

SENATE BILL NO. 95

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR LEWIS.

0592S.01I

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 135.621 and 144.030, RSMo, and to enact in lieu thereof two new sections relating to tax incentives for certain hygiene products.

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

Section A. Sections 135.621 and 144.030, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 135.621 and 144.030, to read as follows:

135.621. 1. As used in this section, the following terms mean:

(1) "Contribution", a donation of cash, stock, bonds, other marketable securities, or real property;

(2) "Department", the department of social services;

(3) "Diaper bank", a nonprofit entity located in this state [established and operating primarily for the purpose of collecting or purchasing] **that meets the following**

criteria:

(a) **Collects, purchases, warehouses, and manages a community inventory of** disposable diapers or other hygiene products for infants, children, or incontinent adults [and that];

(b) Regularly distributes **a consistent and reliable supply of** such diapers or other hygiene products through two or more schools, health care facilities, governmental agencies, or other nonprofit entities for eventual

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

18 distribution to individuals free of charge, **with the**
19 **intention of reducing diaper need; and**

20 (c) **Is a member of a national network organization**
21 **serving all fifty states through which certification**
22 **demonstrates nonprofit best practices, data-driven program**
23 **design, and equitable distribution focused on best serving**
24 **infants, children, and incontinent adults;**

25 (4) "Tax credit", a credit against the tax otherwise
26 due under chapter 143, excluding withholding tax imposed
27 under sections 143.191 to 143.265, or otherwise due under
28 chapter 148 or 153;

29 (5) "Taxpayer", a person, firm, partner in a firm,
30 corporation, or shareholder in an S corporation doing
31 business in the state of Missouri and subject to the state
32 income tax imposed under chapter 143; an insurance company
33 paying an annual tax on its gross premium receipts in this
34 state; any other financial institution paying taxes to the
35 state of Missouri or any political subdivision of this state
36 under chapter 148; an express company that pays an annual
37 tax on its gross receipts in this state under chapter 153;
38 an individual subject to the state income tax under chapter
39 143; or any charitable organization that is exempt from
40 federal income tax and whose Missouri unrelated business
41 taxable income, if any, would be subject to the state income
42 tax imposed under chapter 143.

43 2. For all fiscal years beginning on or after July 1,
44 2019, a taxpayer shall be allowed to claim a tax credit
45 against the taxpayer's state tax liability in an amount
46 equal to fifty percent of the amount of such taxpayer's
47 contributions to a diaper bank.

48 3. The amount of the tax credit claimed shall not
49 exceed the amount of the taxpayer's state tax liability for

50 the tax year for which the credit is claimed, and such
51 taxpayer shall not be allowed to claim a tax credit in
52 excess of fifty thousand dollars per tax year. However, any
53 tax credit that cannot be claimed in the tax year the
54 contribution was made may be carried over only to the next
55 subsequent tax year. No tax credit issued under this
56 section shall be assigned, transferred, or sold.

57 4. Except for any excess credit that is carried over
58 under subsection 3 of this section, no taxpayer shall be
59 allowed to claim a tax credit unless the taxpayer
60 contributes at least one hundred dollars to one or more
61 diaper banks during the tax year for which the credit is
62 claimed.

63 5. The department shall determine, at least annually,
64 which entities in this state qualify as diaper banks. The
65 department may require of an entity seeking to be classified
66 as a diaper bank any information which is reasonably
67 necessary to make such a determination. The department
68 shall classify an entity as a diaper bank if such entity
69 satisfies the definition under subsection 1 of this section.

70 6. The department shall establish a procedure by which
71 a taxpayer can determine if an entity has been classified as
72 a diaper bank.

73 7. Diaper banks may decline a contribution from a
74 taxpayer.

