a consumer who is  
 41 in this state. Franchise fees or royalties received for the rent, lease, license, or use of a trade name,  
 42 trademark, service mark, or franchise system or provides a right to conduct business activity in a  
 43 specific geographic area are "used in this state" to the extent the franchise location is in this state; and

44           (ii) That is sold, if and to the extent the property is used in this state, provided that:

45           i. A contract right, government license, or similar intangible property that authorizes the  
 46 holder to conduct a business activity in a specific geographic area is "used in this state" if the  
 47 geographic area includes all or part of this state;

48           ii. Receipts from intangible property sales that are contingent on the productivity, use, or

disposition of the intangible property shall be treated as receipts from the rental, lease, or licensing of such intangible property under item (i) of this subparagraph; and

iii. All other receipts from a sales of intangible property shall be excluded from the numerator and denominator of the sales factor;

(f) If the state or states of assignment under paragraph (e) of this subdivision cannot be determined, the state or states of assignment shall be reasonably approximated;

(g) If the state of assignment cannot be determined under paragraph (e) of this subdivision or reasonably approximated under paragraph (f) of this subdivision, such sales shall be excluded from the denominator of the sales factor;

(h) The director may prescribe such rules and regulations as necessary or appropriate to carry out the purposes of this section.

(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;

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

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

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

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

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

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

c. For a person that is affiliated with a person that has entered into such contract with an

1 investment company;

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

8 (h) "Residence", presumptively the fund shareholder's mailing address on the records of the  
9 investment company. If, however, the investment company or the investment funds service  
10 corporation has actual knowledge that the fund shareholder's primary residence or principal place of  
11 business is different than the fund shareholder's mailing address such presumption shall not control.  
12 To the extent an investment funds service corporation does not have access to the records of the  
13 investment company, the investment funds service corporation may employ reasonable methods to  
14 determine the investment company fund shareholder's residence.

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

21 (a) By multiplying the investment funds service corporation's total dollar amount of  
22 qualifying sales from services provided to each investment company by a fraction, the numerator of  
23 which shall be the average of the number of shares owned by the investment company's fund  
24 shareholders resided in this state at the beginning of and at the end of the investment company's  
25 taxable year that ends with or within the investment funds service corporation's taxable year, and the  
26 denominator of which shall be the average of the number of shares owned by the investment  
27 company's fund shareholders everywhere at the beginning of and at the end of the investment  
28 company's taxable year that ends with or within the investment funds service corporation's taxable  
29 year;

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

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

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

45 4. A corporation described in subdivision (2) of subsection 1 of section 143.441 shall include  
46 in its Missouri taxable income all income arising from all sources in this state and all income from  
47 each transportation service wholly within this state, from each service where the only lines of such  
48 corporation used are those in this state, and such proportion of revenue from each service where the

1 facilities of such corporation in this state and in another state or states are used, as the mileage used  
2 over the lines of such corporation in the state shall bear to the total mileage used over the lines of  
3 such corporation. The taxpayer may elect to compute the portion of income from all sources within  
4 this state in the following manner:

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

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

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

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

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

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

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

44 8. If a corporation derives only part of its income from sources within Missouri, its Missouri  
45 taxable income shall only reflect the effect of the following listed deductions to the extent applicable  
46 to Missouri. The deductions are: (a) its deduction for federal income taxes pursuant to section  
47 143.171, and (b) the effect on Missouri taxable income of the deduction for net operating loss  
48 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 2, Section 144.021, Line 29, by inserting after all of said line the following:

"144.030. 1. There is hereby specifically exempted from the provisions of sections 144.010 to 144.525 and from the computation of the tax levied, assessed or payable pursuant to sections 144.010 to 144.525 such retail sales as may be made in commerce between this state and any other state of the United States, or between this state and any foreign country, and any retail sale which the state of Missouri is prohibited from taxing pursuant to the Constitution or laws of the United States of America, and such retail sales of tangible personal property which the general assembly of the state of Missouri is prohibited from taxing or further taxing by the constitution of this state.

