

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 981
95TH GENERAL ASSEMBLY

5191L.05C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 94.510, 94.550, 94.577, 144.030, and 144.817, RSMo, and to enact in lieu thereof eight new sections relating to sales tax, with an emergency clause for certain sections.

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

Section A. Sections 94.510, 94.550, 94.577, 144.030, and 144.817, RSMo, are repealed
2 and eight new sections enacted in lieu thereof, to be known as sections 94.510, 94.550, 94.577,
3 144.018, 144.030, 144.817, 1, and 2, to read as follows:

94.510. 1. Any city may, by a majority vote of its council or governing body, impose
2 a city sales tax for the benefit of such city in accordance with the provisions of sections 94.500
3 to 94.550; provided, however, that no ordinance enacted pursuant to the authority granted by the
4 provisions of sections 94.500 to 94.550 shall be effective unless the legislative body of the city
5 submits to the voters of the city, at a public election, a proposal to authorize the legislative body
6 of the city to impose a tax under the provisions of sections 94.500 to 94.550.

7 The ballot of submission shall be in substantially the following form:

8 Shall the city of (insert name of city) impose a city sales tax of
9 (insert rate of percent) percent?

10 ☐ YES

☐ NO

11

12 If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor
13 of the proposal, then the ordinance and any amendments thereto shall be in effect. If a majority
14 of the votes cast by the qualified voters voting are opposed to the proposal, then the legislative
15 body of the city shall have no power to impose the **proposed** tax herein authorized unless and
16 until the legislative body of the city shall again have submitted another proposal to authorize the

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 legislative body of the city to impose the tax under the provisions of sections 94.500 to 94.550,
18 and such proposal is approved by a majority of the qualified voters voting thereon. **Disapproval**
19 **of a proposal by the qualified voters shall not affect any tax already in effect.**

20 2. [The] A sales tax may be imposed at a rate of one-half of one percent, seven-eighths
21 of one percent or one percent on the receipts from the sale at retail of all tangible personal
22 property or taxable services at retail within any city adopting such tax, if such property and
23 services are subject to taxation by the state of Missouri under the provisions of sections 144.010
24 to 144.525, RSMo; except that, each city not within a county may **also** impose such tax at a rate
25 not to exceed one and three-eighths percent. **Beginning August 28, 2010, the combined rate**
26 **of sales taxes adopted under sections 94.500 to 94.550 shall not exceed two percent.**

27 3. If any city in which a city tax has been imposed in the manner provided for in sections
28 94.500 to 94.550 shall thereafter change or alter its boundaries, the city clerk of the city shall
29 forward to the director of revenue by United States registered mail or certified mail a certified
30 copy of the ordinance adding or detaching territory from the city. The ordinance shall reflect the
31 effective date thereof, and shall be accompanied by a map of the city clearly showing the territory
32 added thereto or detached therefrom. Upon receipt of the ordinance and map, the [tax imposed
33 by the act] **taxes** shall be effective in the added territory or abolished in the detached territory on
34 the effective date of the change of the city boundary.

35 **4. The changes to this section enacted by the ninety-fifth general assembly, second**
36 **regular session, shall not be construed to be a new tax or an increase in the current levy of**
37 **an existing tax for purposes of paragraph (a) of section 22, article X, Constitution of**
38 **Missouri, and cities that have already imposed and collected taxes under this section may**
39 **continue to collect such taxes under this section without further approval by the voters as**
40 **a continuation of a tax previously approved by the voters of such city.**

94.550. 1. All city sales taxes collected by the director of revenue under sections 94.500
2 to 94.550 on behalf of any city, less one percent for cost of collection which shall be deposited
3 in the state's general revenue fund after payment of premiums for surety bonds as provided in
4 section 32.087, RSMo, shall be deposited [with the state treasurer] in a special trust fund, which
5 is hereby created, to be known as the "City Sales Tax Trust Fund". The moneys in the city sales
6 tax trust fund shall not be deemed to be state funds and shall not be commingled with any funds
7 of the state. The director of revenue shall keep accurate records of the amount of money in the
8 trust fund which was collected in each city imposing a city sales tax, and the records shall be
9 open to the inspection of officers of the city and the public. Not later than the tenth day of each
10 month the director of revenue shall distribute all moneys deposited in the trust fund during the
11 preceding month, to the city treasurer, or such other officer as may be designated by the city

12 ordinance, of each city imposing the tax authorized by sections 94.500 to 94.550, the sum due
13 the city as certified by the director of revenue.

