

155-090. **Aviation trust fund—administration.**—There is hereby created in the state treasury the "Aviation Trust Fund". The use tax on aviation fuel accrued in any calendar month shall be paid on or before the last day of the next succeeding month to the director of revenue, who shall promptly deposit all such revenue in the state treasury to the credit of the aviation trust fund. The general assembly shall, by appropriation, make expenditures from the aviation trust fund.

Section 1. Distributor released from bond requirements—when.—The director shall release a distributor from the bonding requirements of sections 142,100 and 142,462, RSMo, after such distributor completes five consecutive years of satisfactory tax compliance, as determined by the director.

Section B. Effective date.—The report and reenactment of sections 142,100 and 142,462 of this act shall become effective January 1, 1992.

Section C. Emergency clause.—Because of the need for fair treatment of fuel distributors, section 1 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section 1 of this act shall be in full force and effect upon its passage and approval.

Approved July 13, 1990.

(H. C. S. H. B. 960)

TAXATION AND REVENUE: Taxation.

AN ACT to repeal sections 32,125, 143,241, 144,057, 144,157, 144,210, 144,605, 144,625, 306,830 and 351,525, RSMo, 1989, and sections 32,105, 32,110, 32,115, 143,121, 143,805, and 144,100, RSMo Supp. 1989, relating to taxation, and to enact in lieu thereof twenty-one new sections relating to the same subject, with penalty provisions and an effective date.

SECTION

A. Enacting clause.

- 32,105. Definitions.
- 32,106. Persons providing neighborhood assistance to receive tax credits.
- 32,111. Alternative housing assistance activities and attributable housing units.
- 32,115. Tax credits authorized, order in which applied—amount allowed annually—exceeded when—upper limit set—carry-over permitted.
- 32,117. Homelessness assistance projects—business firms proposing to provide shelter for homeless persons—approval required—location of project required—tax credit amount.
- 32,125. Home ownership, residential, when—annual when.
- 143,121. Missouri adjusted gross income.
- 143,805. Rental sales license to give bond, when—cash bond deposit and refund—licensee in default has option to provide letter of credit or certificate of deposit.
- 144,026. Definitions.
- 144,028. Vendor to collect tax from purchaser—when—agent not liable for tax.
- 1. Full-time subdivisions authorized to levy sales tax may impose use tax.

SECTION

2. Unexpected court or administrative hearing decision shall apply only after most recently ended tax period imposed by chapters 143 and 144—unexpected, defined.

- 3. Definitions—taxpayer eligible for federal tax credit shall include persons who are not included—calculated—eligible if the statement must be filed with tax return, failure to comply, effect—federal requirement to recapture, amount—capital gain exclusion, when—rules authorized—section procedure—judicial review, when—annual, when.
- 143,241. Effective date.
- 144,157. Definitions.
- 144,210. Method of proving questionable sale additional receipts—when—trustees—powers.
- 351,525. Corporate rights, forfeited, when—

SECTION

A. Paragraph relating to pay withheld.—The basis shall be the tax credit therefor, day to which the amount to pay is deposited to the state to comply with—contingent, conditional—document recommended by U.S. coast guard—except from selective—state of vessel, new owner to register, fee—

SECTION

payment in lieu of watercraft tax, how calculated—penalties—validity, percent of credit—U.S. coast guard—document of registration form—certificate owner to elect decimation by U.S. coast guard—provision by U.S. coast guard—direct—certificate on vessel for inspection.

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

Section A. Enacting clause.—Sections 32,125, 144,057, 144,605, RSMo 1989, and sections 32,105, 32,110, 32,115, 143,121 and 143,805, RSMo Supp. 1989, are repealed and forty-one new sections enacted in lieu thereof to be known as sections 32,105, 32,110, 32,111, 32,114, 32,117, 32,125, 143,121, 143,805, 144,087, 144,605, 144,625, 1, 2 and 3 to read as follows:

32,105. Definitions.—As used in sections 32,100 to 32,125, the following terms mean:

- (1) "Affordable housing unit", a residential unit generally occupied by persons and families with incomes at or below the levels described herein and charging a gross rental rate no greater than thirty percent of the maximum eligible household income for the affordable housing unit. Gross rent includes the cost of any utilities, other than telephone. If any utilities are paid directly by the occupant, the maximum rent that may be paid by the occupant is to be reduced by a utility allowance prescribed by the commission. Persons or families are eligible occupants of affordable housing units if the household combined, adjusted gross income as defined by the commission is equal to or less than the following percentages of the median family income appropriate area in which the residential unit is located, or the median family income for the state of Missouri, whichever is larger: "Geographic area" means the metropolitan area or county designated as an area by the federal Department of Housing and Urban Development under Section 8 of the United States Housing Act of 1937, as amended, for purposes of determining fair market rental rates;

	Percent of State or Geographic Area Family Median Income
One Person	35%
Two Persons	40%
Three Persons	45%
Four Persons	50%
Five Persons	54%
Six Persons	58%
Seven Persons	62%
Eight Persons	66%

- (2) "Affordable housing assistance activities", money, real or personal property, or professional services expended or devoted to the construction, or rehabilitation of affordable housing units;
- (3) "Business firm", person, firm or corporation doing business in the state of Missouri and subject to the state income tax imposed by the provisions of chapter 143, RSMo, or a corporation subject to the annual corporation franchise tax imposed by the provisions of chapter 147, RSMo, or an insurance company paying an annual tax on its gross premium receipts in this state, or other financial institution paying taxes to the state of Missouri or any political subdivision of this state under the provisions of chapter 148, RSMo, or an express company which pays an annual tax on its gross receipts in this state;
- (4) "Commission", the Missouri housing development commission;
- (5) "Community services", any type of counseling and advice, emergency assistance or rehabilitative furnished to individuals or groups in the state of Missouri;
- (6) "Crime prevention", any activity which aids in the reduction of crime in the state of Missouri;

(7) "Economic development", the acquisition, renovation, improvement, or the furnishing or equipping of existing buildings and real estate in distressed or blighted areas of the state when such acquisition, renovation, improvement, or the furnishing or equipping of the existing buildings and real estate will result in the creation or relocation of jobs within the state. Only neighborhood organizations, as defined in subdivision (8) of this section, may apply to conduct economic development projects. Prior to the approval of an economic development project, the neighborhood organization must enter into a contractual agreement with the department of economic development. Credits approved for economic development projects may not exceed two million in any one fiscal year.

(8) "Federation", any type of scholastic instruction or scholarship assistance to an individual who resides in the state of Missouri that enables him to prepare himself for better opportunities;

(9) "Homeless-assistance pilot project", the program established pursuant to section 32.110;

(10) "Job training", any type of instruction to an individual who resides in the state of Missouri that enables him to acquire vocational skills so that he can become employable or be able to seek a higher grade of employment;

(11) "Physical revitalization", furnishing financial assistance, labor, material, or technical advice to aid in the physical improvement or rehabilitation of any part or all of a neighborhood area;

(12) "Neighborhood organization", any organization performing community services or economic development activities in the state of Missouri and:

(a) Holding a ruling from the Internal Revenue Service of the United States Department of the Treasury that the organization is exempt from income taxation under the provisions of the Internal Revenue Code; or

(b) Incorporated in the state of Missouri as a not for profit corporation under the provisions of chapter 35, RSMo; or

(c) Designated as a community development corporation by the United States government under the provisions of Title VI of the Economic Opportunity Act of 1964.

