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HOUSE COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 1639

AN ACT

To repeal sections 32.028, 32.087, 105.716, 143.071, and 144.190, RSMo, and to enact in lieu thereof seventeen new sections relating to taxation, with a penalty provision and an emergency clause for a certain section.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

Section A. Sections 32.028, 32.087, 105.716, 143.071, and 144.190, RSMo, are repealed and seventeen new sections enacted in lieu thereof, to be known as sections 32.028, 32.058, 32.087, 32.383, 32.385, 32.410, 32.420, 32.430, 32.440, 32.450, 32.460, 105.716, 140.910, 143.013, 143.071, 144.055, and 144.190, to read as follows:

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.

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

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

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

13 32.058. For all years beginning after January 1, 2013,
14 notwithstanding the certified mail provisions contained in
15 chapters 32, 140, 142, 143, 144, 147, 148, 149, and 302, the
16 director of revenue may choose to mail any document by first
17 class mail only if at least one notice of deficiency or
18 assessment is sent to the taxpayer via certified mail to the last
19 known address.

20 32.087. 1. Within ten days after the adoption of any
21 ordinance or order in favor of adoption of any local sales tax
22 authorized under the local sales tax law by the voters of a
23 taxing entity, the governing body or official of such taxing
24 entity shall forward to the director of revenue by United States
25 registered mail or certified mail a certified copy of the
26 ordinance or order. The ordinance or order shall reflect the
27 effective date thereof.

28 2. Any local sales tax so adopted shall become effective on

1 the first day of the second calendar quarter after the director
2 of revenue receives notice of adoption of the local sales tax,
3 except as provided in subsection 18 of this section.

4 3. Every retailer within the jurisdiction of one or more
5 taxing entities which has imposed one or more local sales taxes
6 under the local sales tax law shall add all taxes so imposed
7 along with the tax imposed by the sales tax law of the state of
8 Missouri to the sale price and, when added, the combined tax
9 shall constitute a part of the price, and shall be a debt of the
10 purchaser to the retailer until paid, and shall be recoverable at
11 law in the same manner as the purchase price. The combined rate
12 of the state sales tax and all local sales taxes shall be the sum
13 of the rates, multiplying the combined rate times the amount of
14 the sale.

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

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

1 the local sales tax law.

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

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

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

1 imposition and collection of all local sales taxes imposed under
2 the local sales tax law.

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

11 10. All discounts allowed the retailer under the provisions
12 of the state sales tax law for the collection of and for payment
13 of taxes under the provisions of the state sales tax law are
14 hereby allowed and made applicable to any local sales tax
15 collected under the provisions of the local sales tax law.

16 11. The penalties provided in section 32.057 and sections
17 144.010 to 144.525 for a violation of the provisions of those
18 sections are hereby made applicable to violations of the
19 provisions of the local sales tax law.

20 12. (1) For the purposes of any local sales tax imposed by
21 an ordinance or order under the local sales tax law, all sales,
22 except the sale of motor vehicles, trailers, boats, and outboard
23 motors, shall be deemed to be consummated at the place of
24 business of the retailer unless the tangible personal property
25 sold is delivered by the retailer or his agent to an out-of-state
26 destination. In the event a retailer has more than one place of
27 business in this state which participates in the sale, the sale
28 shall be deemed to be consummated at the place of business of the

1 retailer where the initial order for the tangible personal
2 property is taken, even though the order must be forwarded
3 elsewhere for acceptance, approval of credit, shipment or
4 billing. A sale by a retailer's agent or employee shall be
5 deemed to be consummated at the place of business from which he
6 works.

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

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

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

26 14. The director of revenue and any of [his] the director's
27 deputies, assistants and employees who have any duties or
28 responsibilities in connection with the collection, deposit,

1 transfer, transmittal, disbursement, safekeeping, accounting, or
2 recording of funds which come into the hands of the director of
3 revenue under the provisions of the local sales tax law shall
4 enter a surety bond or bonds payable to any and all taxing
5 entities in whose behalf such funds have been collected under the
6 local sales tax law in the amount of one hundred thousand dollars
7 for each such tax; but the director of revenue may enter into a
8 blanket bond covering [himself] the director and all such
9 deputies, assistants and employees. The cost of any premium for
10 such bonds shall be paid by the director of revenue from the
11 share of the collections under the sales tax law retained by the
12 director of revenue for the benefit of the state.

13 15. The director of revenue shall annually report on [his]
14 the director's management of each trust fund which is created
15 under the local sales tax law and administration of each local
16 sales tax imposed under the local sales tax law. [He] The
17 director shall provide each taxing entity imposing one or more
18 local sales taxes authorized by the local sales tax law with a
19 detailed accounting of the source of all funds received by him
20 for the taxing entity. Notwithstanding any other provisions of
21 law, the state auditor shall annually audit each trust fund. A
22 copy of the director's report and annual audit shall be forwarded
23 to each taxing entity imposing one or more local sales taxes.

24 16. Within the boundaries of any taxing entity where one or
25 more local sales taxes have been imposed, if any person is
26 delinquent in the payment of the amount required to be paid by
27 [him] such person under the local sales tax law or in the event a
28 determination has been made against [him] such person for taxes

1 and penalty under the local sales tax law, the limitation for
2 bringing suit for the collection of the delinquent tax and
3 penalty shall be the same as that provided in sections 144.010 to
4 144.525. Where the director of revenue has determined that suit
5 must be filed against any person for the collection of delinquent
6 taxes due the state under the state sales tax law, and where such
7 person is also delinquent in payment of taxes under the local
8 sales tax law, the director of revenue shall notify the taxing
9 entity in the event any person fails or refuses to pay the amount
10 of any local sales tax due so that appropriate action may be
11 taken by the taxing entity.

