

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for Senate Bill No. 21, Page 5, Section 32.303, Line 27, by
2 inserting after all of said section and line the following:

3
4 "32.310. 1. The department of revenue shall create and maintain a mapping feature on its
5 official public website that displays sales and use tax information of political subdivisions of this
6 state that have taxing authority, including the current tax rate for each sales and use tax imposed and
7 collected. Such display shall have the option to showcase the borders and jurisdiction of the
8 following political subdivisions on a map of the state to the extent that such political subdivisions
9 collect sales and use tax:

- 10 (1) Ambulance districts;
11 (2) Community improvement districts;
12 (3) Fire protection districts;
13 (4) Levee districts;
14 (5) Library districts;
15 (6) Neighborhood improvement districts;
16 (7) Port authority districts;
17 (8) Tax increment financing districts;
18 (9) Transportation development districts;
19 (10) School districts; or
20 (11) Any other political subdivision that imposes a sales or use tax within its borders and
21 jurisdiction.

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

24 3. A political subdivision collecting sales or use tax listed in subsection 1 of this section
25 shall provide to the department of revenue mapping and geographic data pertaining to the political
26 subdivision's borders and jurisdictions. The political subdivision shall certify the accuracy of the
27 data by affidavit and shall provide the data in a format specified by the department of revenue. Such
28 data shall be sent to the department of revenue by April 1, 2019, and shall be updated and sent to the
29 department if a change in the political subdivision's borders or jurisdiction occurs thereafter.

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

32 5. By July 1, 2019, the department shall implement the mapping feature using the data
33 provided to it under subsection 3 of this section."; and

34
35 Further amend said bill, Page 32, Section 144.190, Line 124, by inserting after all of said section
36 and line the following:

Action Taken _____ Date _____

1
2 "144.605. The following words and phrases as used in sections 144.600 to 144.745 mean
3 and include:

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

6 (2) "Engages in business activities within this state" includes:

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

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

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

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

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

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

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

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

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

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

36 (f) The presumption in paragraph (e) of this subdivision may be rebutted by submitting
37 proof that the residents with whom the vendor has an agreement did not engage in any activity
38 within the state that was significantly associated with the vendor's ability to establish or maintain the
39 vendor's market in the state during the preceding twelve months. Such proof may consist of sworn
40 written statements from all of the residents with whom the vendor has an agreement stating that they
41 did not engage in any solicitation in the state on behalf of the vendor during the preceding year
42 provided that such statements were provided and obtained in good faith;

43 (g) a. Beginning October 1, 2019, a vendor engages in business activities within this state
44 if:

45 (i) The cumulative gross receipts from the vendor's sales of tangible personal property to
46 purchasers for the purpose of storage, use, or consumption in this state are one hundred thousand
47 dollars or more during any twelve-month period, as determined under subparagraph b of this
48 paragraph; or

49 (ii) The vendor enters into two hundred or more separate transactions for the sale of tangible

1 personal property to purchasers for the purpose of storage, use, or consumption in this state during
 2 any twelve-month period, as determined under subparagraph b of this paragraph;

3 b. Following the close of each calendar quarter, a vendor shall determine whether the vendor
 4 met either of the requirements provided under subparagraph a of this paragraph during the twelve-
 5 month period ending on the last day of the preceding calendar quarter. If the vendor met either of
 6 such requirements for any such twelve-month period, such vendor shall collect and remit the tax as
 7 provided under section 144.635 for a period of not less than twelve months, beginning not more than
 8 three months following the close of the preceding calendar quarter, and shall continue to collect and
 9 remit the tax for as long as the vendor is engaged in business activities in this state, as provided
 10 under this paragraph, or otherwise maintains a substantial nexus with this state;

11 (3) "Maintains a place of business in this state" includes maintaining, occupying, or using,
 12 permanently or temporarily, directly or indirectly, by whatever name called, an office, place of
 13 distribution, sales or sample room or place, warehouse or storage place, or other place of business in
 14 this state, whether owned or operated by the vendor or by any other person other than a common
 15 carrier acting in its capacity as such;