14 2. The director of revenue may [authorize the state treasurer to] make refunds from the
15 amounts in the trust fund and credited to any city for erroneous payments and overpayments
16 made, and may redeem dishonored checks and drafts deposited to the credit of such cities. If any
17 city abolishes [the] a tax, the city shall notify the director of revenue of the action at least ninety
18 days prior to the effective date of the repeal and the director of revenue may order retention in
19 the trust fund, for a period of one year, of two percent of the amount collected after receipt of
20 such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks
21 and drafts deposited to the credit of such accounts. After one year has elapsed after the effective
22 date of abolition of [the tax] **all such taxes** in such city, the director of revenue shall [authorize
23 the state treasurer to] remit the balance in the account to the city and close the account of that
24 city. The director of revenue shall notify each city of each instance of any amount refunded or
25 any check redeemed from receipts.

26 **3. The changes to this section enacted by the ninety-fifth general assembly, second**
27 **regular session, shall not be construed to be a new tax or an increase in the current levy of**
28 **an existing tax for purposes of paragraph (a) of section 22, article X, Constitution of**
29 **Missouri, and cities that have already imposed and collected taxes under this section may**
30 **continue to collect such taxes under this section without further approval by the voters as**
31 **a continuation of a tax previously approved by the voters of such city.**

94.577. 1. The governing body of any municipality except those located in whole or in
2 part within any first class county having a charter form of government and not containing any
3 part of a city with a population of four hundred thousand or more and adjacent to a city not
4 within a county for that part of the municipality located within such first class county is hereby
5 authorized to impose, by ordinance or order, a one-eighth, one-fourth, three-eighths, or one-half
6 of one percent sales tax on all retail sales made in such municipality which are subject to taxation
7 under the provisions of sections 144.010 to 144.525, RSMo, for the purpose of funding capital
8 improvements, including the operation and maintenance of capital improvements, which may
9 be funded by issuing bonds which will be retired by the revenues received from the sales tax
10 authorized by this section or the retirement of debt under previously authorized bonded
11 indebtedness. A municipality located in a charter county may impose a sales tax on all retail
12 sales for capital improvements as provided in section 94.890. The [tax] **taxes** authorized by this
13 section shall be in addition to any and all other sales taxes allowed by law; but no ordinance
14 imposing a sales tax under the provisions of this section shall be effective unless the governing
15 body of the municipality submits to the voters of the municipality, at a municipal or state general,
16 primary or special election, a proposal to authorize the governing body of the municipality to

17 impose such tax and, if such tax is to be used to retire bonds authorized under this section, to
18 authorize such bonds and their retirement by such tax, or to authorize the retirement of debt
19 under previously authorized bonded indebtedness. **Beginning August 29, 2010, the combined**
20 **rate of sales taxes adopted under this section by a municipality shall not exceed one**
21 **percent.**

22 2. The ballot of submission shall contain, but need not be limited to:

23 (1) If the proposal submitted involves only authorization to impose the tax authorized
24 by this section, the following language:

25 Shall the municipality of (municipality's name) impose a sales tax of (insert
26 amount) for the purpose of funding capital improvements which may include the retirement of
27 debt under previously authorized bonded indebtedness?

28 ☐ YES

☐ NO

29
30 If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed
31 to the question, place an "X" in the box opposite "NO"; or

32 (2) If the proposal submitted involves authorization to issue bonds and repay such bonds
33 with revenues from the tax authorized by this section, the following language:

34 Shall the municipality of (municipality's name) issue bonds in the amount
35 of (insert amount) to fund capital improvements and impose a sales tax of (insert
36 amount) to repay bonds?

37 ☐ YES

☐ NO

38
39 If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed
40 to the question, place an "X" in box opposite "NO". If a majority of the votes cast on the
41 proposal by the qualified voters voting thereon are in favor of the proposal, including when the
42 proposal authorizes the reduction of debt under previously authorized bonded indebtedness under
43 subdivision (1) of this subsection, then the ordinance or order and any amendments thereto shall
44 be in effect, except that any proposal submitted under subdivision (2) of this subsection to issue
45 bonds and impose a sales tax to retire such bonds must be approved by the constitutionally
46 required percentage of the voters voting thereon to become effective. If a majority of the votes
47 cast by the qualified voters voting are opposed to the proposal, then the governing body of the
48 municipality shall have no power to issue any bonds or impose the **proposed** sales tax authorized
49 in this section unless and until the governing body of the municipality shall again have submitted
50 another proposal to authorize the governing body of the municipality to issue any bonds or
51 impose [the] a sales tax authorized by this section, and such proposal is approved by the requisite
52 majority of the qualified voters voting thereon; however, in no event shall a proposal pursuant

53 to this section be submitted to the voters sooner than twelve months from the date of the last
54 proposal pursuant to this section, except that any municipality with a population of greater than
55 four hundred thousand and located within more than one county may submit a proposal pursuant
56 to this section to the voters sooner than twelve months from the date of the last proposal
57 submitted pursuant to this section if submitted to the voters on or before November 6, 2001.
58 **Disapproval of a proposal by the qualified voters shall not affect any tax already in effect.**

