

SENATE AMENDMENT NO. _____

Offered by _____ of _____

Amend SS/SCS/Senate Bill No. 262, Page 1, Section title, Line 4,

2 by striking "transportation funding" and inserting in lieu
3 thereof the following: "taxation, with an emergency clause
4 for certain sections"; and

5 Further amend said bill, Page 16, Section 142.1000,
6 Line 112, by inserting after all of said line the following:

7 "144.020. 1. A tax is hereby levied and imposed for
8 the privilege of titling new and used motor vehicles,
9 trailers, boats, and outboard motors purchased or acquired
10 for use on the highways or waters of this state which are
11 required to be titled under the laws of the state of
12 Missouri and, except as provided in subdivision (9) of this
13 subsection, upon all sellers for the privilege of engaging
14 in the business of selling tangible personal property or
15 rendering taxable service at retail in this state. The rate
16 of tax shall be as follows:

17 (1) Upon every retail sale in this state of tangible
18 personal property, excluding motor vehicles, trailers,
19 motorcycles, mopeds, motortricycles, boats and outboard
20 motors required to be titled under the laws of the state of
21 Missouri and subject to tax under subdivision (9) of this
22 subsection, a tax equivalent to four percent of the purchase
23 price paid or charged, or in case such sale involves the
24 exchange of property, a tax equivalent to four percent of
25 the consideration paid or charged, including the fair market

26 value of the property exchanged at the time and place of the
27 exchange, except as otherwise provided in section 144.025;

28 (2) A tax equivalent to four percent of the amount
29 paid for admission and seating accommodations, or fees paid
30 to, or in any place of amusement, entertainment or
31 recreation, games and athletic events, except amounts paid
32 for any instructional class;

33 (3) A tax equivalent to four percent of the basic rate
34 paid or charged on all sales of electricity or electrical
35 current, water and gas, natural or artificial, to domestic,
36 commercial or industrial consumers;

37 (4) (a) A tax equivalent to four percent on the basic
38 rate paid or charged on all sales of local and long distance
39 telecommunications service to telecommunications subscribers
40 and to others through equipment of telecommunications
41 subscribers for the transmission of messages and
42 conversations and upon the sale, rental or leasing of all
43 equipment or services pertaining or incidental thereto;
44 except that, the payment made by telecommunications
45 subscribers or others, pursuant to section 144.060, and any
46 amounts paid for access to the internet or interactive
47 computer services shall not be considered as amounts paid
48 for telecommunications services;

49 (b) If local and long distance telecommunications
50 services subject to tax under this subdivision are
51 aggregated with and not separately stated from charges for
52 telecommunications service or other services not subject to
53 tax under this subdivision, including, but not limited to,
54 interstate or international telecommunications services,
55 then the charges for nontaxable services may be subject to
56 taxation unless the telecommunications provider can identify
57 by reasonable and verifiable standards such portion of the
58 charges not subject to such tax from its books and records

59 that are kept in the regular course of business, including,
60 but not limited to, financial statement, general ledgers,
61 invoice and billing systems and reports, and reports for
62 regulatory tariffs and other regulatory matters;

63 (c) A telecommunications provider shall notify the
64 director of revenue of its intention to utilize the
65 standards described in paragraph (b) of this subdivision to
66 determine the charges that are subject to sales tax under
67 this subdivision. Such notification shall be in writing and
68 shall meet standardized criteria established by the
69 department regarding the form and format of such notice;

70 (d) The director of revenue may promulgate and enforce
71 reasonable rules and regulations for the administration and
72 enforcement of the provisions of this subdivision. Any rule
73 or portion of a rule, as that term is defined in section
74 536.010, that is created under the authority delegated in
75 this section shall become effective only if it complies with
76 and is subject to all of the provisions of chapter 536 and,
77 if applicable, section 536.028. This section and chapter
78 536 are nonseverable and if any of the powers vested with
79 the general assembly pursuant to chapter 536 to review, to
80 delay the effective date, or to disapprove and annul a rule
81 are subsequently held unconstitutional, then the grant of
82 rulemaking authority and any rule proposed or adopted after
83 August 28, 2019, shall be invalid and void;

84 (5) A tax equivalent to four percent of the basic rate
85 paid or charged for all sales of services for transmission
86 of messages of telegraph companies;

87 (6) A tax equivalent to four percent on the amount of
88 sales or charges for all rooms, meals and drinks furnished
89 at any hotel, motel, tavern, inn, restaurant, eating house,
90 drugstore, dining car, tourist cabin, tourist camp or other
91 place in which rooms, meals or drinks are regularly served

to the public. The tax imposed under this subdivision shall not apply to:

(a) Any automatic mandatory gratuity for a large group imposed by a restaurant when such gratuity is reported as employee tip income and the restaurant withholds income tax under section 143.191 on such gratuity; or

(b) The amount of sales or charges for the rental of any rooms not used for overnight accommodation for transient guests.