32.110. Firms providing neighborhood assistance to receive tax credits.—Any business firm which engages in the activities of providing physical revitalization, economic development, job training or education for individuals, community services, or crime prevention in the state of Missouri shall receive a tax credit as provided in section 32.115 if the director of the department of economic development annually approves the proposal of the business firm, except that no proposal shall be approved which does not have the endorsement of the agency of local government within the area in which the business firm is engaging in such activities which has adopted an overall community or neighborhood development plan that the proposal is consistent with such plan. The proposal shall set forth the program to be conducted, the neighborhood area to be served, why the program is needed, the estimated amount to be contributed to the program and the plans for implementing the program. If, in the opinion of the director of the department of economic development, a business firm's contribution can more consistently with the purposes of sections 32.100 to 32.125 be made through contributions to a neighborhood organization as defined in subdivision (8) of section 32.100, tax credits may be allowed as provided in section 32.115. The director of the department of economic development is hereby authorized to promulgate rules and regulations for establishing criteria for evaluating such proposals by business firms for approval or disapproval and for establishing priorities for approval or disapproval of such proposals by business firms with the assistance and approval of the director of the department of revenue. The total amount of tax credit granted for programs approved under sections 32.100 to 32.125 for the first fiscal year shall not exceed five million two hundred fifty thousand dollars to be increased by no more than one million seven hundred fifty thousand dollars each succeeding fiscal year until the total tax credit approved reaches eight million seven hundred fifty thousand dollars and after July 1, 1989, no more than fourteen million dollars of tax credit shall be approved in any fiscal year, except as otherwise provided for proposals approved under section 32.111 or section 32.117, RSMo. The additional tax credits authorized by this

section, to become effective after July 1, 1989, shall be increased by no more than two million dollars in any fiscal year.

32.111. Affordable housing assistance activities and affordable housing units.—Business firms proposing to provide, procure for approval and tax credit,—Any business firm which engages in providing affordable housing assistance activities in the state of Missouri shall receive a tax credit as provided in section 32.115 if the commission or its delegate approves a proposal submitted by one or more business firms for the provision of affordable housing units. The proposal shall set forth the program of affordable housing to be conducted, the location and number of affordable housing units, the neighborhood area to be served, why the program is needed, the time period for which affordable housing units shall be provided, the estimated amount to be invested in the program, plans for implementing the program and a list of the business firms proposing to provide affordable housing assistance activities which are part of the proposal. All proposals approved by the commission shall require a bond use restriction agreement stating the provision of affordable housing on said property for a time period deemed reasonable by the commission. The restriction shall be approved by the property owner and shall be binding on any subsequent owner of the property unless otherwise approved by the commission. In approving a proposal, the commission may authorize the use of tax credits by one or more of the business firms listed in the proposal and shall establish specific requirements regarding the degree of completion of affordable housing assistance activities necessary to be eligible for tax credits provided under this section. If, in the opinion of the commission or its delegate, a business firm's investment can more consistently with the purposes of this section be made through contributions to neighborhood organization tax credits may be allowed as provided in this section. The commission or its delegate is hereby authorized to promulgate rules and regulations for establishing criteria for evaluating such proposals by business firms for approval or disapproval, for establishing housing priorities for approval or disapproval of such proposals by business firms, and for the certification of eligibility for tax credits authorized under this section. The decision of the commission or its delegate to approve or disapprove a proposal pursuant to this section shall be in writing, and if approved, the maximum credit allowable to the business firm shall be stated, a copy of the decision of the commission or its delegate shall be transmitted to the director of revenue and to the governor. A copy of the certification approved by the commission and a statement of the total amount of credits approved by the commission, the amount of credits previously taken by the taxpayer and the amount being claimed for the current tax year shall be filed in a manner and form designated by the director of revenue for any tax year in which a tax credit is being claimed.

32.116. Tax credits authorized order in which applied—amount allowed annually.—exceeded when—upper limit set—carry-over permitted.—1. The department of revenue shall grant a tax credit, to be applied in the following order, until used, against:

(1) The annual tax on gross premium receipts of insurance companies in chapter 146, RSMo;

(2) The tax on banks determined under subdivision (2) of subsection 2 of section 146, RSMo;

146.030, ISMCo;

(3) The tax on banks determined in subdivision (1) of subsection 2 of section 148.030, RSMo;

(4) The tax on other financial institutions in chapter 142, ISMCo;

(5) The corporation franchise tax in chapter 147, RSMo;

(6) The state income tax in chapter 143, RSMo; and

(7) The annual tax on gross receipts of express companies in chapter 153, RSMo. For proposals approved under section 32.110, the amount of the tax credit shall not exceed fifty percent of the total amount contributed during the taxable year by the business firm or, in the case of a financial institution, where applicable, during the relevant income period in programs approved pursuant to section 32.110; provided, that a tax credit of up to seventy percent may be allowed for contributions to programs where activities fall within the scope of special program priorities as defined with the approval of the governor in regulations promulgated by the director of the

department of economic development. The tax credit allowed for contributions to programs located in any rural community as defined in section 499.102 however, shall be equal to seventy percent of the total amount contributed. Such tax credits, equal to seventy percent of the total amount contributed, shall not exceed two million dollars in any fiscal year. Regulations establishing special program priorities are to be promulgated during the first month of each fiscal year and at each time during the year as the public interest dictates. Such credit shall not exceed two hundred and fifty thousand dollars annually except as provided in subsection 3 of this section. No tax credit shall be approved for any bank, bank and trust company, or any other financial company, national bank, savings association, or any other financial institution for activities that are primarily for the purpose of providing tax credits not used in the period for proposals approved under section 32.111 or section 32.117, 1980, in no event shall the total amount of all other tax credits allowed pursuant to sections 32.100 to 32.125 exceed fourteen million dollars in any one fiscal year.

3. The credit may exceed two hundred fifty thousand dollars annually and shall not be limited if community services, crime prevention, education, job training, physical revitalization or economic development, as defined by section 32.105, is rendered in an area defined by federal or state law as an impoverished, economically distressed, or blighted area or as a neighborhood experiencing problems endangering its existence as a viable and stable neighborhood or if the community services, crime prevention, education, job training, physical revitalization or economic development is limited to impoverished persons.

4. For proposals approved under section 32.111, the amount of the tax credit shall not exceed fifty-five percent of the total amount invested in affordable housing assistance activities by a business firm. Any tax credit not used in the period for which the credit was approved may be carried over the next ten succeeding calendar or fiscal years until the full credit has been allowed. If the affordable housing units sold of a tax credit shall be within a larger structure, part of the affordable housing units sold of a tax credit shall be proportionate to the ratio of the number of square feet devoted to the affordable housing units, for purposes of determining the amount of the tax credit. The total amount of tax credit granted for programs approved under section 32.111 for the first fiscal year shall not exceed two million dollars, to be increased by no more than two million dollars each succeeding fiscal year, until the total tax credits that may be approved reaches ten million dollars in any fiscal year.

