

FIRST REGULAR SESSION

HOUSE BILL NO. 593

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE FITZWATER.

1457H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 32.310, 144.140, 144.605, 144.710, 144.757, and 144.759, RSMo, and to enact in lieu thereof eleven new sections relating to use taxes, with penalty provisions, an emergency clause for a certain section, and a delayed effective date for certain sections.

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

Section A. Sections 32.310, 144.140, 144.605, 144.710, 144.757, and 144.759, RSMo, are repealed and eleven new sections enacted in lieu thereof, to be known as sections 32.310, 33.575, 144.140, 144.605, 144.608, 144.637, 144.638, 144.710, 144.752, 144.757, and 144.759, to read as follows:

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

- (1) Ambulance districts;
- (2) Community improvement districts;
- (3) Fire protection districts;
- (4) Levee districts;
- (5) Library districts;
- (6) Neighborhood improvement districts;
- (7) Port authority districts;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

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

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

21 3. A political subdivision collecting sales **or use** tax listed in subsection 1 of this section
22 shall provide to the department of revenue mapping and geographic data pertaining to the
23 political subdivision's borders and jurisdictions. The political subdivision shall certify the
24 accuracy of the data by affidavit and shall provide the data in a format specified by the
25 department of revenue. Such data **relating to sales taxes** shall be sent to the department of
26 revenue by April 1, 2019, and shall be updated and sent to the department if a change in the
27 political subdivision's borders or jurisdiction occurs thereafter. **Such data relating to use taxes**
28 **shall be sent to the department of revenue by January 1, 2022. If a political subdivision**
29 **fails to provide the information required under this subsection, the department of revenue**
30 **shall use the last known sales or use tax rate for such political subdivision.**

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

33 5. By July 1, 2019, the department shall implement the mapping feature using the sales
34 tax data provided to it under subsection 3 of this section. **By August 28, 2022, the department**
35 **shall implement the mapping feature using use tax data provided to it under subsection 3**
36 **of this section.**

37 6. **If the boundaries of a political subdivision listed in subsection 1 of this section**
38 **in which a sales or use tax has been imposed are thereafter changed or altered, the political**
39 **subdivision shall forward to the director of revenue by United States registered mail or**
40 **certified mail a certified copy of the ordinance adding or detaching territory from the**
41 **political subdivision within ten days of the adoption of the ordinance. The ordinance shall**
42 **reflect the effective date of the ordinance and shall be accompanied by a map in a form to**
43 **be determined by the director of revenue. Upon receipt of the ordinance and map, the tax**
44 **imposed under the local sales tax law shall be effective in the added territory or abolished**
45 **in the detached territory on the first day of a calendar quarter after one hundred twenty**
46 **days' notice to sellers.**

33.575. 1. There is hereby created in the state treasury the "Cash Operating
2 Expense Fund", which shall consist of moneys as provided under this section. The state
3 treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180,

4 the state treasurer may approve disbursements. Notwithstanding the provisions of section
5 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall
6 not revert to the credit of the general revenue fund. The state treasurer shall invest
7 moneys in the fund in the same manner as other funds are invested. Any interest and
8 moneys earned on such investments shall be credited to the fund.

9 2. (1) The state general revenue portion from remittances made under section
10 144.752 and paragraph (e) of subdivision (3) of section 144.605, with the exception of
11 revenues collected under section 144.701 and Article IV, Sections 43(a) and 47(a) of the
12 Missouri Constitution, shall be deposited into the cash operating expense fund.

13 (2) Subject to appropriation, the following moneys may be transferred into the cash
14 operating expense fund:

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

21 (b) Any funds appropriated to the cash operating expense fund by the general
22 assembly or otherwise credited to the fund.

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

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

33 (1) Fifty percent of the excess balance shall be transferred to the credit of the state
34 road fund established under Article IV, Section 30(b) of the Missouri Constitution, for the
35 purposes of funding the governor's transportation cost-share program; and

36 (2) Fifty percent of the excess balance shall be transferred to the credit of the debt
37 retirement fund established under subsection 5 of this section, for the purpose of retiring
38 state debt.

