SESSION
LAWS OF MISSOURI

Passed during the

NINETY-FIFTH GENERAL ASSEMBLY

First Regular Session, which convened at the City of Jefferson,
Wednesday, January 7, 2009, and adjourned May 30, 2009.

Published by the

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Revised Statutes of Missouri, 2008

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HOW TO USE THE SESSION LAWS

The first pages contain the *Popular Name Table* and the *Table of Sections Affected by 2009 Legislation* from the First Regular Session of the 95th General Assembly.

The text of all 2009 House and Senate Bills and the Concurrent Resolutions appear next. The appropriation bills are presented first, with all others following in numerical order.

A subject index is included at the end of this volume.

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Authority for Publishing Session Laws and Resolutions

Section 2.030, Revised Statutes of Missouri, 2008. — Legislative Research to provide for printing and binding of laws. — The joint committee on legislative research shall annually collate, index, print, and bind all laws and resolutions passed or adopted by the general assembly and all measures approved by the people since the last publication of the session laws. Any edition of the session laws published pursuant to this section is a part of the official laws and resolutions of the general assembly at which the laws and resolutions were passed.

Section 2.040, Revised Statutes of Missouri, 2008. — Duties of Legislative Research in printing and binding. — The joint committee on legislative research shall provide copies of all laws, measures and resolutions duly enacted by the general assembly and all amendments to the constitution and all measures approved by the people since the last publication of the session laws pursuant to section 2.030, giving the date of the approval or adoption thereof. The joint committee on legislative research shall headnote, collate, index the laws, resolutions and constitutional amendments, and compare the proof sheets of the printed copies with the original rolls. The revisor of statutes shall insert therein an attestation under the revisor's hand that the revisor has compared the laws, resolutions, constitutional amendments and measures therein contained with the original rolls and copies in the office of the secretary of state and that the same are true copies of such laws, measures, resolutions and constitutional amendments as the same appear in the original rolls in the office of the secretary of state. The joint committee on legislative research shall cause the completed laws, resolutions and constitutional amendments to be printed and bound.

ATTESTATION

STATE OF MISSOURI)
) ss.
City of Jefferson)

I, Patricia L. Buxton, Revisor of Statutes, hereby certify that I have collated carefully the laws and resolutions passed by the Ninety-fifth General Assembly of the State of Missouri, convened in first regular session, as they are contained in the following pages, and have compared them with the original rolls and have corrected them thereby. Headnotes are used for the convenience of the reader and are not part of the laws they precede.

IN TESTIMONY WHEREOF, I have hereunto set my hand at my office in the City of Jefferson this sixteenth day of July A.D. two thousand nine.

PATRICIA L. BUXTON
REVISOR OF STATUTES

EFFECTIVE DATE OF LAWS

Section 29, Article III of the Constitution provides:

"No law passed by the general assembly, except an appropriation act, shall take effect until ninety days after the adjournment of the session in either odd-numbered or even-numbered years at which it was enacted. However, in case of an emergency which must be expressed in the preamble or in the body of the act, the general assembly by a two-thirds vote of the members elected to each house, taken by yeas and nays may otherwise direct; and further except that, if the general assembly recesses for thirty days or more it may prescribe by joint resolution that laws previously passed and not effective shall take effect ninety days from the beginning of the recess."

The Ninety-fifth General Assembly, First Regular Session, convened Wednesday, January 7, 2009, and adjourned May 30, 2009. All laws passed by it (other than appropriation acts, those having emergency clauses or different effective dates) became effective ninety days thereafter on August 28, 2009.

JOINT RESOLUTIONS AND INITIATIVE PETITIONS

Section 2(b), Article XII of the Constitution provides:

"All amendments proposed by the general assembly or by the initiative shall be submitted to the electors for their approval or rejection by official ballot title as may be provided by law, on a separate ballot without party designation, at the next general election, or at a special election called by the governor prior thereto, at which he may submit any of the amendments..... If a majority of the votes cast thereon is in favor of any amendment, the same shall take effect at the end of thirty days after the election. More than one amendment at the same election shall be so submitted as to enable the electors to vote on each amendment separately."

The Ninety-fifth General Assembly, First Regular Session, passed two Joint Resolutions. Resolutions are to be published as provided in Section 116.340, RSMo 2000, which reads:

"**116.340. Publication of approved measures.** — When a statewide ballot measure is approved by the voters, the secretary of state* shall publish it with the laws enacted by the following session of the general assembly, and the revisor of statutes shall include it in the next edition or supplement of the revised statutes of Missouri. Each of the measures printed above shall include the date of the proclamation or statement of approval under section 116.330."

*The publication of session laws was delegated to the Joint Committee on Legislative Research in 1997 by Senate Bill 459, section 2.040.

The headnotes used to describe sections printed in this volume may not be identical with the headnotes which appear in the 2009 Supplement to the Revised Statutes of Missouri. Every attempt has been made to develop headnotes which adequately describe the textual material contained in the section.

The Joint Committee on Legislative Research
is pleased to state that the *2009 Session Laws*
is produced with soy-based ink.

POPULAR NAME TABLE

2009 LEGISLATION

Alzheimer's State Plan Task Force, HB 272

Autism Programs, HB 525, SB 157

Beer Bongs, HB 62

Big Government Get Off My Back Act, HB 191

Brady Alan Cunningham Newborn Screening Act, HB 716

Child Witness Protection Act, HB 863

College Tuition and Fee Waiver for Children in Foster Care, HB 481

David's Law, Drunk Driving Risk Reduction Awareness Program, HB 91, HB 683

Disposal of Unclaimed Veterans' Remains, HB 111, HB 427

Energy Star appliances, HB 734, SB 376

Federal Budget Stabilization Fund, Federal Stimulus Fund, SB 313

Fire-safe Cigarettes, HB 205

Fire Safety Standard and Firefighter Protection Act, HB 205

Foster Care Education Bill of Rights, HB 154, SB 291

Four-day School Week, SB 291

High-Propensity Cigarettes, HB 205, HB 481

Hope's Law, Endangering the Welfare of a Child, HB 62

In-home Services Provider Tax, HB 740, SB 307

Kaitlyn's Law, Graduation Ceremony Participation, HB 236

Line of Duty Compensation Act, HB 580

Math, Engineering, Technology and Science (METS) Week, HB 506

Merit Pay for Teachers, St. Louis City, SB 291

Military, In-state Tuition Rates, HB 427

Missouri Energy Efficiency Investment Act, SB 376

Missouri Informal Dispute Resolution Act, HB 395

Missouri Preneed Funeral Contract Act, SB 1

Missouri Secure and Fair Enforcement for Mortgage Licensing and Residential Mortgage Brokers Licensing Act, HB 382

Missouri Senior Cadets Program, SB 291

Named Bridges and Highways
CW2 Matthew G. Kelley Memorial Highway, HB 683, HB 867
Dr. Martin Luther King Jr. Memorial Mile, HB 683
Heroes Way Interstate Interchange Designation, HB 91, HB 427, HB 683
Jack Buck Memorial Highway, HB 481
Lamar Hunt Memorial Highway, HB 683, HB 91
Rabbi Abraham Joshua Heschel Memorial Highway, HB 683
Specialist James M. Finley Memorial Bridge, HB 91, HB 683
Veterans Memorial Highway in Franklin County, HB 91, HB 683
Veterans Memorial Highway in Poplar Bluff, HB 427
WWII Okinawa Veterans Memorial Bridge, HB 91, HB 683
Nurse Licensure Compact, SB 296
Parents' Bill of Rights, SB 291
Preneed Funeral Arrangements, SB 1
Promoting Online Sexual Solicitation Offense, HB 62
Prosthetic Devices and Services Insurance Coverage, HB 577
School Flex Program, SB 291
Security Breach, Notification Required, HB 62
Self-extinguishing Cigarettes, HB 205
Sexual Offender Restrictions, HB 62
Silver Star Families of America Day, HB 427, HB 678
Social Security Numbers, Redacted when, HB 481
Special License Plates
Armed Forces Expeditionary Medal, HB 427, HB 683
Brain Tumor Awareness Organization, HB 683
Teacher Choice Compensation Package and Fund, SB 291
Teeth Whitening Services Deemed Dentistry, SB 296
Texting While Driving, HB 62
Unemployment Compensation, HB 1075
Uniform Child Custody Jurisdiction and Enforcement Act, HB 481
Veterans, Free Parking, HB 400, HB 427
Volunteer and Parents Incentive Program, SB 291

TABLE OF SECTIONS AFFECTED
BY
2009 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
1.020	Amended	HB 652	30.756	Amended	HB 883
8.001	Amended	SB 480	30.756	Vetoed	SB 542
8.003	Amended	SB 480	30.758	Amended	HB 883
8.007	Amended	SB 480	30.758	Vetoed	SB 542
8.016	Vetoed	HB 544	30.760	Amended	HB 883
8.305	New	HB 734	30.760	Vetoed	SB 542
8.305	New	SB 376	30.765	Amended	HB 883
8.890	New	HB 250	30.765	Vetoed	SB 542
9.074	New	HB 427	30.1010	New	SB 313
9.074	New	HB 678	30.1014	New	SB 313
9.138	New	HB 506	32.063	Amended	HB 683
21.795	Amended	HB 683	32.095	New	HB 683
21.795	Amended	HB 752	32.105	Amended	HB 191
21.800	Amended	HB 124	32.105	Amended	HB 802
30.260	Amended	HB 883	33.850	Vetoed	HB 544
30.260	Vetoed	SB 542	34.070	Amended	HB 745
30.270	Amended	HB 883	37.850	New	HB 191
30.270	Vetoed	SB 542	37.850	Vetoed	HB 544
30.750	Amended	HB 883	41.150	Amended	HB 427
30.750	Vetoed	SB 542	41.150	Amended	HB 861
30.753	Amended	HB 883	41.950	Amended	HB 481
30.753	Vetoed	SB 542	42.007	Amended	HB 427

TABLE OF SECTIONS AFFECTED
BY
2009 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
43.060	Amended	SB 47	67.1177	Vetoed	HB 306
43.200	Amended	HB 685	82.300	Amended	HB 481
43.500	Amended	HB 62	82.1026	New	HB 481
43.503	Amended	HB 62	84.150	Amended	HB 481
43.506	Amended	HB 62	84.175	Amended	HB 481
44.090	Amended	HB 103	86.107	Amended	HB 593
44.227	Amended	HB 485	86.107	Amended	SB 161
48.030	Amended	HB 257	86.200	Amended	HB 397
52.290	Vetoed	HB 148	86.207	Amended	HB 397
52.312	Vetoed	HB 148	86.237	Amended	HB 397
52.361	Vetoed	HB 148	86.257	Amended	HB 397
52.370	Vetoed	HB 148	86.260	Amended	HB 397
54.010	Vetoed	HB 148	86.263	Amended	HB 397
55.140	Vetoed	HB 148	86.270	Amended	HB 397
55.190	Vetoed	HB 148	86.590	Amended	HB 593
57.010	Amended	HB 667	86.590	Amended	SB 161
57.010	Amended	SB 47	86.1170	Amended	HB 397
60.010	Amended	HB 481	86.1240	Amended	HB 397
67.110	Vetoed	HB 148	92.047	Amended	HB 132
67.280	Amended	HB 859	99.865	Amended	HB 191
67.281	New	HB 103	99.1205	Amended	HB 191
67.281	New	SB 513	100.273	Vetoed	SB 411

TABLE OF SECTIONS AFFECTED
BY
2009 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
100.286	Amended	HB 191	136.055	Amended	HB 381
100.760	Amended	HB 191	136.055	Amended	HB 683
100.770	Amended	HB 191	137.016	Vetoed	SB 235
100.850	Amended	HB 191	137.073	Vetoed	HB 148
104.540	Amended	HB 210	137.115	Vetoed	SB 235
104.1054	Amended	HB 210	139.031	Vetoed	HB 148
105.145	Amended	HB 191	139.140	Vetoed	HB 148
105.711	Amended	SB 296	139.150	Vetoed	HB 148
108.1000	New	HB 191	139.210	Vetoed	HB 148
108.1010	New	HB 191	139.220	Vetoed	HB 148
108.1020	New	HB 191	140.050	Vetoed	HB 148
109.225	New	SB 480	140.070	Vetoed	HB 148
115.121	Amended	SB 291	140.080	Vetoed	HB 148
115.163	Amended	HB 709	140.160	Vetoed	HB 148
130.021	Amended	SB 485	141.160	Amended	HB 481
135.155	Amended	HB 191	142.800	Amended	HB 683
135.352	Amended	HB 191	143.124	Amended	HB 82
135.680	Amended	HB 191	143.183	Amended	HB 299
135.766	Amended	HB 191	143.441	Amended	HB 577
135.800	Amended	HB 191	143.441	Vetoed	SB 464
135.802	Amended	HB 191	144.054	Amended	HB 683
135.805	Amended	HB 191	144.060	Amended	HB 683

TABLE OF SECTIONS AFFECTED
BY
2009 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
144.070	Amended	HB 683	160.820	New	SB 291
147.010	Amended	HB 191	160.950	New	SB 291
147.010	Amended	HB 577	161.072	Amended	SB 291
147.010	Vetoed	SB 464	161.122	Amended	SB 291
148.370	Amended	HB 577	161.380	New	SB 291
148.370	Vetoed	SB 464	161.800	New	SB 291
160.011	Amended	SB 291	161.850	New	SB 291
160.041	Amended	SB 291	161.860	Vetoed	HB 373
160.254	Amended	SB 291	162.083	New	SB 291
160.263	New	SB 291	162.204	New	SB 291
160.375	New	SB 291	162.215	New	SB 291
160.400	Amended	SB 291	162.431	Amended	SB 291
160.405	Amended	SB 291	162.492	Amended	SB 291
160.410	Amended	SB 291	162.961	Amended	HB 289
160.534	Amended	SB 291	162.963	Amended	HB 289
160.539	New	SB 291	162.1168	New	SB 291
160.545	Amended	HB 490	162.1250	New	SB 291
160.730	Repealed	SB 291	162.1380	New	HB 236
160.800	New	SB 291	163.011	Amended	SB 291
160.805	New	SB 291	163.031	Amended	SB 291
160.810	New	SB 291	163.043	Amended	SB 291
160.815	New	SB 291	163.095	New	SB 291

TABLE OF SECTIONS AFFECTED
BY
2009 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
165.071	Vetoed	HB 148	169.040	Vetoed	SB 411
167.018	New	HB 154	169.056	Amended	HB 265
167.018	New	SB 291	169.056	Vetoed	SB 411
167.019	New	HB 154	169.070	Amended	HB 265
167.019	New	SB 291	169.070	Vetoed	SB 411
167.031	Amended	SB 291	169.073	Amended	HB 265
167.043	New	SB 232	169.073	Vetoed	SB 411
167.126	Amended	SB 291	169.075	Amended	HB 265
167.208	New	HB 922	169.075	Vetoed	SB 411
167.275	Amended	SB 291	169.090	Amended	HB 265
167.720	New	SB 291	169.090	Vetoed	SB 411
168.021	Amended	SB 291	169.130	Amended	HB 265
168.133	Amended	SB 291	169.130	Vetoed	SB 411
168.221	Amended	SB 291	169.630	Amended	HB 265
168.251	Amended	SB 291	169.630	Vetoed	SB 411
168.745	New	SB 291	169.650	Amended	HB 265
168.747	New	SB 291	169.650	Vetoed	SB 411
168.749	New	SB 291	169.655	Amended	HB 265
168.750	New	SB 291	169.655	Vetoed	SB 411
169.020	Amended	HB 265	169.670	Amended	HB 265
169.020	Vetoed	SB 411	169.670	Vetoed	SB 411
169.040	Amended	HB 265	169.690	Amended	HB 265

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2009 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
169.690	Vetoed	SB 411	190.812	New	SB 307
169.750	New	HB 265	190.815	New	SB 307
169.750	Vetoed	SB 411	190.818	New	SB 307
170.400	New	SB 291	190.821	New	SB 307
171.029	New	SB 291	190.824	New	SB 307
171.031	Amended	SB 291	190.827	New	SB 307
171.033	Amended	HB 682	190.830	New	SB 307
171.033	Amended	SB 291	190.833	New	SB 307
172.290	Amended	HB 239	190.836	New	SB 307
173.234	Amended	HB 427	190.839	New	SB 307
173.270	New	HB 481	191.115	New	HB 272
173.754	New	HB 62	191.225	Repealed	SB 338
173.1110	New	HB 390	191.333	New	HB 716
173.1155	New	HB 427	191.1025	Vetoed	SB 147
174.700	Amended	HB 62	191.1127	New	HB 716
174.700	Amended	HB 103	191.1130	New	HB 716
177.088	Amended	SB 291	192.925	Amended	HB 62
190.092	Amended	HB 103	194.360	New	HB 111
190.800	New	SB 307	194.360	New	HB 427
190.803	New	SB 307	195.070	Amended	SB 296
190.806	New	SB 307	195.100	Amended	SB 296
190.809	New	SB 307	198.074	Amended	HB 395

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BY
2009 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
198.075	Amended	HB 395	210.565	Amended	HB 154
198.096	Amended	HB 395	210.826	Amended	SB 141
198.187	New	HB 395	210.828	Amended	SB 141
198.525	Amended	HB 395	210.854	New	SB 141
198.527	Amended	HB 395	210.1050	New	HB 154
198.545	New	HB 395	210.1050	New	SB 291
204.363	Vetoed	SB 242	214.270	Amended	SB 296
204.569	Vetoed	SB 242	214.280	Amended	SB 296
204.659	New	HB 661	214.330	Amended	SB 296
205.202	New	SB 307	214.385	Amended	SB 296
208.009	Amended	HB 390	214.387	Amended	SB 296
208.016	New	HB 395	217.439	New	HB 62
208.040	Amended	HB 481	217.439	New	SB 338
208.055	Amended	HB 481	217.450	Amended	HB 62
208.192	New	HB 577	217.450	Amended	HB 481
208.437	Amended	HB 395	217.460	Amended	HB 62
208.437	Amended	HB 740	217.460	Amended	HB 481
208.480	Amended	HB 395	217.665	Amended	HB 62
208.480	Amended	HB 740	221.095	New	SB 44
208.770	Amended	HB 191	221.097	New	SB 44
208.819	Amended	HB 395	221.111	Amended	SB 44
210.305	New	HB 154	221.353	Amended	SB 44

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BY
2009 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
221.510	Amended	SB 44	227.407	New	HB 683
226.030	Amended	HB 683	227.409	New	HB 481
226.030	Amended	HB 752	227.410	New	HB 683
227.107	Amended	HB 359	227.600	Amended	HB 683
227.295	New	HB 91	227.615	Amended	HB 683
227.295	New	HB 683	227.630	Amended	HB 683
227.297	New	HB 91	227.646	New	HB 683
227.297	New	HB 427	229.110	Repealed	HB 62
227.297	New	HB 683	229.110	Repealed	HB 481
227.310	New	HB 91	238.207	Amended	HB 191
227.310	New	HB 683	238.212	Amended	HB 191
227.311	New	HB 427	238.235	Amended	HB 191
227.313	New	HB 683	247.031	Amended	SB 196
227.320	New	HB 91	253.545	Amended	HB 191
227.320	New	HB 683	253.550	Amended	HB 191
227.368	New	HB 91	253.559	Amended	HB 191
227.368	New	HB 683	260.273	Amended	HB 661
227.402	New	HB 91	260.275	Amended	HB 661
227.402	New	HB 683	260.276	Amended	HB 661
227.406	New	HB 683	260.392	New	HB 683
227.406	New	HB 867	260.750	Amended	HB 683
227.407	New	HB 91	265.525	Vetoed	SB 153

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BY
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SECTION	ACTION	BILL	SECTION	ACTION	BILL
266.331	Amended	HB 734	301.190	Amended	HB 269
267.565	Vetoed	SB 153	301.190	Vetoed	HB 644
267.600	Vetoed	SB 153	301.218	Amended	HB 269
273.033	New	HB 62	301.218	Vetoed	HB 644
273.036	New	HB 62	301.280	Amended	HB 683
278.070	Amended	HB 250	301.290	Amended	HB 683
285.530	Amended	HB 390	301.310	Amended	HB 683
285.555	Amended	HB 390	301.420	Amended	HB 683
287.090	Amended	HB 580	301.440	Amended	HB 683
287.243	New	HB 580	301.451	Amended	HB 427
288.062	Amended	HB 1075	301.558	New	SB 355
288.330	Amended	HB 1075	301.560	Vetoed	SB 464
288.501	New	HB 1075	301.562	Amended	HB 683
292.675	Amended	HB 390	301.571	New	HB 683
300.390	Vetoed	HB 89	301.716	Amended	HB 683
301.010	Amended	HB 683	301.3155	New	HB 683
301.032	Amended	HB 683	301.3157	New	HB 427
301.069	Vetoed	HB 644	302.020	Vetoed	SB 202
301.131	Amended	HB 683	302.060	Amended	HB 62
301.140	Amended	HB 683	302.171	Amended	HB 361
301.150	Amended	HB 683	302.182	New	HB 683
301.165	New	HB 683	302.183	New	HB 361

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2009 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
302.184	New	HB 683	306.109	New	HB 62
302.302	Amended	HB 683	306.227	Amended	SB 47
302.341	Amended	HB 683	306.410	Amended	HB 269
302.545	Amended	HB 683	306.410	Vetoed	HB 644
302.700	Amended	HB 683	306.903	Amended	HB 103
302.735	Amended	HB 683	307.010	Amended	HB 683
302.755	Amended	HB 683	307.015	Amended	HB 683
302.775	Amended	HB 683	307.090	Amended	HB 683
303.024	Amended	HB 62	307.120	Amended	HB 683
303.024	Amended	HB 577	307.125	Amended	HB 683
303.024	Vetoed	SB 464	307.128	New	HB 253
304.034	New	HB 683	307.155	Amended	HB 683
304.155	Amended	HB 683	307.172	Amended	HB 683
304.170	Amended	HB 93	307.173	Amended	HB 683
304.170	Amended	HB 683	307.195	Amended	HB 683
304.260	Amended	HB 93	307.198	Amended	HB 683
304.260	Amended	HB 683	307.350	Amended	HB 683
304.285	New	HB 683	307.365	Amended	HB 683
304.285	New	SB 368	307.375	Amended	HB 683
304.820	New	HB 62	307.390	Amended	HB 683
304.840	New	HB 400	307.400	Amended	HB 683
304.840	New	HB 427	311.020	Amended	HB 132

TABLE OF SECTIONS AFFECTED
BY
2009 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
311.055	Amended	HB 132	311.333	Amended	HB 132
311.060	Amended	HB 132	311.334	Repealed	HB 132
311.070	Amended	HB 132	311.335	Amended	HB 132
311.090	Amended	HB 132	311.336	Repealed	HB 132
311.181	Amended	HB 132	311.338	Amended	HB 132
311.182	Amended	HB 132	311.360	Amended	HB 132
311.192	New	HB 132	311.480	Amended	HB 132
311.195	Amended	HB 132	311.482	Amended	HB 132
311.196	New	HB 132	311.485	Amended	HB 132
311.200	Amended	HB 132	311.486	Amended	HB 132
311.211	Amended	HB 132	311.487	Amended	HB 132
311.212	Amended	HB 132	311.489	New	HB 132
311.218	Amended	HB 132	311.490	Amended	HB 132
311.260	Amended	HB 132	311.520	Amended	HB 132
311.265	Amended	HB 132	311.610	Amended	HB 132
311.280	Amended	HB 132	311.630	Amended	HB 132
311.290	Amended	HB 132	311.665	Amended	HB 132
311.300	Amended	HB 132	311.680	Amended	HB 132
311.325	Amended	HB 62	311.685	Amended	HB 132
311.326	Amended	HB 62	311.722	Amended	HB 132
311.326	Amended	HB 683	312.010	Repealed	HB 132
311.332	Amended	HB 132	312.020	Repealed	HB 132

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SECTION	ACTION	BILL	SECTION	ACTION	BILL
312.030	Repealed	HB 132	312.235	Repealed	HB 132
312.040	Repealed	HB 132	312.237	Repealed	HB 132
312.050	Repealed	HB 132	312.270	Repealed	HB 132
312.060	Repealed	HB 132	312.280	Repealed	HB 132
312.070	Repealed	HB 132	312.290	Repealed	HB 132
312.080	Repealed	HB 132	312.300	Repealed	HB 132
312.090	Repealed	HB 132	312.310	Repealed	HB 132
312.100	Repealed	HB 132	312.320	Repealed	HB 132
312.110	Repealed	HB 132	312.330	Repealed	HB 132
312.120	Repealed	HB 132	312.340	Repealed	HB 132
312.130	Repealed	HB 132	312.350	Repealed	HB 132
312.140	Repealed	HB 132	312.360	Repealed	HB 132
312.150	Repealed	HB 132	312.370	Repealed	HB 132
312.160	Repealed	HB 132	312.380	Repealed	HB 132
312.170	Repealed	HB 132	312.390	Repealed	HB 132
312.180	Repealed	HB 132	312.400	Repealed	HB 132
312.190	Repealed	HB 132	312.405	Repealed	HB 132
312.200	Repealed	HB 132	312.407	Repealed	HB 132
312.210	Repealed	HB 132	312.410	Repealed	HB 132
312.220	Repealed	HB 132	312.420	Repealed	HB 132
312.230	Repealed	HB 132	312.430	Repealed	HB 132
312.233	Repealed	HB 132	312.440	Repealed	HB 132

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SECTION	ACTION	BILL	SECTION	ACTION	BILL
312.450	Repealed	HB 132	320.353	New	HB 205
312.460	Repealed	HB 132	320.356	New	HB 205
312.470	Repealed	HB 132	320.359	New	HB 205
312.480	Repealed	HB 132	320.362	New	HB 205
312.484	Repealed	HB 132	320.365	New	HB 205
312.490	Repealed	HB 132	320.368	New	HB 205
312.500	Repealed	HB 132	320.371	New	HB 205
312.510	Repealed	HB 132	320.374	New	HB 205
313.010	Vetoed	HB 620	324.001	Amended	SB 296
313.015	Vetoed	HB 620	324.065	Amended	SB 296
313.040	Vetoed	HB 620	324.068	Amended	SB 296
313.045	Vetoed	HB 620	324.071	Amended	SB 296
313.050	Vetoed	HB 620	324.077	Amended	SB 296
313.057	Vetoed	HB 620	324.080	Amended	SB 296
313.075	Amended	HB 132	324.086	Amended	SB 296
313.340	Amended	HB 132	324.089	Amended	SB 296
313.665	Amended	HB 132	324.139	Amended	SB 296
313.775	Repealed	SB 291	324.141	Amended	SB 296
313.778	Repealed	SB 291	324.210	Amended	HB 811
313.822	Amended	SB 291	324.212	Amended	SB 296
313.840	Amended	HB 132	324.247	Amended	SB 296
320.350	New	HB 205	324.415	Amended	SB 296

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SECTION	ACTION	BILL	SECTION	ACTION	BILL
324.481	Amended	SB 296	333.091	Amended	SB 1
324.487	Amended	SB 296	333.101	Amended	SB 1
327.442	New	SB 296	333.121	Repealed	SB 1
328.030	Repealed	SB 296	333.151	Amended	SB 1
328.040	Repealed	SB 296	333.221	Amended	SB 1
328.050	Repealed	SB 296	333.241	Repealed	SB 1
328.060	Repealed	SB 296	333.251	Amended	SB 1
328.115	Amended	SB 296	333.310	New	SB 1
328.140	Repealed	SB 296	333.315	New	SB 1
328.150	Amended	SB 296	333.320	New	SB 1
328.160	Amended	SB 296	333.325	New	SB 1
329.180	Repealed	SB 296	333.330	New	SB 1
329.190	Repealed	SB 296	333.335	New	SB 1
329.191	Repealed	SB 296	333.340	New	SB 1
329.200	Repealed	SB 296	334.098	Amended	HB 866
329.210	Repealed	SB 296	334.104	Amended	HB 247
329.220	Repealed	SB 296	334.735	Amended	SB 296
329.230	Repealed	SB 296	334.747	New	SB 296
329.240	Repealed	SB 296	334.850	Amended	SB 296
332.112	New	SB 296	335.212	Amended	HB 247
332.113	New	SB 296	335.212	Amended	SB 152
333.011	Amended	SB 1	335.300	New	SB 296