5. For any year during the compliance period indicated in the land use restriction agreement, the owner of the affordable housing units for which a credit is being claimed shall certify to the commission that all tenants residing in claimed units are income eligible for affordable housing units and that the rents for each claimed unit are in compliance with the provisions of sections 32.100 to 32.125. The commission is authorized, in its discretion, to audit the records and accounts of the owner to verify said certification. If at any time during the compliance period the commission determines a project for which a proposal has been approved is not in compliance with the applicable provisions of sections 32.100 to 32.125 or rules promulgated hereunder, the commission shall revoke the proposal's certificate of eligibility and all business firms involved in the project shall be prohibited from obtaining any future tax credits under the proposal and shall refund the amount of tax credits taken in previous tax years under the proposal and such director of revenue. The commission shall notify the director of revenue of any such revocation.

32.117. **Homelessness assistance projects—business firms proposing to provide approval required—location of project requirements—tax credit amount.—1.** Any business firm which engages in the activity of providing homeless assistance project for low income persons in the state of Missouri shall receive a tax credit as provided in section 32.115, RSMo, if the division of community development within the department of economic development annually approves the proposal of the business firm. The proposal shall only be approved if the project is located in a city with a population

of four hundred thousand or more inhabitants which is located in more than one county and which serves a tax or rural area in that county.

2. For purposes of this section, less of median income adjustment for family size as with incomes of fifty percent housing and urban development (HUD) under section 8 allowed by the department of homeless assistance project shall be to serve low income families.

3. The project of providing economic crisis caused by one or more of the following:

- (1) Loss of employment;
- (2) Mental disability or emergency;
- (3) Natural disaster;
- (4) Natural disaster;
- (5) Substantial change in household composition;
- (6) Victimization by criminal activity;
- (7) Illegal action by a landlord;
- (8) Displacement by government or private action; or

4. The amount of the tax credit shall not exceed fifty percent of the value of the proposal benefits, which shall include one or more of the following types of benefits to low income persons in order to be eligible:

- (1) Payment of rent or mortgage for not more than three months during any twelve month period;
- (2) Payment to a landlord of a rent deposit or a security deposit for not more than two months during any twelve month period;
- (3) Case management services which shall include support services such as child care, education resource assistance, job resource assistance, counseling, and resource and referral;
- (4) Outreach services to low income persons to prevent homelessness;
- (5) The provision of housing facilities with support services;

6. The program shall be given priority to the following types of low income families or individuals:

- (1) Single parent households;
- (2) Single parent households with children;
- (3) Other households with a disabled household member or a household member who is at least sixty-five years of age;
- (4) All other households.

5. The organization implementing a homeless assistance program pursuant to this section shall make annual reports identifying the goal of the program, the number of recipients served, the type of services rendered and moneys expended to provide the program. The program report shall be submitted to the governor, speaker of the house of representatives and the presiding pro tem of the senate. These reports shall also be available to the general public upon request.

7. For each of the fiscal years beginning on July 1, 1991 and July 1, 1992, one million dollars in tax credits may be allowed to be used for the homeless assistance pilot project, pursuant to this section.

32.125. **Rules approval, revocation, suspension procedure—judicial review, when—1.** Any rule or portion of a rule promulgated under the authority of sections 32.100 to 32.125 shall become effective until it has been approved by the attorney general in accordance with the provisions of chapter 105, RSMo, and the committee on rules, the agency shall concurrently submit such proposed rule or any time. In which it may hold hearings upon any proposed rule or portion thereof, or the committee shall advise the agency and the secretary of state. If any proposed rule or portion thereof shall modify the agency and the secretary of state. If any proposed rule or portion thereof is disapproved by the committee, the secretary of state shall publish in the Missouri Register, as soon as practicable, an order that such rule or portion thereof has been disapproved.

(2) The agency shall not file any final order of rulemaking with the secretary of

state until twenty days after such final order of refunding has been received by the committee. The committee may hold one or more hearings upon such final order of refunding during the twenty day period. If the committee neither approves nor disapproves any order of refunding within the twenty day period, the agency may, in such order of refunding, with the secretary of state and the order of refunding shall be deemed approved, subject to subsequent suspension by the committee. In the event the committee disapproves any order of refunding or portion thereof, the committee shall notify the agency and the secretary of state.

(3) Any rule or portion of a rule promulgated under the authority of sections 32.106 to 32.125 may be suspended by the committee at any time after a hearing conducted hereon. If any rule is suspended by the committee, the secretary of state shall publish in the Missouri Register, as soon as practicable, an order withdrawing the rule.

(4) Any person seeking judicial review of any such rule shall be deemed to have exhausted all administrative review procedures. Notwithstanding the provisions of section 1140, RSMo, the provisions of this section are nonseverable and the grant of refunding authority is essentially dependent on the review power vested with the committee. If the review power is held unconstitutional or invalid, the grant of refunding authority and any rule promulgated under such refunding authority shall also be invalid or void.

143.121. Missouri adjusted gross income.—1. The Missouri adjusted gross income of a resident individual shall be his federal adjusted gross income subject to the modifications in this section.

2. There shall be added to his federal adjusted gross income:

(a) The amount of any Federal income tax refund received for a prior year which resulted in a Missouri income tax benefit.

(b) Interest on certain governmental obligations excluded from federal gross income by section 163 of the Internal Revenue Code. The previous sentence shall not apply to interest on obligations of the state of Missouri or any of its political subdivisions or authorities and shall not apply to the interest described in 3(a) of this section. The amount added under this paragraph shall be reduced by the amounts applicable to such interest that would have been deductible in computing the taxable income of the taxpayer except only for the application of section 266 of the Internal Revenue Code. The reduction shall only be made if it is at least five hundred dollars.

3. There shall be subtracted from his federal adjusted gross income the following amounts to the extent included in federal adjusted gross income:

(a) Interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission or instrumentality of the United States to the extent exempt from Missouri income taxes under the laws of the United States. The amount subtracted under this paragraph shall be reduced by any interest on indebtedness incurred to carry the described obligations or securities and by any expenses incurred in the production of interest or dividend income described in this paragraph. The reduction in the previous sentence shall only apply to the extent that such expenses including amortizable bond premiums are deducted in determining his federal adjusted gross income or included in his Missouri itemized deduction. The reduction shall only be made if the expenses total at least five hundred dollars.

(b) The portion of any gain, from the sale or other disposition of property having a higher adjusted basis to the taxpayer for Missouri income tax purposes than for federal income tax purposes on December 31, 1972, that does not exceed such difference in basis. If a gain is considered a long-term capital gain for federal income tax purposes, the modification shall be limited to one-half of such portion of the gain.

(c) The amount necessary to prevent the taxation under sections 143.011 or 143.966 of any annuity or other amount under the laws of Missouri for a taxable year prior to January 1, 1974, to the taxpayer, or to a decedent by reason of whose death the taxpayer acquired the right to receive the income or gain, or to a trust or estate from which the taxpayer received the income or gain.

(d) Accumulation distributions received by a taxpayer as a beneficiary of a trust to the extent that the same are included in federal adjusted gross income.

(e) The amount of any state income tax refund for a prior year which was included in the federal adjusted gross income.

(f) The portion of capital gain specified in subsection 3 of section 1 of this act that would otherwise be included in federal adjusted gross income.

4. There shall be added to or subtracted from his federal adjusted gross income the taxpayer's share of the Missouri fiduciary adjustment provided in section 143.151.