2. There are also specifically exempted from the provisions of the local sales tax law as defined in section 32.085, section 238.235, and sections 144.010 to 144.525 and 144.600 to 144.761 and from the computation of the tax levied, assessed or payable pursuant to the local sales tax law as defined in section 32.085, section 238.235, and sections 144.010 to 144.525 and 144.600 to 144.745:

(1) Motor fuel or special fuel subject to an excise tax of this state, unless all or part of such excise tax is refunded pursuant to section 142.824; or upon the sale at retail of fuel to be consumed in manufacturing or creating gas, power, steam, electrical current or in furnishing water to be sold ultimately at retail; or feed for livestock or poultry; or grain to be converted into foodstuffs which are to be sold ultimately in processed form at retail; or seed, limestone or fertilizer which is to be used for seeding, liming or fertilizing crops which when harvested will be sold at retail or will be fed to livestock or poultry to be sold ultimately in processed form at retail; economic poisons registered pursuant to the provisions of the Missouri pesticide registration law (sections 281.220 to 281.310) which are to be used in connection with the growth or production of crops, fruit trees or orchards applied before, during, or after planting, the crop of which when harvested will be sold at retail or will be converted into foodstuffs which are to be sold ultimately in processed form at retail;

(2) Materials, manufactured goods, machinery and parts which when used in manufacturing, processing, compounding, mining, producing or fabricating become a component part or ingredient of the new personal property resulting from such manufacturing, processing, compounding, mining, producing or fabricating and which new personal property is intended to be sold ultimately for final use or consumption; and materials, including without limitation, gases and manufactured goods, including without limitation slagging materials and firebrick, which are ultimately consumed in the manufacturing process by blending, reacting or interacting with or by becoming, in whole or in part, component parts or ingredients of steel products intended to be sold ultimately for final use or consumption;

(3) Materials, replacement parts and equipment purchased for use directly upon, and for the repair and maintenance or manufacture of, motor vehicles, watercraft, railroad rolling stock or aircraft engaged as common carriers of persons or property;

(4) Motor vehicles registered in excess of fifty-four thousand pounds, and the trailers pulled by such motor vehicles, that are actually used in the normal course of business to haul property on

1 the public highways of the state, and that are capable of hauling loads commensurate with the motor  
2 vehicle's registered weight; and the materials, replacement parts, and equipment purchased for use  
3 directly upon, and for the repair and maintenance or manufacture of such vehicles. For purposes of  
4 this subdivision "motor vehicle" and "public highway" shall have the meaning as ascribed in section  
5 390.020;

6 (5) Replacement machinery, equipment, and parts and the materials and supplies solely  
7 required for the installation or construction of such replacement machinery, equipment, and parts,  
8 used directly in manufacturing, mining, fabricating or producing a product which is intended to be  
9 sold ultimately for final use or consumption; and machinery and equipment, and the materials and  
10 supplies required solely for the operation, installation or construction of such machinery and  
11 equipment, purchased and used to establish new, or to replace or expand existing, material recovery  
12 processing plants in this state. For the purposes of this subdivision, a "material recovery processing  
13 plant" means a facility that has as its primary purpose the recovery of materials into a useable  
14 product or a different form which is used in producing a new product and shall include a facility or  
15 equipment which are used exclusively for the collection of recovered materials for delivery to a  
16 material recovery processing plant but shall not include motor vehicles used on highways. For  
17 purposes of this section, the terms motor vehicle and highway shall have the same meaning pursuant  
18 to section 301.010. Material recovery is not the reuse of materials within a manufacturing process or  
19 the use of a product previously recovered. The material recovery processing plant shall qualify  
20 under the provisions of this section regardless of ownership of the material being recovered;

21 (6) Machinery and equipment, and parts and the materials and supplies solely required for  
22 the installation or construction of such machinery and equipment, purchased and used to establish  
23 new or to expand existing manufacturing, mining or fabricating plants in the state if such machinery  
24 and equipment is used directly in manufacturing, mining or fabricating a product which is intended  
25 to be sold ultimately for final use or consumption;

26 (7) Tangible personal property which is used exclusively in the manufacturing, processing,  
27 modification or assembling of products sold to the United States government or to any agency of the  
28 United States government;

29 (8) Animals or poultry used for breeding or feeding purposes, or captive wildlife;