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

23 18. If a local sales tax has been in effect for at least
24 one year under the provisions of the local sales tax law and
25 voters approve reimposition of the same local sales tax at the
26 same rate at an election as provided for in the local sales tax
27 law prior to the date such tax is due to expire, the tax so
28 reimposed shall become effective the first day of the first

1 calendar quarter after the director receives a certified copy of
2 the ordinance, order or resolution accompanied by a map clearly
3 showing the boundaries thereof and the results of such election,
4 provided that such ordinance, order or resolution and all
5 necessary accompanying materials are received by the director at
6 least thirty days prior to the expiration of such tax. Any
7 administrative cost or expense incurred by the state as a result
8 of the provisions of this subsection shall be paid by the city or
9 county reimposing such tax.

10 32.383. 1. Notwithstanding the provisions of any other law
11 to the contrary, with respect to taxes administered by the
12 department of revenue and imposed in this chapter and chapters
13 143, 144, and 147, an amnesty from the assessment or payment of
14 all penalties, additions to tax, and interest shall apply with
15 respect to unpaid taxes or taxes due and owing reported and paid
16 in full from August 1, 2012, to October 31, 2012, regardless of
17 whether previously assessed, except for penalties, additions to
18 tax, and interest paid before August 1, 2012. The amnesty shall
19 apply only to state tax liabilities due or due but unpaid on or
20 before December 31, 2011, and shall not extend to any taxpayer
21 who at the time of payment is a party to any criminal
22 investigations or to any civil or criminal litigation that is
23 pending in any court of the United States or this state for
24 nonpayment, delinquency, or fraud in relation to any state tax
25 imposed by this state.

26 2. Upon written application by the taxpayer, on forms
27 prescribed by the director of revenue, and upon compliance with
28 the provisions of this section, the department of revenue shall

1 not seek to collect any penalty, addition to tax, or interest
2 that may be applicable. The department of revenue shall not seek
3 civil or criminal prosecution for any taxpayer for the taxable
4 period for which the amnesty has been granted unless subsequent
5 investigation or audit shows that the taxpayer engaged in
6 fraudulent or criminal conduct in applying for amnesty.

7 3. Amnesty shall be granted only to those taxpayers who
8 have applied for amnesty within the period stated in this
9 section, who have filed a tax return for each taxable period for
10 which amnesty is requested, who have paid the entire balance due
11 by October 31, 2012, and who agree to comply with state tax laws
12 for the next eight years from the date of the agreement. No
13 taxpayer shall be entitled to a waiver of any penalty, addition
14 to tax, or interest under this section unless full payment of the
15 tax due is made in accordance with rules established by the
16 director of revenue.

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

24 5. If a taxpayer elects to participate in the amnesty
25 program established in this section as evidenced by full payment
26 of the tax due as established by the director of revenue, that
27 election shall constitute an express and absolute relinquishment
28 of all administrative and judicial rights of appeal. No tax

1 payment received under this section shall be eligible for refund
2 or credit.

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

6 7. All tax payments received as a result of the amnesty
7 program established in this section, other than revenues
8 earmarked by the Constitution of Missouri or this state's
9 statutes, shall be deposited in the state general revenue fund.
10 The department must track all payments received and submit a
11 report, no later than December 31, 2012, to the speaker of the
12 house of representatives and the president pro tem in the senate.

13 8. The department may promulgate rules or issue
14 administrative guidelines as are necessary to implement the
15 provisions of this section. Any rule or portion of a rule, as
16 that term is defined in section 536.010, that is created under
17 the authority delegated in this section shall become effective
18 only if it complies with and is subject to all of the provisions
19 of chapter 536 and, if applicable, section 536.028. This section
20 and chapter 536 are nonseverable and if any of the powers vested
21 with the general assembly under chapter 536 to review, to delay
22 the effective date, or to disapprove and annul a rule are
23 subsequently held unconstitutional, then the grant of rulemaking
24 authority and any rule proposed or adopted after July 1, 2012,
25 shall be invalid and void.

26 9. This section shall become effective on July 1, 2012, and
27 shall expire on December 31, 2015.

28 32.385. 1. The director of revenue and the commissioner of

1 administration may jointly enter into a reciprocal collection and
2 offset of indebtedness agreement with the federal government,
3 under which the State will offset from state tax refunds and from
4 payments otherwise due to vendors and contractors providing goods
5 or services to state departments, agencies, or other state
6 agencies non-tax debt owed to the federal government; and the
7 federal government will offset from federal payments to vendors,
8 contractors, and taxpayers debt owed to the state of Missouri.

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

11 (1) "Federal official", a unit or official of the federal
12 government charged with the collection of nontax liabilities
13 payable to the federal government under 31 U.S.C. Section 3716,
14 as amended;

15 (2) "Nontax liability due the state", a liability certified
16 to the director of revenue by a state agency and shall include,
17 but shall not be limited to, fines, fees, penalties, and other
18 nontax assessments imposed by or payable to any state agency that
19 is finally determined to be due and owing;

20 (3) "Offset agreement", the agreement authorized by this
21 section;

22 (4) "Person", an individual, partnership, society,
23 association, joint stock company, corporation, public
24 corporation, or any public authority, estate, receiver, trustee,
25 assignee, referee, and any other person acting in a fiduciary or
26 representative capacity whether appointed by a court or
27 otherwise, and any combination of the foregoing;

28 (5) "Refund", an amount described as a refund of tax under

1 the provisions of the state tax law that authorized its payment;

2 (6) "State agency", any department, division, board,
3 commission, office, or other agency of the state of Missouri;

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

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

10 (1) Certify to the state of Missouri the existence of a
11 person's delinquent nontax liability owed by the person to the
12 federal government;

13 (2) Request that the state of Missouri withhold any refund
14 and vendor payment to which the person is entitled;

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

17 (a) Allow the state of Missouri to enter into a reciprocal
18 agreement with the United States, under which the federal
19 official would be authorized to offset federal payments to
20 collect delinquent tax and nontax debts owed to the state; and

21 (b) Provide for the payment of the amount withheld to the
22 state;

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

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

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

1 (2) The Social Security number or federal tax
2 identification number;

3 (3) The amount of the nontax liability; and

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

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

10 (1) Withhold a refund or vendor payment that is due a
11 person whose name has been certified by a federal official;

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

15 (3) Pay to the federal official the lesser of:

16 (a) The entire refund or vendor payment; or

17 (b) The amount certified; and

18 (4) Pay any refund or vendor payment in excess of the
19 certified amount to the person.