5. There shall be added to or subtracted from his federal adjusted gross income the modifications provided in section 143.411.

143.905. Tax credits, order in which applied.—1. Credits granted by other provisions of the statutes shall be applied against the tax imposed by this chapter in the following order:

- (1) Credit for income tax paid to another state authorized in section 143.081;
- (2) New business facility credit authorized in sections 135.900 to 135.106, RSMo;
- (3) Economic development credit authorized in subsection 5 of section 160.256, RSMo;
- (4) Missouri low income housing tax credit authorized in section 1 of this act;
- (5) Employment of unemployed agricultural workers tax credit authorized in sections 135.275 to 135.289, RSMo;
- (6) Wood energy producer tax credit authorized in sections 152.290 to 153.311, RSMo;
- (7) Contributions to innovations centers and the corporation for science and technology tax credit authorized in section 348.200 to 348.318, RSMo;
- (8) Neighborhood assistance credit authorized in sections 32.105 to 32.125, RSMo;
- (9) Special needs child adoption credit authorized in section 135.427, RSMo;
- (10) Enterprise zone credit authorized in sections 135.200 to 135.255, RSMo;
- (11) Senior citizens property tax credit authorized in sections 135.010 to 135.035, RSMo.

2. The director of revenue may prescribe the priority of any other credit authorized by law.

144.087. Retail sales licensee to give bond, when—cash bond deposit and refund.—The licensee in default shall option to provide letter of credit or certificate of deposit—1. The director of revenue shall require all applicants for retail sales licenses and all licensees in default in filing a return and paying their taxes when due to file a bond in an amount to be determined by the director, which may be a corporate surety bond or a cash bond, but such bond shall not be more than three times the average monthly tax liability of the taxpayer, estimated in the case of a new applicant, otherwise based on the previous twelve months' experience. At such time as the director of revenue shall deem the amount of a bond required by this section to be insufficient to cover the average monthly tax liability of a given taxpayer, he may require such taxpayer to adjust the amount of the bond to the level satisfactory to the director which will cover the amount of such liability. The director shall, after a reasonable period of satisfactory tax compliance not less than two years from the initial date of bonding, release such taxpayer from the bonding requirement as set forth in this section. All thierant or temporary businesses shall be required to procure the license and post the bond required under the provisions of sections 144.083 and 144.087 prior to the selling of goods at retail, and in the event that such business is to be conducted for less than one month, the amount of the bond shall be determined by the director.

2. All cash bonds shall be deposited by the director of revenue into the state general revenue fund and shall be released to the taxpayer pursuant to subsection 1 of this section from funds appropriated by the general assembly for such purpose. If appropriate funds are available, the commissioner of administration and the state treasurer shall cause such refunds to be paid within thirty days of the receipt of a warrant request for such payment from the director of the department of revenue.

3. An applicant or licensee in default may, in lieu of filing any bond required under this section, provide the director of revenue with an irrevocable letter of credit, as defined in section 400.5-103, RSMo, issued by any state or federally chartered financial institution, in an amount to be determined by the director or may obtain a certificate of deposit issued by any state or federally chartered financial institution, in an amount to be determined by the director, where such certificate of deposit is pledged to the

department of revenue until released by the director in the same manner as bonds are released pursuant to subsection 1 of this section. As used in this subsection, the term "certificate of deposit" means a certificate representing any deposit of funds in a state or federally chartered financial institution for a specified period of time which earns interest at a fixed or variable rate, where such funds cannot be withdrawn prior to a specified time without forfeiture of some or all of the earned interest.

144.605. Definitions.—The following words and phrases as used in sections 144.600 to 144.745 mean and include:

- (1) "Calendar quarter", the period of three consecutive calendar months ending on March thirty-first, June thirtieth, September thirtieth or December thirty-first;
- (2) "Business in business activities within this state" includes:
 - (A) Purposefully or systematically exploiting the market provided by this state by any media-assisted, media-facilitated, or media-solicited means, including but not limited to, direct mail advertising, distribution of catalogs, computer-assisted shopping, telephone, television, radio, or other electronic media, or magazine or newspaper advertisements, or other media; or
 - (B) Being owned or controlled by the same interests which own or control any seller engaged in the same or similar line of business in this state; or
 - (C) Maintaining or having a franchise or licensee operating under the seller's trade name in this state if the franchisee or licensee is required to collect sales tax under sections 144.010 to 144.525; or
 - (d) Soliciting sales or taking orders by sales agents or traveling representatives;
 - (3) "Maintains a place of business in this state" includes maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary, or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business;
 - (4) "Person", any individual, firm, copartnership, joint adventure, association, corporation, municipal or private, and whether organized for profit or not, state, county, political subdivision, state department, commission, board, bureau or agency, except the state highways and transportation department, estate, trust, business trust, receiver or trustee appointed by the state or federal court, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular number;
 - (5) "Purchaser", the acquisition of the ownership of, or title to, tangible personal property, through a sale, as defined herein, for the purpose of storage, use or consumption in this state;
 - (6) "Purchaser", any person who is the recipient for a valuable consideration of any sale of tangible personal property acquired for use, storage or consumption in this state;
 - (7) "Sale", any transfer, barter or exchange of the title or ownership of tangible personal property, or the right to use, store or consume the same, for a consideration paid or to be paid, and any transaction whether called leases, rentals, bailments, loans, conditional sales or otherwise, and notwithstanding that the title or possession of the property or both is retained for security. For the purpose of this law the place of delivery of the property to the purchaser, user, storer or consumer is deemed to be the place of sale, whether the delivery be by the vendor or by common carriers, private contractors, mails, express, agents, salesmen, solicitors, hawkers, representatives, consignors, peddlers, canvassers or otherwise;
 - (8) "Sales price", the consideration including the charges for services, except charges incident to the extension of credit, paid or given, or contracted to be paid or given, by the purchaser to the vendor for the tangible personal property, including any services that are a part of the sale, valued in money, whether paid in money or otherwise, and any amount for which credit is given to the purchaser by the vendor, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service cost, losses or any other expenses whatsoever, except that cash discounts allowed and taken on sales shall not be included and "sales price" shall not include the amount charged for property returned by customers upon rescission of the contract of sales when the entire amount charged therefor is refunded either in cash or credit or the amount charged for labor or services rendered in installing

or applying the property sold, the use, storage or consumption of which is taxable under sections 144.600 to 144.745. In determining the amount of tax due under sections 144.600 to 144.745, any charge incident to the extension of credit shall be specifically exempted.