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SECTION	ACTION	BILL	SECTION	ACTION	BILL
335.305	New	SB 296	338.057	Repealed	SB 296
335.310	New	SB 296	338.220	Amended	SB 296
335.315	New	SB 296	338.260	Amended	SB 394
335.320	New	SB 296	338.337	Amended	HB 191
335.325	New	SB 296	338.337	Amended	SB 296
335.330	New	SB 296	338.535	Amended	HB 395
335.335	New	SB 296	338.535	Amended	HB 740
335.340	New	SB 296	338.550	Amended	HB 395
335.345	New	SB 296	338.550	Amended	HB 740
335.350	New	SB 296	339.503	Amended	HB 842
335.355	New	SB 296	339.710	Amended	HB 842
337.600	Amended	HB 326	346.015	Amended	SB 296
337.604	Amended	HB 326	346.045	Amended	SB 296
337.649	Amended	HB 866	346.050	Amended	SB 296
337.712	Amended	SB 296	346.070	Amended	SB 296
337.715	Amended	SB 296	346.075	Amended	SB 296
337.718	Amended	SB 296	346.080	Amended	SB 296
337.727	Amended	SB 296	346.090	Amended	SB 296
337.730	Amended	SB 296	346.095	Amended	SB 296
337.733	Amended	SB 296	346.100	Amended	SB 296
338.010	Amended	SB 296	346.105	Amended	SB 296
338.013	Amended	SB 296	346.115	Amended	SB 296

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SECTION	ACTION	BILL	SECTION	ACTION	BILL
346.125	Amended	SB 296	355.066	Amended	HB 481
347.179	Amended	HB 481	355.071	Amended	HB 481
347.183	Amended	HB 481	355.151	Amended	HB 481
347.183	Amended	SB 217	355.151	Amended	SB 294
351.047	Amended	HB 481	355.176	Amended	HB 481
351.085	Amended	SB 224	355.576	Amended	SB 224
351.106	Amended	SB 224	355.688	Amended	HB 481
351.120	Amended	HB 481	355.706	Amended	HB 481
351.122	New	HB 481	355.796	Amended	HB 481
351.125	Amended	HB 481	355.806	Amended	HB 481
351.127	Amended	HB 481	355.811	Amended	HB 481
351.145	Amended	HB 481	355.821	Amended	HB 481
351.155	Amended	HB 481	355.856	Amended	HB 481
351.225	Amended	SB 217	355.857	New	HB 481
351.484	Amended	HB 481	356.211	Amended	HB 481
351.592	Amended	HB 481	359.681	Amended	HB 481
351.594	Amended	HB 481	359.681	Amended	SB 217
351.598	Amended	HB 481	361.340	Amended	HB 914
351.602	Amended	HB 481	362.105	Vetoed	SB 235
351.690	Amended	HB 481	362.333	New	HB 239
355.016	Amended	HB 481	362.333	New	SB 277
355.021	Amended	HB 481	365.020	Vetoed	SB 235

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SECTION	ACTION	BILL	SECTION	ACTION	BILL
365.200	Vetoed	SB 235	375.1035	Amended	HB 577
369.162	New	HB 239	375.1035	Vetoed	SB 464
369.162	New	SB 277	375.1037	Amended	HB 577
369.229	Vetoed	SB 235	375.1037	Vetoed	SB 464
370.300	Vetoed	SB 235	375.1038	New	HB 577
374.350	New	HB 577	375.1038	Vetoed	SB 464
374.351	New	HB 577	375.1040	Amended	HB 577
374.352	New	HB 577	375.1040	Vetoed	SB 464
374.456	Repealed	HB 577	375.1042	Amended	HB 577
374.456	Vetoed	SB 464	375.1042	Vetoed	SB 464
374.776	New	HB 577	375.1045	Amended	HB 577
374.776	Vetoed	SB 464	375.1045	Vetoed	SB 464
375.020	Amended	HB 577	375.1047	Amended	HB 577
375.020	Vetoed	SB 464	375.1047	Vetoed	SB 464
375.1025	Amended	HB 577	375.1050	Amended	HB 577
375.1025	Vetoed	SB 464	375.1050	Vetoed	SB 464
375.1028	Amended	HB 577	375.1052	Amended	HB 577
375.1028	Vetoed	SB 464	375.1052	Vetoed	SB 464
375.1030	Amended	HB 577	375.1053	New	HB 577
375.1030	Vetoed	SB 464	375.1053	Vetoed	SB 464
375.1032	Amended	HB 577	375.1054	New	HB 577
375.1032	Vetoed	SB 464	375.1054	Vetoed	SB 464

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SECTION	ACTION	BILL	SECTION	ACTION	BILL
375.1056	New	HB 577	379.1310	Amended	HB 577
375.1056	Vetoed	SB 464	379.1310	Vetoed	SB 464
375.1057	Amended	HB 577	379.1326	Amended	HB 577
375.1057	Vetoed	SB 464	379.1326	Vetoed	SB 464
375.1224	Vetoed	SB 464	379.1332	Amended	HB 577
376.391	New	HB 577	379.1332	Vetoed	SB 464
376.421	Amended	HB 919	379.1339	New	HB 577
376.428	Amended	HB 231	379.1339	Vetoed	SB 464
376.428	Vetoed	SB 464	379.1373	Amended	HB 577
376.502	New	HB 577	379.1373	Vetoed	SB 464
376.502	New	SB 126	379.1388	Amended	HB 577
376.502	Vetoed	SB 464	379.1388	Vetoed	SB 464
376.789	New	HB 481	379.1412	Amended	HB 577
376.811	Amended	HB 326	379.1412	Vetoed	SB 464
376.811	Amended	SB 296	382.400	Amended	HB 577
376.966	Amended	HB 218	382.400	Vetoed	SB 464
376.1232	New	HB 577	382.402	Amended	HB 577
379.130	New	HB 481	382.402	Vetoed	SB 464
379.1300	Amended	HB 577	382.405	Amended	HB 577
379.1300	Vetoed	SB 464	382.405	Vetoed	SB 464
379.1302	Amended	HB 577	382.407	Amended	HB 577
379.1302	Vetoed	SB 464	382.407	Vetoed	SB 464

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SECTION	ACTION	BILL	SECTION	ACTION	BILL
382.409	Amended	HB 577	402.015	Repealed	HB 239
382.409	Vetoed	SB 464	402.025	Repealed	HB 239
384.025	Amended	HB 577	402.030	Repealed	HB 239
384.025	Vetoed	SB 464	402.035	Repealed	HB 239
384.031	Repealed	HB 577	402.040	Repealed	HB 239
384.031	Vetoed	SB 464	402.045	Repealed	HB 239
384.043	Amended	HB 577	402.055	Repealed	HB 239
384.043	Vetoed	SB 464	402.060	Repealed	HB 239
384.051	Amended	HB 577	402.130	New	HB 239
384.051	Vetoed	SB 464	402.132	New	HB 239
384.057	Amended	HB 577	402.134	New	HB 239
384.057	Vetoed	SB 464	402.136	New	HB 239
384.062	Amended	HB 577	402.138	New	HB 239
384.062	Vetoed	SB 464	402.140	New	HB 239
386.120	Amended	SB 376	402.142	New	HB 239
387.040	Amended	HB 683	402.144	New	HB 239
393.829	Amended	HB 283	402.146	New	HB 239
393.829	Amended	SB 154	402.148	New	HB 239
393.1124	New	SB 376	407.485	Amended	HB 698
400.9.303	Vetoed	SB 235	407.1240	Amended	HB 83
400.9.311	Vetoed	SB 235	407.1240	Vetoed	SB 156
402.010	Repealed	HB 239	407.1243	Amended	HB 83

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SECTION	ACTION	BILL	SECTION	ACTION	BILL
407.1249	Amended	HB 83	425.010	Vetoed	SB 216
407.1249	Vetoed	SB 156	425.350	Vetoed	SB 216
407.1500	New	HB 62	425.352	Vetoed	SB 216
408.015	Vetoed	SB 235	425.355	Vetoed	SB 216
408.052	Vetoed	SB 235	425.360	Vetoed	SB 216
408.094	Vetoed	SB 235	425.365	Vetoed	SB 216
408.094	Vetoed	SB 243	429.609	Amended	SB 513
408.140	Vetoed	SB 235	430.082	Amended	HB 269
408.140	Vetoed	SB 243	430.082	Vetoed	HB 644
408.233	Vetoed	SB 235	436.005	Repealed	SB 1
408.233	Vetoed	SB 243	436.007	Repealed	SB 1
408.250	Vetoed	SB 235	436.011	Repealed	SB 1
408.300	Vetoed	SB 235	436.015	Repealed	SB 1
408.300	Vetoed	SB 243	436.021	Repealed	SB 1
409.5.508	Amended	HB 62	436.027	Repealed	SB 1
409.6.604	Amended	HB 62	436.031	Repealed	SB 1
414.530	Vetoed	HB 751	436.035	Repealed	SB 1
414.560	Vetoed	HB 751	436.038	Repealed	SB 1
414.570	Vetoed	HB 751	436.041	Repealed	SB 1
416.410	Vetoed	SB 153	436.045	Repealed	SB 1
416.440	Vetoed	HB 251	436.048	Repealed	SB 1
416.440	Vetoed	SB 153	436.051	Repealed	SB 1

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SECTION	ACTION	BILL	SECTION	ACTION	BILL
436.053	Repealed	SB 1	436.456	New	SB 1
436.055	Repealed	SB 1	436.457	New	SB 1
436.061	Repealed	SB 1	436.458	New	SB 1
436.063	Repealed	SB 1	436.460	New	SB 1
436.065	Repealed	SB 1	436.465	New	SB 1
436.067	Repealed	SB 1	436.470	New	SB 1
436.069	Repealed	SB 1	436.480	New	SB 1
436.071	Repealed	SB 1	436.485	New	SB 1
436.350	Vetoed	SB 235	436.490	New	SB 1
436.400	New	SB 1	436.500	New	SB 1
436.405	New	SB 1	436.505	New	SB 1
436.410	New	SB 1	436.510	New	SB 1
436.412	New	SB 1	436.520	New	SB 1
436.415	New	SB 1	441.005	Vetoed	SB 235
436.420	New	SB 1	441.645	Vetoed	HB 171
436.425	New	SB 1	442.010	Vetoed	SB 235
436.430	New	SB 1	442.015	Vetoed	SB 235
436.435	New	SB 1	443.701	New	HB 382
436.440	New	SB 1	443.703	New	HB 382
436.445	New	SB 1	443.706	New	HB 382
436.450	New	SB 1	443.707	New	HB 382
436.455	New	SB 1	443.709	New	HB 382

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SECTION	ACTION	BILL	SECTION	ACTION	BILL
443.711	New	HB 382	443.809	Amended	HB 382
443.713	New	HB 382	443.810	Amended	HB 382
443.717	New	HB 382	443.812	Amended	HB 382
443.719	New	HB 382	443.816	Amended	HB 382
443.721	New	HB 382	443.817	Amended	HB 382
443.723	New	HB 382	443.819	Amended	HB 382
443.725	New	HB 382	443.821	Amended	HB 382
443.727	New	HB 382	443.823	Amended	HB 382
443.729	New	HB 382	443.825	Amended	HB 382
443.731	New	HB 382	443.827	Amended	HB 382
443.733	New	HB 382	443.830	Amended	HB 382
443.735	New	HB 382	443.833	Amended	HB 382
443.737	New	HB 382	443.835	Amended	HB 382
443.739	New	HB 382	443.837	Repealed	HB 382
443.741	New	HB 382	443.839	Amended	HB 382
443.743	New	HB 382	443.841	Amended	HB 382
443.745	New	HB 382	443.843	Amended	HB 382
443.747	New	HB 382	443.845	Amended	HB 382
443.800	Repealed	HB 382	443.847	Repealed	HB 382
443.803	Repealed	HB 382	443.849	Amended	HB 382
443.805	Amended	HB 382	443.851	Repealed	HB 382
443.807	Amended	HB 382	443.853	Repealed	HB 382

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SECTION	ACTION	BILL	SECTION	ACTION	BILL
443.855	Amended	HB 382	452.310	Amended	HB 481
443.857	Amended	HB 382	452.312	Amended	HB 481
443.859	Repealed	HB 382	452.343	Amended	HB 481
443.861	Amended	HB 382	452.412	Amended	HB 427
443.863	Amended	HB 382	452.423	Amended	HB 481
443.865	Amended	HB 382	452.426	New	HB 481
443.867	Amended	HB 382	452.430	New	HB 481
443.869	Amended	HB 382	452.440	Repealed	HB 481
443.879	Amended	HB 382	452.445	Repealed	HB 481
443.881	Amended	HB 382	452.450	Repealed	HB 481
443.883	Amended	HB 382	452.455	Repealed	HB 481
443.885	Amended	HB 382	452.460	Repealed	HB 481
443.887	Amended	HB 382	452.465	Repealed	HB 481
443.889	Amended	HB 382	452.470	Repealed	HB 481
443.891	Amended	HB 382	452.475	Repealed	HB 481
443.893	Amended	HB 382	452.480	Repealed	HB 481
444.765	Amended	HB 246	452.485	Repealed	HB 481
444.766	Amended	HB 246	452.490	Repealed	HB 481
444.770	Amended	HB 246	452.495	Repealed	HB 481
444.774	Amended	HB 246	452.500	Repealed	HB 481
447.708	Amended	HB 191	452.505	Repealed	HB 481
452.305	Amended	HB 481	452.510	Repealed	HB 481

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SECTION	ACTION	BILL	SECTION	ACTION	BILL
452.515	Repealed	HB 481	452.762	New	HB 481
452.520	Repealed	HB 481	452.765	New	HB 481
452.525	Repealed	HB 481	452.770	New	HB 481
452.530	Repealed	HB 481	452.775	New	HB 481
452.535	Repealed	HB 481	452.780	New	HB 481
452.540	Repealed	HB 481	452.782	New	HB 481
452.545	Repealed	HB 481	452.785	New	HB 481
452.550	Repealed	HB 481	452.790	New	HB 481
452.700	New	HB 481	452.795	New	HB 481
452.705	New	HB 481	452.800	New	HB 481
452.710	New	HB 481	452.805	New	HB 481
452.715	New	HB 481	452.810	New	HB 481
452.720	New	HB 481	452.815	New	HB 481
452.725	New	HB 481	452.820	New	HB 481
452.730	New	HB 481	452.825	New	HB 481
452.735	New	HB 481	452.830	New	HB 481
452.740	New	HB 481	452.835	New	HB 481
452.745	New	HB 481	452.840	New	HB 481
452.747	New	HB 481	452.845	New	HB 481
452.750	New	HB 481	452.850	New	HB 481
452.755	New	HB 481	452.855	New	HB 481
452.760	New	HB 481	452.860	New	HB 481

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SECTION	ACTION	BILL	SECTION	ACTION	BILL
452.865	New	HB 481	473.333	Amended	HB 239
452.870	New	HB 481	473.543	Amended	HB 273
452.875	New	HB 481	473.743	Amended	HB 481
452.880	New	HB 481	475.010	Amended	HB 154
452.885	New	HB 481	475.045	Amended	HB 154
452.890	New	HB 481	475.046	New	HB 154
452.895	New	HB 481	475.105	Amended	HB 154
452.900	New	HB 481	475.130	Amended	HB 239
452.905	New	HB 481	475.190	Amended	HB 239
452.910	New	HB 481	475.375	New	HB 481
452.915	New	HB 481	476.055	Amended	SB 265
452.920	New	HB 481	476.385	Amended	HB 683
452.925	New	HB 481	476.415	Amended	HB 481
452.930	New	HB 481	477.600	Amended	HB 237
453.030	Amended	HB 154	478.495	New	SB 140
454.500	Amended	HB 481	479.260	Amended	HB 237
454.516	Amended	HB 481	485.077	Amended	HB 481
455.010	Amended	HB 481	488.006	New	HB 683
456.4.418	New	HB 239	488.429	Amended	HB 237
456.5.505	Amended	HB 239	491.725	New	HB 863
469.411	Amended	HB 239	509.520	New	HB 481
472.335	Amended	HB 239	513.010	Vetoed	SB 235

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SECTION	ACTION	BILL	SECTION	ACTION	BILL
516.200	Amended	HB 481	550.090	Repealed	HB 481
517.041	Amended	HB 237	556.021	Amended	HB 683
517.041	Amended	HB 481	556.036	Amended	HB 62
534.030	Amended	HB 836	561.031	Amended	HB 62
535.030	Amended	HB 481	561.031	Amended	HB 481
535.040	Amended	SB 231	565.063	Amended	HB 62
535.120	Amended	HB 481	565.081	Amended	HB 62
537.055	New	HB 481	565.081	Vetoed	HB 116
537.055	Vetoed	SB 202	565.081	Amended	HB 683
537.296	New	HB 481	565.082	Amended	HB 62
537.610	Amended	HB 481	565.082	Vetoed	HB 116
544.665	Amended	HB 62	565.082	Amended	HB 683
545.050	Amended	HB 62	565.083	Amended	HB 62
545.050	Amended	HB 481	565.083	Vetoed	HB 116
550.040	Amended	HB 62	565.083	Amended	HB 683
550.050	Repealed	HB 62	565.084	Amended	HB 62
550.050	Repealed	HB 481	565.084	Vetoed	HB 116
550.070	Repealed	HB 62	566.013	New	HB 62
550.070	Repealed	HB 481	566.030	Amended	SB 36
550.080	Repealed	HB 62	566.060	Amended	SB 36
550.080	Repealed	HB 481	566.145	Amended	HB 747
550.090	Repealed	HB 62	566.147	Amended	HB 62

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SECTION	ACTION	BILL	SECTION	ACTION	BILL
566.148	New	HB 62	575.150	Amended	HB 62
566.149	Amended	HB 62	575.153	New	HB 62
566.150	New	HB 62	575.210	Amended	SB 44
566.155	New	HB 62	575.220	Amended	SB 44
566.226	Amended	HB 177	575.240	Amended	SB 44
568.040	Amended	SB 140	575.260	Amended	HB 62
568.045	Amended	HB 62	576.050	Amended	HB 62
569.145	Amended	SB 398	577.023	Amended	HB 62
570.030	Amended	HB 62	577.029	Amended	HB 62
570.040	Amended	HB 62	577.060	Vetoed	HB 89
570.080	Amended	HB 62	578.022	New	HB 62
571.107	Amended	HB 132	578.024	New	HB 62
573.013	New	HB 62	578.028	New	HB 62
573.020	Amended	HB 62	578.250	Amended	HB 62
573.023	Amended	HB 62	578.255	Amended	HB 62
573.025	Amended	HB 62	578.255	Amended	SB 26
573.030	Amended	HB 62	578.260	Amended	HB 62
573.035	Amended	HB 62	578.265	Amended	HB 62
573.037	Amended	HB 62	589.400	Amended	HB 62
573.040	Amended	HB 62	589.425	Amended	HB 62
573.060	Amended	HB 62	590.030	Amended	SB 47
573.065	Amended	HB 62	590.701	New	HB 62

TABLE OF SECTIONS AFFECTED
BY
2009 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
595.010	Amended	SB 338	600.086	Vetoed	SB 37
595.015	Amended	SB 338	600.089	Vetoed	SB 37
595.020	Amended	SB 338	600.090	Vetoed	SB 37
595.025	Amended	SB 338	600.096	Vetoed	SB 37
595.027	Amended	HB 62	610.021	Amended	HB 191
595.030	Amended	SB 338	620.014	Amended	HB 191
595.035	Amended	SB 338	620.017	Amended	HB 191
595.037	Amended	SB 338	620.472	Amended	HB 191
595.040	Amended	SB 338	620.1878	Amended	HB 191
595.045	Amended	SB 338	620.1881	Amended	HB 191
595.060	Amended	SB 338	630.110	Amended	HB 826
595.209	Amended	SB 338	630.110	Amended	SB 435
595.220	New	SB 338	630.407	Amended	HB 481
600.011	Vetoed	SB 37	630.407	Amended	SB 435
600.015	Vetoed	SB 37	632.489	Amended	HB 826
600.017	Vetoed	SB 37	632.489	Amended	SB 435
600.019	Vetoed	SB 37	632.495	Amended	HB 826
600.021	Vetoed	SB 37	632.495	Amended	SB 435
600.040	Vetoed	SB 37	633.220	New	HB 525
600.042	Vetoed	SB 37	633.220	New	SB 157
600.047	Vetoed	SB 37	633.401	Amended	HB 395
600.048	Vetoed	SB 37	633.401	Amended	HB 740

TABLE OF SECTIONS AFFECTED
BY
2009 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
633.402	New	SB 307	660.435	New	SB 307
640.107	Amended	HB 661	660.440	New	HB 740
640.150	Amended	HB 661	660.440	New	SB 307
640.160	New	HB 661	660.445	New	HB 740
644.036	Amended	HB 661	660.445	New	SB 307
644.036	Amended	HB 734	660.450	New	HB 740
644.054	Amended	HB 661	660.450	New	SB 307
644.054	Amended	HB 734	660.455	New	HB 740
644.101	Amended	HB 661	660.455	New	SB 307
650.005	Amended	HB 132	660.460	New	HB 740
650.050	Amended	HB 152	660.460	New	SB 307
650.052	Amended	HB 62	660.465	New	HB 740
650.052	Amended	HB 152	660.465	New	SB 307
650.055	Amended	HB 62	700.010	Vetoed	SB 235
650.055	Amended	HB 152	700.100	Vetoed	SB 235
650.055	Amended	HB 481	700.111	Vetoed	SB 235
650.059	New	HB 62	700.320	Amended	HB 269
660.425	New	HB 740	700.320	Vetoed	HB 644
660.425	New	SB 307	700.320	Vetoed	SB 235
660.430	New	HB 740	700.330	Vetoed	SB 235
660.430	New	SB 307	700.350	Vetoed	SB 235
660.435	New	HB 740	700.360	Vetoed	SB 235

TABLE OF SECTIONS AFFECTED
BY
2009 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
700.370	Vetoed	SB 235	1	New	HB 282
700.375	Vetoed	SB 235	1	New	HB 395
700.385	Vetoed	SB 235	1	New	HB 481
700.525	Vetoed	SB 235	1	New	HB 537
700.526	Vetoed	SB 235	1	New	HB 734
700.527	Vetoed	SB 235	1	New	HB 895
700.528	Vetoed	SB 235	1	New	HB 909
700.529	Vetoed	SB 235	1	New	HB 918
700.530	Vetoed	SB 235	1	New	SB 1
700.531	Vetoed	SB 235	1	New	SB 15
700.533	Vetoed	SB 235	1	New	SB 179
700.535	Vetoed	SB 235	1	Vetoed	SB 242
700.537	Vetoed	SB 235	1	New	SB 291
700.539	Vetoed	SB 235	1	New	SB 296
700.630	Vetoed	SB 235	1	New	SB 307
701.355	Amended	HB 103	1	New	SB 313
701.500	Amended	HB 734	2	New	HB 62
701.502	New	HB 734	2	New	HB 481
701.503	Amended	HB 734	2	New	HB 909
701.506	Amended	HB 734	2	New	SB 15
1	New	HB 62	2	New	SB 179
1	New	HB 191	3	New	HB 62

TABLE OF SECTIONS AFFECTED
BY
2009 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
3	New	HB 481	7	New	SB 15
3	New	HB 909	7	New	SB 179
3	New	SB 15	8	New	SB 15
3	New	SB 179	8	New	SB 179
4	New	HB 481	9	New	SB 15
4	New	SB 15	9	New	SB 179
4	New	SB 179	10	New	SB 15
5	New	SB 15	10	New	SB 179
5	New	SB 179	11	New	SB 15
6	New	SB 15	11	New	SB 179
6	New	SB 179			

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HB 1 [HB 1]

APPROPRIATIONS: BOARD OF FUND COMMISSIONERS.

AN ACT to appropriate money to the Board of Fund Commissioners for the cost of issuing and processing State Water Pollution Control Bonds, Stormwater Control Bonds, Third State Building Bonds, and Fourth State Building Bonds, as provided by law, to include payments from the Water Pollution Control Bond and Interest Fund, Stormwater Control Bond and Interest Fund, Third State Building Bond Interest and Sinking Fund, Fourth State Building Bond and Interest Fund, Water Pollution Control Fund, and Stormwater Control Fund, and to transfer money among certain funds for the period beginning July 1, 2009 and ending June 30, 2010.

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

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28, of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2009 and ending June 30, 2010 as follows:

SECTION 1.010.— To the Board of Fund Commissioners
For annual fees, arbitrage rebate, refunding, defeasance, and related expenses
From General Revenue Fund $20,002E
From Bond Proceeds Fund 2E
Total $20,004

SECTION 1.015.— There is transferred out of the State Treasury, chargeable to the General Revenue Fund, to the Fourth State Building Bond and Interest Fund for currently outstanding general obligations
From General Revenue Fund $18,355,982

SECTION 1.020.— To the Board of Fund Commissioners
For payment of interest and sinking fund requirements on fourth state building bonds currently outstanding as provided by law
From Fourth State Building Bond and Interest Fund $18,754,982

SECTION 1.025.— There is transferred out of the State Treasury, chargeable to the General Revenue Fund, to the Water Pollution Control Bond and Interest Fund for currently outstanding general obligations
From General Revenue Fund $28,500,059E

There is transferred out of the State Treasury, chargeable to the Water and Wastewater Loan Revolving Fund pursuant to Title 33, Chapter 26, Subchapter VI, Section 1383, U.S. Code, to the Water Pollution Control Bond and Interest Fund for currently outstanding general obligations
From Water and Wastewater Loan Revolving Fund 8,447,480E
Total $36,947,539

SECTION 1.030. — To the Board of Fund Commissioners
For payment of interest and sinking fund requirements on water pollution control bonds currently outstanding as provided by law
From Water Pollution Control Bond and Interest Fund $36,569,027

SECTION 1.035. — There is transferred out of the State Treasury, chargeable to the General Revenue Fund, to the Stormwater Control Bond and Interest Fund for currently outstanding general obligations
From General Revenue Fund $3,315,833

SECTION 1.040. — To the Board of Fund Commissioners
For payment of interest and sinking fund requirements on stormwater control bonds currently outstanding as provided by law
From Stormwater Control Bond and Interest Fund $3,107,471

SECTION 1.045. — There is transferred out of the State Treasury, chargeable to the General Revenue Fund, to the Third State Building Bond Interest and Sinking Fund for currently outstanding general obligations
From General Revenue Fund $33,412,938

SECTION 1.050. — To the Board of Fund Commissioners
For payment of interest and sinking fund requirements on third state building bonds currently outstanding as provided by law
From Third State Building Bond Interest and Sinking Fund $39,631,188

BILL TOTALS
General Revenue Fund $83,604,814
Other Funds 8,447,482
Total $92,052,296

Approved June 25, 2009

HB 2 [CCS SS SCS HCS HB 2]

APPROPRIATIONS: STATE BOARD OF EDUCATION AND DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the State Board of Education and the Department of Elementary and Secondary Education, and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2009 and ending June 30, 2010.

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

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2009 and ending June 30, 2010 as follows:

SECTION 2.005.— To the Department of Elementary and Secondary Education
For the Division of General Administration
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment and flexibility of not more than two (2.00) F.T.E. between this section and Section 2.050

From General Revenue Fund	$2,022,868
From Federal Funds	1,692,639
Total (Not to exceed 61.50 F.T.E.)	$3,715,507

SECTION 2.010.— To the Department of Elementary and Secondary Education
For construction and site acquisition costs to accommodate any reasonably anticipated net enrollment increase caused by any reduction or elimination of the voluntary transfer plan as approved by the United States Court of the Eastern District of Missouri pursuant to Senate Bill 781 (1998)

From General Revenue Fund	$9,000,000

SECTION 2.015.— To the Department of Elementary and Secondary Education
For distributions to the free public schools under the School Foundation Program as provided in Chapter 163, RSMo, as follows: At least $3,004,388,410 for the foundation formula and no more than $183,603,843 for Transportation; $123,564,281 for Early Childhood Special Education; $37,467,000 for Career Ladder; $52,930,428 for Vocational Education; and $30,874,186 for Early Childhood Development

From Outstanding Schools Trust Fund	$517,647,395
From State School Moneys Fund	1,878,491,477
From Lottery Proceeds Fund	108,979,552
From Classroom Trust Fund	307,100,979
From Schools First Elementary and Secondary Education Improvement Fund	103,727,874
From Federal Budget Stabilization Fund	516,880,871

For the Small Schools Program

From State School Moneys Fund	15,000,000

For the Virtual Schools Program

From Lottery Proceeds Fund	4,800,000

For distribution to a metropolitan school district for the purpose of paying the costs of intra-district student transportation, these funds are subject to a sixty percent (60%) local match from the metropolitan school district

From Federal Budget Stabilization Fund	750,000

For State Board of Education operated school programs
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund	43,356,312
From Federal Funds	3,992,889

Expense and Equipment

From Bingo Proceeds for Education Fund	1,707,167

For one-time equipment funding
From Federal Budget Stabilization Fund 1,000,000
Total (Not to exceed 773.85 F.T.E.) $3,503,434,516

***SECTION 2.017.**— To the Department of Elementary and Secondary Education
For Statewide Areas of Critical Need for Learning and Development pursuant to Section 160.530, RSMo. The Joint Committee on Education shall continue to review and provide oversight for the programs funded in this section. And funds can be reallocated between programs within this section with the approval of the Joint Committee on Education
For System of Support Infrastructure
To maintain the state's system of support infrastructure including; $2,661,205 total to support the regional Professional Development Centers, which will be divided evenly at $241,928 per center, for the following centers; University of Central Missouri Center, University of Missouri - Heart of Missouri Center, University of Missouri - Kansas City Center, Truman State University Center, Northwest Missouri State University Center, University of Missouri Science and Technology Center, Southeast Missouri State University Center, Missouri State University Center, University of Missouri - St. Louis Center, Missouri Southern State University Center and Missouri Western State University Center. Also, $2,464,623 total to support the Missouri Assessment Program, which will be distributed at $230,049 for the University of Central Missouri Center, University of Missouri - Heart of Missouri Center, University of Missouri - Kansas City Center, Truman State University Center, Northwest Missouri State University Center, University of Missouri Science and Technology Center, Southeast Missouri State University Center, Missouri State University Center and the University of Missouri - St. Louis Center and $197,091 for the Missouri Southern State University Center and the Missouri Western State University Center. Also $998,846 for School Improvement Initiatives, $325,000 for the Educational Indicators for the MSIP
From State Schools Money Fund $6,449,674

For Teacher and School Board Member Training and Education
Including $155,000 for supporting Missouri teachers in the areas of personal finance and economics education and $136,326 for School board Member training.
From State Schools Money Fund 291,326

For the Missouri Scholars and Fine Arts Academies
From State Schools Money Fund 259,000
Total $7,000,000

*I hereby veto $155,000 State School Moneys Fund for Teacher Personal Finance and Economics Education Training. Since this program is not part of the critical state system of support and there is a revenue shortfall, the veto is necessary to ensure a balanced budget.

