

FIRST REGULAR SESSION

SENATE BILL NO. 31

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR LAMPING.

Pre-filed December 1, 2012, and ordered printed.

TERRY L. SPIELER, Secretary.

0226S.011

AN ACT

To repeal sections 30.605, 143.011, 143.021, 144.020, 144.021, 144.440, 144.700, and 149.015, RSMo, and to enact in lieu thereof nine new sections relating to taxation, with an effective date.

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

Section A. Sections 30.605, 143.011, 143.021, 144.020, 144.021, 144.440, 144.700, and 149.015, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as sections 30.605, 143.011, 143.021, 144.020, 144.021, 144.440, 144.700, 149.015, and 226.740, to read as follows:

30.605. 1. There is hereby created in the state treasury the "State Treasurer's General Operations Fund" which shall receive deposits, make disbursements and be administered in compliance with the provisions of this section.

2. Subject to appropriation, moneys in the state treasurer's general operations fund shall be used solely to pay for personal service, equipment and other expenses of the state treasurer related to the state treasurer's constitutional and statutory responsibilities, exclusive of any personal service, equipment and other expenses attributable to positions wholly dedicated to the functions described in chapter 447. The commissioner of administration shall review and approve all requests of the state treasurer of disbursements from the state treasurer's general operations fund for compliance with the provisions of this section. Nothing in this section shall be deemed to prevent the general assembly from making appropriations to the state treasurer from other permissible sources.

3. Notwithstanding any other provisions of law to the contrary, moneys

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

17 shall be deposited in the state treasurer's general operations fund and
18 administered in accordance with the following provisions:

19 (1) On a daily basis, the state treasurer shall apportion any interest or
20 other increment derived from the investment of funds in an amount proportionate
21 to the average daily balance of funds in the state treasury. The state treasurer
22 shall use a method in accordance with generally accepted accounting principles
23 in apportioning and distributing that interest or increment. Prior to distributing
24 that interest or increment, the state treasurer shall deduct the costs incurred by
25 the state treasurer in administering this chapter in proportion to the average
26 daily balance of the amounts deposited to each fund in the state treasury. The
27 state treasurer shall then deposit the identified portion of the daily interest
28 receipts in the state treasurer's general operations fund. All other remaining
29 interest received on the investment of state funds shall be allocated and deposited
30 to funds within the state treasury as required by law;

31 (2) The total costs for personal service, equipment and other expenses of
32 the state treasurer related to the state treasurer's constitutional and statutory
33 responsibilities, exclusive of any personal service, equipment and other expenses
34 attributable to positions wholly dedicated to the functions described in chapter
35 447, and any banking fees and other banking-related costs, shall not exceed
36 fifteen basis points, or fifteen-hundredths of one percent, of the total of the
37 average daily fund balance of funds within the state treasury.

38 4. Notwithstanding the provisions of section 33.080, moneys in the state
39 treasurer's general operations fund shall not lapse to the general revenue fund
40 at the end of the biennium unless and only to the extent to which the amount in
41 the fund exceeds the annual appropriations from the fund for the current fiscal
42 year.

43 5. The provisions of this section shall not be applicable to the state road
44 fund created in section 226.220, the motor fuel tax fund created in section
45 142.345, the state highways and transportation department fund created in
46 section 226.200, the state transportation fund created in section 226.225, **the**
47 **state transportation interstate fund created in section 226.740**, and the
48 state road bond fund created pursuant to article IV, section 30(b), Constitution
49 of Missouri.

143.011. 1. A tax is hereby imposed for every taxable year on the
2 Missouri taxable income of every resident. The tax shall be determined by
3 applying the tax table or the rate provided in section 143.021, which is based

4 upon the following rates:

5 If the Missouri taxable income is:

The tax is:

6 Not over \$1,000.00

1 1/2% of the Missouri
taxable income

8 Over \$1,000 but not over \$2,000

\$15 plus 2% of excess
over \$1,000

10 Over \$2,000 but not over \$3,000

\$35 plus 2 1/2% of excess
over \$2,000

12 Over \$3,000 but not over \$4,000

\$60 plus 3% of excess
over \$3,000

14 Over \$4,000 but not over \$5,000

\$90 plus 3 1/2% of excess
over \$4,000

16 Over \$5,000 but not over \$6,000

\$125 plus 4% of excess
over \$5,000

18 Over \$6,000 but not over \$7,000

\$165 plus 4 1/2% of excess
over \$6,000

20 Over \$7,000 but not over \$8,000

\$210 plus 5% of excess
over \$7,000

22 Over \$8,000 but not over \$9,000

\$260 plus 5 1/2% of excess
over \$8,000

24 Over \$9,000

\$315 plus 6% of excess
over \$9,000

26 **2. For all tax years, beginning on January 1, 2014, the tax**
27 **imposed by subsection 1 of this section shall be replaced by a tax that**
28 **shall be imposed on the Missouri taxable income of every resident at**
29 **the rate of four percent.**