(9) "Selling agent", every person acting as a representative of a principal, when such principal is not registered with the director of revenue of the state of Missouri for the collection of the taxes imposed under sections 144.010 to 144.525 or sections 144.600 to 144.745 and who receives compensation by reason of the sale of tangible personal property of the principal. If such property is to be stored, used, or consumed in this state:

- (10) "Storage", any keeping or retention in this state of tangible personal property purchased from a vendor for any purpose, except sale or subsequent use solely outside the state;
 - (11) "Tangible personal property", all items subject to the Missouri sales tax as provided in subdivisions (1) and (3) of section 144.603;
 - (12) "Taxpayer", any person remitting the tax or who should remit the tax levied by sections 144.600 to 144.745;
 - (13) "Use", the exercise of any right or power over tangible personal property incident to the ownership or control of that property, except that it does not include storage or the sale of the property in the regular course of business;
 - (14) "Vendor", every person engaged in making tangible personal property, soliciting by mail order for advertising, by agent or peddling tangible personal property, or taking orders for sales of tangible personal property, for storage, use or consumption in this state, all salesmen, solicitors, hawkers, representatives, consignees, peddlers or canvassers, as agents of the dealers, distributors, consignors, supervisors, principals or employers, under whom they operate or from whom they obtain the tangible personal property sold by them, and every person who maintains a place of business in this state maintains a stock of goods in this state, or engages in business activities within this state and every person who engages in this state in the business of acting as a selling agent for persons who otherwise vend to or on behalf of or on behalf of the dealers, distributors, consignors, supervisors, principals or employers, they must be regarded as vendors and the dealers, distributors, consignors, supervisors, principals or employers must be regarded as vendors for the purposes of sections 144.600 to 144.745. A person shall not be considered a vendor for the purposes of sections 144.600 to 144.745 if all of the following apply:
 - (A) The person's total gross receipts did not exceed five hundred thousand dollars in this state, or twelve and one-half million dollars in the entire United States, in the immediately preceding calendar year;
 - (B) The person maintains no place of business in this state; and
 - (C) The person has no selling agents in this state.

144.635. Vendor to collect tax from purchasers—selling agent not liable for tax, when.—Every vendor making a sale of tangible personal property for the purpose of storage, use or consumption in this state shall collect from the purchaser an amount equal to the percentage on the sale price imposed by the sales tax law in section 144.020 and give the purchaser a receipt therefor. The required amount of the tax collected by the vendor from the purchaser shall be shown separately upon the sales slip or other evidence of sale. If a vendor is a selling agent as defined in section 144.805, and receives compensation by reason of a sale made pursuant to an other given directly to his principal by the purchaser, of which the selling agent had no knowledge at the time the sale and in which the selling agent did not actively or inactive participate, the selling agent shall be relieved of all liability for the collection and remittance of the taxes imposed under sections 144.600 to 144.745. Furthermore, if payment is made by the purchaser directly to the principal and the selling agent is unable to collect the tax from the purchaser, the selling agent will be relieved from all liability for the collection of the tax imposed under sections 144.600 to 144.745 from the purchaser. Selling agents may avoid all responsibility for collection of the taxes imposed under

sections 144.690 to 144.725, if their principal is a vendor registered with the department of revenue for the collection of such taxes.

Section 1. Political subdivisions authorized to levy sales tax may impose use tax. Other provisions of law notwithstanding, whenever a political subdivision is authorized to levy a sales tax, the political subdivision shall also be authorized to levy a use tax at the same rate which shall be applied in the same manner as the state use tax pursuant to chapter 144, RSMo.

Section 2. Unexpected court or administrative hearing decision shall apply only after most recently ended tax period imposed by chapters 143 and 144—unexpected, defined—1. Any provision of law to the contrary notwithstanding, an unexpected decision by or order of a court of competent jurisdiction or the administrative hearing commission shall only apply after the most recently ended tax period of the particular class of persons subject to such tax imposed by chapters 143 and 144, RSMo, and any credit, refund or additional assessment shall be only for periods after the most recently ended tax period of such persons.

2. The provisions of this section shall apply only to final decisions by or orders of a court of competent jurisdiction or the administrative hearing commission which are entered after the effective date of this section and which are determined by the court or administrative hearing commission rendering the decision, or subsequently by a higher court, after the most recently ended tax period. For the purposes of this section, an unexpected decision shall mean that a reasonable person would not have expected the decision or order based on prior law, previous policy or regulation of the department of revenue.

Section 3. Definitions—taxpayer eligible for federal low income tax credit, shall be allowed a state tax credit, how calculated—eligibility statement must be filed with tax return, failure to comply, effect—federal requirement to recapture, state required to recapture, amount—capital gain exclusion, when—rules authorized—rules approved, revocation, suspension procedure—judicial review, when—invalid, when—1. As used in this section, unless the context clearly requires otherwise, the following words and phrases shall mean:

- (1) "Director", director of the department of revenue;
 - (2) "Eligibility statement", a copy of Internal Revenue Service Form 8893, authorized and issued by the Missouri Housing Development Commission, filed with the federal tax return for the tax period in which the federal low income housing credit is being claimed;
 - (3) "Federal low income housing credit", the federal tax credit as provided in section 42 of the 1986 Internal Revenue Code, as amended;
 - (4) "Low income project", a housing project which has restricted rents that do not exceed thirty percent of median income for at least forty percent of its units occupied by persons or families having incomes of sixty percent or less of the median income, or at least twenty percent of the units occupied by persons or families having incomes of fifty percent or less of the median income;
 - (5) "Median income", those incomes which are determined by the Federal Department of Housing and Urban Development guidelines and adjusted for family size;
 - (6) "Qualified Missouri project", a qualified low income building as that term is defined in section 42 of the 1986 Internal Revenue Code, as amended, which is located in Missouri;
 - (7) "Taxpayer", individuals, estates, trusts, beneficiaries and corporations which are subject to taxation under chapter 143, RSMo.
2. (1) A taxpayer eligible for a federal low income housing credit due to the construction, rehabilitation or acquisition of a qualified Missouri project shall be allowed a state tax credit, to be termed the Missouri low income housing tax credit, against the tax imposed in chapter 143, RSMo, except withholding imposed by sections 143.191 to 143.281.

(2) The Missouri low income housing tax credit shall be calculated by multiplying an amount equal to the taxpayer's federal low income credit for a qualified Missouri project, for a federal tax period, by twenty percent and such amount shall be subtracted

from the amount of state tax otherwise due for the same tax period. The credit authorized by this section shall not be refundable.

(3) A taxpayer claiming the Missouri low income housing tax credit shall submit, at the time of filing the taxpayer's return, an eligibility statement. In the case of failure to attach the eligibility statement, no credit under this section shall be allowed for that year and those copies are provided to the department of revenue.

(4) If a taxpayer is required, under section 42 of the 1986 Internal Revenue Code as amended, to recapture a portion of any federal low income housing credits taken on a low income project, the taxpayer shall also be required to recapture a portion of any state credits authorized by this section. The state recapture amount shall be equal to the proportion of the state credit that equals the proportion the federal recapture amount bears to the original federal low income housing credit amount subject to recapture.

3. A taxpayer shall be allowed to exclude from taxation under chapter 143, RSMo, a portion of the capital gain, as calculated under the Internal Revenue Code of 1986, as amended, that results from the sale of a low income project, subsidized by the Federal Department of Housing and Urban Development to a nonprofit or governmental organization, agreeing to preserve or increase the low income occupancy of the project. For those owners whose low income project has at least forty percent of its units occupied by persons or families having incomes of sixty percent or less of the median income, the exclusion shall equal twenty-five percent of the capital gain.

4. The director may require the filing of additional documentation necessary to determine the accuracy of a tax preference claimed under the provisions of this section through the promulgation of rules.

(1) No rule or portion of a rule promulgated under the authority of this section shall become effective until it has been approved by the joint committee on administrative rules. Upon filing any proposed rule with the secretary of state, the director shall concurrently submit such proposed rule to the committee which may hold hearings upon any proposed rule or portion thereof at any time. In the event the committee disapproves any proposed rule or portion thereof, the committee shall notify the director and the secretary of state. If any proposed rule or portion thereof is disapproved by the committee, the secretary of state shall publish in the Missouri Register, as soon as practicable, an order that such rule or portion thereof has been disapproved.