From $291,326 to $136,326 from State School Moneys Fund.
From $7,000,000 to $6,845,000 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

SECTION 2.020.— To the Department of Elementary and Secondary Education
For early grade literacy programs offered at Southeast Missouri State University
From Lottery Proceeds Fund $145,000

SECTION 2.025.— To the Department of Elementary and Secondary Education
For the School Food Services Program to reimburse schools for school food programs
From General Revenue Fund $3,412,151
From Federal Funds 216,316,642E
Total $219,728,793

SECTION 2.030.— To the Department of Elementary and Secondary Education
For distributions to the public elementary and secondary schools in this state, pursuant to Chapters 144, 163, and 164, RSMo, pertaining to the School District Trust Fund
From School District Trust Fund $760,600,000E

SECTION 2.035.— To the Department of Elementary and Secondary Education
For costs associated with school district bonds
From School District Bond Fund $392,000

SECTION 2.040.— To the Department of Elementary and Secondary Education
For the purpose of receiving and expending grants, donations, contracts, and payments from private, federal, and other governmental agencies which may become available between sessions of the General Assembly provided that the General Assembly shall be notified of the source of any new funds and the purpose for which they shall be expended, in writing, prior to the use of said funds
From Federal and Other Funds $15,000,000

SECTION 2.045.— To the Department of Elementary and Secondary Education
For the purpose of funding the Rebuild Missouri Schools Program to assist school districts in paying the costs of emergency projects through a loan repayment program
From Rebuild Missouri Schools Fund $5,337,135

SECTION 2.050.— To the Department of Elementary and Secondary Education
For the Division of School Improvement
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment and flexibility of not more than two (2.00) F.T.E. between this section and Section 2.005
From General Revenue Fund $1,432,074
From Federal Funds 7,527,640

For the Division of Career Education
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment and flexibility of not more than two (2.00) F.T.E. between this section and Section 2.005
From General Revenue Fund 1,478,521
From Federal Funds 3,003,883

For the Division of Special Education
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment and flexibility of not more than two (2.00) F.T.E. between this section and Section 2.005
From General Revenue Fund 248,399
From Federal Funds 2,640,224

For the Division of Teacher Quality and Urban Education
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment and flexibility of not more than two (2.00) F.T.E. between this section and Section 2.005
From General Revenue Fund 991,259
From Federal Funds 53,898
From Excellence in Education Fund 2,646,073
Total (Not to exceed 250.16 F.T.E.) $20,021,971

SECTION 2.055.— To the Department of Elementary and Secondary Education
For the Technology Grants Program and for planning and implementing computer network infrastructure for public elementary and secondary schools, including computer access to the Department of Elementary and Secondary Education and to improve the use of classroom technology
From Federal Funds $5,000,000

SECTION 2.060.— To the Department of Elementary and Secondary Education
For improving basic programs operated by local education agencies under Title I of the No Child Left Behind Act
From Federal Funds $200,000,000E

SECTION 2.065.— To the Department of Elementary and Secondary Education
For the Reading First Grant Program under Title I of the No Child Left Behind Act
From Federal Funds $27,908,815E

SECTION 2.070.— To the Department of Elementary and Secondary Education
For innovative educational program strategies under Title V of the No Child Left Behind Act
From Federal Funds $3,500,000E

SECTION 2.075.— To the Department of Elementary and Secondary Education
For programs for the gifted from interest earnings accruing in the Stephen Morgan Ferman Memorial for Education of the Gifted
From State School Moneys Fund $10,000E

SECTION 2.085.— To the Department of Elementary and Secondary Education
For reimbursements to school districts for the Early Childhood Program, Hard-to-Reach Incentives, and Parent Education in conjunction with the Early Childhood Education and Screening Program
From Federal Funds $824,000
From Federal Budget Stabilization Fund 73,200
From State School Moneys Fund 125,000

For grants to higher education institutions or area vocational technical schools for the Child Development Associate Certificate Program in collaboration with the Coordinating Board for Higher Education
From Federal Funds 400,000

For grants under the Early Childhood Development, Education and Care Program, including up to $25,000 in expense and equipment, for program administration
From Early Childhood Development, Education and Care Fund 14,757,600
Total $16,179,800

SECTION 2.090. — To the Department of Elementary and Secondary Education
For the Head Start Collaboration Program
From Federal Funds $300,000E

SECTION 2.092. — To the Department of Elementary and Secondary Education
For the A+ Schools Program
From General Revenue Fund $3,477,076
From Lottery Proceeds Fund 21,859,448
Total $25,336,524

SECTION 2.095. — To the Department of Elementary and Secondary Education
For the Performance Based Assessment Program
From General Revenue Fund $368,867
From Federal Funds 10,184,722
From Outstanding Schools Trust Fund 128,125
From Lottery Proceeds Fund 4,331,325
Total $15,013,039

SECTION 2.100. — To the Department of Elementary and Secondary Education
For courses, exams, and other expenses that lead to high school students receiving college credit and Advanced Placement examination fees for low-income families and for science and mathematics exams
From Federal Funds $105,000

SECTION 2.105. — To the Department of Elementary and Secondary Education
For the Instructional Improvement Grants Program pursuant to Title II Improving Teacher Quality
From Federal Funds $59,348,890E

SECTION 2.110. — To the Department of Elementary and Secondary Education
For the Safe and Drug Free Schools Grants Program pursuant to Title IV of the No Child Left Behind Act
From Federal Funds $7,600,000E

***SECTION 2.120.** — To the Department of Elementary and Secondary Education
For the Public Charter Schools Program
From Federal and Other Funds $2,432,000

For Charter Schools Evaluation
From Federal Budget Stabilization Fund 200,000
Total $2,632,000

*I hereby veto $200,000 Federal Budget Stabilization Fund for charter schools evaluation. The revenue shortfall necessitates reducing spending on non-critical items.

From $200,000 to $0 from Federal Budget Stabilization Fund.
From $2,632,000 to $2,432,000 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

SECTION 2.125.— To the Department of Elementary and Secondary Education
For grants to rural and low-income schools
From Federal Funds $3,600,000E

SECTION 2.130.— To the Department of Elementary and Secondary Education
For language acquisition pursuant to Title III of the No Child Left Behind Act
From Federal Funds $5,200,000E

SECTION 2.135.— To the Department of Elementary and Secondary Education
For the Refugee Children School Impact Grants Program
From Federal Funds $800,000

SECTION 2.140.— To the Department of Elementary and Secondary Education
For character education initiatives
From Lottery Proceeds Fund $774,514

SECTION 2.145.— To the Department of Elementary and Secondary Education
For the Schools with Distinction Program
From Federal Funds $13,000E

SECTION 2.150.— To the Department of Elementary and Secondary Education
For the Wallace Leadership Grants Program
From Federal Funds $1,200,000

***SECTION 2.155.**— To the Department of Elementary and Secondary Education
For the Enhancing Missouri's Instructional Networked Teaching Strategies (EMINTS) Program
From Federal Budget Stabilization Fund $1,000,000

*I hereby veto $1,000,000 Federal Budget Stabilization fund for Enhancing Missouri's Instructional Networked Teaching Strategies (eMINTS) classroom technology. Federal Stimulus Funds are provided in House Bill 21 for enhancing education through technology projects.

Said section is vetoed in its entirety from $1,000,000 to $0 from Federal Budget Stabilization Fund.

JEREMIAH W. (JAY) NIXON, GOVERNOR

SECTION 2.160.— To the Department of Elementary and Secondary Education
For the Missouri History Teachers Program
From Federal Funds $1,200

SECTION 2.165.— To the Department of Elementary and Secondary Education
For the Division of Vocational Rehabilitation
Personal Service $26,342,351
Expense and Equipment 3,532,608
From Federal Funds (Not to exceed 643.70 F.T.E.) $29,874,959

SECTION 2.170.— To the Department of Elementary and Secondary Education
For the Vocational Rehabilitation Program
From General Revenue Fund $13,021,105
From Federal Funds 40,713,797
From Payments by the Department of Mental Health 1,000,000
From Lottery Proceeds Fund 1,400,000
Total $56,134,902

SECTION 2.175.— To the Department of Elementary and Secondary Education
For the Disability Determination Program
From Federal Funds $14,000,000

SECTION 2.180.— To the Department of Elementary and Secondary Education
For Independent Living Centers
From General Revenue Fund $3,188,838
From Federal Funds 1,292,546
From Independent Living Center Fund 390,556
Total $4,871,940

SECTION 2.185.— To the Department of Elementary and Secondary Education
For distributions to providers of vocational education programs
From Federal Funds $26,000,000

SECTION 2.190.— To the Department of Elementary and Secondary Education
For job training programs pursuant to the Workforce Investment Act
From Federal Funds $8,000,000E

SECTION 2.195.— To the Department of Elementary and Secondary Education
For distributions to educational institutions for the Adult Basic Education Program
From General Revenue Fund $4,530,849
From Federal Funds 10,000,000
From Outstanding Schools Trust Fund 824,480
Total $15,355,329

SECTION 2.200.— To the Department of Elementary and Secondary Education
For the School Age Child Care Program
From Federal Funds $17,408,383
From After-School Retreat Reading and Assessment Grant Program Fund. . 10,000E
Total $17,418,383

SECTION 2.205.— To the Department of Elementary and Secondary Education
For the Troops to Teachers Program
From Federal Funds $153,610

SECTION 2.210.— To the Department of Elementary and Secondary Education
For the Special Education Program

From Federal Funds $235,315,211E

SECTION 2.215. — To the Department of Elementary and Secondary Education
For special education excess costs
From General Revenue Fund $1,421,563
From Lottery Proceeds Fund 19,590,000
From Schools First Elementary and Secondary Education Improvement Fund 4,874,682
Total $25,886,245

SECTION 2.220. — To the Department of Elementary and Secondary Education
For the First Steps Program
From General Revenue Fund $16,740,703
From Federal Funds 7,761,583E
From Early Childhood Development, Education and Care Fund 578,644
From Part C Early Intervention Fund 5,295,254E
Total $30,376,184

SECTION 2.225. — To the Department of Elementary and Secondary Education
For payments to school districts for children in residential placements through the Department of Mental Health or the Department of Social Services pursuant to Section 167.126, RSMo
From General Revenue Fund $2,330,731
From Lottery Proceeds Fund 7,768,606
Total $10,099,337

SECTION 2.230. — To the Department of Elementary and Secondary Education
For the Sheltered Workshops Program
From General Revenue Fund $24,786,000

SECTION 2.235. — To the Department of Elementary and Secondary Education
For payments to readers for blind or visually disabled students in elementary and secondary schools
From State School Moneys Fund $25,000

SECTION 2.240. — To the Department of Elementary and Secondary Education
For a task force on blind student academic and vocational performance
From General Revenue Fund $237,950

SECTION 2.245. — To the Department of Elementary and Secondary Education
For the Missouri School for the Deaf
From School for the Deaf Trust Fund $25,000E

SECTION 2.250. — To the Department of Elementary and Secondary Education
For the Missouri School for the Blind
From School for the Blind Trust Fund $1,500,000E

SECTION 2.255. — To the Department of Elementary and Secondary Education
For the Missouri Special Olympics Program
From General Revenue Fund $100,000

SECTION 2.260. — To the Department of Elementary and Secondary Education
For the Missouri Schools for the Severely Disabled

From Handicapped Children's Trust Fund $30,000E

SECTION 2.265.— To the Department of Elementary and Secondary Education
For the Missouri Commission for the Deaf and Hard of Hearing
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund $234,692
From Missouri Commission for the Deaf and Hard of Hearing Fund 52,100

Expense and Equipment
From Certification of Interpreters Fund 117,000
Total (Not to exceed 7.00 F.T.E.) $403,792

SECTION 2.270.— To the Department of Elementary and Secondary Education
For the Missouri Assistive Technology Council
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
From Federal Funds $815,096
From Deaf Relay Service and Equipment Distribution Program Fund 1,870,649
From Assistive Technology Loan Revolving Fund 349,430

Expense and Equipment
From Assistive Technology Trust Fund 750,000
Total (Not to exceed 10.00 F.T.E.) $3,785,175

SECTION 2.275.— To the Department of Elementary and Secondary Education
For the Children's Services Commission
From Children's Service Commission Fund $10,000

SECTION 2.280.— To the Department of Elementary and Secondary Education
Funds are to be transferred out of the State Treasury, chargeable to the General Revenue Fund, to the State School Moneys Fund
From General Revenue Fund $1,712,136,845

SECTION 2.285.— To the Department of Elementary and Secondary Education
Funds are to be transferred out of the State Treasury, chargeable to the General Revenue Fund-County Foreign Tax Distribution, to the State School Moneys Fund
From General Revenue Fund $106,000,000E

SECTION 2.290.— To the Department of Elementary and Secondary Education
Funds are to be transferred out of the State Treasury, chargeable to the Fair Share Fund, to the State School Moneys Fund
From Fair Share Fund $22,800,000E

SECTION 2.295.— To the Department of Elementary and Secondary Education
Funds are to be transferred out of the State Treasury, chargeable to the General Revenue Fund, to the Outstanding Schools Trust Fund
From General Revenue Fund $518,600,000E

SECTION 2.300. — To the Department of Elementary and Secondary Education
Funds are to be transferred out of the State Treasury, chargeable to the Gaming Proceeds for Education Fund, to the Classroom Trust Fund
From Gaming Proceeds for Education Fund $297,314,440E

SECTION 2.305. — To the Department of Elementary and Secondary Education
Funds are to be transferred out of the State Treasury, chargeable to the Lottery Proceeds Fund, to the Classroom Trust Fund
From Lottery Proceeds Fund $9,786,539

SECTION 2.310. — To the Department of Elementary and Secondary Education
Funds are to be transferred out of the State Treasury, chargeable to the Gaming Proceeds for Education Fund, to the School District Bond Fund
From Gaming Proceeds for Education Fund $392,000

SECTION 2.315. — To the Department of Elementary and Secondary Education
Funds are to be transferred out of the State Treasury, chargeable to the School Building Revolving Fund, to the State School Moneys Fund
From School Building Revolving Fund $1,000,000E

SECTION 2.320. — To the Department of Elementary and Secondary Education
Funds are to be transferred out of the State Treasury, chargeable to the Gaming Proceeds for Education Fund, to the Schools First Elementary and Secondary Education Improvement Fund
From Gaming Proceeds for Education Fund $108,602,556E

SECTION 2.330. — To the Department of Elementary and Secondary Education
Funds are to be transferred out of the State Treasury, chargeable to the Federal Budget Stabilization Fund, to the Rebuild Missouri Schools Fund
From Federal Budget Stabilization Fund $5,337,135

BILL TOTALS

General Revenue Fund	$2,469,116,803
Federal Budget Stabilization Fund	525,241,206
Federal Funds	970,980,627
Other Funds	1,458,948,085
Total	$5,424,286,721

Approved June 25, 2009

HB 3 [CCS SS SCS HCS HB 3]

APPROPRIATIONS: DEPARTMENT OF HIGHER EDUCATION.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Department of Higher Education, the several divisions, programs, and institutions of higher education included therein to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2009 and ending June 30, 2010.

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

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2009 and ending June 30, 2010 as follows:

SECTION 3.005.— To the Department of Higher Education
For Higher Education Coordination, for regulation of proprietary schools as provided in Section 173.600, RSMo, and for grant and scholarship program administration
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund $1,126,622
From Federal and Other Funds 237,046E

For workshops and conferences sponsored by the Department of Higher Education, and for distribution of federal funds to higher education institutions, to be paid for on a cost-recovery basis
From Quality Improvement Revolving Fund 200,000E
Total (Not to exceed 22.58 F.T.E.) $1,563,668

SECTION 3.010.— To the Department of Higher Education
For indemnifying individuals as a result of improper actions on the part of proprietary schools as provided in Section 173.612, RSMo
From Proprietary School Bond Fund $100,000

SECTION 3.015.— To the Department of Higher Education
For annual membership in the Midwestern Higher Education Compact
From General Revenue Fund $95,000

SECTION 3.020.— To the Department of Higher Education
For the Eisenhower Science and Mathematics Program and the Improving Teacher Quality State Grants Program
Personal Service $64,022
Expense and Equipment 20,400
Federal Education Programs 1,698,000
From Federal Funds (Not to exceed 1.00 F.T.E.) $1,782,422

SECTION 3.025.— To the Department of Higher Education
For receiving and expending donations and federal funds provided that the General Assembly shall be notified of the source of any new funds and the purpose for which they shall be expended, in writing, prior to the expenditure of said funds
From Federal and Other Funds $2,000,000

SECTION 3.030.— To the Department of Higher Education
For receiving and expending federal College Access Challenge Grants
From Federal Funds $1,148,535

SECTION 3.035. — To the Department of Higher Education
Funds are to be transferred out of the State Treasury, chargeable to the General Revenue Fund, to the Academic Scholarship Fund
From General Revenue Fund $16,359,000

SECTION 3.040. — To the Department of Higher Education
For the Higher Education Academic Scholarship Program pursuant to Chapter 173, RSMo
From Academic Scholarship Fund $16,359,000E

SECTION 3.045. — To the Department of Higher Education
Funds are to be transferred out of the State Treasury, chargeable to the funds listed below, to the Access Missouri Financial Assistance Fund
From General Revenue Fund $77,860,640
From Federal Funds 1,000,000E
From Lottery Proceeds Fund 11,916,667
From Missouri Student Grant Program Gift Fund 50,000E
Total $90,827,307

SECTION 3.050. — To the Department of Higher Education
For the Access Missouri Financial Assistance Program pursuant to Chapter 173, RSMo
From Access Missouri Financial Assistance Fund $95,827,307E

SECTION 3.060. — To the Department of Higher Education
For the Public Service Officer or Employee Survivor Grant Program pursuant to Section 173.260, RSMo
From General Revenue Fund $100,000

SECTION 3.065. — To the Department of Higher Education
For the Vietnam Veterans Survivors Scholarship Program pursuant to Section 173.236, RSMo
From General Revenue Fund $50,000

SECTION 3.070. — To the Department of Higher Education
Funds are to be transferred out of the State Treasury, chargeable to the General Revenue Fund, to the Marguerite Ross Barnett Scholarship Fund
From General Revenue Fund $403,750

SECTION 3.075. — To the Department of Higher Education
For the Marguerite Ross Barnett Scholarship Program pursuant to Section 173.262, RSMo
From Marguerite Ross Barnett Scholarship Fund $403,750E

SECTION 3.080. — To the Department of Higher Education
For the Kids' Chance Scholarship Program pursuant to Chapter 173, RSMo
From Kids' Chance Scholarship Fund $27,750

SECTION 3.090. — To the Department of Higher Education
For minority teaching student scholarships pursuant to Section 161.415, RSMo
From Lottery Proceeds Fund $200,000

SECTION 3.110.— To the Department of Higher Education
For the Minority and Underrepresented Environmental Literacy Program pursuant to Section 640.240, RSMo
From General Revenue Fund $32,964
From Recruitment and Retention Scholarship Fund 50,000
Total $82,964

SECTION 3.115.— To the Department of Higher Education
For the Advantage Missouri Program pursuant to Chapter 173, RSMo
From Advantage Missouri Trust Fund $15,000E

SECTION 3.120.— To the Department of Higher Education
For GEAR UP Program scholarships
From GEAR UP Scholarship Fund $450,000E

SECTION 3.125.— To the Department of Higher Education
For the Missouri Guaranteed Student Loan Program
Personal Service and/or Expense and Equipment $10,611,848
Default prevention activities 890,000
Payment of fees for collection of defaulted loans 4,000,000E
Payment of penalties to the federal government associated with late deposit of default collections 500,000
From Guaranty Agency Operating Fund (Not to exceed 52.09 F.T.E.) $16,001,848

SECTION 3.130.— To the Department of Higher Education
Funds are to be transferred out of the State Treasury, chargeable to the Federal Student Loan Reserve Fund, to the Guaranty Agency Operating Fund
From Federal Student Loan Reserve Fund $8,000,000E

SECTION 3.135.— To the Department of Higher Education
For purchase of defaulted loans, payment of default aversion fees, reimbursement to the federal government, and investment of funds in the Federal Student Loan Reserve Fund
From Federal Student Loan Reserve Fund $125,000,000E

SECTION 3.140.— To the Department of Higher Education
For payment of refunds set off against debt as required by Section 143.786, RSMo
From Debt Offset Escrow Fund $250,000E

SECTION 3.145.— To the Department of Higher Education
Funds are to be transferred out of the State Treasury, chargeable to the Guaranty Agency Operating Fund, to the Federal Student Loan Reserve Fund
From Guaranty Agency Operating Fund $1,000,000E

SECTION 3.150.— To the Department of Higher Education
For lender of last resort loans
From Lender of Last Resort Revolving Fund $1E

SECTION 3.155.— To the Department of Higher Education
For distribution to community colleges as provided in Section 163.191, RSMo

From General Revenue Fund $120,845,084
From Lottery Proceeds Fund 7,452,485
From Federal Budget Stabilization Fund 15,039,350

For maintenance and repair at community colleges, local matching funds must be provided on a 50/50 state/local match rate in order to be eligible for state funds
From General Revenue Fund 5,040,498

For the payment of refunds set off against debt as required by Section 143.786, RSMo
From Debt Offset Escrow Fund 250,000E
Total $148,627,417

SECTION 3.160. — To Linn State Technical College
All Expenditures
From General Revenue Fund $4,119,636
From Lottery Proceeds Fund 420,528
From Federal Budget Stabilization Fund 696,456

For any one-time purpose
From Federal Budget Stabilization Fund 154,151

For the payment of refunds set off against debt as required by Section 143.786, RSMo
From Debt Offset Escrow Fund 30,000E
Total $5,420,771

SECTION 3.165. — To the University of Central Missouri
All Expenditures
From General Revenue Fund $48,114,949

From Lottery Proceeds Fund 4,985,715
From Federal Budget Stabilization Fund 6,576,414

For any one-time purpose
From Federal Budget Stabilization Fund 1,216,361

For the payment of refunds set off against debt as required by Section 143.786, RSMo
From Debt Offset Escrow Fund 75,000E
Total $60,968,439

SECTION 3.170. — To Southeast Missouri State University
All Expenditures
From General Revenue Fund $39,225,325
From Lottery Proceeds Fund 4,059,895
From Federal Budget Stabilization Fund 5,360,791

For any one-time purpose
From Federal Budget Stabilization Fund 1,172,210

For the payment of refunds set off against debt as required by Section 143.786, RSMo
From Debt Offset Escrow Fund 75,000E
Total $49,893,221

SECTION 3.175.— To Missouri State University
All Expenditures
From General Revenue Fund $72,405,898
From Lottery Proceeds Fund 7,675,409
From Federal Budget Stabilization Fund 9,917,915

For any one-time purpose
From Federal Budget Stabilization Fund 2,198,607

For the payment of refunds set off against debt as required by Section 143.786, RSMo
From Debt Offset Escrow Fund 75,000E
Total $92,272,829

SECTION 3.180.— To Lincoln University
All Expenditures
From General Revenue Fund $16,049,762
From Lottery Proceeds Fund 1,551,205
From Federal Budget Stabilization Fund 2,179,846

For any one-time purpose
From Federal Budget Stabilization Fund 807,161

For the payment of refunds set off against debt as required by Section 143.786, RSMo
From Debt Offset Escrow Fund 75,000E
Total $20,662,974

SECTION 3.185.— To Truman State University
All Expenditures
From General Revenue Fund $36,408,602
From Lottery Proceeds Fund 3,776,109
From Federal Budget Stabilization Fund 4,976,799

For any one-time purpose
From Federal Budget Stabilization Fund 756,339

For the payment of refunds set off against debt as required by Section 143.786, RSMo
From Debt Offset Escrow Fund 75,000E
Total $45,992,849

SECTION 3.190.— To Northwest Missouri State University
All Expenditures
From General Revenue Fund $26,851,617
From Lottery Proceeds Fund 2,599,805
From Federal Budget Stabilization Fund 3,647,502

For any one-time purpose
From Federal Budget Stabilization Fund 527,319

For the payment of refunds set off against debt as required by Section 143.786, RSMo
From Debt Offset Escrow Fund 75,000E
Total $33,701,243

SECTION 3.195. — To Missouri Southern State University
All Expenditures
From General Revenue Fund $20,803,531
From Lottery Proceeds Fund 1,972,820
From Federal Budget Stabilization Fund 2,820,807

For any one-time purpose
From Federal Budget Stabilization Fund 1,100,871

For the payment of refunds set off against debt as required by Section 143.786, RSMo
From Debt Offset Escrow Fund 75,000E
Total $26,773,029

SECTION 3.200. — To Missouri Western State University
All Expenditures
From General Revenue Fund $19,020,875
From Lottery Proceeds Fund 1,968,039
From Federal Budget Stabilization Fund 2,599,437

For any one-time purpose
From Federal Budget Stabilization Fund 847,724

For the payment of refunds set off against debt as required by Section 143.786, RSMo
From Debt Offset Escrow Fund 75,000E
Total $24,511,075

SECTION 3.205. — To Harris-Stowe State University
All Expenditures
From General Revenue Fund $8,769,235
From Lottery Proceeds Fund 908,704
From Federal Budget Stabilization Fund 1,198,595

For any one-time purpose
From Federal Budget Stabilization Fund 513,870

For the payment of refunds set off against debt as required by Section 143.786, RSMo
From Debt Offset Escrow Fund 75,000E
Total $11,465,404

SECTION 3.210. — To the University of Missouri
For operation of its various campuses and programs

All Expenditures
From General Revenue Fund $364,833,842
From Lottery Proceeds Fund 36,869,596
From Federal Budget Stabilization Fund 49,772,727

For any one-time purpose
From Federal Budget Stabilization Fund 24,278,199

For the payment of refunds set off against debt as required by Section 143.786, RSMo
From Debt Offset Escrow Fund 200,000E
Total $475,954,364

SECTION 3.215.— To the University of Missouri
For the Missouri Telehealth Network
All Expenditures
From General Revenue Fund $378,000
From Healthy Families Trust Fund 437,640
Total $815,640

***SECTION 3.220.**— To the University of Missouri
For the Missouri Research and Education Network (MOREnet)
All Expenditures
From General Revenue Fund $11,479,151
From Federal Budget Stabilization Fund 3,287,000
Total $14,766,151

*I hereby veto $2,011,539 Federal Budget Stabilization Fund for the Missouri Research and Education Network (MOREnet). These funds would have provided an increase in funding for this program and a veto of these additional funds is necessary to ensure a balanced budget.

From $3,287,000 to $1,275,461 from Federal Budget Stabilization Fund.
From $14,766,151 to $12,754,612 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

***SECTION 3.225.**— To the University of Missouri
For the University of Missouri Hospital and Clinics
All Expenditures
From General Revenue Fund $12,866,571
From Federal Budget Stabilization Fund 6,550,000
Total $19,416,571

*I hereby veto $340,746 general revenue for the University of Missouri Hospital and Clinics. My budget recommendations included a five percent reduction to this program. These funds were not included in my budget recommendations and a veto of these additional funds is necessary to ensure a balanced budget.

