

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1877
91ST GENERAL ASSEMBLY

Reported from the Committee on Miscellaneous Bills and Resolutions, February 28, 2002, with recommendation that the House Committee Substitute for House Bill No. 1877 Do Pass.

TED WEDEL, Chief Clerk

4425L.04C

AN ACT

To repeal sections 30.260, 30.270, 142.824, 143.225, 143.261, 143.431, 143.451, 143.811, 144.190, 147.120, 148.074, 313.820, 313.822, 630.460, and 644.051, RSMo, and to enact in lieu thereof seventeen new sections for the sole purpose of establishing and funding the schools of the future fund, with an emergency clause.

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

Section A. Sections 30.260, 30.270, 142.824, 143.225, 143.261, 143.431, 143.451, 2 143.811, 144.190, 147.120, 148.074, 313.820, 313.822, 630.460, and 644.051, RSMo, are 3 repealed and seventeen new sections enacted in lieu thereof, to be known as sections 30.260, 4 30.270, 32.068, 32.069, 136.320, 142.824, 143.225, 143.431, 143.451, 143.811, 144.190, 5 147.120, 148.074, 313.820, 313.822, 630.460, and 644.051, to read as follows:

30.260. 1. The state treasurer shall prepare, maintain and adhere to a written investment 2 policy which shall include an asset allocation plan which limits the total amount of state moneys 3 which may be invested in any particular investment authorized by section 15, article IV of the 4 Missouri Constitution. The state treasurer shall present a copy of such policy to the governor, 5 commissioner of administration, state auditor and general assembly at the commencement of 6 each regular session of the general assembly or at any time the written investment policy is 7 amended.

8 2. The state treasurer shall determine by the exercise of the treasurer's best judgment the 9 amount of state moneys that are not needed for current operating expenses of the state 10 government and shall keep on demand deposit in banking institutions in this state selected by the

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

11 treasurer and approved by the governor and state auditor the amount of state moneys which the
12 treasurer has so determined are needed for current operating expenses of the state government
13 and disburse the same as authorized by law.

14 3. Within the parameters of the state treasurer's written investment policy, the state
15 treasurer shall place the state moneys which the treasurer has determined are not needed for
16 current operations of the state government on time deposit drawing interest in banking
17 institutions in this state selected by the treasurer and approved by the governor and the state
18 auditor, or place them outright or, if applicable, by repurchase agreement in obligations described
19 in section 15, article IV, Constitution of Missouri, as the treasurer in the exercise of the
20 treasurer's best judgment determines to be in the best overall interest of the people of the state
21 of Missouri, giving due consideration to:

22 (1) The preservation of such state moneys;

23 (2) The liquidity needs of the state;

24 (3) The comparative yield to be derived therefrom;

25 (4) The effect upon the economy and welfare of the people of Missouri of the removal
26 or withholding from banking institutions in the state of all or some such state moneys and
27 investing same in obligations authorized in section 15, article IV of the Missouri Constitution;
28 and

29 (5) All other factors which to the treasurer as a prudent state treasurer seem to be
30 relevant to the general public welfare in the light of the circumstances at the time prevailing. The
31 state treasurer may also place state moneys which are determined not needed for current
32 operations of the state government in linked deposits as provided in sections 30.750 to 30.767.

33 4. Except for state moneys deposited in linked deposits as provided in sections 30.750
34 to 30.767, the rate of interest payable by all banking institutions on time deposits of state moneys
35 shall be **at least** the same as the average rate paid during the week next preceding the week in
36 which the deposit was made for United States of America treasury securities maturing and
37 becoming payable closest to the time of termination of the deposit, as determined by the state
38 treasurer, adjusted to the nearest one-tenth of a percent; except that the rate shall never exceed
39 the maximum rate of interest which by federal law or regulation a bank which is a member of
40 the Federal Reserve System may from time to time pay on a time deposit of the same size and
41 maturity.

42 5. Within the parameters of the state treasurer's written investment policy, the state
43 treasurer may subscribe for or purchase outright, or [by] **through** repurchase agreement, **or**
44 **money market mutual fund, as defined and regulated in Rule 2a-7 of the Securities and**
45 **Exchange Commission, make** investments of the character described in subsection 3 of this
46 section which the treasurer, in the exercise of the treasurer's best judgment, believes to be the

47 best for investment of state moneys at the time and in payment therefor may withdraw moneys
48 from any bank account, demand or time, maintained by the treasurer without having any
49 supporting warrant of the commissioner of administration. The state treasurer may bid on
50 subscriptions for such obligations in accordance with the treasurer's best judgment. The state
51 treasurer shall provide for the safekeeping of all such obligations so acquired in the same manner
52 that securities pledged to secure the repayment of state moneys deposited in banking institutions
53 are kept by the treasurer pursuant to law. The state treasurer may hold any such obligation so
54 acquired by the treasurer until its maturity or prior thereto may sell the same outright or by
55 reverse repurchase agreement provided the state's security interest in the underlying security is
56 perfected or temporarily exchange such obligation for **cash or** other authorized securities of at
57 least equal market value with no maturity more than one year beyond the maturity of any of the
58 traded obligations, for a negotiated fee as the treasurer, in the exercise of the treasurer's best
59 judgment, deems necessary or advisable for the best interest of the people of the state of Missouri
60 in the light of the circumstances at the time prevailing. The state treasurer may pay all costs and
61 expenses reasonably incurred by the treasurer in connection with the subscription, purchase, sale,
62 collection, safekeeping or delivery of all such obligations at any time acquired by the treasurer.

63 6. As used in this chapter, except as more particularly specified in section 30.270,
64 obligations of the United States shall include securities of the United States Treasury, and United
65 States agencies or instrumentalities as described in section 15, article IV, Constitution of
66 Missouri. The word "temporarily" as used in this section shall mean no more than six months.

30.270. 1. For the security of the moneys deposited by the state treasurer pursuant to the
2 provisions of this chapter, the state treasurer shall, from time to time, submit a list of acceptable
3 securities to be approved by the governor and state auditor if satisfactory to them, and the state
4 treasurer shall require of the selected and approved banks or financial institutions as security for
5 the safekeeping and payment of deposits, securities from the list provided for in this section,
6 which list may include only securities of the following kind and character:

- 7 (1) Bonds or other obligations of the United States;
- 8 (2) Bonds or other obligations of the state of Missouri including revenue bonds issued
9 by state agencies or by state authorities created by legislative enactment;
- 10 (3) Bonds of any city in this state having a population of not less than two thousand;
- 11 (4) Bonds of any county in this state;
- 12 (5) Approved registered bonds of any school district situated in this state;
- 13 (6) Approved registered bonds of any special road district in this state;
- 14 (7) State bonds of any state;
- 15 (8) Notes, bonds, debentures or other similar obligations issued by the federal land
16 banks, federal intermediate credit banks, or banks for cooperatives or any other obligations

17 issued pursuant to the provisions of an act of the Congress of the United States known as the
18 Farm Credit Act of 1971, and acts amendatory thereto;

19 (9) Bonds of the federal home loan banks;

20 (10) Any bonds or other obligations guaranteed as to payment of principal and interest
21 by the government of the United States or any agency or instrumentality thereof;

22 (11) Bonds of any political subdivision established pursuant to the provisions of section
23 30, article VI, of the Constitution of Missouri;

24 (12) Tax anticipation notes issued by any county of the first classification;

25 (13) A surety bond issued by an insurance company licensed pursuant to the laws of the
26 state of Missouri whose claims-paying ability is rated in the highest category by at least one
27 nationally recognized statistical rating agency. The face amount of such surety bond shall be at
28 least equal to the portion of the deposit to be secured by the surety bond;

29 (14) An irrevocable standby letter of credit issued by a Federal Home Loan Bank
30 possessing the highest rating issued by at least one nationally recognized statistical rating agency;

31 **(15) General obligation bonds of any political subdivision in the United States of**
32 **America rated in the highest category by at least one nationally recognized statistical rating**
33 **agency.**

34 2. Securities deposited shall be in an amount valued at market equal at least to one
35 hundred percent of the aggregate amount on time deposit as well as on demand deposit with the
36 particular financial institution less the amount, if any, which is insured either by the Federal
37 Deposit Insurance Corporation or by the Federal Savings and Loan Insurance Corporation or by
38 the National Credit Unions Share Insurance Fund.