16 (4) "Person", any individual, firm, copartnership, joint venture, association, corporation,
 17 municipal or private, and whether organized for profit or not, state, county, political subdivision,
 18 state department, commission, board, bureau or agency, except the state transportation department,
 19 estate, trust, business trust, receiver or trustee appointed by the state or federal court, syndicate, or
 20 any other group or combination acting as a unit, and the plural as well as the singular number;

21 (5) "Purchase", the acquisition of the ownership of, or title to, tangible personal property,
 22 through a sale, as defined herein, for the purpose of storage, use or consumption in this state;

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

25 (7) "Sale", any transfer, barter or exchange of the title or ownership of tangible personal
 26 property, or the right to use, store or consume the same, for a consideration paid or to be paid, and
 27 any transaction whether called leases, rentals, bailments, loans, conditional sales or otherwise, and
 28 notwithstanding that the title or possession of the property or both is retained for security. For the
 29 purpose of this law the place of delivery of the property to the purchaser, user, storer or consumer is
 30 deemed to be the place of sale, whether the delivery be by the vendor or by common carriers,
 31 private contractors, mails, express, agents, salesmen, solicitors, hawkers, representatives,
 32 consignors, peddlers, canvassers or otherwise;

33 (8) "Sales price", the consideration including the charges for services, except charges
 34 incident to the extension of credit, paid or given, or contracted to be paid or given, by the purchaser
 35 to the vendor for the tangible personal property, including any services that are a part of the sale,
 36 valued in money, whether paid in money or otherwise, and any amount for which credit is given to
 37 the purchaser by the vendor, without any deduction therefrom on account of the cost of the property
 38 sold, the cost of materials used, labor or service cost, losses or any other expenses whatsoever,
 39 except that cash discounts allowed and taken on sales shall not be included and "sales price" shall
 40 not include the amount charged for property returned by customers upon rescission of the contract
 41 of sales when the entire amount charged therefor is refunded either in cash or credit or the amount
 42 charged for labor or services rendered in installing or applying the property sold, the use, storage or
 43 consumption of which is taxable pursuant to sections 144.600 to 144.745. The sales price shall not
 44 include usual and customary delivery charges that are separately stated. In determining the amount
 45 of tax due pursuant to sections 144.600 to 144.745, any charge incident to the extension of credit
 46 shall be specifically exempted;

47 (9) "Selling agent", every person acting as a representative of a principal, when such
 48 principal is not registered with the director of revenue of the state of Missouri for the collection of
 49 the taxes imposed pursuant to sections 144.010 to 144.525 or sections 144.600 to 144.745 and who

1 receives compensation by reason of the sale of tangible personal property of the principal, if such
2 property is to be stored, used, or consumed in this state;

3 (10) "Storage", any keeping or retention in this state of tangible personal property purchased
4 from a vendor, except property for sale or property that is temporarily kept or retained in this state
5 for subsequent use outside the state;

6 (11) "Tangible personal property", all items subject to the Missouri sales tax as provided in
7 subdivisions (1) and (3) of subsection 1 of section 144.020;

8 (12) "Taxpayer", any person remitting the tax or who should remit the tax levied by sections
9 144.600 to 144.745;

10 (13) "Use", the exercise of any right or power over tangible personal property incident to the
11 ownership or control of that property, except that it does not include the temporary storage of
12 property in this state for subsequent use outside the state, or the sale of the property in the regular
13 course of business;

14 (14) "Vendor", every person engaged in making sales of tangible personal property by mail
15 order, by advertising, by agent or peddling tangible personal property, soliciting or taking orders for
16 sales of tangible personal property, for storage, use or consumption in this state, all salesmen,
17 solicitors, hawkers, representatives, consignees, peddlers or canvassers, as agents of the dealers,
18 distributors, consignors, supervisors, principals or employers under whom they operate or from
19 whom they obtain the tangible personal property sold by them, and every person who maintains a
20 place of business in this state, maintains a stock of goods in this state, or engages in business
21 activities within this state and every person who engages in this state in the business of acting as a
22 selling agent for persons not otherwise vendors as defined in this subdivision. Irrespective of
23 whether they are making sales on their own behalf or on behalf of the dealers, distributors,
24 consignors, supervisors, principals or employers, they must be regarded as vendors and the dealers,
25 distributors, consignors, supervisors, principals or employers must be regarded as vendors for the
26 purposes of sections 144.600 to 144.745.