From $12,866,571 to $12,525,825 from General Revenue Fund.
From $19,416,571 to $19,075,825 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

SECTION 3.230. — To the University of Missouri
For the Missouri Rehabilitation Center
All Expenditures
From General Revenue Fund $11,486,522

SECTION 3.235. — To the University of Missouri
For a program of research into spinal cord injuries
All Expenditures
From Spinal Cord Injury Fund $400,000E

SECTION 3.240. — To the University of Missouri
For the Missouri Institute of Mental Health
All Expenditures
From General Revenue Fund $1,655,892

SECTION 3.245. — To the University of Missouri
For the treatment of renal disease in a statewide program
All Expenditures
From General Revenue Fund $3,615,097
From Federal Budget Stabilization Fund 150,000
Total $3,765,097

SECTION 3.250. — To the University of Missouri
For the State Historical Society
All Expenditures
From General Revenue Fund $1,457,605

SECTION 3.255. — To the Board of Curators of the University of Missouri
For investment in registered federal, state, county, municipal, or school district bonds as provided by law
From State Seminary Fund $3,000,000

SECTION 3.260. — To the Board of Curators of the University of Missouri
For use by the University of Missouri
From State Seminary Moneys Fund, Income from Investments $250,000

BILL TOTALS
General Revenue Fund $921,455,668
Federal Budget Stabilization Fund 148,346,451
Federal Funds 6,168,003
Other Funds 232,096,466
Total $1,308,066,588

Approved June 25, 2009

HB 4 [CCS SCS HCS HB 4]

APPROPRIATIONS: DEPARTMENT OF REVENUE AND DEPARTMENT OF TRANSPORTATION.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Department of Revenue, Department of Transportation, and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2009 and ending June 30, 2010.

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

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2009 and ending June 30, 2010, as follows:

SECTION 4.005.— To the Department of Revenue
For the purpose of collecting highway related fees and taxes
Personal Service and/or Expense and Equipment, provided that not more than fifty percent (50%) flexibility is allowed between personal service and expense and equipment, also fifty percent (50%) flexibility is allowed between Sections 4.005, 4.006, 4.007, 4.008 and 4.010

From General Revenue Fund	$12,328,365
From State Highways and Transportation Department Fund	12,117,273
Total (Not to exceed 502.39 F.T.E.)	$24,445,638

SECTION 4.006.— To the Department of Revenue
For the Division of Customer Services-Taxation
Personal Service and/or Expense and Equipment, provided that not more than fifty percent (50%) flexibility is allowed between personal service and expense and equipment, also fifty percent (50%) flexibility is allowed between Sections 4.005, 4.006, 4.007, 4.008 and 4.010

From General Revenue Fund	$13,918,377
From Petroleum Storage Tank Insurance Fund	27,654
From Petroleum Inspection Fund	35,497
From Health Initiatives Fund	53,714
From Conservation Commission Fund	555,816
From Elderly Home-Delivered Meals Trust Fund	12,582
Total (Not to exceed 465.10 F.T.E.)	$14,603,640

SECTION 4.007.— To the Department of Revenue
For the Division of Customer Services-Motor Vehicle and Driver Licensing
Personal Service and/or Expense and Equipment, provided that not more than fifty percent (50%) flexibility is allowed between personal service and expense and equipment, also fifty percent (50%) flexibility is allowed between Sections 4.005, 4.006, 4.007, 4.008 and 4.010

From General Revenue Fund	$608,647
From Federal Funds	578,957E
From Department of Revenue Information Fund	489,829

From Motor Vehicle Commission Fund 618,978
From Department of Revenue Specialty Plate Fund 5,206E
Total (Not to exceed 41.05 F.T.E.) $2,301,617

SECTION 4.008. — To the Department of Revenue
For the Division of Legal Services
Personal Service and/or Expense and Equipment, provided that not more than fifty percent (50%) flexibility is allowed between personal service and expense and equipment, also fifty percent (50%) flexibility is allowed between Sections 4.005, 4.006, 4.007, 4.008 and 4.010
From General Revenue Fund $2,049,563
From Federal Funds 70,000E
From Motor Vehicle Commission Fund 492,058
Total (Not to exceed 53.16 F.T.E.) $2,611,621

SECTION 4.010. — To the Department of Revenue
For the Division of Fiscal Services
Personal Service and/or Expense and Equipment, provided that not more than fifty percent (50%) flexibility is allowed between personal service and expense and equipment, also fifty percent (50%) flexibility is allowed between Sections 4.005, 4.006, 4.007, 4.008 and 4.010
From General Revenue Fund $9,448,988
From Federal Funds 6,020,764E
From Department of Revenue Information Fund 119,433
From Child Support Enforcement Collections Fund 2,624,213

For postage
Expense and Equipment
From General Revenue Fund 2,464,160
From Health Initiatives Fund 5,373
From Motor Vehicle Commission Fund 44,029
From Conservation Commission Fund 1,343
From Department of Revenue Information Fund 199,611
Total (Not to exceed 181.29 F.T.E.) $20,927,914

SECTION 4.015. — To the Department of Revenue
For the State Tax Commission
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund $2,822,279

Expense and Equipment
For the Productive Capability of Agricultural and Horticultural Land Use Study
From General Revenue Fund 4,250
Total (Not to exceed 55.00 F.T.E.) $2,826,529

SECTION 4.020. — To the Department of Revenue
For the state's share of the costs and expenses incurred pursuant to an approved assessment and equalization maintenance plan as provided by Chapter 137, RSMo
From General Revenue Fund $19,020,668

SECTION 4.025.— To the Department of Revenue
For payment of fees to counties as a result of delinquent collections made by circuit attorneys or prosecuting attorneys and payment of collection agency fees
From General Revenue Fund $2,009,425E

SECTION 4.030.— To the Department of Revenue
For payment of fees to counties for the filing of lien notices and lien releases
From General Revenue Fund $225,000

SECTION 4.035.— To the Department of Revenue
For distribution to the several counties and the City of St. Louis to offset property taxes for homestead preservation
From Federal Budget Stabilization Fund $2,571,865

***SECTION 4.037.**— To the Department of Revenue
For distribution to any political subdivision to offset property taxes for qualified rolling stock
From Federal Budget Stabilization Fund $3,000,000

*I hereby veto $3,000,000 Federal Budget Stabilization Fund for the railroad rolling stock tax credit. This funding would have been for a new program that cannot be supported due to the revenue shortfall.

Said section is vetoed in its entirety from $3,000,000 to $0 from Federal Budget Stabilization Fund.
From $3,000,000 to $0 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

SECTION 4.040.— To the Department of Revenue
For distribution to cities and counties of all funds accruing to the Motor Fuel Tax Fund under the provisions of Sections 30(a) and 30(b), Article IV, Constitution of Missouri
From Motor Fuel Tax Fund $188,000,000E

SECTION 4.045.— To the Department of Revenue
For distribution to Veterans of Foreign Wars Department of Missouri of all emblem use fee contributions collected for the SOME GAVE ALL specialty plate
From General Revenue Fund $1,000E

SECTION 4.050.— To the Department of Revenue
For refunds for overpayment or erroneous payment of any tax or any payment that is credited to the General Revenue Fund
From General Revenue Fund $1,356,000,000E

SECTION 4.055.— To the Department of Revenue
For refunds for overpayment or erroneous payment of any tax or any payment credited to Federal and Other Funds
From Federal and Other Funds $34,850E

SECTION 4.060. — To the Department of Revenue
For the purpose of refunding any tax or fee credited to the State Highways and Transportation Department Fund
From State Highways and Transportation Department Fund $2,290,564E

SECTION 4.065. — To the Department of Revenue
For the purpose of refunding any overpayment or erroneous payment of any amount credited to the Aviation Trust Fund
From Aviation Trust Fund $50,000E

SECTION 4.070. — To the Department of Revenue
For refunds and distributions of motor fuel taxes
From State Highways and Transportation Department Fund $10,414,000E

SECTION 4.075. — To the Department of Revenue
For refunds for overpayment or erroneous payment of any tax or any payment credited to the Workers' Compensation Fund
From Workers' Compensation Fund $450,000E

SECTION 4.080. — To the Department of Revenue
For refunds for overpayment or erroneous payment of any tax or any payment for tobacco taxes
From Health Initiatives Fund $25,000E
From State School Money Fund 25,000E
From Fair Share Fund 11,000E
Total $61,000

SECTION 4.085. — To the Department of Revenue
For apportionments to the several counties and the City of St. Louis to offset credits taken against the County Stock Insurance Tax
From General Revenue Fund $500,000E

SECTION 4.090. — To the Department of Revenue
For the payment of local sales tax delinquencies set off by tax credits
From General Revenue Fund $200,000E

SECTION 4.095. — There is transferred out of the State Treasury, chargeable to the General Revenue Fund, such amounts as may be necessary to make payments of refunds set off against debts as required by Section 143.786, RSMo, to the Debt Offset Escrow Fund
From General Revenue Fund $11,292,384E

SECTION 4.100. — There is transferred out of the State Treasury, chargeable to the General Revenue Fund, such amounts as may be necessary to make payments of refunds set off against debts as required by Section 488.020(3), RSMo, to the Circuit Courts Escrow Fund
From General Revenue Fund $505,500E

SECTION 4.105. — For the payment of refunds set off against debts as required by Section 143.786, RSMo
From Debt Offset Escrow Fund $250,000E

SECTION 4.110.— There is transferred out of the State Treasury, chargeable to the School District Trust Fund, to the General Revenue Fund
From School District Trust Fund $2,500,000

SECTION 4.115.— There is transferred out of the State Treasury, chargeable to the Parks Sales Tax Fund, sixty-six hundredths percent of the funds received, to the General Revenue Fund
From Parks Sales Tax Fund $240,000E

SECTION 4.120.— There is transferred out of the State Treasury, chargeable to the Soil and Water Sales Tax Fund, sixty-six hundredths percent of the funds received, to the General Revenue Fund
From Soil and Water Sales Tax Fund $240,000E

SECTION 4.125.— There is transferred out of the State Treasury, chargeable to the General Revenue Fund, such amounts generated by development projects, as required by Section 99.963, RSMo, to the State Supplemental Downtown Development Fund
From General Revenue Fund $3,240,450

SECTION 4.130.— There is transferred out of the state treasury, chargeable to the General Revenue Fund, such amounts generated by redevelopment projects, as required by Section 99.1092, RSMo, to the Downtown Revitalization Preservation Fund
From General Revenue Fund $134,805

SECTION 4.135.— There is transferred out of the State Treasury, chargeable to the General Revenue Fund, amounts from income tax refunds designated by taxpayers for deposit in various income tax check-off funds
From General Revenue Fund $396,000E

SECTION 4.140.— There is transferred out of the State Treasury, chargeable to various income tax check-off funds, amounts from income tax refunds erroneously deposited to said funds, to the General Revenue Fund
From Other Funds $13,669E

SECTION 4.145.— For distribution from the various income tax check-off charitable trust funds
From Other Funds $31,500E

SECTION 4.150.— There is transferred out of the State Treasury, chargeable to the Department of Revenue Information Fund, to the State Highways and Transportation Department Fund
From Department of Revenue Information Fund $250,000E

SECTION 4.155.— There is transferred out of the State Treasury, chargeable to the Motor Fuel Tax Fund, to the State Highways and Transportation Department Fund
From Motor Fuel Tax Fund $560,178,001E

***SECTION 4.160.**— To the Department of Revenue
For the State Lottery Commission

For any and all expenditures, including operating, maintenance and repair, and minor renovations, necessary for the purpose of operating a state lottery, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
Personal Service $7,361,934
Expense and Equipment 31,253,502E
From Lottery Enterprise Fund (Not to exceed 173.50 F.T.E.) $38,615,436

*I hereby veto $368,097 Lottery Enterprise Fund for ten staff in the Lottery Commission to allow greater use of lottery funds for education.

Personal Service by $368,097 from $7,361,934 to $6,993,837 Lottery Enterprise Fund.
From $38,615,436 to $38,247,339 in total from Lottery Enterprise Fund.
From $38,615,436 to $38,247,339 in total for this section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

SECTION 4.165.— To the Department of Revenue
For the State Lottery Commission
For the payment of prizes
From Lottery Enterprise Fund $102,000,000E

SECTION 4.170.— There is transferred out of the State Treasury, chargeable to the Lottery Enterprise Fund, to the Lottery Proceeds Fund
From Lottery Enterprise Fund $260,000,000E

***SECTION 4.200.**— To the Department of Transportation
For the Highways and Transportation Commission and Highway Program Administration
Personal Service $21,809,803E
Expense and Equipment 5,322,263E
From State Road Fund 27,132,066

For Administration fringe benefits
Personal Service 10,200,600E
Expense and Equipment 14,377,622E
From State Road Fund 24,578,222
Total (Not to exceed 439.57 F.T.E.) $51,710,288

*I hereby veto $33,000 State Road Fund Administration due to administrative inefficiencies.

Expense and Equipment by $33,000 from $5,322,263E to $5,289,263E State Road Fund.
From $27,132,066 to $27,099,066 from State Road Fund.
From $51,710,288 to $51,677,288 in total for this section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

SECTION 4.205.— To the Department of Transportation
For the Construction Program
To pay the costs of reimbursing counties and other political subdivisions for the acquisition of roads and bridges taken over by the state as permanent parts of the state highway system, and for the costs of locating, relocating,

establishing, acquiring, constructing, reconstructing, widening, and improving those highways, bridges, tunnels, parkways, travelways, tourways, and coordinated facilities authorized under Article IV, Section 30(b) of the Constitution of Missouri; of acquiring materials, equipment, and buildings necessary for such purposes and for other purposes and contingencies relating to the location and construction of highways and bridges; and to receive funds from the United States Government for like purposes

Personal Service	$80,067,491E
Expense and Equipment	24,020,984E
Construction	1,188,571,144E
From State Road Fund	1,292,659,619

For all expenditures associated with refunding outstanding state road bond debt

From State Road Fund	97,817,000E
From State Road Bond Fund	123,101,000E

For Construction Program fringe benefits

Personal Service	35,512,728E
Expense and Equipment	1,715,971E
From State Road Fund	37,228,699
Total (Not to exceed 1,753.26 F.T.E.)	$1,550,806,318

SECTION 4.207. — To the Department of Transportation

For the Motorist Assistance Program

Personal Service	$2,021,877E
Expense and Equipment	488,650E
From State Road Fund	2,510,527

For Motorist Assistance fringe benefits

Personal Service	1,033,352E
Expense and Equipment	95,148E
From State Road Fund	1,128,500
Total (Not to exceed 53.00 F.T.E.)	$3,639,027

SECTION 4.210. — To the Department of Transportation

For the Maintenance Program

To pay the costs of preserving and maintaining the state system of roads and bridges and coordinated facilities authorized under Article IV, Section 30(b) of the Constitution of Missouri; of acquiring materials, equipment, and buildings necessary for such purposes and for other purposes and contingencies related to the preservation, maintenance, and safety of highways and bridges

Personal Service	$356,502E
Expense and Equipment	55,000E
From Federal Funds	411,502
Personal Service	150,547,835E
Expense and Equipment	206,091,375E
From State Road Fund	356,639,210

Expense and Equipment
From Motorcycle Safety Trust Fund 425,000E

For Maintenance Program fringe benefits
Personal Service 165,041E
Expense and Equipment 1,765E
From Federal Funds 166,806

Personal Service 78,105,712E
Expense and Equipment 3,437,502E
From State Road Fund 81,543,214

For all allotments, grants, and contributions from federal sources that may be deposited in the State Treasury for grants of National Highway Safety Act moneys
From Federal Funds 30,000,000E

For the Motor Carrier Safety Assistance Program
From Federal Funds 2,000,000E

For the Safe Routes to School Program
From State Road Fund 2,500,000E
Total (Not to exceed 3,958.93 F.T.E.) $473,685,732

SECTION 4.215. — To the Department of Transportation
For Fleet, Facilities, and Information Systems
To pay the costs of constructing, preserving, and maintaining the state system of roads and bridges and coordinated facilities authorized under Article IV, Section 30(b) of the Constitution of Missouri; of acquiring materials, equipment, and buildings necessary for such purposes and for other purposes and contingencies related to the construction, preservation, and maintenance of highways and bridges
Personal Service $16,531,179E
Expense and Equipment 89,099,165E
From State Road Fund 105,630,344

For Fleet, Facilities, and Information Systems fringe benefits
Personal Service 8,196,735E
Expense and Equipment 247,443E
From State Road Fund 8,444,178
Total (Not to exceed 375.25 F.T.E.) $114,074,522

SECTION 4.220. — To the Department of Transportation
For the purpose of refunding any tax or fee credited to the State Highways and Transportation Department Fund $200,000E

For refunds and distributions of motor fuel taxes 30,000,000E
From State Highways and Transportation Department Fund $30,200,000

SECTION 4.225. — Funds are to be transferred out of the State Treasury, chargeable to the State Highways and Transportation Department Fund, to the State Road Fund

From State Highways and Transportation Department Fund $500,000,000E

SECTION 4.230.— To the Department of Transportation
For Multimodal Operations Administration
Personal Service $539,586E
Expense and Equipment 400,000E
From Federal Funds 939,586

Personal Service 429,959E
Expense and Equipment 25,897E
From State Road Fund 455,856

Personal Service 433,616
Expense and Equipment 151,421
From Railroad Expense Fund 585,037

Personal Service 155,184
Expense and Equipment 10,395
From State Transportation Fund 165,579

Personal Service 478,560
Expense and Equipment 24,827
From Aviation Trust Fund 503,387

For Multimodal Operations fringe benefits
Personal Service
From Federal Funds 255,811E
From State Road Fund 194,445E
From Railroad Expense Fund 206,692E
From State Transportation Fund 72,522E
From Aviation Trust Fund 220,122E
Total (Not to exceed 36.67 F.T.E.) $3,599,037

SECTION 4.235.— To the Department of Transportation
For Multimodal Operations
For reimbursements to the State Road Fund for providing professional and technical services and administrative support of the multimodal program
From Federal Funds $78,500
From Railroad Expense Fund 102,532
From State Transportation Fund 50,951
From Aviation Trust Fund 67,067
Total $299,050

SECTION 4.240.— To the Department of Transportation
For Multimodal Operations
For loans from the State Transportation Assistance Revolving Fund to political subdivisions of the state or to public or private not-for-profit organizations or entities in accordance with Section 226.191, RSMo
From State Transportation Assistance Revolving Fund $550,000E

SECTION 4.245.— To the Department of Transportation
For the Transit Program

For distributing funds to urban, small urban, and rural transportation systems
From General Revenue Fund $3,200,751
From State Transportation Fund 814,838
Total $4,015,589

SECTION 4.250. — To the Department of Transportation
For the Transit Program
For locally matched capital improvement grants under Section 5310, Title 49, United States Code to assist private, non-profit organizations in improving public transportation for the state's elderly and people with disabilities
From Federal Funds $2,586,400E

For the New Freedom Transit Program
For locally matched grants under Section 5317, Title 49, United States Code to assist disabled persons with transportation services beyond those required by the Americans with Disabilities Act
From Federal Funds 600,000E
Total $3,186,400

SECTION 4.255. — To the Department of Transportation
For the Transit Program
For an operating subsidy for not-for-profit transporters of the elderly, people with disabilities, and low-income individuals
From General Revenue Fund $1,592,172
From State Transportation Fund 1,851,560
Total $3,443,732

SECTION 4.260. — To the Department of Transportation
For the Transit Program
For grants to urban areas under Section 5307, Title 49, United States Code
From Federal Funds $1E

SECTION 4.265. — To the Department of Transportation
For the Transit Program
For locally matched grants to small urban and rural areas under Section 5311, Title 49, United States Code
From Federal and Local Funds $9,540,000E

For the Job Access and Reverse Commute Grants Program
For locally matched grants to small urban and rural areas under Section 5316, Title 49, United States Code to provide employment related transportation for welfare or low-income persons
From Federal Funds 1,200,000E
Total $10,740,000

SECTION 4.270. — To the Department of Transportation
For the Transit Program
For grants under Section 5309, Title 49, United States Code to assist public and private, non-profit organizations providing public transportation services
From Federal Funds $8,480,000E

SECTION 4.275.— To the Department of Transportation
For the Transit Program
For grants to metropolitan areas under Sections 5303 and 5305, Title 49, United States Code
From Federal Funds $6,365,194E

SECTION 4.280.— To the Department of Transportation
For the Rail Program
For grants under Section 5 of the Department of Transportation Act, as amended by the reauthorizing act, for acquisition, rehabilitation, improvement, or rail facility construction assistance
From Federal Funds $1E

For grants to study the feasibility of high speed rail service
From Federal Funds 1E
Total $2

SECTION 4.285.— To the Department of Transportation
For the Light Rail Safety Program
From Light Rail Safety Fund $1E

SECTION 4.290.— To the Department of Transportation
For the Rail Program
For passenger rail service in Missouri
From General Revenue Fund $3,500,000
From Federal Budget Stabilization Fund 5,500,000
Total $9,000,000

SECTION 4.295.— To the Department of Transportation
For station repairs and improvements at Missouri Amtrak stations
From State Transportation Fund $25,000

SECTION 4.300.— To the Department of Transportation
For protection of the public against hazards existing at railroad crossings pursuant to Chapter 389, RSMo
From Transportation Department Grade Crossing Safety Account Fund $1,500,000E

SECTION 4.305.— There is transferred out of the State Treasury, chargeable to the Transportation Department Grade Crossing Safety Account, to the Railroad Expense Fund
From Transportation Department Grade Crossing Safety Account Fund $100,000

SECTION 4.310.— To the Department of Transportation
For the Aviation Program
For construction, capital improvements, and maintenance of publicly owned airfields, including land acquisition, and for printing charts and directories
From Aviation Trust Fund $8,000,000E

SECTION 4.315.— To the Department of Transportation
For the Aviation Program
For construction, capital improvements, or planning of publicly owned airfields by cities or other political subdivisions, including land acquisition, pursuant

to the provisions of the State Block Grant Program administered through the Federal Airport Improvement Program
From Federal Funds $12,500,000E

SECTION 4.320. — To the Department of Transportation
For the Waterways Program
For grants to port authorities for assistance in port planning, acquisition, or construction within the port districts
From State Transportation Fund $450,000

For ferryboat operation grants
From State Road Fund 176,000E
Total $626,000

DEPARTMENT OF REVENUE TOTALS

General Revenue Fund	$81,169,861
Federal Budget Stabilization Fund	5,571,865
Federal Funds	6,669,721
Other Funds	346,018,045
Total	$439,429,492

DEPARTMENT OF TRANSPORTATION TOTALS

General Revenue Fund	$8,292,923
Federal Budget Stabilization Fund	5,500,000
Federal Funds	75,123,802
Other Funds	2,177,329,168
Total	$2,266,245,893

Approved June 25, 2009

HB 5 [CCS SCS HCS HB 5]

APPROPRIATIONS: OFFICE OF ADMINISTRATION, DEPARTMENT OF TRANSPORTATION, DEPARTMENT OF PUBLIC SAFETY AND CHIEF EXECUTIVE'S OFFICE.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Office of Administration, the Department of Transportation, the Department of Public Safety, and the Chief Executive's Office, and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2009 and ending June 30, 2010.

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

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2009 and ending June 30, 2010, as follows:

SECTION 5.005.— To the Office of Administration
For the Commissioner's Office
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between divisions and that not more than twenty-five (25%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund $946,525

For the Commissioner's Office
For the purpose of receiving and expending grants and payments from federal and other governmental agencies which may become available between sessions of the General Assembly provided that the General Assembly shall be notified of the source of any new funds and the purpose for which they shall be expended, in writing, prior to the use of said funds
From Federal Funds 1E

For the Office of Supplier and Workforce Diversity
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between divisions and that not more than twenty-five (25%) flexibility is allowed between personal service and expense and equipment 342,090

For the Martin Luther King, Jr. Commission
Expense and Equipment 34,161
From General Revenue Fund 376,251
Total (Not to exceed 19.50 F.T.E.) $1,322,777

SECTION 5.010.— To the Office of Administration
For the Division of Accounting
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between divisions and that not more than twenty-five (25%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund (Not to exceed 50.00 F.T.E.) $2,243,050

SECTION 5.015.— To the Office of Administration
For the Division of Budget and Planning
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between divisions and that not more than twenty-five (25%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund $1,665,562

For the Division of Budget and Planning
For Census 2010 and reapportionment activities
From Federal Budget Stabilization Fund 182,653
Total (Not to exceed 26.50 F.T.E.) $1,848,215

SECTION 5.020.— To the Office of Administration
For the Information Technology Services Division
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between divisions

and that not more than twenty-five (25%) flexibility is allowed between personal service and expense and equipment including funds used exclusively to support the information technology needs of the Department of Revenue in performance of its duties to collect highway revenue pursuant to Article IV, Section 30(6) of the Missouri Constitution

From General Revenue Fund $45,072,339

Expense and Equipment

From Federal Budget Stabilization Fund 4,107,640

Personal Service and/or Expense and Equipment, provided that not more than one hundred percent (100%) flexibility is allowed between personal service and expense and equipment

From Federal Funds and Other Funds 158,905,373

In addition, there is hereby appropriated out of funds made available to Missouri under Section 903 of the Social Security Act, as necessary, to be used, under the direction of the Information Technology Services Division, Personal Service and/or Expense and Equipment, provided that not more than one hundred percent (100%) flexibility is allowed between personal service and expense and equipment, for the purpose of acquiring or developing information technology equipment, software, or systems for the administration of Missouri's Unemployment Compensation Law and for such information technology expenses which may be incurred to ensure the proper use and operation of any information technology equipment, software, or systems

From Federal Funds 798,281

Total (Not to exceed 1,165.85 F.T.E.) $208,883,633

SECTION 5.025. — To the Office of Administration
For the Information Technology Services Division
For the centralized telephone billing system
Expense and Equipment

From Office of Administration Revolving Administrative Trust Fund $30,005,000E

SECTION 5.030. — To the Office of Administration
For the Division of Personnel

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between divisions and that not more than twenty-five (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund $2,486,403

Personal Service 68,795
Expense and Equipment 315,716

From Office of Administration Revolving Administrative Trust Fund 384,511

Total (Not to exceed 59.47 F.T.E.) $2,870,914

SECTION 5.035. — To the Office of Administration
For the Division of Purchasing and Materials Management

Personal Service and/or Expense and Equipment, provided that not more

than twenty-five percent (25%) flexibility is allowed between divisions and that not more than twenty-five (25%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund $1,698,745

Personal Service 41,753
Expense and Equipment 9,896
From Federal Budget Stabilization Fund 51,649
Total (Not to exceed 34.00 F.T.E.) $1,750,394

SECTION 5.040.— To the Office of Administration
For the Division of Purchasing and Materials Management
For refunding bid and performance bonds
From Office of Administration Revolving Administrative Trust Fund $2,112,000E

SECTION 5.045.— To the Office of Administration
For the Division of Purchasing and Materials Management
For the operation of the State Agency for Surplus Property
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between divisions and that not more than twenty-five (25%) flexibility is allowed between personal service and expense and equipment
Personal Service $792,055
Expense and Equipment 402,000

For the Fixed Price Vehicle Program
Expense and Equipment 600,000E
From Federal Surplus Property Fund (Not to exceed 21.00 F.T.E.) $1,794,055

SECTION 5.050.— To the Office of Administration
For the Division of Purchasing and Materials Management
For Surplus Property recycling activities
From Federal Surplus Property Fund $41,610E

SECTION 5.055.— There is transferred out of the State Treasury, chargeable to the Federal Surplus Property Fund, to the Department of Social Services for the heating assistance program, as provided by Section 34.032, RSMo
From Federal Surplus Property Fund $20,000E

SECTION 5.060.— To the Office of Administration
For the Division of Purchasing and Materials Management
For the disbursement of surplus property sales receipts
From Proceeds of Surplus Property Sales Fund $90,000E

SECTION 5.065.— There is transferred out of the State Treasury, chargeable to the Proceeds of Surplus Property Sales Fund, to various state agency funds
From Proceeds of Surplus Property Sales Fund $1,000,000E

SECTION 5.070.— To the Office of Administration
For the Division of Facilities Management, Design and Construction Asset Management

For authority to spend donated funds to support renovations and operations of the Governor's Mansion
From State Facility Maintenance and Operation Fund $30,000E

SECTION 5.075. — To the Office of Administration
For the Division of Facilities Management, Design and Construction Asset Management
For any and all expenditures necessary for the purpose of funding the operations of the Board of Public Buildings, state-owned and leased office buildings, institutional facilities, laboratories, and support facilities
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between divisions and that not more than twenty-five (25%) flexibility is allowed between personal service and expense and equipment
From State Facility Maintenance and Operation Fund (Not to exceed 497.00 F.T.E.) $86,404,820

