

**SENATE AMENDMENT NO. \_\_\_\_\_**

Offered by \_\_\_\_\_ of \_\_\_\_\_

Amend \_\_\_\_\_ HCS/House Bill No. 128, Page 1, Section Title, Line 3,

by striking "property tax bills" and inserting in lieu thereof  
the following: "taxation"; and

Further amend said bill, page 2, section 52.240, line 27, by  
inserting immediately after said line the following:

"143.451. 1. Missouri taxable income of a corporation  
shall include all income derived from sources within this state.

2. A corporation described in subdivision (1) of subsection  
1 of section 143.441 shall include in its Missouri taxable income  
all income from sources within this state, including that from  
the transaction of business in this state and that from the  
transaction of business partly done in this state and partly done  
in another state or states. However:

(1) Where income results from a transaction partially in  
this state and partially in another state or states, and income  
and deductions of the portion in the state cannot be segregated,  
then such portions of income and deductions shall be allocated in  
this state and the other state or states as will distribute to  
this state a portion based upon the portion of the transaction in  
this state and the portion in such other state or states.

(2) The taxpayer may elect to compute the portion of income  
from all sources in this state in the following manner, or the

1 manner set forth in subdivision (3) of this subsection:

2 (a) The income from all sources shall be determined as  
3 provided, excluding therefrom the figures for the operation of  
4 any bridge connecting this state with another state.

5 (b) The amount of sales which are transactions wholly in  
6 this state shall be added to one-half of the amount of sales  
7 which are transactions partly within this state and partly  
8 without this state, and the amount thus obtained shall be divided  
9 by the total sales or in cases where sales do not express the  
10 volume of business, the amount of business transacted wholly in  
11 this state shall be added to one-half of the amount of business  
12 transacted partly in this state and partly outside this state and  
13 the amount thus obtained shall be divided by the total amount of  
14 business transacted, and the net income shall be multiplied by  
15 the fraction thus obtained, to determine the proportion of income  
16 to be used to arrive at the amount of Missouri taxable income.  
17 The investment or reinvestment of its own funds, or sale of any  
18 such investment or reinvestment, shall not be considered as sales  
19 or other business transacted for the determination of said  
20 fraction.

21 [(3)] (c) For the purposes of this [section] subdivision, a  
22 transaction involving the sale of tangible property is:

23 [(a)] a. "Wholly in this state" if both the seller's  
24 shipping point and the purchaser's destination point are in this  
25 state;

26 [(b)] b. "Partly within this state and partly without this  
27 state" if the seller's shipping point is in this state and the  
28 purchaser's destination point is outside this state, or the  
29 seller's shipping point is outside this state and the purchaser's

1 destination point is in this state;

2 [(c)] c. Not "wholly in this state" or not "partly within  
3 this state and partly without this state" only if both the  
4 seller's shipping point and the purchaser's destination point are  
5 outside this state[:];.

6 (d) For purposes of this subdivision:

7 a. The purchaser's destination point shall be determined  
8 without regard to the FOB point or other conditions of the  
9 sale[,]; and

10 b. The seller's shipping point is determined without regard  
11 to the location of the seller's principle office or place of  
12 business.

13 (3) The taxpayer may elect to compute the portion of income  
14 from all sources in this state in the following manner:

15 (a) The income from all sources shall be determined as  
16 provided, excluding therefrom the figures for the operation of  
17 any bridge connecting this state with another state;

18 (b) The amount of sales which are transactions in this  
19 state shall be divided by the total sales, and the net income  
20 shall be multiplied by the fraction thus obtained, to determine  
21 the proportion of income to be used to arrive at the amount of  
22 Missouri taxable income. The investment or reinvestment of its  
23 own funds, or sale of any such investment or reinvestment, shall  
24 not be considered as sales or other business transacted for the  
25 determination of said fraction;

26 (c) For the purposes of this subdivision, a transaction  
27 involving the sale of tangible property is:

28 a. "In this state" if the purchaser's destination point is  
29 in this state;

1           b. Not "in this state" if the purchaser's destination point  
2           is outside this state;

3           (d) For purposes of this subdivision, the purchaser's  
4           destination point shall be determined without regard to the FOB  
5           point or other conditions of the sale and shall not be in this  
6           state if the purchaser received the tangible personal property  
7           from the seller in this state for delivery to the purchaser's  
8           location outside this state.

