

SENATE AMENDMENT NO. _____

Offered by _____ of _____

Amend SS/Senate Bill No. 123, Page 1, Section Title, Line 3,

2 by striking "local sales taxes"; and inserting in lieu
 3 thereof the following: "sales taxes, with an emergency
 4 clause for a certain section and an effective date for
 5 certain sections"; and

6 Further amend said bill, page 13, Section 32.087, line
 7 415, by inserting after all of said line the following:

8 "32.310. 1. The department of revenue shall create
 9 and maintain a mapping feature on its official public
 10 website that displays sales and use tax information of
 11 political subdivisions of this state that have taxing
 12 authority, including the current tax rate for each sales and
 13 use tax imposed and collected. Such display shall have the
 14 option to showcase the borders and jurisdiction of the
 15 following political subdivisions on a map of the state to
 16 the extent that such political subdivisions collect sales
 17 and use tax:

- 18 (1) Ambulance districts;
- 19 (2) Community improvement districts;
- 20 (3) Fire protection districts;
- 21 (4) Levee districts;
- 22 (5) Library districts;
- 23 (6) Neighborhood improvement districts;
- 24 (7) Port authority districts;
- 25 (8) Tax increment financing districts;
- 26 (9) Transportation development districts;

27 (10) School districts; or

28 (11) Any other political subdivision that imposes a
29 sales or use tax within its borders and jurisdiction.

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

33 3. A political subdivision collecting sales or use tax
34 listed in subsection 1 of this section shall provide to the
35 department of revenue mapping and geographic data pertaining
36 to the political subdivision's borders and jurisdictions.
37 The political subdivision shall certify the accuracy of the
38 data by affidavit and shall provide the data in a format
39 specified by the department of revenue. Such data relating
40 to sales taxes shall be sent to the department of revenue by
41 April 1, 2019, and shall be updated and sent to the
42 department if a change in the political subdivision's
43 borders or jurisdiction occurs thereafter. Such data
44 relating to use taxes shall be sent to the department of
45 revenue by January 1, 2022. If a political subdivision
46 fails to provide the information required under this
47 subsection, the department of revenue shall use the last
48 known sales or use tax rate for such political subdivision.

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

51 5. By July 1, 2019, the department shall implement the
52 mapping feature using the sales tax data provided to it
53 under subsection 3 of this section. By August 28, 2022, the
54 department shall implement the mapping feature using use tax
55 data provided to it under subsection 3 of this section.

56 6. If the boundaries of a political subdivision listed
57 in subsection 1 of this section in which a sales or use tax
58 has been imposed shall thereafter be changed or altered, the
59 political subdivision shall forward to the director of

60 revenue by United States registered mail or certified mail a
61 certified copy of the ordinance adding or detaching
62 territory from the political subdivision within ten days of
63 adoption of the ordinance. The ordinance shall reflect the
64 effective date of the ordinance and shall be accompanied by
65 a map in a form to be determined by the director of
66 revenue. Upon receipt of the ordinance and map, the tax
67 imposed under the local sales tax law shall be effective in
68 the added territory or abolished in the detached territory
69 on the first day of a calendar quarter after one hundred
70 twenty days' notice to sellers.

71 33.575. 1. There is hereby created in the state
72 treasury the "Cash Operating Expense Fund", which shall
73 consist of money as provided under this section. The state
74 treasurer shall be custodian of the fund. In accordance
75 with sections 30.170 and 30.180, the state treasurer may
76 approve disbursements. Notwithstanding the provisions of
77 section 33.080 to the contrary, any moneys remaining in the
78 fund at the end of the biennium shall not revert to the
79 credit of the general revenue fund. The state treasurer
80 shall invest moneys in the fund in the same manner as other
81 funds are invested. Any interest and moneys earned on such
82 investments shall be credited to the fund.

83 2. (1) The state general revenue portion from
84 remittances made pursuant to section 144.752 and paragraph
85 (e) of subdivision (3) of section 144.605, with the
86 exception of revenues collected pursuant to section 144.701
87 and Article IV, Sections 43(a) and 47(a) of the Missouri
88 Constitution, shall be deposited into the cash operating
89 expense fund.

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

92 (a) Any funds appropriated to the office of the
93 governor for expenses related to emergency duties performed
94 by the national guard when ordered out by the governor, for
95 matching funds for federal grants and for emergency
96 assistance as provided in section 44.032, and for expenses
97 of any state agency responding during a declared emergency
98 at the direction of the governor, provided the services
99 furnish immediate aid and relief, that were unexpended at
100 the end of the fiscal year; and

101 (b) Any funds appropriated to the cash operating
102 expense fund by the general assembly or otherwise credited
103 to the fund.