(2) The director shall not file any final order of rulemaking with the secretary of state until twenty days after such final order of rulemaking has been received by the committee. The committee may hold one or more hearings upon such final order of rulemaking during the twenty day period. If the committee neither approves nor disapproves any order of rulemaking within the twenty day period, the director may file such order of rulemaking with the secretary of state and the order of final rule shall be deemed approved, subject to subsequent suspension by the committee. In the event the committee disapproves any order of rulemaking or portion thereof, the committee shall notify the director and the secretary of state.

(3) Any rule or portion of a rule promulgated under the authority of this section may be suspended by the committee at any time after a hearing conducted thereon. If any rule is suspended by the committee, the secretary of state shall publish in the Missouri Register, as soon as practicable, an order withdrawing the rule.

(4) Any person seeking judicial review of any order of rulemaking shall file with the Missouri Register, as soon as practicable, an order withdrawing the provisions of section 1.40, RSMo, the provisions of this section are nonseverable and the grant of rulemaking authority is essentially dependent on the review power vested with the committee. If the review power is held upon the ground or invalid, the grant of rulemaking authority and any rule promulgated under such rulemaking authority shall also be invalid or void.

Section B. Effective date.—Section A of this act shall become effective on October 1, 1990.

Section C. Repealing clause.—Sections 143.21, 143.24, 144.17, 144.21, 144.23, 144.25 and 301.326, RSMo 1986, and section 141.130, RSMo Supp. 1989, are repealed and seven new

sections enacted in lieu thereof, to be known as sections 143.541, 144.150, 144.157, 144.210, 351.525, 4 and 5 to read as follows:

143.541. Employers and corporate officers, liability for withheld taxes--sale or business, liabilities.—1. Every employer required to deduct and withhold tax under sections 143.011 to 143.598 is hereby made liable for such tax. For purposes of assessment and collection, any amount required to be withheld and paid over to the director is, however, and any penalties, interest, and additions to tax with respect thereto, shall be considered the tax of the employer. Any amount of tax actually deducted and withheld under sections 143.011 to 143.598 shall be a special fund in trust for the director or revenue. No employer shall have any right of action against his employer in respect of any money deducted and withheld from his wages and paid over to the director or revenue in compliance or in good faith compliance with sections 143.011 to 143.598.

2. Any officer, director, statutory trustee or employee of any corporation, partnership, dissolved or forfeited corporations, subject to the provisions of sections 143.191 to 143.256, who has the direct control, supervision or responsibility of things remains making payment of the amount of tax imposed in accordance with sections 143.191 to 143.256, and who fails to re-such retain with the director of revenue shall be personally assessed for such amounts, including interest, additions to tax and penalties thereon. This assessment shall be imposed only in the event that the assessment on the corporation is final, and such corporation fails to pay such amounts to the director of revenue. Notice shall be given of the director of revenue's intent to make the assessment against such officers, directors, statutory trustees or employees. The personal liability of such officers, directors, statutory trustees or employees as provided in this section shall survive the forfeiture or dissolution of the corporation.

3. If any employer required to withhold and remit tax under sections 143.191 to 143.256, or his successors shall sell all or substantially all of his or their business or shall quit the business, such employer or successor shall file a final return within fifteen days after the date of selling or quitting business.

4. If any employer required to withhold and remit tax under sections 143.191 to 143.256, or his successor shall contract to sell all or substantially all of his or their business, the seller shall request from the director of revenue a statement or certificate as provided in subsection 6 of this section. The seller shall present such statement or certificate to the purchaser prior to consummation of the sale and secure the purchaser's signature thereon as validation of receipt. Failure to comply with this provision shall result in the seller being liable for an additional penalty equal to twenty-five percent of the seller's delinquency at the time of the sale. The provisions of this section to the contrary notwithstanding, this additional penalty shall be the sole liability of the seller and shall not be a liability of the purchaser.

5. Except as provided in subsections 6, 7, and 8 of this section, all successors, if any, shall be required to withhold an amount of the purchase money sufficient to cover the taxes, interest, additions to tax or penalties due and unpaid until such time as the former owner or predecessor, whether immediate or not, shall produce a receipt from the director of revenue showing that the taxes have been paid, or a certificate stating that no taxes are due. If the purchaser of a business shall fail to withhold the purchase money as required by this section, he shall be personally liable for the payment of the taxes, interest, additions to tax and penalties accrued and unpaid by the former owner of the business.

6. The director of revenue shall, notwithstanding the provisions of section 32.057, RSMo, upon written request, furnish within fifteen days from the receipt of such a request by certified mail, return receipt requested, or such other methods as may be mutually agreed upon, to any owner, successor, secured creditor, purchaser, or in the case of a proposed purchaser if joined in writing by the owner, a statement showing the amount of taxes, interest, additions to tax or penalties due and owing or a certificate showing that no taxes, interest, additions to tax or penalties are due under this chapter, including the date for the last payment for such taxes, interest, additions to tax or penalties as shown by the records of the director of revenue.

7. A secured creditor who shall enforce a lien against a business subject to the provisions of this chapter, shall be entitled to obtain from the director of revenue a

statement of employer withholding tax due and the status of the employer withholding tax payments from the director of revenue in accordance with subsection 6 of this section. If the director of revenue does not respond within fifteen days from the date of receipt of such request by the secured creditor seeking to enforce its lien, it shall be conclusively presumed that all such employer withholding tax has been paid as to the secured creditor or any successor of the secured creditor. Whether such successor be immediate or not, nothing in this section shall diminish the liability of the owner of the business owing employer withholding tax from the liability to pay such employer withholding tax. Any purchaser who acquires the business as a result of an enforcement action by a creditor, shall be exempt from the liability set forth in subsection 4 of this section, whether such purchaser be immediate or subsequent thereto.

8. Any such creditor who shall enforce a lien against a business subject to the provisions of this section shall be entitled to be paid the principal sums due, all accrued interest to the date of the payment, and the expenses of enforcing the lien of the secured creditor including attorney's fees. The balance, if any, shall be paid to the creditors having a priority interest therein under the laws of the state of Missouri or the United States of America. Any balance then remaining, up to the amount of the tax, interest, additions to tax and penalties then due, shall be remitted to the director of revenue as provided by this section. Nothing in this section shall affect the priority of any lien filed by the director of revenue against the former owner or predecessor.

9. Making of records or requests, by first class mail, postage prepaid, certified with return receipt requested, or such other methods as may be mutually agreed upon, shall be prima facie evidence that the party to whom it is addressed received the corresponding notice or request.

144.150. Withholding of tax money in case of sale of business--director to send statements to certain persons, when--secured creditors, priority, exempt from tax liability.—1. If any person required to remit a tax levied hereunder on his successors shall sell all or substantially all of his or their business or stock of goods or shall quit the business, such person or successor shall file a final return under oath within fifteen days after the date of selling or quitting business.

