

SENATE AMENDMENT NO. _____

Offered by _____ of _____

Amend SS/Senate Bill No. 143, Page 1, Section A, Line 4,

2 by striking "food" and inserting in lieu thereof the
 3 following: "products essential for healthy living"; and
 4 Further amend said bill, page 8, Section 135.1620, line
 5 139, by inserting after all of said line the following:

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

18 2. There are also specifically exempted from the
 19 provisions of the local sales tax law as defined in section
 20 32.085, section 238.235, and sections 144.010 to 144.525 and
 21 144.600 to 144.761 and from the computation of the tax
 22 levied, assessed or payable pursuant to the local sales tax
 23 law as defined in section 32.085, section 238.235, and
 24 sections 144.010 to 144.525 and 144.600 to 144.745:

25 (1) Motor fuel or special fuel subject to an excise
 26 tax of this state, unless all or part of such excise tax is

27 refunded pursuant to section 142.824; or upon the sale at
28 retail of fuel to be consumed in manufacturing or creating
29 gas, power, steam, electrical current or in furnishing water
30 to be sold ultimately at retail; or feed for livestock or
31 poultry; or grain to be converted into foodstuffs which are
32 to be sold ultimately in processed form at retail; or seed,
33 limestone or fertilizer which is to be used for seeding,
34 liming or fertilizing crops which when harvested will be
35 sold at retail or will be fed to livestock or poultry to be
36 sold ultimately in processed form at retail; economic
37 poisons registered pursuant to the provisions of the
38 Missouri pesticide registration law, sections 281.220 to
39 281.310, which are to be used in connection with the growth
40 or production of crops, fruit trees or orchards applied
41 before, during, or after planting, the crop of which when
42 harvested will be sold at retail or will be converted into
43 foodstuffs which are to be sold ultimately in processed form
44 at retail;

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

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

64 (4) Replacement machinery, equipment, and parts and
65 the materials and supplies solely required for the
66 installation or construction of such replacement machinery,
67 equipment, and parts, used directly in manufacturing,
68 mining, fabricating or producing a product which is intended
69 to be sold ultimately for final use or consumption; and
70 machinery and equipment, and the materials and supplies
71 required solely for the operation, installation or
72 construction of such machinery and equipment, purchased and
73 used to establish new, or to replace or expand existing,
74 material recovery processing plants in this state. For the
75 purposes of this subdivision, a "material recovery
76 processing plant" means a facility that has as its primary
77 purpose the recovery of materials into a usable product or a
78 different form which is used in producing a new product and
79 shall include a facility or equipment which are used
80 exclusively for the collection of recovered materials for
81 delivery to a material recovery processing plant but shall
82 not include motor vehicles used on highways. For purposes
83 of this section, the terms motor vehicle and highway shall
84 have the same meaning pursuant to section 301.010. For the
85 purposes of this subdivision, subdivision (5) of this
86 subsection, and section 144.054, as well as the definition
87 in subdivision (9) of subsection 1 of section 144.010, the
88 term "product" includes telecommunications services and the
89 term "manufacturing" shall include the production, or
90 production and transmission, of telecommunications
91 services. The preceding sentence does not make a

92 substantive change in the law and is intended to clarify
93 that the term "manufacturing" has included and continues to
94 include the production and transmission of
95 "telecommunications services", as enacted in this
96 subdivision and subdivision (5) of this subsection, as well
97 as the definition in subdivision (9) of subsection 1 of
98 section 144.010. The preceding two sentences reaffirm
99 legislative intent consistent with the interpretation of
100 this subdivision and subdivision (5) of this subsection in
101 *Southwestern Bell Tel. Co. v. Director of Revenue*, 78 S.W.3d
102 763 (Mo. banc 2002) and *Southwestern Bell Tel. Co. v.*
103 *Director of Revenue*, 182 S.W.3d 226 (Mo. banc 2005), and
104 accordingly abrogates the Missouri supreme court's
105 interpretation of those exemptions in *IBM Corporation v.*
106 *Director of Revenue*, 491 S.W.3d 535 (Mo. banc 2016) to the
107 extent inconsistent with this section and *Southwestern Bell*
108 *Tel. Co. v. Director of Revenue*, 78 S.W.3d 763 (Mo. banc
109 2002) and *Southwestern Bell Tel. Co. v. Director of Revenue*,
110 182 S.W.3d 226 (Mo. banc 2005). The construction and
111 application of this subdivision as expressed by the Missouri
112 supreme court in *DST Systems, Inc. v. Director of Revenue*,
113 43 S.W.3d 799 (Mo. banc 2001); *Southwestern Bell Tel. Co. v.*
114 *Director of Revenue*, 78 S.W.3d 763 (Mo. banc 2002); and
115 *Southwestern Bell Tel. Co. v. Director of Revenue*, 182
116 S.W.3d 226 (Mo. banc 2005), is hereby affirmed. Material
117 recovery is not the reuse of materials within a
118 manufacturing process or the use of a product previously
119 recovered. The material recovery processing plant shall
120 qualify under the provisions of this section regardless of
121 ownership of the material being recovered;

