

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 529

100TH GENERAL ASSEMBLY

Reported from the Committee on Local Government and Elections, February 13, 2020, with recommendation that the Senate Committee Substitute do pass.

3761S.08C

ADRIANE D. CROUSE, Secretary.

AN ACT

To repeal sections 32.310, 144.605, 144.757, and 144.759, RSMo, and to enact in lieu thereof seven new sections relating to use taxes, with an emergency clause for a certain section and an effective date for certain sections.

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

Section A. Sections 32.310, 144.605, 144.757, and 144.759, RSMo, are
2 repealed and seven new sections enacted in lieu thereof, to be known as sections
3 32.310, 33.575, 144.605, 144.637, 144.752, 144.757, and 144.759, to read as
4 follows:

32.310. 1. The department of revenue shall create and maintain a
2 mapping feature on its official public website that displays sales **and use** tax
3 information of political subdivisions of this state that have taxing authority,
4 including the current tax rate for each sales **and use** tax imposed and
5 collected. Such display shall have the option to showcase the borders and
6 jurisdiction of the following political subdivisions on a map of the state to the
7 extent that such political subdivisions collect sales **and use** tax:

- 8 (1) Ambulance districts;
- 9 (2) Community improvement districts;
- 10 (3) Fire protection districts;
- 11 (4) Levee districts;
- 12 (5) Library districts;
- 13 (6) Neighborhood improvement districts;
- 14 (7) Port authority districts;
- 15 (8) Tax increment financing districts;

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

- 16 (9) Transportation development districts;
17 (10) School districts; or
18 (11) Any other political subdivision that imposes a sales **or use** tax
19 within its borders and jurisdiction.

20 2. The mapping feature shall also have the option to superimpose state
21 house of representative districts and state senate districts over the political
22 subdivisions.

23 3. A political subdivision collecting sales **or use** tax listed in subsection
24 1 of this section shall provide to the department of revenue mapping and
25 geographic data pertaining to the political subdivision's borders and
26 jurisdictions. The political subdivision shall certify the accuracy of the data by
27 affidavit and shall provide the data in a format specified by the department of
28 revenue. Such data **relating to sales taxes** shall be sent to the department of
29 revenue by April 1, 2019, and shall be updated and sent to the department if a
30 change in the political subdivision's borders or jurisdiction occurs
31 thereafter. **Such data relating to use taxes shall be sent to the**
32 **department of revenue by January 1, 2021. If a political subdivision**
33 **fails to provide the information required under this subsection, the**
34 **department of revenue shall use the last known sales or use tax rate for**
35 **such political subdivision.**

36 4. The department of revenue may contract with another entity to build
37 and maintain the mapping feature.

38 5. By July 1, 2019, the department shall implement the mapping feature
39 using the **sales tax** data provided to it under subsection 3 of this section. **By**
40 **August 28, 2021, the department shall implement the mapping feature**
41 **using use tax data provided to it under subsection 3 of this section.**

33.575. 1. There is hereby created in the state treasury the "Cash
2 **Operating Expense Fund**", which shall consist of money as provided
3 **under this section. The state treasurer shall be custodian of the fund.**
4 **In accordance with sections 30.170 and 30.180, the state treasurer may**
5 **approve disbursements. Notwithstanding the provisions of section**
6 **33.080 to the contrary, any moneys remaining in the fund at the end of**
7 **the biennium shall not revert to the credit of the general revenue**
8 **fund. The state treasurer shall invest moneys in the fund in the same**
9 **manner as other funds are invested. Any interest and moneys earned**
10 **on such investments shall be credited to the fund.**

11 **2. (1) The use tax revenues collected on behalf of the state from**
12 **remittances made pursuant to section 144.752 and paragraph (e) of**
13 **subdivision (2) of section 144.605, with the exception of revenues**
14 **collected pursuant to section 144.701 and Article IV, Sections 43(a) and**
15 **47(a) of the Missouri Constitution, shall be deposited into the fund.**

16 **(2) Subject to appropriation, the following moneys may be**
17 **transferred into the fund:**

18 **(a) Any funds appropriated to the office of the governor for**
19 **expenses related to emergency duties performed by the national guard**
20 **when ordered out by the governor, for matching funds for federal**
21 **grants and for emergency assistance as provided in section 44.032, and**
22 **for expenses of any state agency responding during a declared**
23 **emergency at the direction of the governor, provided the services**
24 **furnish immediate aid and relief, that were unexpended at the end of**
25 **the fiscal year; and**

26 **(b) Any funds appropriated to the fund by the general assembly**
27 **or otherwise credited to the fund.**