SECTION 5.080. — To the Office of Administration
For the Division of Facilities Management, Design and Construction Asset Management
For the purpose of funding expenditures associated with the Second State Capitol Commission
Expense and Equipment
From Second Capitol Commission Fund $25,000E

SECTION 5.085. — To the Board of Public Buildings
For the Office of Administration
For the Division of Facilities Management, Design and Construction Asset Management
For modifications, replacement, repair costs, and other support services at state-owned facilities when recovery is obtained from a third party
From State Facility Maintenance and Operation Fund $708,871E

SECTION 5.090. — To the Office of Administration
For the Division of General Services
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between divisions and that not more than twenty-five (25%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund $953,624

Personal Service 2,521,439
Expense and Equipment 889,728
From Office of Administration Revolving Administrative Trust Fund 3,411,167
Total (Not to exceed 98.50 F.T.E.) $4,364,791

SECTION 5.095. — There is transferred out of the State Treasury, chargeable to the General Revenue Fund, to the State Property Preservation Fund
From General Revenue Fund $1E

SECTION 5.100. — To the Office of Administration
For the Division of General Services

For the repair or replacement of state-owned or leased facilities that have suffered damage from natural or man-made events or for the defeasance of outstanding debt secured by the damaged facilities when a notice of coverage has been issued by the Commissioner of Administration, as provided by Sections 37.410 through 37.413, RSMo
From State Property Preservation Fund $1E

SECTION 5.105. — To the Office of Administration
For the Division of General Services
For the replacement of state-owned fleet vehicles and related administrative expenses authorized, in part, by Section 37.450 et seq., RSMo
From Federal Budget Stabilization Fund $3,114,000

SECTION 5.110. — To the Office of Administration
For the Division of General Services
For rebillable expenses and for the replacement or repair of damaged equipment when recovery is obtained from a third party
Expense and Equipment
From Office of Administration Revolving Administrative Trust Fund $10,000,000E

SECTION 5.115. — There is transferred out of the State Treasury, chargeable to the funds shown below, for the payment of claims, premiums, and expenses as provided by Sections 105.711 through 105.726, RSMo, the following amounts to the State Legal Expense Fund

From General Revenue Fund	$6,000,000E
From Office of Administration Revolving Administrative Trust Fund	25,000E
From Conservation Commission Fund	130,000E
From Parks Sales Tax Fund	2,286E
From State Highways and Transportation Department Fund	600,000E
From Soil and Water Sales Tax Fund	149E
Total	$6,757,435

SECTION 5.120. — To the Office of Administration
For the Division of General Services
For the payment of claims and expenses as provided by Section 105.711 et seq., RSMo, and for purchasing insurance against any or all liability of the State of Missouri or any agency, officer, or employee thereof
From State Legal Expense Fund $6,757,435E

SECTION 5.125. — To the Office of Administration
For the Administrative Hearing Commission
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between divisions and that not more than twenty-five (25%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund (Not to exceed 14.50 F.T.E.) $928,661

SECTION 5.130. — To the Office of Administration
For the purpose of funding the Office of Child Advocate
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between divisions and that not more than twenty-five (25%) flexibility is allowed between

personal service and expense and equipment
From General Revenue Fund $162,651
From Federal Funds 137,997
Total (Not to exceed 4.00 F.T.E) $300,648

SECTION 5.135.— To the Office of Administration
For the administrative, promotional, and programmatic costs of the Children's Trust Fund Board as provided by Section 210.173, RSMo
Personal Service $211,199
Expense and Equipment 145,140
For Program Disbursements 3,360,000E
From Children's Trust Fund (Not to exceed 5.00 F.T.E) $3,716,339

SECTION 5.140.— To the Office of Administration
For the purpose of funding the Governor's Council on Disability Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between divisions and that not more than twenty-five (25%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund $197,723
From Office of Administration Revolving Administrative Trust Fund 25,000
Total (Not to exceed 4.00 F.T.E) $222,723

SECTION 5.145.— To the Office of Administration
For those services provided through the Office of Administration that are contracted with and reimbursed by the Board of Trustees of the Missouri Public Entity Risk Management Fund as provided by Chapter 537, RSMo
Personal Service $645,169
Expense and Equipment 61,847
From Office of Administration Revolving Administrative Trust Fund (Not to exceed 14.00 F.T.E) $707,016

SECTION 5.150.— To the Office of Administration
For the Missouri Ethics Commission Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between divisions and that not more than twenty-five (25%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund (Not to exceed 20.00 F.T.E) $1,195,839

SECTION 5.155.— To the Office of Administration
For the Division of Accounting
For payment of rent by the state for state agencies occupying Board of Public Buildings revenue bond financed buildings. Funds are to be used for principal, interest, bond issuance costs, and reserve fund requirements of Board of Public Buildings bonds
From General Revenue Fund $61,301,826

SECTION 5.160.— To the Office of Administration
For the Division of Accounting
For annual fees, arbitrage rebate, refunding, defeasance, and related expenses

of House Bill 5 debt
From General Revenue Fund $30,654E

SECTION 5.165.— To the Office of Administration
For the Division of Accounting
For payment of the state's lease/purchase debt requirements
From General Revenue Fund $13,177,613

SECTION 5.170.— There is transferred out of the State Treasury, chargeable to the Special Employment Security Fund, to the Special Employment Security Fund-Principal and Interest Fund for payments of principal and interest on any debt issued by the Board of Unemployment Fund Financing
From Special Employment Security Fund $1E

SECTION 5.175.— To the Office of Administration
For payment of principal and interest on any debt issued by the Board of Unemployment Fund Financing
From Special Employment Security-Principal and Interest Fund $1E

SECTION 5.180.— To the Office of Administration
For payment of a financial advisor, bond counsel, rating agency, and other fees associated with the cost of issuance and ongoing expenses of Board of Unemployment Fund Financing debt
From Special Employment Security Fund-Bond Proceeds Fund $1E
From Special Employment Security Fund 1E
Total $2

SECTION 5.185.— To the Office of Administration
For MOHEFA debt service and all related expenses associated with the Series 2001 MU-Columbia Arena project bonds
From General Revenue Fund $2,890,955

SECTION 5.190.— To the Office of Administration
For the Division of Facilities Management, Design and Construction
For debt service related to guaranteed energy cost savings contracts
From Facilities Maintenance Reserve Fund $6,427,600

SECTION 5.195.— To the Office of Administration
For the Division of Accounting
For Debt Management
Expense and Equipment
From General Revenue Fund $100,000

SECTION 5.200.— To the Office of Administration
For the Division of Accounting
For debt service contingency for the New Jobs and Jobs Retention Training Certificates Program
From General Revenue Fund $1E

SECTION 5.205.— To the Office of Administration
For the Division of Accounting
For the Bartle Hall Convention Center expansion, operations, development, or

maintenance in Kansas City pursuant to Sections 67.638 through 67.641, RSMo
From General Revenue Fund $2,000,000

SECTION 5.210. — To the Office of Administration
For the Division of Accounting
For the maintenance of the Jackson County Sports Complex pursuant to Sections 67.638 through 67.641, RSMo
From General Revenue Fund $3,000,000

SECTION 5.215. — To the Office of Administration
For the Division of Accounting
For the expansion of the dual-purpose Edward Jones Dome project in St. Louis
From General Revenue Fund $12,000,000

SECTION 5.220. — To the Office of Administration
For the Division of Accounting
For interest payments on federal grant monies in accordance with the Cash Management Improvement Act of 1990 and 1992, and any other interest or penalties due to the federal government
From General Revenue Fund $2,000,000E

SECTION 5.225. — To the Office of Administration
For the Division of Accounting
For audit recovery distribution
From General Revenue Fund $1E

SECTION 5.230. — There is transferred out of the State Treasury, chargeable to the Budget Reserve Fund and Other Funds, such amounts as may be necessary for cash-flow assistance to various funds, provided, however, that funds other than the Budget Reserve Fund will not be used without prior notification to the Commissioner of the Office of Administration, the Chair of the Senate Appropriations Committee, and the Chair of the House Budget Committee. Cash-flow assistance from funds other than the Budget Reserve Fund shall only be transferred from May 15 to June 30 in any fiscal year, and an amount equal to the transfer received, plus interest, shall be transferred back to the appropriate Other Funds prior to June 30 of the fiscal year in which the transfer was made
From Budget Reserve Fund and Other Funds to General Revenue Fund . . $399,999,999E
From Budget Reserve Fund and Other Funds to Other Funds 1E
Total $400,000,000

SECTION 5.235. — There is transferred out of the State Treasury, such amounts as may be necessary for repayment of cash-flow assistance to the Budget Reserve Fund and Other Funds, provided, however, that the Commissioner of the Office of Administration, the Chair of the Senate Appropriations Committee, and the Chair of the House Budget Committee shall be notified when repayment to funds, other than the Budget Reserve Fund, has been made
From General Revenue Fund $325,000,000E
From Other Funds 75,000,000E
Total $400,000,000

SECTION 5.240.— There is transferred out of the State Treasury, such amounts as may be necessary for interest payments on cash-flow assistance, to the Budget Reserve Fund and Other Funds

From General Revenue Fund	$3,000,000E
From Other Funds	1E
Total	$3,000,001

SECTION 5.245.— There is transferred out of the State Treasury, such amounts as may be necessary for constitutional requirements of the Budget Reserve Fund

From General Revenue Fund	$1E
From Budget Reserve Fund	1E
Total	$2

SECTION 5.250.— There is transferred out of the State Treasury, such amounts as may be necessary for corrections to fund balances

From General Revenue Fund	$1E
From Other Funds	1E
Total	$2

SECTION 5.255.— There is transferred out of the State Treasury, such amounts as may be necessary for the movement of cash between funds

From any fund except General Revenue Fund	$1E

SECTION 5.260.— There is transferred out of the State Treasury, chargeable to the Healthy Families Trust Fund, to the General Revenue Fund

From Healthy Families Trust Fund	$47,030,585E

SECTION 5.265.— There is transferred out of the State Treasury, chargeable to various funds such amounts as are necessary for allocation of costs to other funds in support of the state's central services performed by the Office of Administration, the Department of Revenue, the Capitol Police, the Elected Officials, and the General Assembly, to the General Revenue Fund

From Other Funds	$11,777,324E

SECTION 5.270.— There is transferred out of the State Treasury, chargeable to the Office of Administration Revolving Administrative Trust Fund, to the General Revenue Fund

From Office of Administration Revolving Administrative Trust Fund	$1E

SECTION 5.275.— To the Office of Administration
For the Division of Accounting
For paying the several counties of Missouri the amount that has been paid into the State Treasury by the United States Treasury as a refund from the leases of flood control lands, under the provisions of an Act of Congress approved June 28, 1938, to be distributed to certain counties in Missouri in accordance with the provisions of state law

From Federal Funds	$865,000E

SECTION 5.280.— To the Office of Administration
For the Division of Accounting
For paying the several counties of Missouri the amount that has been paid into

the State Treasury by the United States Treasury as a refund from the National Forest Reserve, under the provisions of an Act of Congress approved June 28, 1938, to be distributed to certain counties in Missouri
From Federal Funds $2,415,000E

SECTION 5.285. — To the Office of Administration
For the Division of Accounting
For payments to counties for county correctional prosecution reimbursements pursuant to Sections 50.850 and 50.853, RSMo
From General Revenue Fund $15,000E

SECTION 5.290. — To the Office of Administration
For the Commissioner's Office
For distribution of state grants to regional planning commissions and local governments as provided by Chapter 251, RSMo
From General Revenue Fund $200,000

SECTION 5.450. — To the Office of Administration
For transferring funds for all state employees and participating political subdivisions to the OASDHI Contributions Fund
From General Revenue Fund $73,903,095E
From Federal Budget Stabilization Fund 495,915E
From Federal Funds 29,081,000E
From Other Funds 46,494,465E
Total $149,974,475

SECTION 5.455. — For the Department of Public Safety
For transferring funds for employees of the State Highway Patrol to the OASDHI Contributions Fund, said transfers to be administered by the Office of Administration
From State Highways and Transportation Department Fund $7,388,000E

SECTION 5.460. — To the Office of Administration
For the Division of Accounting
For the payment of OASDHI taxes for all state employees and for participating political subdivisions within the state to the Treasurer of the United States for compliance with current provisions of Title 2 of the Federal Social Security Act, as amended, in accordance with the agreement between the State Social Security Administrator and the Secretary of the Department of Health and Human Services; and for administration of the agreement under Section 218 of the Social Security Act which extends Social Security benefits to state and local public employees
From OASDHI Contributions Fund $157,362,475E

SECTION 5.465. — To the Office of Administration
For transferring funds for the state's contribution to the Missouri State Employees' Retirement System to the State Retirement Contributions Fund
From General Revenue Fund $158,678,410E
From Federal Budget Stabilization Fund 707,353E
From Federal Funds 51,451,001E

From Other Funds 45,525,937E
Total $256,362,701

SECTION 5.470.— To the Office of Administration
For the Division of Accounting
For payment of the state's contribution to the Missouri State Employees' Retirement System
From State Retirement Contributions Fund $256,362,701E

SECTION 5.475.— To the Office of Administration
For the Division of Accounting
For payment of retirement benefits to the Public School Retirement System pursuant to Section 104.342, RSMo
From General Revenue Fund $2,400,000E
From Federal Funds 1,070,000E
From Other Funds 70,560E
Total $3,540,560

SECTION 5.480.— To the Office of Administration
For transferring funds for all state employees who are qualified participants in the state Deferred Compensation Plan in accordance with Section 105.927, RSMo, and pursuant to Section 401(a) of the Internal Revenue Code to the Missouri State Employees' Deferred Compensation Incentive Plan Administration Fund
From General Revenue Fund $6,969,082E
From Federal Budget Stabilization Fund 77,790E
From Federal Funds 2,798,359E
From Other Funds 4,353,354E
Total $14,198,585

SECTION 5.485.— For the Department of Public Safety
For transferring funds for the state's contribution to the Missouri State Employees' Deferred Compensation Incentive Plan Administration Fund for employees of the State Highway Patrol, said transfers to be administered by the Office of Administration
From State Highways and Transportation Department Fund $556,773E

SECTION 5.490.— To the Office of Administration
For the Division of Accounting
For the payment of funds credited by the state at a maximum rate of $35 per month per qualified participant in accordance with Section 105.927, RSMo, to deferred compensation investment companies
From Missouri State Employees' Deferred Compensation Incentive Plan Administration Fund $14,755,358E

SECTION 5.495.— To the Office of Administration
For the Division of Accounting
For reimbursing the Division of Employment Security benefit account for claims paid to former state employees for unemployment insurance coverage and for related professional services
From General Revenue Fund $1,667,941E
From Federal Funds 488,664E

From Other Funds 1,705,137E
Total $3,861,742

SECTION 5.500. — To the Office of Administration
For the Division of Accounting
For reimbursing the Division of Employment Security benefit account for claims paid to former state employees of the Department of Public Safety for unemployment insurance coverage and for related professional services
From State Highways and Transportation Department Fund $169,942E

SECTION 5.505. — To the Office of Administration
For transferring funds for the state's contribution to the Missouri Consolidated Health Care Plan to the Missouri Consolidated Health Care Plan Benefit Fund
From General Revenue Fund $279,798,218E
From Federal Funds 98,566,802E
From Other Funds 56,634,980E
Total $435,000,000

SECTION 5.510. — To the Office of Administration
For the Division of Accounting
For payment of the state's contribution to the Missouri Consolidated Health Care Plan
From Missouri Consolidated Health Care Plan Benefit Fund $435,000,000E

SECTION 5.515. — To the Office of Administration
For transferring funds for the state's contribution for post employment benefits other than pensions to the Missouri Consolidated Health Care Plan Benefit Fund
From General Revenue Fund $31,055,000E
From Federal Funds 9,846,155E
From Other Funds 5,773,017E
Total $46,674,172

SECTION 5.520. — To the Office of Administration
For the Division of Accounting
For payment of the state's contribution for post employment benefits other than pensions
From Missouri Consolidated Health Care Plan Benefit Fund $46,674,172E

SECTION 5.521. — To the Office of Administration
For the Division of Accounting
For the reimbursement of the transfer of General Revenue for the state's contribution for post employment benefits other than pensions
From Federal Budget Stabilization Fund $11,055,000E

SECTION 5.525. — To the Office of Administration
For the Division of Accounting
For paying refunds for overpayment or erroneous payment of employee withholding taxes
From General Revenue Fund $36,000E

SECTION 5.530. — To the Office of Administration
For the Division of Accounting
For providing voluntary life insurance
From the Missouri State Employees' Voluntary Life Insurance Fund $862,000E

SECTION 5.535. — To the Office of Administration
For the Division of Accounting
For employee medical expense reimbursements reserve
From General Revenue Fund $1E

SECTION 5.540. — To the Office of Administration
For the Division of Accounting
Personal Service for state payroll contingency
From General Revenue Fund $1E

SECTION 5.545. — To the Office of Administration
For the Division of General Services
For the provision of workers' compensation benefits to state employees through either a self-insurance program administered by the Office of Administration and/or by contractual agreement with a private carrier and for administrative and legal expenses authorized, in part, by Section 105.810, RSMo

From General Revenue Fund	$23,133,565E
From Federal Budget Stabilization Fund	86,217E
From Conservation Commission Fund	800,000E
Total	$24,019,782

SECTION 5.550. — There is hereby transferred out of the State Treasury, chargeable to various funds, amounts paid from the General Revenue Fund for workers' compensation benefits provided to employees paid from these other funds, to the General Revenue Fund

From Federal Funds	$2,591,703E
From Other Funds	3,473,591E
Total	$6,065,294

SECTION 5.555. — To the Office of Administration
For the Division of General Services
For workers' compensation tax payments pursuant to Section 287.690, RSMo

From General Revenue Fund	$1,465,000E
From Conservation Commission Fund	60,000E
Total	$1,525,000

OFFICE OF ADMINISTRATION TOTALS

General Revenue Fund	$163,643,426
Federal Budget Stabilization Fund	7,455,942
Federal Funds	72,282,150
Other Funds	62,231,217
Total	$305,612,735

EMPLOYEE BENEFITS TOTALS

General Revenue Fund	$579,070,313
Federal Budget Stabilization Fund	12,422,275
Federal Funds	193,301,981
Other Funds	170,394,165
Total	$955,188,734

Approved June 25, 2009

HB 6 [CCS SCS HCS HB 6]

APPROPRIATIONS: DEPARTMENT OF AGRICULTURE, DEPARTMENT OF NATURAL RESOURCES, AND DEPARTMENT OF CONSERVATION.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Department of Agriculture, Department of Natural Resources, Department of Conservation, and the several divisions and programs thereof and for the expenses, grants, refunds, distributions, and capital improvements projects involving the repair, replacement, and maintenance of state buildings and facilities of the Department of Natural Resources and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds, for the period beginning July 1, 2009 and ending June 30, 2010.

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

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2009 and ending June 30, 2010 as follows:

SECTION 6.005. — To the Department of Agriculture

For the Office of the Director

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment	$1,079,977
For refunds of erroneous receipts due to errors in application for licenses, registrations, permits, certificates, subscriptions, or other fees	3,640E
From General Revenue Fund	1,083,617
Personal Service	144,279
Expense and Equipment	34,750
From Federal Funds and Other Funds	179,029

For the purpose of receiving and expending grants, donations, contracts, and payments from private, federal, and other governmental agencies which may become available between sessions of the General Assembly provided that the General Assembly shall be notified of the source of any new funds and the purpose for which they shall be expended, in writing, prior to the use of said funds

Personal Service and/or Expense and Equipment
From Federal Funds and Other Funds 337,909E
Total (Not to exceed 21.00 F.T.E.) $1,600,555

SECTION 6.007.— To the Department of Agriculture
There is hereby transferred out of the State Treasury, chargeable to the General Revenue Fund, to the Veterinary Student Loan Payment Fund
From General Revenue Fund $120,000

***SECTION 6.008.**— To the Department of Agriculture
For the Large Animal Veterinary Student Loan Program
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund $35,004

For the purpose of providing large animal veterinary student loans in accordance with the provisions of Sections 340.375 to 340.396, RSMo
From Veterinary Student Loan Payment Fund 120,000
Total (Not to exceed 0.50 F.T.E.) $155,004

*I hereby veto $35,004 general revenue for the administration of the Large Animal Veterinary Student Loan Program. The administrative duties of this small program can be absorbed by other staff.

Personal Service and/or Expense and Equipment by $35,004 from $35,004 to $0 General Revenue Fund.
From $155,004 to $120,000 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

SECTION 6.010.— To the Department of Agriculture
There is hereby transferred out of the State Treasury, chargeable to the Federal Budget Stabilization Fund, to the Missouri Qualified Fuel Ethanol Producer Incentive Fund
From Federal Budget Stabilization Fund $12,500,000

There is hereby transferred out of the State Treasury, chargeable to the Federal Budget Stabilization Fund, to the Missouri Qualified Biodiesel Producer Incentive Fund
From Federal Budget Stabilization Fund 25,000,000
Total $37,500,000

SECTION 6.015.— To the Department of Agriculture
For Missouri Ethanol Producer Incentive Payments
From Missouri Qualified Fuel Ethanol Producer Incentive Fund $12,500,000

For Missouri Biodiesel Producer Incentive Payments
A Missouri qualified biodiesel producer shall be eligible for a monthly grant from the fund not to exceed a percentage amount as determined by the actual amount available from the fund divided by the projected total eligible amount. Any eligible amount not paid shall be considered in arrears and paid as funds

become available
From Missouri Qualified Biodiesel Producer Incentive Fund 25,000,000
Total $37,500,000

***SECTION 6.020.** — To the Department of Agriculture
For the Agriculture Business Development Division
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund $1,441,385

Personal Service 128,548
Expense and Equipment 515,744
For the Agriculture Awareness Program 24,910
For the Governor's Conference on Agriculture expenses 125,000
From Federal Funds and Other Funds 794,202
Total (Not to exceed 26.66 F.T.E.) $2,235,587

*****I hereby veto $121,257 general revenue, including $46,257 to pay part of the Agriculture Business Development Director's salary, and $75,000 to continue a contract to promote the international marketing of Missouri agricultural goods in China. A veto is necessary to help bring expenditures in line with available resources.

Personal Service and/or Expense and Equipment by $121,257 from $1,441,385 to $1,320,128 from General Revenue Fund.
From $2,235,587 to $2,114,330 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

SECTION 6.025. — To the Department of Agriculture
For the Agriculture Business Development Division
For the "Agri Missouri" Marketing Program
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund $192,854

Expense and Equipment
From Other Funds 10,000
Total (Not to exceed .97 F.T.E.). $202,854

SECTION 6.030. — To the Department of Agriculture
For the Agriculture Business Development Division
For the Wine and Grape Program
Personal Service $206,616
Expense and Equipment 1,626,953
From Other Funds (Not to exceed 4.00 F.T.E.) $1,833,569

SECTION 6.035. — To the Department of Agriculture
For the Agriculture Business Development Division
For the purpose of funding grants for the Adult Agriculture Education Program
From General Revenue Fund $200,000

SECTION 6.040.— To the Department of Agriculture
For the Agriculture Business Development Division
For the Agriculture and Small Business Development Authority
Expense and Equipment
From General Revenue Fund $14,006

Personal Service 106,883
Expense and Equipment 21,379
From Single-Purpose Animal Facilities Loan Program Fund 128,262
Total (Not to exceed 3.00 F.T.E.) $142,268

SECTION 6.045.— To the Department of Agriculture
There is hereby transferred out of the State Treasury, chargeable to the General Revenue Fund, to the Single-Purpose Animal Facilities Loan Guarantee Fund
From General Revenue Fund $1E

SECTION 6.050.— To the Department of Agriculture
For the purpose of funding loan guarantees as provided in Sections 348.190, and 348.200, RSMo
From Single-Purpose Animal Facilities Loan Guarantee Fund $1E

SECTION 6.055.— To the Department of Agriculture
There is hereby transferred out of the State Treasury, chargeable to the General Revenue Fund, to the Agricultural Product Utilization and Business Development Loan Guarantee Fund
From General Revenue Fund $1E

SECTION 6.060.— To the Department of Agriculture
For the purpose of funding loan guarantees as provided in Sections 348.403, 348.408, and 348.409, RSMo
From Agricultural Product Utilization and Business Development Loan Guarantee Fund $1E

***SECTION 6.063.**— To the Department of Agriculture
There is hereby transferred out of the State Treasury, chargeable to the General Revenue Fund, to the Livestock Feed and Crop Input Guarantee Fund
From General Revenue Fund $1E

*I hereby veto $1E to transfer from general revenue to the Livestock Feed and Crop Input Loan Guarantee Fund up to $4 million to pay for guarantees against livestock feed and crop input loan defaults. In light of current economic conditions, this would significantly expand the state's financial risk exposure.

Said section is vetoed in its entirety from $1E to $0 from General Revenue Fund.
From $1E to $0 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

***SECTION 6.064.**— To the Department of Agriculture
For the purpose of funding loan guarantees for loans administered by the Missouri Agricultural and Small Business Development Authority for the purpose of financing the purchase of livestock feed used to produce

livestock and input used to produce crops for the feeding of livestock, provided that the appropriation may not exceed $4,000,000
From Livestock Feed and Crop Input Loan Guarantee Fund $1E

*I hereby veto $1E from the Livestock Feed and Crop Input Loan Guarantee Fund to pay for up to $4 million in livestock feed and crop input loan default guarantees. See Section 6.063 above for an explanation of this veto.

Said section is vetoed in its entirety from $1E to $0 from Livestock Feed and Crop Input Loan Guarantee Fund.
From $1E to $0 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

SECTION 6.065.— To the Department of Agriculture
For the Agriculture Business Development Division
For the Agriculture Development Program
Personal Service $72,577
Expense and Equipment 48,256

For all monies in the Agriculture Development Fund for investments, reinvestments, and for emergency agricultural relief and rehabilitation as provided by law 100,000
From Agriculture Development Fund (Not to exceed 1.60 F.T.E.) $220,833

***SECTION 6.070.**— To the Department of Agriculture
For the Division of Animal Health
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund $2,591,992

Personal Service 647,722
Expense and Equipment 930,301E
From Federal Funds 1,578,023

Personal Service 207,324
Expense and Equipment 411,602
From Animal Health Laboratory Fee Fund 618,926

Personal Service 303,999
Expense and Equipment 202,943
From Animal Care Reserve Fund 506,942

To support local efforts to spay and neuter cats and dogs
From Missouri Pet Spay/Neuter Fund 1E

To support the Livestock Brands Program
From Livestock Brands Fund 38,151

For enforcement activities related to the Livestock Dealer Law
From Livestock Dealer Law Enforcement and Administration Fund 12,250

For expenses incurred in regulating Missouri livestock markets
From Livestock Sales and Markets Fees Fund 32,565

For processing livestock market bankruptcy claims
From Agriculture Bond Trustee Fund 135,000

For the expenditures of contributions, gifts, and grants in support of relief efforts to reduce the suffering of abandoned animals
From Institution Gift Trust Fund 5,000
Total (Not to exceed 74.35 F.T.E.) $5,518,850

*****I hereby veto $141,910, including $104,901 general revenue, for an animal disease control veterinarian and a meat and poultry processing facility inspector. A veto is necessary to help bring expenditures in line with available resources.

