

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

**Offered By**

1 AMEND House Bill No. 2270, Page 1, In the Title, Line 2, by deleting the words, "tax credits" and  
2 inserting in lieu thereof the word, "refunds"; and

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4 Further amend said bill, page, Section A, Line 1, by deleting the number "135" and inserting in lieu  
5 thereof the number "144"; and

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7 Further amend said bill, page, section, Line 2, by deleting the number "135.780" and inserting in  
8 lieu thereof the number "144.190"; and

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10 Further amend said bill, Pages 1-2, Section 135.780, Lines 1-49, by deleting all of said section and  
11 lines and inserting in lieu thereof the following:

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13 "144.190. 1. If a tax has been incorrectly computed by reason of a clerical error or mistake  
14 on the part of the director of revenue, such fact shall be set forth in the records of the director of  
15 revenue, and the amount of the overpayment shall be credited on any taxes then due from the person  
16 legally obligated to remit the tax pursuant to sections 144.010 to 144.525, and the balance shall be  
17 refunded to the person legally obligated to remit the tax, such person's administrators or executors,  
18 as provided for in section 144.200.

19 2. If any tax, penalty or interest has been paid more than once, or has been erroneously or  
20 illegally collected, or has been erroneously or illegally computed, such sum shall be credited on any  
21 taxes then due from the person legally obligated to remit the tax pursuant to sections 144.010 to  
22 144.525, and the balance, with interest as determined by section 32.065, shall be refunded to the  
23 person legally obligated to remit the tax, but no such credit or refund shall be allowed unless  
24 duplicate copies of a claim for refund are filed within three years from date of overpayment.

25 3. Every claim for refund must be in writing and signed by the applicant, and must state the  
26 specific grounds upon which the claim is founded. Any refund or any portion thereof which is  
27 erroneously made, and any credit or any portion thereof which is erroneously allowed, may be  
28 recovered in any action brought by the director of revenue against the person legally obligated to  
29 remit the tax. In the event that a tax has been illegally imposed against a person legally obligated to  
30 remit the tax, the director of revenue shall authorize the cancellation of the tax upon the director's  
31 record.

32 4. Notwithstanding the provisions of section 32.057, a purchaser that originally paid sales or  
33 use tax to a vendor or seller may submit a refund claim directly to the director of revenue for such  
34 sales or use taxes paid to such vendor or seller and remitted to the director, provided no sum shall be  
35 refunded more than once, any such claim shall be subject to any offset, defense, or other claim the  
36 director otherwise would have against either the purchaser or vendor or seller, and such claim for

Standing Action Taken \_\_\_\_\_ Date \_\_\_\_\_

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1 refund is accompanied by either:

2 (1) A notarized assignment of rights statement by the vendor or seller to the purchaser  
3 allowing the purchaser to seek the refund on behalf of the vendor or seller. An assignment of rights  
4 statement shall contain the Missouri sales or use tax registration number of the vendor or seller, a  
5 list of the transactions covered by the assignment, the tax periods and location for which the original  
6 sale was reported to the director of revenue by the vendor or seller, and a notarized statement signed  
7 by the vendor or seller affirming that the vendor or seller has not received a refund or credit, will  
8 not apply for a refund or credit of the tax collected on any transactions covered by the assignment,  
9 and authorizes the director to amend the seller's return to reflect the refund; or

10 (2) In the event the vendor or seller fails or refuses to provide an assignment of rights  
11 statement within sixty days from the date of such purchaser's written request to the vendor or seller,  
12 or the purchaser is not able to locate the vendor or seller or the vendor or seller is no longer in  
13 business, the purchaser may provide the director a notarized statement confirming the efforts that  
14 have been made to obtain an assignment of rights from the vendor or seller. Such statement shall  
15 contain a list of the transactions covered by the assignment, the tax periods and location for which  
16 the original sale was reported to the director of revenue by the vendor or seller.

17  
18 The director shall not require such vendor, seller, or purchaser to submit amended returns for refund  
19 claims submitted under the provisions of this subsection. Notwithstanding the provisions of section  
20 32.057, if the seller is registered with the director for collection and remittance of sales tax, the  
21 director shall notify the seller at the seller's last known address of the claim for refund. If the seller  
22 objects to the refund within thirty days of the date of the notice, the director shall not pay the  
23 refund. If the seller agrees that the refund is warranted or fails to respond within thirty days, the  
24 director may issue the refund and amend the seller's return to reflect the refund. For purposes of  
25 section 32.069, the refund claim shall not be considered to have been filed until the seller agrees that  
26 the refund is warranted or thirty days after the date the director notified the seller and the seller  
27 failed to respond.