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

21 (1) Certify to a federal official the existence of a
22 person's delinquent tax or nontax liability due the state owed by
23 the person to any state agency;

24 (2) Request that the federal official withhold any eligible
25 vendor payment to which the person is entitled; and

26 (3) Provide for the payment of the amount withheld to the
27 state.

28 7. A certification by a state agency to the director of

1 revenue and by the director of revenue to the federal official
2 under the offset agreement shall include:

3 (1) The full name and address of the person and any other
4 names known to be used by the person;

5 (2) The Social Security number or tax identification
6 number;

7 (3) The amount of the tax or nontax liability;

8 (4) A statement that the debt is past due and legally
9 enforceable in the amount certified; and

10 (5) Any other information required by federal statute or
11 regulation applicable to the collection of the debt by offset of
12 federal payments.

13 8. Any other provisions of law to the contrary
14 notwithstanding, the director of revenue and the commissioner of
15 administration shall have the authority to enter into reciprocal
16 agreements with any other state which extends a like comity to
17 this state to set off offset from state tax refunds and from
18 payments otherwise due to vendors and contractors providing goods
19 or services to state departments, agencies, or other state
20 agencies nontax debt for debts due the other state that extends a
21 like comity to this state.

22 32.410. As used in sections 32.410 to 32.460, the following
23 terms shall mean:

24 (1) "Debt", an amount owed to the state directly or through
25 a state agency, on account of a fee, duty, lease, direct loan,
26 loan insured or guaranteed by the state, rent, service, sale of
27 real or personal property, overpayment, fine, assessment,
28 penalty, restitution, damages, interest, tax, bail bond,

1 forfeiture, reimbursement, liability owed, an assignment,
2 recovery of costs incurred by the state, or any other source of
3 indebtedness to the state;

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

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

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

15 32.420. 1. Notwithstanding any other provision of law to
16 the contrary, all state agencies may refer to the department for
17 collection debts owed to them. The department may provide
18 collection services on debts referred to the department by a
19 state agency. This authority shall not supersede the authority
20 granted to the attorney general under section 27.060 or any other
21 statute.

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

28 3. The collection procedures and remedies under this

1 chapter are in addition to any other procedure or remedy
2 available by law. If the state agency's applicable state or
3 federal law requires the use of a particular remedy or procedure
4 for the collection of a debt, that particular remedy or procedure
5 shall govern the collection of that debt to the extent the
6 procedure or remedy is inconsistent with this chapter.

7 4. The state agency shall send notice to the debtor by
8 United States mail at the debtor's last known address at least
9 twenty days before the debt is referred to the department. The
10 notice shall state the nature and amount of the debt, identify to
11 whom the debt is owed, and inform the debtor of the remedies
12 available under this chapter or the state agency's own
13 procedures.

14 32.430. 1. Except as otherwise provided in this section,
15 the department shall have the authority to use all general
16 remedies afforded creditors of this state in collection of debt
17 as well as any remedies afforded the state agency referring the
18 debt and to the state in general as a creditor. The department
19 shall not have authority to prosecute or defend civil actions on
20 behalf of any other state agency, except as necessary to defend
21 any challenges made to actions under section 140.910 or 143.902
22 for a debt referred by a state agency or to prosecute an action
23 under subsection 10 of section 140.910.

24 2. In addition to the remedies identified in sections
25 32.410 to 32.460, the department may use the collection remedies
26 afforded under sections 140.910 and 143.902 in the collection of
27 any state debt referred to the department.

28 3. The department may employ department staff and

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

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

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

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

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

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

25 3. If the department collects an amount less than the total
26 due, the payment shall be applied proportionally to collection
27 costs and the underlying debt unless the department has waived
28 this requirement for certain categories of debt. Collection

1 costs collected by the department under this section shall be
2 deposited in the general revenue fund.

3 32.450. The department may compromise state debt referred
4 to the department in accordance with section 32.378 and any
5 agreement with the referring agency.

6 32.460. The department and state agencies, including the
7 judiciary, may exchange such information, including the debtor's
8 Social Security number, as is necessary for the successful
9 collection of the state debt referred. The referring agency
10 shall follow all applicable federal and state laws regarding the
11 confidentiality of information and records regarding the debtor.
12 The confidentiality laws applicable to the particular information
13 received and retained by each agency shall apply to the employees
14 of such state agency and to the department when such information
15 has been forwarded to the department.

16 105.716. 1. Any investigation, defense, negotiation, or
17 compromise of any claim covered by sections 105.711 to 105.726
18 shall be conducted by the attorney general; provided, that in the
19 case of any claim against the department of conservation, the
20 department of transportation or a public institution which awards
21 baccalaureate degrees, or any officer or employee of such
22 department or such institution, any investigation, defense,
23 negotiation, or compromise of any claim covered by sections
24 105.711 to 105.726 shall be conducted by legal counsel provided
25 by the respective entity against which the claim is made or which
26 employs the person against whom the claim is made.

