

FIRST REGULAR SESSION

# HOUSE BILL NO. 600

## 92ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES COOPER (120), PEARCE, SMITH (118), ICET,  
SHOEMAKER (8), LIPKE, GOODMAN (Co-sponsors), DAVIS (19), BAKER, BLACK AND MYERS.

Read 1<sup>st</sup> time March 5, 2003, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

1980L.011

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### AN ACT

To repeal sections 34.040, 143.181, 143.782, and 144.025, RSMo, and to enact in lieu thereof eight new sections relating to taxation.

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

Section A. Sections 34.040, 143.181, 143.782, and 144.025, RSMo, are repealed and  
2 eight new sections enacted in lieu thereof, to be known as sections 34.040, 143.181, 143.782,  
3 144.025, 488.5028, 1, 2, and 3, to read as follows:

34.040. 1. All purchases in excess of three thousand dollars shall be based on  
2 competitive bids, except as otherwise provided in this chapter.

3 2. On any purchase where the estimated expenditure shall be twenty-five thousand  
4 dollars or over, except as provided in subsection 5 of this section, the commissioner of  
5 administration shall:

6 (1) Advertise for bids in at least two daily newspapers of general circulation in such  
7 places as are most likely to reach prospective bidders and may advertise in at least two weekly  
8 minority newspapers and may provide such information through an electronic medium available  
9 to the general public at least five days before bids for such purchases are to be opened. Other  
10 methods of advertisement, which may include minority business purchase councils, however,  
11 may be adopted by the commissioner of administration when such other methods are deemed  
12 more advantageous for the supplies to be purchased;

13 (2) Post a notice of the proposed purchase in his or her office; and

14 (3) Solicit bids by mail or other reasonable method generally available to the public from  
15 prospective suppliers. All bids for such supplies shall be mailed or delivered to the office of the

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

16 commissioner of administration so as to reach such office before the time set for opening bids.

17         3. The contract shall be let to the lowest and best bidder. The commissioner of  
18 administration shall have the right to reject any or all bids and advertise for new bids, or purchase  
19 the required supplies on the open market if they can be so purchased at a better price. When bids  
20 received pursuant to this section are unreasonable or unacceptable as to terms and conditions,  
21 noncompetitive, or the low bid exceeds available funds and it is determined in writing by the  
22 commissioner of administration that time or other circumstances will not permit the delay  
23 required to resolicit competitive bids, a contract may be negotiated pursuant to this section,  
24 provided that each responsible bidder who submitted such bid under the original solicitation is  
25 notified of the determination and is given a reasonable opportunity to modify their bid and  
26 submit a best and final bid to the state. In cases where the bids received are noncompetitive or  
27 the low bid exceeds available funds, the negotiated price shall be lower than the lowest rejected  
28 bid of any responsible bidder under the original solicitation.

29         4. All bids shall be based on standard specifications wherever such specifications have  
30 been approved by the commissioner of administration. The commissioner of administration shall  
31 make rules governing the delivery, inspection, storage and distribution of all supplies so  
32 purchased and governing the manner in which all claims for supplies delivered shall be  
33 submitted, examined, approved and paid. The commissioner shall determine the amount of bond  
34 or deposit and the character thereof which shall accompany bids or contracts.

35         5. The department of natural resources may, without the approval of the commissioner  
36 of administration required pursuant to this section, enter into contracts of up to five hundred  
37 thousand dollars to abate illegal waste tire sites pursuant to section 260.276, RSMo, when the  
38 director of the department determines that urgent action is needed to protect public health, safety,  
39 natural resources or the environment. The department shall follow bidding procedures pursuant  
40 to this section and may promulgate rules necessary to establish such procedures. Any rule or  
41 portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the  
42 authority delegated in this section shall become effective only if it complies with and is subject  
43 to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This  
44 section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the  
45 general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to  
46 disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking  
47 authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

48         **6. The commissioner of administration and other agencies to which the state**  
49 **purchasing law applies shall not contract for goods or services with a vendor if the vendor**  
50 **or an affiliate of the vendor makes sales at retail of tangible personal property or for the**  
51 **purpose of storage, use, or consumption in this state but fails to collect and properly pay**