59 3. All revenue received by a municipality from the [tax] **taxes** authorized under the
60 provisions of this section shall be deposited in a special trust fund and shall be used solely for
61 capital improvements, including the operation and maintenance of capital improvements, for so
62 long as the [tax] **taxes** shall remain in effect. Once the [tax] **taxes** authorized by this section [is]
63 **are** abolished or is terminated by any means, all funds remaining in the special trust fund
64 required by this subsection shall be used solely for the maintenance of the capital improvements
65 made with revenues raised by the [tax] **taxes** authorized by this section. Any funds in the special
66 trust fund required by this subsection which are not needed for current expenditures may be
67 invested by the governing body in accordance with applicable laws relating to the investment of
68 other municipal funds. The provisions of this subsection shall apply only to taxes authorized by
69 this section which have not been imposed to retire bonds issued pursuant to this section.

70 4. All revenue received by a municipality which issues bonds under this section and
71 imposes the [tax] **taxes** authorized by this section to retire such bonds shall be deposited in a
72 special trust fund and shall be used solely to retire such bonds, except to the extent that such
73 funds are required for the operation and maintenance of capital improvements. Once all of such
74 bonds have been retired, all funds remaining in the special trust fund required by this subsection
75 shall be used solely for the maintenance of the capital improvements made with the revenue
76 received as a result of the issuance of such bonds. Any funds in the special trust fund required
77 by this subsection which are not needed to meet current obligations under the bonds issued under
78 this section may be invested by the governing body in accordance with applicable laws relating
79 to the investment of other municipal funds. The provisions of this subsection shall apply only
80 to taxes authorized by this section which have been imposed to retire bonds issued under this
81 section.

82 5. After the effective date of any tax imposed under the provisions of this section, the
83 director of revenue shall perform all functions incident to the administration, collection,
84 enforcement, and operation of the tax in the same manner as provided in sections 94.500 to
85 94.550, and the director of revenue shall collect in addition to the sales tax for the state of
86 Missouri the additional [tax] **taxes** authorized under the authority of this section. The tax
87 imposed pursuant to this section and the tax imposed under the sales tax law of the state of
88 Missouri shall be collected together and reported upon such forms and under such administrative

89 rules and regulations as may be prescribed by the director of revenue. Except as modified in this
90 section, all provisions of sections 32.085 and 32.087, RSMo, shall apply to the [tax] **taxes**
91 imposed under this section.

92 6. No tax imposed pursuant to this section for the purpose of retiring bonds issued under
93 this section may be terminated until all of such bonds have been retired.

94 7. In any city not within a county, no tax shall be imposed pursuant to this section for
95 the purpose of funding in whole or in part the construction, operation or maintenance of a sports
96 stadium, field house, indoor or outdoor recreational facility, center, playing field, parking facility
97 or anything incidental or necessary to a complex suitable for any type of professional sport or
98 recreation, either upon, above or below the ground.

99 8. Any tax imposed under this section in any home rule city with more than four hundred
100 thousand inhabitants and located in more than one county solely for public transit purposes shall
101 not be considered economic activity taxes as such term is defined under sections 99.805 and
102 99.918, RSMo, and tax revenues derived from such tax shall not be subject to allocation under
103 the provisions of subsection 3 of section 99.845, RSMo, or subsection 4 of section 99.957,
104 RSMo.

105 9. The director of revenue may authorize the state treasurer to make refunds from the
106 amounts in the trust fund and credited to any municipality for erroneous payments and
107 overpayments made, and may redeem dishonored checks and drafts deposited to the credit of
108 such municipalities. If any municipality abolishes [the] **a** tax, the municipality shall notify the
109 director of revenue of the action at least ninety days prior to the effective date of the repeal and
110 the director of revenue may order retention in the trust fund, for a period of one year, of two
111 percent of the amount collected after receipt of such notice to cover possible refunds or
112 overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of
113 such accounts. After one year has elapsed after the effective date of abolition of [the tax] **all**
114 **such taxes** in such municipality, the director of revenue shall remit the balance in the account
115 to the municipality and close the account of that municipality. The director of revenue shall
116 notify each municipality of each instance of any amount refunded or any check redeemed from
117 receipts due the municipality.

118 **10. If any municipality in which a tax has been imposed under subsections 1 to 11**
119 **of this section changes or alters its boundaries after the tax is imposed, the clerk of the**
120 **municipality shall forward to the director of revenue by United States registered mail or**
121 **certified mail a certified copy of the ordinance adding or detaching territory from the**
122 **municipality. The ordinance shall reflect its effective date, and shall be accompanied by**
123 **a map of the municipality clearly showing the territory added to or detached from the**
124 **municipality. Upon receipt of the ordinance and map, the taxes shall be effective in the**

attached territory, or abolished in the detached territory, on the effective date of the change of the municipal boundary.

