

SENATE AMENDMENT NO. _____

Offered by _____ of _____

Amend SS/SCS/HCS/House Bills Nos. 517 & 754, Page 11, Section 144.020, Line 25,

2 by inserting immediately after said line the following:

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

14 2. There are also specifically exempted from the provisions
 15 of the local sales tax law as defined in section 32.085, section
 16 238.235, and sections 144.010 to 144.525 and 144.600 to 144.761
 17 and from the computation of the tax levied, assessed or payable
 18 pursuant to the local sales tax law as defined in section 32.085,
 19 section 238.235, and sections 144.010 to 144.525 and 144.600 to
 20 144.745:

21 (1) Motor fuel or special fuel subject to an excise tax of

1 this state, unless all or part of such excise tax is refunded
2 pursuant to section 142.824; or upon the sale at retail of fuel
3 to be consumed in manufacturing or creating gas, power, steam,
4 electrical current or in furnishing water to be sold ultimately
5 at retail; or feed for livestock or poultry; or grain to be
6 converted into foodstuffs which are to be sold ultimately in
7 processed form at retail; or seed, limestone or fertilizer which
8 is to be used for seeding, liming or fertilizing crops which when
9 harvested will be sold at retail or will be fed to livestock or
10 poultry to be sold ultimately in processed form at retail;
11 economic poisons registered pursuant to the provisions of the
12 Missouri pesticide registration law (sections 281.220 to 281.310)
13 which are to be used in connection with the growth or production
14 of crops, fruit trees or orchards applied before, during, or
15 after planting, the crop of which when harvested will be sold at
16 retail or will be converted into foodstuffs which are to be sold
17 ultimately in processed form at retail;

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

1 intended to be sold ultimately for final use or consumption;

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

7 (4) Motor vehicles registered in excess of fifty-four
8 thousand pounds, and the trailers pulled by such motor vehicles,
9 that are actually used in the normal course of business to haul
10 property on the public highways of the state, and that are
11 capable of hauling loads commensurate with the motor vehicle's
12 registered weight; and the materials, replacement parts, and
13 equipment purchased for use directly upon, and for the repair and
14 maintenance or manufacture of such vehicles. For purposes of
15 this subdivision, "motor vehicle" and "public highway" shall have
16 the meaning as ascribed in section 390.020;

17 (5) Replacement machinery, equipment, and parts and the
18 materials and supplies solely required for the installation or
19 construction of such replacement machinery, equipment, and parts,
20 used directly in manufacturing, mining, fabricating or producing
21 a product which is intended to be sold ultimately for final use
22 or consumption; and machinery and equipment, and the materials
23 and supplies required solely for the operation, installation or
24 construction of such machinery and equipment, purchased and used
25 to establish new, or to replace or expand existing, material
26 recovery processing plants in this state. For the purposes of
27 this subdivision, a "material recovery processing plant" means a
28 facility that has as its primary purpose the recovery of
29 materials into a usable product or a different form which is used

1 in producing a new product and shall include a facility or
2 equipment which are used exclusively for the collection of
3 recovered materials for delivery to a material recovery
4 processing plant but shall not include motor vehicles used on
5 highways. For purposes of this section, the terms motor vehicle
6 and highway shall have the same meaning pursuant to section
7 301.010. Material recovery is not the reuse of materials within
8 a manufacturing process or the use of a product previously
9 recovered. The material recovery processing plant shall qualify
10 under the provisions of this section regardless of ownership of
11 the material being recovered;

12 (6) Machinery and equipment, and parts and the materials
13 and supplies solely required for the installation or construction
14 of such machinery and equipment, purchased and used to establish
15 new or to expand existing manufacturing, mining or fabricating
16 plants in the state if such machinery and equipment is used
17 directly in manufacturing, mining or fabricating a product which
18 is intended to be sold ultimately for final use or consumption;

19 (7) Tangible personal property which is used exclusively in
20 the manufacturing, processing, modification or assembling of
21 products sold to the United States government or to any agency of
22 the United States government;

23 (8) Animals or poultry used for breeding or feeding
24 purposes, or captive wildlife;

25 (9) Newsprint, ink, computers, photosensitive paper and
26 film, toner, printing plates and other machinery, equipment,
27 replacement parts and supplies used in producing newspapers
28 published for dissemination of news to the general public;

