

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NOS. 116 & 316

96TH GENERAL ASSEMBLY

0053L.06P

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To repeal sections 32.028, 32.087, 105.716, 144.083, and 168.071, RSMo, and to enact in lieu thereof sixteen new sections relating to collection of state money, with a penalty provision and an emergency clause for a certain section.

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

Section A. Sections 32.028, 32.087, 105.716, 144.083, and 168.071, RSMo, are repealed  
2 and sixteen new sections enacted in lieu thereof, to be known as sections 32.028, 32.058, 32.087,  
3 32.088, 32.383, 32.385, 32.410, 32.420, 32.430, 32.440, 32.450, 32.460, 105.716, 140.910,  
4 144.083, and 168.071, to read as follows:

32.028. 1. There is hereby created a department of revenue in charge of a director  
2 appointed by the governor, by and with the advice and consent of the senate. The department  
3 shall collect all taxes and fees **and may collect, upon referral by a state agency, debts owed**  
4 **to any state agency**, payable to the state as provided by law.

5 2. The powers, duties and functions of the department of revenue, chapter 32 and others,  
6 are transferred by type I transfer to the department of revenue. All powers, duties and function  
7 of the collector of revenue are transferred to the director of the department by type I transfer and  
8 the position of collector of revenue is abolished.

9 3. The powers, duties and functions of the state tax commission, chapter 138 and others,  
10 are transferred by type III transfer to the department of revenue.

11 4. All of the powers, duties and functions of the state tax commission relating to  
12 administration of the corporation franchise tax, chapter 152, and others, are transferred by type  
13 I transfer to the department of revenue; provided, however, that the provision of section 138.430  
14 relating to appeals from decisions of the director of revenue shall apply to these taxes.

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.

15           5. All the powers, duties and functions of the highway reciprocity commission, chapter  
16 301, are transferred by type II transfer to the department of revenue.

**32.058. For all years beginning after January 1, 2012, notwithstanding the certified  
2 mail provisions contained in chapters 32, 140, 142, 143, 144, 147, 148, 149, and 302, the  
3 director of revenue may choose to mail any document by first class mail.**

          32.087. 1. Within ten days after the adoption of any ordinance or order in favor of  
2 adoption of any local sales tax authorized under the local sales tax law by the voters of a taxing  
3 entity, the governing body or official of such taxing entity shall forward to the director of revenue  
4 by United States registered mail or certified mail a certified copy of the ordinance or order. The  
5 ordinance or order shall reflect the effective date thereof.

          2. Any local sales tax so adopted shall become effective on the first day of the second  
7 calendar quarter after the director of revenue receives notice of adoption of the local sales tax,  
8 except as provided in subsection 18 of this section.

          3. Every retailer within the jurisdiction of one or more taxing entities which has imposed  
10 one or more local sales taxes under the local sales tax law shall add all taxes so imposed along  
11 with the tax imposed by the sales tax law of the state of Missouri to the sale price and, when  
12 added, the combined tax shall constitute a part of the price, and shall be a debt of the purchaser  
13 to the retailer until paid, and shall be recoverable at law in the same manner as the purchase  
14 price. The combined rate of the state sales tax and all local sales taxes shall be the sum of the  
15 rates, multiplying the combined rate times the amount of the sale.

          4. The brackets required to be established by the director of revenue under the provisions  
17 of section 144.285 shall be based upon the sum of the combined rate of the state sales tax and  
18 all local sales taxes imposed under the provisions of the local sales tax law.

          5. The ordinance or order imposing a local sales tax under the local sales tax law shall  
20 impose upon all sellers a tax for the privilege of engaging in the business of selling tangible  
21 personal property or rendering taxable services at retail to the extent and in the manner provided  
22 in sections 144.010 to 144.525, and the rules and regulations of the director of revenue issued  
23 pursuant thereto; except that the rate of the tax shall be the sum of the combined rate of the state  
24 sales tax or state highway use tax and all local sales taxes imposed under the provisions of the  
25 local sales tax law.

          6. On and after the effective date of any local sales tax imposed under the provisions of  
27 the local sales tax law, the director of revenue shall perform all functions incident to the  
28 administration, collection, enforcement, and operation of the tax, and the director of revenue  
29 shall collect in addition to the sales tax for the state of Missouri all additional local sales taxes  
30 authorized under the authority of the local sales tax law. **The director shall retain one percent  
31 of the amount of any local sales or use tax collected for cost of collection.** All local sales

32 taxes imposed under the local sales tax law together with all taxes imposed under the sales tax  
33 law of the state of Missouri shall be collected together and reported upon such forms and under  
34 such administrative rules and regulations as may be prescribed by the director of revenue.

35 7. All applicable provisions contained in sections 144.010 to 144.525 governing the state  
36 sales tax and section 32.057, the uniform confidentiality provision, shall apply to the collection  
37 of any local sales tax imposed under the local sales tax law except as modified by the local sales  
38 tax law.

39 8. All exemptions granted to agencies of government, organizations, persons and to the  
40 sale of certain articles and items of tangible personal property and taxable services under the  
41 provisions of sections 144.010 to 144.525, as these sections now read and as they may hereafter  
42 be amended, it being the intent of this general assembly to ensure that the same sales tax  
43 exemptions granted from the state sales tax law also be granted under the local sales tax law, are  
44 hereby made applicable to the imposition and collection of all local sales taxes imposed under  
45 the local sales tax law.

46 9. The same sales tax permit, exemption certificate and retail certificate required by  
47 sections 144.010 to 144.525 for the administration and collection of the state sales tax shall  
48 satisfy the requirements of the local sales tax law, and no additional permit or exemption  
49 certificate or retail certificate shall be required; except that the director of revenue may prescribe  
50 a form of exemption certificate for an exemption from any local sales tax imposed by the local  
51 sales tax law.

52 10. All discounts allowed the retailer under the provisions of the state sales tax law for  
53 the collection of and for payment of taxes under the provisions of the state sales tax law are  
54 hereby allowed and made applicable to any local sales tax collected under the provisions of the  
55 local sales tax law.