143.021. [Every resident having a taxable income of less than nine
2 thousand dollars shall determine his tax from a tax table prescribed by the
3 director of revenue and based upon the rates provided in section 143.011. The tax
4 table shall be on the basis of one hundred dollar increments of taxable income
5 below nine thousand dollars. The tax provided in the table shall be the amount
6 rounded to the nearest whole dollar by applying the rates in section 143.011 to
7 the taxable income at the midpoint of each increment, except] There shall be no
8 tax on a taxable income of less than one hundred dollars. [Every resident having
9 a taxable income of nine thousand dollars or more shall determine his tax from
10 the rate provided in section 143.011.]

144.020. 1. A tax is hereby levied and imposed upon all sellers for the
2 privilege of engaging in the business of selling tangible personal property or
3 rendering taxable service at retail in this state. The rate of tax shall be as
4 follows:

5 (1) Upon every retail sale in this state of tangible personal property,
6 including but not limited to motor vehicles, trailers, motorcycles, mopeds,
7 motortricycles, boats and outboard motors, a tax equivalent to four percent of the
8 purchase price paid or charged, or in case such sale involves the exchange of
9 property, a tax equivalent to four **and one-half** percent of the consideration paid
10 or charged, including the fair market value of the property exchanged at the time
11 and place of the exchange, except as otherwise provided in section 144.025;

12 (2) A tax equivalent to four **and one-half** percent of the amount paid for
13 admission and seating accommodations, or fees paid to, or in any place of
14 amusement, entertainment or recreation, games and athletic events;

15 (3) A tax equivalent to four **and one-half** percent of the basic rate paid
16 or charged on all sales of electricity or electrical current, water and gas, natural
17 or artificial, to domestic, commercial or industrial consumers;

18 (4) A tax equivalent to four **and one-half** percent on the basic rate paid
19 or charged on all sales of local and long distance telecommunications service to
20 telecommunications subscribers and to others through equipment of
21 telecommunications subscribers for the transmission of messages and
22 conversations and upon the sale, rental or leasing of all equipment or services
23 pertaining or incidental thereto; except that, the payment made by
24 telecommunications subscribers or others, pursuant to section 144.060, and any
25 amounts paid for access to the internet or interactive computer services shall not
26 be considered as amounts paid for telecommunications services;

27 (5) A tax equivalent to four **and one-half** percent of the basic rate paid
28 or charged for all sales of services for transmission of messages of telegraph
29 companies;

30 (6) A tax equivalent to four **and one-half** percent on the amount of sales
31 or charges for all rooms, meals and drinks furnished at any hotel, motel, tavern,
32 inn, restaurant, eating house, drugstore, dining car, tourist cabin, tourist camp
33 or other place in which rooms, meals or drinks are regularly served to the public;

34 (7) A tax equivalent to four **and one-half** percent of the amount paid or
35 charged for intrastate tickets by every person operating a railroad, sleeping car,
36 dining car, express car, boat, airplane and such buses and trucks as are licensed

37 by the division of motor carrier and railroad safety of the department of economic
38 development of Missouri, engaged in the transportation of persons for hire;

39 (8) A tax equivalent to four **and one-half** percent of the amount paid or
40 charged for rental or lease of tangible personal property, provided that if the
41 lessor or renter of any tangible personal property had previously purchased the
42 property under the conditions of "sale at retail" or leased or rented the property
43 and the tax was paid at the time of purchase, lease or rental, the lessor,
44 sublessor, renter or subrenter shall not apply or collect the tax on the subsequent
45 lease, sublease, rental or subrental receipts from that property. The purchase,
46 rental or lease of motor vehicles, trailers, motorcycles, mopeds, motortricycles,
47 boats, and outboard motors shall be taxed and the tax paid as provided in this
48 section and section 144.070. In no event shall the rental or lease of boats and
49 outboard motors be considered a sale, charge, or fee to, for or in places of
50 amusement, entertainment or recreation nor shall any such rental or lease be
51 subject to any tax imposed to, for, or in such places of amusement, entertainment
52 or recreation. Rental and leased boats or outboard motors shall be taxed under
53 the provisions of the sales tax laws as provided under such laws for motor
54 vehicles and trailers. Tangible personal property which is exempt from the sales
55 or use tax under section 144.030 upon a sale thereof is likewise exempt from the
56 sales or use tax upon the lease or rental thereof.