28 **3. In any fiscal year in which actual revenues are less than the**
29 **revenue estimates upon which appropriations were based or in which**
30 **there is a budget need due to a natural disaster, as proclaimed by the**
31 **governor to be an emergency, the governor may, subject to**
32 **appropriation, transfer from the fund to the general revenue fund such**
33 **moneys as are necessary to make up all or part of the deficit between**
34 **the actual revenues and the revenue estimates or to meet the needs of**
35 **the emergency caused by the natural disaster, as the case may be.**

36 **4. When the balance in the fund at the close of any fiscal year**
37 **exceeds two and one-half percent of net general revenue collections for**
38 **the previous fiscal year, the excess balance shall be transferred, subject**
39 **to appropriation, as follows:**

40 **(1) Fifty percent of the excess balance shall be transferred to the**
41 **credit of the state road fund established pursuant to Article IV, Section**
42 **30(b) of the Missouri Constitution, for the purposes of funding the**
43 **governor's transportation cost-share program; and**

44 **(2) Fifty percent of the excess balance shall be transferred to the**
45 **credit of the debt retirement fund for the purpose of retiring state debt.**

46 **5. There is hereby created in the state treasury the "Debt**
47 **Retirement Fund", which shall consist of moneys collected under this**

48 section. The state treasurer shall be custodian of the fund. In
49 accordance with sections 30.170 and 30.180, the state treasurer may
50 approve disbursements. Notwithstanding the provisions of section
51 33.080 to the contrary, any moneys remaining in the fund at the end of
52 the biennium shall not revert to the credit of the general revenue
53 fund. The state treasurer shall invest moneys in the fund in the same
54 manner as other funds are invested. Any interest and moneys earned
55 on such investments shall be credited to the fund. Subject to
56 appropriation, moneys in the fund shall be used for the retirement of
57 debt related to bonds issued by or on behalf of the state and for which
58 the office of administration is required to file annual continuing
59 disclosure reports on the electronic municipal market access website,
60 or its successor.

61 **6. For the purposes of this section, "net general revenue**
62 **collections" means all revenue deposited into the general revenue fund**
63 **less refunds and revenues originally deposited into the general revenue**
64 **fund but designated by law for a specific distribution or transfer to**
65 **another state fund.**

144.605. The following words and phrases as used in sections 144.600 to
2 144.745 mean and include:

3 (1) "Calendar quarter", the period of three consecutive calendar months
4 ending on March thirty-first, June thirtieth, September thirtieth or December
5 thirty-first;

6 (2) "Engages in business activities within this state" includes:

7 (a) Maintaining or having a franchisee or licensee operating under the
8 seller's trade name in this state if the franchisee or licensee is required to collect
9 sales tax pursuant to sections 144.010 to 144.525;

10 (b) Soliciting sales or taking orders by sales agents or traveling
11 representatives;

12 (c) A vendor is presumed to engage in business activities within this state
13 if any person, other than a common carrier acting in its capacity as such, that has
14 substantial nexus with this state:

15 a. Sells a similar line of products as the vendor and does so under the
16 same or a similar business name;

17 b. Maintains an office, distribution facility, warehouse, or storage place,
18 or similar place of business in the state to facilitate the delivery of property or

19 services sold by the vendor to the vendor's customers;

20 c. Delivers, installs, assembles, or performs maintenance services for the
21 vendor's customers within the state;

22 d. Facilitates the vendor's delivery of property to customers in the state
23 by allowing the vendor's customers to pick up property sold by the vendor at an
24 office, distribution facility, warehouse, storage place, or similar place of business
25 maintained by the person in the state; or

26 e. Conducts any other activities in the state that are significantly
27 associated with the vendor's ability to establish and maintain a market in the
28 state for the sales;

29 (d) The presumption in paragraph (c) **of this subdivision** may be
30 rebutted by demonstrating that the person's activities in the state are not
31 significantly associated with the vendor's ability to establish or maintain a
32 market in this state for the vendor's sales;

33 (e) [Notwithstanding paragraph (c), a vendor shall be presumed to engage
34 in business activities within this state if the vendor enters into an agreement
35 with one or more residents of this state under which the resident, for a
36 commission or other consideration, directly or indirectly refers potential
37 customers, whether by a link on an internet website, an in-person oral
38 presentation, telemarketing, or otherwise, to the vendor, if the cumulative gross
39 receipts from sales by the vendor to customers in the state who are referred to the
40 vendor by all residents with this type of an agreement with the vendor is in
41 excess of ten thousand dollars during the preceding twelve months;

42 (f) The presumption in paragraph (e) may be rebutted by submitting proof
43 that the residents with whom the vendor has an agreement did not engage in any
44 activity within the state that was significantly associated with the vendor's
45 ability to establish or maintain the vendor's market in the state during the
46 preceding twelve months. Such proof may consist of sworn written statements
47 from all of the residents with whom the vendor has an agreement stating that
48 they did not engage in any solicitation in the state on behalf of the vendor during
49 the preceding year provided that such statements were provided and obtained in
50 good faith] **Selling tangible personal property for delivery into this state
51 provided the seller's gross revenue from delivery of tangible personal
52 property into this state in the previous calendar year or current
53 calendar year exceeds one hundred thousand dollars. For the purposes
54 of calculating a seller's gross revenue under this paragraph, following**