104 3. In any fiscal year in which actual revenues are
105 less than the revenue estimates upon which appropriations
106 were based or in which there is a budget need due to a
107 natural disaster, as proclaimed by the governor to be an
108 emergency, the governor may, subject to appropriation,
109 transfer from the fund to the general revenue fund such
110 moneys as are necessary to make up all or part of the
111 deficit between the actual revenues and the revenue
112 estimates or to meet the needs of the emergency caused by
113 the natural disaster, as the case may be.

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

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

124 (2) Fifty percent of the excess balance shall be
125 transferred to the credit of the debt retirement fund for
126 the purpose of retiring state debt.

127 5. There is hereby created in the state treasury the
128 "Debt Retirement Fund", which shall consist of moneys
129 collected under this section. The state treasurer shall be
130 custodian of the fund. In accordance with sections 30.170
131 and 30.180, the state treasurer may approve disbursements.
132 Notwithstanding the provisions of section 33.080 to the
133 contrary, any moneys remaining in the fund at the end of the
134 biennium shall not revert to the credit of the general
135 revenue fund. The state treasurer shall invest moneys in
136 the fund in the same manner as other funds are invested.
137 Any interest and moneys earned on such investments shall be
138 credited to the fund. Subject to appropriation, moneys in
139 the fund shall be used for the retirement of debt related to
140 bonds issued by or on behalf of the state and for which the
141 office of administration is required to file annual
142 continuing disclosure reports on the electronic municipal
143 market access website, or its successor.

144 6. For the purposes of this section, "net general
145 revenue collections" means all revenue deposited into the
146 general revenue fund less refunds and revenues originally
147 deposited into the general revenue fund but designated by
148 law for a specific distribution or transfer to another state
149 fund.

150 144.140. 1. From every remittance to the director of
151 revenue made on or before the date when the same becomes
152 due, the person required to remit the same shall be entitled
153 to deduct and retain an amount equal to two percent thereof.

154 2. The director shall provide a monetary allowance
155 from the taxes collected to a certified service provider
156 under the terms of the contract signed with the certified

157 service provider, provided that such allowance shall be
158 funded entirely from money collected by the certified
159 service provider.

160 3. Any certified service provider receiving an
161 allowance under subsection 2 of this section shall not be
162 entitled to simultaneously deduct the allowance provided for
163 under subsection 1 of this section.

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

169 144.605. The following words and phrases as used in
170 sections 144.600 to 144.745 mean and include:

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

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

178 ~~[(2)]~~ (3) "Engages in business activities within this
179 state" includes:

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

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

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

- 190 a. Sells a similar line of products as the vendor and
191 does so under the same or a similar business name;
- 192 b. Maintains an office, distribution facility,
193 warehouse, or storage place, or similar place of business in
194 the state to facilitate the delivery of property or services
195 sold by the vendor to the vendor's customers;
- 196 c. Delivers, installs, assembles, or performs
197 maintenance services for the vendor's customers within the
198 state;
- 199 d. Facilitates the vendor's delivery of property to
200 customers in the state by allowing the vendor's customers to
201 pick up property sold by the vendor at an office,
202 distribution facility, warehouse, storage place, or similar
203 place of business maintained by the person in the state; or
- 204 e. Conducts any other activities in the state that are
205 significantly associated with the vendor's ability to
206 establish and maintain a market in the state for the sales;
- 207 (d) The presumption in paragraph (c) of this
208 subdivision may be rebutted by demonstrating that the
209 person's activities in the state are not significantly
210 associated with the vendor's ability to establish or
211 maintain a market in this state for the vendor's sales;
- 212 (e) [Notwithstanding paragraph (c), a vendor shall be
213 presumed to engage in business activities within this state
214 if the vendor enters into an agreement with one or more
215 residents of this state under which the resident, for a
216 commission or other consideration, directly or indirectly
217 refers potential customers, whether by a link on an internet
218 website, an in-person oral presentation, telemarketing, or
219 otherwise, to the vendor, if the cumulative gross receipts
220 from sales by the vendor to customers in the state who are
221 referred to the vendor by all residents with this type of an

222 agreement with the vendor is in excess of ten thousand
223 dollars during the preceding twelve months;

224 (f) The presumption in paragraph (e) may be rebutted
225 by submitting proof that the residents with whom the vendor
226 has an agreement did not engage in any activity within the
227 state that was significantly associated with the vendor's
228 ability to establish or maintain the vendor's market in the
229 state during the preceding twelve months. Such proof may
230 consist of sworn written statements from all of the
231 residents with whom the vendor has an agreement stating that
232 they did not engage in any solicitation in the state on
233 behalf of the vendor during the preceding year provided that
234 such statements were provided and obtained in good faith]

