

SECOND REGULAR SESSION

# SENATE BILL NO. 1601

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR MCCREERY.

4333S.011

KRISTINA MARTIN, Secretary

## AN ACT

To repeal section 144.030, RSMo, and to enact in lieu thereof one new section relating to a sales tax exemption for certain vitamins.

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Section A. Section 144.030, RSMo, is repealed and one new  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

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

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

law as defined in section 32.085, section 238.235, and sections 144.010 to 144.525 and 144.600 to 144.745:

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

(2) Materials, manufactured goods, machinery and parts which when used in manufacturing, processing, compounding, mining, producing or fabricating become a component part or ingredient of the new personal property resulting from such manufacturing, processing, compounding, mining, producing or fabricating and which new personal property is intended to be sold ultimately for final use or consumption; and materials, including without limitation, gases and manufactured goods, including without limitation slagging materials and firebrick, which are ultimately consumed in

the manufacturing process by blending, reacting or interacting with or by becoming, in whole or in part, component parts or ingredients of steel products intended to be sold ultimately for final use or consumption;

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

(4) Replacement machinery, equipment, and parts and the materials and supplies solely required for the installation or construction of such replacement machinery, equipment, and parts, used directly in manufacturing, mining, fabricating or producing a product which is intended to be sold ultimately for final use or consumption; and machinery and equipment, and the materials and supplies required solely for the operation, installation or construction of such machinery and equipment, purchased and used to establish new, or to replace or expand existing, material recovery processing plants in this state. For the purposes of this subdivision, a "material recovery processing plant" means a facility that has as its primary purpose the recovery of materials into a usable product or a different form which is used in producing a new product and shall include a facility or equipment which are used exclusively for the collection of recovered materials for delivery to a material recovery processing plant but shall not include motor vehicles used on highways. For purposes of this section, the terms motor vehicle and highway shall have the same meaning pursuant to section 301.010. For the purposes of this subdivision, subdivision (5) of this subsection, and section 144.054, as well as the definition

in subdivision (9) of subsection 1 of section 144.010, the term "product" includes telecommunications services and the term "manufacturing" shall include the production, or production and transmission, of telecommunications services. The preceding sentence does not make a substantive change in the law and is intended to clarify that the term "manufacturing" has included and continues to include the production and transmission of "telecommunications services", as enacted in this subdivision and subdivision (5) of this subsection, as well as the definition in subdivision (9) of subsection 1 of section 144.010. The preceding two sentences reaffirm legislative intent consistent with the interpretation of this subdivision and subdivision (5) of this subsection in *Southwestern Bell Tel. Co. v. Director of Revenue*, 78 S.W.3d 763 (Mo. banc 2002) and *Southwestern Bell Tel. Co. v. Director of Revenue*, 182 S.W.3d 226 (Mo. banc 2005), and accordingly abrogates the Missouri supreme court's interpretation of those exemptions in *IBM Corporation v. Director of Revenue*, 491 S.W.3d 535 (Mo. banc 2016) to the extent inconsistent with this section and *Southwestern Bell Tel. Co. v. Director of Revenue*, 78 S.W.3d 763 (Mo. banc 2002) and *Southwestern Bell Tel. Co. v. Director of Revenue*, 182 S.W.3d 226 (Mo. banc 2005). The construction and application of this subdivision as expressed by the Missouri supreme court in *DST Systems, Inc. v. Director of Revenue*, 43 S.W.3d 799 (Mo. banc 2001); *Southwestern Bell Tel. Co. v. Director of Revenue*, 78 S.W.3d 763 (Mo. banc 2002); and *Southwestern Bell Tel. Co. v. Director of Revenue*, 182 S.W.3d 226 (Mo. banc 2005), is hereby affirmed. Material recovery is not the reuse of materials within a manufacturing process or the use of a product previously

recovered. The material recovery processing plant shall qualify under the provisions of this section regardless of ownership of the material being recovered;

(5) Machinery and equipment, and parts and the materials and supplies solely required for the installation or construction of such machinery and equipment, purchased and used to establish new or to expand existing manufacturing, mining or fabricating plants in the state if such machinery and equipment is used directly in manufacturing, mining or fabricating a product which is intended to be sold ultimately for final use or consumption. The construction and application of this subdivision as expressed by the Missouri supreme court in *DST Systems, Inc. v. Director of Revenue*, 43 S.W.3d 799 (Mo. banc 2001); *Southwestern Bell Tel. Co. v. Director of Revenue*, 78 S.W.3d 763 (Mo. banc 2002); and *Southwestern Bell Tel. Co. v. Director of Revenue*, 182 S.W.3d 226 (Mo. banc 2005), is hereby affirmed;

