AN ACT

To repeal section 143.451, RSMo, and to enact in lieu thereof one new section relating to allocation of corporate income.

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

Section A. Section 143.451, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 143.451, to read as follows:

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

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

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

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

a. "Wholly in this state" if both the seller's shipping point and the
purchaser's destination point are in this state;

b. "Partly within this state and partly without this state" if the seller's
shipping point is in this state and the purchaser's destination point is outside
this state, or the seller's shipping point is outside this state and the purchaser's
destination point is in this state;

c. Not "wholly in this state" or not "partly within this state and partly
without this state" only if both the seller's shipping point and the purchaser's
destination point are outside this state.

(d) For purposes of this subdivision:

a. The purchaser's destination point shall be determined without regard
to the FOB point or other conditions of the sale; and

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

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

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

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

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

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

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

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

(e) For the purposes of this subdivision, a transaction involving the sale other than the sale of tangible property is "in this state" if the taxpayer's market for the sales is in this state. The taxpayer's market for sales is in this state:

a. In the case of sale, rental, lease, or license of real property, if and to the extent the property is located in this state;

b. In the case of rental, lease, or license of tangible personal property, if and to the extent the property is located in this state;

c. In the case of sale of a service, if and to the extent the benefit of the service is delivered to a purchaser location in this state; and

d. In the case of intangible property:

(i) That is rented, leased, or licensed, if and to the extent the property is used in this state by the rentee, lessee, or licensee, provided that intangible property utilized in marketing a good or service to a consumer is "used in this state" if that good or service is purchased by a consumer who is in this state. Franchise fees or royalties received for the rent, lease, license, or use of a trade name, trademark, service mark, or franchise system or provides a right to conduct business activity in a specific geographic area are "used in this state" to the extent the franchise location is in this state; and

(ii) That is sold, if and to the extent the property is used in this state, provided that:

i. A contract right, government license, or similar intangible
property that authorizes the holder to conduct a business activity in a
specific geographic area is "used in this state" if the geographic area
includes all or part of this state;

   ii. Receipts from intangible property sales that are contingent on
the productivity, use, or disposition of the intangible property shall be
treated as receipts from the rental, lease, or licensing of such
intangible property under item (i) of this subparagraph; and

   iii. All other receipts from a sales of intangible property shall be
excluded from the numerator and denominator of the sales factor;

(f) If the state or states of assignment under paragraph (e) of this
subdivision cannot be determined, the state or states of assignment
shall be reasonably approximated;

(g) If the state of assignment cannot be determined under
paragraph (e) of this subdivision or reasonably approximated under
paragraph (f) of this subdivision, such sales shall be excluded from the
denominator of the sales factor;

(h) The director may prescribe such rules and regulations as
necessary or appropriate to carry out the purposes of this section.

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

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

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

   (c) "Distribution services" include, but are not limited to, the services of
advertising, servicing, marketing, underwriting or selling shares of an investment
compartment, but, in the case of advertising, servicing or marketing shares, only
where such service is performed by a person who is, or in the case of a closed end
company, was, either engaged in the services of underwriting or selling
investment company shares or affiliated with a person that is engaged in the
service of underwriting or selling investment company shares. In the case of an
open end company, such service of underwriting or selling shares must be
performed pursuant to a contract entered into pursuant to 15 U.S.C. Section
80a-15(b), as from time to time amended;
(d) "Investment company", any person registered under the federal Investment Company Act of 1940, as amended from time to time, (the act) or a company which would be required to register as an investment company under the act except that such person is exempt to such registration pursuant to Section 80a-3(c)(1) of the act;

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

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

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

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

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

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

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

(5) Notwithstanding other provisions of law to the contrary, qualifying
sales of an investment funds service corporation, or S corporation, shall be
considered wholly in this state only to the extent that the fund shareholders of
the investment companies, to which the investment funds service corporation, or
S corporation, provide services, are resided in this state. Wholly in this state
qualifying sales of an investment funds service corporation, or S corporation, shall
be determined as follows:

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

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

(c) To the extent an investment funds service corporation has sales which
are not qualifying sales, those nonqualified sales shall be apportioned to this
state based on the methodology utilized by the investment funds service
corporation without regard to this subdivision.
3. Any corporation described in subdivision (1) of subsection 1 of section 143.441 organized in this state or granted a permit to operate in this state for the transportation or care of passengers shall report its gross earnings within the state on intrastate business and shall also report its gross earnings on all interstate business done in this state which report shall be subject to inquiry for the purpose of determining the amount of income to be included in Missouri taxable income. The previous sentence shall not apply to a railroad.

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

   (1) The income from all sources shall be determined as provided;
   (2) The amount of investment of such corporation on December thirty-first of each year in this state in fixed transportation facilities, real estate and improvements, plus the value on December thirty-first of each year of any fixed transportation facilities, real estate and improvements in this state leased from any other railroad shall be divided by the sum of the total amount of investment of such corporation on December thirty-first of each year in fixed transportation facilities, real estate and improvements, plus the value on December thirty-first of each year, of any fixed transportation facilities, real estate and improvements leased from any other railroad. Where any fixed transportation facilities, real estate or improvements are leased by more than one railroad, such portion of the value shall be used by each railroad as the rental paid by each shall bear to the rental paid by all lessees. The income shall be multiplied by the fraction thus obtained to determine the proportion to be used to arrive at the amount of Missouri taxable income.

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

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

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

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

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

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

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