

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]

SENATE BILL NO. 768

99TH GENERAL ASSEMBLY

2018

4946S.01T

AN ACT

To repeal sections 138.445, 144.026, 144.030, 144.054, and 153.030, RSMo, and to enact in lieu thereof four new sections relating to taxation of telecommunications companies.

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

Section A. Sections 138.445, 144.026, 144.030, 144.054, and 153.030, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 138.445 144.030, 144.054, and 153.030, to read as follows:

138.445. 1. The state tax commission of Missouri shall annually certify to the director of revenue and to the commissioner of education a copy of its most recent annual report containing the total valuation of all taxable properties in the state according to the county or counties for which the same is assessed. The commission shall also certify to the director and to the commissioner any amendments or modifications to the annual report; provided, however, that no amendments or modifications to the annual report shall be accepted by the state tax commission or certified by it to the director of revenue or the commissioner of education at any time after December thirty-first of the year.

2. The annual report of the state tax commission and any amendments or modifications thereto duly certified to the director of revenue and to the commissioner of education shall constitute the official record of the state of Missouri for purposes of section 142.345 and section 163.011.

3. The reports certified pursuant to this section shall not be construed to represent the assessment ratio or general assessment level of any county in this state.

4. For the additional duties imposed upon the members of the tax

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

18 commission under the provisions of this section, each member of the commission
19 shall annually receive nine thousand dollars plus any salary adjustment provided
20 pursuant to section 105.005 payable in equal monthly installments.

21 **5. As a part of the report defined in this section, the state tax**
22 **commission shall include the difference in assessed value for any**
23 **telephone company that, according to subsection 5 of section 153.030,**
24 **elects to be assessed utilizing the methodology defined in section**
25 **137.122. The commissioner of education shall transmit the information**
26 **to each school district.**

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
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) which are
25 to be used in connection with the growth or production of crops, fruit trees or
26 orchards applied before, during, or after planting, the crop of which when
27 harvested will be sold at retail or will be converted into foodstuffs which are to

28 be sold ultimately in processed form at retail;

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

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

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

52 (5) Replacement machinery, equipment, and parts and the materials and
53 supplies solely required for the installation or construction of such replacement
54 machinery, equipment, and parts, used directly in manufacturing, mining,
55 fabricating or producing a product which is intended to be sold ultimately for
56 final use or consumption; and machinery and equipment, and the materials and
57 supplies required solely for the operation, installation or construction of such
58 machinery and equipment, purchased and used to establish new, or to replace or
59 expand existing, material recovery processing plants in this state. For the
60 purposes of this subdivision, a "material recovery processing plant" means a
61 facility that has as its primary purpose the recovery of materials into a usable
62 product or a different form which is used in producing a new product and shall
63 include a facility or equipment which are used exclusively for the collection of

64 recovered materials for delivery to a material recovery processing plant but shall
65 not include motor vehicles used on highways. For purposes of this section, the
66 terms motor vehicle and highway shall have the same meaning pursuant to
67 section 301.010. **For the purposes of this subdivision, subdivision (6) of**
68 **this subsection, and section 144.054, as well as the definition in**
69 **subdivision (9) of subsection 1 of section 144.010, the term "product"**
70 **includes telecommunications services and the term "manufacturing"**
71 **shall include the production, or production and transmission, of**
72 **telecommunications services. The preceding sentence does not make**
73 **a substantive change in the law and is intended to clarify that the term**
74 **"manufacturing" has included and continues to include the production**
75 **and transmission of "telecommunications services", as enacted in this**
76 **subdivision and subdivision (6) of this subsection, as well as the**
77 **definition in subdivision (9) of subsection 1 of section 144.010. The**
78 **preceding two sentences reaffirm legislative intent consistent with the**
79 **interpretation of this subdivision and subdivision (6) of this subsection**
80 **in *Southwestern Bell Tel. Co. v. Director of Revenue*, 78 S.W.3d 763 (Mo.**
81 **banc 2002) and *Southwestern Bell Tel. Co. v. Director of Revenue*, 182**
82 **S.W.3d 226 (Mo. banc 2005), and accordingly abrogates the Missouri**
83 **supreme court's interpretation of those exemptions in *IBM Corporation***
84 ***v. Director of Revenue*, 491 S.W.3d 535 (Mo. banc 2016) to the extent**
85 **inconsistent with this section and *Southwestern Bell Tel. Co. v. Director***
86 ***of Revenue*, 78 S.W.3d 763 (Mo. banc 2002) and *Southwestern Bell Tel. Co.***
87 ***v. Director of Revenue*, 182 S.W.3d 226 (Mo. banc 2005). The construction**
88 **and application of this subdivision as expressed by the Missouri**
89 **supreme court in *DST Systems, Inc. v. Director of Revenue*, 43 S.W.3d 799**
90 **(Mo. banc 2001); *Southwestern Bell Tel. Co. v. Director of Revenue*, 78**
91 **S.W.3d 763 (Mo. banc 2002); and *Southwestern Bell Tel. Co. v. Director***
92 ***of Revenue*, 182 S.W.3d 226 (Mo. banc 2005), is hereby affirmed. Material**
93 **recovery is not the reuse of materials within a manufacturing process or the use**
94 **of a product previously recovered. The material recovery processing plant shall**
95 **qualify under the provisions of this section regardless of ownership of the**
96 **material being recovered;**

