

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for House Bill No. 2540, Page 13, Section 32.200, Line 55,
2 by inserting after the words "article IV" the following "; except that for tax years beginning on or
3 after January 1, 2019, any taxpayer subject to the tax imposed by section 143.071 shall apportion
4 and allocate in accordance with the provisions of chapter 143 and shall not apportion or allocate in
5 accordance with article IV"; and

6
7 Further amend said bill, Page 14, section, Lines 87-89, by deleting all of said lines and inserting in
8 lieu thereof the following:

9
10 "(3) "Compensation" means wages, salaries, commissions and any other form of
11 remuneration paid to employees for personal services.

12 (4) "Financial organization" means any bank, trust company, savings bank, industrial"; and

13
14 Further amend said bill, Pages 14-15, section, Lines 93-105, by renumbering subdivisions
15 accordingly; and

16
17 Further amend said bill, Pages 16-18, section, Lines 164-216, by deleting the opening bracket "["
18 before the number "9." on Line 164 and the closing bracket "]" after the word "income." on Line
19 216 and removing the strikethrough on all of said lines; and

20
21 Further amend said bill, Page 129, Section 143.022, Line 24, by deleting the year "2017" and
22 inserting in lieu thereof the year "2018,"; and

23
24 Further amend said bill, Page 134, Section 143.225, Line 47, by inserting after all of said section
25 and line the following:

26
27 "143.451. 1. Missouri taxable income of a corporation shall include all income derived
28 from sources within this state.

29 2. For all tax years beginning on or before December 31, 2018, a corporation described in
30 subdivision (1) of subsection 1 of section 143.441 shall include in its Missouri taxable income all
31 income from sources within this state, including that from the transaction of business in this state
32 and that from the transaction of business partly done in this state and partly done in another state or
33 states. However:

34 (1) Where income results from a transaction partially in this state and partially in another
35 state or states, and income and deductions of the portion in the state cannot be segregated, then such
36 portions of income and deductions shall be allocated in this state and the other state or states as will

Action Taken _____ Date _____

1 distribute to this state a portion based upon the portion of the transaction in this state and the portion
2 in such other state or states.

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

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

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

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

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

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

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

26 (d) For purposes of this subdivision:

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

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

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

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

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

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

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

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

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

48 (e) For the purposes of this subdivision, a transaction involving the sale other than the sale

1 of tangible property is "in this state" if the taxpayer's market for the sales is in this state. The
2 taxpayer's market for sales is in this state:

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

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

7 c. In the case of sale of a service, if and to the extent the ultimate beneficiary of the service
8 is located in this state and shall not be in this state if the ultimate beneficiary of the service rendered
9 by the taxpayer or the taxpayer's designee is located outside this state; and

10 d. In the case of intangible property:

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

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

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

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

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

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

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

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

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

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

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

41 (c) "Distribution services" include, but are not limited to, the services of advertising,
42 servicing, marketing, underwriting or selling shares of an investment company, but, in the case of
43 advertising, servicing or marketing shares, only where such service is performed by a person who is,
44 or in the case of a closed end company, was, either engaged in the services of underwriting or
45 selling investment company shares or affiliated with a person that is engaged in the service of
46 underwriting or selling investment company shares. In the case of an open end company, such
47 service of underwriting or selling shares must be performed pursuant to a contract entered into
48 pursuant to 15 U.S.C. Section 80a-15(b), as from time to time amended;

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

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

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

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

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

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

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

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

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

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

1 company's fund shareholders everywhere at the beginning of and at the end of the investment
2 company's taxable year that ends with or within the investment funds service corporation's taxable
3 year;

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

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

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

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

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

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

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

48 6. A corporation described in subdivision (4) of subsection 1 of section 143.441 shall

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

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

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

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

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

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

32 10. The provisions of this section do not impact any other apportionment election available
33 to a taxpayer under Missouri statutes.

