

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1030
96TH GENERAL ASSEMBLY

4140L.03C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 32.028, 32.087, 105.716, and 144.190, RSMo, and to enact in lieu thereof fourteen new sections relating to collection of state money, with a penalty provision and an emergency clause for a certain section.

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

Section A. Sections 32.028, 32.087, 105.716, and 144.190, RSMo, are repealed and
2 fourteen new sections enacted in lieu thereof, to be known as sections 32.028, 32.058, 32.087,
3 32.383, 32.385, 32.410, 32.420, 32.430, 32.440, 32.450, 32.460, 105.716, 140.910, and 144.190,
4 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 payable to the state as provided by law **and may collect, upon**
4 **referral by a state agency, debts owed to any state agency subject to section 32.420.**

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, 2013, 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 only if at least one
4 notice on any assessed delinquency or underpayment is sent to the taxpayer via certified
5 mail to the last known address.**

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.

6 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.

9 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.

16 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.

19 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.

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

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

100 16. Within the boundaries of any taxing entity where one or more local sales taxes have
101 been imposed, if any person is delinquent in the payment of the amount required to be paid by

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

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

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

**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 this chapter
3 and chapters 143, 144, and 147, an amnesty from the assessment or payment of all
4 penalties, additions to tax, and interest shall apply with respect to unpaid taxes or taxes
5 due and owing reported and paid in full from August 1, 2012, to October 31, 2012,
6 regardless of whether previously assessed, except for penalties, additions to tax, and
7 interest paid before August 1, 2012. The amnesty shall apply only to state tax liabilities due
8 or due but unpaid on or before December 31, 2011, and shall not extend to any taxpayer
9 who at the time of payment is a party to any criminal investigations or to any civil or**

10 criminal litigation that is pending in any court of the United States or this state for
11 nonpayment, delinquency, or fraud in relation to any 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 by October 31, 2012,**
22 **and who agree to comply with state tax laws for the next eight years from the date of the**
23 **agreement. No taxpayer shall be entitled to a waiver of any penalty, addition to tax, or**
24 **interest under this section unless full payment of the tax due is made in accordance with**
25 **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. The department must track**
41 **all payments received and submit a report, no later than December 31, 2012, to the speaker**
42 **of the house of representatives and the president pro tem in the senate.**

43 **8. The department may promulgate rules or issue administrative guidelines as are**
44 **necessary to implement the provisions of this section. Any rule or portion of a rule, as that**
45 **term is defined in section 536.010, that is created under the authority delegated in this**

46 section shall become effective only if it complies with and is subject to all of the provisions
47 of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are
48 nonseverable and if any of the powers vested with the general assembly under chapter 536
49 to review, to delay the effective date, or to disapprove and annul a rule are subsequently
50 held unconstitutional, then the grant of rulemaking authority and any rule proposed or
51 adopted after July 1, 2012, shall be invalid and void.

52 9. This section shall become effective on July 1, 2012, and shall expire on December
53 31, 2015.

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", a unit or official of the federal government charged with the
11 collection of nontax liabilities payable to the federal government under 31 U.S.C. Section
12 3716, as amended;

13 (2) "Nontax liability due the state", a liability certified to the director of revenue
14 by a state agency and shall include, but shall not be limited to, fines, fees, penalties, and
15 other nontax assessments imposed by or payable to any state agency that is finally
16 determined to be due and owing;

17 (3) "Offset agreement", the agreement authorized by this section;

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

22 (5) "Refund", an amount described as a refund of tax under the provisions of the
23 state tax law that authorized its payment;

24 (6) "State agency", any department, division, board, commission, office, or other
25 agency of the state of Missouri;

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

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

30 **(1) Certify to the state of Missouri the existence of a person's delinquent nontax**
31 **liability owed by the person to the federal government;**

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

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

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

39 **(b) Provide for the payment of the amount withheld to the state;**

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

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

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

46 **(2) The Social Security number or federal tax identification number;**

47 **(3) The amount of the nontax liability; and**

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

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

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

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

57 **(3) Pay to the federal official the lesser of:**

58 **(a) The entire refund or vendor payment; or**

59 **(b) The amount certified; and**

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

62 **6. Under the agreement, the director of revenue shall:**

63 **(1) Certify to a federal official the existence of a person's delinquent tax or nontax**
64 **liability due the state owed by the person to any state agency;**

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

67 (3) Provide for the payment of the amount withheld to the state.