97 (6) Machinery and equipment, and parts and the materials and supplies
98 solely required for the installation or construction of such machinery and
99 equipment, purchased and used to establish new or to expand existing
100 manufacturing, mining or fabricating plants in the state if such machinery and

101 equipment is used directly in manufacturing, mining or fabricating a product
102 which is intended to be sold ultimately for final use or consumption. **The**
103 **construction and application of this subdivision as expressed by the**
104 **Missouri supreme court in *DST Systems, Inc. v. Director of Revenue*, 43**
105 **S.W.3d 799 (Mo. banc 2001); *Southwestern Bell Tel. Co. v. Director of***
106 ***Revenue*, 78 S.W.3d 763 (Mo. banc 2002); and *Southwestern Bell Tel. Co.***
107 ***v. Director of Revenue*, 182 S.W.3d 226 (Mo. banc 2005), is hereby**
108 **affirmed;**

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

112 (8) Animals or poultry used for breeding or feeding purposes, or captive
113 wildlife;

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

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

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

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

126 (13) Electrical energy used in the actual primary manufacture, processing,
127 compounding, mining or producing of a product, or electrical energy used in the
128 actual secondary processing or fabricating of the product, or a material recovery
129 processing plant as defined in subdivision (5) of this subsection, in facilities
130 owned or leased by the taxpayer, if the total cost of electrical energy so used
131 exceeds ten percent of the total cost of production, either primary or secondary,
132 exclusive of the cost of electrical energy so used or if the raw materials used in
133 such processing contain at least twenty-five percent recovered materials as
134 defined in section 260.200. There shall be a rebuttable presumption that the raw
135 materials used in the primary manufacture of automobiles contain at least
136 twenty-five percent recovered materials. For purposes of this subdivision,

137 "processing" means any mode of treatment, act or series of acts performed upon
138 materials to transform and reduce them to a different state or thing, including
139 treatment necessary to maintain or preserve such processing by the producer at
140 the production facility;

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

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

148 (16) Machinery, equipment, appliances and devices purchased or leased
149 and used solely for the purpose of preventing, abating or monitoring water
150 pollution, and materials and supplies solely required for the installation,
151 construction or reconstruction of such machinery, equipment, appliances and
152 devices;

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

154 (18) All amounts paid or charged for admission or participation or other
155 fees paid by or other charges to individuals in or for any place of amusement,
156 entertainment or recreation, games or athletic events, including museums, fairs,
157 zoos and planetariums, owned or operated by a municipality or other political
158 subdivision where all the proceeds derived therefrom benefit the municipality or
159 other political subdivision and do not inure to any private person, firm, or
160 corporation, provided, however, that a municipality or other political subdivision
161 may enter into revenue-sharing agreements with private persons, firms, or
162 corporations providing goods or services, including management services, in or for
163 the place of amusement, entertainment or recreation, games or athletic events,
164 and provided further that nothing in this subdivision shall exempt from tax any
165 amounts retained by any private person, firm, or corporation under such revenue-
166 sharing agreement;