29 (10) The rentals of films, records or any type of sound or

1 picture transcriptions for public commercial display;

2 (11) Pumping machinery and equipment used to propel
3 products delivered by pipelines engaged as common carriers;

4 (12) Railroad rolling stock for use in transporting persons
5 or property in interstate commerce and motor vehicles licensed
6 for a gross weight of twenty-four thousand pounds or more or
7 trailers used by common carriers, as defined in section 390.020,
8 in the transportation of persons or property;

9 (13) Electrical energy used in the actual primary
10 manufacture, processing, compounding, mining or producing of a
11 product, or electrical energy used in the actual secondary
12 processing or fabricating of the product, or a material recovery
13 processing plant as defined in subdivision (5) of this
14 subsection, in facilities owned or leased by the taxpayer, if the
15 total cost of electrical energy so used exceeds ten percent of
16 the total cost of production, either primary or secondary,
17 exclusive of the cost of electrical energy so used or if the raw
18 materials used in such processing contain at least twenty-five
19 percent recovered materials as defined in section 260.200. There
20 shall be a rebuttable presumption that the raw materials used in
21 the primary manufacture of automobiles contain at least
22 twenty-five percent recovered materials. For purposes of this
23 subdivision, "processing" means any mode of treatment, act or
24 series of acts performed upon materials to transform and reduce
25 them to a different state or thing, including treatment necessary
26 to maintain or preserve such processing by the producer at the
27 production facility;

28 (14) Anodes which are used or consumed in manufacturing,
29 processing, compounding, mining, producing or fabricating and

1 which have a useful life of less than one year;

2 (15) Machinery, equipment, appliances and devices purchased
3 or leased and used solely for the purpose of preventing, abating
4 or monitoring air pollution, and materials and supplies solely
5 required for the installation, construction or reconstruction of
6 such machinery, equipment, appliances and devices;

7 (16) Machinery, equipment, appliances and devices purchased
8 or leased and used solely for the purpose of preventing, abating
9 or monitoring water pollution, and materials and supplies solely
10 required for the installation, construction or reconstruction of
11 such machinery, equipment, appliances and devices;

12 (17) Tangible personal property purchased by a rural water
13 district;

14 (18) All amounts paid or charged for admission or
15 participation or other fees paid by or other charges to
16 individuals in or for any place of amusement, entertainment or
17 recreation, games or athletic events, including museums, fairs,
18 zoos and planetariums, owned or operated by a municipality or
19 other political subdivision where all the proceeds derived
20 therefrom benefit the municipality or other political subdivision
21 and do not inure to any private person, firm, or corporation,
22 provided, however, that a municipality or other political
23 subdivision may enter into revenue-sharing agreements with
24 private persons, firms, or corporations providing goods or
25 services, including management services, in or for the place of
26 amusement, entertainment or recreation, games or athletic events,
27 and provided further that nothing in this subdivision shall
28 exempt from tax any amounts retained by any private person, firm,
29 or corporation under such revenue-sharing agreement;

1 (19) All sales of insulin and prosthetic or orthopedic
2 devices as defined on January 1, 1980, by the federal Medicare
3 program pursuant to Title XVIII of the Social Security Act of
4 1965, including the items specified in Section 1862(a)(12) of
5 that act, and also specifically including hearing aids and
6 hearing aid supplies and all sales of drugs which may be legally
7 dispensed by a licensed pharmacist only upon a lawful
8 prescription of a practitioner licensed to administer those
9 items, including samples and materials used to manufacture
10 samples which may be dispensed by a practitioner authorized to
11 dispense such samples and all sales or rental of medical oxygen,
12 home respiratory equipment and accessories, hospital beds and
13 accessories and ambulatory aids, all sales or rental of manual
14 and powered wheelchairs, stairway lifts, Braille writers,
15 electronic Braille equipment and, if purchased or rented by or on
16 behalf of a person with one or more physical or mental
17 disabilities to enable them to function more independently, all
18 sales or rental of scooters, reading machines, electronic print
19 enlargers and magnifiers, electronic alternative and augmentative
20 communication devices, and items used solely to modify motor
21 vehicles to permit the use of such motor vehicles by individuals
22 with disabilities or sales of over-the-counter or nonprescription
23 drugs to individuals with disabilities, and drugs required by the
24 Food and Drug Administration to meet the over-the-counter drug
25 product labeling requirements in 21 CFR 201.66, or its successor,
26 as prescribed by a health care practitioner licensed to
27 prescribe;

