

FIRST REGULAR SESSION

# SENATE BILL NO. 14

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR DIXON.

Pre-filed December 1, 2016, and ordered printed.

ADRIANE D. CROUSE, Secretary.

0683S.011

## AN ACT

To repeal section 144.030, RSMo, and to enact in lieu thereof one new section relating to sales and use taxes.

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

Section A. Section 144.030, RSMo, is repealed and one new section  
2 enacted in lieu thereof, to be known as section 144.030, to read as follows:

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

10 2. There are also specifically exempted from the provisions of the local  
11 sales tax law as defined in section 32.085, section 238.235, and sections 144.010  
12 to 144.525 and 144.600 to 144.761 and from the computation of the tax levied,  
13 assessed or payable pursuant to the local sales tax law as defined in section  
14 32.085, section 238.235, and sections 144.010 to 144.525 and 144.600 to 144.745:

15 (1) Motor fuel or special fuel subject to an excise tax of this state, unless  
16 all or part of such excise tax is refunded pursuant to section 142.824; or upon the  
17 sale at retail of fuel to be consumed in manufacturing or creating gas, power,  
18 steam, electrical current or in furnishing water to be sold ultimately at retail; or  
19 feed for livestock or poultry; or grain to be converted into foodstuffs which are to

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

20 be sold ultimately in processed form at retail; or seed, limestone or fertilizer  
21 which is to be used for seeding, liming or fertilizing crops which when harvested  
22 will be sold at retail or will be fed to livestock or poultry to be sold ultimately in  
23 processed form at retail; economic poisons registered pursuant to [the provisions  
24 of the Missouri pesticide registration law (sections 281.220 to 281.310)] **sections**  
25 **281.210 to 281.310, the Missouri pesticide registration act**, which are to  
26 be used in connection with the growth or production of crops, fruit trees or  
27 orchards applied before, during, or after planting, the crop of which when  
28 harvested will be sold at retail or will be converted into foodstuffs which are to  
29 be sold ultimately in processed form at retail;

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

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

45 (4) Motor vehicles registered in excess of fifty-four thousand pounds, and  
46 the trailers pulled by such motor vehicles, that are actually used in the normal  
47 course of business to haul property on the public highways of the state, and that  
48 are capable of hauling loads commensurate with the motor vehicle's registered  
49 weight; and the materials, replacement parts, and equipment purchased for use  
50 directly upon, and for the repair and maintenance or manufacture of such  
51 vehicles. For purposes of this subdivision, motor vehicle and public highway shall  
52 have the meaning as ascribed in section 390.020;

53 (5) Replacement machinery, equipment, and parts and the materials and  
54 supplies solely required for the installation or construction of such replacement  
55 machinery, equipment, and parts, used directly in manufacturing, mining,

56 fabricating or producing a product which is intended to be sold ultimately for  
57 final use or consumption; and machinery and equipment, and the materials and  
58 supplies required solely for the operation, installation or construction of such  
59 machinery and equipment, purchased and used to establish new, or to replace or  
60 expand existing, material recovery processing plants in this state. For the  
61 purposes of this subdivision, a "material recovery processing plant" means a  
62 facility that has as its primary purpose the recovery of materials into a usable  
63 product or a different form which is used in producing a new product and shall  
64 include a facility or equipment which are used exclusively for the collection of  
65 recovered materials for delivery to a material recovery processing plant but shall  
66 not include motor vehicles used on highways. For purposes of this section, the  
67 terms motor vehicle and highway shall have the same meaning pursuant to  
68 section 301.010. Material recovery is not the reuse of materials within a  
69 manufacturing process or the use of a product previously recovered. The material  
70 recovery processing plant shall qualify under the provisions of this section  
71 regardless of ownership of the material being recovered;

72 (6) Machinery and equipment, and parts and the materials and supplies  
73 solely required for the installation or construction of such machinery and  
74 equipment, purchased and used to establish new or to expand existing  
75 manufacturing, mining or fabricating plants in the state if such machinery and  
76 equipment is used directly in manufacturing, mining or fabricating a product  
77 which is intended to be sold ultimately for final use or consumption;

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

81 (8) Animals or poultry used for breeding or feeding purposes, or captive  
82 wildlife;

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

87 (10) The rentals of films, records or any type of sound or picture  
88 transcriptions for public commercial display;

