

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for Senate Substitute for Senate Bill No. 937, Page 30,
2 Section 135.620, Line 71, by inserting after all of said section and line the following:

3
4 "144.030. 1. There is hereby specifically exempted from the provisions of sections 144.010
5 to 144.525 and from the computation of the tax levied, assessed or payable pursuant to sections
6 144.010 to 144.525 such retail sales as may be made in commerce between this state and any other
7 state of the United States, or between this state and any foreign country, and any retail sale which
8 the state of Missouri is prohibited from taxing pursuant to the Constitution or laws of the United
9 States of America, and such retail sales of tangible personal property which the general assembly of
10 the state of Missouri is prohibited from taxing or further taxing by the constitution of this state.

11 2. There are also specifically exempted from the provisions of the local sales tax law as
12 defined in section 32.085, section 238.235, and sections 144.010 to 144.525 and 144.600 to 144.761
13 and from the computation of the tax levied, assessed or payable pursuant to the local sales tax law as
14 defined in section 32.085, section 238.235, and sections 144.010 to 144.525 and 144.600 to
15 144.745:

16 (1) Motor fuel or special fuel subject to an excise tax of this state, unless all or part of such
17 excise tax is refunded pursuant to section 142.824; or upon the sale at retail of fuel to be consumed
18 in manufacturing or creating gas, power, steam, electrical current or in furnishing water to be sold
19 ultimately at retail; or feed for livestock or poultry; or grain to be converted into foodstuffs which
20 are to be sold ultimately in processed form at retail; or seed, limestone or fertilizer which is to be
21 used for seeding, liming or fertilizing crops which when harvested will be sold at retail or will be
22 fed to livestock or poultry to be sold ultimately in processed form at retail; economic poisons
23 registered pursuant to [the provisions of the Missouri pesticide registration law (sections 281.220 to
24 281.310)] sections 281.210 to 281.310, the Missouri pesticide registration act, which are to be used
25 in connection with the growth or production of crops, fruit trees or orchards applied before, during,
26 or after planting, the crop of which when harvested will be sold at retail or will be converted into
27 foodstuffs which are to be sold ultimately in processed form at retail;

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

Standing Action Taken _____ Date _____

Select Action Taken _____ Date _____

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

4 (4) Motor vehicles registered in excess of fifty-four thousand pounds, and the trailers pulled
5 by such motor vehicles, that are actually used in the normal course of business to haul property on
6 the public highways of the state, and that are capable of hauling loads commensurate with the motor
7 vehicle's registered weight; and the materials, replacement parts, and equipment purchased for use
8 directly upon, and for the repair and maintenance or manufacture of such vehicles. For purposes of
9 this subdivision, "motor vehicle" and "public highway" shall have the meaning as ascribed in section
10 390.020;

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

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

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

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

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

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

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

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

46 (13) Electrical energy used in the actual primary manufacture, processing, compounding,
47 mining or producing of a product, or electrical energy used in the actual secondary processing or
48 fabricating of the product, or a material recovery processing plant as defined in subdivision (5) of

1 this subsection, in facilities owned or leased by the taxpayer, if the total cost of electrical energy so
 2 used exceeds ten percent of the total cost of production, either primary or secondary, exclusive of
 3 the cost of electrical energy so used or if the raw materials used in such processing contain at least
 4 twenty-five percent recovered materials as defined in section 260.200. There shall be a rebuttable
 5 presumption that the raw materials used in the primary manufacture of automobiles contain at least
 6 twenty-five percent recovered materials. For purposes of this subdivision, "processing" means any
 7 mode of treatment, act or series of acts performed upon materials to transform and reduce them to a
 8 different state or thing, including treatment necessary to maintain or preserve such processing by the
 9 producer at the production facility;