39 3. The securities or book entry receipts shall be delivered to the state treasurer and
40 receipted for by the state treasurer and retained by the treasurer or by financial institutions that
41 the governor, state auditor and treasurer agree upon. The state treasurer shall from time to time
42 inspect the securities and book entry receipts and see that they are actually held by the state
43 treasury or by the financial institutions selected as the state depositories. The governor and the
44 state auditor may inspect or request an accounting of the securities or book entry receipts, and
45 if in any case, or at any time, the securities are not satisfactory security for deposits made as
46 provided by law, they may require additional security to be given that is satisfactory to them.

47 4. Any securities deposited pursuant to this section may from time to time be withdrawn
48 and other securities described in the list provided for in subsection 1 of this section may be
49 substituted in lieu of the withdrawn securities with the consent of the treasurer; but a sufficient
50 amount of securities to secure the deposits shall always be held by the treasury or in the selected
51 depositories.

52 5. If a financial institution of deposit fails to pay a deposit, or any part thereof, pursuant

53 to the terms of its contract with the state treasurer, the state treasurer shall forthwith convert the
54 securities into money and disburse the same according to law.

55 6. Any financial institution making deposits of bonds with the state treasurer pursuant
56 to the provisions of this chapter may cause the bonds to be endorsed or stamped as it deems
57 proper, so as to show that they are deposited as collateral and are not transferable except upon
58 the conditions of this chapter or upon the release by the state treasurer.

**32.068. 1. The state treasurer shall calculate an annual rate of interest pursuant
2 to this section and provide the calculated rate of interest to the director of revenue as
3 determined by subsection 2 of this section.**

4 **2. Each calendar quarter the state treasurer shall calculate the annual rate of
5 interest. The rate of interest shall be equal to the previous twelve-month annualized
6 average rate of return on all funds invested by the state treasurer, rounded to the nearest
7 one-tenth of one percent. The state treasurer shall provide such calculated rate to the
8 director of revenue not later than thirty days prior to the end of each calendar quarter.
9 The director of revenue shall apply the calculated rate of interest to all applicable
10 situations during the next calendar quarter after the release of the calculated rate of
11 interest.**

12 **3. Beginning January 1, 2003, the director of revenue shall apply the calculated rate
13 of interest as determined by this section to all applicable situations.**

**32.069. 1. Notwithstanding any other provision of law, interest shall be allowed and
2 paid on any refund or overpayment at the rate determined by section 32.068 only if the
3 overpayment is not refunded within one hundred twenty days from the latest of the
4 following dates:**

5 **(1) The last day prescribed for filing a tax return or refund claim, without regard
6 to any extension of time granted;**

7 **(2) The date the return, payment or claim is filed; or**

8 **(3) The date the taxpayer files for a credit or refund and provides accurate and
9 complete documentation to support such claim.**

10 **2. The commissioner of administration shall, on an annual basis, estimate the
11 amount of any additional state revenue received pursuant to this section and to the changes
12 in allowable investments and investment procedures in sections 30.260 and 30.270, RSMo,
13 and shall transfer an additional amount to the schools of the future fund created in section
14 313.822, RSMo.**

**136.320. 1. Notwithstanding the provisions of any other law to the contrary, with
2 respect to taxes administered by the department of revenue, an amnesty from the
3 assessment or payment of all penalties, additions to tax, and interest shall apply with**

4 respect to unpaid taxes reported and paid in full from August 1, 2002, to September 30,
5 2002, regardless of whether previously assessed, except for penalties, additions to tax, and
6 interest paid before August 1, 2002. The amnesty shall apply only to state tax liabilities due
7 but unpaid on or before December 31, 2001, and shall not extend to any taxpayer who at
8 the time of payment:

9 (1) Is a party to any criminal investigations or to any civil or criminal litigation that
10 is pending in any court of the United States or this state for nonpayment, delinquency, or
11 fraud in relation to any state tax imposed by the state of Missouri;

12 (2) Is a party to an appeal with the administrative hearing commission; or

13 (3) Is a party to a protest with the department of revenue.

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

19 3. Amnesty shall be granted only to those taxpayers who have applied for amnesty
20 within the period stated in subsection 1 of this section, who have filed a tax return for each
21 taxable period for which amnesty is requested, who have paid the entire balance due within
22 sixty days of approval by the department of revenue, and who agree to comply with state
23 tax laws for the next three years from the date of the agreement. No taxpayer shall be
24 entitled to a waiver of any penalty, addition to tax, or interest pursuant to this section
25 unless full payment of the tax due is made in accordance with rules and regulations
26 established by the director of revenue.

27 4. A collection fee, not to exceed twenty-five percent of the delinquent tax amount,
28 may be imposed but shall not be subject to waiver or abatement. The collection fee shall
29 be in addition to all other penalties and interest otherwise authorized by law and may be
30 imposed upon any tax liabilities eligible to be satisfied during the amnesty period
31 established pursuant to subsection 1 of this section that are not satisfied during such
32 period.

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

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

40 **7. All tax payments received as a result of the amnesty program established**
41 **pursuant to this section shall be deposited in the schools of the future fund created**
42 **pursuant to section 313.822, RSMo.**

43 **8. The department may promulgate such rules or regulations or issue**
44 **administrative guidelines as are necessary to administer the provisions of this section. No**
45 **rule or portion of a rule promulgated pursuant to the authority of this section shall become**
46 **effective unless it has been promulgated pursuant to chapter 536, RSMo.**

142.824. 1. To claim a refund in accordance with section 142.815, a person shall present
2 to the director a statement containing a written verification that the claim is made under penalties
3 of perjury and lists the total amount of motor fuel purchased and used for exempt purposes. The
4 claim shall not be transferred or assigned and shall be filed not more than three years after the
5 date the motor fuel was imported, removed or sold if the claimant is a supplier, importer,
6 exporter or distributor. If the claim is filed by the ultimate consumer, a consumer must file the
7 claim within one year of the date of purchase or April fifteenth following the year of purchase,
8 whichever is later. The claim statement shall be supported by the original sales slip, invoice or
9 other documentation as approved by the director and shall include the following information:

- 10 (1) Date of sale;
- 11 (2) Name and address of purchaser;
- 12 (3) Name and address of seller;
- 13 (4) Number of gallons purchased and base price per gallon;
- 14 (5) Number of gallons purchased and charged Missouri fuel tax, as a separate item;
- 15 (6) Number of gallons purchased and charged sales tax, if applicable, as a separate item;
- 16 (7) Marked paid by the seller.

17 2. If the original sales slip or invoice is lost or destroyed, a statement to that effect shall
18 accompany the claim for refund, and the claim statement shall also set forth the serial number
19 of the invoice. If the director finds the claim is otherwise regular, the director may allow such
20 claim for refund.

21 3. The director may make any investigation necessary before refunding the motor fuel
22 tax to a person and may investigate a refund after the refund has been issued and within the time
23 frame for making adjustments to the tax pursuant to this chapter.

24 4. In any case where a refund would be payable to a supplier pursuant to this chapter, the
25 supplier may claim a credit in lieu of such refund for a period not to exceed three years.

26 5. Every person shall maintain and keep for a period of three years records to substantiate
27 all claims for refund of the motor fuel tax, together with invoices, bills of lading, and other
28 pertinent records and paper as may be required by the director for reasonable administration of
29 this chapter.

30 6. Motor fuel tax that has been paid more than once with respect to the same gallon of
31 motor fuel shall be refunded by the director to the person who last paid the tax after the
32 subsequent taxable event upon submitting proof satisfactory to the director.

33 7. Motor fuel tax that has otherwise been erroneously paid by a person shall be refunded
34 by the director upon proof shown satisfactory to the director.