56 11. The penalties provided in section 32.057 and sections 144.010 to 144.525 for a  
57 violation of the provisions of those sections are hereby made applicable to violations of the  
58 provisions of the local sales tax law.

59 12. (1) For the purposes of any local sales tax imposed by an ordinance or order under  
60 the local sales tax law, all sales, except the sale of motor vehicles, trailers, boats, and outboard  
61 motors, shall be deemed to be consummated at the place of business of the retailer unless the  
62 tangible personal property sold is delivered by the retailer or his agent to an out-of-state  
63 destination. In the event a retailer has more than one place of business in this state which  
64 participates in the sale, the sale shall be deemed to be consummated at the place of business of  
65 the retailer where the initial order for the tangible personal property is taken, even though the  
66 order must be forwarded elsewhere for acceptance, approval of credit, shipment or billing. A

67 sale by a retailer's agent or employee shall be deemed to be consummated at the place of business  
68 from which he works.

69 (2) For the purposes of any local sales tax imposed by an ordinance or order under the  
70 local sales tax law, all sales of motor vehicles, trailers, boats, and outboard motors shall be  
71 deemed to be consummated at the residence of the purchaser and not at the place of business of  
72 the retailer, or the place of business from which the retailer's agent or employee works.

73 (3) For the purposes of any local tax imposed by an ordinance or under the local sales  
74 tax law on charges for mobile telecommunications services, all taxes of mobile  
75 telecommunications service shall be imposed as provided in the Mobile Telecommunications  
76 Sourcing Act, 4 U.S.C. Sections 116 through 124, as amended.

77 13. Local sales taxes imposed pursuant to the local sales tax law on the purchase and sale  
78 of motor vehicles, trailers, boats, and outboard motors shall not be collected and remitted by the  
79 seller, but shall be collected by the director of revenue at the time application is made for a  
80 certificate of title, if the address of the applicant is within a taxing entity imposing a local sales  
81 tax under the local sales tax law.

82 14. The director of revenue and any of his **or her** deputies, assistants and employees who  
83 have any duties or responsibilities in connection with the collection, deposit, transfer, transmittal,  
84 disbursement, safekeeping, accounting, or recording of funds which come into the hands of the  
85 director of revenue under the provisions of the local sales tax law shall enter a surety bond or  
86 bonds payable to any and all taxing entities in whose behalf such funds have been collected  
87 under the local sales tax law in the amount of one hundred thousand dollars for each such tax;  
88 but the director of revenue may enter into a blanket bond covering himself **or herself** and all  
89 such deputies, assistants and employees. The cost of any premium for such bonds shall be paid  
90 by the director of revenue from the share of the collections under the sales tax law retained by  
91 the director of revenue for the benefit of the state.

92 15. The director of revenue shall annually report on his **or her** management of each trust  
93 fund which is created under the local sales tax law and administration of each local sales tax  
94 imposed under the local sales tax law. He **or she** shall provide each taxing entity imposing one  
95 or more local sales taxes authorized by the local sales tax law with a detailed accounting of the  
96 source of all funds received by him for the taxing entity. Notwithstanding any other provisions  
97 of law, the state auditor shall annually audit each trust fund. A copy of the director's report and  
98 annual audit shall be forwarded to each taxing entity imposing one or more local sales taxes.

99 16. Within the boundaries of any taxing entity where one or more local sales taxes have  
100 been imposed, if any person is delinquent in the payment of the amount required to be paid by  
101 him **or her** under the local sales tax law or in the event a determination has been made against  
102 him **or her** for taxes and penalty under the local sales tax law, the limitation for bringing suit for

103 the collection of the delinquent tax and penalty shall be the same as that provided in sections  
104 144.010 to 144.525. Where the director of revenue has determined that suit must be filed against  
105 any person for the collection of delinquent taxes due the state under the state sales tax law, and  
106 where such person is also delinquent in payment of taxes under the local sales tax law, the  
107 director of revenue shall notify the taxing entity in the event any person fails or refuses to pay  
108 the amount of any local sales tax due so that appropriate action may be taken by the taxing entity.

109 17. Where property is seized by the director of revenue under the provisions of any law  
110 authorizing seizure of the property of a taxpayer who is delinquent in payment of the tax imposed  
111 by the state sales tax law, and where such taxpayer is also delinquent in payment of any tax  
112 imposed by the local sales tax law, the director of revenue shall permit the taxing entity to join  
113 in any sale of property to pay the delinquent taxes and penalties due the state and to the taxing  
114 entity under the local sales tax law. The proceeds from such sale shall first be applied to all sums  
115 due the state, and the remainder, if any, shall be applied to all sums due such taxing entity.

116 18. If a local sales tax has been in effect for at least one year under the provisions of the  
117 local sales tax law and voters approve reimposition of the same local sales tax at the same rate  
118 at an election as provided for in the local sales tax law prior to the date such tax is due to expire,  
119 the tax so reimposed shall become effective the first day of the first calendar quarter after the  
120 director receives a certified copy of the ordinance, order or resolution accompanied by a map  
121 clearly showing the boundaries thereof and the results of such election, provided that such  
122 ordinance, order or resolution and all necessary accompanying materials are received by the  
123 director at least thirty days prior to the expiration of such tax. Any administrative cost or  
124 expense incurred by the state as a result of the provisions of this subsection shall be paid by the  
125 city or county reimposing such tax.

