

HOUSE _____ **AMENDMENT NO.** _____

Offered By

AMEND House Committee Substitute No. 2 for Senate Committee Substitute for Senate Bill No. 117, Pages 1 - 12, Sections 32.028, 32.058, 32.087, 32.088, 32.383, 32.385, 32.410, 32.420, 32.430, 32.440, 32.450, 32.460, by deleting all of said sections and inserting in lieu thereof the following:

“32.028. 1. There is hereby created a department of revenue in charge of a director appointed by the governor, by and with the advice and consent of the senate. The department shall collect all taxes and fees payable to the state as provided by law, and may collect, upon referral by a state agency, debts owed to any state agency subject to section 32.420.

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

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

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

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

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

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

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

3. Every retailer within the jurisdiction of one or more taxing entities which has imposed

one or more local sales taxes under the local sales tax law shall add all taxes so imposed along with the tax imposed by the sales tax law of the state of Missouri to the sale price and, when added, the combined tax shall constitute a part of the price, and shall be a debt of the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as the purchase price. The combined rate of the state sales tax and all local sales taxes shall be the sum of the rates, multiplying the combined rate times the amount of the sale.

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

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

6. On and after the effective date of any local sales tax imposed under the provisions of the local sales tax law, the director of revenue shall perform all functions incident to the administration, collection, enforcement, and operation of the tax, and the director of revenue shall collect in addition to the sales tax for the state of Missouri all additional local sales taxes authorized under the authority of the local sales tax law. The director shall retain one percent of the amount of any local sales or use tax collected for cost of collection. All local sales taxes imposed under the local sales tax law together with all taxes imposed under the sales tax law of the state of Missouri shall be collected together and reported upon such forms and under such administrative rules and regulations as may be prescribed by the director of revenue.

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

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

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

10. All discounts allowed the retailer under the provisions of the state sales tax law for the

1 collection of and for payment of taxes under the provisions of the state sales tax law are hereby
2 allowed and made applicable to any local sales tax collected under the provisions of the local sales
3 tax law.

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

7 12. (1) For the purposes of any local sales tax imposed by an ordinance or order under the
8 local sales tax law, all sales, except the sale of motor vehicles, trailers, boats, and outboard
9 motors, shall be deemed to be consummated at the place of business of the retailer unless the
10 tangible personal property sold is delivered by the retailer or his agent to an out-of-state
11 destination. In the event a retailer has more than one place of business in this state which
12 participates in the sale, the sale shall be deemed to be consummated at the place of business of the
13 retailer where the initial order for the tangible personal property is taken, even though the order
14 must be forwarded elsewhere for acceptance, approval of credit, shipment or billing. A sale by a
15 retailer's agent or employee shall be deemed to be consummated at the place of business from
16 which he works.

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

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

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

30 14. The director of revenue and any of his or her deputies, assistants and employees who
31 have any duties or responsibilities in connection with the collection, deposit, transfer, transmittal,
32 disbursement, safekeeping, accounting, or recording of funds which come into the hands of the
33 director of revenue under the provisions of the local sales tax law shall enter a surety bond or
34 bonds payable to any and all taxing entities in whose behalf such funds have been collected under
35 the local sales tax law in the amount of one hundred thousand dollars for each such tax; but the
36 director of revenue may enter into a blanket bond covering himself or herself and all such
37 deputies, assistants and employees. The cost of any premium for such bonds shall be paid by the
38 director of revenue from the share of the collections under the sales tax law retained by the
39 director of revenue for the benefit of the state.

40 15. The director of revenue shall annually report on his or her management of each trust
41 fund which is created under the local sales tax law and administration of each local sales tax
42 imposed under the local sales tax law. He or she shall provide each taxing entity imposing one or
43 more local sales taxes authorized by the local sales tax law with a detailed accounting of the

source of all funds received by him for the taxing entity. Notwithstanding any other provisions of law, the state auditor shall annually audit each trust fund. A copy of the director's report and annual audit shall be forwarded to each taxing entity imposing one or more local sales taxes.