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

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

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

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

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

32 (19) All sales of insulin and prosthetic or orthopedic devices as defined on January 1, 1980,
 33 by the federal Medicare program pursuant to Title XVIII of the Social Security Act of 1965,
 34 including the items specified in Section 1862(a)(12) of that act (42 U.S.C. Section 1395y, as
 35 amended), and also specifically including hearing aids and hearing aid supplies and all sales of
 36 drugs which may be legally dispensed by a licensed pharmacist only upon a lawful prescription of a
 37 practitioner licensed to administer those items, including samples and materials used to manufacture
 38 samples which may be dispensed by a practitioner authorized to dispense such samples and all sales
 39 or rental of medical oxygen, home respiratory equipment and accessories, hospital beds and
 40 accessories and ambulatory aids, all sales or rental of manual and powered wheelchairs, stairway
 41 lifts, Braille writers, electronic Braille equipment and, if purchased or rented by or on behalf of a
 42 person with one or more physical or mental disabilities to enable them to function more
 43 independently, all sales or rental of scooters, reading machines, electronic print enlargers and
 44 magnifiers, electronic alternative and augmentative communication devices, and items used solely
 45 to modify motor vehicles to permit the use of such motor vehicles by individuals with disabilities or
 46 sales of over-the-counter or nonprescription drugs to individuals with disabilities, and drugs
 47 required by the Food and Drug Administration to meet the over-the-counter drug product labeling
 48 requirements in 21 CFR 201.66, or its successor, as prescribed by a health care practitioner licensed

1 to prescribe;

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

5 (21) All sales of aircraft to common carriers for storage or for use in interstate commerce
6 and all sales made by or to not-for-profit civic, social, service or fraternal organizations, including
7 fraternal organizations which have been declared tax-exempt organizations pursuant to Section
8 501(c)(8) or (10) of the 1986 Internal Revenue Code, as amended, in their civic or charitable
9 functions and activities and all sales made to eleemosynary and penal institutions and industries of
10 the state, and all sales made to any private not-for-profit institution of higher education not
11 otherwise excluded pursuant to subdivision (20) of this subsection or any institution of higher
12 education supported by public funds, and all sales made to a state relief agency in the exercise of
13 relief functions and activities;

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

20 (23) All sales made to any private not-for-profit elementary or secondary school, all sales of
21 feed additives, medications or vaccines administered to livestock or poultry in the production of
22 food or fiber, all sales of pesticides used in the production of crops, livestock or poultry for food or
23 fiber, all sales of bedding used in the production of livestock or poultry for food or fiber, all sales of
24 propane or natural gas, electricity or diesel fuel used exclusively for drying agricultural crops,
25 natural gas used in the primary manufacture or processing of fuel ethanol as defined in section
26 142.028, natural gas, propane, and electricity used by an eligible new generation cooperative or an
27 eligible new generation processing entity as defined in section 348.432, and all sales of farm
28 machinery and equipment, other than airplanes, motor vehicles and trailers, and any freight charges
29 on any exempt item. As used in this subdivision, the term "feed additives" means tangible personal
30 property which, when mixed with feed for livestock or poultry, is to be used in the feeding of
31 livestock or poultry. As used in this subdivision, the term "pesticides" includes adjuvants such as
32 crop oils, surfactants, wetting agents and other assorted pesticide carriers used to improve or
33 enhance the effect of a pesticide and the foam used to mark the application of pesticides and
34 herbicides for the production of crops, livestock or poultry. As used in this subdivision, the term
35 "farm machinery and equipment" means new or used farm tractors and such other new or used farm
36 machinery and equipment and repair or replacement parts thereon and any accessories for and
37 upgrades to such farm machinery and equipment, rotary mowers used exclusively for agricultural
38 purposes, and supplies and lubricants used exclusively, solely, and directly for producing crops,
39 raising and feeding livestock, fish, poultry, pheasants, chukar, quail, or for producing milk for
40 ultimate sale at retail, including field drain tile, and one-half of each purchaser's purchase of diesel
41 fuel therefor which is:

42 (a) Used exclusively for agricultural purposes;

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

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

47 (24) Except as otherwise provided in section 144.032, all sales of metered water service,
48 electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil for

1 domestic use and in any city not within a county, all sales of metered or unmetered water service for
2 domestic use:

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

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

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

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

37 (26) Excise taxes, collected on sales at retail, imposed by Sections 4041, [4061,] 4071,
38 4081, [4091,] 4161, 4181, 4251, 4261 and 4271 of Title 26, United States Code. The director of
39 revenue shall promulgate rules pursuant to chapter 536 to eliminate all state and local sales taxes on
40 such excise taxes;

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

46 (28) All sales made to an interstate compact agency created pursuant to sections 70.370 to
47 70.441 or sections 238.010 to 238.100 in the exercise of the functions and activities of such agency
48 as provided pursuant to the compact;

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

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

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

10 (32) Electrical energy or gas, whether natural, artificial or propane, water, or other utilities
11 which are ultimately consumed in connection with the manufacturing of cellular glass products or in
12 any material recovery processing plant as defined in subdivision (5) of this subsection;

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

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

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

19 (36) All sales of feed which are developed for and used in the feeding of pets owned by a
20 commercial breeder when such sales are made to a commercial breeder, as defined in section
21 273.325, and licensed pursuant to sections 273.325 to 273.357;

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

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

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

40 (38) All sales or other transfers of tangible personal property to a lessor who leases the
41 property under a lease of one year or longer executed or in effect at the time of the sale or other
42 transfer to an interstate compact agency created pursuant to sections 70.370 to 70.441 or sections
43 238.010 to 238.100;

44 (39) Sales of tickets to any collegiate athletic championship event that is held in a facility
45 owned or operated by a governmental authority or commission, a quasi-governmental agency, a
46 state university or college or by the state or any political subdivision thereof, including a
47 municipality, and that is played on a neutral site and may reasonably be played at a site located
48 outside the state of Missouri. For purposes of this subdivision, "neutral site" means any site that is

1 not located on the campus of a conference member institution participating in the event;

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

5 (41) All materials, replacement parts, and equipment purchased for use directly upon, and
6 for the modification, replacement, repair, and maintenance of aircraft, aircraft power plants, and
7 aircraft accessories;

8 (42) Sales of sporting clays, wobble, skeet, and trap targets to any shooting range or similar
9 places of business for use in the normal course of business and money received by a shooting range
10 or similar places of business from patrons and held by a shooting range or similar place of business
11 for redistribution to patrons at the conclusion of a shooting event;

12 (43) All sales of motor fuel, as defined in section 142.800, used in any watercraft, as
13 defined in section 306.010;

14 (44) Any new or used aircraft sold or delivered in this state to a person who is not a resident
15 of this state or a corporation that is not incorporated in this state, and such aircraft is not to be based
16 in this state and shall not remain in this state more than ten business days subsequent to the last to
17 occur of:

18 (a) The transfer of title to the aircraft to a person who is not a resident of this state or a
19 corporation that is not incorporated in this state; or

20 (b) The date of the return to service of the aircraft in accordance with 14 CFR 91.407 for
21 any maintenance, preventive maintenance, rebuilding, alterations, repairs, or installations that are
22 completed contemporaneously with the transfer of title to the aircraft to a person who is not a
23 resident of this state or a corporation that is not incorporated in this state;

24 (45) All sales of firearms and ammunition. For purposes of this section, the term firearm
25 shall have the same meaning as under section 571.010.

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

37 144.064. No sales tax shall be levied under this chapter on any firearms or ammunition
38 [shall be levied at a rate that is higher than the sales tax levied under this chapter or any other excise
39 tax levied on any sporting goods or equipment or any hunting equipment]."; and

40
41 Further amend said bill by amending the title, enacting clause, and intersectional references
42 accordingly.