75 8. The cumulative amount of tax credits that may be
76 claimed by all the taxpayers contributing to diaper banks in
77 any one fiscal year shall not exceed five hundred thousand
78 dollars. Tax credits shall be issued in the order
79 contributions are received. If the amount of tax credits
80 redeemed in a tax year is less than five hundred thousand
81 dollars, the difference shall be added to the cumulative

82 limit created under this subsection for the next fiscal year
83 and carried over to subsequent fiscal years until claimed.

84 9. The department shall establish a procedure by
85 which, from the beginning of the fiscal year until some
86 point in time later in the fiscal year to be determined by
87 the department, the cumulative amount of tax credits are
88 equally apportioned among all entities classified as diaper
89 banks. If a diaper bank fails to use all, or some
90 percentage to be determined by the department, of its
91 apportioned tax credits during this predetermined period of
92 time, the department may reapportion such unused tax credits
93 to diaper banks that have used all, or some percentage to be
94 determined by the department, of their apportioned tax
95 credits during this predetermined period of time. The
96 department may establish multiple periods each fiscal year
97 and reapportion accordingly. To the maximum extent
98 possible, the department shall establish the procedure
99 described under this subsection in such a manner as to
100 ensure that taxpayers can claim as many of the tax credits
101 as possible, up to the cumulative limit created under
102 subsection 8 of this section.

103 10. Each diaper bank shall provide information to the
104 department concerning the identity of each taxpayer making a
105 contribution and the amount of the contribution. The
106 department shall provide the information to the department
107 of revenue. The department shall be subject to the
108 confidentiality and penalty provisions of section 32.057
109 relating to the disclosure of tax information.

110 11. Under section 23.253 of the Missouri sunset act:

111 (1) The provisions of the program authorized under
112 this section shall automatically sunset on December thirty-

113 first six years after August 28, [2018] 2025, unless
114 reauthorized by an act of the general assembly;

115 (2) If such program is reauthorized, the program
116 authorized under this section shall automatically sunset on
117 December thirty-first six years after the effective date of
118 the reauthorization of this section;

119 (3) This section shall terminate on September first of
120 the calendar year immediately following the calendar year in
121 which the program authorized under this section is sunset;
122 and

123 (4) The provisions of this subsection shall not be
124 construed to limit or in any way impair the department's
125 ability to issue tax credits authorized on or before the
126 date the program authorized under this section expires or a
127 taxpayer's ability to redeem such tax credits.

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

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

18 law as defined in section 32.085, section 238.235, and
19 sections 144.010 to 144.525 and 144.600 to 144.745:

20 (1) Motor fuel or special fuel subject to an excise
21 tax of this state, unless all or part of such excise tax is
22 refunded pursuant to section 142.824; or upon the sale at
23 retail of fuel to be consumed in manufacturing or creating
24 gas, power, steam, electrical current or in furnishing water
25 to be sold ultimately at retail; or feed for livestock or
26 poultry; or grain to be converted into foodstuffs which are
27 to be sold ultimately in processed form at retail; or seed,
28 limestone or fertilizer which is to be used for seeding,
29 liming or fertilizing crops which when harvested will be
30 sold at retail or will be fed to livestock or poultry to be
31 sold ultimately in processed form at retail; economic
32 poisons registered pursuant to the provisions of the
33 Missouri pesticide registration **[law] act**, sections
34 **[281.220] 281.210** to 281.310, which are to be used in
35 connection with the growth or production of crops, fruit
36 trees or orchards applied before, during, or after planting,
37 the crop of which when harvested will be sold at retail or
38 will be converted into foodstuffs which are to be sold
39 ultimately in processed form at retail;

40 (2) Materials, manufactured goods, machinery and parts
41 which when used in manufacturing, processing, compounding,
42 mining, producing or fabricating become a component part or
43 ingredient of the new personal property resulting from such
44 manufacturing, processing, compounding, mining, producing or
45 fabricating and which new personal property is intended to
46 be sold ultimately for final use or consumption; and
47 materials, including without limitation, gases and
48 manufactured goods, including without limitation slagging
49 materials and firebrick, which are ultimately consumed in