167 (19) All sales of insulin, and all sales, rentals, repairs, and parts of
168 durable medical equipment, prosthetic devices, and orthopedic devices as defined
169 on January 1, 1980, by the federal Medicare program pursuant to Title XVIII of
170 the Social Security Act of 1965, including the items specified in Section
171 1862(a)(12) of that act, and also specifically including hearing aids and hearing
172 aid supplies and all sales of drugs which may be legally dispensed by a licensed

173 pharmacist only upon a lawful prescription of a practitioner licensed to
174 administer those items, including samples and materials used to manufacture
175 samples which may be dispensed by a practitioner authorized to dispense such
176 samples and all sales or rental of medical oxygen, home respiratory equipment
177 and accessories including parts, and hospital beds and accessories and
178 ambulatory aids including parts, and all sales or rental of manual and powered
179 wheelchairs including parts, and stairway lifts, Braille writers, electronic Braille
180 equipment and, if purchased or rented by or on behalf of a person with one or
181 more physical or mental disabilities to enable them to function more
182 independently, all sales or rental of scooters including parts, and reading
183 machines, electronic print enlargers and magnifiers, electronic alternative and
184 augmentative communication devices, and items used solely to modify motor
185 vehicles to permit the use of such motor vehicles by individuals with disabilities
186 or sales of over-the-counter or nonprescription drugs to individuals with
187 disabilities, and drugs required by the Food and Drug Administration to meet the
188 over-the-counter drug product labeling requirements in 21 CFR 201.66, or its
189 successor, as prescribed by a health care practitioner licensed to prescribe;

190 (20) All sales made by or to religious and charitable organizations and
191 institutions in their religious, charitable or educational functions and activities
192 and all sales made by or to all elementary and secondary schools operated at
193 public expense in their educational functions and activities;

194 (21) All sales of aircraft to common carriers for storage or for use in
195 interstate commerce and all sales made by or to not-for-profit civic, social, service
196 or fraternal organizations, including fraternal organizations which have been
197 declared tax-exempt organizations pursuant to Section 501(c)(8) or (10) of the
198 1986 Internal Revenue Code, as amended, in their civic or charitable functions
199 and activities and all sales made to eleemosynary and penal institutions and
200 industries of the state, and all sales made to any private not-for-profit institution
201 of higher education not otherwise excluded pursuant to subdivision (20) of this
202 subsection or any institution of higher education supported by public funds, and
203 all sales made to a state relief agency in the exercise of relief functions and
204 activities;

205 (22) All ticket sales made by benevolent, scientific and educational
206 associations which are formed to foster, encourage, and promote progress and
207 improvement in the science of agriculture and in the raising and breeding of
208 animals, and by nonprofit summer theater organizations if such organizations are

209 exempt from federal tax pursuant to the provisions of the Internal Revenue Code
210 and all admission charges and entry fees to the Missouri state fair or any fair
211 conducted by a county agricultural and mechanical society organized and
212 operated pursuant to sections 262.290 to 262.530;

213 (23) All sales made to any private not-for-profit elementary or secondary
214 school, all sales of feed additives, medications or vaccines administered to
215 livestock or poultry in the production of food or fiber, all sales of pesticides used
216 in the production of crops, livestock or poultry for food or fiber, all sales of
217 bedding used in the production of livestock or poultry for food or fiber, all sales
218 of propane or natural gas, electricity or diesel fuel used exclusively for drying
219 agricultural crops, natural gas used in the primary manufacture or processing of
220 fuel ethanol as defined in section 142.028, natural gas, propane, and electricity
221 used by an eligible new generation cooperative or an eligible new generation
222 processing entity as defined in section 348.432, and all sales of farm machinery
223 and equipment, other than airplanes, motor vehicles and trailers, and any freight
224 charges on any exempt item. As used in this subdivision, the term "feed
225 additives" means tangible personal property which, when mixed with feed for
226 livestock or poultry, is to be used in the feeding of livestock or poultry. As used
227 in this subdivision, the term "pesticides" includes adjuvants such as crop oils,
228 surfactants, wetting agents and other assorted pesticide carriers used to improve
229 or enhance the effect of a pesticide and the foam used to mark the application of
230 pesticides and herbicides for the production of crops, livestock or poultry. As
231 used in this subdivision, the term "farm machinery and equipment" means new
232 or used farm tractors and such other new or used farm machinery and equipment
233 and repair or replacement parts thereon and any accessories for and upgrades to
234 such farm machinery and equipment, rotary mowers used exclusively for
235 agricultural purposes, and supplies and lubricants used exclusively, solely, and
236 directly for producing crops, raising and feeding livestock, fish, poultry,
237 pheasants, chukar, quail, or for producing milk for ultimate sale at retail,
238 including field drain tile, and one-half of each purchaser's purchase of diesel fuel
239 therefor which is:

