

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for Senate Bill No. 365, Page 10, Section 143.171, Line 43,
2 by inserting after all of said section and line the following:

3
4 "144.011. 1. For purposes of sections 144.010 to 144.525 and 144.600 to 144.748, and the
5 taxes imposed thereby, the definition of "retail sale" or "sale at retail" shall not be construed to
6 include any of the following:

7 (1) The transfer by one corporation of substantially all of its tangible personal property to
8 another corporation pursuant to a merger or consolidation effected under the laws of the state of
9 Missouri or any other jurisdiction;

10 (2) The transfer of tangible personal property incident to the liquidation or cessation of a
11 taxpayer's trade or business, conducted in proprietorship, partnership or corporate form, except to
12 the extent any transfer is made in the ordinary course of the taxpayer's trade or business;

13 (3) The transfer of tangible personal property to a corporation solely in exchange for its
14 stock or securities;

15 (4) The transfer of tangible personal property to a corporation by a shareholder as a
16 contribution to the capital of the transferee corporation;

17 (5) The transfer of tangible personal property to a partnership solely in exchange for a
18 partnership interest therein;

19 (6) The transfer of tangible personal property by a partner as a contribution to the capital of
20 the transferee partnership;

21 (7) The transfer of tangible personal property by a corporation to one or more of its
22 shareholders as a dividend, return of capital, distribution in the partial or complete liquidation of the
23 corporation or distribution in redemption of the shareholder's interest therein;

24 (8) The transfer of tangible personal property by a partnership to one or more of its partners
25 as a current distribution, return of capital or distribution in the partial or complete liquidation of the
26 partnership or of the partner's interest therein;

27 (9) The transfer of reusable containers used in connection with the sale of tangible personal
28 property contained therein for which a deposit is required and refunded on return;

29 (10) The purchase by persons operating eating or food service establishments, of items of a
30 nonreusable nature which are furnished to the customers of such establishments with or in
31 conjunction with the retail sales of their food or beverage. Such items shall include, but not be
32 limited to, wrapping or packaging materials and nonreusable paper, wood, plastic and aluminum
33 articles such as containers, trays, napkins, dishes, silverware, cups, bags, boxes, straws, sticks and
34 toothpicks;

35 (11) The purchase by persons operating hotels, motels or other transient accommodation
36 establishments, of items of a nonreusable nature which are furnished to the guests in the guests'

Action Taken _____ Date _____

rooms of such establishments and such items are included in the charge made for such accommodations. Such items shall include, but not be limited to, soap, shampoo, tissue and other toiletries and food or confectionery items offered to the guests without charge;

(12) The transfer of a manufactured home other than:

(a) A transfer which involves the delivery of the document known as the "Manufacturer's Statement of Origin" to a person other than a manufactured home dealer, as defined in section 700.010, for purposes of allowing such person to obtain a title to the manufactured home from the department of revenue of this state or the appropriate agency or officer of any other state;

(b) A transfer which involves the delivery of a "Reposessed Title" to a resident of this state if the tax imposed by sections 144.010 to 144.525 was not paid on the transfer of the manufactured home described in paragraph (a) of this subdivision;

(c) The first transfer which occurs after December 31, 1985, if the tax imposed by sections 144.010 to 144.525 was not paid on any transfer of the same manufactured home which occurred before December 31, 1985; [ø]

(13) Charges for initiation fees or dues to:

(a) Fraternal beneficiaries societies, or domestic fraternal societies, orders or associations operating under the lodge system a substantial part of the activities of which are devoted to religious, charitable, scientific, literary, educational or fraternal purposes;

(b) Posts or organizations of past or present members of the Armed Forces of the United States or an auxiliary unit or society of, or a trust or foundation for, any such post or organization substantially all of the members of which are past or present members of the Armed Forces of the United States or who are cadets, spouses, widows, or widowers of past or present members of the Armed Forces of the United States, no part of the net earnings of which inures to the benefit of any private shareholder or individual; or

(c) Nonprofit organizations exempt from taxation under Section 501(c)(7) of the Internal Revenue Code of 1986, as amended[-];

(14) The purchase by a grocery store of food that is intended for resale but that cannot be resold because of theft or because the food has become spoiled and would not be safe for consumption; or

(15) The purchase by a retailer of products that are intended for resale but that cannot be resold because of theft or because the product is damaged and cannot be resold.

