

# 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.