

SENATE SUBSTITUTE
FOR
SENATE BILL NO. 872
AN ACT

To repeal sections 67.2677, 67.5122, and 143.121, RSMo, and to enact in lieu thereof four new sections relating to the taxation of utility infrastructure.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 67.2677, 67.5122, and 143.121, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 67.2677, 67.5122, 143.121, and 144.058, to read as follows:

67.2677. [1.] For purposes of sections 67.2675 to 67.2714, the following terms mean:

- (1) "Cable operator", as defined in 47 U.S.C. Section 522(5);
- (2) "Cable system", as defined in 47 U.S.C. Section 522(7);
- (3) "Franchise", an initial authorization, or renewal of an authorization, issued by a franchising entity, regardless of whether the authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, that authorizes the provision of video service and any affiliated or subsidiary agreements related to such authorization;
- (4) "Franchise area", the total geographic area authorized to be served by an incumbent cable operator in a political subdivision as of August 28, 2007, or, in the case of an incumbent local exchange carrier, as such term is defined in 47 U.S.C. Section 251(h), or affiliate thereof, the area within such political subdivision in which such carrier provides telephone exchange service;

21 (5) "Franchise entity", a political subdivision that
22 was entitled to require franchises and impose fees on cable
23 operators on the day before the effective date of sections
24 67.2675 to 67.2714, provided that only one political
25 subdivision may be a franchise entity with regard to a
26 geographic area;

27 (6) (a) "Gross revenues", limited to amounts billed
28 to video service subscribers for the following:

29 a. Recurring charges for video service; and
30 b. Event-based charges for video service, including
31 but not limited to pay-per-view and video-on-demand charges;

32 (b) "Gross revenues" do not include:

33 a. Discounts, refunds, and other price adjustments
34 that reduce the amount of compensation received by an entity
35 holding a video service authorization;

36 b. Uncollectibles;

37 c. Late payment fees;

38 d. Amounts billed to video service subscribers to
39 recover taxes, fees, or surcharges imposed on video service
40 subscribers or video service providers in connection with
41 the provision of video services, including the video service
42 provider fee authorized by this section;

43 e. Fees or other contributions for PEG or I-Net
44 support;

45 f. Charges for services other than video service that
46 are aggregated or bundled with amounts billed to video
47 service subscribers, if the entity holding a video service
48 authorization reasonably can identify such charges on books
49 and records kept in the regular course of business or by
50 other reasonable means;

51 g. Rental of set top boxes, modems, or other equipment
52 used to provide or facilitate the provision of video service;

53 h. Service charges related to the provision of video
54 service including, but not limited to, activation,
55 installation, repair, and maintenance charges;

56 i. Administrative charges related to the provision of
57 video service including, but not limited to, service order
58 and service termination charges; or

59 j. A pro rata portion of all revenue derived from
60 advertising, less refunds, rebates, or discounts;

61 (c) Except with respect to the exclusion of the video
62 service provider fee, gross revenues shall be computed in
63 accordance with generally accepted accounting principles;

64 (7) "Household", an apartment, a house, a mobile home,
65 or any other structure or part of a structure intended for
66 residential occupancy as separate living quarters;

67 (8) "Incumbent cable operator", the cable service
68 provider serving cable subscribers in a particular franchise
69 area on September 1, 2007;

70 (9) "Low-income household", a household with an
71 average annual household income of less than thirty-five
72 thousand dollars;

73 (10) "Person", an individual, partnership,
74 association, organization, corporation, trust, or government
75 entity;

76 (11) "Political subdivision", a city, town, village,
77 county;

78 (12) "Public right-of-way", the area of real property
79 in which a political subdivision has a dedicated or acquired
80 right-of-way interest in the real property, including the
81 area on, below, or above the present and future streets,
82 alleys, avenues, roads, highways, parkways, or boulevards
83 dedicated or acquired as right-of-way and utility easements
84 dedicated for compatible uses. The term does not include
85 the airwaves above a right-of-way with regard to wireless

86 telecommunications or other nonwire telecommunications or
87 broadcast service;

88 (13) "Video programming", programming provided by, or
89 generally considered comparable to programming provided by,
90 a television broadcast station, as set forth in 47 U.S.C.
91 Section 522(20);