27 In the case of any payment from the state legal expense fund

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

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

17 3. The provisions of sections 105.711 to 105.726
18 notwithstanding, the attorney general may investigate, defend,
19 negotiate, or compromise any claim covered by sections 105.711 to
20 105.726 against any public institution which awards baccalaureate
21 degrees whose governing body has declared a state of financial
22 exigency.

23 4. Notwithstanding the provisions of subsection 2 of
24 section 105.711, funds in the state legal expense fund may be
25 expended prior to the payment of any claim or any final judgment
26 to pay costs of defense, including reasonable attorney's fees for
27 retention of legal counsel, when the attorney general determines
28 that a conflict exists or particular expertise is required, and

1 also to pay for related legal expenses including medical
2 examination fees, expert witness fees, court reporter expenses,
3 travel costs and ancillary legal expenses incurred prior to the
4 payment of a claim or any final judgment.

5 5. Notwithstanding any other provision of law to the
6 contrary, except for payments of less than ten thousand dollars
7 for property damage, no funds shall be expended from the state
8 legal expense fund for settlement of any liability claim except
9 upon the production of a no tax due statement from the department
10 of revenue by the party making claim or having judgment under
11 section 105.711, which shall be satisfied from such fund. If the
12 party is found by the director of revenue to owe a delinquent tax
13 debt to the state of Missouri under the revenue laws of this
14 state, after the payment of attorney's fees and expenses
15 associated with liability of the fund to the party, any remaining
16 funds to be paid to the party from the state legal expense fund
17 shall be offset to satisfy such tax debt before payment is made
18 to the party making claim or having judgment.

19 140.910. 1. In addition to any other remedy provided by
20 law for the collection of delinquent taxes due the state of
21 Missouri, if the director has filed a certificate of lien in the
22 circuit court as provided by section 143.902, 144.380, or
23 144.690, the director or the director's designee may issue an
24 order directing any person, after the payment of attorney fees
25 and expenses associated with creating the proceeds belonging to,
26 due, or to become due to the taxpayer, to withhold and pay over
27 to the department assets belonging to, due, or to become due the
28 taxpayer. The director or the director's designee shall not

1 issue the administrative garnishment if the taxpayer has entered
2 into a written agreement with the department for an alternative
3 payment arrangement and the taxpayer is in compliance with the
4 agreement.

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

17 3. A copy of the order shall be mailed to the taxpayer at
18 the taxpayer's last known address. The notice shall advise the
19 taxpayer that the administrative garnishment has commenced and
20 the procedures to contest such garnishment on the grounds that
21 such garnishment is improper due to a mistake of fact by
22 requesting a hearing within thirty days from mailing or
23 electronic issuance of the notice. At such a hearing the
24 certified records of the department shall constitute prima facie
25 evidence that the director's order is valid and enforceable. If
26 a prima facie case is established, the obligor may only assert as
27 a defense mistake as to the identity of the taxpayer, mistake as
28 to payments made, or existence of an alternative payment

1 agreement for which no default has occurred. The taxpayer shall
2 have the burden of proof on such issues. The taxpayer may obtain
3 relief from the garnishment by paying the amount owed.

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

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

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

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

4 7. An order issued under subsection 1 of this section shall
5 have priority over any other legal process under state law
6 against the same income or other asset, except that where the
7 other legal process is an order issued under section 452.350,
8 454.505, or 454.507, the withholding for child support shall have
9 priority.

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

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

1 party.

2 10. An employer shall not discharge, or refuse to hire or
3 otherwise discipline, an employee as a result of an order to
4 withhold and pay over certain money authorized by this section.
5 If any such employee is discharged within thirty days of the date
6 upon which an order to withhold and pay over certain money is to
7 take effect, there shall arise a rebuttable presumption that such
8 discharge was a result of such order. This presumption shall be
9 overcome only by clear, cogent, and convincing evidence produced
10 by the employer that the employee was not terminated because of
11 the order to withhold and pay over certain money. The director
12 or the director's designee is hereby authorized to bring an
13 action in circuit court to determine whether the discharge
14 constitutes a violation of this subsection. If the court finds
15 that a violation has occurred, the court may enter an order
16 against the employer requiring reinstatement of the employee and
17 may fine the employer in an amount not to exceed five hundred
18 dollars. Further, the court may enter judgment against the
19 employer for the back wages, costs, attorney's surcharges, and
20 for the amount of taxes that should have been withheld and paid
21 over during the period of time the employee was wrongfully
22 discharged.

23 11. If a taxpayer for whom an order to withhold has been
24 issued under subsection 1 of this section terminates the
25 taxpayer's employment, the employer shall, within ten days of the
26 termination, notify the department of the termination, shall
27 provide to the department the last known address of the taxpayer,
28 if known to the employer, and shall provide to the department the

1 name and address of the taxpayer's new employer, if known. The
2 director or the director's designee may issue an order to the new
3 employer as provided in subsection 1 of this section.

4 12. For purposes of this section, "assets" include, but are
5 not limited to, currency, any financial account or other liquid
6 asset, and any income or other periodic form of payment due to a
7 taxpayer regardless of source, including, but not limited to,
8 wages, salaries, commissions, bonuses, workers' compensation
9 benefits, disability benefits, payments pursuant to a pension or
10 a retirement program, and interest.

11 143.013. 1. This act shall be known and may be cited as
12 the "Broad-Based Tax Relief Act of 2012".

13 2. As used in this section, "business income" means income
14 greater than zero arising from transactions and activity in the
15 regular course of the taxpayer's trade or business and includes
16 income from tangible property if the acquisition, management, and
17 disposition of the property constitute integral parts of the
18 taxpayer's regular trade or business operations. "Business
19 income" shall not include "compensation" as such term is defined
20 under subsection 1 of article IV of section 32.200.