235 Selling tangible personal property for delivery into this
236 state provided the seller's gross receipts from delivery of
237 tangible personal property into this state in the previous
238 calendar year or current calendar year exceeds one hundred
239 thousand dollars. For the purposes of calculating a
240 seller's gross receipts under this paragraph, following the
241 close of each calendar quarter, a vendor shall determine
242 whether the vendor met the requirements under this paragraph
243 during the twelve-month period ending on the last day of the
244 preceding calendar quarter. If the vendor met such
245 requirements for any such twelve-month period, such vendor
246 shall collect and remit the tax as provided under section
247 144.635 for a period of not less than twelve months,
248 beginning not more than three months following the close of
249 the preceding calendar quarter, and shall continue to
250 collect and remit the tax for as long as the vendor is
251 engaged in business activities within this state, as
252 provided for under this paragraph, or otherwise maintains a
253 substantial nexus with this state;

254 [(3)] (4) "Maintains a place of business in this
255 state" includes maintaining, occupying, or using,
256 permanently or temporarily, directly or indirectly, by
257 whatever name called, an office, place of distribution,
258 sales or sample room or place, warehouse or storage place,
259 or other place of business in this state, whether owned or
260 operated by the vendor or by any other person other than a
261 common carrier acting in its capacity as such;

262 [(4)] (5) "Person", any individual, firm,
263 copartnership, joint venture, association, corporation,
264 municipal or private, and whether organized for profit or
265 not, state, county, political subdivision, state department,
266 commission, board, bureau or agency, except the state
267 transportation department, estate, trust, business trust,
268 receiver or trustee appointed by the state or federal court,
269 syndicate, or any other group or combination acting as a
270 unit, and the plural as well as the singular number;

271 [(5)] (6) "Purchase", the acquisition of the ownership
272 of, or title to, tangible personal property, through a sale,
273 as defined herein, for the purpose of storage, use or
274 consumption in this state;

275 [(6)] (7) "Purchaser", any person who is the recipient
276 for a valuable consideration of any sale of tangible
277 personal property acquired for use, storage or consumption
278 in this state;

279 [(7)] (8) "Sale", any transfer, barter or exchange of
280 the title or ownership of tangible personal property, or the
281 right to use, store or consume the same, for a consideration
282 paid or to be paid, and any transaction whether called
283 leases, rentals, bailments, loans, conditional sales or
284 otherwise, and notwithstanding that the title or possession
285 of the property or both is retained for security. For the
286 purpose of this law the place of delivery of the property to

287 the purchaser, user, storer or consumer is deemed to be the
288 place of sale, whether the delivery be by the vendor or by
289 common carriers, private contractors, mails, express,
290 agents, salesmen, solicitors, hawkers, representatives,
291 consignors, peddlers, canvassers or otherwise;

292 [(8)] (9) "Sales price", the consideration including
293 the charges for services, except charges incident to the
294 extension of credit, paid or given, or contracted to be paid
295 or given, by the purchaser to the vendor for the tangible
296 personal property, including any services that are a part of
297 the sale, valued in money, whether paid in money or
298 otherwise, and any amount for which credit is given to the
299 purchaser by the vendor, without any deduction therefrom on
300 account of the cost of the property sold, the cost of
301 materials used, labor or service cost, losses or any other
302 expenses whatsoever, except that cash discounts allowed and
303 taken on sales shall not be included and "sales price" shall
304 not include the amount charged for property returned by
305 customers upon rescission of the contract of sales when the
306 entire amount charged therefor is refunded either in cash or
307 credit or the amount charged for labor or services rendered
308 in installing or applying the property sold, the use,
309 storage or consumption of which is taxable pursuant to
310 sections 144.600 to 144.745. The sales price shall not
311 include usual and customary delivery charges that are
312 separately stated. In determining the amount of tax due
313 pursuant to sections 144.600 to 144.745, any charge incident
314 to the extension of credit shall be specifically exempted;

315 [(9)] (10) "Selling agent", every person acting as a
316 representative of a principal, when such principal is not
317 registered with the director of revenue of the state of
318 Missouri for the collection of the taxes imposed pursuant to
319 sections 144.010 to 144.525 or sections 144.600 to 144.745

320 and who receives compensation by reason of the sale of
321 tangible personal property of the principal, if such
322 property is to be stored, used, or consumed in this state;

323 [(10)] (11) "Storage", any keeping or retention in
324 this state of tangible personal property purchased from a
325 vendor, except property for sale or property that is
326 temporarily kept or retained in this state for subsequent
327 use outside the state;

328 [(11)] (12) "Tangible personal property", all items
329 subject to the Missouri sales tax as provided in
330 subdivisions (1) and (3) of subsection 1 of section 144.020;