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

91 (12) Railroad rolling stock for use in transporting persons or property in

92 interstate commerce and motor vehicles licensed for a gross weight of twenty-four  
93 thousand pounds or more or trailers used by common carriers, as defined in  
94 section 390.020, in the transportation of persons or property;

95 (13) Electrical energy used in the actual primary manufacture, processing,  
96 compounding, mining or producing of a product, or electrical energy used in the  
97 actual secondary processing or fabricating of the product, or a material recovery  
98 processing plant as defined in subdivision (5) of this subsection, in facilities  
99 owned or leased by the taxpayer, if the total cost of electrical energy so used  
100 exceeds ten percent of the total cost of production, either primary or secondary,  
101 exclusive of the cost of electrical energy so used or if the raw materials used in  
102 such processing contain at least twenty-five percent recovered materials as  
103 defined in section 260.200. There shall be a rebuttable presumption that the raw  
104 materials used in the primary manufacture of automobiles contain at least  
105 twenty-five percent recovered materials. For purposes of this subdivision,  
106 "processing" means any mode of treatment, act or series of acts performed upon  
107 materials to transform and reduce them to a different state or thing, including  
108 treatment necessary to maintain or preserve such processing by the producer at  
109 the production facility;

110 (14) Anodes which are used or consumed in manufacturing, processing,  
111 compounding, mining, producing or fabricating and which have a useful life of  
112 less than one year;

113 (15) Machinery, equipment, appliances and devices purchased or leased  
114 and used solely for the purpose of preventing, abating or monitoring air pollution,  
115 and materials and supplies solely required for the installation, construction or  
116 reconstruction of such machinery, equipment, appliances and devices;

117 (16) Machinery, equipment, appliances and devices purchased or leased  
118 and used solely for the purpose of preventing, abating or monitoring water  
119 pollution, and materials and supplies solely required for the installation,  
120 construction or reconstruction of such machinery, equipment, appliances and  
121 devices;

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

123 (18) All amounts paid or charged for admission or participation or other  
124 fees paid by or other charges to individuals in or for any place of amusement,  
125 entertainment or recreation, games or athletic events, including museums, fairs,  
126 zoos and planetariums, owned or operated by a municipality or other political  
127 subdivision where all the proceeds derived therefrom benefit the municipality or

128 other political subdivision and do not inure to any private person, firm, or  
129 corporation, provided, however, that a municipality or other political subdivision  
130 may enter into revenue-sharing agreements with private persons, firms, or  
131 corporations providing goods or services, including management services, in or for  
132 the place of amusement, entertainment or recreation, games or athletic events,  
133 and provided further that nothing in this subdivision shall exempt from tax any  
134 amounts retained by any private person, firm, or corporation under such  
135 revenue-sharing agreement;

136 (19) All sales of insulin, and all sales, rentals, repairs, and parts of  
137 durable medical equipment, prosthetic devices, and orthopedic devices as defined  
138 on January 1, 1980, by the federal Medicare program pursuant to Title XVIII of  
139 the Social Security Act of 1965, including the items specified in Section  
140 1862(a)(12) of that act (**42 U.S.C. 1395y, as amended**), and also specifically  
141 including hearing aids and hearing aid supplies and all sales of drugs which may  
142 be legally dispensed by a licensed pharmacist only upon a lawful prescription of  
143 a practitioner licensed to administer those items, including samples and  
144 materials used to manufacture samples which may be dispensed by a practitioner  
145 authorized to dispense such samples and all sales or rental of medical oxygen,  
146 home respiratory equipment and accessories including parts, and hospital beds  
147 and accessories and ambulatory aids including parts, and all sales or rental of  
148 manual and powered wheelchairs including parts, and stairway lifts, Braille  
149 writers, electronic Braille equipment and, if purchased or rented by or on behalf  
150 of a person with one or more physical or mental disabilities to enable them to  
151 function more independently, all sales or rental of scooters including parts, and  
152 reading machines, electronic print enlargers and magnifiers, electronic  
153 alternative and augmentative communication devices, and items used solely to  
154 modify motor vehicles to permit the use of such motor vehicles by individuals  
155 with disabilities or sales of over-the-counter or nonprescription drugs to  
156 individuals with disabilities, and drugs required by the Food and Drug  
157 Administration to meet the over-the-counter drug product labeling requirements  
158 in 21 CFR 201.66, or its successor, as prescribed by a health care practitioner  
159 licensed to prescribe;