2. The assumption of liabilities of the transferor by the transferee incident to any of the transactions enumerated in the above subdivisions (1) to (8) of subsection 1 of this section shall not disqualify the transfer from the exclusion described in this section, where such liability assumption is related to the property transferred and where the assumption does not have as its principal purpose the avoidance of Missouri sales or use tax.

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) Replacement machinery, equipment, and parts and the materials and supplies solely required for the installation or construction of such replacement machinery, equipment, and parts, used directly in manufacturing, mining, fabricating or producing a product which is intended to be sold ultimately for final use or consumption; and machinery and equipment, and the materials and supplies required solely for the operation, installation or construction of such machinery and equipment, purchased and used to establish new, or to replace or expand existing, material recovery processing plants in this state. For the purposes of this subdivision, a "material recovery processing plant" means a facility that has as its primary purpose the recovery of materials into a usable product or a different form which is used in producing a new product and shall include a facility or equipment which are used exclusively for the collection of recovered materials for delivery to a material recovery processing plant but shall not include motor vehicles used on highways. For purposes of this section, the terms motor vehicle and highway shall have the same meaning pursuant to section 301.010. For the purposes of this subdivision, subdivision (5) of this subsection, and section 144.054, as well as the definition in subdivision (9) of subsection 1 of section 144.010, the term "product" includes telecommunications services and the term "manufacturing" shall include the production, or production and transmission, of telecommunications services. The preceding sentence does not make a substantive change in the law and is intended to clarify that the term "manufacturing" has included and continues to include the production and transmission of "telecommunications services", as enacted in this subdivision and subdivision (5) of this subsection, as well as the definition in subdivision (9) of subsection 1 of section 144.010. The preceding two sentences reaffirm legislative intent consistent with the interpretation of this subdivision and subdivision (5) of this subsection in *Southwestern Bell Tel. Co. v. Director of Revenue*, 78 S.W.3d 763 (Mo. banc 2002) and *Southwestern Bell Tel. Co. v. Director of Revenue*, 182 S.W.3d 226 (Mo. banc 2005), and accordingly abrogates the Missouri supreme court's interpretation of those exemptions in *IBM Corporation v. Director of Revenue*, 491 S.W.3d 535 (Mo. banc 2016) to the extent inconsistent with this section and *Southwestern Bell Tel. Co. v. Director of Revenue*, 78 S.W.3d 763 (Mo. banc 2002) and *Southwestern Bell Tel. Co. v. Director of Revenue*, 182 S.W.3d

226 (Mo. banc 2005). The construction and application of this subdivision as expressed by the Missouri supreme court in *DST Systems, Inc. v. Director of Revenue*, 43 S.W.3d 799 (Mo. banc 2001); *Southwestern Bell Tel. Co. v. Director of Revenue*, 78 S.W.3d 763 (Mo. banc 2002); and *Southwestern Bell Tel. Co. v. Director of Revenue*, 182 S.W.3d 226 (Mo. banc 2005), is hereby affirmed. Material recovery is not the reuse of materials within a manufacturing process or the use of a product previously recovered. The material recovery processing plant shall qualify under the provisions of this section regardless of ownership of the material being recovered;

(5) Machinery and equipment, and parts and the materials and supplies solely required for the installation or construction of such machinery and equipment, purchased and used to establish new or to expand existing manufacturing, mining or fabricating plants in the state if such machinery and equipment is used directly in manufacturing, mining or fabricating a product which is intended to be sold ultimately for final use or consumption. The construction and application of this subdivision as expressed by the Missouri supreme court in *DST Systems, Inc. v. Director of Revenue*, 43 S.W.3d 799 (Mo. banc 2001); *Southwestern Bell Tel. Co. v. Director of Revenue*, 78 S.W.3d 763 (Mo. banc 2002); and *Southwestern Bell Tel. Co. v. Director of Revenue*, 182 S.W.3d 226 (Mo. banc 2005), is hereby affirmed;