39 **5. There is hereby created in the state treasury the "Debt Retirement Fund", which**
40 **shall consist of moneys collected under this section. The state treasurer shall be custodian**
41 **of the fund. In accordance with sections 30.170 and 30.180, the state treasurer may**
42 **approve disbursements. Notwithstanding the provisions of section 33.080 to the contrary,**
43 **any moneys remaining in the fund at the end of the biennium shall not revert to the credit**
44 **of the general revenue fund. The state treasurer shall invest moneys in the fund in the**
45 **same manner as other funds are invested. Any interest and moneys earned on such**
46 **investments shall be credited to the fund. Subject to appropriation, moneys in the fund**
47 **shall be used for the retirement of debt related to bonds issued by or on behalf of the state**
48 **and for which the office of administration is required to file annual continuing disclosure**
49 **reports on the electronic municipal market access website, or its successor.**

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

144.140. 1. From every remittance to the director of revenue made on or before the date
2 when the same becomes due, the person required to remit the same shall be entitled to deduct and
3 retain an amount equal to two percent thereof.

4 **2. The director shall provide a monetary allowance from the taxes collected to a**
5 **certified service provider under the terms of the contract signed with the certified service**
6 **provider, provided that such allowance shall be funded entirely from moneys collected by**
7 **the certified service provider.**

8 **3. Any certified service provider receiving an allowance under subsection 2 of this**
9 **section shall not be entitled to simultaneously deduct the allowance provided for under**
10 **subsection 1 of this section.**

11 **4. For the purposes of the section, "certified service provider" shall mean an agent**
12 **certified by the department of revenue to perform all the seller's sales and use tax**
13 **functions, other than the seller's obligation to remit tax on its own purchases.**

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

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

5 (2) "Certified service provider" or "CSP", an agent certified by the department
6 of revenue to perform all the seller's sales and use tax functions other than the seller's
7 obligation to remit tax on its own purchases;

8 (3) "Engages in business activities within this state" includes:

9 (a) Maintaining or having a franchisee or licensee operating under the seller's trade name
10 in this state if the franchisee or licensee is required to collect sales tax pursuant to sections
11 144.010 to 144.525;

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

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

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

18 b. Maintains an office, distribution facility, warehouse, or storage place, or similar place
19 of business in the state to facilitate the delivery of property or services sold by the vendor to the
20 vendor's customers;

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

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

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

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

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

39 ~~_____ (f) The presumption in paragraph (e) may be rebutted by submitting proof that the~~
40 ~~residents with whom the vendor has an agreement did not engage in any activity within the state~~
41 ~~that was significantly associated with the vendor's ability to establish or maintain the vendor's~~
42 ~~market in the state during the preceding twelve months. Such proof may consist of sworn written~~
43 ~~statements from all of the residents with whom the vendor has an agreement stating that they did~~
44 ~~not engage in any solicitation in the state on behalf of the vendor during the preceding year~~

45 ~~provided that such statements were provided and obtained in good faith]~~ **Selling tangible**
46 **personal property for delivery into this state, provided the seller's gross receipts from**
47 **delivery of tangible personal property into this state in the previous calendar year or**
48 **current calendar year exceeds one hundred thousand dollars. For the purposes of**
49 **calculating a seller's gross receipts under this paragraph, following the close of each**
50 **calendar quarter, a seller shall determine whether the seller met the requirements under**
51 **this paragraph during the twelve-month period ending on the last day of the preceding**
52 **calendar quarter. If the seller met such requirements for any such twelve-month period,**
53 **such seller shall collect and remit the tax as provided under section 144.635 for a period**
54 **of no less than twelve months, beginning no more than three months following the close of**
55 **the preceding calendar quarter, and shall continue to collect and remit the tax for as long**
56 **as the seller is engaged in business activities within this state, as provided for under this**
57 **paragraph, or otherwise maintains a substantial nexus with this state;**