240 (a) Used exclusively for agricultural purposes;

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

243 (c) Used directly in producing farm products to be sold ultimately in
244 processed form or otherwise at retail or in producing farm products to be fed to

245 livestock or poultry to be sold ultimately in processed form at retail;

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

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

259 (b) Regulated utility sellers shall determine whether individual purchases
260 are exempt or nonexempt based upon the seller's utility service rate
261 classifications as contained in tariffs on file with and approved by the Missouri
262 public service commission. Sales and purchases made pursuant to the rate
263 classification "residential" and sales to and purchases made by or on behalf of the
264 occupants of residential apartments or condominiums through a single or master
265 meter, including service for common areas and facilities and vacant units, shall
266 be considered as sales made for domestic use and such sales shall be exempt from
267 sales tax. Sellers shall charge sales tax upon the entire amount of purchases
268 classified as nondomestic use. The seller's utility service rate classification and
269 the provision of service thereunder shall be conclusive as to whether or not the
270 utility must charge sales tax;

271 (c) Each person making domestic purchases of services or property
272 and who uses any portion of the services or property so purchased for a
273 nondomestic use shall, by the fifteenth day of the fourth month following the year
274 of purchase, and without assessment, notice or demand, file a return and pay
275 sales tax on that portion of nondomestic purchases. Each person making
276 nondomestic purchases of services or property and who uses any portion of the
277 services or property so purchased for domestic use, and each person making
278 domestic purchases on behalf of occupants of residential apartments or
279 condominiums through a single or master meter, including service for common
280 areas and facilities and vacant units, under a nonresidential utility service rate

281 classification may, between the first day of the first month and the fifteenth day
282 of the fourth month following the year of purchase, apply for credit or refund to
283 the director of revenue and the director shall give credit or make refund for taxes
284 paid on the domestic use portion of the purchase. The person making such
285 purchases on behalf of occupants of residential apartments or condominiums shall
286 have standing to apply to the director of revenue for such credit or refund;

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

291 (26) Excise taxes, collected on sales at retail, imposed by Sections 4041,
292 4061, 4071, 4081, 4091, 4161, 4181, 4251, 4261 and 4271 of Title 26, United
293 States Code. The director of revenue shall promulgate rules pursuant to chapter
294 536 to eliminate all state and local sales taxes on such excise taxes;

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

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

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

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

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

314 (32) Electrical energy or gas, whether natural, artificial or propane, water,
315 or other utilities which are ultimately consumed in connection with the
316 manufacturing of cellular glass products or in any material recovery processing

317 plant as defined in subdivision (5) of this subsection;

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

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

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

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

330 (37) All purchases by a contractor on behalf of an entity located in another
331 state, provided that the entity is authorized to issue a certificate of exemption for
332 purchases to a contractor under the provisions of that state's laws. For purposes
333 of this subdivision, the term "certificate of exemption" shall mean any document
334 evidencing that the entity is exempt from sales and use taxes on purchases
335 pursuant to the laws of the state in which the entity is located. Any contractor
336 making purchases on behalf of such entity shall maintain a copy of the entity's
337 exemption certificate as evidence of the exemption. If the exemption certificate
338 issued by the exempt entity to the contractor is later determined by the director
339 of revenue to be invalid for any reason and the contractor has accepted the
340 certificate in good faith, neither the contractor or the exempt entity shall be liable
341 for the payment of any taxes, interest and penalty due as the result of use of the
342 invalid exemption certificate. Materials shall be exempt from all state and local
343 sales and use taxes when purchased by a contractor for the purpose of fabricating
344 tangible personal property which is used in fulfilling a contract for the purpose
345 of constructing, repairing or remodeling facilities for the following:

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

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

352 (38) All sales or other transfers of tangible personal property to a lessor

353 who leases the property under a lease of one year or longer executed or in effect
354 at the time of the sale or other transfer to an interstate compact agency created
355 pursuant to sections 70.370 to 70.441 or sections 238.010 to 238.100;

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

364 (40) All purchases by a sports complex authority created under section
365 64.920, and all sales of utilities by such authority at the authority's cost that are
366 consumed in connection with the operation of a sports complex leased to a
367 professional sports team;

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

371 (42) Sales of sporting clays, wobble, skeet, and trap targets to any
372 shooting range or similar places of business for use in the normal course of
373 business and money received by a shooting range or similar places of business
374 from patrons and held by a shooting range or similar place of business for
375 redistribution to patrons at the conclusion of a shooting event;

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

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

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

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

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

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

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

403 (c) "Internet access", a service that enables users to connect to the
404 internet to access content, information, or other services without regard to
405 whether the service is referred to as telecommunications, communications,
406 transmission, or similar services, and without regard to whether a provider of the
407 service is subject to regulation by the Federal Communications Commission as a
408 common carrier under 47 U.S.C. Section 201, et seq. For purposes of this
409 subdivision, internet access also includes: the purchase, use, or sale of
410 communications services, including telecommunications services as defined in
411 section 144.010, to the extent the communications services are purchased, used,
412 or sold to provide the service described in this subdivision or to otherwise enable
413 users to access content, information, or other services offered over the internet;
414 services that are incidental to the provision of a service described in this
415 subdivision, when furnished to users as part of such service, including a home
416 page, electronic mail, and instant messaging, including voice-capable and video-
417 capable electronic mail and instant messaging, video clips, and personal
418 electronic storage capacity; a home page electronic mail and instant messaging,
419 including voice-capable and video-capable electronic mail and instant messaging,
420 video clips, and personal electronic storage capacity that are provided
421 independently or that are not packed with internet access. As used in this
422 subdivision, internet access does not include voice, audio, and video programming
423 or other products and services, except services described in this paragraph or this
424 subdivision, that use internet protocol or any successor protocol and for which

425 there is a charge, regardless of whether the charge is separately stated or
426 aggregated with the charge for services described in this paragraph or this
427 subdivision;

428 (d) "Tax", any charge imposed by the state or a political subdivision of the
429 state for the purpose of generating revenues for governmental purposes and that
430 is not a fee imposed for a specific privilege, service, or benefit conferred, except
431 as described as otherwise under this subdivision, or any obligation imposed on a
432 seller to collect and to remit to the state or a political subdivision of the state any
433 gross retail tax, sales tax, or use tax imposed on a buyer by such a governmental
434 entity. The term tax shall not include any franchise fee or similar fee imposed
435 or authorized under section 67.1830 or 67.2689; Section 622 or 653 of the
436 Communications Act of 1934, 47 U.S.C. Section 542 and 47 U.S.C. Section 573;
437 or any other fee related to obligations of telecommunications carriers under the
438 Communications Act of 1934, 47 U.S.C. Section 151, et seq., except to the extent
439 that:

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

443 b. The fee is imposed for the use of a public right-of-way based on a
444 percentage of the service revenue, and the fee exceeds the incremental direct
445 costs incurred by the governmental authority associated with the provision of that
446 right-of-way to the provider of internet access service.