(7) A tax equivalent to four percent of the amount paid or charged for intrastate tickets by every person operating a railroad, sleeping car, dining car, express car, boat, airplane and such buses and trucks as are licensed by the division of motor carrier and railroad safety of the department of economic development of Missouri, engaged in the transportation of persons for hire;

(8) A tax equivalent to four percent of the amount paid or charged for rental or lease of tangible personal property, provided that if the lessor or renter of any tangible personal property had previously purchased the property under the conditions of sale at retail or leased or rented the property and the tax was paid at the time of purchase, lease or rental, the lessor, sublessor, renter or subrenter shall not apply or collect the tax on the subsequent lease, sublease, rental or subrental receipts from that property. The purchase, rental or lease of motor vehicles, trailers, motorcycles, mopeds, motortricycles, boats, and outboard motors shall be taxed and the tax paid as provided in this section and section 144.070. In no event shall the rental or lease of boats and outboard motors be considered a sale, charge, or fee to, for or in places of amusement, entertainment or recreation nor shall any such rental or lease be subject to any tax imposed to, for, or in

such places of amusement, entertainment or recreation.
Rental and leased boats or outboard motors shall be taxed
under the provisions of the sales tax laws as provided under
such laws for motor vehicles and trailers. Tangible
personal property which is exempt from the sales or use tax
under section 144.030 upon a sale thereof is likewise exempt
from the sales or use tax upon the lease or rental thereof;

(9) A tax equivalent to four percent of the purchase
price, as defined in section 144.070, of new and used motor
vehicles, trailers, boats, and outboard motors purchased or
acquired for use on the highways or waters of this state
which are required to be registered under the laws of the
state of Missouri. This tax is imposed on the person
titling such property, and shall be paid according to the
procedures in section 144.440.

2. All tickets sold which are sold under the
provisions of sections 144.010 to 144.525 which are subject
to the sales tax shall have printed, stamped or otherwise
endorsed thereon, the words "This ticket is subject to a
sales tax."

144.190. 1. If a tax has been incorrectly computed by
reason of a clerical error or mistake on the part of the
director of revenue, such fact shall be set forth in the
records of the director of revenue, and the amount of the
overpayment shall be credited on any taxes then due from the
person legally obligated to remit the tax under chapter 144,
and the balance shall be refunded to the person legally
obligated to remit the tax, such person's administrators or
executors, as provided for in section 144.200.

2. If any tax, penalty or interest has been paid more
than once, or has been erroneously or illegally collected,
or has been erroneously or illegally computed, such sum
shall be credited on any taxes then due from the person

158 legally obligated to remit the tax under chapter 144, and
159 the balance, with interest as determined by section 32.065,
160 shall be refunded to the person legally obligated to remit
161 the tax, but no such credit or refund shall be allowed
162 unless duplicate copies of a claim for refund are filed
163 within ten years from date of overpayment.

164 3. Every claim for refund must be in writing and
165 signed by the applicant, and must state the specific grounds
166 upon which the claim is founded. Any refund or any portion
167 thereof which is erroneously made, and any credit or any
168 portion thereof which is erroneously allowed, may be
169 recovered in any action brought by the director of revenue
170 against the person legally obligated to remit the tax. In
171 the event that a tax has been illegally imposed against a
172 person legally obligated to remit the tax, the director of
173 revenue shall authorize the cancellation of the tax upon the
174 director's record.

175 4. Notwithstanding the provisions of section 32.057, a
176 purchaser that originally paid sales or use tax to a vendor
177 or seller may submit a refund claim directly to the director
178 of revenue for such sales or use taxes paid to such vendor
179 or seller and remitted to the director, provided no sum
180 shall be refunded more than once, any such claim shall be
181 subject to any offset, defense, or other claim the director
182 otherwise would have against either the purchaser or vendor
183 or seller, and such claim for refund is accompanied by
184 either:

185 (1) A notarized assignment of rights statement by the
186 vendor or seller to the purchaser allowing the purchaser to
187 seek the refund on behalf of the vendor or seller. An
188 assignment of rights statement shall contain the Missouri
189 sales or use tax registration number of the vendor or
190 seller, a list of the transactions covered by the