92 (14) "Video service", the provision of video
93 programming by a video service provider provided through
94 wireline facilities located at least in part in the public
95 right-of-way without regard to delivery technology,
96 including internet protocol technology whether provided as
97 part of a tier, on demand, or on a per-channel basis. This
98 definition includes cable service as defined by 47 U.S.C.
99 Section 522(6), but does not include any video programming
100 provided by a commercial mobile service provider defined in
101 47 U.S.C. Section 332(d), or any video programming [**provided**
102 **solely as part of and**] accessed via a service that enables
103 users to access content, information, electronic mail, or
104 other services offered over the [**public**] internet, including
105 streaming content;

106 (15) "Video service authorization", the right of a
107 video service provider or an incumbent cable operator that
108 secures permission from the public service commission
109 pursuant to sections 67.2675 to 67.2714, to offer video
110 service to subscribers in a political subdivision;

111 (16) "Video service network", wireline facilities, or
112 any component thereof, located at least in part in the
113 public right-of-way that deliver video service, without
114 regard to delivery technology, including internet protocol
115 technology or any successor technology. The term video
116 service network shall include cable systems;

117 (17) "Video service provider", any person that
118 distributes video service through a video service network
119 pursuant to a video service authorization;

120 (18) "Video service provider fee", the fee imposed
121 under section 67.2689.

122 [2. The repeal and reenactment of this section shall
123 become effective August 28, 2023.]

67.5122. Sections 67.5110 to 67.5122 shall expire on
2 [January 1, 2025] December 31, 2029, except that for small
3 wireless facilities already permitted or collocated on
4 authority poles prior to such date, the rate set forth in
5 section 67.5116 for collocation of small wireless facilities
6 on authority poles shall remain effective for the duration
7 of the permit authorizing the collocation.

143.121. 1. The Missouri adjusted gross income of a
2 resident individual shall be the taxpayer's federal adjusted
3 gross income subject to the modifications in this section.

4 2. There shall be added to the taxpayer's federal
5 adjusted gross income:

6 (1) The amount of any federal income tax refund
7 received for a prior year which resulted in a Missouri
8 income tax benefit. The amount added pursuant to this
9 subdivision shall not include any amount of a federal income
10 tax refund attributable to a tax credit reducing a
11 taxpayer's federal tax liability pursuant to Public Law 116-
12 136 or 116-260, enacted by the 116th United States Congress,
13 for the tax year beginning on or after January 1, 2020, and
14 ending on or before December 31, 2020, and deducted from
15 Missouri adjusted gross income pursuant to section 143.171.
16 The amount added under this subdivision shall also not
17 include any amount of a federal income tax refund
18 attributable to a tax credit reducing a taxpayer's federal
19 tax liability under any other federal law that provides

20 direct economic impact payments to taxpayers to mitigate
21 financial challenges related to the COVID-19 pandemic, and
22 deducted from Missouri adjusted gross income under section
23 143.171;

24 (2) Interest on certain governmental obligations
25 excluded from federal gross income by 26 U.S.C. Section 103
26 of the Internal Revenue Code, as amended. The previous
27 sentence shall not apply to interest on obligations of the
28 state of Missouri or any of its political subdivisions or
29 authorities and shall not apply to the interest described in
30 subdivision (1) of subsection 3 of this section. The amount
31 added pursuant to this subdivision shall be reduced by the
32 amounts applicable to such interest that would have been
33 deductible in computing the taxable income of the taxpayer
34 except only for the application of 26 U.S.C. Section 265 of
35 the Internal Revenue Code, as amended. The reduction shall
36 only be made if it is at least five hundred dollars;

37 (3) The amount of any deduction that is included in
38 the computation of federal taxable income pursuant to 26
39 U.S.C. Section 168 of the Internal Revenue Code as amended
40 by the Job Creation and Worker Assistance Act of 2002 to the
41 extent the amount deducted relates to property purchased on
42 or after July 1, 2002, but before July 1, 2003, and to the
43 extent the amount deducted exceeds the amount that would
44 have been deductible pursuant to 26 U.S.C. Section 168 of
45 the Internal Revenue Code of 1986 as in effect on January 1,
46 2002;