50 the manufacturing process by blending, reacting or
51 interacting with or by becoming, in whole or in part,
52 component parts or ingredients of steel products intended to
53 be sold ultimately for final use or consumption;

54 (3) Materials, replacement parts and equipment
55 purchased for use directly upon, and for the repair and
56 maintenance or manufacture of, motor vehicles, watercraft,
57 railroad rolling stock or aircraft engaged as common
58 carriers of persons or property;

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

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

114 recovered. The material recovery processing plant shall
115 qualify under the provisions of this section regardless of
116 ownership of the material being recovered;

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

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

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

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

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

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

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

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

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

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

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

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

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

208 (18) All sales of insulin, and all sales, rentals,
209 repairs, and parts of durable medical equipment, prosthetic
210 devices, and orthopedic devices as defined on January 1,
211 1980, by the federal Medicare program pursuant to Title
212 XVIII of the Social Security Act of 1965, including the
213 items specified in Section 1862(a)(12) of that act (**42**
214 **U.S.C. Section 1395y, as amended**), and also specifically
215 including hearing aids and hearing aid supplies and all
216 sales of drugs which may be legally dispensed by a licensed
217 pharmacist only upon a lawful prescription of a practitioner
218 licensed to administer those items, including samples and
219 materials used to manufacture samples which may be dispensed
220 by a practitioner authorized to dispense such samples and
221 all sales or rental of medical oxygen, home respiratory
222 equipment and accessories including parts, and hospital beds
223 and accessories and ambulatory aids including parts, and all
224 sales or rental of manual and powered wheelchairs including
225 parts, and stairway lifts, Braille writers, electronic
226 Braille equipment and, if purchased or rented by or on
227 behalf of a person with one or more physical or mental
228 disabilities to enable them to function more independently,
229 all sales or rental of scooters including parts, and reading
230 machines, electronic print enlargers and magnifiers,
231 electronic alternative and augmentative communication
232 devices, and items used solely to modify motor vehicles to
233 permit the use of such motor vehicles by individuals with
234 disabilities or sales of over-the-counter or nonprescription
235 drugs to individuals with disabilities, and drugs required
236 by the Food and Drug Administration to meet the over-the-
237 counter drug product labeling requirements in 21 CFR 201.66,
238 or its successor, as prescribed by a health care
239 practitioner licensed to prescribe;

240 (19) All sales made by or to religious and charitable
241 organizations and institutions in their religious,
242 charitable or educational functions and activities and all
243 sales made by or to all elementary and secondary schools
244 operated at public expense in their educational functions
245 and activities;

246 (20) All sales of aircraft to common carriers for
247 storage or for use in interstate commerce and all sales made
248 by or to not-for-profit civic, social, service or fraternal
249 organizations, including fraternal organizations which have
250 been declared tax-exempt organizations pursuant to Section
251 501(c) (8) or (10) of the 1986 Internal Revenue Code, as
252 amended, in their civic or charitable functions and
253 activities and all sales made to eleemosynary and penal
254 institutions and industries of the state, and all sales made
255 to any private not-for-profit institution of higher
256 education not otherwise excluded pursuant to subdivision
257 (19) of this subsection or any institution of higher
258 education supported by public funds, and all sales made to a
259 state relief agency in the exercise of relief functions and
260 activities;