21 3. In the case of a small corporation described in section
22 143.471 or a partnership, computing the deduction allowed under
23 subsection 4 of this section, taxpayers described in subdivisions
24 (1) or (2) of this subsection shall be allowed such deduction
25 apportioned in proportion to their share of ownership of the
26 business on the last day of the taxpayer's tax period for which
27 such deduction is being claimed when determining the Missouri
28 adjusted gross income of:

1 (1) The shareholders of a small corporation as described in
2 section 143.471;

3 (2) The partners in a partnership.

4 4. (1) In addition to all other modifications allowed by
5 law, there shall be subtracted from the federal adjusted gross
6 income of an individual taxpayer the amounts of business income
7 as provided in this subsection to the extent included in federal
8 adjusted gross income when determining the taxpayer's Missouri
9 adjusted gross income.

10 (2) (a) For all tax years beginning on or after January 1,
11 2012, the percentage of the amount of business income to be
12 subtracted under this subsection shall be determined as provided
13 in this subdivision.

14 (b) The office of administration shall compare the sum of
15 the Missouri net individual income tax revenues and the Missouri
16 net corporation income tax revenues, as reported by the
17 department of revenue, received in the fiscal year ending on June
18 30, 2010, to the Missouri net individual income tax revenues and
19 the Missouri net corporation income tax revenues, as reported by
20 the department of revenue, received in the fiscal year ending on
21 June thirtieth of the tax year preceding the tax year for which
22 the percentage of the amount of business income to be subtracted
23 under this section is being determined under this section. Upon
24 the completion of such comparison, the office of administration
25 shall immediately report the results of such comparison to the
26 director of the department of revenue.

27 (c) If, upon comparison of the sum of the Missouri net
28 individual income tax revenues and the Missouri net corporation

1 income tax revenues received as provided in this subdivision, the
2 office of administration determines that the sum of the Missouri
3 net individual income tax revenues and the Missouri net
4 corporation income tax revenues received in the fiscal year
5 ending on June thirtieth of such preceding tax year are less than
6 the sum of the Missouri net individual income tax revenues and
7 the Missouri net corporation income tax revenues received in the
8 fiscal year ending on June 30, 2010, the percentage of the amount
9 of business income that shall be subtracted under this
10 subsection, if any, shall be the same as the immediately
11 preceding tax year until such time the office of administration
12 determines that the sum of the Missouri net individual income tax
13 revenues and the Missouri net corporation income tax revenues
14 received are equal to or greater than the sum of the Missouri net
15 individual income tax revenues and the Missouri net corporation
16 income tax revenues received in the fiscal year ending on June
17 30, 2010, and the percentage of business income subtracted should
18 increase as provided in paragraph (d) of this subdivision.

19 (d) a. In the first tax year for which the office of
20 administration determines that the sum of the Missouri net
21 individual income tax revenues and the Missouri net corporation
22 income tax revenues received in the preceding fiscal year ending
23 on June thirtieth of such tax year are equal to or greater than
24 the sum of the Missouri net individual income tax revenues and
25 the Missouri net corporation income tax revenues received in the
26 fiscal year ending on June 30, 2010, the percentage of the amount
27 of business income that shall be subtracted under this subsection
28 shall be ten percent.

1 b. In the second tax year for which the office of
2 administration determines that the sum of the Missouri net
3 individual income tax revenues and the Missouri net corporation
4 income tax revenues received in the preceding fiscal year ending
5 on June thirtieth of such tax year are equal to or greater than
6 the sum of the Missouri net individual income tax revenues and
7 the Missouri net corporation income tax revenues received in the
8 fiscal year ending on June 30, 2010, the percentage of the amount
9 of business income that shall be subtracted under this subsection
10 shall be twenty percent.

11 c. In the third tax year for which the office of
12 administration determines that the sum of the Missouri net
13 individual income tax revenues and the Missouri net corporation
14 income tax revenues received in the preceding fiscal year ending
15 on June thirtieth of such tax year are equal to or greater than
16 the sum of the Missouri net individual income tax revenues and
17 the Missouri net corporation income tax revenues received in the
18 fiscal year ending on June 30, 2010, the percentage of the amount
19 of business income that shall be subtracted under this subsection
20 shall be thirty percent.

21 d. In the fourth tax year for which the office of
22 administration determines that the sum of the Missouri net
23 individual income tax revenues and the Missouri net corporation
24 income tax revenues received in the preceding fiscal year ending
25 on June thirtieth of such tax year are equal to or greater than
26 the sum of the Missouri net individual income tax revenues and
27 the Missouri net corporation income tax revenues received in the
28 fiscal year ending on June 30, 2010, the percentage of the amount

1 of business income that shall be subtracted under this subsection
2 shall be forty percent.

3 e. In the fifth tax year for which the office of
4 administration determines that the sum of the Missouri net
5 individual income tax revenues and the Missouri net corporation
6 income tax revenues received in the preceding fiscal year ending
7 on June thirtieth of such tax year are equal to or greater than
8 the sum of the Missouri net individual income tax revenues and
9 the Missouri net corporation income tax revenues received in the
10 fiscal year ending on June 30, 2010, and in each succeeding tax
11 year, the percentage of the amount of business income that shall
12 be subtracted under this subsection shall be fifty percent.

13 (e) Once an increase occurs in the percentage of the amount
14 of business income to be subtracted under this subsection as
15 provided in paragraph (d) of this subdivision, the percentage of
16 the amount subtracted under this subsection shall not be
17 decreased even if the sum of the Missouri net individual income
18 tax revenues and the Missouri net corporation income tax revenues
19 received in any following fiscal year ending on June thirtieth of
20 any following tax year are less than the sum of the Missouri net
21 individual income tax revenues and the Missouri net corporation
22 income tax revenues received in the fiscal year ending on June
23 30, 2010.