30 (9) Newsprint, ink, computers, photosensitive paper and film, toner, printing plates and other  
31 machinery, equipment, replacement parts and supplies used in producing newspapers published for  
32 dissemination of news to the general public;

33 (10) The rentals of films, records or any type of sound or picture transcriptions for public  
34 commercial display;

35 (11) Pumping machinery and equipment used to propel products delivered by pipelines  
36 engaged as common carriers;

37 (12) Railroad rolling stock for use in transporting persons or property in interstate commerce  
38 and motor vehicles licensed for a gross weight of twenty-four thousand pounds or more or trailers  
39 used by common carriers, as defined in section 390.020, in the transportation of persons or property;

40 (13) Electrical energy used in the actual primary manufacture, processing, compounding,  
41 mining or producing of a product, or electrical energy used in the actual secondary processing or  
42 fabricating of the product, or a material recovery processing plant as defined in subdivision (5) of  
43 this subsection, in facilities owned or leased by the taxpayer, if the total cost of electrical energy so  
44 used exceeds ten percent of the total cost of production, either primary or secondary, exclusive of the  
45 cost of electrical energy so used or if the raw materials used in such processing contain at least  
46 twenty-five percent recovered materials as defined in section 260.200. There shall be a rebuttable  
47 presumption that the raw materials used in the primary manufacture of automobiles contain at least  
48 twenty-five percent recovered materials. For purposes of this subdivision, "processing" means any

1 mode of treatment, act or series of acts performed upon materials to transform and reduce them to a  
2 different state or thing, including treatment necessary to maintain or preserve such processing by the  
3 producer at the production facility;

4 (14) Anodes which are used or consumed in manufacturing, processing, compounding,  
5 mining, producing or fabricating and which have a useful life of less than one year;

6 (15) Machinery, equipment, appliances and devices purchased or leased and used solely for  
7 the purpose of preventing, abating or monitoring air pollution, and materials and supplies solely  
8 required for the installation, construction or reconstruction of such machinery, equipment, appliances  
9 and devices;

10 (16) Machinery, equipment, appliances and devices purchased or leased and used solely for  
11 the purpose of preventing, abating or monitoring water pollution, and materials and supplies solely  
12 required for the installation, construction or reconstruction of such machinery, equipment, appliances  
13 and devices;

14 (17) Tangible personal property purchased by a rural water district;

15 (18) All amounts paid or charged for admission or participation or other fees paid by or other  
16 charges to individuals in or for any place of amusement, entertainment or recreation, games or  
17 athletic events, including museums, fairs, zoos and planetariums, owned or operated by a  
18 municipality or other political subdivision where all the proceeds derived therefrom benefit the  
19 municipality or other political subdivision and do not inure to any private person, firm, or  
20 corporation, provided, however, that a municipality or other political subdivision may enter into  
21 revenue-sharing agreements with private persons, firms, or corporations providing goods or services,  
22 including management services, in or for the place of amusement, entertainment or recreation, games  
23 or athletic events, and provided further that nothing in this subdivision shall exempt from tax any  
24 amounts retained by any private person, firm, or corporation under such revenue-sharing agreement;

25 (19) All sales of insulin and prosthetic or orthopedic devices as defined on January 1, 1980,  
26 by the federal Medicare program pursuant to Title XVIII of the Social Security Act of 1965,  
27 including the items specified in Section 1862(a)(12) of that act, and also specifically including  
28 hearing aids and hearing aid supplies and all sales of drugs which may be legally dispensed by a  
29 licensed pharmacist only upon a lawful prescription of a practitioner licensed to administer those  
30 items, including samples and materials used to manufacture samples which may be dispensed by a  
31 practitioner authorized to dispense such samples and all sales or rental of medical oxygen, home  
32 respiratory equipment and accessories, hospital beds and accessories and ambulatory aids, all sales or  
33 rental of manual and powered wheelchairs, stairway lifts, Braille writers, electronic Braille  
34 equipment and, if purchased or rented by or on behalf of a person with one or more physical or  
35 mental disabilities to enable them to function more independently, all sales or rental of scooters,  
36 reading machines, electronic print enlargers and magnifiers, electronic alternative and augmentative  
37 communication devices, and items used solely to modify motor vehicles to permit the use of such  
38 motor vehicles by individuals with disabilities or sales of over-the-counter or nonprescription drugs  
39 to individuals with disabilities, and drugs required by the Food and Drug Administration to meet the  
40 over-the-counter drug product labeling requirements in 21 CFR 201.66, or its successor, as  
41 prescribed by a health care practitioner licensed to prescribe;