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

(7) Animals or poultry used for breeding or feeding purposes, or captive wildlife;

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

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

145           (10) Pumping machinery and equipment used to propel  
146 products delivered by pipelines engaged as common carriers;

147           (11) Railroad rolling stock for use in transporting  
148 persons or property in interstate commerce and motor  
149 vehicles licensed for a gross weight of twenty-four thousand  
150 pounds or more or trailers used by common carriers, as  
151 defined in section 390.020, in the transportation of persons  
152 or property;

153           (12) Electrical energy used in the actual primary  
154 manufacture, processing, compounding, mining or producing of  
155 a product, or electrical energy used in the actual secondary  
156 processing or fabricating of the product, or a material  
157 recovery processing plant as defined in subdivision (4) of  
158 this subsection, in facilities owned or leased by the  
159 taxpayer, if the total cost of electrical energy so used  
160 exceeds ten percent of the total cost of production, either  
161 primary or secondary, exclusive of the cost of electrical  
162 energy so used or if the raw materials used in such  
163 processing contain at least twenty-five percent recovered  
164 materials as defined in section 260.200. There shall be a  
165 rebuttable presumption that the raw materials used in the  
166 primary manufacture of automobiles contain at least twenty-  
167 five percent recovered materials. For purposes of this  
168 subdivision, "processing" means any mode of treatment, act  
169 or series of acts performed upon materials to transform and  
170 reduce them to a different state or thing, including  
171 treatment necessary to maintain or preserve such processing  
172 by the producer at the production facility;

173           (13) Anodes which are used or consumed in  
174 manufacturing, processing, compounding, mining, producing or  
175 fabricating and which have a useful life of less than one  
176 year;

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

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

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

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

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



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

(20) All sales of aircraft to common carriers for storage or for use in interstate commerce and all sales made by or to not-for-profit civic, social, service or fraternal organizations, including fraternal organizations which have been declared tax-exempt organizations pursuant to Section 501(c)(8) or (10) of the 1986 Internal Revenue Code, as amended, in their civic or charitable functions and activities and all sales made to eleemosynary and penal institutions and industries of the state, and all sales made to any private not-for-profit institution of higher education not otherwise excluded pursuant to subdivision (19) of this subsection or any institution of higher education supported by public funds, and all sales made to a state relief agency in the exercise of relief functions and activities;

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

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

(a) New or used farm tractors and such other new or used farm machinery and equipment, including utility vehicles used for any agricultural use, and repair or replacement parts thereon and any accessories for and upgrades to such farm machinery and equipment and rotary

mowers used for any agricultural purposes. For the purposes of this subdivision, "utility vehicle" shall mean any motorized vehicle manufactured and used exclusively for off-highway use which is more than fifty inches but no more than eighty inches in width, measured from outside of tire rim to outside of tire rim, with an unladen dry weight of three thousand five hundred pounds or less, traveling on four or six wheels;

(b) Supplies and lubricants used exclusively, solely, and directly for producing crops, raising and feeding livestock, fish, poultry, pheasants, chukar, quail, or for producing milk for ultimate sale at retail, including field drain tile; and

(c) One-half of each purchaser's purchase of diesel fuel therefor which is:

a. Used exclusively for agricultural purposes;

b. Used on land owned or leased for the purpose of producing farm products; and

c. Used directly in producing farm products to be sold ultimately in processed form or otherwise at retail or in producing farm products to be fed to livestock or poultry to be sold ultimately in processed form at retail;

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

(a) "Domestic use" means that portion of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil, and in any city not within a county, metered or unmetered

water service, which an individual occupant of a residential premises uses for nonbusiness, noncommercial or nonindustrial purposes. Utility service through a single or master meter for residential apartments or condominiums, including service for common areas and facilities and vacant units, shall be deemed to be for domestic use. Each seller shall establish and maintain a system whereby individual purchases are determined as exempt or nonexempt;

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

(c) Each person making domestic use purchases of services or property and who uses any portion of the services or property so purchased for a nondomestic use shall, by the fifteenth day of the fourth month following the year of purchase, and without assessment, notice or demand, file a return and pay sales tax on that portion of nondomestic purchases. Each person making nondomestic purchases of services or property and who uses any portion

of the services or property so purchased for domestic use, and each person making domestic purchases on behalf of occupants of residential apartments or condominiums through a single or master meter, including service for common areas and facilities and vacant units, under a nonresidential utility service rate classification may, between the first day of the first month and the fifteenth day of the fourth month following the year of purchase, apply for credit or refund to the director of revenue and the director shall give credit or make refund for taxes paid on the domestic use portion of the purchase. The person making such purchases on behalf of occupants of residential apartments or condominiums shall have standing to apply to the director of revenue for such credit or refund;