11. The changes to subsections 1 to 11 of this section enacted by the ninety-fifth general assembly, second regular session, shall not be construed to be a new tax or an increase in the current levy of an existing tax for purposes of paragraph (a) of section 22, article X, Constitution of Missouri, and cities that have already imposed and collected taxes under subsections 1 to 11 of this section may continue to collect such taxes under subsections 1 to 11 of this section without further approval by the voters as a continuation of a tax previously approved by the voters of such city.

12. Any home rule city with more than four hundred thousand inhabitants and located in more than one county and any home rule city with more than eighty-four thousand five hundred but fewer than eighty-four thousand six hundred inhabitants is hereby authorized to impose, in lieu of the tax authorized under subsection 1 of this section, by ordinance or order, a one-eighth, one-fourth, three-eighths, or one-half of one percent sales tax on all retail sales made in such municipality which are subject to taxation under the provisions of sections 144.010 to 144.525 for the purpose of providing revenues for public safety activities, including operations and capital improvements, which may be funded by issuing bonds which will be retired by the revenues received from the sales tax authorized by this section or the retirement of debt under previously authorized bonded indebtedness. The tax authorized by this section shall be in addition to any and all other sales taxes allowed by law; but no ordinance imposing a sales tax under the provisions of this section shall be effective unless the governing body of the municipality submits to the voters of the municipality, at a municipal or state general, primary or special election, a proposal to authorize the governing body of the municipality to impose such tax and, if such tax is to be used to retire bonds authorized under this section, to authorize such bonds and their retirement by such tax, or to authorize the retirement of debt under previously authorized bonded indebtedness.

13. The ballot of submission shall contain, but need not be limited to:

(1) If the proposal submitted involves only authorization to impose the tax authorized by this section, the following language:

Shall the municipality of (municipality's name) impose a sales tax of (insert amount) for the purpose of providing revenues for public safety activities, including operations and capital improvements, which may include the retirement of debt under previously authorized bonded indebtedness?

☐ YES

☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO"; or

(2) If the proposal submitted involves authorization to issue bonds and repay such bonds with revenues from the tax authorized by this section, the following language:

Shall the municipality of (municipality's name) issue bonds in the amount of (insert amount) for the purpose of providing revenues for public safety activities, including operations and capital improvements, and impose a sales tax of (insert amount) to repay bonds?

☐ YES

☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

The ballot may include descriptions of specific uses to which the revenues from the tax will be applied.

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, including when the proposal authorizes the reduction of debt under previously authorized bonded indebtedness under subdivision (1) of this subsection, then the ordinance or order and any amendments thereto shall be in effect, except that any proposal submitted under subdivision (2) of this subsection to issue bonds and impose a sales tax to retire such bonds must be approved by the constitutionally required percentage of the voters voting thereon to become effective. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the governing body of the municipality shall have no power to issue any bonds or impose the sales tax authorized in this section unless and until the governing body of the municipality shall again have submitted another proposal to authorize the governing body of the municipality to issue any bonds or impose the sales tax authorized by subsection 12 of this section, and such proposal is approved by the requisite majority of the qualified voters voting thereon.

14. All revenue received by a municipality from the tax authorized under the provisions of subsection 12 of this section shall be deposited in a special trust fund and shall be used solely for public safety activities for so long as the tax shall remain in effect. Once the tax authorized by this section is abolished or is terminated by any means, all funds remaining in the special trust fund required by this subsection shall be used solely for the public safety activities authorized in subsection 10 of this section. Any funds in the special trust fund required by this subsection which are not needed for current

197 expenditures may be invested by the governing body in accordance with applicable laws
198 relating to the investment of other municipal funds. The provisions of this subsection shall
199 apply only to taxes authorized by this subsection which have not been imposed to retire
200 bonds issued pursuant to this subsection.

201 **15.** All revenue received by a municipality which issues bonds under subsection 12
202 of this section and imposes the tax authorized by this section to retire such bonds shall be
203 deposited in a special trust fund and shall be used solely to retire such bonds, except to the
204 extent that such funds are required for the operation of the public safety department.
205 Once all of such bonds have been retired, all funds remaining in the special trust fund
206 required by this subsection shall be used solely for public safety activities. Any funds in
207 the special trust fund required by this subsection which are not needed to meet current
208 obligations under the bonds issued under this section may be invested by the governing
209 body in accordance with applicable laws relating to the investment of other municipal
210 funds. The provisions of this subsection shall apply only to taxes authorized by subsection
211 12 of this section which have been imposed to retire bonds issued under this section.

212 **16.** After the effective date of any tax imposed under the provisions of subsection
213 12 of this section, the director of revenue shall perform all functions incident to the
214 administration, collection, enforcement, and operation of the tax in the same manner as
215 provided in sections 94.500 to 94.550, and the director of revenue shall collect in addition
216 to the sales tax for the state of Missouri the additional tax authorized under the authority
217 of this section. The tax imposed pursuant to this section and the tax imposed under the
218 sales tax law of the state of Missouri shall be collected together and reported upon such
219 forms and under such administrative rules and regulations as may be prescribed by the
220 director of revenue. Except as modified in this section, all provisions of sections 32.085 and
221 32.087 shall apply to the tax imposed under this section.

