

FIRST REGULAR SESSION

# HOUSE BILL NO. 1238

102ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE HUDSON.

2641H.011

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

To repeal sections 143.183 and 181.060, RSMo, and to enact in lieu thereof three new sections relating to disbursements of funds by the state librarian.

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

Section A. Sections 143.183 and 181.060, RSMo, are repealed and three new sections  
2 enacted in lieu thereof, to be known as sections 143.183, 181.060, and 181.075, to read as  
3 follows:

143.183. 1. As used in this section, the following terms mean:

2 (1) "Nonresident entertainer", a person residing or registered as a corporation outside  
3 this state who, for compensation, performs any vocal, instrumental, musical, comedy,  
4 dramatic, dance or other performance in this state before a live audience and any other person  
5 traveling with and performing services on behalf of a nonresident entertainer, including a  
6 nonresident entertainer who is paid compensation for providing entertainment as an  
7 independent contractor, a partnership that is paid compensation for entertainment provided by  
8 nonresident entertainers, a corporation that is paid compensation for entertainment provided  
9 by nonresident entertainers, or any other entity that is paid compensation for entertainment  
10 provided by nonresident entertainers;

11 (2) "Nonresident member of a professional athletic team", a professional athletic team  
12 member who resides outside this state, including any active player, any player on the disabled  
13 list if such player is in uniform on the day of the game at the site of the game, and any other  
14 person traveling with and performing services on behalf of a professional athletic team;

15 (3) "Personal service income" includes exhibition and regular season salaries and  
16 wages, guaranteed payments, strike benefits, deferred payments, severance pay, bonuses, and

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.

17 any other type of compensation paid to the nonresident entertainer or nonresident member of  
18 a professional athletic team, but does not include prizes, bonuses or incentive money received  
19 from competition in a livestock, equine or rodeo performance, exhibition or show;

20 (4) "Professional athletic team" includes, but is not limited to, any professional  
21 baseball, basketball, football, soccer and hockey team.

22 2. Any person, venue, or entity who pays compensation to a nonresident entertainer  
23 shall deduct and withhold from such compensation as a prepayment of tax an amount equal to  
24 two percent of the total compensation if the amount of compensation is in excess of three  
25 hundred dollars paid to the nonresident entertainer. For purposes of this section, the term  
26 "person, venue, or entity who pays compensation" shall not be construed to include any  
27 person, venue, or entity that is exempt from taxation under 26 U.S.C. Section 501(c)(3), as  
28 amended, and that pays an amount to the nonresident entertainer for the entertainer's  
29 appearance but receives no benefit from the entertainer's appearance other than the  
30 entertainer's performance.

31 3. Any person, venue, or entity required to deduct and withhold tax pursuant to  
32 subsection 2 of this section shall, for each calendar quarter, on or before the last day of the  
33 month following the close of such calendar quarter, remit the taxes withheld in such form or  
34 return as prescribed by the director of revenue and pay over to the director of revenue or to a  
35 depository designated by the director of revenue the taxes so required to be deducted and  
36 withheld.

37 4. Any person, venue, or entity subject to this section shall be considered an employer  
38 for purposes of section 143.191, and shall be subject to all penalties, interest, and additions to  
39 tax provided in this chapter for failure to comply with this section.

40 5. Notwithstanding other provisions of this chapter to the contrary, the commissioner  
41 of administration, for all taxable years beginning on or after January 1, 1999, but none after  
42 December 31, 2030, shall annually estimate the amount of state income tax revenues  
43 collected pursuant to this chapter which are received from nonresident members of  
44 professional athletic teams and nonresident entertainers. For fiscal year 2000, and for each  
45 subsequent fiscal year for a period of thirty-one years, sixty percent of the annual estimate of  
46 taxes generated from the nonresident entertainer and professional athletic team income tax  
47 shall be allocated annually to the Missouri arts council trust fund, and shall be transferred,  
48 subject to appropriations, from the general revenue fund to the Missouri arts council trust  
49 fund established in section 185.100 and any amount transferred shall be in addition to such  
50 agency's budget base for each fiscal year. The director shall by rule establish the method of  
51 determining the portion of personal service income of such persons that is allocable to  
52 Missouri.