42 (20) All sales made by or to religious and charitable organizations and institutions in their  
43 religious, charitable or educational functions and activities and all sales made by or to all elementary  
44 and secondary schools operated at public expense in their educational functions and activities;

45 (21) All sales of aircraft to common carriers for storage or for use in interstate commerce  
46 and all sales made by or to not-for-profit civic, social, service or fraternal organizations, including  
47 fraternal organizations which have been declared tax-exempt organizations pursuant to Section  
48 501(c)(8) or (10) of the 1986 Internal Revenue Code, as amended, in their civic or charitable



functions and activities and all sales made to eleemosynary and penal institutions and industries of the state, and all sales made to any private not-for-profit institution of higher education not otherwise excluded pursuant to subdivision (20) of this subsection or any institution of higher education supported by public funds, and all sales made to a state relief agency in the exercise of relief functions and activities;

(22) All ticket sales made by benevolent, scientific and educational associations which are formed to foster, encourage, and promote progress and improvement in the science of agriculture and in the raising and breeding of animals, and by nonprofit summer theater organizations if such organizations are exempt from federal tax pursuant to the provisions of the Internal Revenue Code and all admission charges and entry fees to the Missouri state fair or any fair conducted by a county agricultural and mechanical society organized and operated pursuant to sections 262.290 to 262.530;

(23) All sales made to any private not-for-profit elementary or secondary school, all sales of feed additives, medications or vaccines administered to livestock or poultry in the production of food or fiber, all sales of pesticides used in the production of crops, livestock or poultry for food or fiber, all sales of bedding used in the production of livestock or poultry for food or fiber, all sales of propane or natural gas, electricity or diesel fuel used exclusively for drying agricultural crops, natural gas used in the primary manufacture or processing of fuel ethanol as defined in section 142.028, natural gas, propane, and electricity used by an eligible new generation cooperative or an eligible new generation processing entity as defined in section 348.432, and all sales of farm machinery and equipment, other than airplanes, motor vehicles and trailers, and any freight charges on any exempt item. As used in this subdivision, the term "feed additives" means tangible personal property which, when mixed with feed for livestock or poultry, is to be used in the feeding of livestock or poultry. As used in this subdivision, the term "pesticides" includes adjuvants such as crop oils, surfactants, wetting agents and other assorted pesticide carriers used to improve or enhance the effect of a pesticide and the foam used to mark the application of pesticides and herbicides for the production of crops, livestock or poultry. As used in this subdivision, the term "farm machinery and equipment" means new or used farm tractors and such other new or used farm machinery and equipment and repair or replacement parts thereon and any accessories for and upgrades to such farm machinery and equipment, rotary mowers used exclusively for agricultural purposes, and supplies and lubricants used exclusively, solely, and directly for producing crops, raising and feeding livestock, fish, poultry, pheasants, chukar, quail, or for producing milk for ultimate sale at retail, including field drain tile, and one-half of each purchaser's purchase of diesel fuel therefor which is:

(a) Used exclusively for agricultural purposes;

(b) Used on land owned or leased for the purpose of producing farm products; and

(c) Used directly in producing farm products to be sold ultimately in processed form or otherwise at retail or in producing farm products to be fed to livestock or poultry to be sold ultimately in processed form at retail;

(24) Except as otherwise provided in section 144.032, all sales of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil for domestic use and in any city not within a county, all sales of metered or unmetered water service for domestic use:

(a) "Domestic use" means that portion of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil, and in any city not within a county, metered or unmetered water service, which an individual occupant of a residential premises uses for nonbusiness, noncommercial or nonindustrial purposes. Utility service through a single or master meter for residential apartments or condominiums, including service for common areas and facilities and vacant units, shall be deemed to be for domestic use. Each seller shall establish and maintain a system whereby individual purchases are determined as exempt or nonexempt;