27 144.637. 1. The director of revenue shall provide and maintain a database that describes
28 boundary changes for all taxing jurisdictions and the effective dates of such changes for the use of
29 vendors collecting the tax imposed under sections 144.600 to 144.745.

30 2. For the identification of counties and cities, codes corresponding to the rates shall be
31 provided according to Federal Information Processing Standards (FIPS) as developed by the
32 National Institute of Standards and Technology. For the identification of all other jurisdictions,
33 codes corresponding to the rates shall be in a format determined by the director.

34 3. The director shall provide and maintain a database that assigns each five- and nine-digit
35 zip code to the proper rates and taxing jurisdictions. The lowest combined tax rate imposed in the
36 zip code area shall apply if the area includes more than one tax rate in any level of taxing
37 jurisdiction. If a nine-digit zip code designation is not available for a street address, or if a vendor is
38 unable to determine the nine-digit zip code designation applicable to a purchase after exercising due
39 diligence to determine the designation, the vendor may apply the rate for the five-digit zip code
40 area. For purposes of this section, there shall be a rebuttable presumption that a vendor has
41 exercised due diligence if the vendor has attempted to determine the nine-digit zip code designation
42 by utilizing software approved by the director that makes this designation from the street address
43 and the five-digit zip code applicable to a purchase.

44 4. The director may provide address-based boundary database records for assigning taxing
45 jurisdictions and associated rates which shall be in addition to the requirements of subsection 3 of
46 this section. The database records shall be in the same approved format as the database records
47 required under subsection 3 of this section and shall meet the requirements developed pursuant to
48 the federal Mobile Telecommunications Sourcing Act, 4 U.S.C. Section 119(a). If the director
49 develops address-based assignment database records, vendors shall be required to use such database.

A vendor shall use such database records in place of the five- and nine-digit zip code database records provided for in subsection 3 of this section. If a vendor is unable to determine the applicable rate and jurisdiction using an address-based database record after exercising due diligence, the vendor may apply the nine-digit zip code designation applicable to a purchase. If a nine-digit zip code designation is not available for a street address or if a vendor is unable to determine the nine-digit zip code designation applicable to a purchase after exercising due diligence to determine the designation, the vendor may apply the rate for the five-digit zip code area. For the purposes of this section, there shall be a rebuttable presumption that a vendor has exercised due diligence if the vendor has attempted to determine the tax rate and jurisdiction by utilizing software approved by the director and makes the assignment from the address and zip code information applicable to the purchase. If the director has met the requirements of subsection 3 of this section, the director may also elect to certify address-based databases provided by third parties for assigning tax rates and jurisdictions. The databases shall be in the same approved format as the database records under this section and meet the requirements developed pursuant to the federal Mobile Telecommunications Sourcing Act, 4 U.S.C. Section 119(a). If the director certifies an address-based database provided by a third party, a vendor may use such database in place of the database provided for in this subsection.

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

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

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

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

Shall the _____ (county or municipality's name) impose a local use tax at the same rate as the total local sales tax rate, [currently _____ (insert percent),] provided that if the local sales tax rate is reduced or raised by voter approval, the local use tax rate shall also be reduced or raised by the same action? [~~A use tax return shall not be required to be filed by persons whose purchases from out-of-state vendors do not in total exceed two thousand dollars in any calendar year.~~] Approval of this question

1 will eliminate the disparity in tax rates collected by local and out-of-state sellers by
 2 imposing the same rate on all sellers.

3 ☐ YES ☐ NO

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

6 (2) (a) The ballot of submission in a county having a charter form of government with a
 7 population in excess of nine hundred thousand shall contain substantially the following language:

8 For the purposes of enhancing county and municipal public safety, parks, and job
 9 creation and enhancing local government services, shall the county be authorized to
 10 collect a local use tax equal to the total of the existing county sales tax rate [of (insert
 11 tax rate)], provided that if the county sales tax is repealed, reduced or raised by voter
 12 approval, the local use tax rate shall also be repealed, reduced or raised by the same
 13 voter action? Fifty percent of the revenue shall be used by the county throughout the
 14 county for improving and enhancing public safety, park improvements, and job
 15 creation, and fifty percent shall be used for enhancing local government services. The
 16 county shall be required to make available to the public an audited comprehensive
 17 financial report detailing the management and use of the countywide portion of the
 18 funds each year.