53           6. Notwithstanding the provisions of sections 186.050 to 186.067 to the contrary, the  
54 commissioner of administration, for all taxable years beginning on or after January 1, 1999,  
55 but for none after December 31, 2030, shall estimate annually the amount of state income tax  
56 revenues collected pursuant to this chapter which are received from nonresident members of  
57 professional athletic teams and nonresident entertainers. For fiscal year 2000, and for each  
58 subsequent fiscal year for a period of thirty-one years, ten percent of the annual estimate of  
59 taxes generated from the nonresident entertainer and professional athletic team income tax  
60 shall be allocated annually to the Missouri humanities council trust fund, and shall be  
61 transferred, subject to appropriations, from the general revenue fund to the Missouri  
62 humanities council trust fund established in section 186.055 and any amount transferred shall  
63 be in addition to such agency's budget base for each fiscal year.

64           7. Notwithstanding other provisions of section 182.812 to the contrary, the  
65 commissioner of administration, for all taxable years beginning on or after January 1, 1999,  
66 but for none after December 31, 2030, shall estimate annually the amount of state income tax  
67 revenues collected pursuant to this chapter which are received from nonresident members of  
68 professional athletic teams and nonresident entertainers. For fiscal year 2000, and for each  
69 subsequent fiscal year for a period of thirty-one years, ten percent of the annual estimate of  
70 taxes generated from the nonresident entertainer and professional athletic team income tax  
71 shall be allocated annually to the Missouri state library networking fund, and shall be  
72 transferred, subject to appropriations, from the general revenue fund to the secretary of state  
73 for distribution to public libraries for acquisition of library materials **and maintenance and**  
74 **repair of library facilities** as established in section 182.812 and any amount transferred shall  
75 be in addition to such agency's budget base for each fiscal year.

76           8. Notwithstanding other provisions of section 185.200 to the contrary, the  
77 commissioner of administration, for all taxable years beginning on or after January 1, 1999,  
78 but for none after December 31, 2030, shall estimate annually the amount of state income tax  
79 revenues collected pursuant to this chapter which are received from nonresident members of  
80 professional athletic teams and nonresident entertainers. For fiscal year 2000, and for each  
81 subsequent fiscal year for a period of thirty-one years, ten percent of the annual estimate of  
82 taxes generated from the nonresident entertainer and professional athletic team income tax  
83 shall be allocated annually to the Missouri public television broadcasting corporation special  
84 fund, and shall be transferred, subject to appropriations, from the general revenue fund to the  
85 Missouri public television broadcasting corporation special fund, and any amount transferred  
86 shall be in addition to such agency's budget base for each fiscal year; provided, however, that  
87 twenty-five percent of such allocation shall be used for grants to public radio stations which  
88 were qualified by the corporation for public broadcasting as of November 1, 1996. Such  
89 grants shall be distributed to each of such public radio stations in this state after receipt of the

90 station's certification of operating and programming expenses for the prior fiscal year.  
91 Certification shall consist of the most recent fiscal year financial statement submitted by a  
92 station to the corporation for public broadcasting. The grants shall be divided into two  
93 categories, an annual basic service grant and an operating grant. The basic service grant shall  
94 be equal to thirty-five percent of the total amount and shall be divided equally among the  
95 public radio stations receiving grants. The remaining amount shall be distributed as an  
96 operating grant to the stations on the basis of the proportion that the total operating expenses  
97 of the individual station in the prior fiscal year bears to the aggregate total of operating  
98 expenses for the same fiscal year for all Missouri public radio stations which are receiving  
99 grants.

100         9. Notwithstanding other provisions of section 253.402 to the contrary, the  
101 commissioner of administration, for all taxable years beginning on or after January 1, 1999,  
102 but for none after December 31, 2030, shall estimate annually the amount of state income tax  
103 revenues collected pursuant to this chapter which are received from nonresident members of  
104 professional athletic teams and nonresident entertainers. For fiscal year 2000, and for each  
105 subsequent fiscal year for a period of thirty-one years, ten percent of the annual estimate of  
106 taxes generated from the nonresident entertainer and professional athletic team income tax  
107 shall be allocated annually to the Missouri department of natural resources Missouri historic  
108 preservation revolving fund, and shall be transferred, subject to appropriations, from the  
109 general revenue fund to the Missouri department of natural resources Missouri historic  
110 preservation revolving fund established in section 253.402 and any amount transferred shall  
111 be in addition to such agency's budget base for each fiscal year.

112         10. This section shall not be construed to apply to any person who makes a  
113 presentation for professional or technical education purposes or to apply to any presentation  
114 that is part of a seminar, conference, convention, school, or similar program format designed  
115 to provide professional or technical education.