58 ~~[(3)]~~ **(4)** "Maintains a place of business in this state" includes maintaining, occupying,
59 or using, permanently or temporarily, directly or indirectly, by whatever name called, an office,
60 place of distribution, sales or sample room or place, warehouse or storage place, or other place
61 of business in this state, whether owned or operated by the vendor or by any other person other
62 than a common carrier acting in its capacity as such;

63 ~~[(4)]~~ **(5)** "Person", any individual, firm, copartnership, joint venture, association,
64 corporation, municipal or private, and whether organized for profit or not, state, county, political
65 subdivision, state department, commission, board, bureau or agency, except the state
66 transportation department, estate, trust, business trust, receiver or trustee appointed by the state
67 or federal court, syndicate, or any other group or combination acting as a unit, and the plural as
68 well as the singular number;

69 ~~[(5)]~~ **(6)** "Purchase", the acquisition of the ownership of, or title to, tangible personal
70 property, through a sale, as defined herein, for the purpose of storage, use or consumption in this
71 state;

72 ~~[(6)]~~ **(7)** "Purchaser", any person who is the recipient for a valuable consideration of any
73 sale of tangible personal property acquired for use, storage or consumption in this state;

74 ~~[(7)]~~ **(8)** "Sale", any transfer, barter or exchange of the title or ownership of tangible
75 personal property, or the right to use, store or consume the same, for a consideration paid or to
76 be paid, and any transaction whether called leases, rentals, bailments, loans, conditional sales or
77 otherwise, and notwithstanding that the title or possession of the property or both is retained for
78 security. For the purpose of this law the place of delivery of the property to the purchaser, user,
79 storer or consumer is deemed to be the place of sale, whether the delivery be by the vendor or

80 by common carriers, private contractors, mails, express, agents, salesmen, solicitors, hawkers,
81 representatives, consignors, peddlers, canvassers or otherwise;

82 ~~[(8)]~~ (9) "Sales price", the consideration including the charges for services, except
83 charges incident to the extension of credit, paid or given, or contracted to be paid or given, by
84 the purchaser to the vendor for the tangible personal property, including any services that are a
85 part of the sale, valued in money, whether paid in money or otherwise, and any amount for which
86 credit is given to the purchaser by the vendor, without any deduction therefrom on account of the
87 cost of the property sold, the cost of materials used, labor or service cost, losses or any other
88 expenses whatsoever, except that cash discounts allowed and taken on sales shall not be included
89 and "sales price" shall not include the amount charged for property returned by customers upon
90 rescission of the contract of sales when the entire amount charged therefor is refunded either in
91 cash or credit or the amount charged for labor or services rendered in installing or applying the
92 property sold, the use, storage or consumption of which is taxable pursuant to sections 144.600
93 to 144.745. The sales price shall not include usual and customary delivery charges that are
94 separately stated. In determining the amount of tax due pursuant to sections 144.600 to 144.745,
95 any charge incident to the extension of credit shall be specifically exempted;

96 ~~[(9)]~~ (10) "Selling agent", every person acting as a representative of a principal, when
97 such principal is not registered with the director of revenue of the state of Missouri for the
98 collection of the taxes imposed pursuant to sections 144.010 to 144.525 or sections 144.600 to
99 144.745 and who receives compensation by reason of the sale of tangible personal property of
100 the principal, if such property is to be stored, used, or consumed in this state;

101 ~~[(10)]~~ (11) "Storage", any keeping or retention in this state of tangible personal property
102 purchased from a vendor, except property for sale or property that is temporarily kept or retained
103 in this state for subsequent use outside the state;

104 ~~[(11)]~~ (12) "Tangible personal property", all items subject to the Missouri sales tax as
105 provided in subdivisions (1) and (3) of subsection 1 of section 144.020;

106 ~~[(12)]~~ (13) "Taxpayer", any person remitting the tax or who should remit the tax levied
107 by sections 144.600 to 144.745;