24 143.071. 1. For all tax years beginning before September
25 1, 1993, a tax is hereby imposed upon the Missouri taxable income
26 of corporations in an amount equal to five percent of Missouri
27 taxable income.

28 2. For all tax years beginning on or after September 1,

1 1993, but before December 31, 2011, a tax is hereby imposed upon
2 the Missouri taxable income of corporations in an amount equal to
3 six and one-fourth percent of Missouri taxable income.

4 3. (1) For each tax year beginning on or after January 1,
5 2012, the tax imposed upon the Missouri taxable income of
6 corporations shall be in an amount as determined under this
7 subsection.

8 (2) The office of administration shall compare the sum of
9 the Missouri net corporation income tax revenues and the Missouri
10 net individual income tax revenues, as reported by the department
11 of revenue, received in the fiscal year ending on June 30, 2010,
12 to the sum of the Missouri net corporation income tax revenues
13 and the Missouri net individual income tax revenues, as reported
14 by the department of revenue, received in the fiscal year ending
15 on June thirtieth of the tax year preceding the tax year for
16 which the amount of the tax imposed under this section is being
17 determined under this section. Upon the completion of such
18 comparison, the office of administration shall immediately report
19 the results of such comparison to the director of the department
20 of revenue.

21 (3) If, upon comparison of the sum of the Missouri net
22 corporation income tax revenues and the Missouri net individual
23 income tax revenues received as provided in this subsection, the
24 office of administration determines that the sum of the Missouri
25 net corporation income tax revenues and the Missouri net
26 individual income tax revenues received in the fiscal year ending
27 on June thirtieth of such preceding tax year are less than the
28 sum of the Missouri net corporation income tax revenues and the

1 Missouri net individual income tax revenues received in the
2 fiscal year ending on June 30, 2010, the amount of the tax
3 imposed under this subsection shall be at the same rate as the
4 immediately preceding tax year until such time the office of
5 administration determines that the sum of the Missouri net
6 corporation income tax revenues and the Missouri net individual
7 income tax revenues received are equal to or greater than the sum
8 of the Missouri net corporation income tax revenues and the
9 Missouri net individual income tax revenues received in the
10 fiscal year ending on June 30, 2010, and the amount of the tax
11 imposed under this subsection should decrease as provided in
12 subdivision (4) of this subsection.

13 (4) (a) In the first tax year for which the office of
14 administration determines that the sum of the Missouri net
15 corporation income tax revenues and the Missouri net individual
16 income tax revenues received in the preceding fiscal year ending
17 on June thirtieth of such tax year are equal to or greater than
18 the sum of the Missouri net corporation income tax revenues and
19 the Missouri net individual income tax revenues received in the
20 fiscal year ending on June 30, 2010, the amount of the tax
21 imposed under this subsection shall decrease to an amount equal
22 to five and five-eighths percent of Missouri taxable income.

23 (b) In the second tax year for which the office of
24 administration determines that the sum of the Missouri net
25 corporation income tax revenues and the Missouri net individual
26 income tax revenues received in the preceding fiscal year ending
27 on June thirtieth of such tax year are equal to or greater than
28 the sum of the Missouri net corporation income tax revenues and

1 the Missouri net individual income tax revenues received in the
2 fiscal year ending on June 30, 2010, the amount of the tax
3 imposed under this subsection shall decrease to an amount equal
4 to five percent of Missouri taxable income.

5 (c) In the third tax year for which the office of
6 administration determines that the sum of the Missouri net
7 corporation income tax revenues and the Missouri net individual
8 income tax revenues received in the preceding fiscal year ending
9 on June thirtieth of such tax year are equal to or greater than
10 the sum of the Missouri net corporation income tax revenues and
11 the Missouri net individual income tax revenues received in the
12 fiscal year ending on June 30, 2010, the amount of the tax
13 imposed under this subsection shall decrease to an amount equal
14 to four and three-eighths percent of Missouri taxable income.

15 (d) In the fourth tax year for which the office of
16 administration determines that the sum of the Missouri net
17 corporation income tax revenues and the Missouri net individual
18 income tax revenues received in the preceding fiscal year ending
19 on June thirtieth of such tax year are equal to or greater than
20 the sum of the Missouri net corporation income tax revenues and
21 the Missouri net individual income tax revenues received in the
22 fiscal year ending on June 30, 2010, the amount of the tax
23 imposed under this subsection shall decrease to an amount equal
24 to three and three-fourths percent of Missouri taxable income.

25 (e) In the fifth tax year for which the office of
26 administration determines that the sum of the Missouri net
27 corporation income tax revenues and the Missouri net individual
28 income tax revenues received in the preceding fiscal year ending

1 on June thirtieth of such tax year are equal to or greater than
2 the sum of the Missouri net corporation income tax revenues and
3 the Missouri net individual income tax revenues received in the
4 fiscal year ending on June 30, 2010, and for each succeeding tax
5 year, the amount of the tax imposed under this subsection shall
6 decrease to an amount equal to three and one-eighth percent of
7 Missouri taxable income.

8 (5) Once a decrease occurs in the amount of the tax imposed
9 under this subsection as provided in subdivision (4) of this
10 subsection, the amount of the tax imposed under this subsection
11 shall not increase even if the sum of the Missouri net
12 corporation income tax revenues and the Missouri net individual
13 income tax revenues received in any following fiscal year ending
14 on June thirtieth of any following tax year are less than the sum
15 of the Missouri net corporation income tax revenues and the
16 Missouri net individual income tax revenues received in the
17 fiscal year ending on June 30, 2010.