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

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

72 (2) The Social Security number or tax identification number;

73 (3) The amount of the tax or nontax liability;

74 (4) A statement that the debt is past due and legally enforceable in the amount
75 certified; and

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

78 8. Any other provisions of law to the contrary notwithstanding, the director of
79 revenue and the commissioner of administration shall have the authority to enter into
80 reciprocal agreements with any other state which extends a like comity to this state to set
81 off offset from state tax refunds and from payments otherwise due to vendors and
82 contractors providing goods or services to state departments, agencies, or other state
83 agencies nontax 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. This
4 authority shall not supersede the authority granted to the attorney general under section
5 27.060 or any other statute.

6 2. A referring agency may refer the debt to the department for collection at any
7 time after a debt becomes delinquent and uncontested and the debtor shall have no further
8 administrative appeal of the amount of the debt. Methods and procedures for referral
9 shall be governed by an agreement between the referring agency and the department.

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

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

32.430. 1. Except as otherwise provided in this section, the department shall have
2 the authority to use all general remedies afforded creditors of this state in collection of debt
3 as well as any remedies afforded the state agency referring the debt and to the state in
4 general as a creditor. The department shall not have authority to prosecute or defend civil
5 actions on behalf of any other state agency, except as necessary to defend any challenges
6 made to actions under section 140.910 or 143.902 for a debt referred by a state agency or
7 to prosecute an action under subsection 10 of section 140.910.

8 2. In addition to the remedies identified in sections 32.410 to 32.460, the department
9 may use the collection remedies afforded under sections 140.910 and 143.902 in the
10 collection of any state debt referred to the department.

11 3. The department may employ department staff and attorneys, and at the
12 department's discretion, prosecuting attorneys and private collection agencies as
13 authorized in sections 136.150 and 140.850 in seeking collection of debts referred to the
14 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 shall only be waived when:**

7 **(1) Within thirty days after the initial notice to 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 shall**
18 **be applied proportionally to collection costs and the underlying debt unless the department**
19 **has waived this requirement for certain categories of debt. Collection costs collected by the**
20 **department under this section shall be deposited in the general revenue fund.**

32.450. The department may compromise state debt referred to the department in
2 **accordance with section 32.378 and any agreement with the referring agency.**

32.460. The department and state agencies, including the judiciary, may exchange
2 **such information, including the debtor's Social Security number, as is necessary for the**
3 **successful collection of the state debt referred. The referring agency shall follow all**
4 **applicable federal and state laws regarding the confidentiality of information and records**
5 **regarding the debtor. The confidentiality laws applicable to the particular information**
6 **received and retained by each agency shall apply to the employees of such state agency and**
7 **to the department when such information has been forwarded to the department.**

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

9
10 In the case of any payment from the state legal expense fund based upon a claim or judgment
11 against the department of conservation, the department of transportation or any officer or
12 employee thereof, the department so affected shall immediately transfer to the state legal expense

13 fund from the department funds a sum equal to the amount expended from the state legal expense
14 fund on its behalf.

15 2. All persons and entities protected by the state legal expense fund shall cooperate with
16 the attorneys conducting any investigation and preparing any defense under the provisions of
17 sections 105.711 to 105.726 by assisting such attorneys in all respects, including the making of
18 settlements, the securing and giving of evidence, and the attending and obtaining witness to
19 attend hearings and trials. Funds in the state legal expense fund shall not be used to pay claims
20 and judgments against those persons and entities who do not cooperate as required by this
21 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, except for payments**
34 **of less than ten thousand dollars for property damage, no funds shall be expended from**
35 **the state legal expense fund for settlement of any liability claim except upon the production**
36 **of a no tax due statement from the department of revenue by the party making claim or**
37 **having judgment under section 105.711, which shall be satisfied from such fund. If the**
38 **party is found by the director of revenue to owe a delinquent tax debt to the state of**
39 **Missouri under the revenue laws of this state, after the payment of attorney's fees and**
40 **expenses associated with liability of the fund to the party, any remaining funds to be paid**
41 **to the party from the state legal expense fund shall be offset to satisfy such tax debt before**
42 **payment is made to the party making 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 the**
4 **director's designee may issue an order directing any person, after the payment of attorney**
5 **fees and expenses associated with creating the proceeds belonging to, due, or to become due**
6 **to the taxpayer, to withhold and pay over to the department assets belonging to, due, or to**

7 become due the taxpayer. The director or the director's designee shall not issue the
8 administrative garnishment if the taxpayer has entered into a written agreement with the
9 department for an alternative payment arrangement and the taxpayer is in compliance
10 with the agreement.