108 ~~[(13)]~~ (14) "Use", the exercise of any right or power over tangible personal property
109 incident to the ownership or control of that property, except that it does not include the
110 temporary storage of property in this state for subsequent use outside the state, or the sale of the
111 property in the regular course of business;

112 ~~[(14)]~~ (15) "Vendor", every person engaged in making sales of tangible personal
113 property by mail order, by advertising, by agent or peddling tangible personal property, soliciting
114 or taking orders for sales of tangible personal property, for storage, use or consumption in this
115 state, all salesmen, solicitors, hawkers, representatives, consignees, peddlers or canvassers, as

116 agents of the dealers, distributors, consignors, supervisors, principals or employers under whom
117 they operate or from whom they obtain the tangible personal property sold by them, and every
118 person who maintains a place of business in this state, maintains a stock of goods in this state,
119 or engages in business activities within this state and every person who engages in this state in
120 the business of acting as a selling agent for persons not otherwise vendors as defined in this
121 subdivision. Irrespective of whether they are making sales on their own behalf or on behalf of
122 the dealers, distributors, consignors, supervisors, principals or employers, they must be regarded
123 as vendors and the dealers, distributors, consignors, supervisors, principals or employers must
124 be regarded as vendors for the purposes of sections 144.600 to 144.745.

**144.608. 1. For the purpose of more efficiently securing the payment of and
2 accounting for the tax collected and remitted by retailers and vendors, the department is
3 hereby authorized:**

4 **(1) To consult, contract, and work jointly with the streamlined sales and use tax
5 agreement's governing board to allow sellers to use the governing board's certified service
6 providers and central registration system services; or**

7 **(2) To consult, contract, and work with certified service providers independently.
8 The department is authorized to determine the method and amount of compensation to be
9 provided to certified service providers by this state for the services of such certified service
10 providers to certain sellers, provided that no certified service provider or seller utilizing
11 a certified service provider shall be entitled to the deduction provided in subsection 1 of
12 section 144.140.**

13 **2. The director of revenue shall promulgate and enforce reasonable rules and
14 regulations for the administration of the provisions of this chapter relating to the collection
15 and remittance of sales and use tax by certified service providers. Any rule or portion of
16 a rule, as that term is defined in section 536.010, that is created under the authority
17 delegated in this section shall become effective only if it complies with and is subject to all
18 of the provisions of chapter 536 and, if applicable, section 536.028. This section and
19 chapter 536 are nonseverable, and if any of the powers vested with the general assembly
20 pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul
21 a rule are subsequently held unconstitutional, then the grant of rulemaking authority and
22 any rule proposed or adopted after January 1, 2023, shall be invalid and void.**

**144.637. 1. The director of revenue shall provide and maintain a database that
2 describes boundary changes for all taxing jurisdictions and the effective dates of such
3 changes for the use of vendors collecting the tax imposed under sections 144.600 to 144.745.
4 The database shall be in the same approved format as the database records under this
5 section and meet the requirements developed under the federal Mobile**

6 Telecommunications Sourcing Act, 4 U.S.C. Section 119(a). If the director certifies an
7 address-based database provided by a third party, a vendor may use such database in
8 place of the database provided for in this subsection.

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

14 **3. The director shall provide and maintain address-based boundary database**
15 **records for assigning taxing jurisdictions and associated rates. The database records shall**
16 **meet the requirements developed under the federal Mobile Telecommunications Sourcing**
17 **Act, 4 U.S.C. Section 119(a). If a vendor is unable to determine the applicable rate and**
18 **jurisdiction using an address-based database record after exercising due diligence, the**
19 **vendor may apply the nine-digit zip code designation applicable to a purchase. If a**
20 **nine-digit zip code designation is not available for a street address or if a vendor is unable**
21 **to determine the nine-digit zip code designation applicable to a purchase after exercising**
22 **due diligence to determine the designation, the vendor may apply the rate for the five-digit**
23 **zip code area. For the purposes of this section, there shall be a rebuttable presumption**
24 **that a vendor has exercised due diligence if the vendor has attempted to determine the tax**
25 **rate and jurisdiction by utilizing software approved by the director and makes the**
26 **assignment from the address and zip code information applicable to the purchase.**