47 (4) The amount of any deduction that is included in
48 the computation of federal taxable income for net operating
49 loss allowed by 26 U.S.C. Section 172 of the Internal
50 Revenue Code of 1986, as amended, other than the deduction
51 allowed by 26 U.S.C. Section 172(b)(1)(G) and 26 U.S.C.
52 Section 172(i) of the Internal Revenue Code of 1986, as

53 amended, for a net operating loss the taxpayer claims in the
54 tax year in which the net operating loss occurred or carries
55 forward for a period of more than twenty years and carries
56 backward for more than two years. Any amount of net
57 operating loss taken against federal taxable income but
58 disallowed for Missouri income tax purposes pursuant to this
59 subdivision after June 18, 2002, may be carried forward and
60 taken against any income on the Missouri income tax return
61 for a period of not more than twenty years from the year of
62 the initial loss; and

63 (5) For nonresident individuals in all taxable years
64 ending on or after December 31, 2006, the amount of any
65 property taxes paid to another state or a political
66 subdivision of another state for which a deduction was
67 allowed on such nonresident's federal return in the taxable
68 year unless such state, political subdivision of a state, or
69 the District of Columbia allows a subtraction from income
70 for property taxes paid to this state for purposes of
71 calculating income for the income tax for such state,
72 political subdivision of a state, or the District of
73 Columbia;

74 (6) For all tax years beginning on or after January 1,
75 2018, any interest expense paid or accrued in a previous
76 taxable year, but allowed as a deduction under 26 U.S.C.
77 Section 163, as amended, in the current taxable year by
78 reason of the carryforward of disallowed business interest
79 provisions of 26 U.S.C. Section 163(j), as amended. For the
80 purposes of this subdivision, an interest expense is
81 considered paid or accrued only in the first taxable year
82 the deduction would have been allowable under 26 U.S.C.
83 Section 163, as amended, if the limitation under 26 U.S.C.
84 Section 163(j), as amended, did not exist.

85 3. There shall be subtracted from the taxpayer's
86 federal adjusted gross income the following amounts to the
87 extent included in federal adjusted gross income:

88 (1) Interest received on deposits held at a federal
89 reserve bank or interest or dividends on obligations of the
90 United States and its territories and possessions or of any
91 authority, commission or instrumentality of the United
92 States to the extent exempt from Missouri income taxes
93 pursuant to the laws of the United States. The amount
94 subtracted pursuant to this subdivision shall be reduced by
95 any interest on indebtedness incurred to carry the described
96 obligations or securities and by any expenses incurred in
97 the production of interest or dividend income described in
98 this subdivision. The reduction in the previous sentence
99 shall only apply to the extent that such expenses including
100 amortizable bond premiums are deducted in determining the
101 taxpayer's federal adjusted gross income or included in the
102 taxpayer's Missouri itemized deduction. The reduction shall
103 only be made if the expenses total at least five hundred
104 dollars;

105 (2) The portion of any gain, from the sale or other
106 disposition of property having a higher adjusted basis to
107 the taxpayer for Missouri income tax purposes than for
108 federal income tax purposes on December 31, 1972, that does
109 not exceed such difference in basis. If a gain is
110 considered a long-term capital gain for federal income tax
111 purposes, the modification shall be limited to one-half of
112 such portion of the gain;

113 (3) The amount necessary to prevent the taxation
114 pursuant to this chapter of any annuity or other amount of
115 income or gain which was properly included in income or gain
116 and was taxed pursuant to the laws of Missouri for a taxable
117 year prior to January 1, 1973, to the taxpayer, or to a

118 decedent by reason of whose death the taxpayer acquired the
119 right to receive the income or gain, or to a trust or estate
120 from which the taxpayer received the income or gain;

121 (4) Accumulation distributions received by a taxpayer
122 as a beneficiary of a trust to the extent that the same are
123 included in federal adjusted gross income;

124 (5) The amount of any state income tax refund for a
125 prior year which was included in the federal adjusted gross
126 income;

127 (6) The portion of capital gain specified in section
128 135.357 that would otherwise be included in federal adjusted
129 gross income;

