

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for House Bill No. 1448, Page 1, In the Title, Lines 2 and 3, by
2 deleting the words "taxation of utilities used in food preparation" and inserting in lieu thereof the words
3 "sales tax"; and
4

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

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

15 2. There are also specifically exempted from the provisions of the local sales tax law as defined in
16 section 32.085, section 238.235, and sections 144.010 to 144.525 and 144.600 to 144.761 and from the
17 computation of the tax levied, assessed or payable pursuant to the local sales tax law as defined in section
18 32.085, section 238.235, and sections 144.010 to 144.525 and 144.600 to 144.745:

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

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

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

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1 common carriers of persons or property;

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

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

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

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

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

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

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

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

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

41 (13) Electrical energy used in the actual primary manufacture, processing, compounding, mining or
42 producing of a product, or electrical energy used in the actual secondary processing or fabricating of the
43 product, or a material recovery processing plant as defined in subdivision (5) of this subsection, in facilities
44 owned or leased by the taxpayer, if the total cost of electrical energy so used exceeds ten percent of the total
45 cost of production, either primary or secondary, exclusive of the cost of electrical energy so used or if the raw
46 materials used in such processing contain at least twenty-five percent recovered materials as defined in
47 section 260.200. There shall be a rebuttable presumption that the raw materials used in the primary
48 manufacture of automobiles contain at least twenty-five percent recovered materials. For purposes of this
49 subdivision, "processing" means any mode of treatment, act or series of acts performed upon materials to
50 transform and reduce them to a different state or thing, including treatment necessary to maintain or preserve
51 such processing by the producer at the production facility;

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

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

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

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

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

18 (19) All sales of insulin and prosthetic or orthopedic devices as defined on January 1, 1980, by the
19 federal 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 (42 U.S.C. Section 1395y, as amended), and also specifically
21 including hearing aids and hearing aid supplies and all sales of drugs which may be legally dispensed by a
22 licensed pharmacist only upon a lawful prescription of a practitioner licensed to administer those items,
23 including samples and materials used to manufacture samples which may be dispensed by a practitioner
24 authorized to dispense such samples and all sales or rental of medical oxygen, home respiratory equipment
25 and accessories, hospital beds and accessories and ambulatory aids, all sales or rental of manual and powered
26 wheelchairs, stairway lifts, Braille writers, electronic Braille equipment and, if purchased or rented by or on
27 behalf of a person with one or more physical or mental disabilities to enable them to function more
28 independently, all sales or rental of scooters, reading machines, electronic print enlargers and magnifiers,
29 electronic alternative and augmentative communication devices, and items used solely to modify motor
30 vehicles to permit the use of such motor vehicles by individuals with disabilities or sales of over-the-counter
31 or nonprescription drugs to individuals with disabilities, and drugs required by the Food and Drug
32 Administration to meet the over-the-counter drug product labeling requirements in 21 CFR 201.66, or its
33 successor, as prescribed by a health care practitioner licensed to prescribe;

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

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

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

51 (23) All sales made to any private not-for-profit elementary or secondary school, all sales of feed
52 additives, medications or vaccines administered to livestock or poultry in the production of food or fiber, all
53 sales of pesticides used in the production of crops, livestock or poultry for food or fiber, all sales of bedding