**32.088. 1. Beginning January 1, 2012, the possession of a statement from the  
2 department of revenue stating no tax is due under chapters 142, 143, 144, 147, and 149, and  
3 that no fees are due under sections 260.262 or 260.273, shall be a prerequisite to the  
4 issuance or renewal of any city or county occupation license or any state license required  
5 for conducting any business. The statement of no tax due shall be dated no longer than  
6 ninety days before the date of submission for application or renewal of the city or county  
7 license.**

**8 2. Beginning January 1, 2012, in lieu of subsection 1 of this section, the director  
9 may enter into an agreement with any state agency responsible for issuing any state license  
10 for conducting any business requiring the agency to provide the director of revenue with  
11 the name and Missouri tax identification number of each applicant for licensure within one  
12 month of the date the application is filed or at least one month prior to the anticipated  
13 renewal of a licensee's license. If such licensee is delinquent on any taxes under chapters  
14 142, 143, 144, 147, and 149, or fees under sections 260.262 or 260.273, the director shall**

15 then send notice to each such entity and licensee. In the case of such delinquency or failure  
16 to file, the licensee's license shall be suspended within ninety days after notice of such  
17 delinquency or failure to file, unless the director of revenue verifies that such delinquency  
18 or failure has been remedied or arrangements have been made to achieve such remedy.  
19 The director of revenue shall, within ten business days of notification to the governmental  
20 entity issuing the license that the delinquency has been remedied or arrangements have  
21 been made to remedy such delinquency, send written notification to the licensee that the  
22 delinquency has been remedied. Tax liability paid in protest or reasonably founded  
23 disputes with such liability shall be considered paid for the purposes of this section.

32.383. 1. Notwithstanding the provisions of any other law to the contrary, with  
2 respect to taxes administered by the department of revenue and imposed in chapters 143  
3 and 144, an amnesty from the assessment or payment of all penalties, additions to tax, and  
4 interest shall apply with respect to unpaid taxes or taxes due and owing reported and paid  
5 in full from August 1, 2011, to October 31, 2011, regardless of whether previously assessed,  
6 except for penalties, additions to tax, and interest paid before August 1, 2011. The amnesty  
7 shall apply only to state tax liabilities due or due but unpaid on or before December 31,  
8 2010, and shall not extend to any taxpayer who at the time of payment is a party to any  
9 criminal investigations or to any civil or criminal litigation that is pending in any court of  
10 the United States or this state for nonpayment, delinquency, or fraud in relation to any  
11 state tax imposed by this state.

12 2. Upon written application by the taxpayer, on forms prescribed by the director  
13 of revenue, and upon compliance with the provisions of this section, the department of  
14 revenue shall not seek to collect any penalty, addition to tax, or interest that may be  
15 applicable. The department of revenue shall not seek civil or criminal prosecution for any  
16 taxpayer for the taxable period for which the amnesty has been granted, unless subsequent  
17 investigation or audit shows that the taxpayer engaged in fraudulent or criminal conduct  
18 in applying for amnesty.

19 3. Amnesty shall be granted only to those taxpayers who have applied for amnesty  
20 within the period stated in this section, who have filed a tax return for each taxable period  
21 for which amnesty is requested, who have paid the entire balance due within sixty days of  
22 approval by the department of revenue, and who agree to comply with state tax laws for  
23 the next eight years from the date of the agreement. No taxpayer shall be entitled to a  
24 waiver of any penalty, addition to tax, or interest under this section unless full payment of  
25 the tax due is made in accordance with rules established by the director of revenue.

26 4. All taxpayers granted amnesty under this section shall comply with this state's  
27 tax laws for the eight years following the date of the amnesty agreement. If any such

28 taxpayer fails to comply with all of this state's tax laws at any time during the eight years  
29 following the date of the agreement, all penalties, additions to tax, and interest that were  
30 waived under the amnesty agreement shall become due and owing immediately.

31 **5. If a taxpayer elects to participate in the amnesty program established in this**  
32 **section as evidenced by full payment of the tax due as established by the director of**  
33 **revenue, that election shall constitute an express and absolute relinquishment of all**  
34 **administrative and judicial rights of appeal. No tax payment received under this section**  
35 **shall be eligible for refund or credit.**

36 **6. Nothing in this section shall be interpreted to disallow the department of revenue**  
37 **to adjust a taxpayer's tax return as a result of any state or federal audit.**

38 **7. All tax payments received as a result of the amnesty program established in this**  
39 **section, other than revenues earmarked by the Constitution of Missouri or this state's**  
40 **statutes, shall be deposited in the state general revenue fund.**

41 **8. The department may promulgate rules or issue administrative guidelines as are**  
42 **necessary to implement the provisions of this section. Any rule or portion of a rule, as that**  
43 **term is defined in section 536.010, that is created under the authority delegated in this**  
44 **section shall become effective only if it complies with and is subject to all of the provisions**  
45 **of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are**  
46 **nonseverable and if any of the powers vested with the general assembly under chapter 536**  
47 **to review, to delay the effective date, or to disapprove and annul a rule are subsequently**  
48 **held unconstitutional, then the grant of rulemaking authority and any rule proposed or**  
49 **adopted after July 1, 2011, shall be invalid and void.**

32.385. 1. The director of revenue and the commissioner of administration may  
2 jointly enter into a reciprocal collection and offset of indebtedness agreement with the  
3 federal government, under which the State will offset from state tax refunds and from  
4 payments otherwise due to vendors and contractors providing goods or services to state  
5 departments, agencies, or other state agencies non-tax debt owed to the federal  
6 government; and the federal government will offset from federal payments to vendors,  
7 contractors, and taxpayers debt owed to the state of Missouri.

8 **2. When used in this section, the following words, terms, and phrases are defined**  
9 **as set forth herein:**

10 **(1) "Federal official" means a unit or official of the federal government charged**  
11 **with the collection of non-tax liabilities payable to the federal government under 31 U.S.C.**  
12 **section 3716.**

13 **(2) "State agency" means any department, division, board, commission, office, or**  
14 **other agency of the state of Missouri.**

15           (3) **"Non-tax liability due the state"** means a liability certified to the director of  
16 revenue by a state agency and shall include, but shall not be limited to, fines, fees,  
17 penalties, and other non-tax assessments imposed by or payable to any state agency that  
18 is finally determined to be due and owing.