18 144.055. 1. In addition to all other exemptions granted
19 under this chapter, there is hereby specifically exempted from
20 the provisions of sections 144.010 to 144.525 and 144.600 to
21 144.761, and from the computation of the tax levied, assessed, or
22 payable under sections 144.010 to 144.525 and 144.600 to 144.761,
23 electrical energy and gas, whether natural, artificial, or
24 propane, water, coal, and energy sources, chemicals, machinery,
25 equipment, supplies, parts and materials used or consumed in
26 testing, installing, calibrating, maintaining, repairing, or
27 restoring any machinery or equipment that is exempted from sales
28 and use taxes in accordance with section 144.054.

1 2. In addition to all other exemptions granted under this
2 chapter, there is hereby specifically exempted from the
3 provisions of sections 144.010 to 144.525 and 144.600 to 144.761,
4 and from the computation of the tax levied, assessed, or payable
5 under sections 144.010 to 144.525 and 144.600 to 144.761,
6 electrical energy and gas, whether natural, artificial, or
7 propane, water, coal, and energy sources, chemicals, machinery,
8 equipment, supplies, parts and materials used or consumed in the
9 manufacturing, processing, preparing, furnishing, compounding, or
10 producing of food, or used in research and development related to
11 manufacturing, processing, preparing, furnishing, compounding or
12 producing food. For the purposes of this subsection, the term
13 "processing" shall mean any mode of treatment, act, or series of
14 acts performed upon materials or food products to transform or
15 reduce them to a different state, thing or product, including
16 treatment necessary to maintain or preserve such processing by
17 the producer at the location at which the food product is
18 produced.

19 144.190. 1. If a tax has been incorrectly computed by
20 reason of a clerical error or mistake on the part of the director
21 of revenue, such fact shall be set forth in the records of the
22 director of revenue, and the amount of the overpayment shall be
23 credited on any taxes then due from the person legally obligated
24 to remit the tax pursuant to sections 144.010 to 144.525, and the
25 balance shall be refunded to the person legally obligated to
26 remit the tax, such person's administrators or executors, as
27 provided for in section 144.200.

28 2. If any tax, penalty or interest has been paid more than

1 once, or has been erroneously or illegally collected, or has been
2 erroneously or illegally computed, such sum shall be credited on
3 any taxes then due from the person legally obligated to remit the
4 tax pursuant to sections 144.010 to 144.525, and the balance,
5 with interest as determined by section 32.065, shall be refunded
6 to the person legally obligated to remit the tax, but no such
7 credit or refund shall be allowed unless duplicate copies of a
8 claim for refund are filed within three years from date of
9 overpayment. If a taxpayer applying for a refund under the
10 provisions of this section submits a written request for the
11 director to hold a refund claim unprocessed pending the outcome
12 of legal proceedings on the same or similar grounds or
13 transactions, and agrees that the taxpayer's claim will be bound
14 by the outcome of such legal proceeding should the outcome of
15 such proceeding be adverse to the taxpayer's position, the
16 director shall hold such refund claim unprocessed pending the
17 outcome of such legal proceedings on the same or similar grounds
18 or transactions. Notwithstanding any provision of section 32.069
19 to the contrary, interest shall not accrue on any refund for the
20 time period such refund claim is held at the request of the
21 taxpayer applying for a refund under the provisions of this
22 subsection. If the seller did not file a return with the
23 director for the period for which the refund is claimed and remit
24 payment as shown on the return, the director shall not issue the
25 refund to the purchaser.

26 3. Every claim for refund must be in writing and signed by
27 the applicant, and must state the specific grounds upon which the
28 claim is founded. Any refund or any portion thereof which is

1 erroneously made, and any credit or any portion thereof which is
2 erroneously allowed, may be recovered in any action brought by
3 the director of revenue against the person legally obligated to
4 remit the tax. In the event that a tax has been illegally
5 imposed against a person legally obligated to remit the tax, the
6 director of revenue shall authorize the cancellation of the tax
7 upon the director's record.

8 4. Notwithstanding the provisions of section 32.057, a
9 purchaser that originally paid sales or use tax to a vendor or
10 seller may submit a refund claim directly to the director of
11 revenue for such sales or use taxes paid to such vendor or seller
12 and remitted to the director, provided no sum shall be refunded
13 more than once, any such claim shall be subject to any offset,
14 defense, or other claim the director otherwise would have against
15 either the purchaser or vendor or seller, and such claim for
16 refund is accompanied by either:

17 (1) A notarized assignment of rights statement by the
18 vendor or seller to the purchaser allowing the purchaser to seek
19 the refund on behalf of the vendor or seller. An assignment of
20 rights statement shall contain the Missouri sales or use tax
21 registration number of the vendor or seller, a list of the
22 transactions covered by the assignment, the tax periods and
23 location for which the original sale was reported to the director
24 of revenue by the vendor or seller, and a notarized statement
25 signed by the vendor or seller affirming that the vendor or
26 seller has not received a refund or credit, will not apply for a
27 refund or credit of the tax collected on any transactions covered
28 by the assignment, and authorizes the director to amend the

1 seller's return to reflect the refund; or

2 (2) In the event the vendor or seller fails or refuses to
3 provide an assignment of rights statement within sixty days from
4 the date of such purchaser's written request to the vendor or
5 seller, or the purchaser is not able to locate the vendor or
6 seller or the vendor or seller is no longer in business, the
7 purchaser may provide the director a notarized statement
8 confirming the efforts that have been made to obtain an
9 assignment of rights from the vendor or seller. Such statement
10 shall contain a list of the transactions covered by the
11 assignment, the tax periods and location for which the original
12 sale was reported to the director of revenue by the vendor or
13 seller.