16. Within the boundaries of any taxing entity where one or more local sales taxes have been imposed, if any person is delinquent in the payment of the amount required to be paid by him or her under the local sales tax law or in the event a determination has been made against him or her for taxes and penalty under the local sales tax law, the limitation for bringing suit for the collection of the delinquent tax and penalty shall be the same as that provided in sections 144.010 to 144.525. Where the director of revenue has determined that suit must be filed against any person for the collection of delinquent taxes due the state under the state sales tax law, and where such person is also delinquent in payment of taxes under the local sales tax law, the director of revenue shall notify the taxing entity in the event any person fails or refuses to pay the amount of any local sales tax due so that appropriate action may be taken by the taxing entity.

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

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

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

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

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

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

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

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

4. All taxpayers granted amnesty under this section shall comply with this state's tax laws for the eight years following the date of the amnesty agreement. If any such taxpayer fails to comply with all of this state's tax laws at any time during the eight years following the date of the agreement, all penalties, additions to tax, and interest that were waived under the amnesty agreement shall become due and owing immediately.

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

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

7. All tax payments received as a result of the amnesty program established in this

1 section, other than revenues earmarked by the Constitution of Missouri or this state's statutes,
2 shall be deposited in the state general revenue fund.

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

12 32.385. 1. The director of revenue and the commissioner of administration may jointly
13 enter into a reciprocal collection and offset of indebtedness agreement with the federal
14 government, under which the State will offset from state tax refunds and from payments otherwise
15 due to vendors and contractors providing goods or services to state departments, agencies, or other
16 state agencies non-tax debt owed to the federal government; and the federal government will
17 offset from federal payments to vendors, contractors, and taxpayers debt owed to the state of
18 Missouri.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (4) Retain a portion of the proceeds of any collection setoff as provided under the setoff
8 agreement.

9 4. Under the offset agreement, a certification by a federal official to the state of Missouri
10 shall include:

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

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

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

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

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

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

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

21 (3) pay to the federal official the lesser of:

22 (a) the entire refund or vendor payment; or

23 (b) the amount certified; and

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

25 6. Under the agreement, the director of revenue shall:

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

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

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

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

33 (1) the full name and address of the person and any other names known to be used by the
34 person;

35 (2) the social security number or tax identification number;

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

37 (4) a statement that the debt is past due and legally enforceable in the amount certified;
38 and

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

41 8. Any other provisions of law to the contrary notwithstanding, the director of revenue
42 and the commissioner of administration shall have the authority to enter into reciprocal
43 agreements with any other state which extends a like comity to this state to set off offset from

1 state tax refunds and from payments otherwise due to vendors and contractors providing goods or
2 services to state departments, agencies, or other state agencies non-tax debt for debts due the
3 other state that extends a like comity to this state.

4 32.410. As used in sections 32.410 to 32.460, the following terms shall mean:

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

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

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

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

17 32.420. 1. Notwithstanding any other provision of law to the contrary, all state agencies
18 may refer to the department for collection debts owed to them. The department may provide
19 collection services on debts referred to the department by a state agency. This authority shall not
20 supersede the authority granted to the attorney general under section 27.060 or any other statute.

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

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

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

34 32.430. 1. Except as otherwise provided in this section, the department shall have the
35 authority to use all general remedies afforded creditors of this state in collection of debt as well as
36 any remedies afforded the state agency referring the debt and to the state in general as a creditor.
37 The department shall not have authority to prosecute or defend civil actions on behalf of any other
38 state agency, except as necessary to defend any challenges made to actions under section 143.902
39 or section 140.910 for a debt referred by a state agency or to prosecute an action under subsection
40 10 of section 140.910.

41 2. In addition to the remedies identified in sections 32.410 to 32.460, the department may
42 use the collection remedies afforded under section 143.902 and section 140.910 in the collection
43 of any state debt referred to the department.

1 3. The department may employ department staff and attorneys, and at the department's
2 discretion, prosecuting attorneys and private collection agencies as authorized in sections 136.150
3 and 140.850 in seeking collection of debts referred to the department by a state agency.

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

8 2. The cost of collection shall only be waived when:

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

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

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

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

23 32.450. The department may compromise state debt referred to the department in
24 accordance with section 32.378 and any agreement with the referring agency.