27 **4. The electronic database and database records provided for in subsections 1 to**
28 **3 of this section shall be in downloadable format as determined by the director. The**
29 **database and database records may be directly provided by the director or provided by a**
30 **third party as designated by the director. The database and database records shall be**
31 **provided at no cost to users. The provisions of subsection 3 of this section shall not apply**
32 **if the purchased product is received by the purchaser at the business location of the**
33 **vendor.**

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

144.638. 1. The director shall provide and maintain a taxability matrix. The state's
2 **entries in the matrix shall be provided and maintained by the director in a database that**
3 **is in a downloadable format.**

4 **2. The director shall provide reasonable notice of changes in the taxability of the**
5 **products or services listed in the taxability matrix.**

6 **3. A seller or CSP shall be relieved from liability to this state or any local taxing**
7 **jurisdiction for having charged and collected the incorrect amount of state or local sales**
8 **or use tax resulting from such seller's or CSP's reliance upon erroneous data provided or**
9 **approved by the director in the taxability matrix, and a seller shall be relieved from**
10 **liability for erroneous returns made by a CSP on behalf of the seller.**

144.710. [~~From every remittance made by a vendor as required by sections 144.600 to~~
2 ~~144.745 to the director of revenue on or before the date when the remittance becomes due, the~~
3 ~~vendor may deduct and retain an amount equal to two percent thereof.] **The provisions of**
4 **section 144.140 relating to the allowance for timely remittance of payment shall be**
5 **applicable to the tax levied under sections 144.600 to 144.745.**~~

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

2 **(1) "Marketplace facilitator", a person that:**

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

6 **(b) Either directly or indirectly through agreements or arrangements with third**
7 **parties collects payment from the purchaser and transmits such payment to the**
8 **marketplace seller, regardless of whether such person receives compensation or other**
9 **consideration in exchange for such person's services.**

10
11 **A "marketplace facilitator" is a seller and shall comply with the provisions of this chapter.**
12 **A "marketplace facilitator" shall not include a person who provides internet advertising**
13 **services or product listing and who does not collect payment from the purchaser and**
14 **transmit payment to the marketplace seller, and shall not include a person with respect to**
15 **the provision of travel agency services or the operation of a marketplace or that portion**
16 **of a marketplace that enables consumers to receive travel agency services. For the**
17 **purposes of this subdivision, "travel agency services" means facilitating, for a commission,**
18 **fee, or other consideration, vacation or travel packages; rental car or other travel**
19 **reservations; tickets for domestic or foreign travel by air, rail, ship, bus, or other medium**
20 **of transportation; or hotel or other lodging accommodations;**

21 **(2) "Marketplace seller", a seller that makes sales through any electronic**
22 **marketplace operated by a marketplace facilitator;**

23 **(3) "Person", any individual; firm; copartnership; joint venture; association;**
24 **corporation, municipal or private, whether organized for profit or not; state; county;**
25 **political subdivision; state department; commission; board; bureau or agency, except the**
26 **department of transportation; estate; trust; business trust; receiver or trustee appointed**

27 by the state or a federal court; syndicate; or any other group or combination acting as a
28 unit;

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

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

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

38 2. (1) Beginning January 1, 2023, marketplace facilitators that engage in business
39 activities within this state shall register with the department to collect and remit use tax,
40 as applicable, on sales made through the marketplace facilitator's marketplace by or on
41 behalf of a marketplace seller that are delivered into the state, whether by the marketplace
42 facilitator or another person, and regardless of whether the marketplace seller for whom
43 sales are facilitated possesses a retail sales license or would have been required to collect
44 use tax had the sale not been facilitated by the marketplace facilitator. Such retail sales
45 shall include those made directly by the marketplace facilitator and shall also include those
46 retail sales made by marketplace sellers through the marketplace facilitator's marketplace.
47 The collection and reporting requirements of this subsection shall not apply to retail sales
48 other than those made through a marketplace facilitator's marketplace. Nothing in this
49 section shall be construed to limit or prohibit the ability of a marketplace facilitator and
50 a marketplace seller to enter into agreements regarding the fulfillment of the requirements
51 of this chapter.