28 (20) All sales made by or to religious and charitable
29 organizations and institutions in their religious, charitable or

1 educational functions and activities and all sales made by or to
2 all elementary and secondary schools operated at public expense
3 in their educational functions and activities;

4 (21) All sales of aircraft to common carriers for storage
5 or for use in interstate commerce and all sales made by or to
6 not-for-profit civic, social, service or fraternal organizations,
7 including fraternal organizations which have been declared
8 tax-exempt organizations pursuant to Section 501(c)(8) or (10) of
9 the 1986 Internal Revenue Code, as amended, in their civic or
10 charitable functions and activities and all sales made to
11 eleemosynary and penal institutions and industries of the state,
12 and all sales made to any private not-for-profit institution of
13 higher education not otherwise excluded pursuant to subdivision
14 (20) of this subsection or any institution of higher education
15 supported by public funds, and all sales made to a state relief
16 agency in the exercise of relief functions and activities;

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

27 (23) All sales made to any private not-for-profit
28 elementary or secondary school, all sales of feed additives,
29 medications or vaccines administered to livestock or poultry in

1 the production of food or fiber, all sales of pesticides used in
2 the production of crops, livestock or poultry for food or fiber,
3 all sales of bedding used in the production of livestock or
4 poultry for food or fiber, all sales of propane or natural gas,
5 electricity or diesel fuel used exclusively for drying
6 agricultural crops, natural gas used in the primary manufacture
7 or processing of fuel ethanol as defined in section 142.028,
8 natural gas, propane, and electricity used by an eligible new
9 generation cooperative or an eligible new generation processing
10 entity as defined in section 348.432, and all sales of farm
11 machinery and equipment, other than airplanes, motor vehicles and
12 trailers, and any freight charges on any exempt item. As used in
13 this subdivision, the term "feed additives" means tangible
14 personal property which, when mixed with feed for livestock or
15 poultry, is to be used in the feeding of livestock or poultry.
16 As used in this subdivision, the term "pesticides" includes
17 adjuvants such as crop oils, surfactants, wetting agents and
18 other assorted pesticide carriers used to improve or enhance the
19 effect of a pesticide and the foam used to mark the application
20 of pesticides and herbicides for the production of crops,
21 livestock or poultry. As used in this subdivision, the term
22 "farm machinery and equipment" means new or used farm tractors
23 and such other new or used farm machinery and equipment and
24 repair or replacement parts thereon and any accessories for and
25 upgrades to such farm machinery and equipment, rotary mowers used
26 exclusively for agricultural purposes, and supplies and
27 lubricants used exclusively, solely, and directly for producing
28 crops, raising and feeding livestock, fish, poultry, pheasants,
29 chukar, quail, or for producing milk for ultimate sale at retail,

1 including field drain tile, and one-half of each purchaser's
2 purchase of diesel fuel therefor which is:

3 (a) Used exclusively for agricultural purposes;

4 (b) Used on land owned or leased for the purpose of
5 producing farm products; and

6 (c) Used directly in producing farm products to be sold
7 ultimately in processed form or otherwise at retail or in
8 producing farm products to be fed to livestock or poultry to be
9 sold ultimately in processed form at retail;

10 (24) Except as otherwise provided in section 144.032, all
11 sales of metered water service, electricity, electrical current,
12 natural, artificial or propane gas, wood, coal or home heating
13 oil for domestic use and in any city not within a county, all
14 sales of metered or unmetered water service for domestic use:

15 (a) "Domestic use" means that portion of metered water
16 service, electricity, electrical current, natural, artificial or
17 propane gas, wood, coal or home heating oil, and in any city not
18 within a county, metered or unmetered water service, which an
19 individual occupant of a residential premises uses for
20 nonbusiness, noncommercial or nonindustrial purposes. Utility
21 service through a single or master meter for residential
22 apartments or condominiums, including service for common areas
23 and facilities and vacant units, shall be deemed to be for
24 domestic use. Each seller shall establish and maintain a system
25 whereby individual purchases are determined as exempt or
26 nonexempt;