191 assignment, the tax periods and location for which the
192 original sale was reported to the director of revenue by the
193 vendor or seller, and a notarized statement signed by the
194 vendor or seller affirming that the vendor or seller has not
195 received a refund or credit, will not apply for a refund or
196 credit of the tax collected on any transactions covered by
197 the assignment, and authorizes the director to amend the
198 seller's return to reflect the refund; or

199 (2) In the event the vendor or seller fails or refuses
200 to provide an assignment of rights statement within sixty
201 days from the date of such purchaser's written request to
202 the vendor or seller, or the purchaser is not able to locate
203 the vendor or seller or the vendor or seller is no longer in
204 business, the purchaser may provide the director a notarized
205 statement confirming the efforts that have been made to
206 obtain an assignment of rights from the vendor or seller.
207 Such statement shall contain a list of the transactions
208 covered by the assignment, the tax periods and location for
209 which the original sale was reported to the director of
210 revenue by the vendor or seller.

211 The director shall not require such vendor, seller, or
212 purchaser to submit amended returns for refund claims
213 submitted under the provisions of this subsection.
214 Notwithstanding the provisions of section 32.057, if the
215 seller is registered with the director for collection and
216 remittance of sales tax, the director shall notify the
217 seller at the seller's last known address of the claim for
218 refund. If the seller objects to the refund within thirty
219 days of the date of the notice, the director shall not pay
220 the refund. If the seller agrees that the refund is
221 warranted or fails to respond within thirty days, the
222 director may issue the refund and amend the seller's return
223 to reflect the refund. For purposes of section 32.069, the

refund claim shall not be considered to have been filed until the seller agrees that the refund is warranted or thirty days after the date the director notified the seller and the seller failed to respond.

5. Notwithstanding the provisions of section 32.057, when a vendor files a refund claim on behalf of a purchaser and such refund claim is denied by the director, notice of such denial and the reason for the denial shall be sent by the director to the vendor and each purchaser whose name and address is submitted with the refund claim form filed by the vendor. A purchaser shall be entitled to appeal the denial of the refund claim within sixty days of the date such notice of denial is mailed by the director as provided in section 144.261. The provisions of this subsection shall apply to all refund claims filed after August 28, 2012. The provisions of this subsection allowing a purchaser to appeal the director's decision to deny a refund claim shall also apply to any refund claim denied by the director on or after January 1, 2007, if an appeal of the denial of the refund claim is filed by the purchaser no later than September 28, 2012, and if such claim is based solely on the issue of the exemption of the electronic transmission or delivery of computer software.

6. Notwithstanding the provisions of this section, the director of revenue shall authorize direct-pay agreements to purchasers which have annual purchases in excess of seven hundred fifty thousand dollars pursuant to rules and regulations adopted by the director of revenue. For the purposes of such direct-pay agreements, the taxes authorized under chapters 66, 67, 70, 92, 94, 162, 190, 238, 321, and 644 shall be remitted based upon the location of the place of business of the purchaser.

256 7. Special rules applicable to error corrections
257 requested by customers of mobile telecommunications service
258 are as follows:

259 (1) For purposes of this subsection, the terms
260 "customer", "home service provider", "place of primary use",
261 "electronic database", and "enhanced zip code" shall have
262 the same meanings as defined in the Mobile
263 Telecommunications Sourcing Act incorporated by reference in
264 section 144.013;

265 (2) Notwithstanding the provisions of this section, if
266 a customer of mobile telecommunications services believes
267 that the amount of tax, the assignment of place of primary
268 use or the taxing jurisdiction included on a billing is
269 erroneous, the customer shall notify the home service
270 provider, in writing, within three years from the date of
271 the billing statement. The customer shall include in such
272 written notification the street address for the customer's
273 place of primary use, the account name and number for which
274 the customer seeks a correction of the tax assignment, a
275 description of the error asserted by the customer and any
276 other information the home service provider reasonably
277 requires to process the request;

278 (3) Within sixty days of receiving the customer's
279 notice, the home service provider shall review its records
280 and the electronic database or enhanced zip code to
281 determine the customer's correct taxing jurisdiction. If
282 the home service provider determines that the review shows
283 that the amount of tax, assignment of place of primary use
284 or taxing jurisdiction is in error, the home service
285 provider shall correct the error and, at its election,
286 either refund or credit the amount of tax erroneously
287 collected to the customer for a period of up to three years
288 from the last day of the home service provider's sixty-day

review period. If the home service provider determines that the review shows that the amount of tax, the assignment of place of primary use or the taxing jurisdiction is correct, the home service provider shall provide a written explanation of its determination to the customer.