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

56 3. Marketplace facilitators that are required to collect use tax under this section
57 shall report and remit the tax separately from any sales and use tax collected by the
58 marketplace facilitator, or by affiliates of the marketplace facilitator, that the marketplace
59 facilitator would have been required to collect and remit under the provisions of this
60 chapter prior to January 1, 2023. Such tax shall be reported and remitted as determined
61 by the department. Marketplace facilitators shall maintain records of all sales delivered
62 to a location in the state, including electronic or paper copies of invoices showing the

63 purchaser, address, purchase amount, and use tax collected. Such records shall be made
64 available for review and inspection upon request by the department.

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

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

70 6. Any taxpayer who remits use tax under this section shall be entitled to refunds
71 or credits to the same extent and in the same manner provided for in section 144.190 for
72 taxes collected and remitted under this section. Nothing in this section shall relieve a
73 purchaser of the obligation to remit use tax for any retail sale taxable under this chapter
74 for which a marketplace facilitator or marketplace seller does not collect and remit the use
75 tax.

76 7. Except as provided under subsections 8 and 9 of this section, marketplace
77 facilitators shall be subject to the penalty provisions, procedures, and reporting
78 requirements provided under the provisions of this chapter.

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

84 9. A marketplace facilitator shall be relieved from liability under this section for
85 the failure to collect and remit the correct amount of sales or use tax on retail sales
86 facilitated for marketplace sellers to the extent that the marketplace facilitator
87 demonstrates to the satisfaction of the department that the error was due to insufficient or
88 incorrect information given to the marketplace facilitator by the marketplace seller;
89 provided, however, that a marketplace facilitator shall not be relieved of liability under
90 this paragraph if the marketplace facilitator and the marketplace seller are affiliated.

91 10. For the purposes of this section, a marketplace facilitator shall not include a
92 third party financial institution appointed by a merchant or a marketplace facilitator to
93 handle various forms of payment transactions, such as processing credit cards and debit
94 cards, and whose sole activity with respect to marketplace sales is to facilitate the payment
95 transactions between two parties.

96 11. The state general revenue portion from remittances made under this section,
97 with the exception of revenues collected under section 144.701 and Article IV, Sections

98 **43(a) and 47(a) of the Missouri Constitution, shall be deposited to the credit of the cash**
 99 **operating expense fund established under section 33.575.**

100 **12. The department of revenue may promulgate rules to implement the provisions**
 101 **of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that**
 102 **is created under the authority delegated in this section shall become effective only if it**
 103 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**
 104 **section 536.028. This section and chapter 536 are nonseverable, and if any of the powers**
 105 **vested with the general assembly pursuant to chapter 536 to review, to delay the effective**
 106 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**
 107 **grant of rulemaking authority and any rule proposed or adopted after January 1, 2023,**
 108 **shall be invalid and void.**

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

19 ~~_____2.]~~ (1) The ballot of submission~~], except for counties and municipalities described in~~
 20 ~~subdivisions (2) and (3) of this subsection,]~~ shall contain substantially the following language:

21 Shall the _____ (county or municipality's name) impose a local use tax at the
 22 same rate as the total local sales tax rate, [currently _____ (insert percent);]
 23 provided that if the local sales tax rate is reduced or raised by voter approval, the
 24 local use tax rate shall also be reduced or raised by the same action? ~~[A use tax~~
 25 ~~return shall not be required to be filed by persons whose purchases from~~

26 ~~out-of-state vendors do not in total exceed two thousand dollars in any calendar~~
 27 ~~year.] Approval of this question will eliminate the disparity in tax rates~~
 28 ~~collected by local and out-of-state sellers by imposing the same rate on all~~
 29 ~~sellers.~~