130 (7) The amount that would have been deducted in the
131 computation of federal taxable income pursuant to 26 U.S.C.
132 Section 168 of the Internal Revenue Code as in effect on
133 January 1, 2002, to the extent that amount relates to
134 property purchased on or after July 1, 2002, but before July
135 1, 2003, and to the extent that amount exceeds the amount
136 actually deducted pursuant to 26 U.S.C. Section 168 of the
137 Internal Revenue Code as amended by the Job Creation and
138 Worker Assistance Act of 2002;

139 (8) For all tax years beginning on or after January 1,
140 2005, the amount of any income received for military service
141 while the taxpayer serves in a combat zone which is included
142 in federal adjusted gross income and not otherwise excluded
143 therefrom. As used in this section, "combat zone" means any
144 area which the President of the United States by Executive
145 Order designates as an area in which Armed Forces of the
146 United States are or have engaged in combat. Service is
147 performed in a combat zone only if performed on or after the
148 date designated by the President by Executive Order as the
149 date of the commencing of combat activities in such zone,
150 and on or before the date designated by the President by

151 Executive Order as the date of the termination of combatant
152 activities in such zone;

153 (9) For all tax years ending on or after July 1, 2002,
154 with respect to qualified property that is sold or otherwise
155 disposed of during a taxable year by a taxpayer and for
156 which an additional modification was made under subdivision
157 (3) of subsection 2 of this section, the amount by which
158 additional modification made under subdivision (3) of
159 subsection 2 of this section on qualified property has not
160 been recovered through the additional subtractions provided
161 in subdivision (7) of this subsection;

162 (10) For all tax years beginning on or after January
163 1, 2014, the amount of any income received as payment from
164 any program which provides compensation to agricultural
165 producers who have suffered a loss as the result of a
166 disaster or emergency, including the:

- 167 (a) Livestock Forage Disaster Program;
- 168 (b) Livestock Indemnity Program;
- 169 (c) Emergency Assistance for Livestock, Honeybees, and
170 Farm-Raised Fish;
- 171 (d) Emergency Conservation Program;
- 172 (e) Noninsured Crop Disaster Assistance Program;
- 173 (f) Pasture, Rangeland, Forage Pilot Insurance Program;
- 174 (g) Annual Forage Pilot Program;
- 175 (h) Livestock Risk Protection Insurance Plan;
- 176 (i) Livestock Gross Margin Insurance Plan;

177 (11) For all tax years beginning on or after January
178 1, 2018, any interest expense paid or accrued in the current
179 taxable year, but not deducted as a result of the limitation
180 imposed under 26 U.S.C. Section 163(j), as amended. For the
181 purposes of this subdivision, an interest expense is
182 considered paid or accrued only in the first taxable year
183 the deduction would have been allowable under 26 U.S.C.

184 Section 163, as amended, if the limitation under 26 U.S.C.
185 Section 163(j), as amended, did not exist;

186 (12) One hundred percent of any retirement benefits
187 received by any taxpayer as a result of the taxpayer's
188 service in the Armed Forces of the United States, including
189 reserve components and the National Guard of this state, as
190 defined in 32 U.S.C. Sections 101(3) and 109, and any other
191 military force organized under the laws of this state; and

192 (13) For all tax years beginning on or after January
193 1, 2022, one hundred percent of any federal, state, or local
194 grant moneys received [for the purpose of providing or
195 expanding access to broadband internet to areas of the state
196 deemed to be lacking such access] by the taxpayer if the
197 grant money was disbursed for the express purpose of
198 providing or expanding access to broadband internet to areas
199 of the state deemed to be lacking such access.

200 4. There shall be added to or subtracted from the
201 taxpayer's federal adjusted gross income the taxpayer's
202 share of the Missouri fiduciary adjustment provided in
203 section 143.351.

204 5. There shall be added to or subtracted from the
205 taxpayer's federal adjusted gross income the modifications
206 provided in section 143.411.

207 6. In addition to the modifications to a taxpayer's
208 federal adjusted gross income in this section, to calculate
209 Missouri adjusted gross income there shall be subtracted
210 from the taxpayer's federal adjusted gross income any gain
211 recognized pursuant to 26 U.S.C. Section 1033 of the
212 Internal Revenue Code of 1986, as amended, arising from
213 compulsory or involuntary conversion of property as a result
214 of condemnation or the imminence thereof.