55 the close of each calendar quarter, a vendor shall determine whether
56 the vendor met the requirements under this paragraph during the
57 twelve-month period ending on the last day of the preceding calendar
58 quarter. If the vendor met such requirements for any such
59 twelve-month period, such vendor shall collect and remit the tax as
60 provided under section 144.635 for a period of not less than twelve
61 months, beginning not more than three months following the close of
62 the preceding calendar quarter, and shall continue to collect and remit
63 the tax for as long as the vendor is engaged in business activities
64 within this state, as provided for under this paragraph, or otherwise
65 maintains a substantial nexus with this state;

66 (3) "Maintains a place of business in this state" includes maintaining,
67 occupying, or using, permanently or temporarily, directly or indirectly, by
68 whatever name called, an office, place of distribution, sales or sample room or
69 place, warehouse or storage place, or other place of business in this state,
70 whether owned or operated by the vendor or by any other person other than a
71 common carrier acting in its capacity as such;

72 (4) "Person", any individual, firm, copartnership, joint venture,
73 association, corporation, municipal or private, and whether organized for profit
74 or not, state, county, political subdivision, state department, commission, board,
75 bureau or agency, except the state transportation department, estate, trust,
76 business trust, receiver or trustee appointed by the state or federal court,
77 syndicate, or any other group or combination acting as a unit, and the plural as
78 well as the singular number;

79 (5) "Purchase", the acquisition of the ownership of, or title to, tangible
80 personal property, through a sale, as defined herein, for the purpose of storage,
81 use or consumption in this state;

82 (6) "Purchaser", any person who is the recipient for a valuable
83 consideration of any sale of tangible personal property acquired for use, storage
84 or consumption in this state;

85 (7) "Sale", any transfer, barter or exchange of the title or ownership of
86 tangible personal property, or the right to use, store or consume the same, for a
87 consideration paid or to be paid, and any transaction whether called leases,
88 rentals, bailments, loans, conditional sales or otherwise, and notwithstanding
89 that the title or possession of the property or both is retained for security. For
90 the purpose of this law the place of delivery of the property to the purchaser,

91 user, storer or consumer is deemed to be the place of sale, whether the delivery
92 be by the vendor or by common carriers, private contractors, mails, express,
93 agents, salesmen, solicitors, hawkers, representatives, consignors, peddlers,
94 canvassers or otherwise;

95 (8) "Sales price", the consideration including the charges for services,
96 except charges incident to the extension of credit, paid or given, or contracted to
97 be paid or given, by the purchaser to the vendor for the tangible personal
98 property, including any services that are a part of the sale, valued in money,
99 whether paid in money or otherwise, and any amount for which credit is given to
100 the purchaser by the vendor, without any deduction therefrom on account of the
101 cost of the property sold, the cost of materials used, labor or service cost, losses
102 or any other expenses whatsoever, except that cash discounts allowed and taken
103 on sales shall not be included and "sales price" shall not include the amount
104 charged for property returned by customers upon rescission of the contract of
105 sales when the entire amount charged therefor is refunded either in cash or credit
106 or the amount charged for labor or services rendered in installing or applying the
107 property sold, the use, storage or consumption of which is taxable pursuant to
108 sections 144.600 to 144.745. The sales price shall not include usual and
109 customary delivery charges that are separately stated. In determining the
110 amount of tax due pursuant to sections 144.600 to 144.745, any charge incident
111 to the extension of credit shall be specifically exempted;

112 (9) "Selling agent", every person acting as a representative of a principal,
113 when such principal is not registered with the director of revenue of the state of
114 Missouri for the collection of the taxes imposed pursuant to sections 144.010 to
115 144.525 or sections 144.600 to 144.745 and who receives compensation by reason
116 of the sale of tangible personal property of the principal, if such property is to be
117 stored, used, or consumed in this state;

118 (10) "Storage", any keeping or retention in this state of tangible personal
119 property purchased from a vendor, except property for sale or property that is
120 temporarily kept or retained in this state for subsequent use outside the state;

121 (11) "Tangible personal property", all items subject to the Missouri sales
122 tax as provided in subdivisions (1) and (3) **of subsection 1** of section 144.020;

123 (12) "Taxpayer", any person remitting the tax or who should remit the tax
124 levied by sections 144.600 to 144.745;

125 (13) "Use", the exercise of any right or power over tangible personal
126 property incident to the ownership or control of that property, except that it does