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

272 (22) All sales made to any private not-for-profit
273 elementary or secondary school, all sales of feed additives,
274 medications or vaccines administered to livestock or poultry
275 in the production of food or fiber, all sales of pesticides
276 used in the production of crops, livestock or poultry for
277 food or fiber, all sales of bedding used in the production
278 of livestock or poultry for food or fiber, all sales of
279 propane or natural gas, electricity or diesel fuel used
280 exclusively for drying agricultural crops, natural gas used
281 in the primary manufacture or processing of fuel ethanol as
282 defined in section 142.028, natural gas, propane, and
283 electricity used by an eligible new generation cooperative
284 or an eligible new generation processing entity as defined
285 in section 348.432, and all sales of farm machinery and
286 equipment, other than airplanes, motor vehicles and
287 trailers, and any freight charges on any exempt item. As
288 used in this subdivision, the term "feed additives" means
289 tangible personal property which, when mixed with feed for
290 livestock or poultry, is to be used in the feeding of
291 livestock or poultry. As used in this subdivision, the term
292 "pesticides" includes adjuvants such as crop oils,
293 surfactants, wetting agents and other assorted pesticide
294 carriers used to improve or enhance the effect of a
295 pesticide and the foam used to mark the application of
296 pesticides and herbicides for the production of crops,
297 livestock or poultry. As used in this subdivision, the term
298 "farm machinery and equipment" shall mean:

299 (a) New or used farm tractors and such other new or
300 used farm machinery and equipment, including utility
301 vehicles used for any agricultural use, and repair or
302 replacement parts thereon and any accessories for and
303 upgrades to such farm machinery and equipment and rotary

304 mowers used for any agricultural purposes. For the purposes
305 of this subdivision, "utility vehicle" shall mean any
306 motorized vehicle manufactured and used exclusively for off-
307 highway use which is more than fifty inches but no more than
308 eighty inches in width, measured from outside of tire rim to
309 outside of tire rim, with an unladen dry weight of three
310 thousand five hundred pounds or less, traveling on four or
311 six wheels;

312 (b) Supplies and lubricants used exclusively, solely,
313 and directly for producing crops, raising and feeding
314 livestock, fish, poultry, pheasants, chukar, quail, or for
315 producing milk for ultimate sale at retail, including field
316 drain tile; and

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

319 a. Used exclusively for agricultural purposes;

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

322 c. Used directly in producing farm products to be sold
323 ultimately in processed form or otherwise at retail or in
324 producing farm products to be fed to livestock or poultry to
325 be sold ultimately in processed form at retail;

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

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

336 water service, which an individual occupant of a residential
337 premises uses for nonbusiness, noncommercial or
338 nonindustrial purposes. Utility service through a single or
339 master meter for residential apartments or condominiums,
340 including service for common areas and facilities and vacant
341 units, shall be deemed to be for domestic use. Each seller
342 shall establish and maintain a system whereby individual
343 purchases are determined as exempt or nonexempt;

344 (b) Regulated utility sellers shall determine whether
345 individual purchases are exempt or nonexempt based upon the
346 seller's utility service rate classifications as contained
347 in tariffs on file with and approved by the Missouri public
348 service commission. Sales and purchases made pursuant to
349 the rate classification "residential" and sales to and
350 purchases made by or on behalf of the occupants of
351 residential apartments or condominiums through a single or
352 master meter, including service for common areas and
353 facilities and vacant units, shall be considered as sales
354 made for domestic use and such sales shall be exempt from
355 sales tax. Sellers shall charge sales tax upon the entire
356 amount of purchases classified as nondomestic use. The
357 seller's utility service rate classification and the
358 provision of service thereunder shall be conclusive as to
359 whether or not the utility must charge sales tax;

360 (c) Each person making domestic use purchases of
361 services or property and who uses any portion of the
362 services or property so purchased for a nondomestic use
363 shall, by the fifteenth day of the fourth month following
364 the year of purchase, and without assessment, notice or
365 demand, file a return and pay sales tax on that portion of
366 nondomestic purchases. Each person making nondomestic
367 purchases of services or property and who uses any portion