331 [(12)] (13) "Taxpayer", any person remitting the tax
332 or who should remit the tax levied by sections 144.600 to
333 144.745;

334 [(13)] (14) "Use", the exercise of any right or power
335 over tangible personal property incident to the ownership or
336 control of that property, except that it does not include
337 the temporary storage of property in this state for
338 subsequent use outside the state, or the sale of the
339 property in the regular course of business;

340 [(14)] (15) "Vendor", every person engaged in making
341 sales of tangible personal property by mail order, by
342 advertising, by agent or peddling tangible personal
343 property, soliciting or taking orders for sales of tangible
344 personal property, for storage, use or consumption in this
345 state, all salesmen, solicitors, hawkers, representatives,
346 consignees, peddlers or canvassers, as agents of the
347 dealers, distributors, consignors, supervisors, principals
348 or employers under whom they operate or from whom they
349 obtain the tangible personal property sold by them, and
350 every person who maintains a place of business in this
351 state, maintains a stock of goods in this state, or engages
352 in business activities within this state and every person

353 who engages in this state in the business of acting as a
354 selling agent for persons not otherwise vendors as defined
355 in this subdivision. Irrespective of whether they are
356 making sales on their own behalf or on behalf of the
357 dealers, distributors, consignors, supervisors, principals
358 or employers, they must be regarded as vendors and the
359 dealers, distributors, consignors, supervisors, principals
360 or employers must be regarded as vendors for the purposes of
361 sections 144.600 to 144.745.

362 144.608. 1. For the purpose of more efficiently
363 securing the payment of and accounting for the tax collected
364 and remitted by retailers and vendors, the department is
365 hereby authorized:

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

370 (2) To consult, contract, and work with certified
371 service providers independently. The department is
372 authorized to determine the method and amount of
373 compensation to be provided to certified service providers
374 by this state for the services of such certified service
375 providers to certain sellers, provided that no certified
376 service provider or seller utilizing a certified service
377 provider shall be entitled to the deduction provided in
378 subsection 1 of section 144.140.

379 2. The director of revenue shall make, promulgate, and
380 enforce reasonable rules and regulations for the
381 administration and enforcement of the provisions of this
382 chapter relating to the collection and remittance of sales
383 and use tax by certified service providers. Any rule or
384 portion of a rule, as that term is defined in section
385 536.010, that is created under the authority delegated in

386 this section shall become effective only if it complies with
387 and is subject to all of the provisions of chapter 536 and,
388 if applicable, section 536.028. This section and chapter
389 536 are nonseverable and if any of the powers vested with
390 the general assembly pursuant to chapter 536 to review, to
391 delay the effective date, or to disapprove and annul a rule
392 are subsequently held unconstitutional, then the grant of
393 rulemaking authority and any rule proposed or adopted after
394 January 1, 2023, shall be invalid and void.

395 144.637. 1. The director of revenue shall provide and
396 maintain a database that describes boundary changes for all
397 taxing jurisdictions and the effective dates of such changes
398 for the use of vendors collecting the tax imposed under
399 sections 144.600 to 144.745.

400 2. For the identification of counties and cities,
401 codes corresponding to the rates shall be provided according
402 to Federal Information Processing Standards (FIPS) as
403 developed by the National Institute of Standards and
404 Technology. For the identification of all other
405 jurisdictions, codes corresponding to the rates shall be in
406 a format determined by the director.

407 3. The director shall provide and maintain address-
408 based boundary database records for assigning taxing
409 jurisdictions and associated rates. The database records
410 shall meet the requirements developed pursuant to the
411 federal Mobile Telecommunications Sourcing Act, 4 U.S.C.
412 Section 119(a). If a vendor is unable to determine the
413 applicable rate and jurisdiction using an address-based
414 database record after exercising due diligence, the vendor
415 may apply the nine-digit zip code designation applicable to
416 a purchase. If a nine-digit zip code designation is not
417 available for a street address or if a vendor is unable to
418 determine the nine-digit zip code designation applicable to

419 a purchase after exercising due diligence to determine the
420 designation, the vendor may apply the rate for the five-
421 digit zip code area. For the purposes of this section,
422 there shall be a rebuttable presumption that a vendor has
423 exercised due diligence if the vendor has attempted to
424 determine the tax rate and jurisdiction by utilizing
425 software approved by the director and makes the assignment
426 from the address and zip code information applicable to the
427 purchase. The databases shall be in the same approved
428 format as the database records under this section and meet
429 the requirements developed pursuant to the federal Mobile
430 Telecommunications Sourcing Act, 4 U.S.C. Section 119(a).
431 If the director certifies an address-based database provided
432 by a third party, a vendor may use such database in place of
433 the database provided for in this subsection.