127 not include the temporary storage of property in this state for subsequent use
128 outside the state, or the sale of the property in the regular course of business;

129 (14) "Vendor", every person engaged in making sales of tangible personal
130 property by mail order, by advertising, by agent or peddling tangible personal
131 property, soliciting or taking orders for sales of tangible personal property, for
132 storage, use or consumption in this state, all salesmen, solicitors, hawkers,
133 representatives, consignees, peddlers or canvassers, as agents of the dealers,
134 distributors, consignors, supervisors, principals or employers under whom they
135 operate or from whom they obtain the tangible personal property sold by them,
136 and every person who maintains a place of business in this state, maintains a
137 stock of goods in this state, or engages in business activities within this state and
138 every person who engages in this state in the business of acting as a selling agent
139 for persons not otherwise vendors as defined in this subdivision. Irrespective of
140 whether they are making sales on their own behalf or on behalf of the dealers,
141 distributors, consignors, supervisors, principals or employers, they must be
142 regarded as vendors and the dealers, distributors, consignors, supervisors,
143 principals or employers must be regarded as vendors for the purposes of sections
144 144.600 to 144.745.

**144.637. 1. The director of revenue shall provide and maintain
2 a database that describes boundary changes for all taxing jurisdictions
3 and the effective dates of such changes for the use of vendors collecting
4 the tax imposed under sections 144.600 to 144.745.**

**5 2. For the identification of counties and cities, codes
6 corresponding to the rates shall be provided according to Federal
7 Information Processing Standards (FIPS) as developed by the National
8 Institute of Standards and Technology. For the identification of all
9 other jurisdictions, codes corresponding to the rates shall be in a
10 format determined by the director.**

**11 3. The director shall provide and maintain address-based
12 boundary database records for assigning taxing jurisdictions and
13 associated rates. The database records shall meet the requirements
14 developed pursuant to the federal Mobile Telecommunications Sourcing
15 Act, 4 U.S.C. Section 119(a). If a vendor is unable to determine the
16 applicable rate and jurisdiction using an address-based database
17 record after exercising due diligence, the vendor may apply the
18 nine-digit zip code designation applicable to a purchase. If a nine-digit**

19 zip code designation is not available for a street address or if a vendor
20 is unable to determine the nine-digit zip code designation applicable to
21 a purchase after exercising due diligence to determine the designation,
22 the vendor may apply the rate for the five-digit zip code area. For the
23 purposes of this section, there shall be a rebuttable presumption that
24 a vendor has exercised due diligence if the vendor has attempted to
25 determine the tax rate and jurisdiction by utilizing software approved
26 by the director and makes the assignment from the address and zip
27 code information applicable to the purchase. The databases shall be in
28 the same approved format as the database records under this section
29 and meet the requirements developed pursuant to the federal Mobile
30 Telecommunications Sourcing Act, 4 U.S.C. Section 119(a). If the
31 director certifies an address-based database provided by a third party,
32 a vendor may use such database in place of the database provided for
33 in this subsection.

34 4. The electronic database provided for in subsections 1, 2, and
35 3 of this section shall be in downloadable format as determined by the
36 director. The database may be directly provided by the director or
37 provided by a third party as designated by the director. The databases
38 shall be provided at no cost to the user of the database. The provisions
39 of subsection 3 of this section shall not apply if the purchased product
40 is received by the purchaser at the business location of the vendor.

41 5. No vendor shall be liable for reliance upon erroneous data
42 provided by the director on tax rates, boundaries, or taxing jurisdiction
43 assignments.

144.752. 1. For the purposes of this section, the following terms
2 shall mean:

3 (1) "Marketplace facilitator", a person that:

4 (a) Facilitates a retail sale by a marketplace seller by listing or
5 advertising for sale by the marketplace seller in any forum, tangible
6 personal property or services that are subject to tax under this chapter;
7 and

8 (b) Either directly or indirectly through agreements or
9 arrangements with third parties collecting payment from the purchaser
10 and transmitting such payment to the marketplace seller regardless of
11 whether the marketplace facilitator receives compensation or other
12 consideration in exchange for its services.