181.060. 1. The general assembly may appropriate moneys for state aid to public  
2 libraries, which moneys shall be administered by the state librarian, and distributed as  
3 specified in rules and regulations promulgated by the Missouri state library, and approved by  
4 the secretary of state.

5         2. At least fifty percent of the moneys appropriated for state aid to public libraries  
6 shall be apportioned to all public libraries established and maintained under the provisions of  
7 the library laws or other laws of the state relating to libraries. The allocation of the moneys  
8 shall be based on an equal per capita rate for the population of each city, village, town,  
9 township, urban public library district, county or consolidated library district in which any  
10 library is or may be established, in proportion to the population according to the latest federal  
11 census of the cities, villages, towns, townships, school districts, county or regional library

12 districts maintaining public libraries primarily supported by public funds which are designed  
13 to serve the general public. No grant shall be made to any public library which is tax  
14 supported if the rate of tax levied or the appropriation for the library should be decreased  
15 below the rate in force on December 31, 1946, or on the date of its establishment. Grants  
16 shall be made to any public library if a public library tax of at least ten cents per one hundred  
17 dollars assessed valuation has been voted in accordance with sections 182.010 to 182.460 or  
18 as authorized in section 137.030 and is duly assessed and levied for the year preceding that in  
19 which the grant is made, or if the appropriation for the public library in any city of first class  
20 yields one dollar or more per capita for the previous year according to the population of the  
21 latest federal census or if the amount provided by the city for the public library, in any other  
22 city in which the library is not supported by a library tax, is at least equal to the amount of  
23 revenue which would be realized by a tax of ten cents per one hundred dollars assessed  
24 valuation if the library had been tax supported. Except that, no grant under this section shall  
25 be affected because of a reduction in the rate of levy which is required by the provisions of  
26 section 137.073 or because of a voluntary reduction in the levy following the enactment of a  
27 district sales tax under section 182.802, if the proceeds from the sales tax equal or exceed the  
28 reduction in revenue from the levy.

29         3. The librarian of the library together with the treasurer of the library or the treasurer  
30 of the city if there is no library treasurer shall certify to the state librarian the annual tax  
31 income and rate of tax or the appropriation for the library on the date of the enactment of this  
32 law, and of the current year, and each year thereafter, and the state librarian shall certify to the  
33 commissioner of administration the amount to be paid to each library.

34         4. The balance of the moneys shall be administered and supervised by the state  
35 librarian who may provide grants to public libraries for:

36             (1) Establishment, on a population basis to newly established city, county city/county  
37 or consolidated libraries;

38             (2) Equalization to city/county, urban public, county or consolidated libraries;

39             (3) Reciprocal borrowing;

40             (4) Technological development;

41             (5) Interlibrary cooperation;

42             (6) Literacy programs; ~~and~~

43             (7) Other library projects or programs that may be determined by the local library,  
44 library advisory committee and the state library staff that would improve access to library  
45 services by the residents of this state. Newly established libraries shall certify through the  
46 legally established board or the governing body of the city supporting the library and the  
47 librarian of the library to the state librarian the fact of establishment, the rate of tax, the  
48 assessed valuation of the library district and the annual tax yield of the library. The state

49 librarian shall then certify to the commissioner of administration the amount of establishment  
50 grant to be paid to the libraries and warrants shall be issued for the amount allocated and  
51 approved. The sum appropriated for state aid to public libraries shall be separate and apart  
52 from any and all appropriations made to the state library; and

53 **(8) Maintenance and repair of library facilities.**

**181.075. 1. As used in this section, the following terms shall mean:**

2 **(1) "Academic library", a library that is controlled and operated by a two-year**  
3 **or four-year college or university, either publicly supported or private, and which is**  
4 **designated primarily to serve faculty and students of that college or university;**

5 **(2) "Institutional library", a library that serves the residents of an institution**  
6 **supported with state funds, including, but not limited to, correctional, youth, veteran,**  
7 **and health organizations;**

8 **(3) "Library consortium", any local, statewide, regional, interstate, or**  
9 **international cooperative association of library entities that provides for the**  
10 **systematic and effective coordination of the resources of school, public, academic, and**  
11 **special libraries and information centers and for improved services for the clientele of**  
12 **such library entities;**

13 **(4) "Public library", a library established and maintained under the provisions**  
14 **chapter 182 related to libraries, primarily supported by public funds and designed to**  
15 **serve the general public;**

16 **(5) "School library", a library controlled and operated by elementary or**  
17 **secondary schools, either publicly supported or private, and designated to serve faculty**  
18 **and students of that school;**