434 4. The electronic database provided for in subsections
435 1, 2, and 3 of this section shall be in downloadable format
436 as determined by the director. The database may be directly
437 provided by the director or provided by a third party as
438 designated by the director. The databases shall be provided
439 at no cost to the user of the database. The provisions of
440 subsection 3 of this section shall not apply if the
441 purchased product is received by the purchaser at the
442 business location of the vendor.

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

446 144.638. 1. The director shall provide and maintain a
447 taxability matrix. The state's entries in the matrix shall
448 be provided and maintained by the director in a database
449 that is in a downloadable format.

450 2. The director shall provide reasonable notice of
451 changes in the taxability of the products or services listed
452 in the taxability matrix.

453 3. A seller or CSP shall be relieved from liability to
454 this state or any local taxing jurisdiction for having
455 charged and collected the incorrect amount of state or local
456 sales or use tax resulting from such seller's or CSP's
457 reliance upon erroneous data provided or approved by the
458 director in the taxability matrix, and a seller shall be
459 relieved from liability for erroneous returns made by a CSP
460 on behalf of the seller.

461 144.710. [From every remittance made by a vendor as
462 required by sections 144.600 to 144.745 to the director of
463 revenue on or before the date when the remittance becomes
464 due, the vendor may deduct and retain an amount equal to two
465 percent thereof.] The provisions of section 144.140
466 relating to the allowance for timely remittance of payment
467 shall be applicable to the tax levied under sections 144.600
468 to 144.745.

469 144.752. 1. For the purposes of this section, the
470 following terms shall mean:

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

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

476 (b) Either directly or indirectly through agreements
477 or arrangements with third parties collecting payment from
478 the purchaser and transmitting such payment to the
479 marketplace seller regardless of whether the marketplace
480 facilitator receives compensation or other consideration in
481 exchange for its services.

482 A marketplace facilitator is a seller and shall comply with
483 the provisions of this chapter. A marketplace facilitator
484 does not include a person who provides internet advertising
485 services, or product listing, and does not collect payment
486 from the purchaser and transmit payment to the marketplace
487 seller, and does not include a person with respect to the
488 provision of travel agency services or the operation of a
489 marketplace or that portion of a marketplace that enables
490 consumers to receive travel agency services. For the
491 purposes of this subdivision, "travel agency services" means
492 facilitating, for a commission, fee, or other consideration,
493 vacation or travel packages, rental car or other travel
494 reservations, tickets for domestic or foreign travel by air,
495 rail, ship, bus, or other medium of transportation, or hotel
496 or other lodging accommodations;

497 (2) "Marketplace seller", a seller that makes sales
498 through any electronic marketplace operated by a marketplace
499 facilitator;

500 (3) "Person", any individual, firm, copartnership,
501 joint venture, association, corporation, municipal or
502 private, whether organized for profit or not, state, county,
503 political subdivision, state department, commission, board,
504 bureau or agency, except the department of transportation,
505 estate, trust, business trust, receiver or trustee appointed
506 by the state or federal court, syndicate, or any other group
507 or combination acting as a unit;

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

512 (5) "Retail sale", the same meaning as defined under
513 sections 144.010 and 144.011, excluding motor vehicles,
514 trailers, motorcycles, mopeds, motortricycles, boats, and

515 outboard motors required to be titled under the laws of the
516 state and subject to tax under subdivision (9) of subsection
517 1 of section 144.020;

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

521 2. (1) Beginning January 1, 2023, marketplace
522 facilitators that engage in business activities within this
523 state shall register with the department to collect and
524 remit use tax, as applicable, on sales made through the
525 marketplace facilitator's marketplace by or on behalf of a
526 marketplace seller that are delivered into the state,
527 whether by the marketplace facilitator or another person,
528 and regardless of whether the marketplace seller for whom
529 sales are facilitated possesses a retail sales license or
530 would have been required to collect use tax had the sale not
531 been facilitated by the marketplace facilitator. Such
532 retail sales shall include those made directly by the
533 marketplace facilitator and shall also include those retail
534 sales made by marketplace sellers through the marketplace
535 facilitator's marketplace. The collection and reporting
536 requirements of this subsection shall not apply to retail
537 sales other than those made through a marketplace
538 facilitator's marketplace. Nothing in this section shall be
539 construed to limit or prohibit the ability of a marketplace
540 facilitator and a marketplace seller to enter into
541 agreements regarding the fulfillment of the requirements of
542 this chapter.

