

SECOND REGULAR SESSION

# HOUSE BILL NO. 1674

## 94TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE COOPER (120).

Read 1st time January 16, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

3529L.01I

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### AN ACT

To repeal sections 32.057 and 105.485, RSMo, and to enact in lieu thereof two new sections relating to financial disclosures by members of the general assembly, with a penalty provision.

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

Section A. Sections 32.057 and 105.485, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 32.057 and 105.485, to read as follows:

32.057. 1. Except as otherwise specifically provided by law, it shall be unlawful for the director of revenue, any officer, employee, agent or deputy or former director, officer, employee, agent or deputy of the department of revenue, any person engaged or retained by the department of revenue on an independent contract basis, any person to whom authorized or unauthorized disclosure is made by the department of revenue, or any person who lawfully or unlawfully inspects any report or return filed with the department of revenue or to whom a copy, an abstract or a portion of any report or return is furnished by the department of revenue to make known in any manner, to permit the inspection or use of or to divulge to anyone any information relative to any such report or return, any information obtained by an investigation conducted by the department in the discharge of official duty, or any information received by the director in cooperation with the United States or other states in the enforcement of the revenue laws of this state. Such confidential information is limited to information received by the department in connection with the administration of the tax laws of this state.

2. Nothing in this section shall be construed to prohibit:

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

15           (1) The disclosure of information, returns, reports, or facts shown thereby, as described  
16 in subsection 1 of this section, by any officer, clerk or other employee of the department of  
17 revenue charged with the custody of such information:

18           (a) To a taxpayer or the taxpayer's duly authorized representative under regulations  
19 which the director of revenue may prescribe;

20           (b) In any action or proceeding, civil, criminal or mixed, brought to enforce the revenue  
21 laws of this state;

22           (c) To the state auditor or the auditor's duly authorized employees as required by  
23 subsection 4 of this section;

24           (d) To any city officer designated by ordinance of a city within this state to collect a city  
25 earnings tax, upon written request of such officer, which request states that the request is made  
26 for the purpose of determining or enforcing compliance with such city earnings tax ordinance  
27 and provided that such information disclosed shall be limited to that sufficient to identify the  
28 taxpayer, and further provided that in no event shall any information be disclosed that will result  
29 in the department of revenue being denied such information by the United States or any other  
30 state. The city officer requesting the identity of taxpayers filing state returns but not paying city  
31 earnings tax shall furnish to the director of revenue a list of taxpayers paying such earnings tax,  
32 and the director shall compare the list submitted with the director's records and return to such  
33 city official the name and address of any taxpayer who is a resident of such city who has filed  
34 a state tax return but who does not appear on the list furnished by such city. The director of  
35 revenue may set a fee to reimburse the department for the costs reasonably incurred in providing  
36 this information;

37           (e) To any employee of any county or other political subdivision imposing a sales tax  
38 which is administered by the state department of revenue whose office is authorized by the  
39 governing body of the county or other political subdivision to receive any and all records of the  
40 state director of revenue pertaining to the administration, collection and enforcement of its sales  
41 tax. The request for sales tax records and reports shall include a description of the type of report  
42 requested, the media form including electronic transfer, computer tape or disk, or printed form,  
43 and the frequency desired. The request shall be made by annual written application and shall be  
44 filed with the director of revenue. The director of revenue may set a fee to reimburse the  
45 department for the costs reasonably incurred in providing this information. Such city or county  
46 or any employee thereof shall be subject to the same standards for confidentiality as required for  
47 the department of revenue in using the information contained in the reports;

48           (f) To the director of the department of economic development or the director's duly  
49 authorized employees in discharging the director's official duties to certify taxpayers eligibility  
50 to claim state tax credits as prescribed by statutes;

51 (g) To any employee of any political subdivision, such records of the director of revenue  
52 pertaining to the administration, collection and enforcement of the tax imposed in chapter 149,  
53 RSMo, as are necessary for ensuring compliance with any cigarette or tobacco tax imposed by  
54 such political subdivision. The request for such records shall be made in writing to the director  
55 of revenue, and shall include a description of the type of information requested and the desired  
56 frequency. The director of revenue may charge a fee to reimburse the department for costs  
57 reasonably incurred in providing such information;

58 (2) The publication by the director of revenue or of the state auditor in the audit reports  
59 relating to the department of revenue of:

60 (a) Statistics, statements or explanations so classified as to prevent the identification of  
61 any taxpayer or of any particular reports or returns and the items thereof;