19           (4) **"Person"** means an individual, partnership, society, association, joint stock  
20 company, corporation, public corporation, or any public authority, estate, receiver, trustee,  
21 assignee, referee, and any other person acting in a fiduciary or representative capacity  
22 whether appointed by a court or otherwise, and any combination of the foregoing.

23           (5) **"Refund"** means an amount described as a refund of tax under the provisions  
24 of the state tax law that authorized its payment.

25           (6) **"Vendor payment"** means any payment, other than a refund, made by the state  
26 to any person or entity, and shall include but shall not be limited to any expense  
27 reimbursement to an employee of the state; but shall not include a person's salary, wages,  
28 or pension.

29           (7) **"Offset agreement"** is the agreement authorized by this section.

30           **3. Under the offset agreement, a federal official may**

31           (1) **Certify to the state of Missouri the existence of a person's delinquent non-tax**  
32 **liability owed by the person to the federal government; and**

33           (2) **Request that the state of Missouri withhold any refund and vendor payment to**  
34 **which the person is entitled.**

35           (3) **Certify and request the state of Missouri to withhold a refund or vendor**  
36 **payment only if the laws of the United States:**

37           (a) **Allow the state of Missouri to enter into a reciprocal agreement with the United**  
38 **States, under which the federal official would be authorized to offset federal payments to**  
39 **collect delinquent tax and non-tax debts owed to the state; and**

40           (b) **Provide for the payment of the amount withheld to the state.**

41           (4) **Retain a portion of the proceeds of any collection setoff as provided under the**  
42 **setoff agreement.**

43           **4. Under the offset agreement, a certification by a federal official to the state of**  
44 **Missouri shall include:**

45           (1) **the full name of the person and any other names known to be used by the**  
46 **person;**

47           (2) **the social security number or federal tax identification number;**

48           (3) **the amount of the non-tax liability; and**

49           (4) **a statement that the debt is past due and legally enforceable in the amount**  
50 **certified.**



51           **5. If a person for whom a certification is received from a federal official is due a**  
52 **refund of Missouri tax or a vendor payment, the agreement may provide that the state of**  
53 **Missouri shall**

54           **(1) withhold a refund or vendor payment that is due a person whose name has been**  
55 **certified by a federal official;**

56           **(2) in accordance with the provisions of the offset agreement, notify the person of**  
57 **the amount withheld in satisfaction of a liability certified by a federal official;**

58           **(3) pay to the federal official the lesser of:**

59           **(a) the entire refund or vendor payment; or**

60           **(b) the amount certified; and**

61           **(4) pay any refund or vendor payment in excess of the certified amount to the**  
62 **person.**

63           **6. Under the agreement, the director of revenue shall**

64           **(1) certify to a federal official the existence of a person's delinquent tax or non-tax**  
65 **liability due the state owed by the person to any state agency;**

66           **(2) request that the federal official withhold any eligible vendor payment to which**  
67 **the person is entitled; and**

68           **(3) provide for the payment of the amount withheld to the state.**

69           **7. A certification by a state agency to the director of revenue and by the director**  
70 **of revenue to the federal official under the offset agreement shall include:**

71           **(1) the full name and address of the person and any other names known to be used**  
72 **by the person;**

73           **(2) the social security number or tax identification number;**

74           **(3) the amount of the tax or non-tax liability;**

75           **(4) a statement that the debt is past due and legally enforceable in the amount**  
76 **certified; and**

77           **(5) any other information required by federal statute or regulation applicable to**  
78 **the collection of the debt by offset of federal payments.**

79           **8. Any other provisions of law to the contrary notwithstanding, the director of**  
80 **revenue and the commissioner of administration shall have the authority to enter into**  
81 **reciprocal agreements with any other state which extends a like comity to this state to set**  
82 **off offset from state tax refunds and from payments otherwise due to vendors and**  
83 **contractors providing goods or services to state departments, agencies, or other state**  
84 **agencies non-tax debt for debts due the other state that extends a like comity to this state.**

**32.410. As used in sections 32.410 to 32.460, the following terms shall mean:**

2           (1) "Debt", an amount owed to the state directly or through a state agency, on  
3 account of a fee, duty, lease, direct loan, loan insured or guaranteed by the state, rent,  
4 service, sale of real or personal property, overpayment, fine, assessment, penalty,  
5 restitution, damages, interest, tax, bail bond, forfeiture, reimbursement, liability owed, an  
6 assignment, recovery of costs incurred by the state, or any other source of indebtedness to  
7 the state;

8           (2) "Debtor", an individual, a corporation, a partnership, an unincorporated  
9 association, a limited liability company, a trust, an estate, or any other public or private  
10 entity, including a state, local, or federal government, or an Indian tribe, that is liable for  
11 a debt or against whom there is a claim for a debt;

12           (3) "Department", the department of revenue;

13           (4) "State agency", any division, board, commission, office, or other agency of the  
14 state of Missouri, including public community college districts and any state or municipal  
15 court.

**32.420. 1. Notwithstanding any other provision of law to the contrary, all state**  
2 **agencies may refer to the department for collection debts owed to them. The department**  
3 **may provide collection services on debts referred to the department by a state agency.**

4           **2. A referring agency may refer the debt to the department for collection at any**  
5 **time after a debt becomes delinquent and uncontested and the debtor has no further**  
6 **administrative appeal of the amount of the debt. Methods and procedures for referral**  
7 **must follow internal guidelines prepared by the department.**

8           **3. The collection procedures and remedies under this chapter are in addition to any**  
9 **other procedure or remedy available by law. If the state agency's applicable state or**  
10 **federal law requires the use of a particular remedy or procedure for the collection of a**  
11 **debt, that particular remedy or procedure governs the collection of that debt to the extent**  
12 **the procedure or remedy is inconsistent with this chapter.**

13           **4. The state agency shall send notice to the debtor by United States regular mail at**  
14 **the debtor's last known address at least twenty days before the debt is referred to the**  
15 **department. The notice shall state the nature and amount of the debt, identify to whom**  
16 **the debt is owed, and inform the debtor of the remedies available under this chapter or the**  
17 **state agency's own procedures.**

**32.430. 1. The department may establish policies and procedures to use the**  
2 **collection remedy afforded under section 143.902 in filing a lien with the county recorder**

3 of deeds and the filing of a certificate of lien with the circuit court. The department may  
4 also use collection remedies afforded under any chapter for collection of any state debt  
5 referred to the department. Debtors shall have all rights afforded under sections 32.410  
6 to 32.470 to notice and to challenge the department's collection.

