

House _____ Amendment NO. _____

Offered By

1 AMEND House Bill No. 253, Page 6, Section 143.071, Line 85, by inserting after all of said section
2 and line, the following:

3
4 "143.451. 1. Missouri taxable income of a corporation shall include all income derived from
5 sources within this state.

6 2. A corporation described in subdivision (1) of subsection 1 of section 143.441 shall include
7 in its Missouri taxable income all income from sources within this state, including that from the
8 transaction of business in this state and that from the transaction of business partly done in this state
9 and partly done in another state or states. However:

10 (1) Where income results from a transaction partially in this state and partially in another
11 state or states, and income and deductions of the portion in the state cannot be segregated, then such
12 portions of income and deductions shall be allocated in this state and the other state or states as will
13 distribute to this state a portion based upon the portion of the transaction in this state and the portion
14 in such other state or states.

15 (2) The taxpayer may elect to compute the portion of income from all sources in this state in
16 the following manner, or the manner set forth in subdivision (3) of this subsection:

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

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

29 [(3)] (c) For the purposes of this [section] subdivision, a transaction involving the sale of
30 tangible property is:

31 [(a)] a. "Wholly in this state" if both the seller's shipping point and the purchaser's

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1 destination point are in this state;

2 [(b)] b. "Partly within this state and partly without this state" if the seller's shipping point is
3 in this state and the purchaser's destination point is outside this state, or the seller's shipping point is
4 outside this state and the purchaser's destination point is in this state;

5 [(c)] c. Not "wholly in this state" or not "partly within this state and partly without this state"
6 only if both the seller's shipping point and the purchaser's destination point are outside this state[;].

7 (d) For purposes of this subdivision:

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

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

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

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

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

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

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

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

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

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

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

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

36 (c) "Distribution services" include, but are not limited to, the services of advertising,
37 servicing, marketing, underwriting or selling shares of an investment company, but, in the case of
38 advertising, servicing or marketing shares, only where such service is performed by a person who is,
39 or in the case of a closed end company, was, either engaged in the services of underwriting or selling
40 investment company shares or affiliated with a person that is engaged in the service of underwriting
41 or selling investment company shares. In the case of an open end company, such service of

1 underwriting or selling shares must be performed pursuant to a contract entered into pursuant to 15
2 U.S.C. Section 80a-15(b), as from time to time amended;

3 (d) "Investment company", any person registered under the federal Investment Company Act
4 of 1940, as amended from time to time, (the act) or a company which would be required to register
5 as an investment company under the act except that such person is exempt to such registration
6 pursuant to Section 80a-3(c)(1) of the act;

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

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

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

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

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

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

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

39 (5) Notwithstanding other provisions of law to the contrary, qualifying sales of an
40 investment funds service corporation, or S corporation, shall be considered wholly in this state only
41 to the extent that the fund shareholders of the investment companies, to which the investment funds

1 service corporation, or S corporation, provide services, are resided in this state. Wholly in this
2 state qualifying sales of an investment funds service corporation, or S corporation, shall be
3 determined as follows:

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

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

19 (c) To the extent an investment funds service corporation has sales which are not qualifying
20 sales, those nonqualified sales shall be apportioned to this state based on the methodology utilized by
21 the investment funds service corporation without regard to this subdivision.

22 3. Any corporation described in subdivision (1) of subsection 1 of section 143.441 organized
23 in this state or granted a permit to operate in this state for the transportation or care of passengers
24 shall report its gross earnings within the state on intrastate business and shall also report its gross
25 earnings on all interstate business done in this state which report shall be subject to inquiry for the
26 purpose of determining the amount of income to be included in Missouri taxable income. The
27 previous sentence shall not apply to a railroad.

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

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

37 (2) The amount of investment of such corporation on December thirty-first of each year in
38 this state in fixed transportation facilities, real estate and improvements, plus the value on December
39 thirty-first of each year of any fixed transportation facilities, real estate and improvements in this
40 state leased from any other railroad shall be divided by the sum of the total amount of investment of
41 such corporation on December thirty-first of each year in fixed transportation facilities, real estate

1 and improvements, plus the value on December thirty-first of each year, of any fixed transportation
2 facilities, real estate and improvements leased from any other railroad. Where any fixed
3 transportation facilities, real estate or improvements are leased by more than one railroad, such
4 portion of the value shall be used by each railroad as the rental paid by each shall bear to the rental
5 paid by all lessees. The income shall be multiplied by the fraction thus obtained to determine the
6 proportion to be used to arrive at the amount of Missouri taxable income.

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

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

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

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

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

34 8. If a corporation derives only part of its income from sources within Missouri, its Missouri
35 taxable income shall only reflect the effect of the following listed deductions to the extent applicable
36 to Missouri. The deductions are: (a) its deduction for federal income taxes pursuant to section
37 143.171, and (b) the effect on Missouri taxable income of the deduction for net operating loss
38 allowed by Section 172 of the Internal Revenue Code. The extent applicable to Missouri shall be
39 determined by multiplying the amount that would otherwise affect Missouri taxable income by the
40 ratio for the year of the Missouri taxable income of the corporation for the year divided by the
41 Missouri taxable income for the year as though the corporation had derived all of its income from

1 sources within Missouri. For the purpose of the preceding sentence, Missouri taxable income shall
2 not reflect the listed deductions.

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

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7 Further amend said bill by amending the title, enacting clause, and intersectional references
8 accordingly.