62 (b) The names and addresses without any additional information of persons who filed  
63 returns and of persons whose tax refund checks have been returned undelivered by the United  
64 States Post Office;

65 (3) The director of revenue from permitting the Secretary of the Treasury of the United  
66 States or the Secretary's delegates, the proper officer of any state of the United States imposing  
67 a tax equivalent to any of the taxes administered by the department of revenue of the state of  
68 Missouri or the appropriate representative of the multistate tax commission to inspect any return  
69 or report required by the respective tax provision of this state, or may furnish to such officer an  
70 abstract of the return or report or supply the officer with information contained in the return or  
71 disclosed by the report of any authorized investigation. Such permission, however, shall be  
72 granted on condition that the corresponding revenue statute of the United States or of such other  
73 state, as the case may be, grants substantially similar privileges to the director of revenue and on  
74 further condition that such corresponding statute gives confidential status to the material with  
75 which it is concerned;

76 (4) The disclosure of information, returns, reports, or facts shown thereby, by any person  
77 on behalf of the director of revenue, in any action or proceeding to which the director is a party  
78 or on behalf of any party to any action or proceeding pursuant to the revenue laws of this state  
79 when such information is directly involved in the action or proceeding, in either of which events  
80 the court may require the production of, and may admit in evidence, so much of such information  
81 as is pertinent to the action or proceeding and no more;

82 (5) The disclosure of information, returns, reports, or facts shown thereby, by any person  
83 to a state or federal prosecuting official, including, but not limited to, the state and federal  
84 attorneys general, or the official's designees involved in any criminal, quasi-criminal, or civil  
85 investigation, action or proceeding pursuant to the laws of this state or of the United States when

86 such information is pertinent to an investigation, action or proceeding involving the  
87 administration of the revenue laws or duties of public office or employment connected therewith;

88 (6) Any school district from obtaining the aggregate amount of the financial institution  
89 tax paid pursuant to chapter 148, RSMo, by financial institutions located partially or exclusively  
90 within the school district's boundaries, provided that the school district request such disclosure  
91 in writing to the department of revenue;

92 (7) The disclosure of records which identify all companies licensed by this state pursuant  
93 to the provisions of subsections 1 and 2 of section 149.035, RSMo. The director of revenue may  
94 charge a fee to reimburse the department for the costs reasonably incurred in providing such  
95 records;

96 (8) The disclosure to the commissioner of administration pursuant to section 34.040,  
97 RSMo, of a list of vendors and their affiliates who meet the conditions of section 144.635,  
98 RSMo, but refuse to collect the use tax levied pursuant to chapter 144, RSMo, on their sales  
99 delivered to this state;

100 **(9) The disclosure to the public of any information, returns, reports, or facts shown**  
101 **thereby regarding the claiming of a state tax credit by a member of the Missouri general**  
102 **assembly.**

103 3. Any person violating any provision of subsection 1 or 2 of this section shall, upon  
104 conviction, be guilty of a class D felony.

105 4. The state auditor or the auditor's duly authorized employees who have taken the oath  
106 of confidentiality required by section 29.070, RSMo, shall have the right to inspect any report  
107 or return filed with the department of revenue if such inspection is related to and for the purpose  
108 of auditing the department of revenue; except that, the state auditor or the auditor's duly  
109 authorized employees shall have no greater right of access to, use and publication of information,  
110 audit and related activities with respect to income tax information obtained by the department  
111 of revenue pursuant to chapter 143, RSMo, or federal statute than specifically exists pursuant to  
112 the laws of the United States and of the income tax laws of the state of Missouri.

105.485. 1. Each financial interest statement required by sections 105.483 to 105.492  
2 shall be on a form prescribed by the commission and shall be signed and verified by a written  
3 declaration that it is made under penalties of perjury; provided, however, the form shall not seek  
4 information which is not specifically required by sections 105.483 to 105.492.

5 2. Each person required to file a financial interest statement pursuant to subdivisions (1)  
6 to (12) of section 105.483 shall file the following information for himself, his spouse and  
7 dependent children at any time during the period covered by the statement, whether singularly  
8 or collectively; provided, however, that said person, if he does not know and his spouse will not  
9 divulge any information required to be reported by this section concerning the financial interest

10 of his spouse, shall state on his financial interest statement that he has disclosed that information  
11 known to him and that his spouse has refused or failed to provide other information upon his  
12 bona fide request, and such statement shall be deemed to satisfy the requirements of this section  
13 for such financial interest of his spouse; and provided further if the spouse of any person required  
14 to file a financial interest statement is also required by section 105.483 to file a financial interest  
15 statement, the financial interest statement filed by each need not disclose the financial interest  
16 of the other, provided that each financial interest statement shall state that the spouse of the  
17 person has filed a separate financial interest statement and the name under which the statement  
18 was filed:

19 (1) The name and address of each of the employers of such person from whom income  
20 of one thousand dollars or more was received during the year covered by the statement;

21 (2) The name and address of each sole proprietorship which he owned; the name, address  
22 and the general nature of the business conducted of each general partnership and joint venture  
23 in which he was a partner or participant; the name and address of each partner or coparticipant  
24 for each partnership or joint venture unless such names and addresses are filed by the partnership  
25 or joint venture with the secretary of state; the name, address and general nature of the business  
26 conducted of any closely held corporation or limited partnership in which the person owned ten  
27 percent or more of any class of the outstanding stock or limited partners' units; and the name of  
28 any publicly traded corporation or limited partnership which is listed on a regulated stock  
29 exchange or automated quotation system in which the person owned two percent or more of any  
30 class of outstanding stock, limited partnership units or other equity interests;

31 (3) The name and address of any other source not reported pursuant to subdivisions (1)  
32 and (2) and subdivisions (4) to (9) of this subsection from which such person received one  
33 thousand dollars or more of income during the year covered by the statement, including, but not  
34 limited to, any income otherwise required to be reported on any tax return such person is required  
35 by law to file; except that only the name of any publicly traded corporation or limited partnership  
36 which is listed on a regulated stock exchange or automated quotation system need be reported  
37 pursuant to this subdivision;

38 (4) The location by county, the subclassification for property tax assessment purposes,  
39 the approximate size and a description of the major improvements and use for each parcel of real  
40 property in the state, other than the individual's personal residence, having a fair market value  
41 of ten thousand dollars or more in which such person held a vested interest including a leasehold  
42 for a term of ten years or longer, and, if the property was transferred during the year covered by  
43 the statement, the name and address of the persons furnishing or receiving consideration for such  
44 transfer;

45           (5) The name and address of each entity in which such person owned stock, bonds or  
46 other equity interest with a value in excess of ten thousand dollars; except that, if the entity is a  
47 corporation listed on a regulated stock exchange, only the name of the corporation need be listed;  
48 and provided that any member of any board or commission of the state or any political  
49 subdivision who does not receive any compensation for his services to the state or political  
50 subdivision other than reimbursement for his actual expenses or a per diem allowance as  
51 prescribed by law for each day of such service need not report interests in publicly traded  
52 corporations or limited partnerships which are listed on a regulated stock exchange or automated  
53 quotation system pursuant to this subdivision; and provided further that the provisions of this  
54 subdivision shall not require reporting of any interest in any qualified plan or annuity pursuant  
55 to the Employees' Retirement Income Security Act;

56           (6) The name and address of each corporation for which such person served in the  
57 capacity of a director, officer or receiver;

58           (7) The name and address of each not-for-profit corporation and each association,  
59 organization, or union, whether incorporated or not, except not-for-profit corporations formed  
60 to provide church services, fraternal organizations or service clubs from which the officer or  
61 employee draws no remuneration, in which such person was an officer, director, employee or  
62 trustee at any time during the year covered by the statement, and for each such organization, a  
63 general description of the nature and purpose of the organization;

64           (8) The name and address of each source from which such person received a gift or gifts,  
65 or honorarium or honoraria in excess of two hundred dollars in value per source during the year  
66 covered by the statement other than gifts from persons within the third degree of consanguinity  
67 or affinity of the person filing the financial interest statement. For the purposes of this section,  
68 a "gift" shall not be construed to mean political contributions otherwise required to be reported  
69 by law or hospitality such as food, beverages or admissions to social, art, or sporting events or  
70 the like, or informational material. For the purposes of this section, a "gift" shall include gifts  
71 to or by creditors of the individual for the purpose of canceling, reducing or otherwise forgiving  
72 the indebtedness of the individual to that creditor;

73           (9) The lodging and travel expenses provided by any third person for expenses incurred  
74 outside the state of Missouri whether by gift or in relation to the duties of office of such official,  
75 except that such statement shall not include travel or lodging expenses:

76           (a) Paid in the ordinary course of business for businesses described in subdivisions (1),  
77 (2), (5) and (6) of this subsection which are related to the duties of office of such official; or

78           (b) For which the official may be reimbursed as provided by law; or

79           (c) Paid by persons related by the third degree of consanguinity or affinity to the person  
80 filing the statement; or