35 8. If a refund is not issued [within ninety days of an accurate and complete filing,] as
36 required by [this chapter] **section 32.069, RSMo**, the director shall pay interest at the rate set out
37 in section [32.065] **32.068**, RSMo, [accruing after the expiration of the ninety-day period] until
38 the date the refund is issued. [After December 31, 2000, if a refund is not issued within thirty
39 days of an accurate and complete filing, as required by this chapter, the director shall pay interest
40 at the rate provided in section 32.065, RSMo, accruing after the expiration of the thirty-day
41 period until the date the refund is issued.]

143.225. 1. The director of revenue, by regulation, may require an employer to timely
2 remit the unpaid amount required to be deducted and withheld by section 143.191 at the end of
3 any quarter-monthly period, only if the employer was required to deduct and withhold six
4 thousand dollars or more in each of at least two months during the prior twelve months.

5 2. The director may increase the monthly requirement to more than six thousand dollars
6 or otherwise narrow the application of the quarter-monthly remittance system authorized by this
7 section. The director may not require the remittance of withheld taxes more often than monthly
8 unless authorized by this section.

9 3. A remittance shall be timely if mailed as provided in section 143.851 within three
10 banking days after the end of the quarter-monthly period or if received by the director or
11 deposited in a depository designated by the director within four banking days after the end of the
12 quarter-monthly period.

13 4. [The unpaid amount shall be after a reduction for the compensation provided by
14 section 143.261.] The unpaid amount at the end of a quarter-monthly period shall not include
15 unpaid amounts for any prior quarter-monthly period.

16 5. For purposes of this section, "quarter-monthly period" means:

- 17 (1) The first seven days of a calendar month;
- 18 (2) The eighth to fifteenth day of a calendar month;
- 19 (3) The sixteenth to twenty-second day of a calendar month; and
- 20 (4) The portion following the twenty-second day of a calendar month.

21 6. (1) In the case of an underpayment of any amount required to be paid pursuant to this
22 section, an employer shall be liable for a penalty in lieu of all other penalties, interest or
23 additions to tax imposed by this chapter for violating this section. The penalty shall be five
24 percent of the amount of the underpayment determined under subdivision (2) of this subsection.

25 (2) The amount of the underpayment shall be the excess of

26 (a) Ninety percent of the unpaid amount at the end of a quarter-monthly period, over

27 (b) The amount, if any, of the timely remittance for the quarter-monthly period.

28 7. (1) The penalty with respect to any quarter-monthly period shall not be imposed if
29 the employer's timely remittance for the quarter-monthly period equals or exceeds one-fourth of
30 the average monthly withholding tax liability of the employer for the preceding calendar year.
31 The month of highest liability and the month of lowest liability shall be excluded in computing
32 the average. This subdivision shall apply only to an employer who had a withholding tax
33 liability for at least six months of the previous calendar year.

34 (2) The penalty shall not be imposed if the employer establishes that the failure to make
35 a timely remittance of at least ninety percent was due to reasonable cause, and not due to willful
36 neglect.

37 (3) The penalty shall not be imposed against any employer for the first two months the
38 employer is obligated to make quarter-monthly remittance of withholding taxes.

39 8. Tax amounts remitted under this section shall be treated as payments on the
40 employer's monthly return required by subsection 2 of section 143.221. Tax amounts remitted
41 under this section shall be deemed to have been paid on the last day prescribed for filing the
42 return. The preceding sentence shall apply in computing [compensation under section 143.261,]
43 interest, penalties and additions to tax and for purposes of all sections of chapter 143, except this
44 section.

143.431. 1. The Missouri taxable income of a corporation taxable under sections
2 143.011 to 143.996 shall be so much of its federal taxable income for the taxable year, with the
3 modifications specified in subsections 2 and 3 of this section, as [is derived from sources within]
4 **apportioned to** Missouri as provided in section 143.451. The tax of a corporation shall be
5 computed on its Missouri taxable income at the rates provided in section 143.071.

6 2. There shall be added to or subtracted from federal taxable income, the modifications
7 to adjusted gross income provided in section 143.121 and the applicable modifications to
8 itemized deductions provided in section 143.141. There shall be subtracted the federal income
9 tax deduction provided in section 143.171. There shall be subtracted, to the extent included in
10 [federal] **Missouri** taxable income, corporate dividends [from sources within Missouri]. **There**
11 **shall be added to federal taxable income any amount defined in section 143.435. The**
12 **commissioner of administration shall, on an annual basis, estimate the amount of**
13 **additional state revenue resulting from the disallowance of non-Missouri source income**
14 **pursuant to this section and section 143.451, and shall transfer an equivalent amount to the**
15 **schools of the future fund created in section 313.822, RSMo.**

16 3. (1) If an affiliated group of corporations files a consolidated income tax return for the

17 taxable year for federal income tax purposes [and fifty percent or more of its income is derived
18 from sources within this state as determined in accordance with section 143.451], then it may
19 elect to file a Missouri consolidated income tax return. The federal consolidated taxable income
20 of the electing affiliated group for the taxable year shall be its federal taxable income.

21 (2) So long as a federal consolidated income tax return is filed, an election made by an
22 affiliated group of corporations to file a Missouri consolidated income tax return may be
23 withdrawn or revoked only upon substantial change in the law or regulations adversely changing
24 tax liability under this chapter; or, with permission of the director of revenue upon the showing
25 of good cause for such action. After such a withdrawal or revocation with respect to an affiliated
26 group, it may not file a Missouri consolidated income tax return for five years thereafter, except
27 with the approval of the director of revenue, and subject to such terms and conditions as he may
28 prescribe.

29 (3) No corporation which is part of an affiliated group of corporations filing a Missouri
30 consolidated income tax return shall be required to file a separate Missouri corporate income tax
31 return for the taxable year.

32 (4) For each taxable year an affiliated group of corporations filing a federal consolidated
33 income tax return does not file a Missouri consolidated income tax return, for purposes of
34 computing the Missouri income tax, the federal taxable income of each member of the affiliated
35 group shall be determined as if a separate federal income tax return had been filed by each such
36 member.

37 (5) The director of revenue may prescribe such regulations not inconsistent with the
38 provisions of this chapter as he may deem necessary in order that the tax liability of any affiliated
39 group of corporations making a Missouri consolidated income tax return, and of each corporation
40 in the group, before, during, and after the period of affiliation, may be returned, determined,
41 computed, assessed, collected, and adjusted, in such manner as clearly to reflect the Missouri
42 taxable income [derived from sources within this state] and in order to prevent avoidance of such
43 tax liability.

143.451. 1. Missouri taxable income of a corporation shall include all income [derived
2 from sources within this state] **as apportioned herein.**

3 2. A corporation described in subdivision (1) of subsection 1 of section 143.441 shall
4 include in its Missouri taxable income all income [from sources within this state], including that
5 from the transaction of business in this state and that from the transaction of business partly done
6 in this state and partly done in another state or states. However:

7 (1) Where income results from a transaction partially in this state and partially in another
8 state or states, and income and deductions of the portion in the state cannot be segregated, then
9 such portions of income and deductions shall be allocated in this state and the other state or

10 states as will distribute to this state a portion based upon the portion of the transaction in this
11 state and the portion in such other state or states.

12 (2) The taxpayer may elect to [compute the portion of] **apportion** income [from all
13 sources in this state] **to Missouri** in the following manner:

14 (a) [The] **All federal taxable** income [from all sources] **for the taxable year with the**
15 **modifications specified in subsections 2 and 3 of section 143.431** shall be determined as
16 provided, excluding therefrom the figures for the operation of any bridge connecting this state
17 with another state.

18 (b) The amount of sales which are transactions wholly in this state shall be added to
19 one-half of the amount of sales which are transactions partly within this state and partly without
20 this state, and the amount thus obtained shall be divided by the total sales or in cases where sales
21 do not express the volume of business, the amount of business transacted wholly in this state
22 shall be added to one-half of the amount of business transacted partly in this state and partly
23 outside this state and the amount thus obtained shall be divided by the total amount of business
24 transacted, and [the net] **all federal taxable** income **for the taxable year with the**
25 **modifications specified in subsections 2 and 3 of section 143.431** shall be multiplied by the
26 fraction thus obtained, to determine the proportion of income to be used to arrive at the amount
27 of Missouri taxable income. [The investment or reinvestment of its own funds, or sale of any
28 such investment or reinvestment, shall not be considered as sales or other business transacted for
29 the determination of said fraction.]