7       2. Venue for any suit filed in aid of collection of a state debt referred to the  
8 department shall be in Cole County. If a judgment or a lien was filed with a circuit clerk  
9 prior to the date the debt was referred to the department, the venue shall be the county in  
10 which the judgment or lien was filed.

11       3. The department is authorized to employ department staff and attorneys, and at  
12 the department's discretion, the attorney general and prosecuting attorneys and private  
13 collection agencies as authorized in sections 136.150 and 140.850 in seeking collection of  
14 debts referred to the department by a state agency.

32.440. 1. The department shall add to the amount of debt referred to the  
2 department by a state agency the cost of collection which shall be ten percent of the total  
3 debt referred by the state agency. The department shall have the same authority to collect  
4 the cost of collection as the department has in collecting the debt referred by the state  
5 agency.

6       2. The cost of collection may only be waived when:

7       (1) Within thirty days after the initial notice with the debtor by the department, the  
8 debtor establishes to the department reasonable cause for the failure to pay the debt prior  
9 to referral of the debt to the department, enters into an agreement satisfactory to the  
10 department to pay the debt in full, and fully abides by the terms of that agreement;

11       (2) A good faith dispute as to the legitimacy or the amount of the debt exists, and  
12 payment is remitted or an agreement satisfactory to the department to pay the debt in full  
13 is entered into within thirty days after resolution of the dispute, and the debtor fully abides  
14 by the terms of that agreement; or

15       (3) Collection costs have been added by the state agency and are included in the  
16 amount of the referred debt.

17       3. If the department collects an amount less than the total due, the payment is  
18 applied proportionally to collection costs and the underlying debt unless the department  
19 has waived this requirement for certain categories of debt pursuant to the department's  
20 internal guidelines. Collection costs collected by the department under this section shall  
21 be deposited in the general revenue fund.

**32.450. The department may compromise state debt referred to the department in accordance with section 32.378.**

**32.460. 1. The department and the referring state agency shall follow all federal and state laws regarding the confidentiality of information and records regarding the debtor including the disclosure of the debtor's Social Security number, which state agencies, including the judiciary, are authorized to provide to the department in assistance of collection of the state debt referred. Each specific state agency's confidentiality laws shall apply to the employees of the state agency and to the department.**

**2. The department and the referring state agency are authorized to exchange such information as is necessary for the successful collection of the state debt referred in accordance with section 610.032. The judiciary is hereby authorized to exchange such information with the department as is necessary for the successful collection of the state debt referred.**

105.716. 1. Any investigation, defense, negotiation, or compromise of any claim covered by sections 105.711 to 105.726 shall be conducted by the attorney general; provided, that in the case of any claim against the department of conservation, the department of transportation or a public institution which awards baccalaureate degrees, or any officer or employee of such department or such institution, any investigation, defense, negotiation, or compromise of any claim covered by sections 105.711 to 105.726 shall be conducted by legal counsel provided by the respective entity against which the claim is made or which employs the person against whom the claim is made.

In the case of any payment from the state legal expense fund based upon a claim or judgment against the department of conservation, the department of transportation or any officer or employee thereof, the department so affected shall immediately transfer to the state legal expense fund from the department funds a sum equal to the amount expended from the state legal expense fund on its behalf.

2. All persons and entities protected by the state legal expense fund shall cooperate with the attorneys conducting any investigation and preparing any defense under the provisions of sections 105.711 to 105.726 by assisting such attorneys in all respects, including the making of settlements, the securing and giving of evidence, and the attending and obtaining witness to attend hearings and trials. Funds in the state legal expense fund shall not be used to pay claims and judgments against those persons and entities who do not cooperate as required by this subsection.

22           3. The provisions of sections 105.711 to 105.726 notwithstanding, the attorney general  
23 may investigate, defend, negotiate, or compromise any claim covered by sections 105.711 to  
24 105.726 against any public institution which awards baccalaureate degrees whose governing  
25 body has declared a state of financial exigency.

26           4. Notwithstanding the provisions of subsection 2 of section 105.711, funds in the state  
27 legal expense fund may be expended prior to the payment of any claim or any final judgment to  
28 pay costs of defense, including reasonable attorney's fees for retention of legal counsel, when the  
29 attorney general determines that a conflict exists or particular expertise is required, and also to  
30 pay for related legal expenses including medical examination fees, expert witness fees, court  
31 reporter expenses, travel costs and ancillary legal expenses incurred prior to the payment of a  
32 claim or any final judgment.

33           **5. Notwithstanding any other provision of law to the contrary, no funds shall be**  
34 **expended from the state legal expense fund for settlement of any liability claim except upon**  
35 **the production of a no tax due statement from the department of revenue by the party**  
36 **making claim or having judgment under section 105.711, which shall be satisfied from such**  
37 **fund. Payments of no less than ten thousand dollars from the fund for property damage**  
38 **claims shall not require a no tax due statement from the department. If the party is found**  
39 **by the director of revenue to owe a delinquent tax debt to the state of Missouri under the**  
40 **revenue laws of this state, any funds to be paid to the party from the state legal expense**  
41 **fund shall be offset to satisfy such tax debt before payment is made to the party making**  
42 **claim or having judgment.**