122 (5) Machinery and equipment, and parts and the
123 materials and supplies solely required for the installation
124 or construction of such machinery and equipment, purchased

125 and used to establish new or to expand existing
126 manufacturing, mining or fabricating plants in the state if
127 such machinery and equipment is used directly in
128 manufacturing, mining or fabricating a product which is
129 intended to be sold ultimately for final use or
130 consumption. The construction and application of this
131 subdivision as expressed by the Missouri supreme court in
132 *DST Systems, Inc. v. Director of Revenue*, 43 S.W.3d 799 (Mo.
133 banc 2001); *Southwestern Bell Tel. Co. v. Director of*
134 *Revenue*, 78 S.W.3d 763 (Mo. banc 2002); and *Southwestern*
135 *Bell Tel. Co. v. Director of Revenue*, 182 S.W.3d 226 (Mo.
136 banc 2005), is hereby affirmed;

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

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

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

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

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

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

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

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

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

188 (15) Machinery, equipment, appliances and devices
189 purchased or leased and used solely for the purpose of
190 preventing, abating or monitoring water pollution, and

191 materials and supplies solely required for the installation,
192 construction or reconstruction of such machinery, equipment,
193 appliances and devices;

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

196 (17) All amounts paid or charged for admission or
197 participation or other fees paid by or other charges to
198 individuals in or for any place of amusement, entertainment
199 or recreation, games or athletic events, including museums,
200 fairs, zoos and planetariums, owned or operated by a
201 municipality or other political subdivision where all the
202 proceeds derived therefrom benefit the municipality or other
203 political subdivision and do not inure to any private
204 person, firm, or corporation, provided, however, that a
205 municipality or other political subdivision may enter into
206 revenue-sharing agreements with private persons, firms, or
207 corporations providing goods or services, including
208 management services, in or for the place of amusement,
209 entertainment or recreation, games or athletic events, and
210 provided further that nothing in this subdivision shall
211 exempt from tax any amounts retained by any private person,
212 firm, or corporation under such revenue-sharing agreement;

213 (18) All sales of insulin, and all sales, rentals,
214 repairs, and parts of durable medical equipment, prosthetic
215 devices, and orthopedic devices as defined [on January 1,
216 1980,] by the federal Medicare program pursuant to Title
217 XVIII of the Social Security Act of 1965, as amended,
218 including the items specified in Section 1862(a)(12) of that
219 act, and also specifically including hearing aids and
220 hearing aid supplies and all sales of drugs which may be
221 legally dispensed by a licensed pharmacist only upon a
222 lawful prescription of a practitioner licensed to administer
223 those items, including samples and materials used to

224 manufacture samples which may be dispensed by a practitioner
225 authorized to dispense such samples and all sales or rental
226 of medical oxygen, home respiratory equipment and
227 accessories including parts, and hospital beds and
228 accessories and ambulatory aids including parts, and all
229 sales or rental of manual and powered wheelchairs including
230 parts and accessories, and stairway lifts, Braille writers,
231 electronic Braille equipment and, if purchased or rented by
232 or on behalf of a person with one or more physical or mental
233 disabilities to enable them to function more independently,
234 all sales or rental of scooters including parts, and reading
235 machines, electronic print enlargers and magnifiers,
236 electronic alternative and augmentative communication
237 devices, and items used solely to modify motor vehicles to
238 permit the use of such motor vehicles by individuals with
239 disabilities or sales of over-the-counter or nonprescription
240 drugs to individuals with disabilities, and drugs required
241 by the Food and Drug Administration to meet the over-the-
242 counter drug product labeling requirements in 21 CFR 201.66,
243 or its successor, as prescribed by a health care
244 practitioner licensed to prescribe;