160 (20) All sales made by or to religious and charitable organizations and  
161 institutions in their religious, charitable or educational functions and activities  
162 and all sales made by or to all elementary and secondary schools operated at  
163 public expense in their educational functions and activities;

164 (21) All sales of aircraft to common carriers for storage or for use in  
165 interstate commerce and all sales made by or to not-for-profit civic, social, service  
166 or fraternal organizations, including fraternal organizations which have been  
167 declared tax-exempt organizations pursuant to Section 501(c)(8) or (10) of the  
168 1986 Internal Revenue Code, as amended, in their civic or charitable functions  
169 and activities and all sales made to eleemosynary and penal institutions and  
170 industries of the state, and all sales made to any private not-for-profit institution  
171 of higher education not otherwise excluded pursuant to subdivision (20) of this  
172 subsection or any institution of higher education supported by public funds, and  
173 all sales made to a state relief agency in the exercise of relief functions and  
174 activities;

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

183 (23) All sales made to any private not-for-profit elementary or secondary  
184 school, all sales of feed additives, medications or vaccines administered to  
185 livestock or poultry in the production of food or fiber, all sales of pesticides used  
186 in the production of crops, livestock or poultry for food or fiber, all sales of  
187 bedding used in the production of livestock or poultry for food or fiber, all sales  
188 of propane or natural gas, electricity or diesel fuel used exclusively for drying  
189 agricultural crops, natural gas used in the primary manufacture or processing of  
190 fuel ethanol as defined in section 142.028, natural gas, propane, and electricity  
191 used by an eligible new generation cooperative or an eligible new generation  
192 processing entity as defined in section 348.432, and all sales of farm machinery  
193 and equipment, other than airplanes, motor vehicles and trailers, and any freight  
194 charges on any exempt item. As used in this subdivision, the term "feed  
195 additives" means tangible personal property which, when mixed with feed for  
196 livestock or poultry, is to be used in the feeding of livestock or poultry. As used  
197 in this subdivision, the term "pesticides" includes adjuvants such as crop oils,  
198 surfactants, wetting agents and other assorted pesticide carriers used to improve  
199 or enhance the effect of a pesticide and the foam used to mark the application of

200 pesticides and herbicides for the production of crops, livestock or poultry. As  
201 used in this subdivision, the term "farm machinery and equipment" means new  
202 or used farm tractors and such other new or used farm machinery and equipment  
203 and repair or replacement parts thereon and any accessories for and upgrades to  
204 such farm machinery and equipment, rotary mowers used exclusively for  
205 agricultural purposes, and supplies and lubricants used exclusively, solely, and  
206 directly for producing crops, raising and feeding livestock, fish, poultry,  
207 pheasants, chukar, quail, or for producing milk for ultimate sale at retail,  
208 including field drain tile, and one-half of each purchaser's purchase of diesel fuel  
209 therefor which is:

- 210 (a) Used exclusively for agricultural purposes;
- 211 (b) Used on land owned or leased for the purpose of producing farm  
212 products; and
- 213 (c) Used directly in producing farm products to be sold ultimately in  
214 processed form or otherwise at retail or in producing farm products to be fed to  
215 livestock or poultry to be sold ultimately in processed form at retail;

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

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

229 (b) Regulated utility sellers shall determine whether individual purchases  
230 are exempt or nonexempt based upon the seller's utility service rate  
231 classifications as contained in tariffs on file with and approved by the Missouri  
232 public service commission. Sales and purchases made pursuant to the rate  
233 classification "residential" and sales to and purchases made by or on behalf of the  
234 occupants of residential apartments or condominiums through a single or master  
235 meter, including service for common areas and facilities and vacant units, shall

236 be considered as sales made for domestic use and such sales shall be exempt from  
237 sales tax. Sellers shall charge sales tax upon the entire amount of purchases  
238 classified as nondomestic use. The seller's utility service rate classification and  
239 the provision of service thereunder shall be conclusive as to whether or not the  
240 utility must charge sales tax;