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

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

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

399           (27) All sales made to an interstate compact agency  
400 created pursuant to sections 70.370 to 70.441 or sections  
401 238.010 to 238.100 in the exercise of the functions and  
402 activities of such agency as provided pursuant to the  
403 compact;

404           (28) Computers, computer software and computer  
405 security systems purchased for use by architectural or  
406 engineering firms headquartered in this state. For the  
407 purposes of this subdivision, "headquartered in this state"  
408 means the office for the administrative management of at  
409 least four integrated facilities operated by the taxpayer is  
410 located in the state of Missouri;

411           (29) All livestock sales when either the seller is  
412 engaged in the growing, producing or feeding of such  
413 livestock, or the seller is engaged in the business of  
414 buying and selling, bartering or leasing of such livestock;

415           (30) All sales of barges which are to be used  
416 primarily in the transportation of property or cargo on  
417 interstate waterways;

418           (31) Electrical energy or gas, whether natural,  
419 artificial or propane, water, or other utilities which are  
420 ultimately consumed in connection with the manufacturing of  
421 cellular glass products or in any material recovery  
422 processing plant as defined in subdivision (4) of this  
423 subsection;

424           (32) Notwithstanding other provisions of law to the  
425 contrary, all sales of pesticides or herbicides used in the  
426 production of crops, aquaculture, livestock or poultry;

427           (33) Tangible personal property and utilities  
428 purchased for use or consumption directly or exclusively in  
429 the research and development of agricultural/biotechnology

430 and plant genomics products and prescription pharmaceuticals  
431 consumed by humans or animals;

432 (34) All sales of grain bins for storage of grain for  
433 resale;

434 (35) All sales of feed which are developed for and  
435 used in the feeding of pets owned by a commercial breeder  
436 when such sales are made to a commercial breeder, as defined  
437 in section 273.325, and licensed pursuant to sections  
438 273.325 to 273.357;

439 (36) All purchases by a contractor on behalf of an  
440 entity located in another state, provided that the entity is  
441 authorized to issue a certificate of exemption for purchases  
442 to a contractor under the provisions of that state's laws.  
443 For purposes of this subdivision, the term "certificate of  
444 exemption" shall mean any document evidencing that the  
445 entity is exempt from sales and use taxes on purchases  
446 pursuant to the laws of the state in which the entity is  
447 located. Any contractor making purchases on behalf of such  
448 entity shall maintain a copy of the entity's exemption  
449 certificate as evidence of the exemption. If the exemption  
450 certificate issued by the exempt entity to the contractor is  
451 later determined by the director of revenue to be invalid  
452 for any reason and the contractor has accepted the  
453 certificate in good faith, neither the contractor or the  
454 exempt entity shall be liable for the payment of any taxes,  
455 interest and penalty due as the result of use of the invalid  
456 exemption certificate. Materials shall be exempt from all  
457 state and local sales and use taxes when purchased by a  
458 contractor for the purpose of fabricating tangible personal  
459 property which is used in fulfilling a contract for the  
460 purpose of constructing, repairing or remodeling facilities  
461 for the following:

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

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

471 (37) All sales or other transfers of tangible personal  
472 property to a lessor who leases the property under a lease  
473 of one year or longer executed or in effect at the time of  
474 the sale or other transfer to an interstate compact agency  
475 created pursuant to sections 70.370 to 70.441 or sections  
476 238.010 to 238.100;

477 (38) Sales of tickets to any collegiate athletic  
478 championship event that is held in a facility owned or  
479 operated by a governmental authority or commission, a quasi-  
480 governmental agency, a state university or college or by the  
481 state or any political subdivision thereof, including a  
482 municipality, and that is played on a neutral site and may  
483 reasonably be played at a site located outside the state of  
484 Missouri. For purposes of this subdivision, "neutral site"  
485 means any site that is not located on the campus of a  
486 conference member institution participating in the event;

487 (39) All purchases by a sports complex authority  
488 created under section 64.920, and all sales of utilities by  
489 such authority at the authority's cost that are consumed in  
490 connection with the operation of a sports complex leased to  
491 a professional sports team;

492 (40) All materials, replacement parts, and equipment  
493 purchased for use directly upon, and for the modification,



494 replacement, repair, and maintenance of aircraft, aircraft  
495 power plants, and aircraft accessories;

496 (41) Sales of sporting clays, wobble, skeet, and trap  
497 targets to any shooting range or similar places of business  
498 for use in the normal course of business and money received  
499 by a shooting range or similar places of business from  
500 patrons and held by a shooting range or similar place of  
501 business for redistribution to patrons at the conclusion of  
502 a shooting event;

