

House _____ Amendment NO. _____

Offered By

1 AMEND House Bill No. 440, Page 1, in the Title, Line 3, by deleting the word "payment of sales
2 tax" and inserting in lieu thereof the word "taxation"; and
3

4 Further amend said page, Section A, Line 2, by inserting immediately after said line the following:
5

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

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

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

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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 or
24 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 other
36 machinery, equipment, replacement parts and supplies used in producing newspapers published for
37 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 commerce
43 and motor vehicles licensed for a gross weight of twenty-four thousand pounds or more or trailers
44 used by common carriers, as defined in section 390.020, in the transportation of persons or property;

45 (13) Electrical energy used in the actual primary manufacture, processing, compounding,
46 mining or producing of a product, or electrical energy used in the actual secondary processing or
47 fabricating of the product, or a material recovery processing plant as defined in subdivision (5) of
48 this subsection, in facilities owned or leased by the taxpayer, if the total cost of electrical energy so

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

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

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

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

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

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

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

47 (20) All sales made by or to religious and charitable organizations and institutions in their
48 religious, charitable or educational functions and activities and all sales made by or to all elementary

1 and secondary schools operated at public expense in their educational functions and activities;

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

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

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

38 (a) Used exclusively for agricultural purposes;

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

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

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

47 (a) "Domestic use" means that portion of metered water service, electricity, electrical
48 current, natural, artificial or propane gas, wood, coal or home heating oil, and in any city not within

1 a county, metered or unmetered water service, which an individual occupant of a residential premises
2 uses for nonbusiness, noncommercial or nonindustrial purposes. Utility service through a single or
3 master meter for residential apartments or condominiums, including service for common areas and
4 facilities and vacant units, shall be deemed to be for domestic use. Each seller shall establish and
5 maintain a system whereby individual purchases are determined as exempt or nonexempt;

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

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

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

32 (26) Excise taxes, collected on sales at retail, imposed by Sections 4041, 4061, 4071, 4081,
33 4091, 4161, 4181, 4251, 4261 and 4271 of Title 26, United States Code. The director of revenue
34 shall promulgate rules pursuant to chapter 536 to eliminate all state and local sales taxes on such
35 excise taxes;

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

41 (28) All sales made to an interstate compact agency created pursuant to sections 70.370 to
42 70.441 or sections 238.010 to 238.100 in the exercise of the functions and activities of such agency
43 as provided pursuant to the compact;

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

48 (30) All livestock sales when either the seller is engaged in the growing, producing or

1 feeding of such livestock, or the seller is engaged in the business of buying and selling, bartering or
2 leasing of such livestock;

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

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

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

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

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

14 (36) All sales of feed which are developed for and used in the feeding of pets owned by a
15 commercial breeder when such sales are made to a commercial breeder, as defined in section
16 273.325, and licensed pursuant to sections 273.325 to 273.357;

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

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

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

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

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

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

48 (41) All materials, replacement parts, and equipment purchased for use directly upon, and

1 for the modification, replacement, repair, and maintenance of aircraft, aircraft power plants, and
2 aircraft accessories;

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

7 (43) Sales made for the use and benefit of any offender at any canteen or commissary
8 established and operated under section 217.195.

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

20
21 Further amend said bill by amending the title, enacting clause, and intersectional references
22 accordingly.
23