34 143.456. 1. As used in this section, unless the context otherwise requires:

35 (1) "Apportionable income" means:

36 (a) All income that is apportionable under the Constitution of the United States and is not
37 allocated under the laws of this state, including:

38 a. Income arising from transactions and activity in the regular course of the taxpayer's trade
39 or business; and

40 b. Income arising from tangible and intangible property if the acquisition, management,
41 employment, development or disposition of the property is or was related to the operation of the
42 taxpayer's trade or business; and

43 (b) Any income that would be allocable to this state under the Constitution of the United
44 States, but that is apportioned rather than allocated under the laws of this state;

45 (2) "Commercial domicile" means the principal place from which the trade or business of
46 the taxpayer is directed or managed;

47 (3) "Financial organization" means any bank, trust company, savings bank, industrial bank,
48 land bank, safe deposit company, private banker, savings and loan association, credit union,

1 cooperative bank, small loan company, sales finance company, investment company, or any type of
2 insurance company;

3 (4) "Non-apportionable income" means all income other than apportionable income;

4 (5) "Public utility" means any business entity:

5 (a) Which owns or operates any plant, equipment, property, franchise, or license for the
6 transmission of communications, transportation of goods or persons, except by pipeline, or the
7 production, transmission, sale, delivery, or furnishing of electricity, water or steam; and

8 (b) Whose rates of charges for goods or services have been established or approved by a
9 federal, state or local government or governmental agency;

10 (6) "Receipts" means all gross receipts of the taxpayer that are not allocated under
11 paragraphs of this section and that are received from transactions and activity in the regular course
12 of the taxpayer's trade or business; except that receipts of a taxpayer from hedging transactions and
13 from the maturity, redemption, sale, exchange, loan or other disposition of cash or securities, shall
14 be excluded.

15 2. For all tax years beginning on or after January 1, 2019, any corporation having income
16 from business activity which is taxable both within and without this state shall allocate and
17 apportion its net income as provided in this section.

18 3. For purposes of allocation and apportionment of income under this section, a corporation
19 is taxable in another state if:

20 (1) In that state it is subject to a net income tax, a franchise tax measured by net income, a
21 franchise tax for the privilege of doing business, or a corporate stock tax, or

22 (2) That state has jurisdiction to subject the corporation to a net income tax regardless of
23 whether, in fact, the state does or does not do so.

24 4. Rents and royalties from real or tangible personal property, capital gains, interest,
25 dividends or patent or copyright royalties, to the extent that they constitute nonapportionable
26 income, shall be allocated as provided in subsections 5 through 8 of this section.

27 5. (1) Net rents and royalties from real property located in this state are allocable to this
28 state.

29 (2) Net rents and royalties from tangible personal property are allocable to this state:

30 (a) If and to the extent the property is utilized in this state, or

31 (b) In their entirety if the corporation's commercial domicile is in this state and the
32 corporation is not organized under the laws of or taxable in the state in which the property is
33 utilized.

34 (3) The extent of utilization of tangible personal property in a state is determined by
35 multiplying the rents and royalties by a fraction, the numerator of which is the number of days of
36 physical location of the property in the state during the rental or royalty period in the taxable year
37 and the denominator of which is the number of days of physical location of the property everywhere
38 during all rental or royalty periods in the taxable year. If the physical location of the property
39 during the rental or royalty period is unknown or unascertainable by the corporation, tangible
40 personal property is utilized in the state in which the property was located at the time the rental or
41 royalty payer obtained possession.

42 6. (1) Capital gains and losses from sales of real property located in this state are allocable to
43 this state.

44 (2) Capital gains and losses from sales of tangible personal property are allocable to this
45 state if:

46 (a) The property had a situs in this state at the time of the sale, or

47 (b) The corporation's commercial domicile is in this state and the corporation is not taxable
48 in the state in which the property had a situs.

1 (3) Capital gains and losses from sales of intangible personal property are allocable to this
2 state if the corporation's commercial domicile is in this state.

3 7. Interest and dividends are allocable to this state if the corporation's commercial domicile
4 is in this state.

5 8. (1) Patent and copyright royalties are allocable to this state if and to the extent that:

6 (a) The patent or copyright is utilized by the payer in this state, or

7 (b) The patent or copyright is utilized by the payer in a state in which the corporation is not
8 taxable and the corporation's commercial domicile is in this state.