30 (3) For the purposes of this section, a transaction involving the sale of tangible property
31 is:

32 (a) "Wholly in this state" if both the seller's shipping point and the purchaser's
33 destination point are in this state;

34 (b) "Partly within this state and partly without this state" if the seller's shipping point is
35 in this state and the purchaser's destination point is outside this state, or the seller's shipping point
36 is outside this state and the purchaser's destination point is in this state;

37 (c) Not "wholly in this state" or not "partly within this state and partly without this state"
38 only if both the seller's shipping point and the purchaser's destination point are outside this state;

39 (d) For purposes of this subdivision the purchaser's destination point shall be determined
40 without regard to the FOB point or other conditions of the sale, and the seller's shipping point
41 is determined without regard to the location of the seller's principle office or place of business.

42 (4) For purposes of this subsection, the following words shall, unless the context
43 otherwise requires, have the following meaning:

44 (a) "Administration services" include, but are not limited to, clerical, fund or shareholder
45 accounting, participant record keeping, transfer agency, bookkeeping, data processing, custodial,

46 internal auditing, legal and tax services performed for an investment company;

47 (b) "Affiliate", the meaning as set forth in 15 U.S.C. Section 80a-2(a)(3)(C), as may be
48 amended from time to time;

49 (c) "Distribution services" include, but are not limited to, the services of advertising,
50 servicing, marketing, underwriting or selling shares of an investment company, but, in the case
51 of advertising, servicing or marketing shares, only where such service is performed by a person
52 who is, or in the case of a closed end company, was, either engaged in the services of
53 underwriting or selling investment company shares or affiliated with a person that is engaged in
54 the service of underwriting or selling investment company shares. In the case of an open end
55 company, such service of underwriting or selling shares must be performed pursuant to a contract
56 entered into pursuant to 15 U.S.C. Section 80a-15(b), as from time to time amended;

57 (d) "Investment company", any person registered under the federal Investment Company
58 Act of 1940, as amended from time to time, (the act) or a company which would be required to
59 register as an investment company under the act except that such person is exempt to such
60 registration pursuant to Section 80a-3(c)(1) of the act;

61 (e) "Investment funds service corporation" includes any corporation or S corporation
62 doing business in the state which derives more than fifty percent of its gross income in the
63 ordinary course of business from the provision directly or indirectly of management, distribution
64 or administration services to or on behalf of an investment company or from trustees, sponsors
65 and participants of employee benefit plans which have accounts in an investment company. An
66 investment funds service corporation shall include any corporation or S corporation providing
67 management services as an investment advisory firm registered under Section 203 of the
68 Investment Advisors Act of 1940, as amended from time to time, regardless of the percentage
69 of gross revenues consisting of fees from management services provided to or on behalf of an
70 investment company;

71 (f) "Management services" include but are not limited to, the rendering of investment
72 advice directly or indirectly to an investment company making determinations as to when sales
73 and purchases of securities are to be made on behalf of the investment company, or the selling
74 or purchasing of securities constituting assets of an investment company, and related activities,
75 but only where such activity or activities are performed:

76 a. Pursuant to a contract with the investment company entered into pursuant to 15 U.S.C.
77 Section 80a-15(a), as from time to time amended;

78 b. For a person that has entered into such contract with the investment company; or

79 c. For a person that is affiliated with a person that has entered into such contract with an
80 investment company;

81 (g) "Qualifying sales", gross income derived from the provision directly or indirectly of

82 management, distribution or administration services to or on behalf of an investment company
83 or from trustees, sponsors and participants of employee benefit plans which have accounts in an
84 investment company. For purposes of this section, gross income is defined as that amount of
85 income earned from qualifying sources without deduction of expenses related to the generation
86 of such income;

87 (h) "Residence", presumptively the fund shareholder's mailing address on the records of
88 the investment company. If, however, the investment company or the investment funds service
89 corporation has actual knowledge that the fund shareholder's primary residence or principal place
90 of business is different than the fund shareholder's mailing address such presumption shall not
91 control. To the extent an investment funds service corporation does not have access to the
92 records of the investment company, the investment funds service corporation may employ
93 reasonable methods to determine the investment company fund shareholder's residence.

94 (5) Notwithstanding other provisions of law to the contrary, qualifying sales of an
95 investment funds service corporation, or S corporation, shall be considered wholly in this state
96 only to the extent that the fund shareholders of the investment companies, to which the
97 investment funds service corporation, or S corporation, provide services, are resided in this
98 state. Wholly in this state qualifying sales of an investment funds service corporation, or S
99 corporation, shall be determined as follows:

100 (a) By multiplying the investment funds service corporation's total dollar amount of
101 qualifying sales from services provided to each investment company by a fraction, the numerator
102 of which shall be the average of the number of shares owned by the investment company's fund
103 shareholders resided in this state at the beginning of and at the end of the investment
104 company's taxable year that ends with or within the investment funds service corporation's
105 taxable year, and the denominator of which shall be the average of the number of shares owned
106 by the investment company's fund shareholders everywhere at the beginning of and at the end
107 of the investment company's taxable year that ends with or within the investment funds service
108 corporation's taxable year;

109 (b) A separate computation shall be made to determine the wholly in this state qualifying
110 sales from each investment company. The qualifying sales for each investment company shall
111 be multiplied by the respective percentage of each fund, as calculated pursuant to paragraph (a)
112 of this subdivision. The product of this equation shall result in the wholly in this state qualifying
113 sales. The qualifying sales for each investment company which are not wholly in this state will
114 be considered wholly without this state;

115 (c) To the extent an investment funds service corporation has sales which are not
116 qualifying sales, those nonqualified sales shall be apportioned to this state based on the
117 methodology utilized by the investment funds service corporation without regard to this

118 subdivision.

119 3. Any corporation described in subdivision (1) of subsection 1 of section 143.441
120 organized in this state or granted a permit to operate in this state for the transportation or care
121 of passengers shall report its gross earnings within the state on intrastate business and shall also
122 report its gross earnings on all interstate business done in this state which report shall be subject
123 to inquiry for the purpose of determining the amount of income to be included in Missouri
124 taxable income. The previous sentence shall not apply to a railroad.

125 4. A corporation described in subdivision (2) of subsection 1 of section 143.441 shall
126 include in its Missouri taxable income all **federal taxable** income [arising from all sources in
127 this state and all income from each transportation service wholly within this state, from each
128 service where the only lines of such corporation used are those in this state, and such proportion
129 of revenue from each service where the facilities of such corporation in this state and in another
130 state or states are used,] **for the taxable year with the modifications specified in subsections**
131 **2 and 3 of section 143.431**, as the mileage used over the lines of such corporation in the state
132 shall bear to the total mileage used over the lines of such corporation. The taxpayer may elect
133 to [compute the portion of] **apportion** income [from all sources within this state] in the
134 following manner:

135 (1) The income [from all sources] **apportioned to Missouri** shall be determined as
136 provided;

137 (2) The amount of investment of such corporation on December thirty-first of each year
138 in this state in fixed transportation facilities, real estate and improvements, plus the value on
139 December thirty-first of each year of any fixed transportation facilities, real estate and
140 improvements in this state leased from any other railroad shall be divided by the sum of the total
141 amount of investment of such corporation on December thirty-first of each year in fixed
142 transportation facilities, real estate and improvements, plus the value on December thirty-first
143 of each year, of any fixed transportation facilities, real estate and improvements leased from any
144 other railroad. Where any fixed transportation facilities, real estate or improvements are leased
145 by more than one railroad, such portion of the value shall be used by each railroad as the rental
146 paid by each shall bear to the rental paid by all lessees. The income shall be multiplied by the
147 fraction thus obtained to determine the proportion to be used to arrive at the amount of Missouri
148 taxable income.