25 32.460. The department and state agencies, including the judiciary, may exchange
26 information, including the debtor's Social Security number, as is necessary for the successful
27 collection of the state debt referred. The referring state agency shall follow all applicable federal
28 and state laws regarding the confidentiality of information and records regarding the debtor. The
29 confidentiality laws applicable to the particular information received and retained by each agency
30 shall apply to the employees of the state agency and to the department when the information has
31 been forwarded to the department.”; and

32
33 Further amend said bill, Pages 21- 22, Section 105.716 by deleting all of said sections and
34 inserting in lieu thereof the following:

35
36 “105.716. 1. Any investigation, defense, negotiation, or compromise of any claim
37 covered by sections 105.711 to 105.726 shall be conducted by the attorney general; provided, that
38 in the case of any claim against the department of conservation, the department of transportation
39 or a public institution which awards baccalaureate degrees, or any officer or employee of such
40 department or such institution, any investigation, defense, negotiation, or compromise of any
41 claim covered by sections 105.711 to 105.726 shall be conducted by legal counsel provided by the
42 respective entity against which the claim is made or which employs the person against whom the
43 claim is made. In the case of any payment from the state legal expense fund based upon a claim

1 or judgment against the department of conservation, the department of transportation or any
2 officer or employee thereof, the department so affected shall immediately transfer to the state legal
3 expense fund from the department funds a sum equal to the amount expended from the state legal
4 expense fund on its behalf.

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

11 3. The provisions of sections 105.711 to 105.726 notwithstanding, the attorney general
12 may investigate, defend, negotiate, or compromise any claim covered by sections 105.711 to
13 105.726 against any public institution which awards baccalaureate degrees whose governing body
14 has declared a state of financial exigency.

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

22 5. Notwithstanding any other provision of law to the contrary, except for payments of less
23 than ten thousand dollars for property damage, no funds shall be expended from the state legal
24 expense fund for settlement of any liability claim except upon the production of a no tax due
25 statement from the department of revenue by the party making claim or having judgment under
26 section 105.711, which shall be satisfied from such fund. If the party is found by the director of
27 revenue to owe a delinquent tax debt to the state of Missouri under the revenue laws of this state,
28 after the payment of attorneys fees and expenses associated with creating the liability of the fund
29 to the party, any remaining funds to be paid to the party from the state legal expense fund shall be
30 offset to satisfy such tax debt before payment is made to the party making claim or having
31 judgment.

32 136.055. 1. Any person who is selected or appointed by the state director of revenue as
33 provided in subsection 2 of this section to act as an agent of the department of revenue, whose
34 duties shall be the processing of motor vehicle title and registration transactions and the collection
35 of sales and use taxes when required under sections 144.070 and 144.440, and who receives no
36 salary from the department of revenue, shall be authorized to collect from the party requiring such
37 services additional fees as compensation in full and for all services rendered on the following
38 basis:

39 (1) For each motor vehicle or trailer registration issued, renewed or transferred--three
40 dollars and fifty cents and seven dollars for those licenses sold or biennially renewed pursuant to
41 section 301.147;

42 (2) For each application or transfer of title--two dollars and fifty cents;

43 (3) For each instruction permit, nondriver license, chauffeur's, operator's or driver's

1 license issued for a period of three years or less--two dollars and fifty cents and five dollars for
2 licenses or instruction permits issued or renewed for a period exceeding three years;

3 (4) For each notice of lien processed--two dollars and fifty cents;

4 (5) No notary fee or other fee or additional charge shall be paid or collected except for
5 electronic telephone transmission reception--two dollars.

6 2. The director of revenue shall award fee office contracts under this section through a
7 competitive bidding process. The competitive bidding process shall give priority to organizations
8 and entities that are exempt from taxation under Section 501(c)(3) or 501(c)(6) of the Internal
9 Revenue Code of 1986, as amended, and political subdivisions, including but not limited to,
10 municipalities, counties, and fire protection districts. The director of the department of revenue
11 may promulgate rules and regulations necessary to carry out the provisions of this subsection.
12 Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the
13 authority delegated in this subsection shall become effective only if it complies with and is subject
14 to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and
15 chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant
16 to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are
17 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed
18 or adopted after August 28, 2009, shall be invalid and void.