9 (2) A patent is utilized in a state to the extent that it is employed in production, fabrication,
10 manufacturing, or other processing in the state or to the extent that a patented product is produced in
11 the state. If the basis of receipts from patent royalties does not permit allocation to states or if the
12 accounting procedures do not reflect states of utilization, the patent is utilized in the state in which
13 the taxpayer's commercial domicile is located.

14 (3) A copyright is utilized in a state to the extent that printing or other publication originates
15 in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if
16 the accounting procedures do not reflect states of utilization, the copyright is utilized in the state in
17 which the corporation's commercial domicile is located.

18 9. All apportionable income shall be apportioned to this state by multiplying the income by a
19 fraction, the numerator of which is the total receipts of the taxpayer in this state during the tax
20 period and the denominator of which is the total receipts of the taxpayer everywhere during the tax
21 period.

22 10. Receipts from the sale of tangible personal property are in this state if:

23 (1) The property is delivered or shipped to a purchaser, other than the United States
24 Government, within this state regardless of the f.o.b. point or other conditions of the sale; or

25 (2) The property is shipped from an office, store, warehouse, factory, or other place of
26 storage in this state and:

27 (a) The purchaser is the United States Government or

28 (b) The corporation is not taxable in the state of the purchaser.

29 11. (1) Receipts, other than receipts described in subsection 10 of this section, are in this
30 state if the corporation's market for the sales is in this state. The corporation's market for sales is in
31 this state in the case of:

32 (a) Sale, rental, lease or license of real property, if and to the extent the property is located in
33 this state;

34 (b) Rental, lease or license of tangible personal property, if and to the extent the property is
35 located in this state;

36 (c) Sale of a service, if and to the extent the service is delivered to a location in this state;
37 and

38 (d) Intangible property, that is:

39 a. Rented, leased, or licensed, if and to the extent the property is used in this state, provided
40 that intangible property utilized in marketing a good or service to a consumer is "used in this state"
41 if that good or service is purchased by a consumer who is in this state; and

42 b. Sold, if and to the extent the property is used in this state, provided that:

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

46 (ii) Receipts from intangible property sales that are contingent on the productivity, use, or
47 disposition of the intangible property shall be treated as receipts from the rental, lease or licensing
48 of such intangible property under subparagraph a. of paragraph (d) of subdivision (1) of this

1 subsection; and

2 (iii) All other receipts from a sale of intangible property shall be excluded from the
3 numerator and denominator of the receipts factor.

4 (2) If the state or states of assignment under subdivision (1) of this subsection cannot be
5 determined, the state or states of assignment shall be reasonably approximated.

6 (3) If the corporation is not taxable in a state to which a receipt is assigned under subdivision
7 (1) or (2) of this subsection, or if the state of assignment cannot be determined under subdivision (1)
8 of this subsection or reasonably approximated under subdivision (2) of this subsection, such receipt
9 shall be excluded from the numerator and denominator of the receipts factor.

10 (4) The director may prescribe regulations as necessary or appropriate to carry out the
11 purposes of this section.

12 12. (1) If the allocation and apportionment provisions of this section do not fairly represent
13 the extent of the taxpayer's business activity in this state, the taxpayer may petition for or the tax
14 administrator may require, in respect to all or any part of the taxpayer's business activity, if
15 reasonable:

16 (a) Separate accounting;

17 (b) The inclusion of one or more additional factors which will fairly represent the
18 corporation's business activity in this state; or

19 (c) The employment of any other method to effectuate an equitable allocation and
20 apportionment of the taxpayer's income.

21 (2) (a) If the allocation and apportionment provisions of this section do not fairly represent
22 the extent of business activity in this state of corporations engaged in a particular industry or in a
23 particular transaction or activity, the tax administrator may, in addition to the authority provided in
24 subdivision (1) of this subsection, establish appropriate rules or regulations for determining
25 alternative allocation and apportionment methods for such taxpayers.

26 (b) A regulation adopted pursuant to this section shall be applied uniformly, except that with
27 respect to any corporation to whom such regulation applies, the corporation may petition for, or the
28 director may require, adjustment pursuant to subdivision (1) of subsection 12 of this section.