13 A marketplace facilitator is a seller and shall comply with the
14 provisions of this chapter. A marketplace facilitator does not include
15 a person who provides internet advertising services, or product listing,
16 and does not collect payment from the purchaser and transmit payment
17 to the marketplace seller, and does not include a person with respect
18 to the provision of travel agency services or the operation of a
19 marketplace or that portion of a marketplace that enables consumers
20 to receive travel agency services. For the purposes of this subdivision,
21 "travel agency services" means facilitating, for a commission, fee, or
22 other consideration, vacation or travel packages, rental car or other
23 travel reservations, tickets for domestic or foreign travel by air, rail,
24 ship, bus, or other medium of transportation, or hotel or other lodging
25 accommodations;

26 (2) "Marketplace seller", a seller that makes sales through any
27 electronic marketplace operated by a marketplace facilitator;

28 (3) "Person", any individual, firm, copartnership, joint venture,
29 association, corporation, municipal or private, whether organized for
30 profit or not, state, county, political subdivision, state department,
31 commission, board, bureau or agency, except the department of
32 transportation, estate, trust, business trust, receiver or trustee
33 appointed by the state or federal court, syndicate, or any other group
34 or combination acting as a unit;

35 (4) "Purchaser", any person who is the recipient for a valuable
36 consideration of any sale of tangible personal property acquired for
37 use, storage, or consumption in this state;

38 (5) "Retail sale", the same meaning as defined under sections
39 144.010 and 144.011, excluding motor vehicles, trailers, motorcycles,
40 mopeds, motortricycles, boats, and outboard motors required to be
41 titled under the laws of the state and subject to tax under subdivision
42 (9) of subsection 1 of section 144.020;

43 (6) "Seller", a person selling or furnishing tangible personal
44 property or rendering services on the receipts from which a tax is
45 imposed under section 144.020.

46 2. (1) Beginning January 1, 2022, marketplace facilitators that
47 engage in business activities within this state shall register with the
48 department to collect and remit use tax, as applicable, on sales made
49 through the marketplace facilitator's marketplace by or on behalf of a

50 marketplace seller that are delivered into the state, whether by the
51 marketplace facilitator or another person, and regardless of whether
52 the marketplace seller for whom sales are facilitated possesses a retail
53 sales license or would have been required to collect use tax had the
54 sale not been facilitated by the marketplace facilitator. Such retail
55 sales shall include those made directly by the marketplace facilitator
56 and shall also include those retail sales made by marketplace sellers
57 through the marketplace facilitator's marketplace. The collection and
58 reporting requirements of this subsection shall not apply to retail sales
59 other than those made through a marketplace facilitator's
60 marketplace. Nothing in this section shall be construed to limit or
61 prohibit the ability of a marketplace facilitator and a marketplace
62 seller to enter into agreements regarding the fulfillment of the
63 requirements of this chapter.

64 (2) All taxable sales made through a marketplace facilitator's
65 marketplace by or on behalf of a marketplace seller shall be deemed to
66 be consummated at the location in this state to which the item is
67 shipped or delivered, or at which possession is taken by the purchaser.

68 3. Marketplace facilitators that are required to collect use tax
69 under this section shall report and remit the tax separately from any
70 sales and use tax collected by the marketplace facilitator, or by
71 affiliates of the marketplace facilitator, which the marketplace
72 facilitator would have been required to collect and remit under the
73 provisions of this chapter prior to January 1, 2022. Such tax shall be
74 reported and remitted as determined by the department. Marketplace
75 facilitators shall maintain records of all sales delivered to a location in
76 the state, including electronic or paper copies of invoices showing the
77 purchaser, address, purchase amount, and use tax collected. Such
78 records shall be made available for review and inspection upon request
79 by the department.

80 4. Marketplace facilitators who properly collect and remit to the
81 department in a timely manner use tax on sales in accordance with the
82 provisions of this section by or on behalf of marketplace sellers shall
83 be eligible for any discount provided under this chapter.

84 5. A marketplace facilitator shall provide the purchaser with a
85 statement or invoice showing that the use tax was collected and shall
86 be remitted on the purchaser's behalf.

87 **6. Any taxpayer who remits use tax under this section shall be**
88 **entitled to refunds or credits to the same extent and in the same**
89 **manner provided for in section 144.190 for taxes collected and remitted**
90 **under this section. Nothing in this section shall relieve a purchaser of**
91 **the obligation to remit use tax for any retail sale taxable under this**
92 **chapter for which a marketplace facilitator or marketplace seller does**
93 **not collect and remit the use tax.**

94 **7. Except as provided under subsections 8 and 9 of this section,**
95 **marketplace facilitators shall be subject to the penalty provisions,**
96 **procedures, and reporting requirements provided under the provisions**
97 **of this chapter.**

98 **8. No class action shall be brought against a marketplace**
99 **facilitator in any court in this state on behalf of purchasers arising**
100 **from or in any way related to an overpayment of use tax collected on**
101 **retail sales facilitated by a marketplace facilitator, regardless of**
102 **whether that claim is characterized as a tax refund claim. Nothing in**
103 **this subsection shall affect a purchaser's right to seek a refund as**
104 **provided under section 144.190.**