1 used in the production of livestock or poultry for food or fiber, all sales of propane or natural gas, electricity
2 or diesel fuel used exclusively for drying agricultural crops, natural gas used in the primary manufacture or
3 processing of fuel ethanol as defined in section 142.028, natural gas, propane, and electricity used by an
4 eligible new generation cooperative or an eligible new generation processing entity as defined in section
5 348.432, and all sales of farm machinery and equipment, other than airplanes, motor vehicles and trailers,
6 and any freight charges on any exempt item. As used in this subdivision, the term "feed additives" means
7 tangible personal property which, when mixed with feed for livestock or poultry, is to be used in the feeding
8 of livestock or poultry. As used in this subdivision, the term "pesticides" includes adjuvants such as crop
9 oils, surfactants, wetting agents and other assorted pesticide carriers used to improve or enhance the effect of
10 a pesticide and the foam used to mark the application of pesticides and herbicides for the production of crops,
11 livestock or poultry. As used in this subdivision, the term "farm machinery and equipment" means new or
12 used farm tractors and such other new or used farm machinery and equipment and repair or replacement parts
13 thereon and any accessories for and upgrades to such farm machinery and equipment, rotary mowers used
14 exclusively for agricultural purposes, and supplies and lubricants used exclusively, solely, and directly for
15 producing crops, raising and feeding livestock, fish, poultry, pheasants, chukar, quail, or for producing milk
16 for ultimate sale at retail, including field drain tile, and one-half of each purchaser's purchase of diesel fuel
17 therefor which is:

18 (a) Used exclusively for agricultural purposes;

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

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

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

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

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

42 (c) Each person making domestic use purchases of services or property and who uses any portion of
43 the services or property so purchased for a nondomestic use shall, by the fifteenth day of the fourth month
44 following the year of purchase, and without assessment, notice or demand, file a return and pay sales tax on
45 that portion of nondomestic purchases. Each person making nondomestic purchases of services or property
46 and who uses any portion of the services or property so purchased for domestic use, and each person making
47 domestic purchases on behalf of occupants of residential apartments or condominiums through a single or
48 master meter, including service for common areas and facilities and vacant units, under a nonresidential
49 utility service rate classification may, between the first day of the first month and the fifteenth day of the
50 fourth month following the year of purchase, apply for credit or refund to the director of revenue and the
51 director shall give credit or make refund for taxes paid on the domestic use portion of the purchase. The
52 person making such purchases on behalf of occupants of residential apartments or condominiums shall have
53 standing to apply to the director of revenue for such credit or refund;

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

4 (26) Excise taxes, collected on sales at retail, imposed by Sections 4041, [4061,] 4071, 4081,
5 [4091,] 4161, 4181, 4251, 4261 and 4271 of Title 26, United States Code. The director of revenue shall
6 promulgate rules pursuant to chapter 536 to eliminate all state and local sales taxes on such excise taxes;

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

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

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

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

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

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

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

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

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

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

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

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

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

52 (38) All sales or other transfers of tangible personal property to a lessor who leases the property
53 under a lease of one year or longer executed or in effect at the time of the sale or other transfer to an

1 interstate compact agency created pursuant to sections 70.370 to 70.441 or sections 238.010 to 238.100;

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

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

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

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

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

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

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

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

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

30 3. Any ruling, agreement, or contract, whether written or oral, express or implied, between a person
31 and this state's executive branch, or any other state agency or department, stating, agreeing, or ruling that
32 such person is not required to collect sales and use tax in this state despite the presence of a warehouse,
33 distribution center, or fulfillment center in this state that is owned or operated by the person or an affiliated
34 person shall be null and void unless it is specifically approved by a majority vote of each of the houses of the
35 general assembly. For purposes of this subsection, an "affiliated person" means any person that is a member
36 of the same controlled group of corporations as defined in Section 1563(a) of the Internal Revenue Code of
37 1986, as amended, as the vendor or any other entity that, notwithstanding its form of organization, bears the
38 same ownership relationship to the vendor as a corporation that is a member of the same controlled group of
39 corporations as defined in Section 1563(a) of the Internal Revenue Code, as amended."; and

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41 Further amend said bill, Page 2, Section 144.055, Line 26, by inserting immediately after said section and
42 line the following:

43
44 "144.064. No sales tax shall be levied under this chapter on any firearms or ammunition [shall be
45 levied at a rate that is higher than the sales tax levied under this chapter or any other excise tax levied on any
46 sporting goods or equipment or any hunting equipment]."; and

47
48 Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.