9           (4) For purposes of this subsection, the following words  
10          shall, unless the context otherwise requires, have the following  
11          meaning:

12          (a) "Administration services" include, but are not limited  
13          to, clerical, fund or shareholder accounting, participant record  
14          keeping, transfer agency, bookkeeping, data processing,  
15          custodial, internal auditing, legal and tax services performed  
16          for an investment company;

17          (b) "Affiliate", the meaning as set forth in 15 U.S.C.  
18          Section 80a-2(a)(3)(C), as may be amended from time to time;

19          (c) "Distribution services" include, but are not limited  
20          to, the services of advertising, servicing, marketing,  
21          underwriting or selling shares of an investment company, but, in  
22          the case of advertising, servicing or marketing shares, only  
23          where such service is performed by a person who is, or in the  
24          case of a closed end company, was, either engaged in the services  
25          of underwriting or selling investment company shares or  
26          affiliated with a person that is engaged in the service of  
27          underwriting or selling investment company shares. In the case  
28          of an open end company, such service of underwriting or selling  
29          shares must be performed pursuant to a contract entered into

1 pursuant to 15 U.S.C. Section 80a-15(b), as from time to time  
2 amended;

3 (d) "Investment company", any person registered under the  
4 federal Investment Company Act of 1940, as amended from time to  
5 time, (the act) or a company which would be required to register  
6 as an investment company under the act except that such person is  
7 exempt to such registration pursuant to Section 80a-3(c)(1) of  
8 the act;

9 (e) "Investment funds service corporation" includes any  
10 corporation or S corporation doing business in the state which  
11 derives more than fifty percent of its gross income in the  
12 ordinary course of business from the provision directly or  
13 indirectly of management, distribution or administration services  
14 to or on behalf of an investment company or from trustees,  
15 sponsors and participants of employee benefit plans which have  
16 accounts in an investment company. An investment funds service  
17 corporation shall include any corporation or S corporation  
18 providing management services as an investment advisory firm  
19 registered under Section 203 of the Investment Advisors Act of  
20 1940, as amended from time to time, regardless of the percentage  
21 of gross revenues consisting of fees from management services  
22 provided to or on behalf of an investment company;

23 (f) "Management services" include but are not limited to,  
24 the rendering of investment advice directly or indirectly to an  
25 investment company making determinations as to when sales and  
26 purchases of securities are to be made on behalf of the  
27 investment company, or the selling or purchasing of securities  
28 constituting assets of an investment company, and related  
29 activities, but only where such activity or activities are

1 performed:

2 a. Pursuant to a contract with the investment company  
3 entered into pursuant to 15 U.S.C. Section 80a-15(a), as from  
4 time to time amended;

5 b. For a person that has entered into such contract with  
6 the investment company; or

7 c. For a person that is affiliated with a person that has  
8 entered into such contract with an investment company;

9 (g) "Qualifying sales", gross income derived from the  
10 provision directly or indirectly of management, distribution or  
11 administration services to or on behalf of an investment company  
12 or from trustees, sponsors and participants of employee benefit  
13 plans which have accounts in an investment company. For purposes  
14 of this section, gross income is defined as that amount of income  
15 earned from qualifying sources without deduction of expenses  
16 related to the generation of such income;

17 (h) "Residence", presumptively the fund shareholder's  
18 mailing address on the records of the investment company. If,  
19 however, the investment company or the investment funds service  
20 corporation has actual knowledge that the fund shareholder's  
21 primary residence or principal place of business is different  
22 than the fund shareholder's mailing address such presumption  
23 shall not control. To the extent an investment funds service  
24 corporation does not have access to the records of the investment  
25 company, the investment funds service corporation may employ  
26 reasonable methods to determine the investment company fund  
27 shareholder's residence.

28 (5) Notwithstanding other provisions of law to the  
29 contrary, qualifying sales of an investment funds service

1 corporation, or S corporation, shall be considered wholly in this  
2 state only to the extent that the fund shareholders of the  
3 investment companies, to which the investment funds service  
4 corporation, or S corporation, provide services, are resided  
5 in this state. Wholly in this state qualifying sales of an  
6 investment funds service corporation, or S corporation, shall be  
7 determined as follows:

8 (a) By multiplying the investment funds service  
9 corporation's total dollar amount of qualifying sales from  
10 services provided to each investment company by a fraction, the  
11 numerator of which shall be the average of the number of shares  
12 owned by the investment company's fund shareholders resided in  
13 this state at the beginning of and at the end of the investment  
14 company's taxable year that ends with or within the investment  
15 funds service corporation's taxable year, and the denominator of  
16 which shall be the average of the number of shares owned by the  
17 investment company's fund shareholders everywhere at the  
18 beginning of and at the end of the investment company's taxable  
19 year that ends with or within the investment funds service  
20 corporation's taxable year;

21 (b) A separate computation shall be made to determine the  
22 wholly in this state qualifying sales from each investment  
23 company. The qualifying sales for each investment company shall  
24 be multiplied by the respective percentage of each fund, as  
25 calculated pursuant to paragraph (a) of this subdivision. The  
26 product of this equation shall result in the wholly in this state  
27 qualifying sales. The qualifying sales for each investment  
28 company which are not wholly in this state will be considered  
29 wholly without this state;

1           (c) To the extent an investment funds service corporation  
2 has sales which are not qualifying sales, those nonqualified  
3 sales shall be apportioned to this state based on the methodology  
4 utilized by the investment funds service corporation without  
5 regard to this subdivision.

6           3. Any corporation described in subdivision (1) of  
7 subsection 1 of section 143.441 organized in this state or  
8 granted a permit to operate in this state for the transportation  
9 or care of passengers shall report its gross earnings within the  
10 state on intrastate business and shall also report its gross  
11 earnings on all interstate business done in this state which  
12 report shall be subject to inquiry for the purpose of determining  
13 the amount of income to be included in Missouri taxable income.  
14 The previous sentence shall not apply to a railroad.