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

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

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

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

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

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

(12) Electrical energy used in the actual primary manufacture, processing, compounding, mining or producing of a product, or electrical energy used in the actual secondary processing or fabricating of the product, or a material recovery processing plant as defined in subdivision (4) of this subsection, in facilities owned or leased by the taxpayer, if the total cost of electrical energy so used exceeds ten percent of the total cost of production, either primary or secondary, exclusive of the cost of electrical energy so used or if the raw materials used in such processing contain at least twenty-five percent recovered materials as defined in section 260.200. There shall be a rebuttable presumption that the raw materials used in the primary manufacture of automobiles contain at least twenty-five percent recovered materials. For purposes of this subdivision, "processing" means any mode of treatment, act or series of acts performed upon materials to transform and reduce them to a different state or thing, including treatment necessary to maintain or preserve such processing by the producer at the production facility;

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

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

1 (15) Machinery, equipment, appliances and devices purchased or leased and used solely for
2 the purpose of preventing, abating or monitoring water pollution, and materials and supplies solely
3 required for the installation, construction or reconstruction of such machinery, equipment,
4 appliances and devices;

5 (16) Tangible personal property purchased by a rural water district;

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

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

36 (19) All sales made by or to religious and charitable organizations and institutions in their
37 religious, charitable or educational functions and activities and all sales made by or to all elementary
38 and secondary schools operated at public expense in their educational functions and activities;

39 (20) All sales of aircraft to common carriers for storage or for use in interstate commerce
40 and all sales made by or to not-for-profit civic, social, service or fraternal organizations, including
41 fraternal organizations which have been declared tax-exempt organizations pursuant to Section
42 501(c)(8) or (10) of the 1986 Internal Revenue Code, as amended, in their civic or charitable
43 functions and activities and all sales made to eleemosynary and penal institutions and industries of
44 the state, and all sales made to any private not-for-profit institution of higher education not
45 otherwise excluded pursuant to subdivision (19) of this subsection or any institution of higher
46 education supported by public funds, and all sales made to a state relief agency in the exercise of
47 relief functions and activities;

48 (21) All ticket sales made by benevolent, scientific and educational associations which are
49 formed to foster, encourage, and promote progress and improvement in the science of agriculture

1 and in the raising and breeding of animals, and by nonprofit summer theater organizations if such
 2 organizations are exempt from federal tax pursuant to the provisions of the Internal Revenue Code
 3 and all admission charges and entry fees to the Missouri state fair or any fair conducted by a county
 4 agricultural and mechanical society organized and operated pursuant to sections 262.290 to 262.530;

5 (22) All sales made to any private not-for-profit elementary or secondary school, all sales of
 6 feed additives, medications or vaccines administered to livestock or poultry in the production of
 7 food or fiber, all sales of pesticides used in the production of crops, livestock or poultry for food or
 8 fiber, all sales of bedding used in the production of livestock or poultry for food or fiber, all sales of
 9 propane or natural gas, electricity or diesel fuel used exclusively for drying agricultural crops,
 10 natural gas used in the primary manufacture or processing of fuel ethanol as defined in section
 11 142.028, natural gas, propane, and electricity used by an eligible new generation cooperative or an
 12 eligible new generation processing entity as defined in section 348.432, and all sales of farm
 13 machinery and equipment, other than airplanes, motor vehicles and trailers, and any freight charges
 14 on any exempt item. As used in this subdivision, the term "feed additives" means tangible personal
 15 property which, when mixed with feed for livestock or poultry, is to be used in the feeding of
 16 livestock or poultry. As used in this subdivision, the term "pesticides" includes adjuvants such as
 17 crop oils, surfactants, wetting agents and other assorted pesticide carriers used to improve or
 18 enhance the effect of a pesticide and the foam used to mark the application of pesticides and
 19 herbicides for the production of crops, livestock or poultry. As used in this subdivision, the term
 20 "farm machinery and equipment" means new or used farm tractors and such other new or used farm
 21 machinery and equipment and repair or replacement parts thereon and any accessories for and
 22 upgrades to such farm machinery and equipment, rotary mowers used exclusively for agricultural
 23 purposes, and supplies and lubricants used exclusively, solely, and directly for producing crops,
 24 raising and feeding livestock, fish, poultry, pheasants, chukar, quail, or for producing milk for
 25 ultimate sale at retail, including field drain tile, and one-half of each purchaser's purchase of diesel
 26 fuel therefor which is:

- 27 (a) Used exclusively for agricultural purposes;
- 28 (b) Used on land owned or leased for the purpose of producing farm products; and
- 29 (c) Used directly in producing farm products to be sold ultimately in processed form or
 30 otherwise at retail or in producing farm products to be fed to livestock or poultry to be sold
 31 ultimately in processed form at retail;

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

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

44 (b) Regulated utility sellers shall determine whether individual purchases are exempt or
 45 nonexempt based upon the seller's utility service rate classifications as contained in tariffs on file
 46 with and approved by the Missouri public service commission. Sales and purchases made pursuant
 47 to the rate classification "residential" and sales to and purchases made by or on behalf of the
 48 occupants of residential apartments or condominiums through a single or master meter, including
 49 service for common areas and facilities and vacant units, shall be considered as sales made for

1 domestic use and such sales shall be exempt from sales tax. Sellers shall charge sales tax upon the
2 entire amount of purchases classified as nondomestic use. The seller's utility service rate
3 classification and the provision of service thereunder shall be conclusive as to whether or not the
4 utility must charge sales tax;

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

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

21 (25) Excise taxes, collected on sales at retail, imposed by Sections 4041, 4071, 4081, 4091,
22 4161, 4181, 4251, 4261 and 4271 of Title 26, United States Code. The director of revenue shall
23 promulgate rules pursuant to chapter 536 to eliminate all state and local sales taxes on such excise
24 taxes;

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

30 (27) All sales made to an interstate compact agency created pursuant to sections 70.370 to
31 70.441 or sections 238.010 to 238.100 in the exercise of the functions and activities of such agency
32 as provided pursuant to the compact;

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

37 (29) All livestock sales when either the seller is engaged in the growing, producing or
38 feeding of such livestock, or the seller is engaged in the business of buying and selling, bartering or
39 leasing of such livestock;

40 (30) All sales of barges which are to be used primarily in the transportation of property or
41 cargo on interstate waterways;

42 (31) Electrical energy or gas, whether natural, artificial or propane, water, or other utilities
43 which are ultimately consumed in connection with the manufacturing of cellular glass products or in
44 any material recovery processing plant as defined in subdivision (4) of this subsection;

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

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

1 (34) All sales of grain bins for storage of grain for resale;

2 (35) All sales of feed which are developed for and used in the feeding of pets owned by a
3 commercial breeder when such sales are made to a commercial breeder, as defined in section
4 273.325, and licensed pursuant to sections 273.325 to 273.357;

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

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

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

23 (37) All sales or other transfers of tangible personal property to a lessor who leases the
24 property under a lease of one year or longer executed or in effect at the time of the sale or other
25 transfer to an interstate compact agency created pursuant to sections 70.370 to 70.441 or sections
26 238.010 to 238.100;

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

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

36 (40) All materials, replacement parts, and equipment purchased for use directly upon, and
37 for the modification, replacement, repair, and maintenance of aircraft, aircraft power plants, and
38 aircraft accessories;

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

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

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

49 (a) The transfer of title to the aircraft to a person who is not a resident of this state or a

1 corporation that is not incorporated in this state; or

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

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

13 (45) All internet access or the use of internet access regardless of whether the tax is imposed
14 on a provider of internet access or a buyer of internet access. For purposes of this subdivision, the
15 following terms shall mean:

16 (a) "Direct costs", costs incurred by a governmental authority solely because of an internet
17 service provider's use of the public right-of-way. The term shall not include costs that the
18 governmental authority would have incurred if the internet service provider did not make such use
19 of the public right-of-way. Direct costs shall be determined in a manner consistent with generally
20 accepted accounting principles;

21 (b) "Internet", computer and telecommunications facilities, including equipment and
22 operating software, that comprises the interconnected worldwide network that employ the
23 transmission control protocol or internet protocol, or any predecessor or successor protocols to that
24 protocol, to communicate information of all kinds by wire or radio;

25 (c) "Internet access", a service that enables users to connect to the internet to access content,
26 information, or other services without regard to whether the service is referred to as
27 telecommunications, communications, transmission, or similar services, and without regard to
28 whether a provider of the service is subject to regulation by the Federal Communications
29 Commission as a common carrier under 47 U.S.C. Section 201, et seq. For purposes of this
30 subdivision, internet access also includes: the purchase, use, or sale of communications services,
31 including telecommunications services as defined in section 144.010, to the extent the
32 communications services are purchased, used, or sold to provide the service described in this
33 subdivision or to otherwise enable users to access content, information, or other services offered
34 over the internet; services that are incidental to the provision of a service described in this
35 subdivision, when furnished to users as part of such service, including a home page, electronic mail,
36 and instant messaging, including voice-capable and video-capable electronic mail and instant
37 messaging, video clips, and personal electronic storage capacity; a home page electronic mail and
38 instant messaging, including voice-capable and video-capable electronic mail and instant
39 messaging, video clips, and personal electronic storage capacity that are provided independently or
40 that are not packed with internet access. As used in this subdivision, internet access does not
41 include voice, audio, and video programming or other products and services, except services
42 described in this paragraph or this subdivision, that use internet protocol or any successor protocol
43 and for which there is a charge, regardless of whether the charge is separately stated or aggregated
44 with the charge for services described in this paragraph or this subdivision;

45 (d) "Tax", any charge imposed by the state or a political subdivision of the state for the
46 purpose of generating revenues for governmental purposes and that is not a fee imposed for a
47 specific privilege, service, or benefit conferred, except as described as otherwise under this
48 subdivision, or any obligation imposed on a seller to collect and to remit to the state or a political
49 subdivision of the state any gross retail tax, sales tax, or use tax imposed on a buyer by such a

1 governmental entity. The term tax shall not include any franchise fee or similar fee imposed or
 2 authorized under section 67.1830 or 67.2689; Section 622 or 653 of the Communications Act of
 3 1934, 47 U.S.C. Section 542 and 47 U.S.C. Section 573; or any other fee related to obligations of
 4 telecommunications carriers under the Communications Act of 1934, 47 U.S.C. Section 151, et seq.,
 5 except to the extent that:

6 a. The fee is not imposed for the purpose of recovering direct costs incurred by the
 7 franchising or other governmental authority from providing the specific privilege, service, or benefit
 8 conferred to the payer of the fee; or

9 b. The fee is imposed for the use of a public right-of-way based on a percentage of the
 10 service revenue, and the fee exceeds the incremental direct costs incurred by the governmental
 11 authority associated with the provision of that right-of-way to the provider of internet access service.
 12

13 Nothing in this subdivision shall be interpreted as an exemption from taxes due on goods or services
 14 that were subject to tax on January 1, 2016;

15 (46) All sales relating to the rental of a room that take place at a wedding venue. For
 16 purposes of this subdivision, the term "wedding venue" shall mean the site at which a wedding
 17 ceremony or reception that is held within six months of the date of marriage is conducted. An
 18 affidavit shall swear or affirm by the spouses entering into the marriage that the rental of the room is
 19 for the purposes set forth in this subdivision for a wedding venue and said venue shall maintain this
 20 affidavit for a period of three years.

21 (47) Charges or fees for volleyball leagues; and

22 (48) Rentals of campgrounds.

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

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