Personal Service and/or Expense and Equipment by $104,901 from $2,591,992 to $2,487,091 General Revenue Fund.
Personal Service by $21,734 from $647,722 to $625,988 Federal Funds.
Expense and Equipment by $15,275 from $930,301E to $915,026E Federal Funds.
From $1,578,023 to $1,541,014 from Federal Funds.
From $5,518,850 to $5,376,940 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

SECTION 6.075.— To the Department of Agriculture
For the Division of Animal Health
For funding indemnity payments and for indemnifying producers and owners of livestock and poultry for preventing the spread of disease during emergencies declared by the State Veterinarian, subject to the approval by the Department of Agriculture of a state match rate up to 50 percent
From General Revenue Fund $1E

SECTION 6.080.— To the Department of Agriculture
For the Division of Grain Inspection and Warehousing
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund $797,819

Personal Service 35,021
Expense and Equipment 41,180
From Federal Funds 76,201

Personal Service 1,472,956
Expense and Equipment 282,047
Payment of Federal User Fee 100,000
From Grain Inspection Fees Fund 1,855,003

Personal Service 75,103
Expense and Equipment 22,446
From Commodity Council Merchandising Fund 97,549
Total (Not to exceed 65.25 F.T.E.) $2,826,572

SECTION 6.085. — To the Department of Agriculture
For the Division of Grain Inspection and Warehousing
For the Missouri Aquaculture Council
From Aquaculture Marketing Development Fund $1E

For refunds to individuals and reimbursements to commodity councils
From Commodity Council Merchandising Fund 10,000E

For research, promotion, and market development of apples
From Apple Merchandising Fund 1E

For the Missouri Wine Marketing and Research Council
From Missouri Wine Marketing and Research Development Fund 1E
Total $10,003

SECTION 6.090. — To the Department of Agriculture
For the Division of Plant Industries
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund $1,801,899

Personal Service 373,126
Expense and Equipment 538,272
From Federal Funds 911,398
Total (Not to exceed 48.56 F.T.E.) $2,713,297

SECTION 6.095. — To the Department of Agriculture
For the Division of Plant Industries
For the purpose of funding gypsy moth control, including education, research, and management activities, and for the receipt and disbursement of funds donated for gypsy moth control, including education, research, and management activities. Projects funded with donations, including those contributions made by supporting agencies and groups outside the Missouri Department of Agriculture, must receive prior approval from a steering committee composed of one member each from the Missouri departments of Agriculture, Conservation, Natural Resources, and Economic Development, the United States Department of Agriculture, the Missouri wood products industry, the University of Missouri, and other groups as deemed necessary by the Gypsy Moth Advisory Council, to be co-chaired by the departments of Agriculture and Conservation
Personal Service and/or Expense and Equipment, provided that not more than fifty percent (50%) flexibility is allowed between personal service and expense and equipment
From Federal Funds and Other Funds (Not to exceed 1.65 F.T.E.) $101,644

SECTION 6.100. — To the Department of Agriculture
For the Division of Plant Industries
For the purpose of funding boll weevil suppression and eradication
Personal Service $75,716
Expense and Equipment 30,634

From Boll Weevil Suppression and Eradication Fund (Not to exceed 2.00 F.T.E.) $106,350

***SECTION 6.105.**— To the Department of Agriculture
For the Division of Weights and Measures
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund $1,201,633

Expense and Equipment
From Federal Budget Stabilization Fund 584,100

Personal Service 35,946
Expense and Equipment 50,000
From Federal Funds and Other Funds 85,946

Personal Service 1,504,637
Expense and Equipment 771,270
From Petroleum Inspection Fund 2,275,907
Total (Not to exceed 70.11 F.T.E.) $4,147,586

*****I hereby veto $569,100 Federal Budget Stabilization Fund to replace three large scale inspection trucks. A veto is necessary to help bring expenditures in line with available resources.

Expense and Equipment by $569,100 from $584,100 to $15,000 Federal Budget Stabilization Fund.
From $4,147,586 to $3,578,486 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

SECTION 6.110.— To the Department of Agriculture
For the Missouri State Fair
Personal Service
From General Revenue Fund $567,580

Personal Service 1,370,829
Expense and Equipment 2,726,645
From State Fair Fees Fund 4,097,474
Total (Not to exceed 63.38 F.T.E.) $4,665,054

SECTION 6.115.— To the Department of Agriculture
For cash to start the Missouri State Fair
Expense and Equipment
From State Fair Fees Fund $75,000
From State Fair Trust Fund 10,000
Total $85,000

SECTION 6.120.— To the Department of Agriculture
For the Missouri State Fair
For equipment replacement
Expense and Equipment

From State Fair Fees Fund $166,062

SECTION 6.125. — To the Department of Agriculture
For the Missouri State Fair
For the Aid-to-Fairs Premiums Program for youth participants in county, local, and district fairs
From Other Funds $1E

SECTION 6.130. — To the Department of Agriculture
For the State Milk Board
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund $124,574

Personal Service and/or Expense and Equipment
From Milk Inspection Fees Fund 1,459,359

Expense and Equipment
From State Contracted Manufacturing Dairy Plant Inspection and Grading Fee Fund 8,000
Total (Not to exceed 11.93 F.T.E.) $1,591,933

SECTION 6.200. — To the Department of Natural Resources
For department operations, administration, and support
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund $679,774

Personal Service 3,778,594
Expense and Equipment 1,038,329
From Federal Funds and Other Funds 4,816,923

For Contractual Audits
From Federal Funds and Other Funds 100,000E
Total (Not to exceed 92.19 F.T.E.) $5,596,697

SECTION 6.205. — To the Department of Natural Resources
For the Energy Center
Personal Service $1,143,768
Expense and Equipment 220,805
From Federal Funds and Other Funds (Not to exceed 24.00 F.T.E.) $1,364,573

SECTION 6.210. — To the Department of Natural Resources
For the purpose of funding the promotion of energy, renewable energy, and energy efficiency
From Utilicare Stabilization Fund $100E
From Federal Funds and Other Funds 8,070,421E
Total $8,070,521

SECTION 6.215.— To the Department of Natural Resources
For the Division of Environmental Quality, the Field Services Division, the Division of Geology and Land Survey, the Energy Center, and the Water Resources Center, including the Soil and Water Conservation Program Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between divisions and/or centers listed in this section and that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund $9,214,119

Personal Service 32,904,951
Expense and Equipment 11,378,043
From Federal Funds and Other Funds 44,282,994
Total (Not to exceed 910.19 F.T.E.) $53,497,113

SECTION 6.220.— To the Department of Natural Resources
There is hereby transferred out of the State Treasury, chargeable to the General Revenue Fund, to the Missouri Water Development Fund
From General Revenue Fund $444,871

SECTION 6.225.— To the Department of Natural Resources
For the payment of interest, operations, and maintenance in accordance with the Cannon Water Contract
From Missouri Water Development Fund $444,871

SECTION 6.230.— To the Department of Natural Resources
For demonstration projects and technical assistance related to soil and water conservation
From Federal Funds $100,000

For grants to local soil and water conservation districts 11,680,820E
For soil and water conservation cost-share grants 26,000,000E
For a conservation equipment incentive program 500,000E
For a special area land treatment program 4,620,454E
For grants to colleges and universities for research projects on soil erosion and conservation 75,000E
From Soil and Water Sales Tax Fund 42,876,274
Total $42,976,274

SECTION 6.235.— To the Department of Natural Resources
For contracts for the analysis of hazardous waste samples
From Federal Funds $100,000
From Hazardous Waste Fund 60,210

For the environmental emergency response system
From Other Funds 30,000E
From Federal Funds 250,000

For emergency response loans in accordance with Section 260.546, RSMo
From Hazardous Waste Fund 150,000

For cleanup of controlled substances
From Federal Funds 124,999E
Total $715,209

SECTION 6.240. — To the Department of Natural Resources
For the state's share of construction grants
From Water Pollution Control Fund $3,000,000E

For loans pursuant to Sections 644.026 through 644.124, RSMo
From Water and Wastewater Loan Fund and/or Water and Wastewater Loan Revolving Fund 49,000,000E

For rural sewer and water grants and loans
From Water Pollution Control Fund and/or Rural Water and Sewer Loan Revolving Fund 20,660,000E

For stormwater control grants or loans
From Water Pollution Control Fund, Stormwater Control Fund, and/or Stormwater Loan Revolving Fund 19,014,141E

For loans for drinking water systems pursuant to Sections 644.026 through 644.124, RSMo
From Water and Wastewater Loan Fund and/or Water and Wastewater Loan Revolving Fund 14,000,000E
Total $105,674,141

SECTION 6.245. — To the Department of Natural Resources
For grants and contracts to study or reduce water pollution, improve ground water and/or surface water quality, for grants to colleges for wastewater operator training, and for grants for lake restoration
From Federal Funds $9,444,925E
From Natural Resources Protection Fund-Water Pollution Permit Fee Subaccount 50,000

For drinking water sampling, analysis, and public drinking water quality and treatment studies
From Safe Drinking Water Fund 600,000E
Total $10,094,925

SECTION 6.250. — To the Department of Natural Resources
For closure of concentrated animal feeding operations
From Concentrated Animal Feeding Operation Indemnity Fund $100,000

SECTION 6.255. — To the Department of Natural Resources
For grants and contracts for air pollution control activities
From Federal Funds and Other Funds $3,751,934E

For asbestos grants and contracts
From Natural Resources Protection Fund-Air Pollution Asbestos Fee Subaccount 75,000E
Total $3,826,934

SECTION 6.260.— To the Department of Natural Resources
There is hereby transferred out of the State Treasury, chargeable to the Federal Budget Stabilization Fund, to the Hazardous Waste Fund
From Federal Budget Stabilization Fund $730,364

SECTION 6.265.— To the Department of Natural Resources
For the cleanup of leaking underground storage tanks
From Federal Funds $420,000

For the cleanup of hazardous waste sites
From Federal Funds and Other Funds 975,000E
From Hazardous Waste Fund 21,274E
From Dry-cleaning Environmental Response Trust Fund 200,000E
Total $1,616,274

SECTION 6.270.— To the Department of Natural Resources
For implementation provisions of the Solid Waste Management Law in accordance with Sections 260.250 through 260.345, RSMo
From Solid Waste Management Fund $6,300,000E
From Solid Waste Management Fund-Scrap Tire Subaccount 1,636,999E
Total $7,936,999

SECTION 6.275.— To the Department of Natural Resources
For funding expenditures of forfeited financial assurance instruments to ensure proper closure and post closure of solid waste landfills, with General Revenue Fund expenditures not to exceed collections pursuant to Section 260.228, RSMo
From General Revenue Fund $17,304E
From Post Closure Fund 141,599E
Total $158,903

SECTION 6.280.— To the Department of Natural Resources
For the receipt and expenditure of bond forfeiture funds for the reclamation of mined land
From Mined Land Reclamation Fund $1,400,000

For the reclamation of mined lands under the provisions of Section 444.960, RSMo
From Coal Mine Land Reclamation Fund 850,000

For the reclamation of abandoned mined lands
From Federal Funds 1,750,000E

For contracts for hydrologic studies to assist small coal operators to meet permit requirements
From Federal Funds 50,000
Total $4,050,000

SECTION 6.285.— To the Department of Natural Resources
For funding environmental education and studies, demonstration projects, and technical assistance grants
From Federal Funds and Other Funds $125,000E

SECTION 6.290. — To the Department of Natural Resources
For the purpose of funding a motor vehicle emissions program
Personal Service $618,758
Expense and Equipment 713,658
From Federal Funds and Other Funds (Not to exceed 17.02 F.T.E.) $1,332,416

SECTION 6.295. — To the Department of Natural Resources
For the Board of Trustees for the Petroleum Storage Tank Insurance Fund
For the general administration and operation of the fund
Personal Service $190,351
Expense and Equipment 2,101,000

For the purpose of investigating and paying claims obligations of the
Petroleum Storage Tank Insurance Fund 19,000,000E
For the purpose of funding the refunds of erroneously collected receipts 10,000E
From Petroleum Storage Tank Insurance Fund (Not to exceed 2.00 F.T.E.) . . $21,301,351

SECTION 6.300. — To the Department of Natural Resources
For the petroleum related activities and environmental emergency response
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
From Petroleum Storage Tank Insurance Fund (Not to exceed 16.20 F.T.E.) . . $1,089,688

SECTION 6.305. — To the Department of Natural Resources
For expenditures in accordance with the provisions of Section 259.190, RSMo
From Oil and Gas Remedial Fund $23,000E

SECTION 6.310. — To the Department of Natural Resources
For the Division of Geology and Land Survey
For surveying corners and for records restorations
From Federal Funds and Other Funds $240,000

SECTION 6.315. — To the Department of Natural Resources
For the Division of State Parks
For field operations, administration, and support
Personal Service $23,405,244
Expense and Equipment 11,787,551
From Federal Funds and Other Funds 35,192,795

For payments to levee districts
From Parks Sales Tax Fund 1E
Total (Not to exceed 715.71 F.T.E.) $35,192,796

SECTION 6.320. — To the Department of Natural Resources
For the Division of State Parks
For the Bruce R. Watkins Cultural Heritage Center
From Parks Sales Tax Fund $100,000

SECTION 6.325. — To the Department of Natural Resources
For the Division of State Parks
For the payment to counties in lieu of real property taxes, as appropriate, on

lands acquired by the department after July 1, 1985, for park purposes and not more than the amount of real property tax imposed by political subdivisions at the time acquired, in accordance with the provisions of Section 47(a) of the Constitution of Missouri
From Parks Sales Tax Fund $25,875E

SECTION 6.330. — To the Department of Natural Resources
For the Division of State Parks
For parks and historic sites
For recoupments and donations that are consistent with current operations and conceptual development plans. The expenditure of any single directed donation of funds greater than $500,000 requires the approval of the chairperson or designee of both Senate Appropriations and House Budget committees
From State Parks Earnings Fund $72,390E

SECTION 6.335. — To the Department of Natural Resources
For the Division of State Parks
For the purchase of publications, souvenirs, and other items for resale at state parks and state historic sites
Expense and Equipment
From State Parks Earnings Fund $500,000E

SECTION 6.340. — To the Department of Natural Resources
For the Division of State Parks
For all expenses incurred in the operation of state park concession projects or facilities when such operations are assumed by the Department of Natural Resources
From State Parks Earnings Fund $200,000E

SECTION 6.345. — To the Department of Natural Resources
For the Division of State Parks
For the expenditure of grants to state parks
From Federal Funds and Other Funds $350,000

SECTION 6.350. — To the Department of Natural Resources
For the Division of State Parks
For Administration and Support
For grants-in-aid from the Land and Water Conservation Fund and other funds to state agencies and political subdivisions for outdoor recreation projects
From Federal Funds $2,324,034E

SECTION 6.355. — To the Department of Natural Resources
For Historic Preservation Operations
Personal Service $707,567
Expense and Equipment 107,351
From Federal Funds and Other Funds (Not to exceed 18.25 F.T.E.) $814,918

SECTION 6.360. — To the Department of Natural Resources
There is hereby transferred out of the State Treasury, chargeable to the General Revenue Fund, to the Historic Preservation Revolving Fund
From General Revenue Fund $1,697,500

SECTION 6.365. — To the Department of Natural Resources
For historic preservation grants and contracts
From Federal Funds and Other Funds $1,807,243E

SECTION 6.370. — To the Department of Natural Resources
For the purpose of funding Civil War commemoration activities
From Federal Funds and Other Funds $1E

SECTION 6.375. — To the Department of Natural Resources
For expenditures of payments received for damages to the state's natural resources
From Natural Resources Protection Fund-Damages Subaccount or Natural Resources Protection Fund-Water Pollution Permit Fee Subaccount $269,711E

SECTION 6.380. — To the Department of Natural Resources
For incentives related to Jobs Now Projects approved by the Department of Natural Resources and the Office of Administration
From Federal Funds and Other Funds $1,000E

SECTION 6.385. — To the Department of Natural Resources
For revolving services
Expense and Equipment
From Natural Resources Revolving Services Fund $3,344,744

SECTION 6.390. — To the Department of Natural Resources
For the purpose of funding the refund of erroneously collected receipts
From Federal Funds and Other Funds $250,000E

SECTION 6.395. — To the Department of Natural Resources
For sales tax on retail sales
From Federal Funds and Other Funds $203,000E

SECTION 6.400. — There is hereby transferred out of the State Treasury to the Department of Natural Resources Cost Allocation Fund
From Federal Funds and Other Funds $8,182,685

SECTION 6.405. — There is hereby transferred out of the State Treasury to the Department of Natural Resources Cost Allocation Fund for real property leases, related services, utilities, systems furniture, structural modifications, capital improvements and the related expenses
From Federal Funds and Other Funds $1,957,749

SECTION 6.410. — There is hereby transferred out of the State Treasury to the Department of Natural Resources Cost Allocation Fund for the purpose of funding the consolidation of Information Technology Services
From Federal Funds and Other Funds $8,456,960

SECTION 6.415. — There is hereby transferred out of the State Treasury to the OA Information Technology Federal and Other Fund for the purpose of funding the consolidation of Information Technology Services
From Federal Funds $2,788,018

SECTION 6.420.— To the Department of Natural Resources
For the State Environmental Improvement and Energy Resources Authority
For all costs incurred in the operation of the authority, including special studies
From State Environmental Improvement Authority Fund $1E

SECTION 6.600.— To the Department of Conservation
For Personal Service and Expense and Equipment, including refunds; and for payments to counties for the unimproved value of land in lieu of property taxes for privately owned lands acquired by the Conservation Commission after July 1, 1977, and for lands classified as forest croplands
From Conservation Commission Fund (Not to exceed 1,843.81 F.T.E.) $145,534,841

DEPARTMENT OF AGRICULTURE TOTALS

General Revenue Fund	$10,168,727
Federal Budget Stabilization Fund	38,084,100
Federal Funds	3,635,234
Other Funds	14,121,325
Total	$66,009,386

DEPARTMENT OF NATURAL RESOURCES TOTALS

General Revenue Fund	$12,053,568
Federal Budget Stabilization Fund	730,364
Federal Funds	42,629,014
Other Funds	262,445,420
Total	$317,858,366

DEPARTMENT OF CONSERVATION TOTALS

Other Funds	$145,534,841

Approved June 25, 2009

HB 7 [CCS SCS HCS HB 7]

APPROPRIATIONS: DEPARTMENT OF ECONOMIC DEVELOPMENT, DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS, AND PROFESSIONAL REGISTRATION, AND DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Department of Economic Development, Department of Insurance, Financial Institutions and Professional Registration, and Department of Labor and Industrial Relations and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2009 and ending June 30, 2010.

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

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2009 and ending June 30, 2010 as follows:

SECTION 7.005. — To the Department of Economic Development
For general administration of Administrative Services
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund $524,868

Personal Service 1,150,275
Expense and Equipment 463,035
From Federal Funds 1,613,310

Personal Service 567,537
Expense and Equipment 651,292
For refunds 5,000E
From Department of Economic Development Administrative Fund 1,223,829
Total (Not to exceed 39.81 F.T.E.) $3,362,007

SECTION 7.010. — To the Department of Economic Development
Funds are to be transferred, for payment of administrative costs, the following amounts to the Department of Economic Development Administrative Fund
From Federal Funds $247,990E
From Division of Tourism Supplemental Revenue Fund 159,347E
From Manufactured Housing Fund 11,065E
From Public Service Commission Fund 208,224E
From Missouri Arts Council Trust Fund 40,315
Total $666,941

SECTION 7.015. — To the Department of Economic Development
For the Division of Business and Community Services
For the Missouri Economic Research and Information Center
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment and not more than fifty percent (50%) flexibility is allowed between teams in Section 7.015
From General Revenue Fund $184,824
From Federal Funds 1,974,283

For the Marketing Team
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment and not more than fifty percent (50%) flexibility is allowed between teams in Section 7.015
From General Revenue Fund 1,274,752
From Federal Funds 184,838
From Department of Economic Development Administrative Fund 42,680
From International Promotions Revolving Fund 72,238E
From Economic Development Advancement Fund 2,839,721

For the Sales Team
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment and not more than fifty percent

(50%) flexibility is allowed between teams in Section 7.015
From General Revenue Fund 1,035,891
From Federal Funds 106,498
From Department of Economic Development Administrative Fund 6,620
From Economic Development Advancement Fund 386,324

For the Finance Team
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment and not more than fifty percent (50%) flexibility is allowed between teams in Section 7.015
From General Revenue Fund 653,385
From Federal Funds 321,402
From Economic Development Advancement Fund 219,769

For the Compliance Team
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment and not more than fifty percent (50%) flexibility is allowed between teams in Section 7.015
From General Revenue Fund 178,051
From Federal Funds 548,976
From Economic Development Advancement Fund 84,713

For refunding any overpayment or erroneous payment of any amount that is credited to the Economic Development Advancement Fund
From Economic Development Advancement Fund 1E
Total (Not to exceed 118.84 F.T.E.) $10,114,966

SECTION 7.020.— To the Department of Economic Development
For the Life Sciences Research Board for distribution of grants or contracts to not-for-profit institutions in Missouri to fund projects related to increasing Missouri's research capacity, as provided in Sections 196.1100 through 196.1130, RSMo. No later than December 31, 2009, the Life Sciences Research Board shall submit to the Chairman of the Senate Appropriations Committee and the Chairman of the House Budget Committee an annual report containing, at a minimum: a description of each grant awarded, the amount of the grant, the amount disbursed to each grant recipient, an accounting of all administrative expenses in the period from July 1, 2008 to June 30, 2009, and a spending plan for the period from July 1, 2009 to June 30, 2010 detailing all expenses of the Life Sciences Research Board. This annual report shall be in addition to the financial audit required in Section 196.1118, RSMo. These funds shall be used exclusively on projects in the fields of animal science, plant science, medical devices, biomaterials and composite research, diagnostics, nanotechnology related to drug development and delivery, clinical imaging, or information technology related to human health
From Life Sciences Research Trust Fund $13,300,000

SECTION 7.025.— To the Department of Economic Development
For Innovation Centers
For Rolla Innovation Center $225,056

For Southeast Missouri Innovation Center 225,000
For St. Louis Innovation Center 500,000
For Kirksville Innovation Center 175,000
For Joplin Innovation Center 275,000
For Columbia Innovation Center 250,750
For Springfield Innovation Center 150,000
For Kansas City Innovation Center 150,000
For Warrensburg Innovation Center 150,000
For St. Joseph Innovation Center 150,000
From Missouri Technology Investment Fund 2,250,806

For Missouri Manufacturing Extension Partnership
All Expenditures
From Federal Funds 1E
From private contributions 1E
From Missouri Technology Investment Fund 2,052,089
Total $4,302,897

SECTION 7.030. — Funds are to be transferred out of the State Treasury, chargeable to the Federal Budget Stabilization Fund, to the Missouri Technology Investment Fund, for the Missouri Manufacturing Extension Partnership, Innovation Centers, Missouri Technology Corporation/Research Alliance of Missouri, and other technology investments
From Federal Budget Stabilization Fund $4,352,691

SECTION 7.035. — To the Department of Economic Development
For the Missouri Federal and State Technology Partnership Program
From Missouri Small Business Development Centers Fund $500,000

SECTION 7.040. — Funds are to be transferred out of the State Treasury, chargeable to the General Revenue Fund, to the Missouri Small Business Development Centers Fund
From General Revenue Fund $500,000

SECTION 7.045. — To the Department of Economic Development
For the Division of Business and Community Services
For the Business Extension and Services Program
From Business Extension Service Team Fund $1,000,000

SECTION 7.050. — To the Department of Economic Development
For the Division of Business and Community Services
For Community Development Programs
From Federal Funds $28,000,000E

SECTION 7.052. — To the Department of Economic Development
For the Division of Business and Community Services
For Economic Development Assistance Flood Recovery
From Federal Funds $35,000,000E

SECTION 7.055. — To the Department of Economic Development
For the Division of Business and Community Services

For the Missouri Main Street Program
From Missouri Main Street Program Fund $45,590

SECTION 7.060. — Funds are to be transferred out of the State Treasury, chargeable to the General Revenue Fund, to the Missouri Main Street Program Fund
From General Revenue Fund $45,000

SECTION 7.065. — To the Department of Economic Development
For the Division of Business and Community Services
For the Youth Opportunities and Violence Prevention Program
From Youth Opportunities and Violence Prevention Fund $1E

SECTION 7.070. — To the Department of Economic Development
For the Division of Business and Community Services
For the Delta Regional Authority, provided that funds may be expended only if federal funds are appropriated to the authority pursuant to the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.)
From General Revenue Fund $80,784

SECTION 7.075. — To the Department of Economic Development
For Missouri supplemental tax increment financing as provided in Section 99.845, RSMo. This appropriation may be used for the following projects: Kansas City Midtown, Independence Santa Fe Trail Neighborhood, St. Louis City Convention Hotel, Cupples Station, Springfield Jordan Valley Park, Kansas City Bannister Mall/Three Trails, St. Louis Lambert Airport Eastern Perimeter, Old Post Office in Kansas City, 1200 Main Garage Project in Kansas City, Riverside Levee, Branson Landing, Eastern Jackson County Bass Pro, and Kansas City East Village Project. The presence of a project in this list is not an indication said project is nor shall be approved for tax increment financing. A listed project must have completed the application process and a certificate of approval must have been issued pursuant to Section 99.845 (10) before a project may be disbursed funds subject to the appropriation
From Missouri Supplemental Tax Increment Financing Fund $13,158,455

SECTION 7.080. — Funds are to be transferred out of the State Treasury, chargeable to the General Revenue Fund, to the Missouri Supplemental Tax Increment Financing Fund
From General Revenue Fund $13,158,455

SECTION 7.085. — To the Department of Economic Development
For the Missouri Downtown Economic Stimulus Act as provided in Sections 99.915 to 99.980, RSMo
From State Supplemental Downtown Development Fund $3,240,450

SECTION 7.090. — To the Department of Economic Development
For the Downtown Revitalization Preservation Program as provided in Sections 99.1080 to 99.1092, RSMo
From Downtown Revitalization Preservation Fund $134,805

SECTION 7.095. — To the Department of Economic Development
For the Missouri Rural Economic Stimulus Act as provided in Sections 99.1000 to 99.1060, RSMo
From State Supplemental Rural Development Fund $1E

SECTION 7.100. — Funds are to be transferred out of the State Treasury, chargeable to the State Supplemental Downtown Development Fund, to the General Revenue Fund
From State Supplemental Downtown Development Fund $1E

SECTION 7.105. — Funds are to be transferred out of the State Treasury, chargeable to the State Supplemental Rural Development Fund, to the General Revenue Fund
From State Supplemental Rural Development Fund $1E

SECTION 7.110. — To the Department of Economic Development
For the Division of Business and Community Services
For the Missouri Community Service Commission
Personal Service
From General Revenue Fund $34,868

Personal Service 188,163
Expense and Equipment 2,793,562E
From Federal Funds 2,981,725
Total (Not to exceed 5.00 F.T.E.) $3,016,593

SECTION 7.115. — To the Department of Economic Development
For the Missouri State Council on the Arts
Personal Service $293,187
Expense and Equipment 435,014
From Federal Funds 728,201

Personal Service 462,100
Expense and Equipment 8,559,699
From Missouri Arts Council Trust Fund 9,021,799

For Public Television Grants
For grants to public television stations as provided in Sections 185.200 through 185.230, RSMo
From General Revenue Fund 45,000

For grants to public television and radio stations as provided in Section 143.183, RSMo
From Missouri Public Broadcasting Corporation Special Fund 1,697,500

For the Missouri Humanities Council
From Missouri Humanities Council Trust Fund 250,000
Total (Not to exceed 15.00 F.T.E.) $11,742,500

SECTION 7.120. — Funds are to be transferred out of the State Treasury, chargeable to the General Revenue Fund, to the Missouri Arts Council Trust Fund as authorized by Sections 143.183 and 185.100, RSMo
From General Revenue Fund $10,185,000

SECTION 7.125.— Funds are to be transferred out of the State Treasury, chargeable to the General Revenue Fund, to the Missouri Humanities Council Trust Fund as authorized by Sections 143.183 and 186.065, RSMo
From General Revenue Fund $1,697,500

SECTION 7.130.— Funds are to be transferred out of the State Treasury, chargeable to the General Revenue Fund, to the Missouri Public Broadcasting Corporation Special Fund as authorized by Section 143.183, RSMo
From General Revenue Fund $1,697,500

SECTION 7.135.— To the Department of Economic Development
For the Division of Workforce Development
For general administration of Workforce Development activities
Personal Service $21,397,398E
Expense and Equipment 3,038,437E
From Federal Funds 24,435,835

Personal Service 371,707
Expense and Equipment 81,389
From Missouri Job Development Fund 453,096

For the Hero at Home Program
From Hero at Home Fund 315,000

For the purpose of providing research funding to create an innovative model for specific persons with autism through a contract with a Southeast Missouri not-for-profit organization concentrating on workforce transition skills related to the maximization of giftedness within the autistic population
From General Revenue Fund 200,000
Total (Not to exceed 539.72 F.T.E.) $25,403,931

SECTION 7.140.— Funds are to be transferred out of the State Treasury, chargeable to Federal Funds, to the Hero at Home Fund
From Federal Funds $315,000

SECTION 7.145.— To the Department of Economic Development
For job training and related activities
From General Revenue Fund $1,978,912
From Federal Funds 96,024,374

For administration of programs authorized and funded by the United States Department of Labor, such as Trade Adjustment Assistance (TAA), and provided that all funds shall be expended from discrete accounts and that no monies shall be expended for funding administration of these programs by the Division of Workforce Development
From Federal Funds 7,000,000E
Total $105,003,286

SECTION 7.150.— To the Department of Economic Development
For funding new and expanding industry training programs and basic industry retraining programs
From Missouri Job Development Fund $10,640,835E

SECTION 7.155. — Funds are to be transferred out of the State Treasury, chargeable to the Federal Budget Stabilization Fund, to the Missouri Job Development Fund

From Federal Budget Stabilization Fund $11,083,939

SECTION 7.160. — To the Department of Economic Development
For the Missouri Community College New Jobs Training Program
For funding training of workers by community college districts
From Missouri Community College Job Training Program Fund $16,000,000E

SECTION 7.165. — To the Department of Economic Development
For the Jobs Retention Program
From Missouri Community College Job Retention Training Program Fund . . $10,000,000