19 A use tax is the equivalent of a sales tax on purchases from out-of-state sellers by in-
 20 state buyers and on certain taxable business transactions. [A use tax return shall not
 21 be required to be filed by persons whose purchases from out-of-state vendors do not
 22 in total exceed two thousand dollars in any calendar year.] Approval of this question
 23 will eliminate the disparity in tax rates collected by local and out-of-state sellers by
 24 imposing the same rate on all sellers.

25 ☐ YES ☐ NO

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

28 (b) The ballot of submission in a municipality within a county having a charter form of
 29 government with a population in excess of nine hundred thousand shall contain substantially the
 30 following language:

31 Shall the municipality be authorized to impose a local use tax at the same rate as the
 32 local sales tax by a vote of the governing body, provided that if any local sales tax is
 33 repealed, reduced or raised by voter approval, the respective local use tax shall also
 34 be repealed, reduced or raised by the same action? [~~A use tax return shall not be~~
 35 ~~required to be filed by persons whose purchases from out-of-state vendors do not in~~
 36 ~~total exceed two thousand dollars in any calendar year.~~] Approval of this question
 37 will eliminate the disparity in tax rates collected by local and out-of-state sellers by
 38 imposing the same rate on all sellers.

39 ☐ YES ☐ NO

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

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

44 Shall the _____ (city name) impose a local use tax at the same rate as the local sales
 45 tax, [~~currently at a rate of _____ (insert percent)~~] which includes the capital
 46 improvements sales tax and the transportation tax, provided that if any local sales tax
 47 is repealed, reduced or raised by voter approval, the respective local use tax shall also
 48 be repealed, reduced or raised by the same action? [~~A use tax return shall not be~~
 49 ~~required to be filed by persons whose purchases from out-of-state vendors do not in~~

1 ~~total exceed two thousand dollars in any calendar year.] Approval of this question~~
 2 ~~will eliminate the disparity in tax rates collected by local and out-of-state sellers by~~
 3 ~~imposing the same rate on all sellers.~~

4 ☐ YES ☐ NO

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

7 (4) If any of such ballots are submitted on August 6, 1996, and if a majority of the votes cast
 8 on the proposal by the qualified voters voting thereon are in favor of the proposal, then the
 9 ordinance or order and any amendments thereto shall be in effect October 1, 1996, provided the
 10 director of revenue receives notice of adoption of the local use tax on or before August 16, 1996. If
 11 any of such ballots are submitted after December 31, 1996, and if a majority of the votes cast on the
 12 proposal by the qualified voters voting thereon are in favor of the proposal, then the ordinance or
 13 order and any amendments thereto shall be in effect on the first day of the calendar quarter which
 14 begins at least forty-five days after the director of revenue receives notice of adoption of the local
 15 use tax. If a majority of the votes cast by the qualified voters voting are opposed to the proposal,
 16 then the governing body of the county or municipality shall have no power to impose the local use
 17 tax as herein authorized unless and until the governing body of the county or municipality shall
 18 again have submitted another proposal to authorize the governing body of the county or
 19 municipality to impose the local use tax and such proposal is approved by a majority of the qualified
 20 voters voting thereon.

21 3. The local use tax may be imposed at the same rate as the local sales tax then currently in
 22 effect in the county or municipality upon all transactions which are subject to the taxes imposed
 23 pursuant to sections 144.600 to 144.745 within the county or municipality adopting such tax;
 24 provided, however, that if any local sales tax is repealed or the rate thereof is reduced or raised by
 25 voter approval, the local use tax rate shall also be deemed to be repealed, reduced or raised by the
 26 same action repealing, reducing or raising the local sales tax.

27 4. For purposes of sections 144.757 to 144.761, the use tax may be referred to or described
 28 as the equivalent of a sales tax on purchases made from out-of-state sellers by in-state buyers and on
 29 certain intrabusiness transactions. Such a description shall not change the classification, form or
 30 subject of the use tax or the manner in which it is collected."; and

31
 32 Further amend said bill by amending the title, enacting clause, and intersectional references
 33 accordingly.