503 (42) All sales of motor fuel, as defined in section  
504 142.800, used in any watercraft, as defined in section  
505 306.010;

506 (43) Any new or used aircraft sold or delivered in  
507 this state to a person who is not a resident of this state  
508 or a corporation that is not incorporated in this state, and  
509 such aircraft is not to be based in this state and shall not  
510 remain in this state more than ten business days subsequent  
511 to the last to occur of:

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

515 (b) The date of the return to service of the aircraft  
516 in accordance with 14 CFR 91.407 for any maintenance,  
517 preventive maintenance, rebuilding, alterations, repairs, or  
518 installations that are completed contemporaneously with the  
519 transfer of title to the aircraft to a person who is not a  
520 resident of this state or a corporation that is not  
521 incorporated in this state;

522 (44) Motor vehicles registered in excess of fifty-four  
523 thousand pounds, and the trailers pulled by such motor  
524 vehicles, that are actually used in the normal course of  
525 business to haul property on the public highways of the

state, and that are capable of hauling loads commensurate with the motor vehicle's registered weight; and the materials, replacement parts, and equipment purchased for use directly upon, and for the repair and maintenance or manufacture of such vehicles. For purposes of this subdivision, "motor vehicle" and "public highway" shall have the meaning as ascribed in section 390.020;

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

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

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

(c) "Internet access", a service that enables users to connect to the internet to access content, information, or other services without regard to whether the service is referred to as telecommunications, communications, transmission, or similar services, and without regard to whether a provider of the service is subject to regulation by the Federal Communications Commission as a common carrier

under 47 U.S.C. Section 201, et seq. For purposes of this subdivision, internet access also includes: the purchase, use, or sale of communications services, including telecommunications services as defined in section 144.010, to the extent the communications services are purchased, used, or sold to provide the service described in this subdivision or to otherwise enable users to access content, information, or other services offered over the internet; services that are incidental to the provision of a service described in this subdivision, when furnished to users as part of such service, including a home page, electronic mail, and instant messaging, including voice-capable and video-capable electronic mail and instant messaging, video clips, and personal electronic storage capacity; a home page electronic mail and instant messaging, including voice-capable and video-capable electronic mail and instant messaging, video clips, and personal electronic storage capacity that are provided independently or that are not packed with internet access. As used in this subdivision, internet access does not include voice, audio, and video programming or other products and services, except services described in this paragraph or this subdivision, that use internet protocol or any successor protocol and for which there is a charge, regardless of whether the charge is separately stated or aggregated with the charge for services described in this paragraph or this subdivision;

(d) "Tax", any charge imposed by the state or a political subdivision of the state for the purpose of generating revenues for governmental purposes and that is not a fee imposed for a specific privilege, service, or benefit conferred, except as described as otherwise under this subdivision, or any obligation imposed on a seller to

collect and to remit to the state or a political subdivision of the state any gross retail tax, sales tax, or use tax imposed on a buyer by such a governmental entity. The term tax shall not include any franchise fee or similar fee imposed or authorized under sections 67.1830 to 67.1846 or section 67.2689; Section 622 or 653 of the Communications Act of 1934, 47 U.S.C. Section 542 and 47 U.S.C. Section 573; or any other fee related to obligations of telecommunications carriers under the Communications Act of 1934, 47 U.S.C. Section 151, et seq., except to the extent that:

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

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

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

(46) All purchases by a company of solar photovoltaic energy systems, components used to construct a solar photovoltaic energy system, and all purchases of materials and supplies used directly to construct or make improvements to such systems, provided that such systems:

(a) Are sold or leased to an end user; or

620 (b) Are used to produce, collect and transmit  
621 electricity for resale or retail;

622 (47) All sales of vitamins or minerals used to support  
623 prenatal and menstrual phases.

624 3. Any ruling, agreement, or contract, whether written  
625 or oral, express or implied, between a person and this  
626 state's executive branch, or any other state agency or  
627 department, stating, agreeing, or ruling that such person is  
628 not required to collect sales and use tax in this state  
629 despite the presence of a warehouse, distribution center, or  
630 fulfillment center in this state that is owned or operated  
631 by the person or an affiliated person shall be null and void  
632 unless it is specifically approved by a majority vote of  
633 each of the houses of the general assembly. For purposes of  
634 this subsection, an "affiliated person" means any person  
635 that is a member of the same controlled group of  
636 corporations as defined in Section 1563(a) of the Internal  
637 Revenue Code of 1986, as amended, as the vendor or any other  
638 entity that, notwithstanding its form of organization, bears  
639 the same ownership relationship to the vendor as a  
640 corporation that is a member of the same controlled group of  
641 corporations as defined in Section 1563(a) of the Internal  
642 Revenue Code, as amended.

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