SECTION 7.170. — To the Department of Economic Development
For the Missouri Women's Council
Personal Service $55,167
Expense and Equipment 16,502
From Federal Funds (Not to exceed 1.00 F.T.E.) $71,669

SECTION 7.175. — To the Department of Economic Development
For the Division of Tourism to include coordination of advertising of at least $70,000 for the Missouri State Fair
Personal Service $1,614,386
Expense and Equipment 22,530,580
From Division of Tourism Supplemental Revenue Fund 24,144,966

Expense and Equipment
From Tourism Marketing Fund 15,000
Total (Not to exceed 41.00 F.T.E.) $24,159,966

SECTION 7.180. — Funds are to be transferred out of the State Treasury, chargeable to the funds listed below, to the Division of Tourism Supplemental Revenue Fund
From General Revenue Fund $20,567,811
From Federal Budget Stabilization Fund 3,091,999
Total $23,659,810

SECTION 7.185. — To the Department of Economic Development
For the Office of the Film Commission
Personal Service and/or Expense and Equipment
From General Revenue Fund $209,950

Expense and Equipment
From Federal Budget Stabilization Fund 37,050
Total (Not to exceed 2.00 F.T.E.) $247,000

SECTION 7.190. — To the Department of Economic Development
For the Missouri Housing Development Commission
For general administration of affordable housing activities
For funding housing subsidy grants or loans
From Missouri Housing Trust Fund $4,450,000E

SECTION 7.195.— To the Department of Economic Development
For Manufactured Housing
Personal Service $341,404
Expense and Equipment 145,089
For Manufactured Housing programs 7,935E
For refunds 10,000E
From Manufactured Housing Fund 504,428

For Manufactured Housing to pay consumer claims
From Manufactured Housing Consumer Recovery Fund 192,000
Total (Not to exceed 8.00 F.T.E.) $696,428

SECTION 7.200.— To the Department of Economic Development
Funds are to be transferred out of the State Treasury, chargeable to the Manufactured Housing Fund, to the Manufactured Housing Consumer Recovery Fund
From Manufactured Housing Fund $192,000

SECTION 7.205.— To the Department of Economic Development
For the Office of the Public Counsel
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between Personal Service and Expense and Equipment
From General Revenue Fund (Not to exceed 12.00 F.T.E.) $880,809

SECTION 7.210.— To the Department of Economic Development
For the Public Service Commission
For general administration of Utility Regulation activities
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between Personal Service and Expense and Equipment $12,870,329

For the development of a rule regarding ethics, conduct and conflict of interest, including training for the commission and staff, in consultation with a professional legal organization with expertise in the development and training in such codes 100,000

For refunds 10,000E
From Public Service Commission Fund 12,980,329

For the Deaf Relay Service and Equipment Distribution Program
From Deaf Relay Service and Equipment Distribution Program Fund 2,500,000
Total (Not to exceed 194.00 F.T.E.) $15,480,329

SECTION 7.400.— To the Department of Insurance, Financial Institutions and Professional Registration
Personal Service $153,121
Expense and Equipment 42,157
From Department of Insurance, Financial Institutions and Professional Registration Administrative Fund (Not to exceed 5.00 F.T.E.) $195,278

SECTION 7.405. — To the Department of Insurance, Financial Institutions and Professional Registration

Funds are to be transferred for administrative services, the following amounts to the Department of Insurance, Financial Institutions and Professional Registration Administrative Fund

From Division of Credit Unions Fund	$11,829E
From Division of Finance Fund	73,314E
From Insurance Dedicated Fund	1E
From Professional Registration Fees Fund	172,007E
Total	$257,151

SECTION 7.410. — To the Department of Insurance, Financial Institutions and Professional Registration

For Insurance Operations

Personal Service	$6,964,725
Expense and Equipment	1,958,066
From Insurance Dedicated Fund	8,922,791

For consumer restitution payments

From Consumer Restitution Fund	1E
Total (Not to exceed 156.00 F.T.E.)	$8,922,792

SECTION 7.415. — To the Department of Insurance, Financial Institutions and Professional Registration

For market conduct and financial examinations of insurance companies

Personal Service	$3,418,090
Expense and Equipment	801,776
From Insurance Examiners Fund (Not to exceed 44.50 F.T.E.)	$4,219,866

SECTION 7.420. — To the Department of Insurance, Financial Institutions and Professional Registration

For refunds

From Insurance Examiners Fund	$1E
From Insurance Dedicated Fund	75,000E
Total	$75,001

SECTION 7.425. — To the Department of Insurance, Financial Institutions and Professional Registration

For the purpose of funding programs providing counseling on health insurance coverage and benefits to Medicare beneficiaries

From Federal Funds	$700,000E
From Insurance Dedicated Fund	200,000
Total	$900,000

SECTION 7.430. — To the Department of Insurance, Financial Institutions and Professional Registration

For the Division of Credit Unions

Personal Service	$1,126,071
Expense and Equipment	123,775
From Division of Credit Unions Fund (Not to exceed 15.50 F.T.E.)	$1,249,846

SECTION 7.435.— To the Department of Insurance, Financial Institutions and Professional Registration

For the Division of Finance

Personal Service	$6,216,626
Expense and Equipment	936,260
For Out-of-State Examinations	50,000E
From Division of Finance Fund (Not to exceed 106.15 F.T.E.)	$7,202,886

SECTION 7.440.— Funds are to be transferred out of the Division of Savings and Loan Supervision Fund, to the Division of Finance Fund, for the purpose of supervising state chartered savings and loan associations

From Division of Savings and Loan Supervision Fund	$39,400E

SECTION 7.445.— Funds are to be transferred out of the Residential Mortgage Licensing Fund, to the Division of Finance Fund, for the purpose of administering the Residential Mortgage Licensing Law

From Residential Mortgage Licensing Fund	$150,000E

SECTION 7.450.— Funds are to be transferred out of the Division of Savings and Loan Supervision Fund, to the General Revenue Fund, in accordance with Section 369.324, RSMo

From Division of Savings and Loan Supervision Fund	$6,909E

SECTION 7.455.— Funds are to be transferred out of the Division of Finance Fund, to the General Revenue Fund, in accordance with Section 361.170, RSMo

From Division of Finance Fund	$500,000E

SECTION 7.460.— To the Department of Insurance, Financial Institutions and Professional Registration

For general administration of the Division of Professional Registration

Personal Service	$3,131,878
Expense and Equipment	1,058,907
For examination and other fees	88,000E
For refunds	35,000E
From Professional Registration Fees Fund (Not to exceed 81.50 F.T.E.)	$4,313,785

SECTION 7.465.— To the Department of Insurance, Financial Institutions and Professional Registration

For the State Board of Accountancy

Personal Service	$278,953
Expense and Equipment	180,647
From Board of Accountancy Fund (Not to exceed 7.00 F.T.E.)	$459,600

SECTION 7.470.— To the Department of Insurance, Financial Institutions and Professional Registration

For the State Board of Architects, Professional Engineers, Land Surveyors, and Landscape Architects

Personal Service	$375,856
Expense and Equipment	331,587
From Board of Architects, Professional Engineers, Land Surveyors, and Landscape Architects Fund (Not to exceed 10.00 F.T.E.)	$707,443

SECTION 7.475. — To the Department of Insurance, Financial Institutions and Professional Registration
For the State Board of Chiropractic Examiners
Expense and Equipment
From Board of Chiropractic Examiners Fund $149,567

SECTION 7.480. — To the Department of Insurance, Financial Institutions and Professional Registration
For the State Board of Cosmetology and Barber Examiners
Expense and Equipment $291,273
For criminal history checks 1,000E
From Board of Cosmetology and Barber Examiners Fund $292,273

SECTION 7.485. — To the Department of Insurance, Financial Institutions and Professional Registration
For the Missouri Dental Board
Personal Service $372,146
Expense and Equipment 262,863
From Dental Board Fund (Not to exceed 8.50 F.T.E.) $635,009

SECTION 7.490. — To the Department of Insurance, Financial Institutions and Professional Registration
For the State Board of Embalmers and Funeral Directors
Expense and Equipment
From Board of Embalmers and Funeral Directors Fund $145,393

SECTION 7.495. — To the Department of Insurance, Financial Institutions and Professional Registration
For the State Board of Registration for the Healing Arts
Personal Service $1,747,075
Expense and Equipment 759,494
From Board of Registration for Healing Arts Fund (Not to exceed 44.00 F.T.E.) $2,506,569

SECTION 7.500. — To the Department of Insurance, Financial Institutions and Professional Registration
For the State Board of Nursing
Personal Service $1,035,738
Expense and Equipment 752,496
From Board of Nursing Fund (Not to exceed 28.00 F.T.E.) $1,788,234

SECTION 7.505. — To the Department of Insurance, Financial Institutions and Professional Registration
For the State Board of Optometry
Expense and Equipment
From Board of Optometry Fund $42,043

SECTION 7.510. — To the Department of Insurance, Financial Institutions and Professional Registration
For the State Board of Pharmacy
Personal Service $940,068
Expense and Equipment 672,948
For criminal history checks 5,000E

From Board of Pharmacy Fund (Not to exceed 14.00 F.T.E.) $1,618,016

SECTION 7.515.— To the Department of Insurance, Financial Institutions and Professional Registration
For the State Board of Podiatric Medicine
Expense and Equipment
From Board of Podiatric Medicine Fund $20,669

SECTION 7.520.— To the Department of Insurance, Financial Institutions and Professional Registration
For the Missouri Real Estate Commission
Personal Service $897,447
Expense and Equipment 287,544
For criminal history checks 30,000E
From Missouri Real Estate Commission Fund (Not to exceed 25.00 F.T.E.) . . $1,214,991

SECTION 7.525.— To the Department of Insurance, Financial Institutions and Professional Registration
For the Missouri Veterinary Medical Board
Expense and Equipment $69,579
For payment of fees for testing services 40,000E
From Veterinary Medical Board Fund $109,579

SECTION 7.530.— To the Department of Insurance, Financial Institutions and Professional Registration
For funding transfer of funds to the General Revenue Fund
From Board of Accountancy Fund $28,000E
From Board of Architects, Professional Engineers, Land Surveyors and Landscape Architects Fund 122,100E
From Athletic Fund 14,400E
From Board of Chiropractic Examiners Fund 8,000E
From Licensed Social Workers Fund 9,064E
From Committee of Professional Counselors Fund 15,000E
From Dental Board Fund 31,200E
From Dietitian Fund 1,200E
From Board of Embalmers and Funeral Directors Fund 85,000E
From Endowed Care Cemetery Audit Fund 9,100E
From Board of Geologist Registration Fund 7,200E
From Board of Registration for Healing Arts Fund 190,000E
From Hearing Instrument Specialist Fund 7,700E
From Interior Designer Council Fund 1,200E
From Marital and Family Therapists' Fund 2,200E
From Board of Nursing Fund 135,000E
From Missouri Board of Occupational Therapy Fund 8,960E
From Board of Optometry Fund 13,408E
From Board of Pharmacy Fund 119,000E
From Board of Podiatric Medicine Fund 7,700E
From State Committee of Psychologists Fund 26,000E
From Real Estate Appraisers Fund 51,000E
From Respiratory Care Practitioners Fund 6,250E
From State Committee of Interpreters Fund 7,800E
From Missouri Real Estate Commission Fund 150,000E

From Veterinary Medical Board Fund 22,200E
From Board of Private Investigator Examiners Fund 1E
From Tattoo Fund 5,047E
From Acupuncturist Fund 3,000E
From Massage Therapy Fund 5,200E
From Athletic Agent Fund 1E
From Board of Cosmetology and Barber Examiners Fund 91,250E
Total $1,183,181

SECTION 7.535. — To the Department of Insurance, Financial Institutions and Professional Registration

Funds are to be transferred, for payment of operating expenses, the following amounts to the Professional Registration Fees Fund

From Board of Accountancy Fund $133,938E
From Board of Architects, Professional Engineers, Land Surveyors, and Landscape Architects Fund 278,472E
From Athletic Fund 189,295E
From Board of Chiropractic Examiners Fund 133,850E
From Licensed Social Workers Fund 214,657E
From Committee of Professional Counselors Fund 283,797E
From Dental Board Fund 69,800E
From Dietitian Fund 56,348E
From Board of Embalmers and Funeral Directors Fund 363,579E
From Endowed Care Cemetery Audit Fund 122,879E
From Board of Geologist Registration Fund 71,215E
From Board of Registration for Healing Arts Fund 430,439E
From Hearing Instrument Specialist Fund 88,470E
From Interior Designer Council Fund 42,037E
From Marital and Family Therapists' Fund 17,211E
From Board of Nursing Fund 1,104,260E
From Missouri Board of Occupational Therapy Fund 138,152E
From Board of Optometry Fund 79,961E
From Board of Pharmacy Fund 274,379E
From Board of Podiatric Medicine Fund 27,269E
From State Committee of Psychologists Fund 348,058E
From Real Estate Appraisers Fund 419,574E
From Respiratory Care Practitioners Fund 137,692E
From State Committee of Interpreters Fund 48,475E
From Missouri Real Estate Commission Fund 540,206E
From Veterinary Medical Board Fund 171,129E
From Tattoo Fund 51,460E
From Acupuncturist Fund 8,298E
From Massage Therapy Fund 146,278E
From Athletic Agent Fund 888E
From Board of Cosmetology and Barber Examiners Fund 1,622,527E
From Board of Private Investigator Examiners Fund 1E
Total $7,614,594

SECTION 7.540. — Funds are to be transferred, for funding new licensing activity pursuant to Section 620.106, RSMo, the following amounts to the Professional Registration Fees Fund

From any board funds $1E

SECTION 7.545. — Funds are to be transferred, for the reimbursement of funds loaned for new licensing activity pursuant to Section 620.106, RSMo, the following amount to the appropriate board fund

From Professional Registration Fees Fund $1E

SECTION 7.800. — To the Department of Labor and Industrial Relations

For the Director and Staff

Personal Service	$1E
Expense and Equipment	1,300,000E
From Unemployment Compensation Administration Fund	1,300,001

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between Personal Service and Expense and Equipment

From Department of Labor and Industrial Relations Administrative Fund	4,368,837
Total (Not to exceed 48.00 F.T.E.)	$5,668,838

SECTION 7.805. — Funds are to be transferred, for payment of administrative costs, the following amounts to the Department of Labor and Industrial Relations Administrative Fund

From General Revenue Fund	$220,400
From Federal Funds	47,467E
From Unemployment Compensation Administration Fund	3,880,988E
From Workers' Compensation Fund	950,733E
From Special Employment Security Fund	100,000
Total	$5,199,588

SECTION 7.810. — Funds are to be transferred, for payment of administrative costs charged by the Office of Administration, the following amounts to the Department of Labor and Industrial Relations Administrative Fund

From General Revenue Fund	$189,270
From Federal Funds	3,796,905
From Workers' Compensation Fund	1,043,900
Total	$5,030,075

SECTION 7.815. — To the Department of Labor and Industrial Relations

For the Labor and Industrial Relations Commission

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between Personal Service and Expense and Equipment

From General Revenue Fund	$9,882
Personal Service	364,670
Expense and Equipment	57,108
From Unemployment Compensation Administration Fund	421,778
Personal Service	481,215
Expense and Equipment	75,360
From Workers' Compensation Fund	556,575
Total (Not to exceed 14.00 F.T.E.)	$988,235

SECTION 7.820. — To the Department of Labor and Industrial Relations
For the Division of Labor Standards
For Administration
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between Personal Service and Expense and Equipment
From General Revenue Fund $949,889

Personal Service 1E
Expense and Equipment 32,670
From Federal Funds 32,671

Personal Service 95,000
Expense and Equipment 128,166
From Workers' Compensation Fund 223,166

Expense and Equipment
From Child Labor Enforcement Fund 185,000
Total (Not to exceed 22.00 F.T.E.) $1,390,726

SECTION 7.825. — To the Department of Labor and Industrial Relations
For the Division of Labor Standards
For safety and health programs
Personal Service and/or Expense and Equipment
From General Revenue Fund $68,636

Personal Service 797,739E
Expense and Equipment 299,161E
From Federal Funds 1,096,900
Total (Not to exceed 17.00 F.T.E.) $1,165,536

SECTION 7.830. — To the Department of Labor and Industrial Relations
For the Division of Labor Standards
For mine safety and health training programs
Personal Service and/or Expense and Equipment
From General Revenue Fund $54,358

Personal Service 205,726E
Expense and Equipment 165,081E
From Federal Funds 370,807
Total (Not to exceed 5.00 F.T.E.) $425,165

SECTION 7.835. — To the Department of Labor and Industrial Relations
For the State Board of Mediation
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between Personal Service and Expense and Equipment
From General Revenue Fund (Not to exceed 2.00 F.T.E.) $121,568

SECTION 7.840. — To the Department of Labor and Industrial Relations
For the Division of Workers' Compensation
For the purpose of funding Administration

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between Personal Service and Expense and Equipment $9,086,363

Funds are to be transferred from the Workers' Compensation Fund to the Kids' Chance Scholarship Fund 50,000
From Workers' Compensation Fund 9,136,363
Expense and Equipment
From Tort Victims Compensation Fund 5,000
Total (Not to exceed 150.25 F.T.E.) $9,141,363

SECTION 7.845.— For refunds for overpayment or erroneous payment of any tax or any payment credited to the Workers' Compensation Fund
From Workers' Compensation Fund $50,000E

SECTION 7.850.— To the Department of Labor and Industrial Relations
For the Division of Workers' Compensation
For payment of special claims
From Workers' Compensation - Second Injury Fund $66,574,927

SECTION 7.855.— To the Department of Labor and Industrial Relations
For the Division of Workers' Compensation
For refunds for overpayment of any tax or any payment credited to the Workers' Compensation - Second Injury Fund
From Workers' Compensation - Second Injury Fund $250,000E

SECTION 7.860.— To the Department of Labor and Industrial Relations
For the Division of Workers' Compensation
For payments of claims to tort victims
From Tort Victims Compensation Fund $100,000E

SECTION 7.865.— Funds are to be transferred in the following amounts, pursuant to Section 537.675, RSMo, to the Basic Civil Legal Services Fund
From Tort Victims Compensation Fund $50,000E

SECTION 7.870.— To the Department of Labor and Industrial Relations
For the Division of Employment Security
Personal Service $22,821,140E
Expense and Equipment 5,342,111E
From Unemployment Compensation Administration Fund 28,163,251

Personal Service
From Unemployment Automation Fund 200,000
Total (Not to exceed 522.00 F.T.E.) $28,363,251

SECTION 7.875.— To the Department of Labor and Industrial Relations
For the Division of Employment Security
For administration of programs authorized and funded by the United States Department of Labor, such as Disaster Unemployment Assistance (DUA), and provided that all funds shall be expended from discrete accounts and that no monies shall be expended for funding administration of these programs by the Division of Employment Security

From Unemployment Compensation Administration Fund $7,000,000E

SECTION 7.880. — To the Department of Labor and Industrial Relations
For the Division of Employment Security
Personal Service $504,509
Expense and Equipment 1,885,358E
For interest payments 1E
From Special Employment Security Fund (Not to exceed 14.71 F.T.E.) $2,389,868

SECTION 7.885. — To the Department of Labor and Industrial Relations
For the Division of Employment Security
For the War on Terror Unemployment Compensation Program
Expense and Equipment $45,000
For payment of benefits 45,000E
From War on Terror Unemployment Compensation Fund $90,000

SECTION 7.890. — To the Department of Labor and Industrial Relations
For the Division of Employment Security
From Special Employment Security - Bond Proceeds Fund $1E

SECTION 7.895. — To the Department of Labor and Industrial Relations
For the Division of Employment Security
For the payment of refunds set-off against debts as required by Section 143.786, RSMo
From Debt Offset Escrow Fund $2,750,000E

SECTION 7.900. — To the Department of Labor and Industrial Relations
For the Missouri Commission on Human Rights
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between Personal Service and Expense and Equipment
From General Revenue Fund $640,939

Personal Service 895,097E
Expense and Equipment 161,866E
From Human Rights Commission Fund 1,056,963

Personal Service 43,367
Expense and Equipment 6,234
From Department of Labor and Industrial Relations Administration Fund 49,601
Total (Not to exceed 36.90 F.T.E.) $1,747,503

DEPARTMENT OF ECONOMIC DEVELOPMENT TOTALS
General Revenue Fund $55,133,360
Federal Budget Stabilization Fund 18,565,679
Federal Funds 198,991,112
Other Funds 65,357,654
Total $338,047,805

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION TOTALS

Federal Funds	$700,000
Other Funds	35,958,839
Total	$36,658,839

DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS TOTALS

General Revenue Fund	$2,254,942
Federal Funds	47,167,731
Other Funds	81,555,533
Total	$130,978,206

Approved June 25, 2009

HB 8 [CCS SCS HCS HB 8]

APPROPRIATIONS: DEPARTMENT OF PUBLIC SAFETY.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Department of Public Safety and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2009 and ending June 30, 2010.

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

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated, for the period beginning July 1, 2009 and ending June 30, 2010, as follows:

SECTION 8.005.— To the Department of Public Safety

For the Office of the Director

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between Personal Service and Expense and Equipment

From General Revenue Fund	$1,134,569
From Federal Funds	1,423,899E
From Services to Victims Fund	28,098E
From Crime Victims' Compensation Fund	1,939,713E

Expense and Equipment

From Missouri Crime Prevention Information and Programming Fund	50,000E
From Antiterrorism Fund	5,000E

For the state and federal portions of an interoperable communications grant

From General Revenue Fund	1,894,822
From Federal Funds	17,465,576
Total (Not to exceed 49.00 F.T.E.)	$23,941,677

SECTION 8.010. — To the Department of Public Safety
For the Office of the Director
For the Juvenile Justice Delinquency Prevention Program
From Federal Funds $1,032,450E

SECTION 8.015. — To the Department of Public Safety
For the Office of the Director
For the Juvenile Accountability Incentive Block Grant Program
From Federal Funds $1,013,625E

SECTION 8.020. — To the Department of Public Safety
For the Office of the Director
For the Narcotics Control Assistance Program and multi-jurisdictional task forces
From Federal Funds $7,000,000E

SECTION 8.035. — To the Department of Public Safety
For the Office of the Director
For the Program 1122
For the purchase of counter-drug equipment through federal procurement channels by state and local law enforcement
From Program 1122 Fund $500,000E

SECTION 8.045. — To the Department of Public Safety
For the Office of the Director
For the purpose of funding operating grants to multi-jurisdictional Internet cyber crime law enforcement task forces, multi-jurisdictional enforcement groups and other law enforcement agencies that are investigating Internet sex crimes against children, provided that not more than three percent (3%) is used for grant administration
From Cyber Crime Investigation Fund $1,000,000

SECTION 8.050. — To the Department of Public Safety
For the Office of the Director
For the Services to Victims Program
From Services to Victims Fund $4,950,000E

For counseling and other support services for crime victims
From Crime Victims' Compensation Fund 50,000
Total $5,000,000

SECTION 8.055. — To the Department of Public Safety
For the Office of the Director
For the Victims of Crime Program
From Federal Funds $7,500,000E

SECTION 8.060. — To the Department of Public Safety
For the Office of the Director
For the Violence Against Women Program
From Federal Funds $2,499,500E

SECTION 8.065.— To the Department of Public Safety
For the Office of the Director
For the Crime Victims' Compensation Program
From General Revenue Fund $1,000,000
From Federal Funds 2,212,671E
From Crime Victims' Compensation Fund 6,987,329E
Total $10,200,000

SECTION 8.070.— To the Department of Public Safety
For the National Forensic Sciences Improvement Act Program
From Federal Funds $197,287E

SECTION 8.075.— To the Department of Public Safety
For the State Forensic Laboratory Program
From State Forensic Laboratory Fund $300,000E

SECTION 8.080.— To the Department of Public Safety
For the Office of the Director
For the Residential Substance Abuse Treatment Program
From Federal Funds $250,000E

SECTION 8.085.— To the Department of Public Safety
For the Office of the Director
For peace officer training
From Peace Officer Standards and Training Commission Fund $1,400,000E

SECTION 8.090.— To the Department of Public Safety
For the Missouri Public Safety Officer Medal of Valor Act
From General Revenue Fund $2,500

***SECTION 8.095.**— To the Department of Public Safety
For the Capitol Police
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between Personal Service and Expense and Equipment
From General Revenue Fund $1,504,785
From State Highway and Transportation Department Fund 83,598
Total (Not to exceed 36.00 F.T.E.) $1,588,383

*I hereby veto $83,598 State Highway and Transportation Department Fund for the Capitol Police. Use of State Highway and Transportation Department Funds for non-highway related purposes is in violation of Section 226.200, RSMo.

Personal Service and/or Expense and Equipment by $83,598 from $83,598 to $0 State Highway and Transportation Department Fund.
From $1,588,383 to $1,504,785 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

SECTION 8.100.— To the Department of Public Safety
For the State Highway Patrol
For Administration

Personal Service $24,853
Expense and Equipment 5,279
From General Revenue Fund 30,132

For the High-Intensity Drug Trafficking Area Program
From Federal Funds 1,500,000E

Personal Service 5,252,337
Expense and Equipment 430,812
From State Highways and Transportation Department Fund 5,683,149

Personal Service
From Criminal Record System Fund 40,110

Personal Service 32,703
Expense and Equipment 4,865
From Gaming Commission Fund 37,568
Total (Not to exceed 105.00 F.T.E.) $7,290,959

SECTION 8.105. — To the Department of Public Safety
For the State Highway Patrol
For fringe benefits, including retirement contributions for members of the Missouri Department of Transportation and Highway Patrol Employees' Retirement System, and insurance premiums
Personal Service $6,412,924E
Expense and Equipment 798,841E
From General Revenue Fund 7,211,765

Personal Service 1,403,345E
Expense and Equipment 108,825E
From Federal Funds 1,512,170

Personal Service 123,916E
Expense and Equipment 12,693E
From Gaming Commission Fund 136,609

Personal Service 50,004,700E
Expense and Equipment 5,807,981E
From State Highways and Transportation Department Fund 55,812,681

Personal Service 2,177,975E
Expense and Equipment 233,586E
From Criminal Record System Fund 2,411,561

Personal Service 59,160E
Expense and Equipment 5,545E
From Highway Patrol Academy Fund 64,705

Personal Service 3,749E
Expense and Equipment 510E
From Highway Patrol's Motor Vehicle and Aircraft Revolving Fund 4,259

Personal Service 39,644E
Expense and Equipment 6,026E
From DNA Profiling Analysis Fund 45,670

Personal Service 35,414E
Expense and Equipment 4,299E
From Highway Patrol Traffic Records Fund 39,713
Total $67,239,133

SECTION 8.110.— To the Department of Public Safety
For the State Highway Patrol
For the Enforcement Program
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between Personal Service and Expense and Equipment
From General Revenue Fund $10,254,525
From State Highways and Transportation Department Fund 68,197,001

Expense and Equipment
From Federal Budget Stabilization Fund 130,725

Personal Service 3,144,738E
For receiving and expending donations and federal funds provided that the General Assembly shall be notified of the source of any new funds and the purpose for which they shall be expended, in writing, prior to expenditure of said funds
Expense and Equipment 8,207,677E
From Federal Funds 11,352,415

All expenditures must be in compliance with the United States Department of Justice Equitable Sharing Program guidelines
Expense and Equipment
From Federal Drug Seizure Fund 862,067

Personal Service 3,218,684
Expense and Equipment 2,654,109
For National Criminal Record Reviews 2,000,000E
From Criminal Record System Fund 7,872,793

Expense and Equipment
From Gaming Commission Fund 232,798

Personal Service 7,657
Expense and Equipment 110,000
From Highway Patrol's Motor Vehicle and Aircraft Revolving Fund 117,657

Expense and Equipment
From Highway Patrol Traffic Records Fund 224,250
Total (Not to exceed 1,393.50 F.T.E.) $99,244,231

SECTION 8.115.— To the Department of Public Safety
For the State Highway Patrol

For gasoline expenses for State Highway Patrol vehicles, including aircraft and Gaming Commission vehicles
Expense and Equipment
From General Revenue Fund $221,634
From Gaming Commission Fund 246,329
From State Highways and Transportation Department Fund 2,455,272
Total $2,923,235

SECTION 8.120. — To the Department of Public Safety
For the State Highway Patrol
For purchase of vehicles and aircraft for the State Highway Patrol and the Gaming Commission
Expense and Equipment
From General Revenue Fund $28,350
From Federal Drug Seizure Fund 525,000
From State Highways and Transportation Department Fund 6,222,293
From Highway Patrol's Motor Vehicle and Aircraft Revolving Fund 6,267,240
From Gaming Commission Fund 474,571
Total $13,517,454

SECTION 8.125. — To the Department of Public Safety
For the State Highway Patrol
For Crime Labs
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between Personal Service and Expense and Equipment
From General Revenue Fund $2,558,370

Personal Service 222,260
Expense and Equipment 636,223E
For grants to St. Louis City and St. Louis County Forensic DNA Labs 100,000E
From Federal Funds 958,483

Personal Service 3,585,620
Expense and Equipment 895,386
From State Highways and Transportation Department Fund 4,481,006

Personal Service 101,055
Expense and Equipment 3,600
From Criminal Record System Fund 104,655

Personal Service 60,544
Expense and Equipment 1,478,305
From DNA Profiling Analysis Fund 1,538,849

Expense and Equipment
From State Forensic Laboratory Fund 219,125E
Total (Not to exceed 104.00 F.T.E.) $9,860,488

SECTION 8.130. — To the Department of Public Safety
For the State Highway Patrol
For the Law Enforcement Academy

Expense and Equipment
From Federal Funds $59,655

Personal Service 163,329
Expense and Equipment 82,298
From Gaming Commission Fund 245,627

Personal Service 1,390,443
Expense and Equipment 76,872
From State Highways and Transportation Department Fund 1,467,315

Personal Service 96,055
Expense and Equipment 624,914
From Highway Patrol Academy Fund 720,969
Total (Not to exceed 36.00 F.T.E.) $2,493,566

SECTION 8.135. — To the Department of Public Safety
For the State Highway Patrol
For Vehicle and Driver Safety
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between Personal Service and Expense and Equipment
From State Highways and Transportation Department Fund $11,101,419

Expense and Equipment
From Federal Funds 600,000E

Expense and Equipment
From Highway Patrol Inspection Fund 90,000E
Total (Not to exceed 293.00 F.T.E.) $11,791,419

SECTION 8.140. — To the Department of Public Safety
For the State Highway Patrol
For refunding unused motor vehicle inspection stickers
From State Highways and Transportation Department Fund $40,000E

SECTION 8.145. — To the Department of Public Safety
For the State Highway Patrol
For Technical Services
Personal Service $409,740
Expense and Equipment 89,856
From General Revenue Fund 499,596

Personal Service 41,720
Expense and Equipment 3,897,969E
From Federal Funds 3,939,689

Personal Service 12,504,707
Expense and Equipment 10,754,056
From State Highways and Transportation Department Fund 23,258,763

Personal Service 595,996
Expense and Equipment 1,498,216
From Criminal Record System Fund 2,094,212

Personal Service
From Gaming Commission Fund 20,502
From Highway Patrol Traffic Records Fund 74,555

Expense and Equipment
From Criminal Justice Network and Technology Revolving Fund 1,500,000E

For a statewide interoperable communication system
From State Highways and Transportation Department Fund 2,350,000
Total (Not to exceed 266.00 F.T.E.) $33,737,317

SECTION 8.150. — To the Department of Public Safety
For the State Highway Patrol
For the recoupment, receipt, and disbursement of funds for equipment replacement and emergency expenses
From Highway Patrol Expense Fund $65,000E

SECTION 8.155. — Funds are to be transferred out of the State Treasury, chargeable to the Highway Patrol Inspection Fund, to the State Road Fund
From Highway Patrol Inspection Fund $1E

SECTION 8.160. — To the Department of Public Safety
For the State Water Patrol
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between Personal Service and Expense and Equipment
From General Revenue Fund $5,474,890

Personal Service 555,725
Expense and Equipment 2,304,504E
From Federal Funds 2,860,229

All expenditures must be in compliance with the United States Department of Justice Equitable Sharing Program guidelines
Expense and Equipment
From Federal Drug Seizure Fund 20,000

Personal Service 1,665,244
Expense and Equipment 600,000
From Missouri State Water Patrol Fund 2,265,244
Total (Not to exceed 127.50 F.T.E.) $10,620,363

***SECTION 8.165.** — To the Department of Public Safety
For the Division of Alcohol and Tobacco Control
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between Personal Service and Expense and Equipment
From General Revenue Fund $2,334,634

From Federal Funds 475,141
From Healthy Families Trust Fund 144,760
Total (Not to exceed 53.00 F.T.E.) $2,954,535

*I hereby veto $193,675 General Revenue for the Division of Alcohol and Tobacco Control. These funds are not needed for essential services and a veto of these additional funds is necessary to ensure a balanced budget.