222 **17.** No tax imposed pursuant to subsection 12 of this section for the purpose of
223 retiring bonds issued under this section may be terminated until all of such bonds have
224 been retired.

2 **144.018. 1.** Notwithstanding any other provision of law to the contrary, except as
3 provided under subsection 2 or 3 of this section, when a purchase of tangible personal
4 property or service subject to tax is made for the purpose of resale, such purchase shall be
5 either exempt or excluded under this chapter if the subsequent sale is:

- 5 (1) Subject to a tax in this or any other state;
- 6 (2) For resale;
- 7 (3) Excluded from tax under this chapter;
- 8 (4) Subject to tax but exempt under this chapter; or

9 **(5) Exempt from the sales tax laws of another state, if the subsequent sale is in such**
10 **other state.**

11

12 **The purchase of tangible personal property by a taxpayer shall not be deemed to be for**
13 **resale if such property is used or consumed by the taxpayer in providing a service on which**
14 **tax is not imposed by subsection 1 of section 144.020, except purchases made in fulfillment**
15 **of any obligation under a defense contract with the United States government.**

16 **2. For purposes of subdivision (2) of subsection 1 of section 144.020, a place of**
17 **amusement, entertainment or recreation, including games or athletic events, shall remit tax**
18 **on the amount paid for admissions or seating accommodations, or fees paid to, or in such**
19 **place of amusement, entertainment or recreation. Any subsequent sale of such admissions**
20 **or seating accommodations shall not be subject to tax if the initial sale was an arms length**
21 **transaction for fair market value with an unaffiliated entity. If the sale of such admissions**
22 **or seating accommodations is exempt or excluded from payment of sales and use taxes, the**
23 **provisions of this subsection shall not require the place of amusement, entertainment, or**
24 **recreation to remit tax on that sale.**

25 **3. For purposes of subdivision (6) of subsection 1 of section 144.020, a hotel, motel,**
26 **tavern, inn, restaurant, eating house, drugstore, dining car, tourist cabin, tourist camp, or**
27 **other place in which rooms, meals, or drinks are regularly served to the public shall remit**
28 **tax on the amount of sales or charges for all rooms, meals, and drinks furnished at such**
29 **hotel, motel, tavern, inn, restaurant, eating house, drugstore, dining car, tourist cabin,**
30 **tourist camp, or other place in which rooms, meals, or drinks are regularly served to the**
31 **public. Any subsequent sale of such rooms, meals, or drinks shall not be subject to tax if**
32 **the initial sale was an arms length transaction for fair market value with an unaffiliated**
33 **entity. If the sale of such rooms, meals, or drinks is exempt or excluded from payment of**
34 **sales and use taxes, the provisions of this subsection shall not require the hotel, motel,**
35 **tavern, inn, restaurant, eating house, drugstore, dining car, tourist cabin, tourist camp, or**
36 **other place in which rooms, meals, or drinks are regularly served to the public to remit tax**
37 **on that sale.**

38 **4. The provisions of this section are intended to reject and abrogate earlier case law**
39 **interpretations of the state's sales and use tax law with regard to sales for resale as**
40 **extended in Music City Centre Management, LLC v. Director of Revenue, 295 S.W.3d 465,**
41 **(Mo. 2009) and ICC Management, Inc. v. Director of Revenue, 290 S.W.3d 699, (Mo. 2009).**

144.030. 1. There is hereby specifically exempted from the provisions of sections
2 144.010 to 144.525 and from the computation of the tax levied, assessed or payable pursuant to
3 sections 144.010 to 144.525 such retail sales as may be made in commerce between this state and

4 any other state of the United States, or between this state and any foreign country, and any retail
5 sale which the state of Missouri is prohibited from taxing pursuant to the Constitution or laws
6 of the United States of America, and such retail sales of tangible personal property which the
7 general assembly of the state of Missouri is prohibited from taxing or further taxing by the
8 constitution of this state.

9 2. There are also specifically exempted from the provisions of the local sales tax law as
10 defined in section 32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.525 and
11 144.600 to 144.761 and from the computation of the tax levied, assessed or payable pursuant to
12 the local sales tax law as defined in section 32.085, RSMo, section 238.235, RSMo, and sections
13 144.010 to 144.525 and 144.600 to 144.745:

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

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

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

38 (4) Replacement machinery, equipment, and parts and the materials and supplies solely
39 required for the installation or construction of such replacement machinery, equipment, and