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

548 3. Marketplace facilitators that are required to
549 collect use tax under this section shall report and remit
550 the tax separately from any sales and use tax collected by
551 the marketplace facilitator, or by affiliates of the
552 marketplace facilitator, which the marketplace facilitator
553 would have been required to collect and remit under the
554 provisions of this chapter prior to January 1, 2023. Such
555 tax shall be reported and remitted as determined by the
556 department. Marketplace facilitators shall maintain records
557 of all sales delivered to a location in the state, including
558 electronic or paper copies of invoices showing the
559 purchaser, address, purchase amount, and use tax collected.
560 Such records shall be made available for review and
561 inspection upon request by the department.

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

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

571 6. Any taxpayer who remits use tax under this section
572 shall be entitled to refunds or credits to the same extent
573 and in the same manner provided for in section 144.190 for
574 taxes collected and remitted under this section. Nothing in
575 this section shall relieve a purchaser of the obligation to
576 remit use tax for any retail sale taxable under this chapter
577 for which a marketplace facilitator or marketplace seller
578 does not collect and remit the use tax.

579 7. Except as provided under subsections 8 and 9 of
580 this section, marketplace facilitators shall be subject to

581 the penalty provisions, procedures, and reporting
582 requirements provided under the provisions of this chapter.

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

591 9. A marketplace facilitator shall be relieved from
592 liability under this section for the failure to collect and
593 remit the correct amount of sales or use tax on retail sales
594 facilitated for marketplace sellers to the extent that the
595 marketplace facilitator demonstrates to the satisfaction of
596 the department that the error was due to insufficient or
597 incorrect information given to the marketplace facilitator
598 by the marketplace seller; provided, however, that a
599 marketplace facilitator shall not be relieved of liability
600 under this paragraph if the marketplace facilitator and the
601 marketplace seller are affiliated;

602 10. For the purposes of this section, a marketplace
603 facilitator shall not include a third party financial
604 institution appointed by a merchant or a marketplace
605 facilitator to handle various forms of payment transactions,
606 such as processing credit cards and debit cards, and whose
607 sole activity with respect to marketplace sales is to
608 facilitate the payment transactions between two parties.

609 11. The state general revenue portion from remittances
610 made pursuant to this section, with the exception of
611 revenues collected pursuant to section 144.701 and Article
612 IV, Sections 43(a) and 47(a) of the Missouri Constitution,

613 shall be deposited to the credit of the cash operating
614 expense fund established pursuant to section 33.575.

615 12. The department may promulgate rules to implement
616 the provisions of this section. Any rule or portion of a
617 rule, as that term is defined in section 536.010, that is
618 created under the authority delegated in this section shall
619 become effective only if it complies with and is subject to
620 all of the provisions of chapter 536 and, if applicable,
621 section 536.028. This section and chapter 536 are
622 nonseverable and if any of the powers vested with the
623 general assembly pursuant to chapter 536 to review, to delay
624 the effective date, or to disapprove and annul a rule are
625 subsequently held unconstitutional, then the grant of
626 rulemaking authority and any rule proposed or adopted after
627 January 1, 2023, shall be invalid and void.

628 144.757. 1. Any county or municipality[, except
629 municipalities within a county having a charter form of
630 government with a population in excess of nine hundred
631 thousand,] may, by a majority vote of its governing body,
632 impose a local use tax if a local sales tax is imposed as
633 defined in section 32.085 or if a sales tax is imposed
634 pursuant to section 94.850 or 94.890, with such local use
635 tax imposed at a rate equal to the rate of the local sales
636 tax [in effect in] and any sales tax imposed pursuant to
637 section 94.850 or 94.890 by such county or municipality;
638 provided, however, that no ordinance or order enacted
639 pursuant to sections 144.757 to 144.761 shall be effective
640 unless the governing body of the county or municipality
641 submits to the voters thereof at a municipal, county or
642 state general, primary or special election a proposal to
643 authorize the governing body of the county or municipality
644 to impose a local use tax pursuant to sections 144.757 to
645 144.761. [Municipalities within a county having a charter

646 form of government with a population in excess of nine
 647 hundred thousand may, upon voter approval received pursuant
 648 to paragraph (b) of subdivision (2) of subsection 2 of this
 649 section, impose a local use tax at the same rate as the
 650 local municipal sales tax with the revenues from all such
 651 municipal use taxes to be distributed pursuant to subsection
 652 4 of section 94.890. The municipality shall within thirty
 653 days of the approval of the use tax imposed pursuant to
 654 paragraph (b) of subdivision (2) of subsection 2 of this
 655 section select one of the distribution options permitted in
 656 subsection 4 of section 94.890 for distribution of all
 657 municipal use taxes.