52 **the tax as provided in chapter 144, RSMo. For the purposes of this section, "affiliate of the**  
53 **vendor" shall mean any person or entity that is controlled by or is under common control**  
54 **with the vendor, whether through stock ownership or otherwise.**

143.181. 1. The Missouri nonresident adjusted gross income shall be that part of the  
2 nonresident individual's federal adjusted gross income derived from sources within Missouri, as  
3 modified in the same manner as set forth in section 143.121 with respect to resident individuals.  
4 It shall be the sum of:

5 (1) The net amount of items of income, gain, loss, and deduction entering into his **or her**  
6 federal adjusted gross income which are derived from or connected with sources in this state  
7 including

8 (a) [His] **The individual's** distributive share of partnership income and deductions  
9 determined under section 143.421, and

10 (b) [His] **The individual's** share of estate or trust income and deductions determined  
11 under section 143.391, and

12 (c) [His] **The individual's** pro rata share of S corporation income and deductions  
13 determined under subsection 3 of section 143.471; and

14 (2) The portion of the modifications described in section 143.121 which relate to income  
15 derived from sources in this state, including any modifications attributable to him **or her** as a  
16 partner.

17 2. Items of income, gain, loss, and deduction derived from or connected with sources  
18 within this state are those items attributable to:

19 (1) The ownership or disposition of any interest in real or tangible personal property in  
20 this state; [and]

21 (2) A business, trade, profession, or occupation carried on in this state;

22 (3) **Winnings from a wager placed in a lottery conducted by the state lottery**  
23 **commission, if the proceeds from such wager are required, pursuant to the Internal**  
24 **Revenue Code of 1986, as amended, or regulations adopted thereunder, to be reported by**  
25 **the state lottery commission to the Internal Revenue Service; and**

26 (4) **Winnings from any other wager placed in this state or from any wagering**  
27 **transaction, gaming activity, or gambling activity in this state, if the proceeds from such**  
28 **wager, wagering transaction, gaming activity, or gambling activity are required, pursuant**  
29 **to the Internal Revenue Code of 1986, as amended, or regulations adopted thereunder, to**  
30 **be reported by the payer to the Internal Revenue Service.**

31 3. Income from intangible personal property, including annuities, dividends, interest, and  
32 gains from the disposition of intangible personal property, shall constitute income derived from  
33 sources within this state only to the extent that such income is from:

34 (1) Property employed in a business, trade, profession, or occupation carried on in this  
35 state;

36 (2) **Winnings from a wager placed in a lottery conducted by the state lottery**  
37 **commission, if the proceeds from such wager are required, pursuant to the Internal**  
38 **Revenue Code of 1986, as amended, or regulations adopted thereunder, to be reported by**  
39 **the state lottery commission to the Internal Revenue Service; and**

40 (3) **Winnings from any other wager placed in this state or from any wagering**  
41 **transaction, gaming activity, or gambling activity in this state, if the proceeds from such**  
42 **wager, wagering transaction, gaming activity, or gambling activity are required, pursuant**  
43 **to the Internal Revenue Code of 1986, as amended, or regulations adopted thereunder, to**  
44 **be reported by the payer to the Internal Revenue Service.**

45 4. Deductions with respect to capital losses, net long-term capital gains, and net  
46 operation losses shall be based solely on income, gains, losses, and deductions derived from  
47 sources within this state in the same manner as the corresponding federal deductions under  
48 regulations to be prescribed by the director of revenue.

49 5. If a business, trade, profession, or occupation is carried on partly within and partly  
50 without this state, the items of income and deduction derived from or connected with sources  
51 within this state shall be determined by apportionment and allocation under regulations to be  
52 prescribed by the director of revenue.

53 6. Compensation paid by the United States for service in the armed forces of the United  
54 States performed by a nonresident shall not constitute income derived from sources within this  
55 state.