149 5. A corporation described in subdivision (3) of subsection 1 of section 143.441 shall
150 include in its Missouri taxable income one-half of the net income from the operation of a bridge
151 between this and another state. If any such bridge is owned or operated by a railroad corporation
152 or corporations, or by a corporation owning a railroad corporation using such bridge, then the
153 figures for operation of such bridge may be included in the return of such railroad or railroads;

154 or if such bridge is owned or operated by any other corporation which may now or hereafter be
155 required to file an income tax return, one-half of the income or loss to such corporation from
156 such bridge may be included in such return by adding or subtracting same to or from another net
157 income or loss shown by the return.

158 6. A corporation described in subdivision (4) of subsection 1 of section 143.441 shall
159 include in its Missouri taxable income all **federal taxable** income [arising from all sources
160 within this state. Income shall include revenue from each telephonic or telegraphic service
161 rendered wholly within this state; from each service rendered for which the only facilities of such
162 corporation used are those in this state; and from each service rendered over the facilities of such
163 corporation in this state and in other state or states, such proportion of such revenue] **for the**
164 **taxable year with the modifications specified in subsections 2 and 3 of section 143.431**, as
165 the mileage involved in this state shall bear to the total mileage involved over the lines of said
166 company in all states. The taxpayer may elect to [compute the portion of] **apportion** income
167 [from all sources within this state] in the following manner:

168 (1) The income [from all sources] **apportioned to Missouri** shall be determined as
169 provided;

170 (2) The amount of investment of such corporation on December thirty-first of each year
171 in this state in telephonic or telegraphic facilities, real estate and improvements thereon, shall be
172 divided by the amount of the total investment of such corporation on December thirty-first of
173 each year in telephonic or telegraphic facilities, real estate and improvements. The income of
174 the taxpayer shall be multiplied by fraction thus obtained to determine the proportion to be used
175 to arrive at the amount of Missouri taxable income.

176 7. [From the income determined in subsections 2, 3, 4, 5 and 6 of this section to be from
177 all sources within this state shall be deducted such of the deductions for expenses in determining
178 Missouri taxable income as were incurred in this state to produce such income and all losses
179 actually sustained in this state in the business of the corporation.

180 8. If a corporation derives only part of its income from sources within] **If a corporation**
181 **apportions to Missouri less than one hundred percent of its federal taxable income for the**
182 **taxable year with modifications specified in subsections 2 and 3 of section 143.431**, its
183 Missouri taxable income shall only reflect the effect of the following listed deductions to the
184 extent applicable to Missouri. The deductions are: (a) its deduction for federal income taxes
185 pursuant to section 143.171, and (b) the effect on Missouri taxable income of the deduction for
186 net operating loss allowed by Section 172 of the Internal Revenue Code. The extent applicable
187 to Missouri shall be determined by multiplying the amount that would otherwise affect Missouri
188 taxable income by the ratio for the year of the Missouri taxable income of the corporation for the
189 year divided by the Missouri taxable income for the year as though the corporation had [derived

190 all of its income from sources within] **one hundred percent of its income apportioned to**
191 Missouri. For the purpose of the preceding sentence, Missouri taxable income shall not reflect
192 the listed deductions.

193 [9.] **8.** Any investment funds service corporation organized as a corporation or S
194 corporation which has any shareholders resided in this state shall be subject to Missouri
195 income tax as provided in this chapter.

143.811. 1. Under regulations prescribed by the director of revenue, interest shall be
2 allowed **pursuant to section 32.069, RSMo**, and paid at the rate determined by section [32.065]
3 **32.068**, RSMo, on any overpayment in respect of the tax imposed by sections 143.011 to
4 143.996; except that, where the overpayment resulted from the filing of an amendment of the tax
5 by the taxpayer after the last day prescribed for the filing of the return, interest shall be allowed
6 [and paid at the rate of six percent per annum] **pursuant to sections 32.068 and 32.069, RSMo**.
7 With respect to the part of an overpayment attributable to a deposit made pursuant to subsection
8 2 of section 143.631, interest shall be paid **pursuant to section 32.069, RSMo**, thereon at the
9 rate in section [32.065] **32.068**, RSMo, from the date of the deposit to the date of refund. No
10 interest shall be allowed or paid if the amount thereof is less than one dollar.

11 2. For purposes of this section:

12 (1) Any return filed before the last day prescribed for the filing thereof shall be
13 considered as filed on such last day determined without regard to any extension of time granted
14 the taxpayer;

15 (2) Any tax paid by the taxpayer before the last day prescribed for its payment, any
16 income tax withheld from the taxpayer during any calendar year, and any amount paid by the
17 taxpayer as estimated income tax for a taxable year shall be deemed to have been paid by him
18 on the fifteenth day of the fourth month following the close of his taxable year to which such
19 amount constitutes a credit or payment.

20 3. For purposes of this section with respect to any withholding tax:

21 (1) If a return for any period ending with or within a calendar year is filed before April
22 fifteenth of the succeeding calendar year, such return shall be considered filed April fifteenth of
23 such succeeding calendar year; and

24 (2) If a tax with respect to remuneration paid during any period ending with or within
25 a calendar year is paid before April fifteenth of the succeeding calendar year, such tax shall be
26 considered paid on April fifteenth of such succeeding calendar year.

27 4. If any overpayment of tax imposed by sections 143.011 to 143.996 is refunded within
28 four months after the last date prescribed (or permitted by extension of time) for filing the return
29 of such tax or within four months after the return was filed, whichever is later, no interest shall
30 be allowed under this section on overpayment.

31 5. Any overpayment resulting from a carryback, including a net operating loss and a
32 corporate capital loss, shall be deemed not to have been made prior to the close of the taxable
33 year in which the loss arises.

34 **6. Any overpayment resulting from a carryback of a tax credit, including but not**
35 **limited to the tax credits provided in section 253.557, RSMo, and section 348.432, RSMo,**
36 **shall be deemed not to have been made prior to the close of the taxable year in which the**
37 **tax credit was authorized. The commissioner of administration shall, on an annual basis,**
38 **estimate the amount of any additional state revenue received pursuant to the provisions of**
39 **this subsection and shall transfer an equivalent amount to the schools of the future fund**
40 **created in section 313.822, RSMo.**

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 144.510, and the balance, with interest as determined by section 32.065, RSMo, shall
11 be 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.

14 **3. If any tax was paid more than once, was incorrectly collected, or was incorrectly**
15 **computed, such sum shall be credited on any taxes then due from the person legally**
16 **obligated to remit the tax pursuant to sections 144.010 to 144.510, or refunded, with**
17 **interest as determined by section 32.065, RSMo, to the person legally obligated to remit the**
18 **tax, only if duplicate copies of a claim for refund are filed within three years from date of**
19 **overpayment and, either the person legally obligated to remit the tax demonstrates to the**
20 **satisfaction of the director of revenue that all incorrectly collected or incorrectly computed**
21 **amounts were or will be refunded or credited to every purchaser that originally paid the**
22 **tax, or the person legally obligated to remit the tax submits to the director of revenue**
23 **amended sales tax returns showing the correct amount of gross receipts for each reporting**
24 **period originally filed and proves to the director's satisfaction that the tax originally**
25 **reported and remitted to the director was paid by such person claiming the refund or**
26 **credit and was not collected from purchasers. The commissioner of administration shall,**

27 **on an annual basis, estimate the amount of additional state revenue resulting from this**
28 **provision and shall transfer an equivalent amount to the schools of the future fund.**

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

36 [4.] 5. Notwithstanding the provisions of this section, the director of revenue shall
37 authorize direct-pay agreements to purchasers which have annual purchases in excess of seven
38 hundred fifty thousand dollars pursuant to rules and regulations adopted by the director of
39 revenue. For the purposes of such direct-pay agreements, the taxes authorized pursuant to
40 chapters 66, 67, 92 and 94, RSMo, shall be remitted based upon the location of the place of
41 business of the purchaser.