29 (3) The party petitioning for, or the director requiring, the use of any method to effectuate an
30 equitable allocation and apportionment of the corporation's income pursuant to subdivision (1) of
31 this subsection must prove:

32 (a) That the allocation and apportionment provisions of this section do not fairly represent
33 the extent of the corporation's business activity in this state; and

34 (b) That the alternative to such provisions is reasonable.

35 The same burden of proof shall apply whether the corporation is petitioning for, or the director is
36 requiring, the use of any reasonable method to effectuate an equitable allocation and apportionment
37 of the corporation's income. Notwithstanding the previous sentence, if the director can show that in
38 any two of the prior five tax years, the corporation had used an allocation or apportionment method
39 at variance with its allocation or apportionment method or methods used for such other tax years,
40 then the director shall not bear the burden of proof in imposing a different method pursuant to
41 subdivision (1) of this subsection.

42 (4) If the director requires any method to effectuate an equitable allocation and
43 apportionment of the corporation's income, the director cannot impose any civil or criminal penalty
44 with reference to the tax due that is attributable to the taxpayer's reasonable reliance solely on the
45 allocation and apportionment provisions of this section.

46 (5) A corporation that has received written permission from the director to use a reasonable
47 method to effectuate an equitable allocation and apportionment of the corporation's income shall not
48 have that permission revoked with respect to transactions and activities that have already occurred

1 unless there has been a material change in, or a material misrepresentation of, the facts provided by
2 the corporation upon which the director reasonably relied.

3 13. For purposes of this subsection, the following words shall, unless the context otherwise
4 requires, have the following meaning:

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

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

10 (3) "Distribution services" include, but are not limited to, the services of advertising,
11 servicing, marketing, underwriting or selling shares of an investment company, but, in the case of
12 advertising, servicing or marketing shares, only where such service is performed by a person who is,
13 or in the case of a closed end company, was, either engaged in the services of underwriting or
14 selling investment company shares or affiliated with a person that is engaged in the service of
15 underwriting or selling investment company shares. In the case of an open end company, such
16 service of underwriting or selling shares must be performed pursuant to a contract entered into
17 under 15 U.S.C. section 80a-15(b), as may be amended from time to time;

18 (4) "Investment company", any person registered under the federal investment company act
19 of 1940, as amended from time to time, or a company which would be required to register as an
20 investment company under the act except that such person is exempt to such registration pursuant to
21 section 80a-3(c)(1) of the act;

22 (5) "Investment funds service corporation" includes any corporation or S corporation doing
23 business in the state which derives more than fifty percent of its gross income in the ordinary course
24 of business from the provision directly or indirectly of management, distribution or administration
25 services to or on behalf of an investment company or from trustees, sponsors and participants of
26 employee benefit plans which have accounts in an investment company. An investment funds
27 service corporation shall include any corporation or S corporation providing management services
28 as an investment advisory firm registered under section 203 of the investment advisors act of 1940,
29 as may be amended from time to time, regardless of the percentage of gross revenues consisting of
30 fees from management services provided to or on behalf of an investment company;

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

36 (a) Pursuant to a contract with the investment company entered into under 15 U.S.C. section
37 80a-15(a), as may be amended from time to time;

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

39 (c) For a person that is affiliated with a person that has entered into such contract with an
40 investment company;

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

47 (8) "Residence", presumptively the fund shareholder's mailing address on the records of the
48 investment company. If, however, the investment company or the investment funds service

1 corporation has actual knowledge that the fund shareholder's primary residence or principal place of
2 business is different than the fund shareholder's mailing address such presumption shall not control.
3 To the extent an investment funds service corporation does not have access to the records of the
4 investment company, the investment funds service corporation may employ reasonable methods to
5 determine the investment company fund shareholder's residence.