19 **(6) "Special library", a library established by an organization and designed to**  
20 **serve the special needs of its employees or clientele.**

21 **2. Notwithstanding any provision of sections 181.021, 181.060, or 182.812 to the**  
22 **contrary, the state librarian shall not disburse any state or federal grants,**  
23 **appropriations, or other public or private funds to an academic library, institutional**  
24 **library, library consortium, public library, school library, or special library that is**  
25 **otherwise eligible to receive disbursements of funding from the state librarian unless**  
26 **such library certifies in writing that:**

27 **(1) The library has adopted or will adopt a written, publicly accessible collection**  
28 **development policy that addresses how selections are made, with particular attention to**  
29 **the appropriateness for the age and maturity level of any person less than eighteen years**  
30 **of age who accesses any material in any form;**

31           **(2) Funds shall not be used to purchase or acquire material that constitutes**  
32 **"child pornography", is "pornographic for minors", and is "obscene", as those terms**  
33 **are defined in section 573.010;**

34           **(3) The library has adopted or will adopt a written, publicly accessible policy**  
35 **allowing a minor's parent or guardian to determine what materials and access will be**  
36 **available to such minor, and no person employed by or acting on behalf of the library**  
37 **shall knowingly grant to a minor access to any material in any form not approved by**  
38 **such minor's parent or guardian;**

39           **(4) No age-inappropriate materials in any form, as defined in the library's**  
40 **collection development policy, shall be knowingly displayed in the library areas**  
41 **designated by the library as containing materials predominantly for minors;**

42           **(5) No event or presentation shall be held at the library without an age-**  
43 **appropriate designation affixed to any publication, website, or advertisement for such**  
44 **event or presentation; and**

45           **(6) The library has adopted or will adopt a written, publicly accessible library**  
46 **materials challenge policy by which any person may dispute or challenge the library's**  
47 **age-appropriate designation affixed to any presentation, event, material, or display in**  
48 **the library, and the results of any such dispute or challenge shall be disclosed to the**  
49 **public and published on the library's website.**

50           **3. In order to be eligible to receive any state or federal grants, appropriations, or**  
51 **other public or private funds disbursed by the state librarian to an academic library,**  
52 **institutional library, library consortium, public library, school library, or special**  
53 **library, such library shall submit a copy of the written policies described in subsection 2**  
54 **of this section to the state librarian and, within thirty days of making a revision to such**  
55 **policies, submit such revisions to the state librarian.**

56           **4. Funds received from federal sources and disbursed by the state librarian to an**  
57 **academic library, institutional library, library consortium, public library, school library,**  
58 **or special library shall follow the federal statutes and regulations of the program**  
59 **involved, the provisions of this section, and any other applicable state and local statutes**  
60 **and regulations.**

61           **5. Funds received from other private or public sources and disbursed by the**  
62 **state librarian to an academic library, institutional library, library consortium, public**  
63 **library, school library, or special library shall follow program guidelines and regulations**  
64 **from the funding source, the provisions of this section, and any other applicable state**  
65 **and local statutes and regulations.**

66           **6. (1) Any political subdivision or person employed by a political subdivision**  
67 **that knowingly violates subsection 2 of this section shall be liable to the injured party in**

68 an action at law, suit in equity, or other proper proceeding for redress, and subject to a  
69 civil penalty of five hundred dollars per occurrence. Any person injured under  
70 subsection 2 of this section shall have standing to pursue an action in the circuit court of  
71 Cole County. The court shall hold a hearing on the motion for temporary restraining  
72 order and preliminary injunction within thirty days of service of the petition.

73 (2) In such actions, the court may award the pursuing party, other than the state  
74 of Missouri or any political subdivision of the state, reasonable attorney fees and costs.

75 (3) Sovereign immunity shall not be an affirmative defense in any action  
76 pursuant to this section.

77 7. The secretary of state may promulgate rules to implement the provisions of  
78 this section. Any rule or portion of a rule, as that term is defined in section 536.010, that  
79 is created under the authority delegated in this section shall become effective only if it  
80 complies with and is subject to all of the provisions of chapter 536 and, if applicable,  
81 section 536.028. This section and chapter 536 are nonseverable and if any of the powers  
82 vested with the general assembly pursuant to chapter 536 to review, to delay the  
83 effective date, or to disapprove and annul a rule are subsequently held unconstitutional,  
84 then the grant of rulemaking authority and any rule proposed or adopted after August  
85 28, 2023, shall be invalid and void.

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