245 (19) All sales made by or to religious and charitable
246 organizations and institutions in their religious,
247 charitable or educational functions and activities and all
248 sales made by or to all elementary and secondary schools
249 operated at public expense in their educational functions
250 and activities;

251 (20) All sales of aircraft to common carriers for
252 storage or for use in interstate commerce and all sales made
253 by or to not-for-profit civic, social, service or fraternal
254 organizations, including fraternal organizations which have
255 been declared tax-exempt organizations pursuant to Section
256 501(c) (8) or (10) of the 1986 Internal Revenue Code, as

257 amended, in their civic or charitable functions and
258 activities and all sales made to eleemosynary and penal
259 institutions and industries of the state, and all sales made
260 to any private not-for-profit institution of higher
261 education not otherwise excluded pursuant to subdivision
262 (19) of this subsection or any institution of higher
263 education supported by public funds, and all sales made to a
264 state relief agency in the exercise of relief functions and
265 activities;

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

277 (22) All sales made to any private not-for-profit
278 elementary or secondary school, all sales of feed additives,
279 medications or vaccines administered to livestock or poultry
280 in the production of food or fiber, all sales of pesticides
281 used in the production of crops, livestock or poultry for
282 food or fiber, all sales of bedding used in the production
283 of livestock or poultry for food or fiber, all sales of
284 propane or natural gas, electricity or diesel fuel used
285 exclusively for drying agricultural crops, natural gas used
286 in the primary manufacture or processing of fuel ethanol as
287 defined in section 142.028, natural gas, propane, and
288 electricity used by an eligible new generation cooperative
289 or an eligible new generation processing entity as defined

290 in section 348.432, and all sales of farm machinery and
291 equipment, other than airplanes, motor vehicles and
292 trailers, and any freight charges on any exempt item. As
293 used in this subdivision, the term "feed additives" means
294 tangible personal property which, when mixed with feed for
295 livestock or poultry, is to be used in the feeding of
296 livestock or poultry. As used in this subdivision, the term
297 "pesticides" includes adjuvants such as crop oils,
298 surfactants, wetting agents and other assorted pesticide
299 carriers used to improve or enhance the effect of a
300 pesticide and the foam used to mark the application of
301 pesticides and herbicides for the production of crops,
302 livestock or poultry. As used in this subdivision, the term
303 "farm machinery and equipment" shall mean:

304 (a) New or used farm tractors and such other new or
305 used farm machinery and equipment, including utility
306 vehicles used for any agricultural use, and repair or
307 replacement parts thereon and any accessories for and
308 upgrades to such farm machinery and equipment and rotary
309 mowers used for any agricultural purposes. For the purposes
310 of this subdivision, "utility vehicle" shall mean any
311 motorized vehicle manufactured and used exclusively for off-
312 highway use which is more than fifty inches but no more than
313 eighty inches in width, measured from outside of tire rim to
314 outside of tire rim, with an unladen dry weight of three
315 thousand five hundred pounds or less, traveling on four or
316 six wheels;

317 (b) Supplies and lubricants used exclusively, solely,
318 and directly for producing crops, raising and feeding
319 livestock, fish, poultry, pheasants, chukar, quail, or for
320 producing milk for ultimate sale at retail, including field
321 drain tile; and

322 (c) One-half of each purchaser's purchase of diesel
323 fuel therefor which is:

324 a. Used exclusively for agricultural purposes;

325 b. Used on land owned or leased for the purpose of
326 producing farm products; and

327 c. Used directly in producing farm products to be sold
328 ultimately in processed form or otherwise at retail or in
329 producing farm products to be fed to livestock or poultry to
330 be sold ultimately in processed form at retail;

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

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

349 (b) Regulated utility sellers shall determine whether
350 individual purchases are exempt or nonexempt based upon the
351 seller's utility service rate classifications as contained
352 in tariffs on file with and approved by the Missouri public
353 service commission. Sales and purchases made pursuant to
354 the rate classification "residential" and sales to and

355 purchases made by or on behalf of the occupants of
356 residential apartments or condominiums through a single or
357 master meter, including service for common areas and
358 facilities and vacant units, shall be considered as sales
359 made for domestic use and such sales shall be exempt from
360 sales tax. Sellers shall charge sales tax upon the entire
361 amount of purchases classified as nondomestic use. The
362 seller's utility service rate classification and the
363 provision of service thereunder shall be conclusive as to
364 whether or not the utility must charge sales tax;