**140.910. 1. In addition to any other remedy provided by law for the collection of**  
2 **delinquent taxes due the state of Missouri, if the director has filed a certificate of lien in the**  
3 **circuit court as provided by section 143.902, 144.380, or 144.690, the director or his or her**  
4 **designee may issue an order directing any person to withhold and pay over to the**  
5 **department assets belonging to, due, or to become due the taxpayer. The director or his**  
6 **or her designee shall not issue the administrative garnishment if the taxpayer has entered**  
7 **into a written agreement with the department for an alternative payment arrangement and**  
8 **the taxpayer is in compliance with the agreement.**

9           **2. An order entered under this section shall be served on the person or other legal**  
10 **entity either by regular mail or by certified mail, return receipt requested, or may be issued**  
11 **through electronic means, and shall be binding on the employer or other payor two weeks**  
12 **after mailing or electronic issuance of such service. The person or other entity in**  
13 **possession of assets belonging to, due, or to become due the taxpayer may deduct an**

14 additional sum not to exceed six dollars per month as reimbursement for costs, except that  
15 the total amount withheld shall not exceed the limitations contained in the federal  
16 Consumer Credit Protection Act, 15 U.S.C. 1673.

17       **3. A copy of the order shall be mailed to the taxpayer at the taxpayer's last known**  
18 **address. The notice shall advise the taxpayer that the administrative garnishment has**  
19 **commenced and the procedures to contest such garnishment on the grounds that such**  
20 **garnishment is improper due to a mistake of fact by requesting a hearing within thirty**  
21 **days from mailing or electronic issuance of the notice. At such a hearing the certified**  
22 **records of the department shall constitute prima facie evidence that the director's order**  
23 **is valid and enforceable. If a prima facie case is established, the obligor may only assert**  
24 **as a defense mistake as to the identity of the taxpayer, mistake as to payments made, or**  
25 **existence of an alternative payment agreement for which no default has occurred. The**  
26 **taxpayer shall have the burden of proof on such issues. The taxpayer may obtain relief**  
27 **from the garnishment by paying the amount owed.**

28       **4. An employer or other payor shall withhold from the earnings or other income**  
29 **of each taxpayer the amount specified in the order. The employer or other payor shall**  
30 **transmit the payments as directed in the order within ten business days of the date the**  
31 **earnings, money due, or other income was payable to the taxpayer. For purposes of this**  
32 **section, "business day" means a day that state offices are open for regular business. The**  
33 **employer or other payor shall, along with the amounts transmitted, provide the date the**  
34 **amount was withheld from the taxpayer.**

35       **5. An order issued under subsection 1 of this section shall be a continuing order and**  
36 **shall remain in effect and be binding upon any employer or other payor upon whom it is**  
37 **directed until a further order of the director. The director shall notify an employer or**  
38 **other payor upon whom such an order has been directed whenever the deficiency is paid**  
39 **in full.**

40       **6. If the order is served on a person other than an employer or other payor, it shall**  
41 **be a lien against any money belonging to the taxpayer that is in the possession of the person**  
42 **on the date of service. The person other than an employer or other payor shall pay over**  
43 **any assets within ten business days of the service date of the order. A financial institution**  
44 **ordered to surrender an account shall be entitled to collect its normally scheduled account**  
45 **activity surcharges to maintain the account during the period of time the account is**  
46 **garnished. For purposes of this section, the interest of the taxpayer in any joint financial**  
47 **accounts shall be presumed to be equal to all other joint owners.**

48           **7. An order issued under subsection 1 of this section shall have priority over any**  
49 **other legal process under state law against the same income or other asset, except that**  
50 **where the other legal process is an order issued under section 452.350, 454.505, or 454.507,**  
51 **the withholding for child support shall have priority.**

52           **8. No person who complies with an order entered under this section shall be liable**  
53 **to the taxpayer, or to any other person claiming rights derived from the taxpayer, for**  
54 **wrongful withholding. A person who fails or refuses to withhold or pay the amounts as**  
55 **ordered under this section shall be liable to the state in a sum equal to the value of the**  
56 **wages or property not surrendered, but not to exceed the amount of tax deficiency. The**  
57 **director is hereby authorized to bring an action in circuit court to determine the liability**  
58 **of a person for failure to withhold or pay the amounts as ordered. If a court finds that a**  
59 **violation has occurred, the court may fine the person in an amount not to exceed five**  
60 **hundred dollars. The court may also enter a judgment against the person or other legal**  
61 **entity for the amounts to be withheld or paid, court costs, and reasonable attorney's**  
62 **surcharges.**

63           **9. The remedy provided by this section shall be available where the state or any of**  
64 **its political subdivisions is the employer or other payor of the taxpayer in the same manner**  
65 **and to the same extent as where the employer or other payor is a private party.**

66           **10. An employer shall not discharge, or refuse to hire or otherwise discipline, an**  
67 **employee as a result of an order to withhold and pay over certain money authorized by this**  
68 **section. If any such employee is discharged within thirty days of the date upon which an**  
69 **order to withhold and pay over certain money is to take effect, there shall arise a**  
70 **rebuttable presumption that such discharge was a result of such order. This presumption**  
71 **shall be overcome only by clear, cogent and convincing evidence produced by the employer**  
72 **that the employee was not terminated because of the order to withhold and pay over**  
73 **certain money. The director or his or her designee is hereby authorized to bring an action**  
74 **in circuit court to determine whether the discharge constitutes a violation of this**  
75 **subsection. If the court finds that a violation has occurred, the court may enter an order**  
76 **against the employer requiring reinstatement of the employee and may fine the employer**  
77 **in an amount not to exceed five hundred dollars. Further, the court may enter judgment**  
78 **against the employer for the back wages, costs, attorney's surcharges, and for the amount**  
79 **of taxes that should have been withheld and paid over during the period of time the**  
80 **employee was wrongfully discharged.**

81           **11. If a taxpayer for whom an order to withhold has been issued under subsection**  
82 **1 of this section terminates the taxpayer's employment, the employer shall, within ten days**  
83 **of the termination, notify the department of the termination, shall provide to the**  
84 **department the last known address of the taxpayer, if known to the employer, and shall**  
85 **provide to the department the name and address of the taxpayer's new employer, if known.**  
86 **The director or his or her designee may issue an order to the new employer as provided in**  
87 **subsection 1 of this section.**