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

449 3. Any ruling, agreement, or contract, whether written or oral, express or
450 implied, between a person and this state's executive branch, or any other state
451 agency or department, stating, agreeing, or ruling that such person is not
452 required to collect sales and use tax in this state despite the presence of a
453 warehouse, distribution center, or fulfillment center in this state that is owned
454 or operated by the person or an affiliated person shall be null and void unless it
455 is specifically approved by a majority vote of each of the houses of the general
456 assembly. For purposes of this subsection, an "affiliated person" means any
457 person that is a member of the same controlled group of corporations as defined
458 in Section 1563(a) of the Internal Revenue Code of 1986, as amended, as the
459 vendor or any other entity that, notwithstanding its form of organization, bears
460 the same ownership relationship to the vendor as a corporation that is a member

461 of the same controlled group of corporations as defined in Section 1563(a) of the
462 Internal Revenue Code, as amended.

144.054. 1. As used in this section, the following terms mean:

2 (1) "Processing", any mode of treatment, act, or series of acts performed
3 upon materials to transform or reduce them to a different state or thing,
4 including treatment necessary to maintain or preserve such processing by the
5 producer at the production facility;

6 (2) **"Producing" includes, but is not limited to, the production of,**
7 **including the production and transmission of, telecommunication**
8 **services;**

9 (3) **"Product" includes, but is not limited to, telecommunications**
10 **services;**

11 (4) "Recovered materials", those materials which have been diverted or
12 removed from the solid waste stream for sale, use, reuse, or recycling, whether
13 or not they require subsequent separation and processing.

14 2. In addition to all other exemptions granted under this chapter, there
15 is hereby specifically exempted from the provisions of sections 144.010 to 144.525
16 and 144.600 to 144.761, and from the computation of the tax levied, assessed, or
17 payable under sections 144.010 to 144.525 and 144.600 to 144.761, electrical
18 energy and gas, whether natural, artificial, or propane, water, coal, and energy
19 sources, chemicals, machinery, equipment, and materials used or consumed in the
20 manufacturing, processing, compounding, mining, or producing of any product, or
21 used or consumed in the processing of recovered materials, or used in research
22 and development related to manufacturing, processing, compounding, mining, or
23 producing any product. The exemptions granted in this subsection shall not
24 apply to local sales taxes as defined in section 32.085 and the provisions of this
25 subsection shall be in addition to any state and local sales tax exemption
26 provided in section 144.030. **The construction and application of this**
27 **subsection as expressed by the Missouri supreme court in *DST Systems,***
28 ***Inc. v. Director of Revenue*, 43 S.W.3d 799 (Mo. banc 2001); *Southwestern***
29 ***Bell Tel. Co. v. Director of Revenue*, 78 S.W.3d 763 (Mo. banc 2002); and**
30 ***Southwestern Bell Tel. Co. v. Director of Revenue*, 182 S.W.3d 226 (Mo.**
31 **banc 2005), is hereby affirmed.**

32 3. In addition to all other exemptions granted under this chapter, there
33 is hereby specifically exempted from the provisions of sections 144.010 to 144.525
34 and 144.600 to 144.761, and section 238.235, and the local sales tax law as

35 defined in section 32.085, and from the computation of the tax levied, assessed,
36 or payable under sections 144.010 to 144.525 and 144.600 to 144.761, and section
37 238.235, and the local sales tax law as defined in section 32.085, all utilities,
38 machinery, and equipment used or consumed directly in television or radio
39 broadcasting and all sales and purchases of tangible personal property, utilities,
40 services, or any other transaction that would otherwise be subject to the state or
41 local sales or use tax when such sales are made to or purchases are made by a
42 contractor for use in fulfillment of any obligation under a defense contract with
43 the United States government, and all sales and leases of tangible personal
44 property by any county, city, incorporated town, or village, provided such sale or
45 lease is authorized under chapter 100, and such transaction is certified for sales
46 tax exemption by the department of economic development, and tangible personal
47 property used for railroad infrastructure brought into this state for processing,
48 fabrication, or other modification for use outside the state in the regular course
49 of business.

50 4. In addition to all other exemptions granted under this chapter, there
51 is hereby specifically exempted from the provisions of sections 144.010 to 144.525
52 and 144.600 to 144.761, and section 238.235, and the local sales tax law as
53 defined in section 32.085, and from the computation of the tax levied, assessed,
54 or payable under sections 144.010 to 144.525 and 144.600 to 144.761, and section
55 238.235, and the local sales tax law as defined in section 32.085, all sales and
56 purchases of tangible personal property, utilities, services, or any other
57 transaction that would otherwise be subject to the state or local sales or use tax
58 when such sales are made to or purchases are made by a private partner for use
59 in completing a project under sections 227.600 to 227.669.