215 7. (1) As used in this subsection, "qualified health
216 insurance premium" means the amount paid during the tax year

217 by such taxpayer for any insurance policy primarily
218 providing health care coverage for the taxpayer, the
219 taxpayer's spouse, or the taxpayer's dependents.

220 (2) In addition to the subtractions in subsection 3 of
221 this section, one hundred percent of the amount of qualified
222 health insurance premiums shall be subtracted from the
223 taxpayer's federal adjusted gross income to the extent the
224 amount paid for such premiums is included in federal taxable
225 income. The taxpayer shall provide the department of
226 revenue with proof of the amount of qualified health
227 insurance premiums paid.

228 8. (1) Beginning January 1, 2014, in addition to the
229 subtractions provided in this section, one hundred percent
230 of the cost incurred by a taxpayer for a home energy audit
231 conducted by an entity certified by the department of
232 natural resources under section 640.153 or the
233 implementation of any energy efficiency recommendations made
234 in such an audit shall be subtracted from the taxpayer's
235 federal adjusted gross income to the extent the amount paid
236 for any such activity is included in federal taxable
237 income. The taxpayer shall provide the department of
238 revenue with a summary of any recommendations made in a
239 qualified home energy audit, the name and certification
240 number of the qualified home energy auditor who conducted
241 the audit, and proof of the amount paid for any activities
242 under this subsection for which a deduction is claimed. The
243 taxpayer shall also provide a copy of the summary of any
244 recommendations made in a qualified home energy audit to the
245 department of natural resources.

246 (2) At no time shall a deduction claimed under this
247 subsection by an individual taxpayer or taxpayers filing
248 combined returns exceed one thousand dollars per year for

249 individual taxpayers or cumulatively exceed two thousand
250 dollars per year for taxpayers filing combined returns.

251 (3) Any deduction claimed under this subsection shall
252 be claimed for the tax year in which the qualified home
253 energy audit was conducted or in which the implementation of
254 the energy efficiency recommendations occurred. If
255 implementation of the energy efficiency recommendations
256 occurred during more than one year, the deduction may be
257 claimed in more than one year, subject to the limitations
258 provided under subdivision (2) of this subsection.

259 (4) A deduction shall not be claimed for any otherwise
260 eligible activity under this subsection if such activity
261 qualified for and received any rebate or other incentive
262 through a state-sponsored energy program or through an
263 electric corporation, gas corporation, electric cooperative,
264 or municipally owned utility.

265 9. The provisions of subsection 8 of this section
266 shall expire on December 31, 2020.

267 10. (1) As used in this subsection, the following
268 terms mean:

269 (a) "Beginning farmer", a taxpayer who:

270 a. Has filed at least one but not more than ten
271 Internal Revenue Service Schedule F (Form 1040) Profit or
272 Loss From Farming forms since turning eighteen years of age;

273 b. Is approved for a beginning farmer loan through the
274 USDA Farm Service Agency Beginning Farmer direct or
275 guaranteed loan program;

276 c. Has a farming operation that is determined by the
277 department of agriculture to be new production agriculture
278 but is the principal operator of a farm and has substantial
279 farming knowledge; or

280 d. Has been determined by the department of
281 agriculture to be a qualified family member;

282 (b) "Farm owner", an individual who owns farmland and
283 disposes of or relinquishes use of all or some portion of
284 such farmland as follows:

285 a. A sale to a beginning farmer;

286 b. A lease or rental agreement not exceeding ten years
287 with a beginning farmer; or

288 c. A crop-share arrangement not exceeding ten years
289 with a beginning farmer;

290 (c) "Qualified family member", an individual who is
291 related to a farm owner within the fourth degree by blood,
292 marriage, or adoption and who is purchasing or leasing or is
293 in a crop-share arrangement for land from all or a portion
294 of such farm owner's farming operation.

295 (2) (a) In addition to all other subtractions
296 authorized in this section, a taxpayer who is a farm owner
297 who sells all or a portion of such farmland to a beginning
298 farmer may subtract from such taxpayer's Missouri adjusted
299 gross income an amount to the extent included in federal
300 adjusted gross income as provided in this subdivision.

301 (b) Subject to the limitations in paragraph (c) of
302 this subdivision, the amount that may be subtracted shall be
303 equal to the portion of capital gains received from the sale
304 of such farmland that such taxpayer receives in the tax year
305 for which such taxpayer subtracts such capital gain.