8. For all refund claims submitted to the department of revenue on or after September 1, 2003, notwithstanding any provision of this section to the contrary, if a person legally obligated to remit the tax levied under chapter 144 has received a refund of such taxes for a specific issue and submits a subsequent claim for refund of such taxes on the same issue for a tax period beginning on or after the date the original refund check issued to such person, no refund shall be allowed. This subsection shall not apply and a refund shall be allowed if the refund claim is filed by a purchaser under the provisions of subsection 4 of this section, the refund claim is for use tax remitted by the purchaser, or an additional refund claim is filed by a person legally obligated to remit the tax due to any of the following:

- (1) Receipt of additional information or an exemption certificate from the purchaser of the item at issue;
- (2) A decision of a court of competent jurisdiction or the administrative hearing commission; or
- (3) Changes in regulations or policy by the department of revenue.

9. Notwithstanding any provision of law to the contrary, the director of revenue shall respond to a request for a binding letter ruling filed in accordance with section 536.021 within sixty days of receipt of such request. If the director of revenue fails to respond to such letter ruling request within sixty days of receipt by the director, the director of revenue shall be barred from pursuing

collection of any assessment of sales or use tax with respect to the issue which is the subject of the letter ruling request. For purposes of this subsection, the term "letter ruling" means a written interpretation of law by the director to a specific set of facts provided by a specific taxpayer or his or her agent.

10. If any tax was paid more than once, was incorrectly collected, or was incorrectly computed, such sum shall be credited on any taxes then due from the person legally obligated to remit the tax under chapter 144 against any deficiency or tax due discovered through an audit of the person by the department of revenue through adjustment during the same tax filing period for which the audit applied.

11. Notwithstanding any provision of law to the contrary, the department of revenue shall allow refund claims until July 1, 2026, from businesses and individuals that paid sales and use tax assessments as a result of an audit by the department of revenue between August 28, 2005, and August 28, 2015, when the department expanded its interpretation of taxable items and the taxpayer did not collect the tax from the taxpayer's customers. The refund shall be allowed in an amount equal to the amount actually paid on such assessment by the taxpayer, plus interest calculated using the Applicable Federal Rates as published by the Internal Revenue Service under 26 U.S.C. Section 274. The total amount of refund claims paid under this subsection shall not exceed one hundred thousand dollars and shall be issued on a first-come, first-served basis. If the total amount of refund claims exceeds one hundred thousand dollars, the department shall request an appropriation from the general assembly in later fiscal years to satisfy such unpaid claims.

12. (1) Notwithstanding any provision of law to the contrary, and in addition to the refund claims allowed under subsection 11 of this section, the department of revenue shall allow refund claims until July 1, 2026, from businesses and individuals that offered wedding venues and that paid sales and use tax assessments relating to those wedding venues as a result of an audit by the department of revenue between January 1, 2018, and October 1, 2019. For the purposes of this subsection, the department shall allow refund claims from a taxpayer regardless of whether the taxpayer's business has been sold. The refund shall be allowed in an amount equal to the amount that was actually paid by the taxpayer on the portion of the assessment that directly relates to the taxpayer's wedding venue business, plus interest calculated using the Applicable Federal Rates as published by the Internal Revenue Service under 26 U.S.C. Section 1274. The total amount of refund claims paid under this subsection shall not exceed two hundred thousand dollars and shall be issued on a first-come, first-served basis. If the total amount of refund claims exceeds two hundred thousand dollars, the department shall request an appropriation from the general assembly in later fiscal years to satisfy such unpaid claims.

(2) Notwithstanding any provision of law to the contrary, in any action in which a taxpayer incurs attorney's fees in a legal proceeding relating to a tax assessment or audit of the taxpayer's wedding venue business, during the time period and as otherwise described under subdivision (1) of this subsection, the taxpayer shall be entitled to recover the full amount of such attorney's fees.

Section B. Because of the importance of sales tax relief, the repeal and reenactment of sections 144.020 and

388 144.190 of this act is deemed necessary for the immediate
389 preservation of the public health, welfare, peace, and
390 safety, and is hereby declared to be an emergency act within
391 the meaning of the constitution, and the repeal and
392 reenactment of sections 144.020 and 144.190 of this act
393 shall be in full force and effect upon its passage and
394 approval."; and

395 Further amend the title and enacting clause accordingly.