60 5. In addition to all other exemptions granted under this chapter, there
61 is hereby specifically exempted from the provisions of sections 144.010 to 144.525
62 and 144.600 to 144.761, and section 238.235, and the local sales tax law as
63 defined in section 32.085, and from the computation of the tax levied, assessed,
64 or payable under sections 144.010 to 144.525 and 144.600 to 144.761, and section
65 238.235, and the local sales tax law as defined in section 32.085, all materials,
66 manufactured goods, machinery and parts, electrical energy and gas, whether
67 natural, artificial or propane, water, coal and other energy sources, chemicals,
68 soaps, detergents, cleaning and sanitizing agents, and other ingredients and
69 materials inserted by commercial or industrial laundries to treat, clean, and
70 sanitize textiles in facilities which process at least five hundred pounds of textiles

71 per hour and at least sixty thousand pounds per week.

153.030. 1. All bridges over streams dividing this state from any other
2 state owned, used, leased or otherwise controlled by any person, corporation,
3 railroad company or joint stock company, and all bridges across or over navigable
4 streams within this state, where the charge is made for crossing the same, which
5 are now constructed, which are in the course of construction, or which shall
6 hereafter be constructed, and all property, real and tangible personal, owned,
7 used, leased or otherwise controlled by telegraph, telephone, electric power and
8 light companies, electric transmission lines, pipeline companies and express
9 companies shall be subject to taxation for state, county, municipal and other local
10 purposes to the same extent as the property of private persons.

11 2. And taxes levied thereon shall be levied and collected in the manner
12 as is now or may hereafter be provided by law for the taxation of railroad
13 property in this state, and county commissions, county boards of equalization and
14 the state tax commission are hereby required to perform the same duties and are
15 given the same powers, including punitive powers, in assessing, equalizing and
16 adjusting the taxes on the property set forth in this section as the county
17 commissions and boards of equalization and state tax commission have or may
18 hereafter be empowered with, in assessing, equalizing, and adjusting the taxes
19 on railroad property; and an authorized officer of any such bridge, telegraph,
20 telephone, electric power and light companies, electric transmission lines, pipeline
21 companies, or express company or the owner of any such toll bridge, is hereby
22 required to render reports of the property of such bridge, telegraph, telephone,
23 electric power and light companies, electric transmission lines, pipeline
24 companies, or express companies in like manner as the authorized officer of the
25 railroad company is now or may hereafter be required to render for the taxation
26 of railroad property.

27 3. On or before the fifteenth day of April in the year 1946 and each year
28 thereafter an authorized officer of each such company shall furnish the state tax
29 commission and county clerks a report, duly subscribed and sworn to by such
30 authorized officer, which is like in nature and purpose to the reports required of
31 railroads under chapter 151 showing the full amount of all real and tangible
32 personal property owned, used, leased or otherwise controlled by each such
33 company on January first of the year in which the report is due.

34 4. If any telephone company assessed pursuant to chapter 153 has a
35 microwave relay station or stations in a county in which it has no wire mileage

36 but has wire mileage in another county, then, for purposes of apportioning the
37 assessed value of the distributable property of such companies, the straight line
38 distance between such microwave relay stations shall constitute miles of wire. In
39 the event that any public utility company assessed pursuant to this chapter has
40 no distributable property which physically traverses the counties in which it
41 operates, then the assessed value of the distributable property of such company
42 shall be apportioned to the physical location of the distributable property.