57 2. All tickets sold which are sold under the provisions of sections 144.010
58 to 144.525 which are subject to the sales tax shall have printed, stamped or
59 otherwise endorsed thereon, the words "This ticket is subject to a sales tax."

144.021. The purpose and intent of sections 144.010 to 144.510 is to
2 impose a tax upon the privilege of engaging in the business, in this state, of
3 selling tangible personal property and those services listed in section
4 144.020. The primary tax burden is placed upon the seller making the taxable
5 sales of property or service and is levied at the rate provided for in section
6 144.020. Excluding sections 144.070, 144.440 and 144.450, the extent to which
7 a seller is required to collect the tax from the purchaser of the taxable property
8 or service is governed by section 144.285 and in no way affects sections 144.080
9 and 144.100, which require all sellers to report to the director of revenue their
10 "gross receipts", defined herein to mean the aggregate amount of the sales price
11 of all sales at retail, and remit tax at four **and one-half** percent of their gross
12 receipts.

144.440. 1. In addition to all other taxes now or hereafter levied and

2 imposed upon every person for the privilege of using the highways or waterways
3 of this state, there is hereby levied and imposed a tax equivalent to four **and**
4 **one-half** percent of the purchase price, as defined in section 144.070, which is
5 paid or charged on new and used motor vehicles, trailers, boats, and outboard
6 motors purchased or acquired for use on the highways or waters of this state
7 which are required to be registered under the laws of the state of Missouri.

8 2. At the time the owner of any such motor vehicle, trailer, boat, or
9 outboard motor makes application to the director of revenue for an official
10 certificate of title and the registration of the same as otherwise provided by law,
11 he shall present to the director of revenue evidence satisfactory to the director
12 showing the purchase price paid by or charged to the applicant in the acquisition
13 of the motor vehicle, trailer, boat, or outboard motor, or that the motor vehicle,
14 trailer, boat, or outboard motor is not subject to the tax herein provided and, if
15 the motor vehicle, trailer, boat, or outboard motor is subject to the tax herein
16 provided, the applicant shall pay or cause to be paid to the director of revenue the
17 tax provided herein.

18 3. In the event that the purchase price is unknown or undisclosed, or that
19 the evidence thereof is not satisfactory to the director of revenue, the same shall
20 be fixed by appraisal by the director.

21 4. No certificate of title shall be issued for such motor vehicle, trailer,
22 boat, or outboard motor unless the tax for the privilege of using the highways or
23 waters of this state has been paid or the vehicle, trailer, boat, or outboard motor
24 is registered under the provisions of subsection 5 of this section.

25 5. The owner of any motor vehicle, trailer, boat, or outboard motor which
26 is to be used exclusively for rental or lease purposes may pay the tax due thereon
27 required in section 144.020 at the time of registration or in lieu thereof may pay
28 a use tax as provided in sections 144.010, 144.020, 144.070 and 144.440. A use
29 tax shall be charged and paid on the amount charged for each rental or lease
30 agreement while the motor vehicle, trailer, boat, or outboard motor is domiciled
31 in the state. If the owner elects to pay upon each rental or lease, he shall make
32 an affidavit to that effect in such form as the director of revenue shall require
33 and shall remit the tax due at such times as the director of revenue shall require.

34 6. In the event that any leasing company which rents or leases motor
35 vehicles, trailers, boats, or outboard motors elects to collect a use tax, all of its
36 lease receipt would be subject to the use tax, regardless of whether or not the
37 leasing company previously paid a sales tax when the vehicle, trailer, boat, or

38 outboard motor was originally purchased.

39 7. The provisions of this section, and the tax imposed by this section, shall
40 not apply to manufactured homes.

144.700. 1. All revenue received by the director of revenue from the tax
2 imposed by sections 144.010 to 144.430 and 144.600 to 144.745, **including any**
3 **payments of taxes made under protest, shall be deposited in the state**
4 **general revenue fund**, except [that] for:

5 **(1) The** revenue derived from the rate of one cent on the dollar of the tax
6 which shall be held and distributed in the manner provided in sections 144.701
7 and 163.031[, shall be deposited in the state general revenue fund, including any
8 payments of the taxes made under protest];

9 **(2) The revenue derived from the rate of one-half cent on the**
10 **dollar of the tax shall be held and distributed in the manner provided**
11 **in section 226.740.**

12 2. The director of revenue shall keep accurate records of any payment of
13 the tax made under protest. In the event any payment shall be made under
14 protest:

15 (1) A protest affidavit shall be submitted to the director of revenue within
16 thirty days after the payment is made; and

17 (2) An appeal shall be taken in the manner provided in section 144.261
18 from any decision of the director of revenue disallowing the making of the
19 payment under protest or an application shall be filed by a protesting taxpayer
20 with the director of revenue for a stay of the period for appeal on the ground that
21 a case is presently pending in the courts involving the same question, with an
22 agreement by the taxpayer to be bound by the final decision in the pending case.