2. If any person required to remit a tax levied hereunder or his successors shall contract to sell all or substantially all of his or their business, the seller shall request from the director of revenue a statement or certificate as provided in subsection 4 of this section. The seller shall present such statement or certificate to the purchaser prior to consummation of the sale and secure the purchaser's signature thereon as validation of receipt. Failure to comply with this provision shall result in the seller being liable for an additional penalty equal to twenty-five percent of the seller's delinquency at the time of the sale. The provisions of this section to the contrary notwithstanding, this additional penalty shall be the sole liability of the seller and shall not be a liability of the purchaser.

3. Except as provided in subsections 4, 5 and 6 of this section, all successors, if any, shall be required to withhold sufficient of the purchase money to cover the amount of such taxes and interest, additions to tax or penalties due and unpaid until such time as the former owner or predecessor, whether immediate or not, shall produce a receipt from the director of revenue showing that the taxes have been paid, or a certificate stating that no taxes are due. If the purchaser of a business or stock of goods shall fail to withhold the purchase money as above provided, the purchaser shall be personally liable for the payment of the taxes, interest, additions to tax and penalties accrued and unpaid on account of the operation of the business by the former owner and person.

4. The director of revenue shall, notwithstanding the provisions of section 32.057, RSMo, upon written request, furnish within fifteen business days from the receipt of such a request by certified mail, return receipt requested, or such other methods as may be mutually agreed upon, to any owner, successor, secured creditor, purchaser, or in the case of a proposed purchaser if joined in writing by the owner, a statement showing the amount of taxes, interest, additions to tax or penalties due and owing or a certificate showing that no taxes, interest, additions to tax or penalties are due under this chapter, including the date of the last payment for such taxes, interest, additions to tax or

journal, as shown by the records of the director of revenue. The person obtaining a certificate from the director of revenue under this section may rely on such certificate for a period of one hundred twenty days.

5. A secured creditor who shall enforce a lien against a business or a stock, funds of a business subject to the provisions of this chapter, shall be entitled to obtain from the director of revenue a statement of sales tax due and the status of the sales tax payments from the director of revenue in accordance with subsection 4 of this section. If the director of revenue does not respond within fifteen business days from the date of receipt of such request by the secured creditor seeking to enforce its lien, it shall be conclusively presumed that all such sales taxes have been paid as to the secured creditor or any successor of the secured creditor, whether such successor be named or not. Nothing in this section shall eliminate the liability of the owner of the business owing sales tax from the liability to pay such sales tax. Any purchaser who acquires the business or stock of goods as a result of an enforcement action by a creditor, including the creditor, shall be exempt from the liability set forth in subsection 3 of this section whether such purchaser be immediate or subsequent thereby.

6. Any such creditor who shall enforce a lien against the business or stock of goods subject to the provisions of this section shall be entitled to be paid the principal and due, all accrued interest to the date of payment, and the expenses of enforcing the lien or the secured creditor including its attorney's fees. The balance, if any, shall be paid to creditors having a priority interest thereunder under the laws of the state of Missouri or the United States of America. Any balance then remaining, up to the amount due tax, interest, additions to tax and penalties then due, shall be remitted to the director of revenue as provided by this section. Nothing in this section shall affect the priority of any lien filed by the director of revenue against the former owner or predecessor. 7. Mailing of notices or request, by first class mail, postage prepaid, certified with return receipt requested, or such other methods as may be mutually agreed upon, shall be prima facie evidence that the party to whom it is addressed received it in correspondence, notice or request.

144.157. Violations in collecting, penalty.—1. Any person required to collect truthfully account for and pay over any tax imposed by sections 144.010 to 144.142 and 144.600 to 144.745 who willfully fails to collect such tax or truthfully account for and pay over such tax or willfully attempts in any manner to evade or defeat the tax or the payment thereof, shall, in addition to other penalties provided by law, be liable to a penalty equal to the total amount of the tax evaded, or not collected, or not accounted for and paid over.

2. For purposes of this section, the term "person" includes an individual or officer or employee of any corporation, including a dissolved corporation, or a member or employee of any partnership, who, as such officer, employee or member is and a duty to perform the act in respect of which the violation occurs.

3. Any officers, directors, statutory trustees or employees of any corporation including forfeited or dissolved corporations subject to the provisions of section 144.010 to 144.745, who have the direct, control, supervision or responsibility of filing return and making payment of the amount of tax imposed in accordance with sections 144.010 to 144.745, and who fails to file such return with the director of revenue shall be personally assessed for such amount, including interest, additions to tax and penalties thereon. This assessment shall be imposed only in the event that the assessment on the corporation is final, and such corporation fails to pay such amounts to the director of revenue. Notice shall be given of the director of revenue's intent to make an assessment against such officers, directors, statutory trustees or employees. The personal liability of such officers, directors, statutory trustees or employees as provided herein shall survive the forfeiture or dissolution of the corporation.

144.210. Burden of proving questionable sale on seller—exemption certificates additional assessment—notice.—1. The burden of proving that a sale of tangible personal property, services, substances or things was not a sale at retail shall be upon the person who made the sale, except that with respect to sales, services, or transactions provided for in section 144.076. The seller shall obtain and maintain exemption certificates signed by the purchaser or his agent as evidence for any exempt sale

claimed. However, a seller may prove a sale is exempt from tax under this chapter at any time prior to the completion of the hearing before the administrative hearing commission. When a purchaser has purchased tangible personal property or services sales tax free under a claim of exemption which if found to be improper, the director of revenue may collect the proper amount of tax, interest, additions to tax and penalty from the purchaser directly. Any tax, interest, additions to tax or penalty collected by the director from the purchaser shall be credited against the amount otherwise due from the seller on the purchase or sales where the exemption was claimed.

2. If the director of revenue is not satisfied with the return and payment of the tax made by any person, he is hereby authorized and empowered to make an additional assessment of tax due from such person, based upon the facts contained in the return or upon any information within his possession or that shall come into his possession.

3. The director of revenue shall give to the person written notice of such additional or revised assessment by certified or registered mail to the person at his or his last or best address.

351.52c. Corporate rights forfeited, when—franchise—powers.—If any corporation: (1) fails to comply with the provisions of this chapter with respect to its annual registration (but not the "first registration" required in section 351.190), or fails to file its annual franchise tax report and pay its franchise tax due under the provisions of chapter 147, RSMo., within ninety days after the time therein required (commencing with regard to any extension of time for filing its franchise tax report or for the payment of its franchise tax); or

(2) fails to pay any final assessment of employer withholding tax, as provided in sections 143.191 to 143.265, RSMo., and the director of revenue has notified both the secretary of state and the corporation's registered agent that such corporation is delinquent; or

(3) fails to pay any final assessment of sales and use taxes, including local sales taxes, as provided in chapter 144, RSMo., and the director of revenue has notified both the secretary of state and the corporation's registered agent that such corporation is delinquent; or

(4) procures its franchise through fraud practiced upon the state; or (5) has continued to exceed or abuse the authority conferred upon it by law, or has continued to violate any section or sections of the criminal code of the state of Missouri after a written demand to discontinue the same shall have been delivered by the secretary of state to the corporation, either personally or by mail; (if mailed, the notice shall be deemed to be delivered five days after it has been deposited in the United States registered mail in a sealed envelope addressed to such corporation at its registered office in this state); or

(6) after written notice by the secretary of state to any officer of the corporation at his address as last known to the secretary of state, has failed for sixty days to appoint and maintain a registered agent in this state; the corporate rights and privileges of the corporation shall be forfeited, and the secretary of state shall, thereupon cancel the certificate, or license, of the corporation by appropriate entry on the margin of the record thereof, whereupon all the powers, privileges and franchises conferred upon the corporation by the certificate, or license, shall, subject to rescission as provided in this chapter, cease and determine; and the secretary of state shall notify the corporation by mail, addressed to its registered office, as disclosed by the records of the corporation, that its corporate existence and rights in this state have been forfeited and his office, that the corporation dissolved subject to rescission as provided in this chapter; and the directors and officers in office when the forfeiture occurs shall be the trustees of the corporation, who shall have full authority to wind up its business and affairs, sell and liquidate its property and assets, pay its debts and obligations and to distribute the net assets among the shareholders; and the trustees as such shall have power to sue for and recover the debts and property due the corporation, describing it by its corporate name, and may be sued as such, and the trustees shall be jointly and severally responsible to the creditors and shareholders of the corporation to the extent of its property and effects that shall have come into their hands.