658 2.] (1) The ballot of submission[, except for
 659 counties and municipalities described in subdivisions (2)
 660 and (3) of this subsection,] shall contain substantially the
 661 following language:

662 Shall the _____ (county or municipality's name)
 663 impose a local use tax at the same rate as the
 664 total local sales tax rate, [currently _____
 665 (insert percent),] provided that if the local
 666 sales tax rate is reduced or raised by voter
 667 approval, the local use tax rate shall also be
 668 reduced or raised by the same action? [A use tax
 669 return shall not be required to be filed by
 670 persons whose purchases from out-of-state vendors
 671 do not in total exceed two thousand dollars in any
 672 calendar year] Approval of this question will
 673 eliminate the disparity in tax rates collected by
 674 local and out-of-state sellers by imposing the
 675 same rate on all sellers.

676 YES NO

677 If you are in favor of the question, place an "X"
 678 in the box opposite "YES". If you are opposed to
 679 the question, place an "X" in the box opposite
 680 "NO".

719 Shall the municipality be authorized to impose a
 720 local use tax at the same rate as the local sales
 721 tax by a vote of the governing body, provided that
 722 if any local sales tax is repealed, reduced or
 723 raised by voter approval, the respective local use
 724 tax shall also be repealed, reduced or raised by
 725 the same action? A use tax return shall not be
 726 required to be filed by persons whose purchases
 727 from out-of-state vendors do not in total exceed
 728 two thousand dollars in any calendar year.

729 YES NO

730 If you are in favor of the question, place an "X"
 731 in the box opposite "YES". If you are opposed to
 732 the question, place an "X" in the box opposite
 733 "NO".

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

736 Shall the _____ (city name) impose a local use
 737 tax at the same rate as the local sales tax,
 738 [currently at a rate of _____ (insert percent)]
 739 which includes the capital improvements sales tax
 740 and the transportation tax, provided that if any
 741 local sales tax is repealed, reduced or raised by
 742 voter approval, the respective local use tax shall
 743 also be repealed, reduced or raised by the same
 744 action? [A use tax return shall not be required
 745 to be filed by persons whose purchases from out-
 746 of-state vendors do not in total exceed two
 747 thousand dollars in any calendar year] Approval of
 748 this question will eliminate the disparity in tax
 749 rates collected by local and out-of-state sellers
 750 by imposing the same rate on all sellers.

751 YES NO

752 If you are in favor of the question, place an "X"
 753 in the box opposite "YES". If you are opposed to
 754 the question, place an "X" in the box opposite
 755 "NO".

756 [(4)] 2. If any of such ballots are submitted on
757 August 6, 1996, and if a majority of the votes cast on the
758 proposal by the qualified voters voting thereon are in favor
759 of the proposal, then the ordinance or order and any
760 amendments thereto shall be in effect October 1, 1996,
761 provided the director of revenue receives notice of adoption
762 of the local use tax on or before August 16, 1996. If any
763 of such ballots are submitted after December 31, 1996, and
764 if a majority of the votes cast on the proposal by the
765 qualified voters voting thereon are in favor of the
766 proposal, then the ordinance or order and any amendments
767 thereto shall be in effect on the first day of the calendar
768 quarter which begins at least forty-five days after the
769 director of revenue receives notice of adoption of the local
770 use tax. If a majority of the votes cast by the qualified
771 voters voting are opposed to the proposal, then the
772 governing body of the county or municipality shall have no
773 power to impose the local use tax as herein authorized
774 unless and until the governing body of the county or
775 municipality shall again have submitted another proposal to
776 authorize the governing body of the county or municipality
777 to impose the local use tax and such proposal is approved by
778 a majority of the qualified voters voting thereon.

779 3. The local use tax may be imposed at the same rate
780 as the local sales tax then currently in effect in the
781 county or municipality upon all transactions which are
782 subject to the taxes imposed pursuant to sections 144.600 to
783 144.745 within the county or municipality adopting such tax;
784 provided, however, that if any local sales tax is repealed
785 or the rate thereof is reduced or raised by voter approval,
786 the local use tax rate shall also be deemed to be repealed,
787 reduced or raised by the same action repealing, reducing or
788 raising the local sales tax.

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

796 144.759. 1. All local use taxes collected by the
797 director of revenue pursuant to sections 144.757 to 144.761
798 on behalf of any county or municipality, less one percent
799 for cost of collection, which shall be deposited in the
800 state's general revenue fund after payment of premiums for
801 surety bonds as provided in section 32.087 shall be
802 deposited with the state treasurer in a local use tax trust
803 fund, which fund shall be separate and apart from the local
804 sales tax trust funds. The moneys in such local use tax
805 trust fund shall not be deemed to be state funds and shall
806 not be commingled with any funds of the state. The director
807 of revenue shall keep accurate records of the amount of
808 money in the trust fund which was collected in each county
809 or municipality imposing a local use tax, and the records
810 shall be open to the inspection of officers of the county or
811 municipality and to the public. No later than the tenth day
812 of each month, the director of revenue shall distribute all
813 moneys deposited in the trust fund during the preceding
814 month, except as provided in subsection 2 of this section,
815 to the county or municipality treasurer, or such other
816 officer as may be designated by the county or municipality
817 ordinance or order, of each county or municipality imposing
818 the tax authorized by sections 144.757 to 144.761, the sum
819 due the county or municipality as certified by the director
820 of revenue.