40 parts, used directly in manufacturing, mining, fabricating or producing a product which is
41 intended to be sold ultimately for final use or consumption; and machinery and equipment, and
42 the materials and supplies required solely for the operation, installation or construction of such
43 machinery and equipment, purchased and used to establish new, or to replace or expand existing,
44 material recovery processing plants in this state. For the purposes of this subdivision, a "material
45 recovery processing plant" means a facility that has as its primary purpose the recovery of
46 materials into a useable product or a different form which is used in producing a new product and
47 shall include a facility or equipment which are used exclusively for the collection of recovered
48 materials for delivery to a material recovery processing plant but shall not include motor vehicles
49 used on highways. For purposes of this section, the terms motor vehicle and highway shall have
50 the same meaning pursuant to section 301.010, RSMo. Material recovery is not the reuse of
51 materials within a manufacturing process or the use of a product previously recovered. The
52 material recovery processing plant shall qualify under the provisions of this section regardless
53 of ownership of the material being recovered;

54 (5) Machinery and equipment, and parts and the materials and supplies solely required
55 for the installation or construction of such machinery and equipment, purchased and used to
56 establish new or to expand existing manufacturing, mining or fabricating plants in the state if
57 such machinery and equipment is used directly in manufacturing, mining or fabricating a product
58 which is intended to be sold ultimately for final use or consumption;

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

62 (7) Animals or poultry used for breeding or feeding purposes;

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

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

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

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

74 (12) Electrical energy used in the actual primary manufacture, processing, compounding,
75 mining or producing of a product, or electrical energy used in the actual secondary processing

76 or fabricating of the product, or a material recovery processing plant as defined in subdivision
77 (4) of this subsection, in facilities owned or leased by the taxpayer, if the total cost of electrical
78 energy so used exceeds ten percent of the total cost of production, either primary or secondary,
79 exclusive of the cost of electrical energy so used or if the raw materials used in such processing
80 contain at least twenty-five percent recovered materials as defined in section 260.200, RSMo.
81 There shall be a rebuttable presumption that the raw materials used in the primary manufacture
82 of automobiles contain at least twenty-five percent recovered materials. For purposes of this
83 subdivision, "processing" means any mode of treatment, act or series of acts performed upon
84 materials to transform and reduce them to a different state or thing, including treatment necessary
85 to maintain or preserve such processing by the producer at the production facility;

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

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

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

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

97 (17) All amounts paid or charged for admission or participation or other fees paid by or
98 other charges to individuals in or for any place of amusement, entertainment or recreation, games
99 or athletic events, including museums, fairs, zoos and planetariums, owned or operated by a
100 municipality or other political subdivision where all the proceeds derived therefrom benefit the
101 municipality or other political subdivision and do not inure to any private person, firm, or
102 corporation;

103 (18) All sales of insulin and prosthetic or orthopedic devices as defined on January 1,
104 1980, by the federal Medicare program pursuant to Title XVIII of the Social Security Act of
105 1965, including the items specified in Section 1862(a)(12) of that act, and also specifically
106 including hearing aids and hearing aid supplies and all sales of drugs which may be legally
107 dispensed by a licensed pharmacist only upon a lawful prescription of a practitioner licensed to
108 administer those items, including samples and materials used to manufacture samples which may
109 be dispensed by a practitioner authorized to dispense such samples and all sales of medical
110 oxygen, home respiratory equipment and accessories, hospital beds and accessories and
111 ambulatory aids, all sales of manual and powered wheelchairs, stairway lifts, Braille writers,

112 electronic Braille equipment and, if purchased by or on behalf of a person with one or more
113 physical or mental disabilities to enable them to function more independently, all sales of
114 scooters, reading machines, electronic print enlargers and magnifiers, electronic alternative and
115 augmentative communication devices, and items used solely to modify motor vehicles to permit
116 the use of such motor vehicles by individuals with disabilities or sales of over-the-counter or
117 nonprescription drugs to individuals with disabilities;

118 (19) All sales made by or to religious and charitable organizations and institutions in
119 their religious, charitable or educational functions and activities and all sales made by or to all
120 elementary and secondary schools operated at public expense in their educational functions and
121 activities;

122 (20) All sales of aircraft to common carriers for storage or for use in interstate commerce
123 and all sales made by or to not-for-profit civic, social, service or fraternal organizations,
124 including fraternal organizations which have been declared tax-exempt organizations pursuant
125 to Section 501(c)(8) or (10) of the 1986 Internal Revenue Code, as amended, in their civic or
126 charitable functions and activities and all sales made to eleemosynary and penal institutions and
127 industries of the state, and all sales made to any private not-for-profit institution of higher
128 education not otherwise excluded pursuant to subdivision (19) of this subsection or any
129 institution of higher education supported by public funds, and all sales made to a state relief
130 agency in the exercise of relief functions and activities;