1 (b) Regulated utility sellers shall determine whether individual purchases are exempt or  
2 nonexempt based upon the seller's utility service rate classifications as contained in tariffs on file  
3 with and approved by the Missouri public service commission. Sales and purchases made pursuant  
4 to the rate classification "residential" and sales to and purchases made by or on behalf of the  
5 occupants of residential apartments or condominiums through a single or master meter, including  
6 service for common areas and facilities and vacant units, shall be considered as sales made for  
7 domestic use and such sales shall be exempt from sales tax. Sellers shall charge sales tax upon the  
8 entire amount of purchases classified as nondomestic use. The seller's utility service rate  
9 classification and the provision of service thereunder shall be conclusive as to whether or not the  
10 utility must charge sales tax;

11 (c) Each person making domestic use purchases of services or property and who uses any  
12 portion of the services or property so purchased for a nondomestic use shall, by the fifteenth day of  
13 the fourth month following the year of purchase, and without assessment, notice or demand, file a  
14 return and pay sales tax on that portion of nondomestic purchases. Each person making nondomestic  
15 purchases of services or property and who uses any portion of the services or property so purchased  
16 for domestic use, and each person making domestic purchases on behalf of occupants of residential  
17 apartments or condominiums through a single or master meter, including service for common areas  
18 and facilities and vacant units, under a nonresidential utility service rate classification may, between  
19 the first day of the first month and the fifteenth day of the fourth month following the year of  
20 purchase, apply for credit or refund to the director of revenue and the director shall give credit or  
21 make refund for taxes paid on the domestic use portion of the purchase. The person making such  
22 purchases on behalf of occupants of residential apartments or condominiums shall have standing to  
23 apply to the director of revenue for such credit or refund;

24 (25) All sales of handicraft items made by the seller or the seller's spouse if the seller or the  
25 seller's spouse is at least sixty-five years of age, and if the total gross proceeds from such sales do not  
26 constitute a majority of the annual gross income of the seller;

27 (26) Excise taxes, collected on sales at retail, imposed by Sections 4041, 4061, 4071, 4081,  
28 4091, 4161, 4181, 4251, 4261 and 4271 of Title 26, United States Code. The director of revenue  
29 shall promulgate rules pursuant to chapter 536 to eliminate all state and local sales taxes on such  
30 excise taxes;

31 (27) Sales of fuel consumed or used in the operation of ships, barges, or waterborne vessels  
32 which are used primarily in or for the transportation of property or cargo, or the conveyance of  
33 persons for hire, on navigable rivers bordering on or located in part in this state, if such fuel is  
34 delivered by the seller to the purchaser's barge, ship, or waterborne vessel while it is afloat upon such  
35 river;

36 (28) All sales made to an interstate compact agency created pursuant to sections 70.370 to  
37 70.441 or sections 238.010 to 238.100 in the exercise of the functions and activities of such agency  
38 as provided pursuant to the compact;

39 (29) Computers, computer software and computer security systems purchased for use by  
40 architectural or engineering firms headquartered in this state. For the purposes of this subdivision,  
41 "headquartered in this state" means the office for the administrative management of at least four  
42 integrated facilities operated by the taxpayer is located in the state of Missouri;

43 (30) All livestock sales when either the seller is engaged in the growing, producing or  
44 feeding of such livestock, or the seller is engaged in the business of buying and selling, bartering or  
45 leasing of such livestock;

46 (31) All sales of barges which are to be used primarily in the transportation of property or  
47 cargo on interstate waterways;

48 (32) Electrical energy or gas, whether natural, artificial or propane, water, or other utilities

1 which are ultimately consumed in connection with the manufacturing of cellular glass products or in  
2 any material recovery processing plant as defined in subdivision (5) of this subsection;

3 (33) Notwithstanding other provisions of law to the contrary, all sales of pesticides or  
4 herbicides used in the production of crops, aquaculture, livestock or poultry;

5 (34) Tangible personal property and utilities purchased for use or consumption directly or  
6 exclusively in the research and development of agricultural/biotechnology and plant genomics  
7 products and prescription pharmaceuticals consumed by humans or animals;

8 (35) All sales of grain bins for storage of grain for resale;