14 The director shall not require such vendor, seller, or purchaser
15 to submit amended returns for refund claims submitted under the
16 provisions of this subsection. Notwithstanding the provisions of
17 section 32.057, if the seller is registered with the director for
18 collection and remittance of sales tax, the director shall notify
19 the seller at the seller's last known address of the claim for
20 refund. If the seller objects to the refund within thirty days
21 of the date of the notice, the director shall not pay the refund.
22 If the seller agrees that the refund is warranted or fails to
23 respond within thirty days, the director may issue the refund and
24 amend the seller's return to reflect the refund. For purposes of
25 section 32.069, the refund claim shall not be considered to have
26 been filed until the seller agrees that the refund is warranted
27 or thirty days after the date the director notified the seller

1 and the seller failed to respond.

2 5. Notwithstanding the provisions of section 32.057, when a
3 vendor files a refund claim on behalf of a purchaser and such
4 refund claim is denied by the director, notice of such denial and
5 the reason for the denial shall be sent by the director to the
6 vendor and each purchaser whose name and address is submitted
7 with the refund claim form filed by the vendor. A purchaser
8 shall be entitled to appeal the denial of the refund claim within
9 sixty days of the date such notice of denial is mailed by the
10 director as provided in section 144.261. The provisions of this
11 subsection shall apply to all refund claims filed after August
12 28, 2012. The provisions of this subsection allowing a purchaser
13 to appeal the director's decision to deny a refund claim shall
14 also apply to any refund claim denied by the director on or after
15 January 1, 2007, if an appeal of the denial of the refund claim
16 is filed by the purchaser no later than September 28, 2012, and
17 if such claim is based solely on the issue of the exemption of
18 the electronic transmission or delivery of computer software.

19 6. Notwithstanding the provisions of this section, the
20 director of revenue shall authorize direct-pay agreements to
21 purchasers which have annual purchases in excess of seven hundred
22 fifty thousand dollars pursuant to rules and regulations adopted
23 by the director of revenue. For the purposes of such direct-pay
24 agreements, the taxes authorized pursuant to chapters 66, 67, 70,
25 92, 94, 162, 190, 238, 321, and 644 shall be remitted based upon
26 the location of the place of business of the purchaser.

27 [5.] 7. Special rules applicable to error corrections
28 requested by customers of mobile telecommunications service are

1 as follows:

2 (1) For purposes of this subsection, the terms "customer",
3 "home service provider", "place of primary use", "electronic
4 database", and "enhanced zip code" shall have the same meanings
5 as defined in the Mobile Telecommunications Sourcing Act
6 incorporated by reference in section 144.013;

7 (2) Notwithstanding the provisions of this section, if a
8 customer of mobile telecommunications services believes that the
9 amount of tax, the assignment of place of primary use or the
10 taxing jurisdiction included on a billing is erroneous, the
11 customer shall notify the home service provider, in writing,
12 within three years from the date of the billing statement. The
13 customer shall include in such written notification the street
14 address for the customer's place of primary use, the account name
15 and number for which the customer seeks a correction of the tax
16 assignment, a description of the error asserted by the customer
17 and any other information the home service provider reasonably
18 requires to process the request;

19 (3) Within sixty days of receiving the customer's notice,
20 the home service provider shall review its records and the
21 electronic database or enhanced zip code to determine the
22 customer's correct taxing jurisdiction. If the home service
23 provider determines that the review shows that the amount of tax,
24 assignment of place of primary use or taxing jurisdiction is in
25 error, the home service provider shall correct the error and, at
26 its election, either refund or credit the amount of tax
27 erroneously collected to the customer for a period of up to three
28 years from the last day of the home service provider's sixty-day

1 review period. If the home service provider determines that the
2 review shows that the amount of tax, the assignment of place of
3 primary use or the taxing jurisdiction is correct, the home
4 service provider shall provide a written explanation of its
5 determination to the customer.

6 [6.] 8. For all refund claims submitted to the department
7 of revenue on or after September 1, 2003, notwithstanding any
8 provision of this section to the contrary, if a person legally
9 obligated to remit the tax levied pursuant to sections 144.010 to
10 144.525 has received a refund of such taxes for a specific issue
11 and submits a subsequent claim for refund of such taxes on the
12 same issue for a tax period beginning on or after the date the
13 original refund check issued to such person, no refund shall be
14 allowed. This subsection shall not apply and a refund shall be
15 allowed if an additional refund claim is filed due to any of the
16 following:

17 (1) Receipt of additional information or an exemption
18 certificate from the purchaser of the item at issue;

19 (2) A decision of a court of competent jurisdiction or the
20 administrative hearing commission; or

21 (3) Changes in regulations or policy by the department of
22 revenue.

23 [7.] 9. Notwithstanding any provision of law to the
24 contrary, the director of revenue shall respond to a request for
25 a binding letter ruling filed in accordance with section 536.021
26 within sixty days of receipt of such request. If the director of
27 revenue fails to respond to such letter ruling request within
28 sixty days of receipt by the director, the director of revenue

1 shall be barred from pursuing collection of any assessment of
2 sales or use tax with respect to the issue which is the subject
3 of the letter ruling request. For purposes of this subsection,
4 the term "letter ruling" means a written interpretation of law by
5 the director to a specific set of facts provided by a specific
6 taxpayer or his or her agent.

7 [8.] 10. If any tax was paid more than once, was
8 incorrectly collected, or was incorrectly computed, such sum
9 shall be credited on any taxes then due from the person legally
10 obligated to remit the tax pursuant to sections 144.010 to
11 144.510, against any deficiency or tax due discovered through an
12 audit of the person by the department of revenue through
13 adjustment during the same tax filing period for which the audit
14 applied.

15 Section B. Because immediate action is necessary to secure
16 adequate state revenue, the enactment of section 32.383 of this
17 act is deemed necessary for the immediate preservation of the
18 public health, welfare, peace, and safety, and is hereby declared
19 to be an emergency act within the meaning of the constitution,
20 and the enactment of section 32.383 of this act shall be in full
21 force and effect upon its passage and approval.