821 2. Subject to the provisions of subsection 1 of this
822 section, the director of revenue shall distribute all moneys
823 which would be due any county having a charter form of
824 government and having a population of nine hundred thousand
825 or more to the county treasurer or such other officer as may
826 be designated by county ordinance, who shall distribute
827 [such moneys as follows: the] that portion of the use [tax]
828 taxes imposed by the county [which equals one-half the rate
829 of sales tax in effect for such county shall be disbursed to
830 the county treasurer for expenditure throughout the county
831 for public safety, parks, and job creation, subject to any
832 qualifications and regulations adopted by ordinance of the
833 county. Such ordinance shall require an audited
834 comprehensive financial report detailing the management and
835 use of such funds each year. Such ordinance shall also
836 require that the county and the municipal league of the
837 county jointly prepare a strategy to guide expenditures of
838 funds and conduct an annual review of the strategy. The
839 treasurer or such other officer as may be designated by
840 county ordinance shall distribute one-third of the balance
841 to the county and to each city, town and village in group B
842 according to section 66.620 as modified by this section, a
843 portion of the two-thirds remainder of such balance equal to
844 the percentage ratio that the population of each such city,
845 town or village bears to the total population of all such
846 group B cities, towns and villages. For the purposes of
847 this subsection, population shall be determined by the last
848 federal decennial census or the latest census that
849 determines the total population of the county and all
850 political subdivisions therein. For the purposes of this
851 subsection, each city, town or village in group A according
852 to section 66.620 but whose per capita sales tax receipts
853 during the preceding calendar year pursuant to sections

854 66.600 to 66.630 were less than the per capita countywide
855 average of all sales tax receipts during the preceding
856 calendar year, shall be treated as a group B city, town or
857 village until the per capita amount distributed to such
858 city, town or village equals the difference between the per
859 capita sales tax receipts during the preceding calendar year
860 and the per capita countywide average of all sales tax
861 receipts during the preceding calendar year] that is equal
862 to the rate of sales taxes imposed by the county pursuant to
863 sections 66.600 and 67.547 to the cities, towns, and
864 villages within such county and to the unincorporated area
865 of the county on the ratio of the population that each such
866 city, town, village, and the unincorporated areas of the
867 county bears to the total population of the county.

868 3. The director of revenue may authorize the state
869 treasurer to make refunds from the amounts in the trust fund
870 and credited to any county or municipality for erroneous
871 payments and overpayments made, and may redeem dishonored
872 checks and drafts deposited to the credit of such counties
873 or municipalities. If any county or municipality abolishes
874 the tax, the county or municipality shall notify the
875 director of revenue of the action at least ninety days prior
876 to the effective date of the repeal, and the director of
877 revenue may order retention in the trust fund, for a period
878 of one year, of two percent of the amount collected after
879 receipt of such notice to cover possible refunds or
880 overpayment of the tax and to redeem dishonored checks and
881 drafts deposited to the credit of such accounts. After one
882 year has elapsed after the effective date of abolition of
883 the tax in such county or municipality, the director of
884 revenue shall authorize the state treasurer to remit the
885 balance in the account to the county or municipality and
886 close the account of that county or municipality. The

887 director of revenue shall notify each county or municipality
888 of each instance of any amount refunded or any check
889 redeemed from receipts due the county or municipality.

890 4. Except as modified in sections 144.757 to 144.761,
891 all provisions of sections 32.085 and 32.087 applicable to
892 the local sales tax, except for subsection 12 of section
893 32.087, and all provisions of sections 144.600 to 144.745
894 shall apply to the tax imposed pursuant to sections 144.757
895 to 144.761, and the director of revenue shall perform all
896 functions incident to the administration, collection,
897 enforcement, and operation of the tax.

898 Section B. Because of the importance of ensuring the
899 fiscal health of the state in an emergency, the enactment of
900 section 33.575 of this act is deemed necessary for the
901 immediate preservation of the public health, welfare, peace
902 and safety, and is hereby declared to be an emergency act
903 within the meaning of the constitution, and the enactment of
904 section 33.575 of this act shall be in full force and effect
905 upon its passage and approval.

906 Section C. The repeal and reenactment of sections
907 144.140, 144.605, 144.710, and 144.759 and the enactment of
908 sections 144.608 and 144.752 of this act shall become
909 effective January 1, 2023."; and

910 Further amend the title and enacting clause accordingly.