

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

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

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

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

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

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

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

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

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

145 144.190. 1. If a tax has been incorrectly computed by
146 reason of a clerical error or mistake on the part of the
147 director of revenue, such fact shall be set forth in the
148 records of the director of revenue, and the amount of the
149 overpayment shall be credited on any taxes then due from the
150 person legally obligated to remit the tax under chapter 144,
151 and the balance shall be refunded to the person legally
152 obligated to remit the tax, such person's administrators or
153 executors, as provided for in section 144.200.

154 2. If any tax, penalty or interest has been paid more
155 than once, or has been erroneously or illegally collected,
156 or has been erroneously or illegally computed, such sum
157 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

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

228 5. Notwithstanding the provisions of section 32.057,
229 when a vendor files a refund claim on behalf of a purchaser
230 and such refund claim is denied by the director, notice of
231 such denial and the reason for the denial shall be sent by
232 the director to the vendor and each purchaser whose name and
233 address is submitted with the refund claim form filed by the
234 vendor. A purchaser shall be entitled to appeal the denial
235 of the refund claim within sixty days of the date such
236 notice of denial is mailed by the director as provided in
237 section 144.261. The provisions of this subsection shall
238 apply to all refund claims filed after August 28, 2012. The
239 provisions of this subsection allowing a purchaser to appeal
240 the director's decision to deny a refund claim shall also
241 apply to any refund claim denied by the director on or after
242 January 1, 2007, if an appeal of the denial of the refund
243 claim is filed by the purchaser no later than September 28,
244 2012, and if such claim is based solely on the issue of the
245 exemption of the electronic transmission or delivery of
246 computer software.

247 6. Notwithstanding the provisions of this section, the
248 director of revenue shall authorize direct-pay agreements to
249 purchasers which have annual purchases in excess of seven
250 hundred fifty thousand dollars pursuant to rules and
251 regulations adopted by the director of revenue. For the
252 purposes of such direct-pay agreements, the taxes authorized
253 under chapters 66, 67, 70, 92, 94, 162, 190, 238, 321, and
254 644 shall be remitted based upon the location of the place
255 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

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

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

309 (1) Receipt of additional information or an exemption
310 certificate from the purchaser of the item at issue;

311 (2) A decision of a court of competent jurisdiction or
312 the administrative hearing commission; or

313 (3) Changes in regulations or policy by the department
314 of revenue.

315 9. Notwithstanding any provision of law to the
316 contrary, the director of revenue shall respond to a request
317 for a binding letter ruling filed in accordance with section
318 536.021 within sixty days of receipt of such request. If
319 the director of revenue fails to respond to such letter
320 ruling request within sixty days of receipt by the director,
321 the director of revenue shall be barred from pursuing

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

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

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

355 12. (1) Notwithstanding any provision of law to the
356 contrary, and in addition to the refund claims allowed under
357 subsection 11 of this section, the department of revenue
358 shall allow refund claims until July 1, 2026, from
359 businesses and individuals that offered wedding venues and
360 that paid sales and use tax assessments relating to those
361 wedding venues as a result of an audit by the department of
362 revenue between January 1, 2018, and October 1, 2019. For
363 the purposes of this subsection, the department shall allow
364 refund claims from a taxpayer regardless of whether the
365 taxpayer's business has been sold. The refund shall be
366 allowed in an amount equal to the amount that was actually
367 paid by the taxpayer on the portion of the assessment that
368 directly relates to the taxpayer's wedding venue business,
369 plus interest calculated using the Applicable Federal Rates
370 as published by the Internal Revenue Service under 26 U.S.C.
371 Section 1274. The total amount of refund claims paid under
372 this subsection shall not exceed two hundred thousand
373 dollars and shall be issued on a first-come, first-served
374 basis. If the total amount of refund claims exceeds two
375 hundred thousand dollars, the department shall request an
376 appropriation from the general assembly in later fiscal
377 years to satisfy such unpaid claims.

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

386 Section B. Because of the importance of sales tax
387 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.