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

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

21 (2) A separate computation shall be made to determine the wholly in this state qualifying
22 sales from each investment company. The qualifying sales for each investment company shall be
23 multiplied by the respective percentage of each fund, as calculated pursuant to subdivision (1) of
24 this subsection. The product of this equation shall result in the wholly in this state qualifying sales.
25 The qualifying sales for each investment company which are not wholly in this state will be
26 considered wholly without this state;

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

30 15. Any corporation described in subdivision (1) of subsection 1 of section 143.441
31 organized in this state or granted a permit to operate in this state for the transportation or care of
32 passengers shall report its gross earnings within the state on intrastate business and shall also report
33 its gross earnings on all interstate business done in this state. Such report shall be subject to inquiry
34 for the purpose of determining the amount of income to be included in Missouri taxable income.
35 This subsection shall not apply to a railroad.

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

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

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

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

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

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

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

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

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

36 20. If a corporation derives only part of its income from sources within Missouri, its
37 Missouri taxable income shall only reflect the effect on Missouri taxable income of the deduction
38 for net operating loss allowed by section 172 of the Internal Revenue Code. The extent applicable to
39 Missouri shall be determined by multiplying the amount that would otherwise affect Missouri
40 taxable income by the ratio for the year of the Missouri taxable income of the corporation for the
41 year divided by the Missouri taxable income for the year as though the corporation had derived all
42 of its income from sources within Missouri. For the purpose of the preceding sentence, Missouri
43 taxable income shall not reflect the deduction.

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

47 143.461. 1. A corporation shall elect to determine income applicable to this state by
48 multiplying the total income from all sources by the fraction determined in the manner in section

1 143.451; first, by filing written notice with the director of revenue on or before the due date of the
2 return (including extensions of time) of the taxpayer's election, or, second, by failing to keep its
3 books and records in such manner as to show the income applicable to this state, including gross
4 income and deductions applicable thereto.

5 2. If the corporation shall keep its books and records so as to show by any other method of
6 allocation between this state and other states involved of income from transactions partially within
7 and partially without this state, including gross income and deductions applicable thereto, and such
8 method shows the income applicable to this state, including gross income and deductions applicable
9 thereto, then it may, on or before sixty days before the end of any taxable year, petition the director
10 of revenue, in writing, to be permitted in its return required to be filed to apportion to this state
11 according to the method shown by such books or records. If the director of revenue finds that such
12 method does show the income applicable to this state including gross income and the deductions
13 applicable thereto, he shall notify the corporation, at least thirty days prior to the last day on which
14 such corporation's return for that taxable year is to be filed, that it may use that method as long as
15 such method shows the income applicable to this state, including gross income and deductions
16 applicable thereto.

17 3. The corporation shall cease using such method whenever the director of revenue finds
18 and notifies such corporation on or before ninety days before the end of the taxable year, that such
19 method does not so show. Upon and after such revocation the corporation shall be permitted to
20 petition to use another method of allocation that will show such income including gross income and
21 deductions applicable thereto as though no petition had ever been filed.

22 4. Failure, after a method has been revoked by the director of revenue, to submit a method
23 which the director of revenue finds will show such income applicable to this state including gross
24 income and deductions applicable thereto, on or before sixty days before the end of any taxable
25 year, or failure to make a return on the basis, which has been approved by the director of revenue on
26 petition of the corporation and which stands unrevoked, shall constitute an election to accept the
27 determination of income applicable to this state by multiplying the total income from all sources by
28 the fraction determined in the manner set forth in section 143.451.

29 5. If the allocation and apportionment provisions of section 143.456 or this section do not
30 fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition
31 for or the tax administrator may require, in respect to all or any part of the taxpayer's business
32 activity, if reasonable:

33 (1) separate accounting;

34 (2) the inclusion of one or more additional factors which will fairly represent the taxpayer's
35 business activity in this state; or

36 (3) the employment of any other method to effectuate an equitable allocation and
37 apportionment of the taxpayer's income."; and

38
39 Further amend said bill, Page 207, Section 208.431, Line 9, by deleting the year "2018" and
40 inserting in lieu thereof the year "2019"; and

41
42 Further amend said bill, page, section, Line 13, by deleting the word "shall" and inserting in lieu
43 thereof the word "may"; and

44
45 Further amend said bill by amending the title, enacting clause, and intersectional references
46 accordingly.