23 3. Nothing in this section shall be construed to apply to any refund to
24 which the taxpayer would be entitled under any applicable provision of law.

25 4. All payments deposited in the state general revenue fund that are made
26 under protest shall be retained in the state treasury if the taxpayer does not
27 prevail. If the taxpayer prevails, then taxes paid under protest shall be refunded
28 to the taxpayer, with all interest income derived therefrom, from funds
29 appropriated by the general assembly for such purpose.

149.015. 1. A tax shall be levied upon the sale of cigarettes at an amount
2 equal to eight and one-half mills per cigarette, until such time as the general
3 assembly appropriates an amount equal to twenty-five percent of the net federal
4 reimbursement allowance to the health initiatives fund, then the tax shall be six

5 and one-half mills per cigarette beginning July first of the fiscal year immediately
6 after such appropriation. As used in this section, "net federal reimbursement
7 allowance" shall mean that amount of the federal reimbursement allowance in
8 excess of the amount of state matching funds necessary for the state to make
9 payments required by subsection 1 of section 208.471 or, if the payments exceed
10 the amount so required, the actual payments made for the purposes specified in
11 subsection 1 of section 208.471.

12 2. The tax shall be evidenced by stamps which shall be furnished by and
13 purchased from the director or by an impression of the tax by the use of a
14 metering machine when authorized by the director as provided in this chapter,
15 and the stamps or impression shall be securely affixed to one end of each package
16 in which cigarettes are contained. All cigarettes must be stamped before being
17 sold in this state.

18 3. Cigarette tax stamps shall be purchased only from the director. All
19 stamps shall be purchased by the director in proper denominations, shall contain
20 such appropriate wording as the director may prescribe, and shall be of such
21 design, character, color combinations, color changes, sizes and material as the
22 director may, by rules and regulations, determine to afford the greatest security
23 to the state. It shall be the duty of the director to manufacture or contract for
24 revenue stamps required by this chapter; provided that if the stamps are
25 contracted for, the manufacturer thereof shall be within the jurisdiction of the
26 criminal and civil courts of this state, unless the stamps cannot be obtained in
27 this state at a fair price or of acceptable quality. If stamps are manufactured
28 outside of the state, the director shall take any precautions which he deems
29 necessary to safeguard the state against forgery and misdelivery of any
30 stamps. The director may require of the manufacturer from whom stamps are
31 purchased a bond in an amount to be determined by him commensurate with the
32 monetary value of the stamps, containing such conditions as he may deem
33 necessary in order to protect the state against loss.

34 4. It shall be the intent of this chapter that the impact of the tax levied
35 hereunder be absorbed by the consumer or user and when the tax is paid by any
36 other person, the payment shall be considered as an advance payment and shall
37 thereafter be added to the price of the cigarettes and recovered from the ultimate
38 consumer or user with the person first selling the cigarettes acting as an agent
39 of the state for the payment and collection of the tax to the state, except that in
40 furtherance of the intent of this chapter no refund of any tax collected and

41 remitted by a retailer upon gross receipts from a sale of cigarettes subject to tax
42 pursuant to this chapter shall be claimed pursuant to chapter 144 for any amount
43 illegally or erroneously overcharged or overcollected as a result of imposition of
44 sales tax by the retailer upon amounts representing the tax imposed pursuant to
45 this chapter and any such tax shall either be refunded to the person who paid
46 such tax or paid to the director. The director may recoup from any retailer any
47 tax illegally or erroneously overcharged or overcollected unless such tax has been
48 refunded to the person who paid such tax.

49 5. In making sales of cigarettes in the state, a wholesaler shall keep a
50 record of the amount of tax on his gross sales. The tax shall be evidenced by
51 appropriate stamps attached to each package of cigarettes sold. Notwithstanding
52 any other law to the contrary, no tax stamp need be attached to a package of
53 cigarettes transported in the state between wholesalers or distributors unless and
54 until such package is sold to a retailer or consumer.