19 3. All fees collected by a tax-exempt organization may be retained and used by the
20 organization.

21 4. All fees charged shall not exceed those in this section. The fees imposed by this
22 section shall be collected by all permanent offices and all full-time or temporary offices
23 maintained by the department of revenue.

24 5. Any person acting as agent of the department of revenue for the sale and issuance of
25 registrations, licenses, and other documents related to motor vehicles shall have an insurable
26 interest in all license plates, licenses, tabs, forms and other documents held on behalf of the
27 department.

28 6. Any person acting as agent of the department of revenue for the collection of sales and
29 use tax when required under sections 144.070 and 144.440 shall be entitled to deduct and retain
30 an amount equal to two percent of the motor vehicle sales tax under section 144.140 to offset the
31 actual cost incurred by such person, on behalf of the department of revenue, in the collection of
32 such taxes in accordance with the provisions of Article IV, Section 30(b) of the Missouri
33 Constitution.

34 7. The fees authorized by this section shall not be collected by motor vehicle dealers acting
35 as agents of the department of revenue under section 32.095 or those motor vehicle dealers
36 authorized to collect and remit sales tax under subsection 8 of section 144.070.

37 [7.] 8. Notwithstanding any other provision of law to the contrary, the state auditor may
38 audit all records maintained and established by the fee office in the same manner as the auditor
39 may audit any agency of the state, and the department shall ensure that this audit requirement is a
40 necessary condition for the award of all fee office contracts. No confidential records shall be
41 divulged in such a way to reveal personally identifiable information.”; and
42

43 Further amend said bill, Page 24, Section 140.910 by deleting all of said section and inserting in

lieu thereof the following:

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

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

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

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

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

6. If the order is served on a person other than an employer or other payor, it shall be a lien against any money belonging to the taxpayer that is in the possession of the person on the date of service. The person other than an employer or other payor shall pay over any assets within ten business days of the service date of the order. A financial institution ordered to surrender an account shall be entitled to collect its normally scheduled account activity surcharges to maintain the account during the period of time the account is garnished. For purposes of this section, the

1 interest of the taxpayer in any joint financial accounts shall be presumed to be equal to all other
2 joint owners.

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

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

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

20 10. An employer shall not discharge, or refuse to hire or otherwise discipline, an
21 employee as a result of an order to withhold and pay over certain money authorized by this
22 section. If any such employee is discharged within thirty days of the date upon which an order to
23 withhold and pay over certain money is to take effect, there shall arise a rebuttable presumption
24 that such discharge was a result of such order. This presumption shall be overcome only by clear,
25 cogent and convincing evidence produced by the employer that the employee was not terminated
26 because of the order to withhold and pay over certain money. The director or his or her designee
27 is hereby authorized to bring an action in circuit court to determine whether the discharge
28 constitutes a violation of this subsection. If the court finds that a violation has occurred, the court
29 may enter an order against the employer requiring reinstatement of the employee and may fine the
30 employer in an amount not to exceed five hundred dollars. Further, the court may enter judgment
31 against the employer for the back wages, costs, attorney's surcharges, and for the amount of taxes
32 that should have been withheld and paid over during the period of time the employee was
33 wrongfully discharged.

34 11. If a taxpayer for whom an order to withhold has been issued under subsection 1 of this
35 section terminates the taxpayer's employment, the employer shall, within ten days of the
36 termination, notify the department of the termination, shall provide to the department the last
37 known address of the taxpayer, if known to the employer, and shall provide to the department the
38 name and address of the taxpayer's new employer, if known. The director or his or her designee
39 may issue an order to the new employer as provided in subsection 1 of this section.