241 (c) Each person making domestic use purchases of services or property  
242 and who uses any portion of the services or property so purchased for a  
243 nondomestic use shall, by the fifteenth day of the fourth month following the year  
244 of purchase, and without assessment, notice or demand, file a return and pay  
245 sales tax on that portion of nondomestic purchases. Each person making  
246 nondomestic purchases of services or property and who uses any portion of the  
247 services or property so purchased for domestic use, and each person making  
248 domestic purchases on behalf of occupants of residential apartments or  
249 condominiums through a single or master meter, including service for common  
250 areas and facilities and vacant units, under a nonresidential utility service rate  
251 classification may, between the first day of the first month and the fifteenth day  
252 of the fourth month following the year of purchase, apply for credit or refund to  
253 the director of revenue and the director shall give credit or make refund for taxes  
254 paid on the domestic use portion of the purchase. The person making such  
255 purchases on behalf of occupants of residential apartments or condominiums shall  
256 have standing to apply to the director of revenue for such credit or refund;

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

261 (26) Excise taxes, collected on sales at retail, imposed by Sections 4041,  
262 [4061,] 4071, 4081, [4091,] 4161, 4181, 4251, 4261 and 4271 of Title 26, United  
263 States Code. The director of revenue shall promulgate rules pursuant to chapter  
264 536 to eliminate all state and local sales taxes on such excise taxes;

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

271 (28) All sales made to an interstate compact agency created pursuant to



272 sections 70.370 to 70.441 or sections 238.010 to 238.100 in the exercise of the  
273 functions and activities of such agency as provided pursuant to the compact;

274 (29) Computers, computer software and computer security systems  
275 purchased for use by architectural or engineering firms headquartered in this  
276 state. For the purposes of this subdivision, "headquartered in this state" means  
277 the office for the administrative management of at least four integrated facilities  
278 operated by the taxpayer is located in the state of Missouri;

279 (30) All livestock sales when either the seller is engaged in the growing,  
280 producing or feeding of such livestock, or the seller is engaged in the business of  
281 buying and selling, bartering or leasing of such livestock;

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

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

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

291 (34) Tangible personal property and utilities purchased for use or  
292 consumption directly or exclusively in the research and development of  
293 agricultural/biotechnology and plant genomics products and prescription  
294 pharmaceuticals consumed by humans or animals;

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

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

300 (37) All purchases by a contractor on behalf of an entity located in another  
301 state, provided that the entity is authorized to issue a certificate of exemption for  
302 purchases to a contractor under the provisions of that state's laws. For purposes  
303 of this subdivision, the term "certificate of exemption" shall mean any document  
304 evidencing that the entity is exempt from sales and use taxes on purchases  
305 pursuant to the laws of the state in which the entity is located. Any contractor  
306 making purchases on behalf of such entity shall maintain a copy of the entity's  
307 exemption certificate as evidence of the exemption. If the exemption certificate

308 issued by the exempt entity to the contractor is later determined by the director  
309 of revenue to be invalid for any reason and the contractor has accepted the  
310 certificate in good faith, neither the contractor or the exempt entity shall be liable  
311 for the payment of any taxes, interest and penalty due as the result of use of the  
312 invalid exemption certificate. Materials shall be exempt from all state and local  
313 sales and use taxes when purchased by a contractor for the purpose of fabricating  
314 tangible personal property which is used in fulfilling a contract for the purpose  
315 of constructing, repairing or remodeling facilities for the following:

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

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

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

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

334 (40) All purchases by a sports complex authority created under section  
335 64.920, and all sales of utilities by such authority at the authority's cost that are  
336 consumed in connection with the operation of a sports complex leased to a  
337 professional sports team;

338 (41) All materials, replacement parts, and equipment purchased for use  
339 directly upon, and for the modification, replacement, repair, and maintenance of  
340 aircraft, aircraft power plants, and aircraft accessories;

341 (42) Sales of sporting clays, wobble, skeet, and trap targets to any  
342 shooting range or similar places of business for use in the normal course of  
343 business and money received by a shooting range or similar places of business

344 from patrons and held by a shooting range or similar place of business for  
345 redistribution to patrons at the conclusion of a shooting event;

346 (43) All sales of motor fuel, as defined in section 142.800, used in any  
347 watercraft, as defined in section 306.010;

348 (44) Any new or used aircraft sold or delivered in this state to a person  
349 who is not a resident of this state or a corporation that is not incorporated in this  
350 state, and such aircraft is not to be based in this state and shall not remain in  
351 this state more than ten business days subsequent to the last to occur of:

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

354 (b) The date of the return to service of the aircraft in accordance with 14  
355 CFR 91.407 for any maintenance, preventive maintenance, rebuilding, alterations,  
356 repairs, or installations that are completed contemporaneously with the transfer  
357 of title to the aircraft to a person who is not a resident of this state or a  
358 corporation that is not incorporated in this state;