55 6. The tax on any cigarettes contained in packages of four, ten, twenty or
56 similar quantities to be used solely for distribution as samples shall be computed
57 on a per cigarette basis at the rate set forth in this section, and payment of the
58 tax shall be remitted to the director at such time and in such manner as he may
59 prescribe.

60 7. The revenue generated by the additional two mills tax imposed effective
61 August 13, 1982, less any three percent reduction allowed pursuant to the
62 provisions of section 149.021, shall be placed in a separate fund entitled "The
63 Fair Share Fund". Such moneys in the fair share fund shall be transferred
64 monthly to the state school moneys fund and distributed to the school districts
65 in this state as provided in section 163.031.

66 8. The revenue generated by the additional two mills tax imposed effective
67 October 1, 1993, less any three percent reduction allowed pursuant to the
68 provisions of section 149.021, shall be deposited in the health initiatives fund
69 created in section 191.831. When the general assembly appropriates an amount
70 equal to twenty-five percent of the net federal reimbursement allowance to the
71 health initiatives fund, this subsection shall expire. The additional two mills tax
72 levied pursuant to this section shall not apply to an amount of stamped cigarettes
73 in the possession of licensed wholesalers on October 1, 1993, up to thirty-five
74 percent of the total cigarette sales made by such licensed wholesaler during the
75 six months immediately preceding October 1, 1993.

76 **9. In addition to the tax levied in subsection 1 of this section, an**

77 additional tax shall be levied upon the sale of cigarettes at an amount
78 equal to thirteen mills per cigarette effective January 1, 2014.

79 10. The revenue generated in subsection 9 of this section shall be
80 deposited into the general revenue fund.

81 11. The additional thirteen mills per cigarette tax levied in
82 subsection 9 of this section shall not apply to inventories of cigarettes
83 in the possession of the retailer and wholesaler on December 31, 2013.

84 12. Notwithstanding any state or federal rule or law to the
85 contrary, the additional tax levied in subsection 9 of this section shall
86 immediately, automatically, and permanently be repealed, eliminated,
87 and reduced to zero under any of the following:

88 (1) In the event any tax increase on cigarettes or tobacco
89 products is certified to be placed on any local or statewide ballot in
90 Missouri by the secretary of state or any other election official at any
91 time; or

92 (2) In the event any provision of subsections 9 to 14 of this
93 section is ruled null and void, invalid, unlawful, severable, or
94 unconstitutional for any reason by any state or federal court of law.

95 13. The provisions of subsection 12 of this section are specifically
96 meant to include, but are not limited to, any tax increase on cigarettes
97 or tobacco products placed on any local or statewide ballot in Missouri
98 at any time pursuant to chapters 115 and 116 and sections 49 to 53 of
99 article III of the Missouri Constitution.

100 14. The provisions of subsection 9 to 14 of this section are
101 nonseverable. In the event any subsection 12 event is triggered, the
102 department of revenue shall automatically, immediately, and
103 permanently cease the application and collection of any of the tax
104 levied in subsection 9 of this section, and the department of revenue
105 and the revisor of statutes shall automatically and immediately notify
106 the public. The department of revenue shall authorize the state
107 treasurer to make refunds for any erroneous payments or
108 overpayments.

226.740. 1. For the purposes of assisting in the reconstruction,
2 rebuilding, construction, and maintenance of Interstate 70, there is
3 hereby created in the state treasury a dedicated fund known as the
4 "State Transportation Interstate Fund". The state treasurer shall be
5 custodian of the fund. Revenue derived from the rate of one-half

6 percent on the dollar of the tax imposed by sections 144.020 and
7 144.610, excluding any revenue required to be distributed under section
8 30(b) of article IV of the Missouri Constitution, shall be deposited in the
9 state transportation interstate fund. The fund shall also receive all
10 moneys which may be appropriated or otherwise credited to it by the
11 general assembly and shall also receive any gifts, contributions, grants
12 or bequests received from federal, private or other
13 sources. Notwithstanding the provisions of section 33.080 to the
14 contrary, moneys in the state transportation interstate fund shall not
15 revert to the general revenue fund. The state treasurer shall invest
16 moneys in the fund in the same manner as other funds are
17 invested. Any interest and moneys earned on such investments shall be
18 credited to the fund.

19 2. The state transportation interstate fund shall, upon
20 appropriation, be used by the state highways and transportation
21 commission for the construction, reconstruction, rehabilitation, and
22 maintenance of Interstate 70.

Section B. The repeal and reenactment of sections 30.605, 143.011,
2 143.021, 144.020, 144.021, 144.440, 144.700, and 149.015 and the enactment of
3 section 226.740 of this act shall become effective January 1, 2014.

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