11 2. An order entered under this section shall be served on the person or other legal
12 entity either by regular mail or by certified mail, return receipt requested, or may be issued
13 through electronic means, and shall be binding on the employer or other payor two weeks
14 after mailing or electronic issuance of such service. The person or other entity in
15 possession of assets belonging to, due, or to become due the taxpayer may deduct an
16 additional sum not to exceed six dollars per month as reimbursement for costs, except that
17 the total amount withheld shall not exceed the limitations contained in the federal
18 Consumer Credit Protection Act, 15 U.S.C. Section 1673, as amended.

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

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

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

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

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

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

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

68 **10. An employer shall not discharge, or refuse to hire or otherwise discipline, an**
69 **employee as a result of an order to withhold and pay over certain money authorized by this**
70 **section. If any such employee is discharged within thirty days of the date upon which an**
71 **order to withhold and pay over certain money is to take effect, there shall arise a**
72 **rebuttable presumption that such discharge was a result of such order. This presumption**
73 **shall be overcome only by clear, cogent, and convincing evidence produced by the employer**
74 **that the employee was not terminated because of the order to withhold and pay over**
75 **certain money. The director or the director's designee is hereby authorized to bring an**
76 **action in circuit court to determine whether the discharge constitutes a violation of this**
77 **subsection. If the court finds that a violation has occurred, the court may enter an order**

78 **against the employer requiring reinstatement of the employee and may fine the employer**
79 **in an amount not to exceed five hundred dollars. Further, the court may enter judgment**
80 **against the employer for the back wages, costs, attorney's surcharges, and for the amount**
81 **of taxes that should have been withheld and paid over during the period of time the**
82 **employee was wrongfully discharged.**

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

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

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

7 2. If any tax, penalty or interest has been paid more than once, or has been erroneously
8 or illegally collected, or has been erroneously or illegally computed, such sum shall be credited
9 on any taxes then due from the person legally obligated to remit the tax pursuant to sections
10 144.010 to 144.525, and the balance, with interest as determined by section 32.065, shall be
11 refunded to the person legally obligated to remit the tax, but no such credit or refund shall be
12 allowed unless duplicate copies of a claim for refund are filed within three years from date of
13 overpayment. **If a taxpayer applying for a refund under the provisions of this section**
14 **submits a written request for the director to hold a refund claim unprocessed pending the**
15 **outcome of legal proceedings on the same or similar grounds or transactions, and agrees**
16 **that the taxpayer's claim will be bound by the outcome of such legal proceeding should the**
17 **outcome of such proceeding be adverse to the taxpayer's position, the director shall hold**
18 **such refund claim unprocessed pending the outcome of such legal proceedings on the same**
19 **or similar grounds or transactions. Notwithstanding any provision of section 32.069 to the**

20 **contrary, interest shall not accrue on any refund for the time period such refund claim is**
21 **held at the request of the taxpayer applying for a refund under the provisions of this**
22 **subsection. If the seller did not file a return with the director for the period for which the**
23 **refund is claimed and remit payment as shown on the return, the director shall not issue**
24 **the refund to the purchaser.**

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

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

39 (1) **A notarized assignment of rights statement by the vendor or seller to the**
40 **purchaser allowing the purchaser to seek the refund on behalf of the vendor or seller. An**
41 **assignment of rights statement shall contain the Missouri sales or use tax registration**
42 **number of the vendor or seller, a list of the transactions covered by the assignment, the tax**
43 **periods and location for which the original sale was reported to the director of revenue by**
44 **the vendor or seller, and a notarized statement signed by the vendor or seller affirming that**
45 **the vendor or seller has not received a refund or credit, will not apply for a refund or**
46 **credit of the tax collected on any transactions covered by the assignment, and authorizes**
47 **the director to amend the seller's return to reflect the refund; or**

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

56 **The director shall not require such vendor, seller, or purchaser to submit amended returns**
57 **for refund claims submitted under the provisions of this subsection. Notwithstanding the**
58 **provisions of section 32.057, if the seller is registered with the director for collection and**
59 **remittance of sales tax, the director shall notify the seller at the seller's last known address**
60 **of the claim for refund. If the seller objects to the refund within thirty days of the date of**
61 **the notice, the director shall not pay the refund. If the seller agrees that the refund is**
62 **warranted or fails to respond within thirty days, the director may issue the refund and**
63 **amend the seller's return to reflect the refund. For purposes of section 32.069, the refund**
64 **claim shall not be considered to have been filed until the seller agrees that the refund is**
65 **warranted or thirty days after the date the director notified the seller and the seller failed**
66 **to respond.**