27 (b) Regulated utility sellers shall determine whether
28 individual purchases are exempt or nonexempt based upon the
29 seller's utility service rate classifications as contained in

1 tariffs on file with and approved by the Missouri public service
2 commission. Sales and purchases made pursuant to the rate
3 classification "residential" and sales to and purchases made by
4 or on behalf of the occupants of residential apartments or
5 condominiums through a single or master meter, including service
6 for common areas and facilities and vacant units, shall be
7 considered as sales made for domestic use and such sales shall be
8 exempt from sales tax. Sellers shall charge sales tax upon the
9 entire amount of purchases classified as nondomestic use. The
10 seller's utility service rate classification and the provision of
11 service thereunder shall be conclusive as to whether or not the
12 utility must charge sales tax;

13 (c) Each person making domestic use purchases of services
14 or property and who uses any portion of the services or property
15 so purchased for a nondomestic use shall, by the fifteenth day of
16 the fourth month following the year of purchase, and without
17 assessment, notice or demand, file a return and pay sales tax on
18 that portion of nondomestic purchases. Each person making
19 nondomestic purchases of services or property and who uses any
20 portion of the services or property so purchased for domestic
21 use, and each person making domestic purchases on behalf of
22 occupants of residential apartments or condominiums through a
23 single or master meter, including service for common areas and
24 facilities and vacant units, under a nonresidential utility
25 service rate classification may, between the first day of the
26 first month and the fifteenth day of the fourth month following
27 the year of purchase, apply for credit or refund to the director
28 of revenue and the director shall give credit or make refund for
29 taxes paid on the domestic use portion of the purchase. The

1 person making such purchases on behalf of occupants of
2 residential apartments or condominiums shall have standing to
3 apply to the director of revenue for such credit or refund;

4 (25) All sales of handicraft items made by the seller or
5 the seller's spouse if the seller or the seller's spouse is at
6 least sixty-five years of age, and if the total gross proceeds
7 from such sales do not constitute a majority of the annual gross
8 income of the seller;

9 (26) Excise taxes, collected on sales at retail, imposed by
10 Sections 4041, 4061, 4071, 4081, 4091, 4161, 4181, 4251, 4261 and
11 4271 of Title 26, United States Code. The director of revenue
12 shall promulgate rules pursuant to chapter 536 to eliminate all
13 state and local sales taxes on such excise taxes;

14 (27) Sales of fuel consumed or used in the operation of
15 ships, barges, or waterborne vessels which are used primarily in
16 or for the transportation of property or cargo, or the conveyance
17 of persons for hire, on navigable rivers bordering on or located
18 in part in this state, if such fuel is delivered by the seller to
19 the purchaser's barge, ship, or waterborne vessel while it is
20 afloat upon such river;

21 (28) All sales made to an interstate compact agency created
22 pursuant to sections 70.370 to 70.441 or sections 238.010 to
23 238.100 in the exercise of the functions and activities of such
24 agency as provided pursuant to the compact;

25 (29) Computers, computer software and computer security
26 systems purchased for use by architectural or engineering firms
27 headquartered in this state. For the purposes of this
28 subdivision, "headquartered in this state" means the office for
29 the administrative management of at least four integrated

1 facilities operated by the taxpayer is located in the state of
2 Missouri;

3 (30) All livestock sales when either the seller is engaged
4 in the growing, producing or feeding of such livestock, or the
5 seller is engaged in the business of buying and selling,
6 bartering or leasing of such livestock;

7 (31) All sales of barges which are to be used primarily in
8 the transportation of property or cargo on interstate waterways;

9 (32) Electrical energy or gas, whether natural, artificial
10 or propane, water, or other utilities which are ultimately
11 consumed in connection with the manufacturing of cellular glass
12 products or in any material recovery processing plant as defined
13 in subdivision (5) of this subsection;

14 (33) Notwithstanding other provisions of law to the
15 contrary, all sales of pesticides or herbicides used in the
16 production of crops, aquaculture, livestock or poultry;

17 (34) Tangible personal property and utilities purchased for
18 use or consumption directly or exclusively in the research and
19 development of agricultural/biotechnology and plant genomics
20 products and prescription pharmaceuticals consumed by humans or
21 animals;

22 (35) All sales of grain bins for storage of grain for
23 resale;