15           4. A corporation described in subdivision (2) of subsection  
16 1 of section 143.441 shall include in its Missouri taxable income  
17 all income arising from all sources in this state and all income  
18 from each transportation service wholly within this state, from  
19 each service where the only lines of such corporation used are  
20 those in this state, and such proportion of revenue from each  
21 service where the facilities of such corporation in this state  
22 and in another state or states are used, as the mileage used over  
23 the lines of such corporation in the state shall bear to the  
24 total mileage used over the lines of such corporation. The  
25 taxpayer may elect to compute the portion of income from all  
26 sources within this state in the following manner:

27           (1) The income from all sources shall be determined as  
28 provided;

29           (2) The amount of investment of such corporation on



1 December thirty-first of each year in this state in fixed  
2 transportation facilities, real estate and improvements, plus the  
3 value on December thirty-first of each year of any fixed  
4 transportation facilities, real estate and improvements in this  
5 state leased from any other railroad shall be divided by the sum  
6 of the total amount of investment of such corporation on December  
7 thirty-first of each year in fixed transportation facilities,  
8 real estate and improvements, plus the value on December  
9 thirty-first of each year, of any fixed transportation  
10 facilities, real estate and improvements leased from any other  
11 railroad. Where any fixed transportation facilities, real estate  
12 or improvements are leased by more than one railroad, such  
13 portion of the value shall be used by each railroad as the rental  
14 paid by each shall bear to the rental paid by all lessees. The  
15 income shall be multiplied by the fraction thus obtained to  
16 determine the proportion to be used to arrive at the amount of  
17 Missouri taxable income.

18 5. A corporation described in subdivision (3) of subsection  
19 1 of section 143.441 shall include in its Missouri taxable income  
20 one-half of the net income from the operation of a bridge between  
21 this and another state. If any such bridge is owned or operated  
22 by a railroad corporation or corporations, or by a corporation  
23 owning a railroad corporation using such bridge, then the figures  
24 for operation of such bridge may be included in the return of  
25 such railroad or railroads; or if such bridge is owned or  
26 operated by any other corporation which may now or hereafter be  
27 required to file an income tax return, one-half of the income or  
28 loss to such corporation from such bridge may be included in such  
29 return by adding or subtracting same to or from another net

1 income or loss shown by the return.

2 6. A corporation described in subdivision (4) of subsection  
3 1 of section 143.441 shall include in its Missouri taxable income  
4 all income arising from all sources within this state. Income  
5 shall include revenue from each telephonic or telegraphic service  
6 rendered wholly within this state; from each service rendered for  
7 which the only facilities of such corporation used are those in  
8 this state; and from each service rendered over the facilities of  
9 such corporation in this state and in other state or states, such  
10 proportion of such revenue as the mileage involved in this state  
11 shall bear to the total mileage involved over the lines of said  
12 company in all states. The taxpayer may elect to compute the  
13 portion of income from all sources within this state in the  
14 following manner:

15 (1) The income from all sources shall be determined as  
16 provided;

17 (2) The amount of investment of such corporation on  
18 December thirty-first of each year in this state in telephonic or  
19 telegraphic facilities, real estate and improvements thereon,  
20 shall be divided by the amount of the total investment of such  
21 corporation on December thirty-first of each year in telephonic  
22 or telegraphic facilities, real estate and improvements. The  
23 income of the taxpayer shall be multiplied by fraction thus  
24 obtained to determine the proportion to be used to arrive at the  
25 amount of Missouri taxable income.

26 7. From the income determined in subsections 2, 3, 4, 5 and  
27 6 of this section to be from all sources within this state shall  
28 be deducted such of the deductions for expenses in determining  
29 Missouri taxable income as were incurred in this state to produce

1 such income and all losses actually sustained in this state in  
2 the business of the corporation.

3 8. If a corporation derives only part of its income from  
4 sources within Missouri, its Missouri taxable income shall only  
5 reflect the effect of the following listed deductions to the  
6 extent applicable to Missouri. The deductions are: (a) its  
7 deduction for federal income taxes pursuant to section 143.171,  
8 and (b) the effect on Missouri taxable income of the deduction  
9 for net operating loss allowed by Section 172 of the Internal  
10 Revenue Code. The extent applicable to Missouri shall be  
11 determined by multiplying the amount that would otherwise affect  
12 Missouri taxable income by the ratio for the year of the Missouri  
13 taxable income of the corporation for the year divided by the  
14 Missouri taxable income for the year as though the corporation  
15 had derived all of its income from sources within Missouri. For  
16 the purpose of the preceding sentence, Missouri taxable income  
17 shall not reflect the listed deductions.

18 9. Any investment funds service corporation organized as a  
19 corporation or S corporation which has any shareholders  
20 resided in this state shall be subject to Missouri income tax  
21 as provided in this chapter."; and

22 Further amend the title and enacting clause accordingly.  
23