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

362 (a) "Direct costs", costs incurred by a governmental authority solely  
363 because of an internet service provider's use of the public right-of-way. The term  
364 shall not include costs that the governmental authority would have incurred if the  
365 internet service provider did not make such use of the public right-of-way. Direct  
366 costs shall be determined in a manner consistent with generally accepted  
367 accounting principles;

368 (b) "Internet", computer and telecommunications facilities, including  
369 equipment and operating software, that comprises the interconnected worldwide  
370 network that employ the transmission control protocol or internet protocol, or any  
371 predecessor or successor protocols to that protocol, to communicate information  
372 of all kinds by wire or radio;

373 (c) "Internet access", a service that enables users to connect to the  
374 internet to access content, information, or other services without regard to  
375 whether the service is referred to as telecommunications, communications,  
376 transmission, or similar services, and without regard to whether a provider of the  
377 service is subject to regulation by the Federal Communications Commission as a  
378 common carrier under 47 U.S.C. Section 201, et seq. For purposes of this  
379 subdivision, internet access also includes: the purchase, use, or sale of

380 communications services, including telecommunications services as defined in  
381 section 144.010, to the extent the communications services are purchased, used,  
382 or sold to provide the service described in this subdivision or to otherwise enable  
383 users to access content, information, or other services offered over the internet;  
384 services that are incidental to the provision of a service described in this  
385 subdivision, when furnished to users as part of such service, including a home  
386 page, electronic mail, and instant messaging, including voice-capable and  
387 video-capable electronic mail and instant messaging, video clips, and personal  
388 electronic storage capacity; a home page electronic mail and instant messaging,  
389 including voice-capable and video-capable electronic mail and instant messaging,  
390 video clips, and personal electronic storage capacity that are provided  
391 independently or that are not packed with internet access. As used in this  
392 subdivision, internet access does not include voice, audio, and video programming  
393 or other products and services, except services described in this paragraph or this  
394 subdivision, that use internet protocol or any successor protocol and for which  
395 there is a charge, regardless of whether the charge is separately stated or  
396 aggregated with the charge for services described in this paragraph or this  
397 subdivision;

398 (d) "Tax", any charge imposed by the state or a political subdivision of the  
399 state for the purpose of generating revenues for governmental purposes and that  
400 is not a fee imposed for a specific privilege, service, or benefit conferred, except  
401 as described as otherwise under this subdivision, or any obligation imposed on a  
402 seller to collect and to remit to the state or a political subdivision of the state any  
403 gross retail tax, sales tax, or use tax imposed on a buyer by such a governmental  
404 entity. The term tax shall not include any franchise fee or similar fee imposed  
405 or authorized under [section] **sections 67.1830 to 67.1846** or **section 67.2689**;  
406 Section 622 or 653 of the Communications Act of 1934, 47 U.S.C. Section 542 and  
407 47 U.S.C. Section 573; or any other fee related to obligations of  
408 telecommunications carriers under the Communications Act of 1934, 47 U.S.C.  
409 Section 151, et seq., except to the extent that:

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

413 b. The fee is imposed for the use of a public right-of-way based on a  
414 percentage of the service revenue, and the fee exceeds the incremental direct  
415 costs incurred by the governmental authority associated with the provision of that

416 right-of-way to the provider of internet access service.

417 Nothing in this subdivision shall be interpreted as an exemption from taxes due  
418 on goods or services that were subject to tax on January 1, 2016.

419           3. Any ruling, agreement, or contract, whether written or oral, express or  
420 implied, between a person and this state's executive branch, or any other state  
421 agency or department, stating, agreeing, or ruling that such person is not  
422 required to collect sales and use tax in this state despite the presence of a  
423 warehouse, distribution center, or fulfillment center in this state that is owned  
424 or operated by the person or an affiliated person shall be null and void unless it  
425 is specifically approved by a majority vote of each of the houses of the general  
426 assembly. For purposes of this subsection, an "affiliated person" means any  
427 person that is a member of the same controlled group of corporations as defined  
428 in Section 1563(a) of the Internal Revenue Code of 1986, as amended, as the  
429 vendor or any other entity that, notwithstanding its form of organization, bears  
430 the same ownership relationship to the vendor as a corporation that is a member  
431 of the same controlled group of corporations as defined in Section 1563(a) of the  
432 Internal Revenue Code, as amended.

Bill ✓

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