105 **9. A marketplace facilitator shall be relieved from liability under**
106 **this section for the failure to collect and remit the correct amount of**
107 **sales or use tax on retail sales facilitated for marketplace sellers to the**
108 **extent that the marketplace facilitator demonstrates to the satisfaction**
109 **of the department that the error was due to insufficient or incorrect**
110 **information given to the marketplace facilitator by the marketplace**
111 **seller; provided, however, that a marketplace facilitator shall not be**
112 **relieved of liability under this paragraph if the marketplace facilitator**
113 **and the marketplace seller are affiliated;**

114 **10. For the purposes of this section, a marketplace facilitator**
115 **shall not include a third party financial institution appointed by a**
116 **merchant or a marketplace facilitator to handle various forms of**
117 **payment transactions, such as processing credit cards and debit cards,**
118 **and whose sole activity with respect to marketplace sales is to facilitate**
119 **the payment transactions between two parties.**

120 **11. Use taxes collected pursuant to this section on behalf of the**
121 **state of Missouri shall be deposited to the credit of the cash operating**
122 **expense fund established pursuant to section 33.575.**

123 **12. The department may promulgate rules to implement the**

124 **provisions of this section. Any rule or portion of a rule, as that term is**
125 **defined in section 536.010, that is created under the authority delegated**
126 **in this section shall become effective only if it complies with and is**
127 **subject to all of the provisions of chapter 536 and, if applicable, section**
128 **536.028. This section and chapter 536 are nonseverable and if any of**
129 **the powers vested with the general assembly pursuant to chapter 536**
130 **to review, to delay the effective date, or to disapprove and annul a rule**
131 **are subsequently held unconstitutional, then the grant of rulemaking**
132 **authority and any rule proposed or adopted after August 28, 2020, shall**
133 **be invalid and void.**

144.757. 1. Any county or municipality[, except municipalities within a
2 county having a charter form of government with a population in excess of nine
3 hundred thousand,] may, by a majority vote of its governing body, impose a local
4 use tax if a local sales tax is imposed as defined in section 32.085 **or if a sales**
5 **tax is imposed pursuant to sections 94.850 or 94.890, with such local use**
6 **tax imposed** at a rate equal to the rate of the local sales tax [in effect in] **and**
7 **any sales tax imposed pursuant to sections 94.850 or 94.890 by such**
8 county or municipality; provided, however, that no ordinance or order enacted
9 pursuant to sections 144.757 to 144.761 shall be effective unless the governing
10 body of the county or municipality submits to the voters thereof at a municipal,
11 county or state general, primary or special election a proposal to authorize the
12 governing body of the county or municipality to impose a local use tax pursuant
13 to sections 144.757 to 144.761. [Municipalities within a county having a charter
14 form of government with a population in excess of nine hundred thousand may,
15 upon voter approval received pursuant to paragraph (b) of subdivision (2) of
16 subsection 2 of this section, impose a local use tax at the same rate as the local
17 municipal sales tax with the revenues from all such municipal use taxes to be
18 distributed pursuant to subsection 4 of section 94.890. The municipality shall
19 within thirty days of the approval of the use tax imposed pursuant to paragraph
20 (b) of subdivision (2) of subsection 2 of this section select one of the distribution
21 options permitted in subsection 4 of section 94.890 for distribution of all
22 municipal use taxes.

23 2.] (1) The ballot of submission[, except for counties and municipalities
24 described in subdivisions (2) and (3) of this subsection,] shall contain
25 substantially the following language:

26 Shall the _____ (county or municipality's name) impose a local use

27 tax at the same rate as the total local sales tax rate, [currently
 28 _____ (insert percent),] provided that if the local sales tax rate is
 29 reduced or raised by voter approval, the local use tax rate shall
 30 also be reduced or raised by the same action? [A use tax return
 31 shall not be required to be filed by persons whose purchases from
 32 out-of-state vendors do not in total exceed two thousand dollars in
 33 any calendar year] **Approval of this question will eliminate
 34 the disparity in tax rates collected by local and out-of-state
 35 sellers by imposing the same rate on all sellers.**

36 YES NO

37 If you are in favor of the question, place an "X" in the box opposite
 38 "YES". If you are opposed to the question, place an "X" in the box
 39 opposite "NO".

40 (2) [(a) The ballot of submission in a county having a charter form of
 41 government with a population in excess of nine hundred thousand shall contain
 42 substantially the following language:

43 For the purposes of enhancing county and municipal public safety,
 44 parks, and job creation and enhancing local government services,
 45 shall the county be authorized to collect a local use tax equal to the
 46 total of the existing county sales tax rate of (insert tax rate),
 47 provided that if the county sales tax is repealed, reduced or raised
 48 by voter approval, the local use tax rate shall also be repealed,
 49 reduced or raised by the same voter action? Fifty percent of the
 50 revenue shall be used by the county throughout the county for
 51 improving and enhancing public safety, park improvements, and
 52 job creation, and fifty percent shall be used for enhancing local
 53 government services. The county shall be required to make
 54 available to the public an audited comprehensive financial report
 55 detailing the management and use of the countywide portion of the
 56 funds each year.