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

138 (22) All sales made to any private not-for-profit elementary or secondary school, all sales
139 of feed additives, medications or vaccines administered to livestock or poultry in the production
140 of food or fiber, all sales of pesticides used in the production of crops, livestock or poultry for
141 food or fiber, all sales of bedding used in the production of livestock or poultry for food or fiber,
142 all sales of propane or natural gas, electricity or diesel fuel used exclusively for drying
143 agricultural crops, natural gas used in the primary manufacture or processing of fuel ethanol as
144 defined in section 142.028, RSMo, natural gas, propane, and electricity used by an eligible new
145 generation cooperative or an eligible new generation processing entity as defined in section
146 348.432, RSMo, and all sales of farm machinery and equipment, other than airplanes, motor
147 vehicles and trailers. As used in this subdivision, the term "feed additives" means tangible

148 personal property which, when mixed with feed for livestock or poultry, is to be used in the
149 feeding of livestock or poultry. As used in this subdivision, the term "pesticides" includes
150 adjuvants such as crop oils, surfactants, wetting agents and other assorted pesticide carriers used
151 to improve or enhance the effect of a pesticide and the foam used to mark the application of
152 pesticides and herbicides for the production of crops, livestock or poultry. As used in this
153 subdivision, the term "farm machinery and equipment" means new or used farm tractors and such
154 other new or used farm machinery and equipment and repair or replacement parts thereon, and
155 supplies and lubricants used exclusively, solely, and directly for producing crops, raising and
156 feeding livestock, fish, poultry, pheasants, chukar, quail, or for producing milk for ultimate sale
157 at retail, including field drain tile, and one-half of each purchaser's purchase of diesel fuel
158 therefor which is:

- 159 (a) Used exclusively for agricultural purposes;
- 160 (b) Used on land owned or leased for the purpose of producing farm products; and
- 161 (c) Used directly in producing farm products to be sold ultimately in processed form or
162 otherwise at retail or in producing farm products to be fed to livestock or poultry to be sold
163 ultimately in processed form at retail;

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

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

176 (b) Regulated utility sellers shall determine whether individual purchases are exempt or
177 nonexempt based upon the seller's utility service rate classifications as contained in tariffs on file
178 with and approved by the Missouri public service commission. Sales and purchases made
179 pursuant to the rate classification "residential" and sales to and purchases made by or on behalf
180 of the occupants of residential apartments or condominiums through a single or master meter,
181 including service for common areas and facilities and vacant units, shall be considered as sales
182 made for domestic use and such sales shall be exempt from sales tax. Sellers shall charge sales
183 tax upon the entire amount of purchases classified as nondomestic use. The seller's utility

184 service rate classification and the provision of service thereunder shall be conclusive as to
185 whether or not the utility must charge sales tax;

186 (c) Each person making domestic use purchases of services or property and who uses any
187 portion of the services or property so purchased for a nondomestic use shall, by the fifteenth day
188 of the fourth month following the year of purchase, and without assessment, notice or demand,
189 file a return and pay sales tax on that portion of nondomestic purchases. Each person making
190 nondomestic purchases of services or property and who uses any portion of the services or
191 property so purchased for domestic use, and each person making domestic purchases on behalf
192 of occupants of residential apartments or condominiums through a single or master meter,
193 including service for common areas and facilities and vacant units, under a nonresidential utility
194 service rate classification may, between the first day of the first month and the fifteenth day of
195 the fourth month following the year of purchase, apply for credit or refund to the director of
196 revenue and the director shall give credit or make refund for taxes paid on the domestic use
197 portion of the purchase. The person making such purchases on behalf of occupants of residential
198 apartments or condominiums shall have standing to apply to the director of revenue for such
199 credit or refund;

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

203 (25) Excise taxes, collected on sales at retail, imposed by Sections 4041, 4061, 4071,
204 4081, 4091, 4161, 4181, 4251, 4261 and 4271 of Title 26, United States Code. The director of
205 revenue shall promulgate rules pursuant to chapter 536, RSMo, to eliminate all state and local
206 sales taxes on such excise taxes;

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

212 (27) All sales made to an interstate compact agency created pursuant to sections 70.370
213 to 70.441, RSMo, or sections 238.010 to 238.100, RSMo, in the exercise of the functions and
214 activities of such agency as provided pursuant to the compact;