147.120. 1. If any corporation fails or refuses to pay the taxes (including interest and
2 penalties) assessed against it after such assessment becomes final, the director of revenue shall
3 certify a list of the corporations so delinquent to the attorney general who shall proceed forthwith
4 to collect the taxes. Suits for the collection of the taxes may be brought in the name of the state
5 in any court of competent jurisdiction and any judgment rendered in such court in favor of the
6 state shall be a first lien on all properties and assets of the corporation within this state.

7 2. The director of revenue shall notify the secretary of state of any corporation that fails
8 or refuses to pay the taxes, including interest and penalties, assessed against it after such
9 assessment becomes final and the secretary of state shall then administratively dissolve any
10 domestic corporation that is delinquent pursuant to section 351.486, RSMo, and shall revoke the
11 certificate of authority of any foreign corporation that is delinquent pursuant to section 351.602,
12 RSMo.

13 3. Any tax provided for pursuant to sections 147.010 to 147.120 not paid on or before
14 the last day prescribed for payment pursuant to sections 147.010 to 147.120 (determined with
15 regard to any extension of time for payment) shall be collected with a penalty of five percent per
16 month or fractional part thereof until paid, not exceeding twenty-five percent in the aggregate.
17 Interest at the rate determined by section 32.065, RSMo, shall be added to any tax not paid on
18 or before the date due pursuant to sections 147.010 to 147.120 (determined without regard to any
19 extension of time for payment). Nothing in sections 147.010 to 147.120 shall be construed so
20 as to permit any officer of this state to remit or abate such interest.

21 4. If any corporation fails to pay any tax due within the time prescribed pursuant to

22 sections 147.010 to 147.120 or if any corporation makes errors and omissions in reports or
23 payments, and the director of revenue determines that such action is the result of mistake or is
24 due to circumstances beyond reasonable control and that such delinquency or inaccuracy was
25 unavoidable or devoid of any intent to evade the tax, the director of revenue may, at the director's
26 discretion, waive any penalty that would otherwise be imposed.

27 5. The director of revenue shall set the interest rate as determined in section [32.065]
28 **32.068**, RSMo. Such interest rate shall be paid on all overpayments for the ensuing calendar
29 year. The interest shall accrue [from the due date or the date of overpayment, whichever is later]
30 **pursuant to section 32.069, RSMo**. No interest shall be allowed or paid if overpayment is
31 refunded within four months after the franchise tax report is filed.

32 6. Any notice of assessment of franchise tax due shall be mailed to the corporation
33 within three years after the report was filed. The provisions of this subsection shall apply to all
34 reports filed after December 31, 1981.

35 7. If no report is filed or if a false and fraudulent report is filed, a notice of assessment
36 of franchise tax due may be mailed to the corporation at any time.

37 8. If fraud or evasion on the part of a corporation or anyone on behalf of a corporation
38 is discovered, the director of revenue shall determine the amount of which the state has been
39 defrauded, shall add to the amount so determined a penalty equal to fifty percent thereof, and
40 shall assess the same against the corporation. The amount so assessed shall be immediately due
41 and payable; except that, the director of revenue shall promptly thereafter give to such
42 corporation written notice of such assessment and penalty, which notice shall be served by
43 registered mail. Such corporation shall have the right to petition for hearing of such assessment,
44 as is provided in sections 147.010 to 147.120.

45 9. Any person who willfully makes a false corporation franchise tax report, or who
46 willfully makes a false statement in any report under oath or otherwise filed with or transmitted
47 to the director of revenue relating to the amount of any franchise tax due pursuant to sections
48 147.010 to 147.120 shall, in addition to other penalties provided by law and upon conviction
49 thereof, be fined not more than ten thousand dollars, or be imprisoned in the county jail for not
50 more than one year or by not less than two nor more than five years in the state penitentiary or
51 by both fine and imprisonment together with the cost of prosecution.

52 10. The director of revenue shall administer and enforce the tax imposed by sections
53 147.010 to 147.120, and the director is authorized to make such rules and regulations and to
54 require such facts and information to be reported as the director may deem necessary to enforce
55 the provisions of sections 147.010 to 147.120.

56 11. No rule or portion of a rule promulgated pursuant to the authority of sections 147.010
57 to 147.120 shall become effective unless it has been promulgated pursuant to the provisions of

58 chapter 536, RSMo.

59 12. Except as otherwise specifically provided in sections 147.010 to 147.120 the
60 franchise tax shall be administered as prescribed in the following provisions of chapter 143,
61 RSMo: subsections 1 and 4 of section 143.551, RSMo, sections 143.561, 143.571, 143.621,
62 143.631, 143.641, 143.651, 143.661, 143.681, 143.691, 143.721 and 143.731, RSMo, subsection
63 1 of section 143.741, RSMo, subsections 1, 2 and 5 of section 143.751, RSMo, sections 143.771
64 and 143.791, RSMo, subsections 1, 2 and 4 of section 143.811, RSMo, sections 143.831,
65 143.841 and 143.851, RSMo, subsections 2 and 3 of section 143.861, RSMo, and sections
66 143.901, 143.902, 143.971 and 143.986, RSMo.

148.074. 1. The director within the applicable period of limitations may credit an
2 overpayment of the tax imposed by sections 148.010 to 148.110, and interest **pursuant to**
3 **sections 32.068 and 32.069, RSMo**, on such overpayment, against any liability in respect of any
4 tax imposed by the tax laws of this state on the taxpayer who made the overpayment, and the
5 balance shall be refunded if it exceeds one dollar.

6 2. If any amount of tax is assessed or collected after the expiration of the period of
7 limitations properly applicable thereto, such amount shall be considered an overpayment.

313.820. 1. An excursion boat licensee shall pay to the commission an admission fee
2 of [two] **three** dollars for each person embarking on an excursion gambling boat with a ticket
3 of admission. One dollar of such fee shall be deposited to the credit of the gaming commission
4 fund as authorized pursuant to section 313.835[.]; **notwithstanding any other provision of law**
5 **to the contrary, one dollar of such admission fee shall be deposited in the schools of the**
6 **future fund created pursuant to section 313.822**; and one dollar of such fee shall not be
7 considered state funds and shall be paid to the home dock city or county. Subject to
8 appropriation, one cent of such fee deposited to the credit of the gaming commission fund may
9 be deposited to the credit of the compulsive gamblers fund created pursuant to the provisions of
10 section 313.842. Nothing in this section shall preclude any licensee from charging any amount
11 deemed necessary for a ticket of admission to any person embarking on an excursion gambling
12 boat. If tickets are issued which are good for more than one excursion, the admission fee shall
13 be paid to the commission for each person using the ticket on each excursion that the ticket is
14 used. If free passes or complimentary admission tickets are issued, the excursion boat licensee
15 shall pay to the commission the same fee upon these passes or complimentary tickets as if they
16 were sold at the regular and usual admission rate; however, the excursion boat licensee may issue
17 fee-free passes to actual and necessary officials and employees of the licensee or other persons
18 actually working on the excursion gambling boat. The issuance of fee-free passes is subject to
19 the rules of the commission, and a list of all persons to whom the fee-free passes are issued shall
20 be filed with the commission.

21 2. All licensees are subject to all income taxes, sales taxes, earnings taxes, use taxes,
22 property taxes or any other tax or fee now or hereafter lawfully levied by any political
23 subdivision; however, no other license tax, permit tax, occupation tax, excursion fee, or taxes
24 or fees shall be imposed, levied or assessed exclusively upon licensees by a political subdivision.
25 All state taxes not connected directly to gambling games shall be collected by the department of
26 revenue. Notwithstanding the provisions of section 32.057, RSMo, to the contrary, the
27 department of revenue may furnish and the commission may receive tax information to
28 determine if applicants or licensees are complying with the tax laws of this state; however, any
29 tax information acquired by the commission shall not become public record and shall be used
30 exclusively for commission business.