30 YES NO

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

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

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

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

51 ~~YES NO~~

52 ~~—— If you are in favor of the question, place an "X" in the box opposite "YES". If you~~
 53 ~~are opposed to the question, place an "X" in the box opposite "NO".~~

54 ~~—— (b) The ballot of submission in a municipality within a county having a charter form of~~
 55 ~~government with a population in excess of nine hundred thousand shall contain substantially the~~
 56 ~~following language:~~

57 ~~—— Shall the municipality be authorized to impose a local use tax at the same rate as~~
 58 ~~the local sales tax by a vote of the governing body, provided that if any local sales~~
 59 ~~tax is repealed, reduced or raised by voter approval, the respective local use tax~~
 60 ~~shall also be repealed, reduced or raised by the same action? A use tax return~~

61 ~~shall not be required to be filed by persons whose purchases from out-of-state~~
 62 ~~vendors do not in total exceed two thousand dollars in any calendar year.~~

63 ~~_____ YES _____ NO~~

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

66 ~~_____ (3)]~~ The ballot of submission in any city not within a county shall contain substantially
 67 the following language:

68 Shall the _____ (city name) impose a local use tax at the same rate as the local
 69 sales tax, [~~currently at a rate of _____ (insert percent)~~] which includes the
 70 capital improvements sales tax and the transportation tax, provided that if any
 71 local sales tax is repealed, reduced or raised by voter approval, the respective
 72 local use tax shall also be repealed, reduced or raised by the same action? [~~A use~~
 73 ~~tax return shall not be required to be filed by persons whose purchases from~~
 74 ~~out-of-state vendors do not in total exceed two thousand dollars in any calendar~~
 75 ~~year.] **Approval of this question will eliminate the disparity in tax rates**
 76 **collected by local and out-of-state sellers by imposing the same rate on all**
 77 **sellers.**~~

78 YES NO

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

81 [~~4)]~~ **2.** If any of such ballots are submitted on August 6, 1996, and if a majority of the
 82 votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then
 83 the ordinance or order and any amendments thereto shall be in effect October 1, 1996, provided
 84 the director of revenue receives notice of adoption of the local use tax on or before August 16,
 85 1996. If any of such ballots are submitted after December 31, 1996, and if a majority of the votes
 86 cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the
 87 ordinance or order and any amendments thereto shall be in effect on the first day of the calendar
 88 quarter which begins at least forty-five days after the director of revenue receives notice of
 89 adoption of the local use tax. If a majority of the votes cast by the qualified voters voting are
 90 opposed to the proposal, then the governing body of the county or municipality shall have no
 91 power to impose the local use tax as herein authorized unless and until the governing body of the
 92 county or municipality shall again have submitted another proposal to authorize the governing
 93 body of the county or municipality to impose the local use tax and such proposal is approved by
 94 a majority of the qualified voters voting thereon.

95 **3.** The local use tax may be imposed at the same rate as the local sales tax then currently
 96 in effect in the county or municipality upon all transactions which are subject to the taxes

97 imposed pursuant to sections 144.600 to 144.745 within the county or municipality adopting
98 such tax; provided, however, that if any local sales tax is repealed or the rate thereof is reduced
99 or raised by voter approval, the local use tax rate shall also be deemed to be repealed, reduced
100 or raised by the same action repealing, reducing or raising the local sales tax.