88           **12. For purposes of this section, "assets" include, but are not limited to, currency,**  
89 **any financial account or other liquid asset, and any income or other periodic form of**  
90 **payment due to a taxpayer regardless of source, including, but not limited to, wages,**  
91 **salaries, commissions, bonuses, workers' compensation benefits, disability benefits,**  
92 **payments pursuant to a pension or a retirement program, and interest.**

144.083. 1. The director of revenue shall require all persons who are responsible for the  
2 collection of taxes under the provisions of section 144.080 to procure a retail sales license at no  
3 cost to the licensee which shall be prominently displayed at the licensee's place of business, and  
4 the license is valid until revoked by the director or surrendered by the person to whom issued  
5 when sales are discontinued. The director shall issue the retail sales license within ten working  
6 days following the receipt of a properly completed application. Any person applying for a retail  
7 sales license or reinstatement of a revoked sales tax license who owes any tax under sections  
8 144.010 to 144.510 or sections 143.191 to 143.261 must pay the amount due plus interest and  
9 penalties before the department may issue the applicant a license or reinstate the revoked license.  
10 All persons beginning business subsequent to August 13, 1986, and who are required to collect  
11 the sales tax shall secure a retail sales license prior to making sales at retail. Such license may,  
12 after ten days' notice, be revoked by the director of revenue only in the event the licensee shall  
13 be in default for a period of sixty days in the payment of any taxes levied under section 144.020  
14 or sections 143.191 to 143.261. Notwithstanding the provisions of section 32.057 in the event  
15 of revocation, the director of revenue may publish the status of the business account including  
16 the date of revocation in a manner as determined by the director.

17           2. The possession of a retail sales license and a statement from the department of revenue  
18 that the licensee owes no tax due under [sections 144.010 to 144.510 or sections 143.191 to  
19 143.261] **section 32.088** shall be a prerequisite to the issuance or renewal of any city or county  
20 occupation license or any state license which is required for conducting any business [where  
21 goods are sold at retail]. The date of issuance on the statement that the licensee owes no tax due  
22 shall be no more than ninety days before the date of submission for application or renewal of the



23 local license. The revocation of a retailer's license by the director shall render the occupational  
24 license or the state license null and void.

25         3. No person responsible for the collection of taxes under section 144.080 shall make  
26 sales at retail unless such person is the holder of a valid retail sales license. After all appeals  
27 have been exhausted, the director of revenue may notify the county or city law enforcement  
28 agency representing the area in which the former licensee's business is located that the retail sales  
29 license of such person has been revoked, and that any county or city occupation license of such  
30 person is also revoked. The county or city may enforce the provisions of this section, and may  
31 prohibit further sales at retail by such person.

32         4. In addition to the provisions of subsection 2 of this section, beginning January 1,  
33 2009, **and until December 31, 2011**, the possession of a statement from the department of  
34 revenue stating no tax is due under sections 143.191 to 143.265 or sections 144.010 to 144.510  
35 shall also be a prerequisite to the issuance or renewal of any city or county occupation license  
36 or any state license required for conducting any business where goods are sold at retail. The  
37 statement of no tax due shall be dated no longer than ninety days before the date of submission  
38 for application or renewal of the city or county license.

39         5. Notwithstanding any law or rule to the contrary, sales tax shall only apply to the sale  
40 price paid by the final purchaser and not to any off-invoice discounts or other pricing discounts  
41 or mechanisms negotiated between manufacturers, wholesalers, and retailers.

168.071. 1. The state board of education may refuse to issue or renew a certificate, or  
2 may, upon hearing, discipline the holder of a certificate of license to teach for the following  
3 causes:

4         (1) A certificate holder or applicant for a certificate has pleaded to or been found guilty  
5 of a felony or crime involving moral turpitude under the laws of this state, any other state, of the  
6 United States, or any other country, whether or not sentence is imposed;

7         (2) The certification was obtained through use of fraud, deception, misrepresentation or  
8 bribery;

9         (3) There is evidence of incompetence, immorality, or neglect of duty by the certificate  
10 holder;

11         (4) A certificate holder has been subject to disciplinary action relating to certification  
12 issued by another state, territory, federal agency, or country upon grounds for which discipline  
13 is authorized in this section; [or]

14         (5) If charges are filed by the local board of education, based upon the annulling of a  
15 written contract with the local board of education, for reasons other than election to the general

16 assembly, without the consent of the majority of the members of the board that is a party to the  
17 contract; **or**

18 **(6) Beginning, January 1, 2012, the government entity issuing a valid certificate of**  
19 **license to teach in Missouri under section 168.011, shall at least one time each year provide**  
20 **the name and Social Security number of each certificate holder or applicant for certificate**  
21 **of a license to teach in Missouri to the director of revenue. The director of revenue shall**  
22 **at least one time each year check the status of each certificate holder or applicant for**  
23 **certificate of a license to teach in Missouri against a database developed by the director to**  
24 **determine if all state income tax returns have been filed and all state income taxes owed**  
25 **have been paid. If such certificate holder or applicant for certificate of a license to teach**  
26 **in Missouri is delinquent on any state taxes, or has failed to file state income tax returns**  
27 **in the last three years, the director shall then send notice to the certificate holder or**  
28 **applicant for certificate of a license to teach in Missouri and the department of elementary**  
29 **and secondary education. In the case of such delinquency or failure to file, the certificate**  
30 **holder's license shall be suspended within ninety days after notice of such delinquency or**  
31 **failure to file, and the applicant for certificate's license shall not be issued unless the**  
32 **director of revenue verifies that such delinquency or failure has been remedied or**  
33 **arrangements have been made to achieve such remedy. The director of revenue shall,**  
34 **within ten business days of notification to the government entity issuing the certificate of**  
35 **license to teach, that the delinquency has been remedied or arrangements have been made**  
36 **to remedy such delinquency, and send written notification to the certificate holder or**  
37 **applicant for certificate that the delinquency has been remedied. Tax liability paid in**  
38 **protest or reasonably founded disputes with such liability shall be considered paid for the**  
39 **purposes of this section.**

40 2. A public school district may file charges seeking the discipline of a holder of a  
41 certificate of license to teach based upon any cause or combination of causes outlined in  
42 subsection 1 of this section, including annulment of a written contract. Charges shall be in  
43 writing, specify the basis for the charges, and be signed by the chief administrative officer of the  
44 district, or by the president of the board of education as authorized by a majority of the board of  
45 education. The board of education may also petition the office of the attorney general to file  
46 charges on behalf of the school district for any cause other than annulment of contract, with  
47 acceptance of the petition at the discretion of the attorney general.