 313.822. A tax is imposed on the adjusted gross receipts received from **licensed**
2 gambling games authorized pursuant to sections 313.800 to 313.850 at the rate of [twenty]
3 **twenty-two** percent. The taxes imposed by this section shall be returned to the commission in
4 accordance with the commission's rules and regulations who shall transfer such taxes to the
5 director of revenue. All checks and drafts remitted for payment of these taxes and fees shall be
6 made payable to the director of revenue. If the commission is not satisfied with the return or
7 payment made by any licensee, it is hereby authorized and empowered to make an assessment
8 of the amount due based upon any information within its possession or that shall come into its
9 possession. Any licensee against whom an assessment is made by the commission may petition
10 for a reassessment. The request for reassessment shall be made within twenty days from the date
11 the assessment was mailed or delivered to the licensee, whichever is earlier. Whereupon the
12 commission shall give notice of a hearing for reassessment and fix the date upon which the
13 hearing shall be held. The assessment shall become final if a request for reassessment is not
14 received by the commission within the twenty days. Except as provided in this section, on and
15 after April 29, 1993, all functions incident to the administration, collection, enforcement, and
16 operation of the tax imposed by sections 144.010 to 144.525, RSMo, shall be applicable to the
17 taxes and fees imposed by this section.

18 **(1) Two percent of the adjusted gross receipts shall be deposited in the state**
19 **treasury to the credit of the "Schools of the Future Fund" which is hereby created in the**
20 **state treasury. Moneys deposited in this fund shall be considered the proceeds of excursion**
21 **boat gambling and state funds pursuant to article IV, section 15 of the Missouri**
22 **Constitution. All interest received on the schools of the future fund shall be credited to the**
23 **schools of the future fund. Appropriation of the moneys deposited into the schools of the**
24 **future fund shall be used solely for the purpose of fully funding state aid to public schools**
25 **pursuant to section 163.031, RSMo.**

26 **(2) The remaining twenty percent of the adjusted gross receipts shall be distributed**

27 **as follows:**

28 **(a)** Each excursion gambling boat shall designate a city or county as its home dock. The
29 home dock city or county may enter into agreements with other cities or counties authorized
30 pursuant to subsection 10 of section 313.812 to share revenue obtained pursuant to this section.
31 The home dock city or county shall receive ten percent of the **remaining twenty percent of the**
32 adjusted gross receipts tax collections, as levied pursuant to this section, for use in providing
33 services necessary for the safety of the public visiting an excursion gambling boat. Such home
34 dock city or county shall annually submit to the commission a shared revenue agreement with
35 any other city or county. All moneys owed the home dock city or county shall be deposited and
36 distributed to such city or county in accordance with rules and regulations of the commission.
37 All revenues provided for in this section to be transferred to the governing body of any city not
38 within a county and any city with a population of over three hundred fifty thousand inhabitants
39 shall not be considered state funds and shall be deposited in such city's general revenue fund to
40 be expended as provided for in this section[.];

41 **[(2)] (b) Eighteen percent of the remaining [amount] twenty percent** of the adjusted
42 gross receipts tax shall be deposited in the state treasury to the credit of the "Gaming Proceeds
43 for Education Fund" which is hereby created in the state treasury. Moneys deposited in this fund
44 shall be considered the proceeds of excursion boat gambling and state funds pursuant to article
45 IV, section 15 of the Missouri Constitution. All interest received on the gaming proceeds for
46 education fund shall be credited to the gaming proceeds for education fund. Appropriation of
47 the moneys deposited into the gaming proceeds for education fund shall be pursuant to state law.

630.460. 1. For the purposes of this section, the term "overpayment" means any payment
2 by the department to a vendor providing care, treatment, habilitation or rehabilitation services
3 to clients under contract with the department, which is:

4 (1) In excess of the contracted rate less payments by the client or on his behalf as
5 required to be made by the standard means test contained in department rules;

6 (2) In payment of services not provided;

7 (3) In payment for any service not authorized in the contract with the department; or

8 (4) In payment for services provided contrary to the provisions of the contract with the
9 department.

10 2. The department shall notify the vendor in writing by certified mail, return receipt
11 requested, of the amount of the overpayment, the basis for such overpayment and request
12 reimbursement. Within thirty days of receipt of the notice of overpayment, a provider may
13 request a review of the overpayment and reimbursement request by the department director or
14 his designee. Such review shall be conducted in person if requested by the provider. The
15 department director or his designee shall review the overpayment within fifteen days of the

16 request for review.

17 3. If any overpayment is not fully repaid within forty-five days of the date of notice of
18 overpayment, the department shall assess interest on the unpaid balance. Interest shall be
19 charged on any unpaid balance beginning from the date of notice of overpayment and shall
20 accrue at a rate not to exceed the annual rate established pursuant to the provisions of section
21 [32.065] **32.068**, RSMo, plus three percentage points.

22 4. The department and the vendor shall have forty-five days from receipt of the notice
23 of the overpayment to negotiate a repayment plan to recover the amount of the overpayment as
24 finally determined plus accrued interest at the rate established in subsection 3 of this section over
25 a period determined by the department, but not to exceed twelve months from the date of final
26 disposition of any overpayment review authorized by this section. The department shall
27 determine the method of repayment which may include direct payment by the vendor, deduction
28 from future amounts due to the vendor from the department, or both.

29 5. If any overpayment plus accrued interest not subject to a repayment plan pursuant to
30 subsection 4 of this section is not fully repaid within six months of the date of notice of
31 overpayment, the department may certify the amount due to the office of the attorney general,
32 or take other appropriate collection actions. If any portion of an overpayment plus accrued
33 interest which is subject to a repayment plan pursuant to subsection 4 of this section, but which
34 is not repaid pursuant to the terms of the plan, the department may certify all or a portion of the
35 overpayment plus accrued interest due to the office of the attorney general, or take other
36 appropriate collection actions.

644.051. 1. It is unlawful for any person:

2 (1) To cause pollution of any waters of the state or to place or cause or permit to be
3 placed any water contaminant in a location where it is reasonably certain to cause pollution of
4 any waters of the state;

5 (2) To discharge any water contaminants into any waters of the state which reduce the
6 quality of such waters below the water quality standards established by the commission;

7 (3) To violate any pretreatment and toxic material control regulations, or to discharge
8 any water contaminants into any waters of the state which exceed effluent regulations or permit
9 provisions as established by the commission or required by any federal water pollution control
10 act;

11 (4) To discharge any radiological, chemical, or biological warfare agent or high-level
12 radioactive waste into the waters of the state.

13 2. It shall be unlawful for any person to build, erect, alter, replace, operate, use or
14 maintain any water contaminant or point source in this state that is subject to standards, rules or
15 regulations promulgated pursuant to the provisions of sections 644.006 to 644.141 unless such

16 person holds a permit from the commission, subject to such exceptions as the commission may
17 prescribe by rule or regulation. However, no permit shall be required of any person for any
18 emission into publicly owned treatment facilities or into publicly owned sewer systems tributary
19 to publicly owned treatment works.

20 3. Every proposed water contaminant or point source which, when constructed or
21 installed or established, will be subject to any federal water pollution control act or sections
22 644.006 to 644.141 or regulations promulgated pursuant to the provisions of such act shall make
23 application to the director for a permit at least thirty days prior to the initiation of construction
24 or installation or establishment. Every water contaminant or point source in existence when
25 regulations or sections 644.006 to 644.141 become effective shall make application to the
26 director for a permit within sixty days after the regulations or sections 644.006 to 644.141
27 become effective, whichever shall be earlier. The director shall promptly investigate each
28 application, which investigation shall include such hearings and notice, and consideration of such
29 comments and recommendations as required by sections 644.006 to 644.141 and any federal
30 water pollution control act. If the director determines that the source meets or will meet the
31 requirements of sections 644.006 to 644.141 and the regulations promulgated pursuant thereto,
32 the director shall issue a permit with such conditions as he or she deems necessary to ensure that
33 the source will meet the requirements of sections 644.006 to 644.141 and any federal water
34 pollution control act as it applies to sources in this state. If the director determines that the
35 source does not meet or will not meet the requirements of either act and the regulations pursuant
36 thereto, the director shall deny the permit pursuant to the applicable act and issue any notices
37 required by sections 644.006 to 644.141 and any federal water pollution control act.