101 4. For purposes of sections 144.757 to 144.761, the use tax may be referred to or
102 described as the equivalent of a sales tax on purchases made from out-of-state sellers by in-state
103 buyers and on certain intrabusiness transactions. Such a description shall not change the
104 classification, form or 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 pursuant to sections
2 144.757 to 144.761 on behalf of any county or municipality, less one percent for cost of
3 collection, which shall be deposited in the state's general revenue fund after payment of
4 premiums for surety bonds as provided in section 32.087 shall be deposited with the state
5 treasurer in a local use tax trust fund, which fund shall be separate and apart from the local sales
6 tax trust funds. The moneys in such local use tax trust fund shall not be deemed to be state funds
7 and shall not be commingled with any funds of the state. The director of revenue shall keep
8 accurate records of the amount of money in the trust fund which was collected in each county
9 or municipality imposing a local use tax, and the records shall be open to the inspection of
10 officers of the county or municipality and to the public. No later than the tenth day of each
11 month, the director of revenue shall distribute all moneys deposited in the trust fund during the
12 preceding month, except as provided in subsection 2 of this section, to the county or municipality
13 treasurer, or such other officer as may be designated by the county or municipality ordinance or
14 order, of each county or municipality imposing the tax authorized by sections 144.757 to
15 144.761, the sum due the county or municipality as certified by the director of revenue.

16 2. **Subject to the provisions of subsection 1 of this section,** the director of revenue
17 shall distribute all moneys which would be due any county having a charter form of government
18 and having a population of nine hundred thousand or more to the county treasurer or such other
19 officer as may be designated by county ordinance, who shall distribute ~~[such moneys as follows:~~
20 ~~the] that~~ portion of the use ~~[tax] taxes~~ imposed by the county ~~[which equals one-half the rate of~~
21 ~~sales tax in effect for such county shall be disbursed to the county treasurer for expenditure~~
22 ~~throughout the county for public safety, parks, and job creation, subject to any qualifications and~~
23 ~~regulations adopted by ordinance of the county. Such ordinance shall require an audited~~
24 ~~comprehensive financial report detailing the management and use of such funds each year. Such~~
25 ~~ordinance shall also require that the county and the municipal league of the county jointly~~
26 ~~prepare a strategy to guide expenditures of funds and conduct an annual review of the strategy.~~
27 The treasurer or such other officer as may be designated by county ordinance shall distribute
28 one-third of the balance to the county and to each city, town and village in group B according

29 to section 66.620 as modified by this section, a portion of the two-thirds remainder of such
30 balance equal to the percentage ratio that the population of each such city, town or village bears
31 to the total population of all such group B cities, towns and villages. For the purposes of this
32 subsection, population shall be determined by the last federal decennial census or the latest
33 census that determines the total population of the county and all political subdivisions therein.
34 For the purposes of this subsection, each city, town or village in group A according to section
35 66.620 but whose per capita sales tax receipts during the preceding calendar year pursuant to
36 sections 66.600 to 66.630 were less than the per capita countywide average of all sales tax
37 receipts during the preceding calendar year, shall be treated as a group B city, town or village
38 until the per capita amount distributed to such city, town or village equals the difference between
39 the per capita sales tax receipts during the preceding calendar year and the per capita countywide
40 average of all sales tax receipts during the preceding calendar year] **that is equal to the rate of**
41 **sales taxes imposed by the county under sections 66.600 and 67.547 to the cities, towns, and**
42 **villages within the county and to the unincorporated area of the county according to the**
43 **ratio of the population that each such city, town, village, and unincorporated area of the**
44 **county bears to the total population of the county.**

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

59 4. Except as modified in sections 144.757 to 144.761, all provisions of sections 32.085
60 and 32.087 applicable to the local sales tax, except for subsection 12 of section 32.087, and all
61 provisions of sections 144.600 to 144.745 shall apply to the tax imposed pursuant to sections
62 144.757 to 144.761, and the director of revenue shall perform all functions incident to the
63 administration, collection, enforcement, and operation of the tax.

Section B. Because of the importance of ensuring the fiscal health of the state in an
2 emergency, the enactment of section 33.575 of section A of this act is deemed necessary for the
3 immediate preservation of the public health, welfare, peace, and safety, and is hereby declared
4 to be an emergency act within the meaning of the constitution, and the enactment of section
5 33.575 of section A of this act shall be in full force and effect upon its passage and approval.

Section C. The repeal and reenactment of sections 144.140, 144.605, 144.710, and
2 144.759 and the enactment of sections 144.608 and 144.752 of this act shall become effective
3 January 1, 2023.

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