306 (c) A taxpayer may subtract the following amounts and
307 percentages per tax year in total capital gains received
308 from the sale of such farmland under this subdivision:

309 a. For the first two million dollars received, one
310 hundred percent;

311 b. For the next one million dollars received, eighty
312 percent;

313 c. For the next one million dollars received, sixty
314 percent;

315 d. For the next one million dollars received, forty
316 percent; and

317 e. For the next one million dollars received, twenty
318 percent.

319 (d) The department of revenue shall prepare an annual
320 report reviewing the costs and benefits and containing
321 statistical information regarding the subtraction of capital
322 gains authorized under this subdivision for the previous tax
323 year including, but not limited to, the total amount of all
324 capital gains subtracted and the number of taxpayers
325 subtracting such capital gains. Such report shall be
326 submitted before February first of each year to the
327 committee on agriculture policy of the Missouri house of
328 representatives and the committee on agriculture, food
329 production and outdoor resources of the Missouri senate, or
330 the successor committees.

331 (3) (a) In addition to all other subtractions
332 authorized in this section, a taxpayer who is a farm owner
333 who enters a lease or rental agreement for all or a portion
334 of such farmland with a beginning farmer may subtract from
335 such taxpayer's Missouri adjusted gross income an amount to
336 the extent included in federal adjusted gross income as
337 provided in this subdivision.

338 (b) Subject to the limitation in paragraph (c) of this
339 subdivision, the amount that may be subtracted shall be
340 equal to the portion of cash rent income received from the
341 lease or rental of such farmland that such taxpayer receives
342 in the tax year for which such taxpayer subtracts such
343 income.

344 (c) No taxpayer shall subtract more than twenty-five
345 thousand dollars per tax year in total cash rent income
346 received from the lease or rental of such farmland under
347 this subdivision.

348 (4) (a) In addition to all other subtractions
349 authorized in this section, a taxpayer who is a farm owner
350 who enters a crop-share arrangement on all or a portion of
351 such farmland with a beginning farmer may subtract from such
352 taxpayer's Missouri adjusted gross income an amount to the
353 extent included in federal adjusted gross income as provided
354 in this subdivision.

355 (b) Subject to the limitation in paragraph (c) of this
356 subdivision, the amount that may be subtracted shall be
357 equal to the portion of income received from the crop-share
358 arrangement on such farmland that such taxpayer receives in
359 the tax year for which such taxpayer subtracts such income.

360 (c) No taxpayer shall subtract more than twenty-five
361 thousand dollars per tax year in total income received from
362 the lease or rental of such farmland under this subdivision.

363 (5) The department of agriculture shall, by rule,
364 establish a process to verify that a taxpayer is a beginning
365 farmer for purposes of this section and shall provide
366 verification to the beginning farmer and farm seller of such
367 farmer's and seller's certification and qualification for
368 the exemption provided in this subsection.

144.058. In addition to other exemptions granted under
2 this chapter, there is hereby specifically exempted from the
3 provisions of and the computation of the tax levied,
4 assessed, or payable under this chapter and the local sales
5 tax law as defined in section 32.085, electrical energy and
6 gas, whether natural, artificial, or propane; water, coal,
7 and energy sources; chemicals, machinery, equipment, parts,
8 and material used or consumed in connection with or to
9 facilitate the generation, transmission, distribution, sale,
10 or furnishing of electricity for light, heat, or power; and
11 any conduits, ducts, or other devices, materials, apparatus,
12 or property for containing, holding, or carrying conductors

13 used or to be used for the transmission of electricity for
14 light, heat, or power service to consumers. The provisions
15 of this section shall be in addition to any other sales or
16 use tax exemption provided by law. Any public utility, as
17 such term is defined in section 386.020, that realizes any
18 savings as a result of the sales tax exemption provided in
19 this section shall provide the public service commission
20 information on the amount of savings realized in such public
21 utility's next general rate proceeding and shall include a
22 statement that such savings will be passed through to the
23 public utility's rate revenue requirement determined in the
24 public utility's next general rate proceeding. As used in
25 this section, savings realized shall be calculated as the
26 difference between sales tax incurred and sales tax expense
27 included in current rates.