368 of the services or property so purchased for domestic use,
369 and each person making domestic purchases on behalf of
370 occupants of residential apartments or condominiums through
371 a single or master meter, including service for common areas
372 and facilities and vacant units, under a nonresidential
373 utility service rate classification may, between the first
374 day of the first month and the fifteenth day of the fourth
375 month following the year of purchase, apply for credit or
376 refund to the director of revenue and the director shall
377 give credit or make refund for taxes paid on the domestic
378 use portion of the purchase. The person making such
379 purchases on behalf of occupants of residential apartments
380 or condominiums shall have standing to apply to the director
381 of revenue for such credit or refund;

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

387 (25) Excise taxes, collected on sales at retail,
388 imposed by Sections 4041, 4071, 4081, [4091,] 4161, 4181,
389 4251, 4261 and 4271 of Title 26, United States Code. The
390 director of revenue shall promulgate rules pursuant to
391 chapter 536 to eliminate all state and local sales taxes on
392 such excise taxes;

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

400 (27) All sales made to an interstate compact agency
401 created pursuant to sections 70.370 to 70.441 or sections
402 238.010 to 238.100 in the exercise of the functions and
403 activities of such agency as provided pursuant to the
404 compact;

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

412 (29) All livestock sales when either the seller is
413 engaged in the growing, producing or feeding of such
414 livestock, or the seller is engaged in the business of
415 buying and selling, bartering or leasing of such livestock;

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

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

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

428 (33) Tangible personal property and utilities
429 purchased for use or consumption directly or exclusively in
430 the research and development of agricultural/biotechnology

431 and plant genomics products and prescription pharmaceuticals
432 consumed by humans or animals;

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

435 (35) All sales of feed which are developed for and
436 used in the feeding of pets owned by a commercial breeder
437 when such sales are made to a commercial breeder, as defined
438 in section 273.325, and licensed pursuant to sections
439 273.325 to 273.357;

440 (36) All purchases by a contractor on behalf of an
441 entity located in another state, provided that the entity is
442 authorized to issue a certificate of exemption for purchases
443 to a contractor under the provisions of that state's laws.
444 For purposes of this subdivision, the term "certificate of
445 exemption" shall mean any document evidencing that the
446 entity is exempt from sales and use taxes on purchases
447 pursuant to the laws of the state in which the entity is
448 located. Any contractor making purchases on behalf of such
449 entity shall maintain a copy of the entity's exemption
450 certificate as evidence of the exemption. If the exemption
451 certificate issued by the exempt entity to the contractor is
452 later determined by the director of revenue to be invalid
453 for any reason and the contractor has accepted the
454 certificate in good faith, neither the contractor or the
455 exempt entity shall be liable for the payment of any taxes,
456 interest and penalty due as the result of use of the invalid
457 exemption certificate. Materials shall be exempt from all
458 state and local sales and use taxes when purchased by a
459 contractor for the purpose of fabricating tangible personal
460 property which is used in fulfilling a contract for the
461 purpose of constructing, repairing or remodeling facilities
462 for the following:

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

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

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

478 (38) Sales of tickets to any collegiate athletic
479 championship event that is held in a facility owned or
480 operated by a governmental authority or commission, a quasi-
481 governmental agency, a state university or college or by the
482 state or any political subdivision thereof, including a
483 municipality, and that is played on a neutral site and may
484 reasonably be played at a site located outside the state of
485 Missouri. For purposes of this subdivision, "neutral site"
486 means any site that is not located on the campus of a
487 conference member institution participating in the event;

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

493 (40) All materials, replacement parts, and equipment
494 purchased for use directly upon, and for the modification,

495 replacement, repair, and maintenance of aircraft, aircraft
496 power plants, and aircraft accessories;

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

504 (42) All sales of motor fuel, as defined in section
505 142.800, used in any watercraft, as defined in section
506 306.010;

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

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

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

523 (44) Motor vehicles registered in excess of fifty-four
524 thousand pounds, and the trailers pulled by such motor
525 vehicles, that are actually used in the normal course of
526 business to haul property on the public highways of the