365 (c) Each person making domestic use purchases of
366 services or property and who uses any portion of the
367 services or property so purchased for a nondomestic use
368 shall, by the fifteenth day of the fourth month following
369 the year of purchase, and without assessment, notice or
370 demand, file a return and pay sales tax on that portion of
371 nondomestic purchases. Each person making nondomestic
372 purchases of services or property and who uses any portion
373 of the services or property so purchased for domestic use,
374 and each person making domestic purchases on behalf of
375 occupants of residential apartments or condominiums through
376 a single or master meter, including service for common areas
377 and facilities and vacant units, under a nonresidential
378 utility service rate classification may, between the first
379 day of the first month and the fifteenth day of the fourth
380 month following the year of purchase, apply for credit or
381 refund to the director of revenue and the director shall
382 give credit or make refund for taxes paid on the domestic
383 use portion of the purchase. The person making such
384 purchases on behalf of occupants of residential apartments
385 or condominiums shall have standing to apply to the director
386 of revenue for such credit or refund;

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

392 (25) Excise taxes, collected on sales at retail,
393 imposed by Sections 4041, 4071, 4081, 4091, 4161, 4181,
394 4251, 4261 and 4271 of Title 26, United States Code. The
395 director of revenue shall promulgate rules pursuant to
396 chapter 536 to eliminate all state and local sales taxes on
397 such excise taxes;

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

405 (27) All sales made to an interstate compact agency
406 created pursuant to sections 70.370 to 70.441 or sections
407 238.010 to 238.100 in the exercise of the functions and
408 activities of such agency as provided pursuant to the
409 compact;

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

417 (29) All livestock sales when either the seller is
418 engaged in the growing, producing or feeding of such

419 livestock, or the seller is engaged in the business of
420 buying and selling, bartering or leasing of such livestock;

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

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

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

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

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

440 (35) All sales of feed which are developed for and
441 used in the feeding of pets owned by a commercial breeder
442 when such sales are made to a commercial breeder, as defined
443 in section 273.325, and licensed pursuant to sections
444 273.325 to 273.357;

445 (36) All purchases by a contractor on behalf of an
446 entity located in another state, provided that the entity is
447 authorized to issue a certificate of exemption for purchases
448 to a contractor under the provisions of that state's laws.
449 For purposes of this subdivision, the term "certificate of
450 exemption" shall mean any document evidencing that the
451 entity is exempt from sales and use taxes on purchases

452 pursuant to the laws of the state in which the entity is
453 located. Any contractor making purchases on behalf of such
454 entity shall maintain a copy of the entity's exemption
455 certificate as evidence of the exemption. If the exemption
456 certificate issued by the exempt entity to the contractor is
457 later determined by the director of revenue to be invalid
458 for any reason and the contractor has accepted the
459 certificate in good faith, neither the contractor or the
460 exempt entity shall be liable for the payment of any taxes,
461 interest and penalty due as the result of use of the invalid
462 exemption certificate. Materials shall be exempt from all
463 state and local sales and use taxes when purchased by a
464 contractor for the purpose of fabricating tangible personal
465 property which is used in fulfilling a contract for the
466 purpose of constructing, repairing or remodeling facilities
467 for the following:

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

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

477 (37) All sales or other transfers of tangible personal
478 property to a lessor who leases the property under a lease
479 of one year or longer executed or in effect at the time of
480 the sale or other transfer to an interstate compact agency
481 created pursuant to sections 70.370 to 70.441 or sections
482 238.010 to 238.100;

483 (38) Sales of tickets to any collegiate athletic
484 championship event that is held in a facility owned or

485 operated by a governmental authority or commission, a quasi-
486 governmental agency, a state university or college or by the
487 state or any political subdivision thereof, including a
488 municipality, and that is played on a neutral site and may
489 reasonably be played at a site located outside the state of
490 Missouri. For purposes of this subdivision, "neutral site"
491 means any site that is not located on the campus of a
492 conference member institution participating in the event;

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

498 (40) All materials, replacement parts, and equipment
499 purchased for use directly upon, and for the modification,
500 replacement, repair, and maintenance of aircraft, aircraft
501 power plants, and aircraft accessories;

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

509 (42) All sales of motor fuel, as defined in section
510 142.800, used in any watercraft, as defined in section
511 306.010;