143.782. As used in sections 143.782 to 143.788, unless the context clearly requires  
2 otherwise, the following terms shall mean and include:

3 (1) **"Court", the supreme court, court of appeals, or any circuit court of the state;**

4 (2) **"Debt", any sum due and legally owed to any state agency which has accrued through**  
5 **contract, subrogation, tort, or operation of law regardless of whether there is an outstanding**  
6 **judgment for that sum, court costs as defined in section 488.010, RSMo, fines and fees owed,**  
7 **or any support obligation which is being enforced by the division of family services on behalf**  
8 **of a person who is receiving support enforcement services pursuant to section 454.425, RSMo;**

9 [(2)] (3) **"Debtor", any individual, sole proprietorship, partnership, corporation or other**  
10 **legal entity owing a debt;**

11 [(3)] (4) **"Department", the department of revenue of the state of Missouri;**

12 [(4)] (5) **"Refund", the Missouri income tax refund which the department determines to**  
13 **be due any taxpayer pursuant to the provisions of this chapter. The amount of a refund shall not**  
14 **include any senior citizens property tax credit provided by sections 135.010 to 135.035, RSMo;**

15 and

16 [(5)] (6) "State agency", any department, division, board, commission, office, or other  
17 agency of the state of Missouri, including public community college district.

144.025. 1. Notwithstanding any other provisions of law to the contrary, in any retail  
2 sale other than retail sales governed by [subsection 3] **subsections 4 and 5** of this section, where  
3 any article **on which sales or use tax has been paid, credited, or otherwise satisfied or which**  
4 **was exempted or excluded from sales or use tax** is taken in trade as a credit or part payment  
5 on the purchase price of the article being sold, the tax imposed by sections 144.020 and 144.440  
6 shall be computed only on that portion of the purchase price which exceeds the actual allowance  
7 made for the article traded in or exchanged, if there is a bill of sale or other record showing the  
8 actual allowance made for the article traded in or exchanged. **Where the article being traded**  
9 **in for credit or part payment is a motor vehicle, trailer, boat, or outboard motor the person**  
10 **trading in the article must be the owner or holder of a properly assigned certificate of**  
11 **ownership. For the purpose of determining sales or use tax liability from a sale of a motor**  
12 **vehicle, trailer, boat, or outboard motor, no deduction shall be allowed from the purchase**  
13 **price of the motor vehicle, trailer, boat, or outboard motor for the actual allowance of any**  
14 **article other than a motor vehicle, trailer, boat, or outboard motor traded or exchanged**  
15 **as a credit or partial payment for such item.** Where the purchaser of a motor vehicle, trailer,  
16 boat or outboard motor receives a rebate from the seller or manufacturer, the tax imposed by  
17 sections 144.020 and 144.440 shall be computed only on that portion of the purchase price which  
18 exceeds the amount of the rebate, if there is a bill of sale or other record showing the actual  
19 rebate given by the seller or manufacturer. Where the trade-in or exchange allowance plus any  
20 applicable rebate exceeds the purchase price of the purchased article there shall be no sales or  
21 use tax owed. This section shall also apply to motor vehicles, trailers, boats, and outboard  
22 motors sold by the owner or holder of the properly assigned certificate of ownership if the seller  
23 purchases or contracts to purchase a subsequent motor vehicle, trailer, boat, or outboard motor  
24 within one hundred eighty days before or after the date of the sale of the original article and a  
25 notarized bill of sale showing the paid sale price is presented to the department of revenue at the  
26 time of licensing. A copy of the bill of sale shall be left with the licensing office. Where the  
27 subsequent motor vehicle, trailer, boat, or outboard motor is titled more than one hundred eighty  
28 days after the sale of the original motor vehicle, trailer, boat, or outboard motor, the allowance  
29 pursuant to this section shall be made if the person titling such article establishes that the  
30 purchase or contract to purchase was finalized prior to the expiration of the one hundred  
31 eighty-day period.

32 2. As used in this section, the term "boat" includes all motorboats and vessels, as the  
33 terms "motorboat" and "vessel" are defined in section 306.010, RSMo.