9 (36) All sales of feed which are developed for and used in the feeding of pets owned by a  
10 commercial breeder when such sales are made to a commercial breeder, as defined in section  
11 273.325, and licensed pursuant to sections 273.325 to 273.357;

12 (37) All purchases by a contractor on behalf of an entity located in another state, provided  
13 that the entity is authorized to issue a certificate of exemption for purchases to a contractor under the  
14 provisions of that state's laws. For purposes of this subdivision, the term "certificate of exemption"  
15 shall mean any document evidencing that the entity is exempt from sales and use taxes on purchases  
16 pursuant to the laws of the state in which the entity is located. Any contractor making purchases on  
17 behalf of such entity shall maintain a copy of the entity's exemption certificate as evidence of the  
18 exemption. If the exemption certificate issued by the exempt entity to the contractor is later  
19 determined by the director of revenue to be invalid for any reason and the contractor has accepted the  
20 certificate in good faith, neither the contractor or the exempt entity shall be liable for the payment of  
21 any taxes, interest and penalty due as the result of use of the invalid exemption certificate. Materials  
22 shall be exempt from all state and local sales and use taxes when purchased by a contractor for the  
23 purpose of fabricating tangible personal property which is used in fulfilling a contract for the  
24 purpose of constructing, repairing or remodeling facilities for the following:

25 (a) An exempt entity located in this state, if the entity is one of those entities able to issue  
26 project exemption certificates in accordance with the provisions of section 144.062; or

27 (b) An exempt entity located outside the state if the exempt entity is authorized to issue an  
28 exemption certificate to contractors in accordance with the provisions of that state's law and the  
29 applicable provisions of this section;

30 (38) All sales or other transfers of tangible personal property to a lessor who leases the  
31 property under a lease of one year or longer executed or in effect at the time of the sale or other  
32 transfer to an interstate compact agency created pursuant to sections 70.370 to 70.441 or sections  
33 238.010 to 238.100;

34 (39) Sales of tickets to any collegiate athletic championship event that is held in a facility  
35 owned or operated by a governmental authority or commission, a quasi-governmental agency, a state  
36 university or college or by the state or any political subdivision thereof, including a municipality, and  
37 that is played on a neutral site and may reasonably be played at a site located outside the state of  
38 Missouri. For purposes of this subdivision, "neutral site" means any site that is not located on the  
39 campus of a conference member institution participating in the event;

40 (40) All purchases by a sports complex authority created under section 64.920, and all sales  
41 of utilities by such authority at the authority's cost that are consumed in connection with the  
42 operation of a sports complex leased to a professional sports team;

43 (41) Beginning January 1, 2009, but not after January 1, 2015, materials, replacement parts,  
44 and equipment purchased for use directly upon, and for the modification, replacement, repair, and  
45 maintenance of aircraft, aircraft power plants, and aircraft accessories;

46 (42) Sales of sporting clays, wobble, skeet, and trap targets to any shooting range or similar  
47 places of business for use in the normal course of business and money received by a shooting range  
48 or similar places of business from patrons and held by a shooting range or similar place of business

1 for redistribution to patrons at the conclusion of a shooting event;

2 (43) All materials, manufactured goods, machinery and parts, electrical energy and gas,  
3 whether natural, artificial or propane, water, coal, and energy sources, chemicals, soaps, detergents,  
4 cleaning and sanitizing agents, and other ingredients and materials used or consumed by commercial  
5 or industrial laundries to treat, clean, and sanitize textiles and other materials.

6 3. Any ruling, agreement, or contract, whether written or oral, express or implied, between a  
7 person and this state's executive branch, or any other state agency or department, stating, agreeing, or  
8 ruling that such person is not required to collect sales and use tax in this state despite the presence of  
9 a warehouse, distribution center, or fulfillment center in this state that is owned or operated by the  
10 person or an affiliated person shall be null and void unless it is specifically approved by a majority  
11 vote of each of the houses of the general assembly. For purposes of this subsection, an "affiliated  
12 person" means any person that is a member of the same controlled group of corporations as defined  
13 in Section 1563(a) of the Internal Revenue Code of 1986, as amended, as the vendor or any other  
14 entity that, notwithstanding its form of organization, bears the same ownership relationship to the  
15 vendor as a corporation that is a member of the same controlled group of corporations as defined in  
16 Section 1563(a) of the Internal Revenue Code, as amended.