Section 4. Employers failing to pay withholding taxes, sales or use tax or director's duty to notify—procedure to pay deposited to be made to special fund—contains failure to comply deemed intent to default.—1. The provisions of this section shall apply to the following: employer withholding tax as provided in sections 143.19, 143.265, RSMo, and sales and use tax, including local sales taxes, as provided in chapter 144, RSMo.

2. If the director of revenue determines that any person required to collect, account for, and pay over any tax described in subsection 1 of this section has, at the time and in the manner prescribed by law or regulations, failed to collect, truthfully account for, or pay over any such tax, the director may notify such person in accordance with subsection 4 of this section and such person shall:

(1) Collect, at the times and in the manner provided by law and regulations, the taxes described in subsection 1 of this section which become collectible by 15 days after receipt of such notice;

(2) Deposit the taxes so collected, not later than the end of the second business day after collection, with a financial institution approved by the director of revenue in a separate account established in accordance with subsection 3 of this section; and

(3) Keep in such account the taxes so deposited until payment thereof is made to the state of Missouri as required by the law and regulations in respect to such tax.

3. The separate account referred to in subsection 2 of this section shall be established under the designation, "(Name of person required to establish account), Trustee, Special Fund in Trust for the State of Missouri under Chapter 32, RSMo." The taxes deposited in such account shall constitute a fund in trust for the state of Missouri payable to the director of revenue on demand of the trustee. At no time shall the amount in funds so deposited in such account exceed the maximum federally insured limit. It shall be the duty of such person upon whom such notice is served to notify the director of revenue in writing the name and address of the financial institution wherein an account is proposed to be kept.

4. Notice to any person requiring his compliance with the provisions of this section shall be in writing and shall be hand delivered by the director of revenue or sent certified mail to the last mailing address provided by the taxpayer.

5. The director of revenue may relieve a person from the requirement to comply with the provisions of this section whenever he is satisfied that such person will comply with the law of this state. Such notice of cancellation shall be made in writing and shall take effect at such time as is specified in the written notice of cancellation.

6. Failure to comply with use of the trust account as required by this section shall be presumed to be a willful failure to truthfully account for and pay over the tax with intent to default.

Section 5. Vessels documented by U.S. coast guard exempt from sales tax—sales of vessels, new owner to register fee—payment in lieu of watercraft tax, how calculated—penalties—validity, period of certificate—sale of vessel documented by U.S. coast guard—certificate of registration terminated—new owner to elect documentation by U.S. coast guard—procedure—certificate on vessel for inspection.—1. The provisions of chapter 144, RSMo, shall not apply to any vessel documented by the United States Coast Guard prior to the effective date of this section. Upon the sale or transfer of any vessel after the effective date of this section which the new owner desires to document with the United States Coast Guard, or the transfer of a vessel currently documented by the United States Coast Guard to another person, the new owner shall apply for a vessel certificate of registration and pay a registration fee of seven dollars and file a vessel certificate of registration and local taxes as provided by law. A certificate of registration shall be issued for a documented vessel, but no state registration number shall be issued to such vessel.

2. A boat or vessel documented by the United States Coast Guard or other agency of the federal government and operated on the waters of this state shall not be liable for the payment of any state or local sales or use tax, on the purchase, but shall be liable for the payment of an in-lieu watercraft tax, which is hereby imposed. The in-lieu watercraft tax shall be collected by the director of revenue and deposited in the state treasury to the credit of general revenue. Watercraft dealers in this state shall

report to the director of revenue on forms furnished by the director of such watercraft sold to a resident of this state. If the watercraft is registered and licensed pursuant to the provisions of chapter 306, RSMo, and all applicable sales taxes have been paid, the director shall not collect the in-lieu tax imposed by this subsection. If the watercraft is registered with the United States Coast Guard or other agency of the federal government and not under the provisions of chapter 306, RSMo, the director shall bill the purchaser and not under the provisions of this subsection. Any person who fails to pay the in-lieu tax imposed by this section, within thirty days after receipt of the bill from the director of revenue, shall be liable to the same penalties imposed by law for failure to pay sales and use taxes due the state. The in-lieu tax shall be determined as follows:

PURCHASE PRICE OF WATERCRAFT:	TAX DUE
\$300.00 or less	\$390.00
\$300.01 to \$100,000	600.00
\$100,001 to \$150,000	900.00
\$150,001 to \$200,000	1,200.00
\$200,001 and above	1,500.00

3. The certificate of registration for any vessel documented by the United States Coast Guard shall be good for the life of the documented vessel so long as the vessel is owned or held by the original holder of the certificate of registration and shall not have to be renewed annually.

4. Upon the sale of any vessel documented by the United States Coast Guard for which a certificate of registration has been issued, the certificate of registration shall be terminated. The new owners shall submit, in addition to the property assigned or certificate of registration, a certified copy of the canceled documentation papers or a properly executed release-from-documentation certificate provided by the United States Coast Guard in the seller's name and comply with the provisions of this section if the elects to have the vessel documented by the United States Coast Guard. If the new owner elects not to document the vessel with the United States Coast Guard, he shall comply with all other applicable provisions of law.

5. The certificate of registration shall be available at all times for inspection on the vessel for which issued, whenever the vessel is in operation.

Approved July 10, 1990.

(H. B. 891)
TAXATION AND REVENUE: State income taxes.

AN ACT to amend section 143.191, RSMo Supp. 1989, relating to state income taxes, and to enact in lieu thereof one new section relating to the same subject.

SECTION 1

SECTION

A. Enacting clause. from wages or retirement—federal civil service retirement, withholding wages—armed services, withholding authorized, when.

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

Section A. Enacting clause.—Section 143.191, RSMo Supp. 1989, is repealed and the new section enacted in lieu thereof, to be known as section 143.191, to read as follows:

143.191. Employer to withhold tax from wages—armed services, withholding from wages or retirement—federal civil service retirement, withholding authorized, when.—1. Every employer maintaining an office or transacting any business within this state and making payment of any wages taxable under sections 143.011 to 143.096 to a resident or nonresident individual shall deduct and withhold from such wages for each payroll period the amount provided in subsection 3 of this section.

2. The term "wages" referred to in subsection 1 means wages as defined by section 3401(a) of the Internal Revenue Code of 1986, as amended. The term "employer" means