34           3. As used in this section, the term "motor vehicle" includes motor vehicles as defined  
35 in section 301.010, RSMo, recreational vehicles as defined in section 700.010, RSMo, or a  
36 combination of a truck as defined in section 301.010, RSMo, and a trailer as defined in section  
37 301.010, RSMo.

38           4. The provisions of subsection 1 of this section shall not apply to retail sales of  
39 manufactured homes in which the purchaser receives a document known as the "Manufacturer's  
40 Statement of Origin" for purposes of obtaining a title to the manufactured home from the  
41 department of revenue of this state or from the appropriate agency or officer of any other state.

42           **5. Any purchaser of a motor vehicle or trailer used primarily for agricultural use**  
43 **by the purchaser shall be allowed to use as an allowance to offset the sales and use tax**  
44 **liability towards the purchase of the motor vehicle or trailer any grain or livestock**  
45 **produced or raised by the purchaser. The director of revenue may prescribe forms for**  
46 **compliance with this subsection.**

**488.5028. 1. If a person fails to pay court costs, fines, fees, or other sums ordered**  
2 **by a court to be paid to the state or political subdivision, a court may report any such**  
3 **delinquencies in excess of twenty-five dollars to the office of state courts administrator and**  
4 **request that the state courts administrator seek a setoff of an income tax refund. The state**  
5 **courts administrator shall set guidelines necessary to effectuate the purpose of the offset**  
6 **program.**

7           **2. The office of state courts administrator shall provide the department of revenue**  
8 **with the information necessary to identify each debtor whose refund is sought to be setoff**  
9 **and the amount of the debt or debts owed by each such debtor who is entitled to a tax**  
10 **refund in excess of twenty-five dollars.**

11           **3. The department of revenue shall notify the office of state courts administrator**  
12 **that a refund has been setoff on behalf of a court and shall certify the amount of such**  
13 **setoff, which shall not exceed the amount of the claimed debt certified. When the refund**  
14 **owed exceeds the claimed debt, the department of revenue shall send the excess amount to**  
15 **the debtor within a reasonable time after such excess is determined.**

16           **4. The department of revenue shall notify the debtor by mail that a setoff has been**  
17 **sought. The notice shall contain the following:**

18           **(1) The name of the debtor;**

19           **(2) The manner in which the debt arose;**

20           **(3) The amount of the claimed debt and the department's intention to setoff the**  
21 **refund against the debt;**

22           **(4) The amount, if any, of the refund due after setoff of the refund against the debt;**

23 **and**

24           **(5) The right of the debtor to apply in writing to the court originally requesting**  
25 **setoff for review of the setoff because the debt was previously satisfied.**

26

27 **Any debtor applying to the court for review of the setoff shall file a written application**  
28 **within thirty days of the date of mailing of the notice and send a copy of the application to**  
29 **the office of state courts administrator. The application for review of the setoff shall**  
30 **contain the name of the debtor, the case name and number from which the debt arose, and**  
31 **the grounds for review. The court may upon application, or on its own motion, hold a**  
32 **hearing on the application. The hearing shall be ancillary to the original action with the**  
33 **only matters for determination whether the refund setoff was appropriate because the debt**  
34 **was unsatisfied at the time the court reported the delinquency to the office of state courts**  
35 **administrator and that the debt remains unsatisfied. In the case of a joint or combined**  
36 **return, the notice sent by the department shall contain the name of the nonobligated**  
37 **taxpayer named in the return, if any, against whom no debt is claimed. The notice shall**  
38 **state that as to the nonobligated taxpayer that no debt is owed and that the taxpayer is**  
39 **entitled to a refund regardless of the debt owed by such other person or persons named on**  
40 **the joint or combined return. The nonobligated taxpayer may seek a refund as provided**  
41 **in section 143.784, RSMo.**

42           **5. Upon receipt of funds transferred from the department of revenue to the office**  
43 **of state courts administrator pursuant to a refund setoff, the state courts administrator**  
44 **shall deposit such funds in the state treasury to be held in an escrow account, which is**  
45 **hereby established. Interest earned on those funds shall be credited to the escrow account**  
46 **and used to offset administrative expenses. If a debtor files with a court an application for**  
47 **review, the state courts administrator shall hold such sums in question until directed by**  
48 **such court to release the funds. If no application for review is filed, the state courts**  
49 **administrator shall, within forty-five days of receipt of funds from the department, send**  
50 **to the clerk of the court in which the debt arose such sums as are collected by the**  
51 **department of revenue for credit to the debtor's account.**