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

- 219 (29) All livestock sales when either the seller is engaged in the growing, producing or
220 feeding of such livestock, or the seller is engaged in the business of buying and selling, bartering
221 or leasing of such livestock;
- 222 (30) All sales of barges which are to be used primarily in the transportation of property
223 or cargo on interstate waterways;
- 224 (31) Electrical energy or gas, whether natural, artificial or propane, water, or other
225 utilities which are ultimately consumed in connection with the manufacturing of cellular glass
226 products or in any material recovery processing plant as defined in subdivision (4) of this
227 subsection;
- 228 (32) Notwithstanding other provisions of law to the contrary, all sales of pesticides or
229 herbicides used in the production of crops, aquaculture, livestock or poultry;
- 230 (33) Tangible personal property and utilities purchased for use or consumption directly
231 or exclusively in the research and development of agricultural/biotechnology and plant genomics
232 products and prescription pharmaceuticals consumed by humans or animals;
- 233 (34) All sales of grain bins for storage of grain for resale;
- 234 (35) All sales of feed which are developed for and used in the feeding of pets owned by
235 a commercial breeder when such sales are made to a commercial breeder, as defined in section
236 273.325, RSMo, and licensed pursuant to sections 273.325 to 273.357, RSMo;
- 237 (36) All purchases by a contractor on behalf of an entity located in another state,
238 provided that the entity is authorized to issue a certificate of exemption for purchases to a
239 contractor under the provisions of that state's laws. For purposes of this subdivision, the term
240 "certificate of exemption" shall mean any document evidencing that the entity is exempt from
241 sales and use taxes on purchases pursuant to the laws of the state in which the entity is located.
242 Any contractor making purchases on behalf of such entity shall maintain a copy of the entity's
243 exemption certificate as evidence of the exemption. If the exemption certificate issued by the
244 exempt entity to the contractor is later determined by the director of revenue to be invalid for any
245 reason and the contractor has accepted the certificate in good faith, neither the contractor or the
246 exempt entity shall be liable for the payment of any taxes, interest and penalty due as the result
247 of use of the invalid exemption certificate. Materials shall be exempt from all state and local
248 sales and use taxes when purchased by a contractor for the purpose of fabricating tangible
249 personal property which is used in fulfilling a contract for the purpose of constructing, repairing
250 or remodeling facilities for the following:
- 251 (a) An exempt entity located in this state, if the entity is one of those entities able to issue
252 project exemption certificates in accordance with the provisions of section 144.062; or

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

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

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

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

(40) Beginning January 1, 2009, but not after January 1, 2015, materials, replacement parts, and equipment purchased for use directly upon, and for the modification, replacement, repair, and maintenance of aircraft, aircraft power plants, and aircraft accessories.

144.817. **1.** In addition to the exemptions granted pursuant to the provisions of section 144.030, there shall also be specifically exempted from the provisions of the local sales tax law as defined in section 32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.525 and 144.600 to 144.745, and from the computation of the tax levied, assessed, or payable pursuant to the local sales tax law as defined in section 32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.525 and 144.600 to 144.761, purchases of any item of tangible personal property which is, within one year of such purchase, donated without charge to the state of Missouri. The exemption prescribed in this section includes purchases of all items of tangible personal property converted into an item donated as a gift to the state of Missouri.

2. In addition to all other exemptions granted under this chapter, there shall also be specifically exempted from the local sales tax law defined, computed, levied, assessed, or payable under section 32.085, sections 144.010 to 144.525 and 144.600 to 144.761, and section 238.235, purchases of any item of tangible personal property that is, within one year of such purchase, donated without charge to any religious or charitable organization and any not-for-profit civic, social, service, or fraternal organization qualifying for exemption under subdivision (19) or (20) of subsection 2 of section 144.030. The exemption

17 **prescribed in this section includes purchases of all items of tangible personal property**
18 **converted into an item donated as a gift under this section.**

Section 1. There is hereby specifically exempted from the provisions of the local
2 **sales tax law as defined, levied, assessed, payable, or calculated under section 32.085,**
3 **sections 144.010 to 144.525, sections 144.600 to 144.761, or section 238.235, all gratuities,**
4 **whether mandatory or voluntary, provided in conjunction with the receipt of property or**
5 **services regardless of whether such property or service may be subject to tax under the**
6 **provisions of chapter 144.**

Section 2. Notwithstanding any other provision of law, any tax imposed or collected
2 **by any municipality, any county or any taxing entity on or related to any transient**
3 **accommodations, whether imposed as a hotel tax, occupancy tax or otherwise, shall apply**
4 **solely to amounts actually received by the operator of a hotel, motel, tavern, inn, tourist**
5 **cabin, tourist camp or other place in which rooms are furnished to the public. Under no**
6 **circumstances shall a travel agent or intermediary be deemed an operator of a hotel. This**
7 **section shall not apply if the purchaser of such rooms is an entity that is exempt from**
8 **payment of the tax.**

Section B. Because immediate action is necessary to prevent the imposition of sales and
2 **use taxes on items that are intended to be exempt or excluded from sales and use taxes, to ensure**
3 **adequate funding for public safety activities of certain municipalities, and to ensure that county**
4 **assessors have adequate funding to accomplish statutory duties, the repeal and reenactment of**
5 **sections 94.577 and 144.030 and the enactment of sections 144.018, 1, and 2 of section A of this**
6 **act are deemed necessary for the immediate preservation of the public health, welfare, peace, and**
7 **safety, and is hereby declared to be an emergency act within the meaning of the constitution, and**
8 **repeal and reenactment of sections 94.577 and 144.030 and the enactment of sections 144.018,**
9 **1, and 2 of section A of this act shall be in full force and effect upon its passage and approval.**

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