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

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

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

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

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

543 (a) "Direct costs", costs incurred by a governmental
544 authority solely because of an internet service provider's
545 use of the public right-of-way. The term shall not include
546 costs that the governmental authority would have incurred if
547 the internet service provider did not make such use of the
548 public right-of-way. Direct costs shall be determined in a
549 manner consistent with generally accepted accounting
550 principles;

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

557 (c) "Internet access", a service that enables users to
558 connect to the internet to access content, information, or
559 other services without regard to whether the service is
560 referred to as telecommunications, communications,
561 transmission, or similar services, and without regard to
562 whether a provider of the service is subject to regulation
563 by the Federal Communications Commission as a common carrier
564 under 47 U.S.C. Section 201, et seq. For purposes of this
565 subdivision, internet access also includes: the purchase,
566 use, or sale of communications services, including
567 telecommunications services as defined in section 144.010,
568 to the extent the communications services are purchased,
569 used, or sold to provide the service described in this
570 subdivision or to otherwise enable users to access content,
571 information, or other services offered over the internet;
572 services that are incidental to the provision of a service
573 described in this subdivision, when furnished to users as
574 part of such service, including a home page, electronic
575 mail, and instant messaging, including voice-capable and
576 video-capable electronic mail and instant messaging, video
577 clips, and personal electronic storage capacity; a home page
578 electronic mail and instant messaging, including voice-
579 capable and video-capable electronic mail and instant
580 messaging, video clips, and personal electronic storage
581 capacity that are provided independently or that are not
582 packed with internet access. As used in this subdivision,
583 internet access does not include voice, audio, and video

584 programming or other products and services, except services
585 described in this paragraph or this subdivision, that use
586 internet protocol or any successor protocol and for which
587 there is a charge, regardless of whether the charge is
588 separately stated or aggregated with the charge for services
589 described in this paragraph or this subdivision;

590 (d) "Tax", any charge imposed by the state or a
591 political subdivision of the state for the purpose of
592 generating revenues for governmental purposes and that is
593 not a fee imposed for a specific privilege, service, or
594 benefit conferred, except as described as otherwise under
595 this subdivision, or any obligation imposed on a seller to
596 collect and to remit to the state or a political subdivision
597 of the state any gross retail tax, sales tax, or use tax
598 imposed on a buyer by such a governmental entity. The term
599 tax shall not include any franchise fee or similar fee
600 imposed or authorized under sections 67.1830 to 67.1846 or
601 section 67.2689; Section 622 or 653 of the Communications
602 Act of 1934, 47 U.S.C. Section 542 and 47 U.S.C. Section
603 573; or any other fee related to obligations of
604 telecommunications carriers under the Communications Act of
605 1934, 47 U.S.C. Section 151, et seq., except to the extent
606 that:

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

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

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

620 (46) All purchases by a company of solar photovoltaic
621 energy systems, components used to construct a solar
622 photovoltaic energy system, and all purchases of materials
623 and supplies used directly to construct or make improvements
624 to such systems, provided that such systems:

625 (a) Are sold or leased to an end user; or

626 (b) Are used to produce, collect and transmit
627 electricity for resale or retail;

628 (47) All sales of diapers. For the purposes of this
629 subdivision, "diapers" shall mean absorbent garments worn by
630 infants or toddlers who are not toilet-trained or by
631 individuals who are incapable of controlling their bladder
632 or bowel movements;

633 (48) All sales of feminine hygiene products. For the
634 purposes of this subdivision, "feminine hygiene products"
635 shall mean tampons, pads, liners, and cups.

636 3. Any ruling, agreement, or contract, whether written
637 or oral, express or implied, between a person and this
638 state's executive branch, or any other state agency or
639 department, stating, agreeing, or ruling that such person is
640 not required to collect sales and use tax in this state
641 despite the presence of a warehouse, distribution center, or
642 fulfillment center in this state that is owned or operated
643 by the person or an affiliated person shall be null and void
644 unless it is specifically approved by a majority vote of
645 each of the houses of the general assembly. For purposes of
646 this subsection, an "affiliated person" means any person
647 that is a member of the same controlled group of
648 corporations as defined in Section 1563(a) of the Internal
649 Revenue Code of 1986, as amended, as the vendor or any other

650 entity that, notwithstanding its form of organization, bears
651 the same ownership relationship to the vendor as a
652 corporation that is a member of the same controlled group of
653 corporations as defined in Section 1563(a) of the Internal
654 Revenue Code, as amended."; and
655 Further amend the title and enacting clause accordingly.