57 A use tax is the equivalent of a sales tax on purchases from
 58 out-of-state sellers by in-state buyers and on certain taxable
 59 business transactions. A use tax return shall not be required to be
 60 filed by persons whose purchases from out-of-state vendors do not
 61 in total exceed two thousand dollars in any calendar year.

62 YES NO

63 If you are in favor of the question, place an "X" in the box opposite
64 "YES". If you are opposed to the question, place an "X" in the box
65 opposite "NO".

66 (b) The ballot of submission in a municipality within a county having a
67 charter form of government with a population in excess of nine hundred thousand
68 shall contain substantially the following language:

69 Shall the municipality be authorized to impose a local use tax at
70 the same rate as the local sales tax by a vote of the governing body,
71 provided that if any local sales tax is repealed, reduced or raised
72 by voter approval, the respective local use tax shall also be
73 repealed, reduced or raised by the same action? A use tax return
74 shall not be required to be filed by persons whose purchases from
75 out-of-state vendors do not in total exceed two thousand dollars in
76 any calendar year.

77 YES NO

78 If you are in favor of the question, place an "X" in the box opposite
79 "YES". If you are opposed to the question, place an "X" in the box
80 opposite "NO".

81 (3)] The ballot of submission in any city not within a county shall contain
82 substantially the following language:

83 Shall the _____ (city name) impose a local use tax at the same rate
84 as the local sales tax, [currently at a rate of _____ (insert
85 percent)] which includes the capital improvements sales tax and
86 the transportation tax, provided that if any local sales tax is
87 repealed, reduced or raised by voter approval, the respective local
88 use tax shall also be repealed, reduced or raised by the same
89 action? [A use tax return shall not be required to be filed by
90 persons whose purchases from out-of-state vendors do not in total
91 exceed two thousand dollars in any calendar year] **Approval of
92 this question will eliminate the disparity in tax rates
93 collected by local and out-of-state sellers by imposing the
94 same rate on all sellers.**

95 YES NO

96 If you are in favor of the question, place an "X" in the box opposite
97 "YES". If you are opposed to the question, place an "X" in the box
98 opposite "NO".

99 [(4)] 2. If any of such ballots are submitted on August 6, 1996, and if a
100 majority of the votes cast on the proposal by the qualified voters voting thereon
101 are in favor of the proposal, then the ordinance or order and any amendments
102 thereto shall be in effect October 1, 1996, provided the director of revenue
103 receives notice of adoption of the local use tax on or before August 16, 1996. If
104 any of such ballots are submitted after December 31, 1996, and if a majority of
105 the votes cast on the proposal by the qualified voters voting thereon are in favor
106 of the proposal, then the ordinance or order and any amendments thereto shall
107 be in effect on the first day of the calendar quarter which begins at least
108 forty-five days after the director of revenue receives notice of adoption of the local
109 use tax. If a majority of the votes cast by the qualified voters voting are opposed
110 to the proposal, then the governing body of the county or municipality shall have
111 no power to impose the local use tax as herein authorized unless and until the
112 governing body of the county or municipality shall again have submitted another
113 proposal to authorize the governing body of the county or municipality to impose
114 the local use tax and such proposal is approved by a majority of the qualified
115 voters voting thereon.

116 3. The local use tax may be imposed at the same rate as the local sales
117 tax then currently in effect in the county or municipality upon all transactions
118 which are subject to the taxes imposed pursuant to sections 144.600 to 144.745
119 within the county or municipality adopting such tax; provided, however, that if
120 any local sales tax is repealed or the rate thereof is reduced or raised by voter
121 approval, the local use tax rate shall also be deemed to be repealed, reduced or
122 raised by the same action repealing, reducing or raising the local sales tax.

123 4. For purposes of sections 144.757 to 144.761, the use tax may be
124 referred to or described as the equivalent of a sales tax on purchases made from
125 out-of-state sellers by in-state buyers and on certain intrabusiness
126 transactions. Such a description shall not change the classification, form or
127 subject of the use tax or the manner in which it is collected.

144.759. 1. All local use taxes collected by the director of revenue
2 pursuant to sections 144.757 to 144.761 on behalf of any county or municipality,
3 less one percent for cost of collection, which shall be deposited in the state's
4 general revenue fund after payment of premiums for surety bonds as provided in
5 section 32.087 shall be deposited with the state treasurer in a local use tax trust
6 fund, which fund shall be separate and apart from the local sales tax trust
7 funds. The moneys in such local use tax trust fund shall not be deemed to be

8 state funds and shall not be commingled with any funds of the state. The
9 director of revenue shall keep accurate records of the amount of money in the
10 trust fund which was collected in each county or municipality imposing a local
11 use tax, and the records shall be open to the inspection of officers of the county
12 or municipality and to the public. No later than the tenth day of each month, the
13 director of revenue shall distribute all moneys deposited in the trust fund during
14 the preceding month, except as provided in subsection 2 of this section, to the
15 county or municipality treasurer, or such other officer as may be designated by
16 the county or municipality ordinance or order, of each county or municipality
17 imposing the tax authorized by sections 144.757 to 144.761, the sum due the
18 county or municipality as certified by the director of revenue.