40 12. For purposes of this section, "assets" include, but are not limited to, currency, any
41 financial account or other liquid asset, and any income or other periodic form of payment due to a
42 taxpayer regardless of source, including, but not limited to, wages, salaries, commissions,
43 bonuses, workers' compensation benefits, disability benefits, payments pursuant to a pension or a

1 retirement program, and interest.”; and

2
3 Further amend said bill, Page 27, Section 144.083 by deleting all of said section and inserting in
4 lieu thereof the following:

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

22 2. The possession of a retail sales license and a statement from the department of revenue
23 that the licensee owes no tax due under [sections 144.010 to 144.510 or sections 143.191 to
24 143.261] section 32.088 shall be a prerequisite to the issuance or renewal of any city or county
25 occupation license or any state license which is required for conducting any business [where
26 goods are sold at retail]. The date of issuance on the statement that the licensee owes no tax due
27 shall be no more than ninety days before the date of submission for application or renewal of the
28 local license. The revocation of a retailer's license by the director shall render the occupational
29 license or the state license null and void.

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

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

1 5. Notwithstanding any law or rule to the contrary, sales tax shall only apply to the sale
2 price paid by the final purchaser and not to any off-invoice discounts or other pricing discounts or
3 mechanisms negotiated between manufacturers, wholesalers, and retailers.”; and
4

5 Further amend said bill, Page 35, Section 168.071 by deleting all of said section and inserting in
6 lieu thereof the following:
7

8 “168.071. 1. The state board of education may refuse to issue or renew a certificate, or
9 may, upon hearing, discipline the holder of a certificate of license to teach for the following
10 causes:

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

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

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

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

21 (5) If charges are filed by the local board of education, based upon the annulling of a
22 written contract with the local board of education, for reasons other than election to the general
23 assembly, without the consent of the majority of the members of the board that is a party to the
24 contract; or

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

1 reasonably founded disputes with such liability shall be considered paid for the purposes of this
2 section.

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

11 3. The department of elementary and secondary education may file charges seeking the
12 discipline of a holder of a certificate of license to teach based upon any cause or combination of
13 causes outlined in subsection 1 of this section, other than annulment of contract. Charges shall be
14 in writing, specify the basis for the charges, and be signed by legal counsel representing the
15 department of elementary and secondary education.

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

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

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

28 (1) Any dangerous felony as defined in section 556.061 or murder in the first degree;

29 (2) Any of the following sexual offenses: rape; statutory rape in the first degree; statutory
30 rape in the second degree; sexual assault; forcible sodomy; statutory sodomy in the first degree;
31 statutory sodomy in the second degree; child molestation in the first degree; child molestation in
32 the second degree; deviate sexual assault; sexual misconduct involving a child; sexual misconduct
33 in the first degree; sexual abuse; enticement of a child; or attempting to entice a child;

34 (3) Any of the following offenses against the family and related offenses: incest;
35 abandonment of child in the first degree; abandonment of child in the second degree; endangering
36 the welfare of a child in the first degree; abuse of a child; child used in a sexual performance;
37 promoting sexual performance by a child; or trafficking in children; and

38 (4) Any of the following offenses involving child pornography and related offenses:
39 promoting obscenity in the first degree; promoting obscenity in the second degree when the
40 penalty is enhanced to a class D felony; promoting child pornography in the first degree;
41 promoting child pornography in the second degree; possession of child pornography in the first
42 degree; possession of child pornography in the second degree; furnishing child pornography to a
43 minor; furnishing pornographic materials to minors; or coercing acceptance of obscene material.

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

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

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

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

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

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

28 13. A certificate of license to teach to an individual who has been convicted of a felony or
29 crime involving moral turpitude, whether or not sentence is imposed, shall be issued only upon
30 motion of the state board of education adopted by a unanimous affirmative vote of those members
31 present and voting.” ; and
32

33 Further amend said bill, Page 51, Section B by deleting all of said section and inserting in lieu
34 thereof the following:

35 “Section B. Because immediate action is necessary to secure adequate state revenue, the
36 enactment of section 32.383 of section A of this act is deemed necessary for the immediate
37 preservation of the public health, welfare, peace, and safety, and is hereby declared to be an
38 emergency act within the meaning of the constitution, and the enactment of section 32.383 of
39 section A of this act shall be in full force and effect upon its passage and approval.”; and
40

41 Further amend said bill by amending the title, enacting clause, and intersectional references
42 accordingly.