81 (d) Expenses which are reported by the campaign committee or candidate committee of  
82 the person filing the statement pursuant to the provisions of chapter 130, RSMo; or

83 (e) Paid for purely personal purposes which are not related to the person's official duties  
84 by a third person who is not a lobbyist, a lobbyist principal or member, or officer or director of  
85 a member, of any association or entity which employs a lobbyist. The statement shall include  
86 the name and address of such person who paid the expenses, the date such expenses were  
87 incurred, the amount incurred, the location of the travel and lodging, and the nature of the  
88 services rendered or reason for the expenses;

89 (10) The assets in any revocable trust of which the individual is the settlor if such assets  
90 would otherwise be required to be reported under this section;

91 (11) The name, position and relationship of any relative within the first degree of  
92 consanguinity or affinity to any other person who:

93 (a) Is employed by the state of Missouri, by a political subdivision of the state or special  
94 district, as defined in section 115.013, RSMo, of the state of Missouri;

95 (b) Is a lobbyist; or

96 (c) Is a fee agent of the department of revenue;

97 (12) The name and address of each campaign committee, political committee, candidate  
98 committee, or continuing committee for which such person or any corporation listed on such  
99 person's financial interest statement received payment; **and**

100 **(13) For members of the general assembly, their spouses, and their dependent**  
101 **children, whether any state tax credits were claimed on the member's, spouse's, or**  
102 **dependent child's most recent state income tax return.**

103 3. For the purposes of subdivisions (1), (2) and (3) of subsection 2 of this section, an  
104 individual shall be deemed to have received a salary from his employer or income from any  
105 source at the time when he shall receive a negotiable instrument whether or not payable at a later  
106 date and at the time when under the practice of his employer or the terms of an agreement, he has  
107 earned or is entitled to anything of actual value whether or not delivery of the value is deferred  
108 or right to it has vested. The term "income" as used in this section shall have the same meaning  
109 as provided in the Internal Revenue Code of 1986, and amendments thereto, as the same may be  
110 or becomes effective, at any time or from time to time for the taxable year, provided that income  
111 shall not be considered received or earned for purposes of this section from a partnership or sole  
112 proprietorship until such income is converted from business to personal use.

113 4. Each official, officer or employee or candidate of any political subdivision described  
114 in subdivision (11) of section 105.483 shall be required to file a financial interest statement as  
115 required by subsection 2 of this section, unless the political subdivision biennially adopts an  
116 ordinance, order or resolution at an open meeting by September fifteenth of the preceding year,

117 which establishes and makes public its own method of disclosing potential conflicts of interest  
118 and substantial interests and therefore excludes the political subdivision or district and its  
119 officers and employees from the requirements of subsection 2 of this section. A certified copy  
120 of the ordinance, order or resolution shall be sent to the commission within ten days of its  
121 adoption. The commission shall assist any political subdivision in developing forms to complete  
122 the requirements of this subsection. The ordinance, order or resolution shall contain, at a  
123 minimum, the following requirements with respect to disclosure of substantial interests:

124 (1) Disclosure in writing of the following described transactions, if any such transactions  
125 were engaged in during the calendar year:

126 (a) For such person, and all persons within the first degree of consanguinity or affinity  
127 of such person, the date and the identities of the parties to each transaction with a total value in  
128 excess of five hundred dollars, if any, that such person had with the political subdivision, other  
129 than compensation received as an employee or payment of any tax, fee or penalty due to the  
130 political subdivision, and other than transfers for no consideration to the political subdivision;

131 (b) The date and the identities of the parties to each transaction known to the person with  
132 a total value in excess of five hundred dollars, if any, that any business entity in which such  
133 person had a substantial interest, had with the political subdivision, other than payment of any  
134 tax, fee or penalty due to the political subdivision or transactions involving payment for  
135 providing utility service to the political subdivision, and other than transfers for no consideration  
136 to the political subdivision;

137 (2) The chief administrative officer and chief purchasing officer of such political  
138 subdivision shall disclose in writing the information described in subdivisions (1), (2) and (6)  
139 of subsection 2 of this section;

140 (3) Disclosure of such other financial interests applicable to officials, officers and  
141 employees of the political subdivision, as may be required by the ordinance or resolution;

142 (4) Duplicate disclosure reports made pursuant to this subsection shall be filed with the  
143 commission and the governing body of the political subdivision. The clerk of such governing  
144 body shall maintain such disclosure reports available for public inspection and copying during  
145 normal business hours.

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