19 **2. Subject to the provisions of subsection 1 of this section,** the
20 director of revenue shall distribute all moneys which would be due any county
21 having a charter form of government and having a population of nine hundred
22 thousand or more to the county treasurer or such other officer as may be
23 designated by county ordinance, who shall distribute [such moneys as follows:
24 the] **that** portion of the use [tax] **taxes** imposed by the county [which equals
25 one-half the rate of sales tax in effect for such county shall be disbursed to the
26 county treasurer for expenditure throughout the county for public safety, parks,
27 and job creation, subject to any qualifications and regulations adopted by
28 ordinance of the county. Such ordinance shall require an audited comprehensive
29 financial report detailing the management and use of such funds each year. Such
30 ordinance shall also require that the county and the municipal league of the
31 county jointly prepare a strategy to guide expenditures of funds and conduct an
32 annual review of the strategy. The treasurer or such other officer as may be
33 designated by county ordinance shall distribute one-third of the balance to the
34 county and to each city, town and village in group B according to section 66.620
35 as modified by this section, a portion of the two-thirds remainder of such balance
36 equal to the percentage ratio that the population of each such city, town or village
37 bears to the total population of all such group B cities, towns and villages. For
38 the purposes of this subsection, population shall be determined by the last federal
39 decennial census or the latest census that determines the total population of the
40 county and all political subdivisions therein. For the purposes of this subsection,
41 each city, town or village in group A according to section 66.620 but whose per
42 capita sales tax receipts during the preceding calendar year pursuant to sections
43 66.600 to 66.630 were less than the per capita countywide average of all sales tax

44 receipts during the preceding calendar year, shall be treated as a group B city,
45 town or village until the per capita amount distributed to such city, town or
46 village equals the difference between the per capita sales tax receipts during the
47 preceding calendar year and the per capita countywide average of all sales tax
48 receipts during the preceding calendar year] **that is equal to the rate of sales**
49 **taxes imposed by the county pursuant to sections 66.600 and 67.547 to**
50 **the cities, towns, and villages within such county and to the**
51 **unincorporated area of the county on the ratio of the population that**
52 **each such city, town, village, and the unincorporated areas of the**
53 **county bears to the total population of the county.**

54 3. The director of revenue may authorize the state treasurer to make
55 refunds from the amounts in the trust fund and credited to any county or
56 municipality for erroneous payments and overpayments made, and may redeem
57 dishonored checks and drafts deposited to the credit of such counties or
58 municipalities. If any county or municipality abolishes the tax, the county or
59 municipality shall notify the director of revenue of the action at least ninety days
60 prior to the effective date of the repeal, and the director of revenue may order
61 retention in the trust fund, for a period of one year, of two percent of the amount
62 collected after receipt of such notice to cover possible refunds or overpayment of
63 the tax and to redeem dishonored checks and drafts deposited to the credit of
64 such accounts. After one year has elapsed after the effective date of abolition of
65 the tax in such county or municipality, the director of revenue shall authorize the
66 state treasurer to remit the balance in the account to the county or municipality
67 and close the account of that county or municipality. The director of revenue
68 shall notify each county or municipality of each instance of any amount refunded
69 or any check redeemed from receipts due the county or municipality.

70 4. Except as modified in sections 144.757 to 144.761, all provisions of
71 sections 32.085 and 32.087 applicable to the local sales tax, except for subsection
72 12 of section 32.087, and all provisions of sections 144.600 to 144.745 shall apply
73 to the tax imposed pursuant to sections 144.757 to 144.761, and the director of
74 revenue shall perform all functions incident to the administration, collection,
75 enforcement, and operation of the tax.

Section B. Because of the importance of ensuring the fiscal health of the
2 state in an emergency, the enactment of section 33.575 of this act is deemed
3 necessary for the immediate preservation of the public health, welfare, peace and
4 safety, and is hereby declared to be an emergency act within the meaning of the

5 constitution, and the enactment of section 33.575 of this act shall be in full force
6 and effect upon its passage and approval.

Section C. The repeal and reenactment of sections 144.605 and 144.759
2 and the enactment of section 144.752 of this act shall become effective January
3 1, 2022.

✓

Unofficial

Bill

Copy