**Section 1. No local government or municipality shall have the power to issue or**  
2 **renew a business license or permit without verification from the department of revenue**  
3 **that all state tax returns have been filed by, and all state taxes including any interest and**  
4 **penalties on such taxes paid by, the business entity or applicant.**

**Section 2. 1. As a condition of continued employment with the state of Missouri,**  
2 **all persons employed full-time, part-time, or on a temporary or contracted basis by the**  
3 **executive, legislative, or judicial branch shall file all state tax returns and pay all state taxes**  
4 **owed.**

5           **2. Each chief administrative officer or their designee of each division of each**  
6 **branch of state government shall at least one time each year check the status of every**  
7 **employee within the division against a database developed by the director of revenue to**  
8 **determine if all state tax returns have been filed and all state taxes owed have been paid.**  
9 **The officer or designee shall notify any employee if the database shows any state tax return**  
10 **has not been filed or taxes are owed under that employee's name or taxpayer number.**  
11 **Upon notification, the employee will have thirty days to satisfy the liability or provide the**  
12 **officer or designee with a copy of a payment plan approved by the director of revenue.**  
13 **Failure to satisfy the liability or provide a copy of the payment plan within the thirty days**  
14 **will result in immediate dismissal of the employee from employment by the state.**

15           **3. The chief administrative officer of each division of the general assembly or their**  
16 **designee shall at least one time each year check the status of every member of the general**  
17 **assembly against a database developed by the director of revenue to determine if all state**  
18 **tax returns have been filed and all state taxes owed have been paid. The officer or designee**  
19 **shall notify any member of the general assembly if the database shows any state tax return**  
20 **has not been filed or taxes are owed under that member's name or taxpayer number. Upon**  
21 **notification, the member will have thirty days to satisfy the liability or provide the officer**  
22 **or designee with a copy of a payment plan approved by the director of revenue. Failure**  
23 **to satisfy the liability or provide a copy of the payment plan within the thirty days will**  
24 **result in the member's name being submitted to the appropriate ethics committee for**  
25 **disciplinary action deemed appropriate by the committee.**

26           **4. The chief administrative officer of each division of the judicial branch or their**  
27 **designee shall at least one time each year check the status of every elected or appointed**  
28 **member of the judicial branch against a database developed by the director of revenue to**  
29 **determine if all state tax returns have been filed and all state taxes owed have been paid.**  
30 **The officer or designee shall notify any member if the database shows any state tax return**  
31 **has not been filed or taxes are owed under that member's name or taxpayer number. Upon**  
32 **notification, the member will have thirty days to satisfy the liability or provide the officer**  
33 **or designee with a copy of a payment plan approved by the director of revenue. Failure**  
34 **to satisfy the liability or provide a copy of the payment plan within the thirty days will**  
35 **result in the member's name being submitted to the appropriate ethics body for**  
36 **disciplinary action deemed appropriate by that body.**

37           **5. The director of revenue shall at least one time each year check the status of every**  
38 **statewide elected official against a database developed by the director to determine if all**  
39 **state tax returns have been filed and all state taxes owed have been paid. The director shall**  
40 **notify any elected official if the database shows any state tax return has not been filed or**

41 **taxes are owed under that official's name or taxpayer number. Upon notification, the**  
42 **official will have thirty days to satisfy the liability or agree to a payment plan approved by**  
43 **the director of revenue. Failure to satisfy the liability or agree to the payment plan within**  
44 **the thirty days will result in the official's name being submitted to the state ethics**  
45 **commission.**

**Section 3. No person shall receive or renew a professional license or permit**  
2 **pursuant to chapters 324 to 346, RSMo, without verification from the department of**  
3 **revenue that state tax returns have been filed by, and all state taxes including any interest**  
4 **and penalties on such taxes paid by, such person.**