43 **5. (1) Notwithstanding any provision of law to the contrary,**
44 **beginning January 1, 2019, a telephone company shall make a one-time**
45 **election within the tax year to be assessed:**

46 **(a) Using the methodology for property tax purposes as provided**
47 **under this section; or**

48 **(b) Using the methodology for property tax purposes as provided**
49 **under this section for property consisting of land and buildings and be**
50 **assessed for all other property exclusively using the methodology**
51 **utilized under section 137.122.**

52 **If a telephone company begins operations, including a merger of**
53 **multiple telephone companies, after the effective date of this section,**
54 **it shall make its one-time election to be assessed using the methodology**
55 **for property tax purposes as described under paragraph (b) of**
56 **subdivision (1) of this subsection within the year in which the**
57 **telephone company begins its operations. A telephone company that**
58 **fails to make a timely election shall be deemed to have elected to be**
59 **assessed using the methodology for property tax purposes as provided**
60 **under subsections 1 to 4 of this section.**

61 **(2) The provisions of this subsection shall not be construed to**
62 **change the original assessment jurisdiction of the state tax commission.**

63 **(3) Nothing in subdivision (1) of this subsection shall be**
64 **construed as applying to any other utility.**

65 **(4) (a) The provisions of this subdivision shall ensure that school**
66 **districts may avoid any fiscal impact as a result of a telephone**
67 **company being assessed under the provisions of paragraph (b) of**
68 **subdivision (1) of this subsection. If a school district's current**
69 **operating levy is below the greater of its most recent voter-approved**
70 **tax rate or the most recent voter-approved tax rate as adjusted under**
71 **subdivision (2) of subsection 5 of section 137.073, it shall comply with**
72 **section 137.073.**

73 **(b) Beginning January 1, 2019, any school district currently**
74 **operating at a tax rate equal to the greater of the most recent**
75 **voter-approved tax rate or the most recent voter-approved tax rate as**
76 **adjusted under subdivision (2) of subsection 5 of section 137.073 that**
77 **receives less tax revenue from a specific telephone company under this**
78 **subsection, on or before January thirty-first of the year following the**
79 **tax year in which the school district received less revenue from a**
80 **specific telephone company, may by resolution of the school board**
81 **impose a fee, as determined under this subsection, in order to obtain**
82 **such revenue. The resolution shall include all facts that support the**
83 **imposition of the fee. If the school district receives voter approval to**
84 **raise its tax rate, the district shall no longer impose the fee authorized**
85 **in this paragraph.**

86 **(c) Any fee imposed under paragraph (b) of this subdivision shall**
87 **be determined by taking the difference between the tax revenue the**
88 **telephone company paid in the tax year in question and the tax revenue**
89 **the telephone company would have paid in such year had it not made**
90 **an election under subdivision (1) of this subsection, which shall be**
91 **calculated by taking the telephone company valuations in the tax year**
92 **in question, as determined by the state tax commission under**
93 **paragraph (d) of this subdivision, and applying such valuations to the**
94 **apportionment process in subsection 2 of section 151.150. The school**
95 **district shall issue a billing, as provided in this subdivision, to any such**
96 **telephone company. A telephone company shall have forty-five days**
97 **after receipt of a billing to remit its payment of its portion of the fees**
98 **to the school district. Notwithstanding any other provision of law, the**
99 **issuance or receipt of such fee shall not be used:**

100 **a. In determining the amount of state aid that a school district**
101 **receives under section 163.031;**

102 **b. In determining the amount that may be collected under a**
103 **property tax levy by such district; or**

104 **c. For any other purpose.**

105 **For the purposes of accounting, a telephone company that issues a**
106 **payment to a school district under this subsection shall treat such**
107 **payment as a tax.**

108 **(d) When establishing the valuation of a telephone company**
109 **assessed under paragraph (b) of subdivision (1) of this subsection, the**

110 state tax commission shall also determine the difference between the
111 assessed value of a telephone company if:

112 a. Assessed under paragraph (b) of subdivision (1) of this
113 subsection; and

114 b. Assessed exclusively under subsections 1 to 4 of this section.
115 The state tax commission shall then apportion such amount to each
116 county and provide such information to any school district making a
117 request for such information.

118 (e) This subsection shall expire when no school district is
119 eligible for a fee.

[144.026. The director of revenue shall not send notice to
2 any taxpayer under subsection 2 of section 144.021 regarding the
3 decision in IBM Corporation v. Director of Revenue, 491 S.W.3d
4 535 (Mo. banc 2016) prior to August 28, 2018.]

✓

Bill

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