24 (36) All sales of feed which are developed for and used in
25 the feeding of pets owned by a commercial breeder when such sales
26 are made to a commercial breeder, as defined in section 273.325,
27 and licensed pursuant to sections 273.325 to 273.357;

28 (37) All purchases by a contractor on behalf of an entity
29 located in another state, provided that the entity is authorized

1 to issue a certificate of exemption for purchases to a contractor
2 under the provisions of that state's laws. For purposes of this
3 subdivision, the term "certificate of exemption" shall mean any
4 document evidencing that the entity is exempt from sales and use
5 taxes on purchases pursuant to the laws of the state in which the
6 entity is located. Any contractor making purchases on behalf of
7 such entity shall maintain a copy of the entity's exemption
8 certificate as evidence of the exemption. If the exemption
9 certificate issued by the exempt entity to the contractor is
10 later determined by the director of revenue to be invalid for any
11 reason and the contractor has accepted the certificate in good
12 faith, neither the contractor or the exempt entity shall be
13 liable for the payment of any taxes, interest and penalty due as
14 the result of use of the invalid exemption certificate.

15 Materials shall be exempt from all state and local sales and use
16 taxes when purchased by a contractor for the purpose of
17 fabricating tangible personal property which is used in
18 fulfilling a contract for the purpose of constructing, repairing
19 or remodeling facilities for the following:

20 (a) An exempt entity located in this state, if the entity
21 is one of those entities able to issue project exemption
22 certificates in accordance with the provisions of section
23 144.062; or

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

28 (38) All sales or other transfers of tangible personal
29 property to a lessor who leases the property under a lease of one

1 year or longer executed or in effect at the time of the sale or
2 other transfer to an interstate compact agency created pursuant
3 to sections 70.370 to 70.441 or sections 238.010 to 238.100;

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

14 (40) All purchases by a sports complex authority created
15 under section 64.920, and all sales of utilities by such
16 authority at the authority's cost that are consumed in connection
17 with the operation of a sports complex leased to a professional
18 sports team;

19 (41) All materials, replacement parts, and equipment
20 purchased for use directly upon, and for the modification,
21 replacement, repair, and maintenance of aircraft, aircraft power
22 plants, and aircraft accessories;

23 (42) Sales of sporting clays, wobble, skeet, and trap
24 targets to any shooting range or similar places of business for
25 use in the normal course of business and money received by a
26 shooting range or similar places of business from patrons and
27 held by a shooting range or similar place of business for
28 redistribution to patrons at the conclusion of a shooting event;

29 (43) Any new or used aircraft sold or delivered in this

1 state to a person who is not a resident of this state or a
2 corporation that is not incorporated in this state, and such
3 aircraft is not to be based in this state and shall not remain in
4 this state more than ten business days subsequent to the last to
5 occur of:

6 (a) The transfer of title to the aircraft to a person who
7 is not a resident of this state or a corporation that is not
8 incorporated in this state; or

9 (b) The date of the return to service of the aircraft in
10 accordance with 14 CFR 91.407 for any maintenance, preventive
11 maintenance, rebuilding, alterations, repairs, or installations
12 that are completed contemporaneously with the transfer of title
13 to the aircraft to a person who is not a resident of this state
14 or a corporation that is not incorporated in this state.

15 3. Any ruling, agreement, or contract, whether written or
16 oral, express or implied, between a person and this state's
17 executive branch, or any other state agency or department,
18 stating, agreeing, or ruling that such person is not required to
19 collect sales and use tax in this state despite the presence of a
20 warehouse, distribution center, or fulfillment center in this
21 state that is owned or operated by the person or an affiliated
22 person shall be null and void unless it is specifically approved
23 by a majority vote of each of the houses of the general assembly.
24 For purposes of this subsection, an "affiliated person" means any
25 person that is a member of the same controlled group of
26 corporations as defined in Section 1563(a) of the Internal
27 Revenue Code of 1986, as amended, as the vendor or any other
28 entity that, notwithstanding its form of organization, bears the
29 same ownership relationship to the vendor as a corporation that

1 is a member of the same controlled group of corporations as
2 defined in Section 1563(a) of the Internal Revenue Code, as
3 amended."; and

4 Further amend the title and enacting clause accordingly.

5