38 4. Before issuing a permit to build or enlarge a water contaminant or point source or
39 reissuing any permit, the director shall issue such notices, conduct such hearings, and consider
40 such factors, comments and recommendations as required by sections 644.006 to 644.141 or any
41 federal water pollution control act. The director shall determine if any state or any provisions
42 of any federal water pollution control act the state is required to enforce, any state or federal
43 effluent limitations or regulations, water quality-related effluent limitations, national standards
44 of performance, toxic and pretreatment standards, or water quality standards which apply to the
45 source, or any such standards in the vicinity of the source, are being exceeded, and shall
46 determine the impact on such water quality standards from the source. The director, in order to
47 effectuate the purposes of sections 644.006 to 644.141, shall deny a permit if the source will
48 violate any such acts, regulations, limitations or standards or will appreciably affect the water
49 quality standards or the water quality standards are being substantially exceeded, unless the
50 permit is issued with such conditions as to make the source comply with such requirements
51 within an acceptable time schedule.

52 5. The director shall grant or deny the permit within sixty days after all requirements of
53 the Federal Water Pollution Control Act concerning issuance of permits have been satisfied
54 unless the application does not require any permit pursuant to any federal water pollution control
55 act. The director or the commission may require the applicant to provide and maintain such
56 facilities or to conduct such tests and monitor effluents as necessary to determine the nature,
57 extent, quantity or degree of water contaminant discharged or released from the source, establish
58 and maintain records and make reports regarding such determination.

59 6. The director shall promptly notify the applicant in writing of his or her action and if
60 the permit is denied state the reasons therefor. The applicant may appeal to the commission from
61 the denial of a permit or from any condition in any permit by filing notice of appeal with the
62 commission within thirty days of the notice of denial or issuance of the permit. The commission
63 shall set the matter for hearing not less than thirty days after the notice of appeal is filed. In no
64 event shall a permit constitute permission to violate the law or any standard, rule or regulation
65 promulgated pursuant thereto.

66 7. In any hearing held pursuant to this section the burden of proof is on the applicant for
67 a permit. Any decision of the commission made pursuant to a hearing held pursuant to this
68 section is subject to judicial review as provided in section 644.071.

69 8. In any event, no permit issued pursuant to this section shall be issued if properly
70 objected to by the federal government or any agency authorized to object pursuant to any federal
71 water pollution control act unless the application does not require any permit pursuant to any
72 federal water pollution control act.

73 9. No manufacturing or processing plant or operating location shall be required to pay
74 more than one operating fee. Operating permits shall be issued for a period not to exceed five
75 years after date of issuance, except that general permits shall be issued for a five-year period, and
76 also except that neither a construction nor an annual permit shall be required for a single
77 residence's waste treatment facilities. Applications for renewal of an operating permit shall be
78 filed at least one hundred eighty days prior to the expiration of the existing permit.

79 10. Every permit issued to municipal or any publicly owned treatment works or facility
80 shall require the permittee to provide the clean water commission with adequate notice of any
81 substantial new introductions of water contaminants or pollutants into such works or facility
82 from any source for which such notice is required by sections 644.006 to 644.141 or any federal
83 water pollution control act. Such permit shall also require the permittee to notify the clean water
84 commission of any substantial change in volume or character of water contaminants or pollutants
85 being introduced into its treatment works or facility by a source which was introducing water
86 contaminants or pollutants into its works at the time of issuance of the permit. Notice must
87 describe the quality and quantity of effluent being introduced or to be introduced into such works

88 or facility by a source which was introducing water contaminants or pollutants into its works at
89 the time of issuance of the permit. Notice must describe the quality and quantity of effluent
90 being introduced or to be introduced into such works or facility and the anticipated impact of
91 such introduction on the quality or quantity of effluent to be released from such works or facility
92 into waters of the state.

93 11. The director or the commission may require the filing or posting of a bond as a
94 condition for the issuance of permits for construction of temporary or future water treatment
95 facilities in an amount determined by the commission to be sufficient to ensure compliance with
96 all provisions of sections 644.006 to 644.141, and any rules or regulations of the commission and
97 any condition as to such construction in the permit. The bond shall be signed by the applicant
98 as principal, and by a corporate surety licensed to do business in the state of Missouri and
99 approved by the commission. The bond shall remain in effect until the terms and conditions of
100 the permit are met and the provisions of sections 644.006 to 644.141 and rules and regulations
101 promulgated pursuant thereto are complied with.

102 12. (1) The department shall issue or deny applications for construction and site-specific
103 operating permits received after January 1, 2001, within one hundred eighty days of the
104 department's receipt of an application. For general construction and operating permit
105 applications received after January 1, 2001, that do not require a public participation process, the
106 department shall issue or deny the requested permits within sixty days of the department's receipt
107 of an application.

108 (2) If the department fails to issue or deny with good cause a construction or operating
109 permit application within the time frames established in subdivision (1) of this subsection, the
110 department shall refund the full amount of the initial application fee within forty-five days of
111 failure to meet the established time frame. If the department fails to refund the application fee
112 within forty-five days, the refund amount shall accrue interest at a rate established pursuant to
113 section [32.065] **32.068**, RSMo.

114 (3) Permit fee disputes may be appealed to the commission within thirty days of the date
115 established in subdivision (2) of this subsection. If the applicant prevails in a permit fee dispute
116 appealed to the commission, the commission may order the director to refund the applicant's
117 permit fee plus interest and reasonable attorney's fees as provided in sections 536.085 and
118 536.087, RSMo. A refund of the initial application or annual fee does not waive the applicant's
119 responsibility to pay any annual fees due each year following issuance of a permit.

120 (4) No later than December 31, 2001, the commission shall promulgate regulations
121 defining shorter review time periods than the time frames established in subdivision (1) of this
122 subsection, when appropriate, for different classes of construction and operating permits. In no
123 case shall commission regulations adopt permit review times that exceed the time frames

124 established in subdivision (1) of this subsection. The department's failure to comply with the
 125 commission's permit review time periods shall result in a refund of said permit fees as set forth
 126 in subdivision (2) of this subsection. On a semiannual basis, the department shall submit to the
 127 commission a report which describes the different classes of permits and reports on the number
 128 of days it took the department to issue each permit from the date of receipt of the application and
 129 show averages for each different class of permits.

130 (5) During the department's technical review of the application, the department may
 131 request the applicant submit supplemental or additional information necessary for adequate
 132 permit review. The department's technical review letter shall contain a sufficient description of
 133 the type of additional information needed to comply with the application requirements.

134 (6) Nothing in this subsection shall be interpreted to mean that inaction on a permit
 135 application shall be grounds to violate any provisions of sections 644.006 to 644.141 or any rules
 136 promulgated pursuant to sections 644.006 to 644.141.

137 13. The department shall respond to all requests for individual certification under Section
 138 401 of the Federal Clean Water Act within the lesser of sixty days or the allowed response period
 139 established pursuant to applicable federal regulations without request for an extension period
 140 unless such extension is determined by the commission to be necessary to evaluate significant
 141 impacts on water quality standards and the commission establishes a timetable for completion
 142 of such evaluation in a period of no more than one hundred eighty days.

143 14. All permit fees generated pursuant to this chapter shall not be used for the
 144 development or expansion of total maximum daily loads studies on either the Missouri or
 145 Mississippi rivers.

[143.261. For every remittance to the director of revenue made on or before
 2 the date the remittance becomes due, the employer, other than the United States and
 3 its agencies, the state of Missouri and political subdivisions thereof, may deduct and
 4 retain the following percentages of the total amount of tax withheld and paid in each
 5 calendar year:

6 (1) Two percent of five thousand dollars or less;

7 (2) One percent of amount collected in excess of five thousand dollars and
 8 up to and including ten thousand dollars;

9 (3) One-half percent of amount collected in excess of ten thousand dollars.]

Section B. Because immediate action is necessary to ensure that adequate funding is
 2 available to fully fund the school foundation formula of this state, section A of this act is deemed
 3 necessary for the immediate preservation of the public health, welfare, peace, and safety, and is
 4 hereby declared to be an emergency act within the meaning of the constitution, and section A of
 5 this act shall be in full force and effect upon its passage and approval.