67 **5. Notwithstanding the provisions of section 32.057, when a vendor files a refund**
68 **claim on behalf of a purchaser and such refund claim is denied by the director, notice of**
69 **such denial and the reason for the denial shall be sent by the director to the vendor and**
70 **each purchaser whose name and address is submitted with the refund claim form filed by**
71 **the vendor. A purchaser shall be entitled to appeal the denial of the refund claim within**
72 **sixty days of the date such notice of denial is mailed by the director as provided in section**
73 **144.261. The provisions of this subsection shall apply to all refund claims filed after**
74 **August 28, 2012. The provisions of this subsection allowing a purchaser to appeal the**
75 **director's decision to deny a refund claim shall also apply to any refund claim denied by**
76 **the director on or after January 1, 2007, if an appeal of the denial of the refund claim is**
77 **filed by the purchaser no later than August 28, 2013.**

78 **6. Notwithstanding the provisions of this section, the director of revenue shall authorize**
79 **direct-pay agreements to purchasers which have annual purchases in excess of seven hundred**
80 **fifty thousand dollars pursuant to rules and regulations adopted by the director of revenue. For**
81 **the purposes of such direct-pay agreements, the taxes authorized pursuant to chapters 66, 67, 70,**
82 **92, 94, 162, 190, 238, 321, and 644 shall be remitted based upon the location of the place of**
83 **business of the purchaser.**

84 **[5.] 7. Special rules applicable to error corrections requested by customers of mobile**
85 **telecommunications service are as follows:**

86 **(1) For purposes of this subsection, the terms "customer", "home service provider",**
87 **"place of primary use", "electronic database", and "enhanced zip code" shall have the same**
88 **meanings as defined in the Mobile Telecommunications Sourcing Act incorporated by reference**
89 **in section 144.013;**

90 **(2) Notwithstanding the provisions of this section, if a customer of mobile**
91 **telecommunications services believes that the amount of tax, the assignment of place of primary**

92 use or the taxing jurisdiction included on a billing is erroneous, the customer shall notify the
93 home service provider, in writing, within three years from the date of the billing statement. The
94 customer shall include in such written notification the street address for the customer's place of
95 primary use, the account name and number for which the customer seeks a correction of the tax
96 assignment, a description of the error asserted by the customer and any other information the
97 home service provider reasonably requires to process the request;

98 (3) Within sixty days of receiving the customer's notice, the home service provider shall
99 review its records and the electronic database or enhanced zip code to determine the customer's
100 correct taxing jurisdiction. If the home service provider determines that the review shows that
101 the amount of tax, assignment of place of primary use or taxing jurisdiction is in error, the home
102 service provider shall correct the error and, at its election, either refund or credit the amount of
103 tax erroneously collected to the customer for a period of up to three years from the last day of
104 the home service provider's sixty-day review period. If the home service provider determines
105 that the review shows that the amount of tax, the assignment of place of primary use or the taxing
106 jurisdiction is correct, the home service provider shall provide a written explanation of its
107 determination to the customer.

108 [6.] 8. For all refund claims submitted to the department of revenue on or after
109 September 1, 2003, notwithstanding any provision of this section to the contrary, if a person
110 legally obligated to remit the tax levied pursuant to sections 144.010 to 144.525 has received a
111 refund of such taxes for a specific issue and submits a subsequent claim for refund of such taxes
112 on the same issue for a tax period beginning on or after the date the original refund check issued
113 to such person, no refund shall be allowed. This subsection shall not apply and a refund shall
114 be allowed if an additional refund claim is filed due to any of the following:

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

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

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

120 [7.] 9. Notwithstanding any provision of law to the contrary, the director of revenue shall
121 respond to a request for a binding letter ruling filed in accordance with section 536.021 within
122 sixty days of receipt of such request. If the director of revenue fails to respond to such letter
123 ruling request within sixty days of receipt by the director, the director of revenue shall be barred
124 from pursuing collection of any assessment of sales or use tax with respect to the issue which is
125 the subject of the letter ruling request. For purposes of this subsection, the term "letter ruling"
126 means a written interpretation of law by the director to a specific set of facts provided by a
127 specific taxpayer or his or her agent.

128 [8.] **10.** If any tax was paid more than once, was incorrectly collected, or was incorrectly
129 computed, such sum shall be credited on any taxes then due from the person legally obligated
130 to remit the tax pursuant to sections 144.010 to 144.510, against any deficiency or tax due
131 discovered through an audit of the person by the department of revenue through adjustment
132 during the same tax filing period for which the audit applied.

Section B. Because immediate action is necessary to secure adequate state revenue, the
2 enactment of section 32.383 of this act is deemed necessary for the immediate preservation of
3 the public health, welfare, peace, and safety, and is hereby declared to be an emergency act
4 within the meaning of the constitution, and the enactment of section 32.383 of this act shall be
5 in full force and effect upon its passage and approval.

✓