48 3. The department of elementary and secondary education may file charges seeking the  
49 discipline of a holder of a certificate of license to teach based upon any cause or combination of

50 causes outlined in subsection 1 of this section, other than annulment of contract. Charges shall  
51 be in writing, specify the basis for the charges, and be signed by legal counsel representing the  
52 department of elementary and secondary education.

53 4. If the underlying conduct or actions which are the basis for charges filed pursuant to  
54 this section are also the subject of a pending criminal charge against the person holding such  
55 certificate, the certificate holder may request, in writing, a delayed hearing on advice of counsel  
56 under the fifth amendment of the Constitution of the United States. Based upon such a request,  
57 no hearing shall be held until after a trial has been completed on this criminal charge.

58 5. The certificate holder shall be given not less than thirty days' notice of any hearing  
59 held pursuant to this section.

60 6. Other provisions of this section notwithstanding, the certificate of license to teach  
61 shall be revoked or, in the case of an applicant, a certificate shall not be issued, if the certificate  
62 holder or applicant has pleaded guilty to or been found guilty of any of the following offenses  
63 established pursuant to Missouri law or offenses of a similar nature established under the laws  
64 of any other state or of the United States, or any other country, whether or not the sentence is  
65 imposed:

- 66 (1) Any dangerous felony as defined in section 556.061 or murder in the first degree;  
67 (2) Any of the following sexual offenses: rape; statutory rape in the first degree;  
68 statutory rape in the second degree; sexual assault; forcible sodomy; statutory sodomy in the first  
69 degree; statutory sodomy in the second degree; child molestation in the first degree; child  
70 molestation in the second degree; deviate sexual assault; sexual misconduct involving a child;  
71 sexual misconduct in the first degree; sexual abuse; enticement of a child; or attempting to entice  
72 a child;  
73 (3) Any of the following offenses against the family and related offenses: incest;  
74 abandonment of child in the first degree; abandonment of child in the second degree;  
75 endangering the welfare of a child in the first degree; abuse of a child; child used in a sexual  
76 performance; promoting sexual performance by a child; or trafficking in children; and  
77 (4) Any of the following offenses involving child pornography and related offenses:  
78 promoting obscenity in the first degree; promoting obscenity in the second degree when the  
79 penalty is enhanced to a class D felony; promoting child pornography in the first degree;  
80 promoting child pornography in the second degree; possession of child pornography in the first  
81 degree; possession of child pornography in the second degree; furnishing child pornography to  
82 a minor; furnishing pornographic materials to minors; or coercing acceptance of obscene  
83 material.

84           7. When a certificate holder pleads guilty or is found guilty of any offense that would  
85 authorize the state board of education to seek discipline against that holder's certificate of license  
86 to teach, the local board of education or the department of elementary and secondary education  
87 shall immediately provide written notice to the state board of education and the attorney general  
88 regarding the plea of guilty or finding of guilty.

89           8. The certificate holder whose certificate was revoked pursuant to subsection 6 of this  
90 section may appeal such revocation to the state board of education. Notice of this appeal must  
91 be received by the commissioner of education within ninety days of notice of revocation pursuant  
92 to this subsection. Failure of the certificate holder to notify the commissioner of the intent to  
93 appeal waives all rights to appeal the revocation. Upon notice of the certificate holder's intent  
94 to appeal, an appeal hearing shall be held by a hearing officer designated by the commissioner  
95 of education, with the final decision made by the state board of education, based upon the record  
96 of that hearing. The certificate holder shall be given not less than thirty days' notice of the  
97 hearing, and an opportunity to be heard by the hearing officer, together with witnesses.

98           9. In the case of any certificate holder who has surrendered or failed to renew his or her  
99 certificate of license to teach, the state board of education may refuse to issue or renew, or may  
100 suspend or revoke, such certificate for any of the reasons contained in this section.

101           10. In those cases where the charges filed pursuant to this section are based upon an  
102 allegation of misconduct involving a minor child, the hearing officer may accept into the record  
103 the sworn testimony of the minor child relating to the misconduct received in any court or  
104 administrative hearing.

105           11. Hearings, appeals or other matters involving certificate holders, licensees or  
106 applicants pursuant to this section may be informally resolved by consent agreement or agreed  
107 settlement or voluntary surrender of the certificate of license pursuant to the rules promulgated  
108 by the state board of education.

109           12. The final decision of the state board of education is subject to judicial review  
110 pursuant to sections 536.100 to 536.140.

111           13. A certificate of license to teach to an individual who has been convicted of a felony  
112 or crime involving moral turpitude, whether or not sentence is imposed, shall be issued only  
113 upon motion of the state board of education adopted by a unanimous affirmative vote of those  
114 members present and voting.

          Section B. Because immediate action is necessary to secure adequate state revenue, the  
2 enactment of section 32.383 of section A of this act is deemed necessary for the immediate  
3 preservation of the public health, welfare, peace, and safety, and is hereby declared to be an

4 emergency act within the meaning of the constitution, and the enactment of section 32.383 of  
5 section A of this act shall be in full force and effect upon its passage and approval.

T