17 144.054. 1. As used in this section, the following terms mean:

18 (1) "Processing", any mode of treatment, act, or series of acts performed upon materials to  
19 transform or reduce them to a different state or thing, including treatment necessary to maintain or  
20 preserve such processing by the producer at the production facility;

21 (2) "Recovered materials", those materials which have been diverted or removed from the  
22 solid waste stream for sale, use, reuse, or recycling, whether or not they require subsequent  
23 separation and processing.

24 2. In addition to all other exemptions granted under this chapter, there is hereby specifically  
25 exempted from the provisions of sections 144.010 to 144.525 and 144.600 to 144.761, and from the  
26 computation of the tax levied, assessed, or payable under sections 144.010 to 144.525 and 144.600 to  
27 144.761, electrical energy and gas, whether natural, artificial, or propane, water, coal, and energy  
28 sources, chemicals, machinery, equipment, and materials used or consumed in the manufacturing,  
29 processing, compounding, mining, or producing of any product, or used or consumed in the  
30 processing of recovered materials, or used in research and development related to manufacturing,  
31 processing, compounding, mining, or producing any product. The exemptions granted in this  
32 subsection shall not apply to local sales taxes as defined in section 32.085 and the provisions of this  
33 subsection shall be in addition to any state and local sales tax exemption provided in section 144.030.

34 3. In addition to all other exemptions granted under this chapter, there is hereby specifically  
35 exempted from the provisions of sections 144.010 to 144.525 and 144.600 to 144.761, and section  
36 238.235, and the local sales tax law as defined in section 32.085, and from the computation of the tax  
37 levied, assessed, or payable under sections 144.010 to 144.525 and 144.600 to 144.761, and section  
38 238.235, and the local sales tax law as defined in section 32.085, all utilities, machinery, and  
39 equipment used or consumed directly in television or radio broadcasting and all sales and purchases  
40 of tangible personal property, utilities, services, or any other transaction that would otherwise be  
41 subject to the state or local sales or use tax when such sales are made to or purchases are made by a  
42 contractor for use in fulfillment of any obligation under a defense contract with the United States  
43 government, and all sales and leases of tangible personal property by any county, city, incorporated  
44 town, or village, provided such sale or lease is authorized under chapter 100, and such transaction is  
45 certified for sales tax exemption by the department of economic development, and tangible personal  
46 property used for railroad infrastructure brought into this state for processing, fabrication, or other  
47 modification for use outside the state in the regular course of business.

48 4. In addition to all other exemptions granted under this chapter, there is hereby specifically

1 exempted from the provisions of sections 144.010 to 144.525 and 144.600 to 144.761, and section  
2 238.235, and the local sales tax law as defined in section 32.085, and from the computation of the tax  
3 levied, assessed, or payable under sections 144.010 to 144.525 and 144.600 to 144.761, and section  
4 238.235, and the local sales tax law as defined in section 32.085, all sales and purchases of tangible  
5 personal property, utilities, services, or any other transaction that would otherwise be subject to the  
6 state or local sales or use tax when such sales are made to or purchases are made by a private partner  
7 for use in completing a project under sections 227.600 to 227.669.

8 5. In addition to all other exemptions granted under this chapter, there is hereby  
9 specifically exempted from the provisions of sections 144.010 to 144.525 and 144.600 to 144.761,  
10 and section 238.235, and the local sales tax law as defined in section 32.085, and from the  
11 computation of the tax levied, assessed, or payable under sections 144.010 to 144.525 and 144.600 to  
12 144.761, and section 238.235, and the local sales tax law as defined in section 32.085, all materials,  
13 manufactured goods, machinery and parts, electrical energy and gas, whether natural, artificial or  
14 propane, water, coal and other energy sources, chemicals, soaps, detergents, cleaning and sanitizing  
15 agents, and other ingredients and materials inserted by commercial or industrial laundries to treat,  
16 clean, and sanitize textiles in facilities which process at least five hundred pounds of textiles per hour  
17 and at least sixty thousand pounds per week."; and  
18

19 Further amend said bill by amending the title, enacting clause, and intersectional references  
20 accordingly.