527 state, and that are capable of hauling loads commensurate
528 with the motor vehicle's registered weight; and the
529 materials, replacement parts, and equipment purchased for
530 use directly upon, and for the repair and maintenance or
531 manufacture of such vehicles. For purposes of this
532 subdivision, "motor vehicle" and "public highway" shall have
533 the meaning as ascribed in section 390.020;

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

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

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

552 (c) "Internet access", a service that enables users to
553 connect to the internet to access content, information, or
554 other services without regard to whether the service is
555 referred to as telecommunications, communications,
556 transmission, or similar services, and without regard to
557 whether a provider of the service is subject to regulation
558 by the Federal Communications Commission as a common carrier

559 under 47 U.S.C. Section 201, et seq. For purposes of this
560 subdivision, internet access also includes: the purchase,
561 use, or sale of communications services, including
562 telecommunications services as defined in section 144.010,
563 to the extent the communications services are purchased,
564 used, or sold to provide the service described in this
565 subdivision or to otherwise enable users to access content,
566 information, or other services offered over the internet;
567 services that are incidental to the provision of a service
568 described in this subdivision, when furnished to users as
569 part of such service, including a home page, electronic
570 mail, and instant messaging, including voice-capable and
571 video-capable electronic mail and instant messaging, video
572 clips, and personal electronic storage capacity; a home page
573 electronic mail and instant messaging, including voice-
574 capable and video-capable electronic mail and instant
575 messaging, video clips, and personal electronic storage
576 capacity that are provided independently or that are not
577 packed with internet access. As used in this subdivision,
578 internet access does not include voice, audio, and video
579 programming or other products and services, except services
580 described in this paragraph or this subdivision, that use
581 internet protocol or any successor protocol and for which
582 there is a charge, regardless of whether the charge is
583 separately stated or aggregated with the charge for services
584 described in this paragraph or this subdivision;

585 (d) "Tax", any charge imposed by the state or a
586 political subdivision of the state for the purpose of
587 generating revenues for governmental purposes and that is
588 not a fee imposed for a specific privilege, service, or
589 benefit conferred, except as described as otherwise under
590 this subdivision, or any obligation imposed on a seller to

591 collect and to remit to the state or a political subdivision
592 of the state any gross retail tax, sales tax, or use tax
593 imposed on a buyer by such a governmental entity. The term
594 tax shall not include any franchise fee or similar fee
595 imposed or authorized under sections 67.1830 to 67.1846 or
596 section 67.2689; Section 622 or 653 of the Communications
597 Act of 1934, 47 U.S.C. Section 542 and 47 U.S.C. Section
598 573; or any other fee related to obligations of
599 telecommunications carriers under the Communications Act of
600 1934, 47 U.S.C. Section 151, et seq., except to the extent
601 that:

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

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

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

615 (46) All purchases by a company of solar photovoltaic
616 energy systems, components used to construct a solar
617 photovoltaic energy system, and all purchases of materials
618 and supplies used directly to construct or make improvements
619 to such systems, provided that such systems:

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

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

623 (47) All sales of diapers, incontinence products, and
624 feminine hygiene products. The exemptions in this
625 subdivision shall apply only to the provisions of and the
626 computation of the tax levied, assessed, or payable pursuant
627 to this chapter. For the purposes of this subdivision, the
628 following terms mean:

629 (a) "Diapers", absorbent garments worn by infants or
630 toddlers who are not toilet-trained or by individuals who
631 are incapable of controlling their bladder or bowel
632 movements;

633 (b) "Feminine hygiene products", personal care
634 products used to manage menstrual flow including, but not
635 limited to, tampons, pads, liners, and cups;

636 (c) "Incontinence products", products designed
637 specifically for hygiene matters related to urinary
638 incontinence.

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

653 entity that, notwithstanding its form of organization, bears
654 the same ownership relationship to the vendor as a
655 corporation that is a member of the same controlled group of
656 corporations as defined in Section 1563(a) of the Internal
657 Revenue Code, as amended.

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