28 5. Notwithstanding the provisions of section 32.057, when a vendor files a refund claim on  
29 behalf of a purchaser and such refund claim is denied by the director, notice of such denial and the  
30 reason for the denial shall be sent by the director to the vendor and each purchaser whose name and  
31 address is submitted with the refund claim form filed by the vendor. A purchaser shall be entitled to  
32 appeal the denial of the refund claim within sixty days of the date such notice of denial is mailed by  
33 the director as provided in section 144.261. The provisions of this subsection shall apply to all  
34 refund claims filed after August 28, 2012. The provisions of this subsection allowing a purchaser to  
35 appeal the director's decision to deny a refund claim shall also apply to any refund claim denied by  
36 the director on or after January 1, 2007, if an appeal of the denial of the refund claim is filed by the  
37 purchaser no later than September 28, 2012, and if such claim is based solely on the issue of the  
38 exemption of the electronic transmission or delivery of computer software.

39 6. Notwithstanding the provisions of this section, the director of revenue shall authorize  
40 direct-pay agreements to purchasers which have annual purchases in excess of seven hundred fifty  
41 thousand dollars pursuant to rules and regulations adopted by the director of revenue. For the  
42 purposes of such direct-pay agreements, the taxes authorized pursuant to chapters 66, 67, 70, 92, 94,  
43 162, 190, 238, 321, and 644 shall be remitted based upon the location of the place of business of the  
44 purchaser.

45 7. Special rules applicable to error corrections requested by customers of mobile  
46 telecommunications service are as follows:

47 (1) For purposes of this subsection, the terms "customer", "home service provider", "place  
48 of primary use", "electronic database", and "enhanced zip code" shall have the same meanings as

1 defined in the Mobile Telecommunications Sourcing Act incorporated by reference in section  
2 144.013;

3 (2) Notwithstanding the provisions of this section, if a customer of mobile  
4 telecommunications services believes that the amount of tax, the assignment of place of primary use  
5 or the taxing jurisdiction included on a billing is erroneous, the customer shall notify the home  
6 service provider, in writing, within three years from the date of the billing statement. The customer  
7 shall include in such written notification the street address for the customer's place of primary use,  
8 the account name and number for which the customer seeks a correction of the tax assignment, a  
9 description of the error asserted by the customer and any other information the home service  
10 provider reasonably requires to process the request;

11 (3) Within sixty days of receiving the customer's notice, the home service provider shall  
12 review its records and the electronic database or enhanced zip code to determine the customer's  
13 correct taxing jurisdiction. If the home service provider determines that the review shows that the  
14 amount of tax, assignment of place of primary use or taxing jurisdiction is in error, the home service  
15 provider shall correct the error and, at its election, either refund or credit the amount of tax  
16 erroneously collected to the customer for a period of up to three years from the last day of the home  
17 service provider's sixty-day review period. If the home service provider determines that the review  
18 shows that the amount of tax, the assignment of place of primary use or the taxing jurisdiction is  
19 correct, the home service provider shall provide a written explanation of its determination to the  
20 customer.

21 8. For all refund claims submitted to the department of revenue on or after September 1,  
22 2003, notwithstanding any provision of this section to the contrary, if a person legally obligated to  
23 remit the tax levied pursuant to sections 144.010 to 144.525 has received a refund of such taxes for  
24 a specific issue and submits a subsequent claim for refund of such taxes on the same issue for a tax  
25 period beginning on or after the date the original refund check issued to such person, no refund shall  
26 be allowed. This subsection shall not apply and a refund shall be allowed if an additional refund  
27 claim is filed due to any of the following:

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

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

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

33 9. Notwithstanding any provision of law to the contrary, the director of revenue shall  
34 respond to a request for a binding letter ruling filed in accordance with section 536.021 within sixty  
35 days of receipt of such request. If the director of revenue fails to respond to such letter ruling  
36 request within sixty days of receipt by the director, the director of revenue shall be barred from  
37 pursuing collection of any assessment of sales or use tax with respect to the issue which is the  
38 subject of the letter ruling request. For purposes of this subsection, the term "letter ruling" means a  
39 written interpretation of law by the director to a specific set of facts provided by a specific taxpayer  
40 or his or her agent.

41 10. If any tax was paid more than once, was incorrectly collected, or was incorrectly  
42 computed, such sum shall be credited on any taxes then due from the person legally obligated to  
43 remit the tax pursuant to sections 144.010 to 144.510 against any deficiency or tax due discovered  
44 through an audit of the person by the department of revenue through adjustment during the same tax  
45 filing period for which the audit applied.

46 11. Notwithstanding any provision of law to the contrary, the director of revenue shall allow  
47 refund claims from businesses that paid sales and use tax assessments as a result of an audit by the  
48 department of revenue, between August 28, 2005 and August 28, 2015, when the department

1 expanded its interpretation of taxable items and the taxpayer did not collect the tax from the  
2 taxpayer's customers. The refund shall be allowed in an amount equal to the amount actually paid  
3 on such assessment by the taxpayer plus interest accrued on such tax payment. The amount of  
4 interest shall be calculated using the interest rate established under section 32.065 and using the  
5 period of time such tax payment was in the department's possession, as determined by the  
6 department. The total amount of refund claims and interest paid under this subsection shall not  
7 exceed five million dollars."; and

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9 Further amend said bill by amending the title, enacting clause, and intersectional references  
10 accordingly.