Personal Service and/or Expense and Equipment by $193,675 from $2,334,634 to $2,140,959 General Revenue Fund.
From $2,954,535 to $2,760,860 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

SECTION 8.170.— To the Department of Public Safety
For the Division of Alcohol and Tobacco Control
For refunds for unused liquor and beer licenses and for liquor and beer stamps not used and canceled
From General Revenue Fund $18,000E

SECTION 8.175.— To the Department of Public Safety
For the Division of Fire Safety
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between Personal Service and Expense and Equipment
From General Revenue Fund $2,320,381
From Elevator Safety Fund 395,512
From Boiler and Pressure Vessels Safety Fund 392,158
From Missouri Explosives Safety Act Administration Fund 120,328

Expense and Equipment
From Federal Funds 311,270E
Total (Not to exceed 72.92 F.T.E.) $3,539,649

SECTION 8.180.— To the Department of Public Safety
For the Division of Fire Safety
For firefighter training contracted services
Expense and Equipment
From General Revenue Fund $206,408
From Chemical Emergency Preparedness Fund 100,000
From Fire Education Fund 150,000E
Total $456,408

***SECTION 8.185.**— To the Department of Public Safety
For the Missouri Veterans' Commission
For Administration and Service to Veterans
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between Personal Service and Expense and Equipment
From General Revenue Fund $2,616,077
From Missouri Veterans' Homes Fund 642,464
From Veterans' Commission Capital Improvement Trust Fund 2,395,638

Expense and Equipment
From Veterans Trust Fund 24,800
From Federal Funds and Other Funds 1E
Total (Not to exceed 115.46 F.T.E.) $5,678,980

*I hereby veto $160,112 General Revenue for the Missouri Veterans Commission. These funds are not needed for the efficient administration of the services and a veto of these additional funds is necessary to ensure a balanced budget.

Personal Service and/or Expense and Equipment by $160,112 from $2,616,077 to $2,455,965 General Revenue Fund.
From $5,678,980 to $5,518,868 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

SECTION 8.190. — To the Department of Public Safety
For the Missouri Veterans' Commission
For Veterans' Service Officer Program
From Veterans' Commission Capital Improvement Trust Fund $1,000,000

SECTION 8.195. — To the Department of Public Safety
For the Missouri Veterans' Commission
For Missouri Veterans' Homes
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between Personal Service and Expense and Equipment
From General Revenue Fund $21,963,794
From Missouri Veterans' Homes Fund 47,349,365

Expense and Equipment
From Veterans Trust Fund 52,500

Personal Service
From Veterans' Commission Capital Improvement Trust Fund 27,804

For refunds to residents of Missouri veterans' homes from the U. S. Veterans Administration
From Missouri Veterans' Homes Fund 1,274,400E

For the purpose of paying overtime to state employees and/or paying otherwise authorized personal service expenditures in lieu of such overtime payments. Non-exempt state employees identified by Section 105.935, RSMo will be paid first with any remaining funds being used to pay overtime to any other state employees
From General Revenue Fund 4,504
From Missouri Veterans' Homes Fund 2,423,654
Total (Not to exceed 1,646.48 F.T.E.) $73,096,021

SECTION 8.200. — Funds are to be transferred out of the State Treasury, chargeable to the Veterans' Commission Capital Improvement Trust Fund, to the Veterans' Homes Fund
From Veterans' Commission Capital Improvement Trust Fund $500,000E

SECTION 8.205. — To the Department of Public Safety
For the Gaming Commission
For the Divisions of Gaming and Bingo
Personal Service $13,858,412
Expense and Equipment 2,514,868
For National Council of Legislators from Gaming States Dues 3,000
From Gaming Commission Fund 16,376,280

Personal Service 81,905
Expense and Equipment 60,000
From Compulsive Gamblers Fund 141,905
Total (Not to exceed 230.00 F.T.E.) $16,518,185

SECTION 8.210. — To the Department of Public Safety
For the Gaming Commission
For fringe benefits, including retirement contributions for members of the Missouri Department of Transportation and Highway Patrol Employees' Retirement System, and insurance premiums for State Highway Patrol employees assigned to work under the direction of the Gaming Commission
Personal Service $4,809,328E
Expense and Equipment 267,317E
From Gaming Commission Fund $5,076,645

SECTION 8.215. — To the Department of Public Safety
For the Gaming Commission
For refunding any overpayment or erroneous payment of any amount that is credited to the Gaming Commission Fund
From Gaming Commission Fund $15,000E

SECTION 8.220. — To the Department of Public Safety
For the Gaming Commission
For refunding any overpayment or erroneous payment of any amount received for bingo fees
From Bingo Proceeds for Education Fund $5,000E

SECTION 8.225. — To the Department of Public Safety
For the Gaming Commission
For breeder incentive payments
From Missouri Breeders Fund $5,000

SECTION 8.230. — Funds are to be transferred out of the State Treasury, chargeable to the Gaming Commission Fund, to the Veterans' Commission Capital Improvement Trust Fund
From Gaming Commission Fund $6,000,000E

SECTION 8.235. — Funds are to be transferred out of the State Treasury, chargeable to the Gaming Commission Fund, to the Missouri National Guard Trust Fund
From Gaming Commission Fund $4,000,000E

SECTION 8.240. — Funds are to be transferred out of the State Treasury, chargeable to the Gaming Commission Fund, to the Access Missouri

Financial Assistance Fund
From Gaming Commission Fund $5,000,000E

SECTION 8.245. — Funds are to be transferred out of the State Treasury, chargeable to the Gaming Commission Fund, to the Early Childhood Development, Education and Care Fund
From Gaming Commission Fund $30,320,000E

SECTION 8.250. — Funds are to be transferred out of the State Treasury, chargeable to the Gaming Commission Fund, to the Compulsive Gamblers Fund
From Gaming Commission Fund $489,850E

SECTION 8.255. — To the Adjutant General
For Missouri Military Forces Administration
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between Personal Service and Expense and Equipment
From General Revenue Fund $1,240,224

All expenditures must be in compliance with the United States Department of Justice Equitable Sharing Program guidelines
Expense and Equipment
From Federal Drug Seizure Fund 21,000E
Total (Not to exceed 35.28 F.T.E.) $1,261,224

SECTION 8.260. — To the Adjutant General
For activities in support of the Guard, including the National Guard Tuition Assistance Program and the Military Honors Program
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between Personal Service and Expense and Equipment
From Federal Budget Stabilization Fund $775,600
From Missouri National Guard Trust Fund 5,441,929

For military funeral honors family coins
From Federal Budget Stabilization Fund 12,000
Total (Not to exceed 42.40 F.T.E.) $6,229,529

SECTION 8.265. — To the Adjutant General
For the Veterans Recognition Program
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between Personal Service and Expense and Equipment
From the Veterans' Commission Capital Improvement Trust Fund
(Not to exceed 3.00 F.T.E.) $628,021

SECTION 8.270. — To the Adjutant General
For Missouri Military Forces Field Support
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between Personal Service and Expense and Equipment

From General Revenue Fund $995,821

Personal Service 95,167E
Expense and Equipment 73,063E
From Federal Funds 168,230
Total (Not to exceed 40.37 F.T.E.) $1,164,051

SECTION 8.275. — To the Adjutant General
For operational expenses at armories from armory rental fees
Expense and Equipment
From Adjutant General Revolving Fund $25,000E

SECTION 8.280. — To the Adjutant General
For the Missouri Military Family Relief Program
Expense and Equipment $10,500
For grants to family members of the National Guard and reservists
who are in financial need 189,500E
From Missouri Military Family Relief Fund $200,000

SECTION 8.285. — To the Adjutant General
For training site operating costs
Expense and Equipment
From Missouri National Guard Training Site Fund $244,800E

SECTION 8.290. — To the Adjutant General
For Military Forces Contract Services
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between Personal Service and Expense and Equipment
From General Revenue Fund $563,777
From Federal Funds 16,846,856E

For refund of federal overpayments to the state for the Contract Services Program
From Federal Funds 30,000E

Personal Service
From Missouri National Guard Training Site Fund 19,032

Expense and Equipment
From Missouri National Guard Trust Fund 231,249
Total (Not to exceed 326.87 F.T.E.) $17,690,914

SECTION 8.295. — To the Adjutant General
For the Office of Air Search and Rescue
Expense and Equipment
From General Revenue Fund $16,978

SECTION 8.300. — To the Department of Public Safety
For the State Emergency Management Agency
For Administration and Emergency Operations
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between

Personal Service and Expense and Equipment
From General Revenue Fund $1,540,069

Personal Service 1,176,755
Expense and Equipment 843,876
From Federal Funds 2,020,631

Personal Service 155,790
Expense and Equipment 86,892
From Chemical Emergency Preparedness Fund 242,682

Expense and Equipment
From Federal Budget Stabilization Fund 156,000
Total (Not to exceed 62.00 F.T.E.) $3,959,382

SECTION 8.305. — To the Department of Public Safety
For the State Emergency Management Agency
For the Community Right-to-Know Act
From Chemical Emergency Preparedness Fund $650,000

For distribution of funds to local emergency planning commissions to implement the federal Hazardous Materials Transportation Uniform Safety Act of 1990
From Federal Funds 346,890E
Total $996,890

SECTION 8.310. — To the Department of Public Safety
For the State Emergency Management Agency
For all allotments, grants, and contributions from federal and other sources that are deposited in the State Treasury for administrative and training expenses of the State Emergency Management Agency
From Federal Funds $40,000,000E

For all allotments, grants, and contributions from federal and other sources that are deposited in the State Treasury for the use of the State Emergency Management Agency for alleviating distress from disasters
From Missouri Disaster Fund 505,167E

To provide matching funds for federal grants and for emergency assistance expenses of the State Emergency Management Agency as provided in Section 44.032, RSMo
From General Revenue Fund 999,999E

To provide for expenses of any state agency responding during a declared emergency at the direction of the governor provided the services furnish immediate aid and relief
From General Revenue Fund 1E

For all allotments, grants, and contributions from federal and other sources that are deposited in the State Treasury for first responder training programs
From Federal Funds 5,000,000E
Total $46,505,167

BILL TOTALS

General Revenue Fund	$66,618,605
Federal Budget Stabilization Fund	1,074,325
Federal Funds	130,479,901
Other Funds	313,978,735
Total	$512,151,566

Approved June 25, 2009

HB 9 [CCS SCS HCS HB 9]

APPROPRIATIONS: DEPARTMENT OF CORRECTIONS.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Department of Corrections and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the period beginning July 1, 2009 and ending June 30, 2010.

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

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2009 and ending June 30, 2010, as follows:

SECTION 9.005.— To the Department of Corrections
For the Office of the Director
Personal Service and/or Expense and Equipment provided that not more than thirty-five percent (35%) flexibility is allowed between Personal Service and Expense and Equipment and not more than thirty-five percent (35%) flexibility is allowed between divisions
From General Revenue Fund $3,412,197

For the purpose of funding Family Support Services
From General Revenue Fund 400,000
From Federal Funds 100,000
Total (Not to exceed 99.20 F.T.E.) $3,912,197

SECTION 9.010.— To the Department of Corrections
For the Office of the Director
For the purpose of funding all costs associated with the Offender Reentry Program
Expense and Equipment
From Inmate Revolving Fund $316,282

SECTION 9.015.— To the Department of Corrections
For the Office of the Director
For the purpose of funding the St. Louis Reentry program
From Federal Budget Stabilization Fund $750,000

SECTION 9.020. — To the Department of Corrections
For the Office of the Director
For the purpose of funding all grants and contributions of funds from the federal government or from any other source which may become available between sessions of the general assembly
Personal Service $2,595,487E
Expense and Equipment 3,896,507E
From Federal Funds (Not to exceed 62.50 F.T.E.) $6,491,994

SECTION 9.025. — To the Department of Corrections
For the Office of the Director
For the purpose of funding costs associated with increased offender population department-wide, including, but not limited to, funding for personal service, expense and equipment, contractual services, repairs, renovations, capital improvements, and compensatory time provided that not more than thirty-five percent (35%) flexibility is allowed between Personal Service and Expense and Equipment and not more than thirty-five percent (35%) flexibility is allowed between divisions
From General Revenue Fund $2,271,063

SECTION 9.030. — To the Department of Corrections
For the Office of the Director
For the purpose of funding the expense of telecommunications department-wide provided that not more than thirty-five percent (35%) flexibility is allowed between divisions
Expense and Equipment
From General Revenue Fund $1,798,264

SECTION 9.035. — To the Department of Corrections
For the Office of the Director
For the purpose of funding restitution payments for those wrongly convicted provided that not more than thirty-five percent (35%) flexibility is allowed between divisions
From General Revenue Fund $182,500

SECTION 9.040. — To the Department of Corrections
For the Division of Human Services provided that not more than thirty-five percent (35%) flexibility is allowed between Personal Service and Expense and Equipment and not more than thirty-five percent (35%) flexibility is allowed between divisions
Personal Service $7,843,415
Expense and Equipment 167,642
From General Revenue Fund 8,011,057

Personal Service 111,419
Expense and Equipment 63,049
From Inmate Revolving Fund 174,468
Total (Not to exceed 248.63 F.T.E.) $8,185,525

SECTION 9.045. — To the Department of Corrections
For the Division of Human Services

For the purpose of funding general services provided that not more than thirty-five percent (35%) flexibility is allowed between divisions
Expense and Equipment
From General Revenue Fund $371,328

SECTION 9.050.— To the Department of Corrections
For the Division of Human Services
For the purchase, transportation, and storage of food and food service items, and operational expenses of food preparation facilities at all correctional institutions provided that not more than thirty-five percent (35%) flexibility is allowed between divisions
Expense and Equipment
From General Revenue Fund $28,696,089
From Federal Funds 250,000E
Total $28,946,089

SECTION 9.055.— To the Department of Corrections
For the Division of Human Services
For the purpose of funding training costs department-wide provided that not more than thirty-five percent (35%) flexibility is allowed between divisions
Expense and Equipment
From General Revenue Fund $1,350,792

SECTION 9.060.— To the Department of Corrections
For the Division of Human Services
For the purpose of funding employee health and safety provided that not more than thirty-five percent (35%) flexibility is allowed between divisions
Expense and Equipment
From General Revenue Fund $601,145

***SECTION 9.065.**— To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the expenses and small equipment purchased at any of the adult institutions department-wide provided that not more than thirty-five percent (35%) flexibility is allowed between divisions
Expense and Equipment
From General Revenue Fund $17,420,407
From Federal Budget Stabilization Fund 110,000
Total $17,530,407

*I hereby veto $110,000 Federal Budget Stabilization Fund for specialty vehicles. Funding these vehicle replacements is not critical and a veto of these additional funds is necessary to ensure a balanced budget.

Expense and Equipment by $110,000 from $110,000 to $0 Federal Budget Stabilization Fund. From $17,530,407 to $17,420,407 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

SECTION 9.070.— To the Department of Corrections
For the Division of Human Services

For the purpose of paying overtime to state employees and/or paying otherwise authorized personal service expenditures in lieu of such overtime payments. Nonexempt state employees identified by Section 105.935, RSMo, will be paid first with any remaining funds being used to pay overtime to any other state employees provided that not more than thirty-five percent (35%) flexibility is allowed between Personal Service and Expense and Equipment and not more than thirty-five percent (35%) flexibility is allowed between divisions

From General Revenue Fund $6,266,176
From Other Funds 2E
Total $6,266,178

SECTION 9.075.— To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Central Office provided that not more than thirty-five percent (35%) flexibility is allowed between Personal Service and Expense and Equipment and not more than thirty-five percent (35%) flexibility is allowed between divisions

Personal Service $1,237,732
Expense and Equipment 150,419
From General Revenue Fund (Not to exceed 32.60 F.T.E.) $1,388,151

SECTION 9.080.— To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the inmate wage and discharge costs at all correctional facilities provided that not more than thirty-five percent (35%) flexibility is allowed between divisions

Expense and Equipment
From General Revenue Fund $3,159,897

SECTION 9.085.— To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Jefferson City Correctional Center Personal Service provided that not more than twenty-five percent (25%) flexibility is allowed between Personal Service and Expense and Equipment and not more than twenty-five percent (25%) flexibility is allowed between divisions

From General Revenue Fund (Not to exceed 505.02 F.T.E.) $16,007,710

SECTION 9.090.— To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Central Missouri Correctional Center at Jefferson City provided that not more than twenty-five percent (25%) flexibility is allowed between divisions

From General Revenue Fund (Not to exceed 15.80 F.T.E.) $587,142

SECTION 9.095.— To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Women's Eastern Reception, Diagnostic and Correctional Center at Vandalia
Personal Service provided that not more than twenty-five percent (25%) flexibility is allowed between divisions

From General Revenue Fund (Not to exceed 457.19 F.T.E.) $14,278,437

SECTION 9.100.— To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Ozark Correctional Center at Fordland
Personal Service provided that not more than twenty-five percent (25%) flexibility is allowed between divisions
From General Revenue Fund $4,758,260
From Inmate Revolving Fund 332,994
Total (Not to exceed 153.79 F.T.E.) $5,091,254

SECTION 9.105.— To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Moberly Correctional Center
Personal Service provided that not more than twenty-five percent (25%) flexibility is allowed between divisions
From General Revenue Fund (Not to exceed 385.33 F.T.E.) $12,439,335

SECTION 9.110.— To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Algoa Correctional Center at Jefferson City
Personal Service provided that not more than twenty-five percent (25%) flexibility is allowed between divisions
From General Revenue Fund (Not to exceed 313.68 F.T.E.) $9,876,968

SECTION 9.115.— To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Missouri Eastern Correctional Center at Pacific
Personal Service provided that not more than twenty-five percent (25%) flexibility is allowed between divisions
From General Revenue Fund (Not to exceed 311.57 F.T.E.) $9,830,933

SECTION 9.120.— To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Chillicothe Correctional Center
Personal Service provided that not more than twenty-five percent (25%) flexibility is allowed between divisions
From General Revenue Fund $15,092,297
From Inmate Revolving Fund 27,829
Total (Not to exceed 501.47 F.T.E.) $15,120,126

SECTION 9.125.— To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Boonville Correctional Center
Personal Service provided that not more than twenty-five percent (25%) flexibility is allowed between divisions
From General Revenue Fund $9,375,857
From Inmate Revolving Fund 33,876
Total (Not to exceed 292.70 F.T.E.) $9,409,733

SECTION 9.130.— To the Department of Corrections
For the Division of Adult Institutions

For the purpose of funding the Farmington Correctional Center
Personal Service provided that not more than twenty-five percent (25%) flexibility is allowed between divisions
From General Revenue Fund (Not to exceed 563.43 F.T.E.) $18,814,294

SECTION 9.135. — To the Board of Public Buildings
For the purpose of funding payment of rent by the Department of Corrections (Division of Adult Institutions) to the Board of Public Buildings
For the Farmington Correctional Center
Funds to be used by the Board for Personal Service provided that not more than twenty-five percent (25%) flexibility is allowed between divisions
From General Revenue Fund (Not to exceed 24.76 F.T.E.) $860,901

SECTION 9.140. — To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Western Missouri Correctional Center at Cameron
Personal Service provided that not more than twenty-five percent (25%) flexibility is allowed between divisions
From General Revenue Fund (Not to exceed 470.32 F.T.E.) $15,503,805

SECTION 9.145. — To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Potosi Correctional Center
Personal Service provided that not more than twenty-five percent (25%) flexibility is allowed between divisions
From General Revenue Fund (Not to exceed 335.11 F.T.E.) $10,893,430

SECTION 9.150. — To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Fulton Reception and Diagnostic Center
Personal Service provided that not more than twenty-five percent (25%) flexibility is allowed between divisions
From General Revenue Fund (Not to exceed 392.99 F.T.E.) $12,372,159

SECTION 9.155. — To the Board of Public Buildings
For the purpose of funding payment of rent by the Department of Corrections (Division of Adult Institutions) to the Board of Public Buildings
For the Fulton Reception and Diagnostic Center
Funds to be used by the Board for Personal Service provided that not more than twenty-five percent (25%) flexibility is allowed between divisions
From General Revenue Fund (Not to exceed 19.90 F.T.E.) $636,455

SECTION 9.160. — To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Tipton Correctional Center
Personal Service provided that not more than twenty-five percent (25%) flexibility is allowed between divisions
From General Revenue Fund $9,382,340
From Inmate Revolving Fund 88,206
Total (Not to exceed 297.48 F.T.E.) $9,470,546

SECTION 9.165. — To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Western Reception, Diagnostic and Correctional Center at St. Joseph
Personal Service provided that not more than twenty-five percent (25%) flexibility is allowed between divisions
From General Revenue Fund (Not to exceed 520.64 F.T.E.) $15,905,730

SECTION 9.170. — To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Maryville Treatment Center
Personal Service provided that not more than twenty-five percent (25%) flexibility is allowed between divisions
From General Revenue Fund (Not to exceed 184.11 F.T.E.) $5,624,869

SECTION 9.175. — To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Crossroads Correctional Center at Cameron
Personal Service provided that not more than twenty-five percent (25%) flexibility is allowed between divisions
From General Revenue Fund (Not to exceed 382.08 F.T.E.) $11,628,549

SECTION 9.180. — To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Northeast Correctional Center at Bowling Green
Personal Service provided that not more than twenty-five percent (25%) flexibility is allowed between divisions
From General Revenue Fund (Not to exceed 522.67 F.T.E.) $15,819,690

SECTION 9.185. — To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Eastern Reception, Diagnostic and Correctional Center at Bonne Terre
Personal Service provided that not more than twenty-five percent (25%) flexibility is allowed between divisions
From General Revenue Fund (Not to exceed 646.46 F.T.E.) $19,430,448

SECTION 9.190. — To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the South Central Correctional Center at Licking
Personal Service provided that not more than twenty-five percent (25%) flexibility is allowed between divisions
From General Revenue Fund (Not to exceed 405.00 F.T.E.) $12,235,583

SECTION 9.195. — To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Southeast Correctional Center at Charleston
Personal Service provided that not more than twenty-five percent (25%) flexibility is allowed between divisions
From General Revenue Fund (Not to exceed 404.00 F.T.E.) $12,070,931

SECTION 9.200. — To the Department of Corrections
For the Division of Offender Rehabilitative Services
For the purpose of funding the Central Office provided that not more than thirty-five percent (35%) flexibility is allowed between Personal Service and Expense and Equipment and not more than thirty-five percent (35%) flexibility is allowed between divisions

Personal Service	$1,319,766
Expense and Equipment	49,466
From General Revenue Fund (Not to exceed 28.95 F.T.E.)	$1,369,232

SECTION 9.205. — To the Department of Corrections
For the Division of Offender Rehabilitative Services
For the purpose of funding contractual services for offender physical and mental health care provided that not more than thirty-five percent (35%) flexibility is allowed between divisions

From General Revenue Fund	$129,859,956
Expense and Equipment	
From Federal Funds	1E
Total	$129,859,957

SECTION 9.210. — To the Department of Corrections
For the Division of Offender Rehabilitative Services
For the purpose of funding medical equipment provided that not more than thirty-five percent (35%) flexibility is allowed between divisions
Expense and Equipment

From General Revenue Fund	$222,523

SECTION 9.215. — To the Department of Corrections
For the Division of Offender Rehabilitative Services
For the purpose of substance abuse services provided that not more than thirty-five percent (35%) flexibility is allowed between divisions

From General Revenue Fund	$9,958,888
Expense and Equipment	
From Correctional Substance Abuse Earnings Fund	264,600
Total (Not to exceed 111.50 F.T.E.)	$10,223,488

SECTION 9.220. — To the Department of Corrections
For the Division of Offender Rehabilitative Services
For the purpose of toxicology testing provided that not more than thirty-five percent (35%) flexibility is allowed between divisions
Expense and Equipment

From General Revenue Fund	$630,856

SECTION 9.225. — To the Department of Corrections
For the Division of Offender Rehabilitative Services
For the purposes of offender education provided that not more than thirty-five percent (35%) flexibility is allowed between Personal Service and Expense and Equipment and not more than thirty-five percent (35%) flexibility is allowed between divisions

Personal Service $9,497,059
Expense and Equipment 2,303,689
From General Revenue Fund 11,800,748

Expense and Equipment
From Working Capital Revolving Fund 350,000
Total (Not to exceed 269.00 F.T.E.) $12,150,748

SECTION 9.230.— To the Department of Corrections
For the Division of Offender Rehabilitative Services
For the purpose of funding Missouri Correctional Enterprises provided that not more than thirty-five percent (35%) flexibility is allowed between Personal Service and Expense and Equipment and not more than thirty-five percent (35%) flexibility is allowed between divisions
Personal Service $8,133,095
Expense and Equipment 25,645,726
From Working Capital Revolving Fund (Not to exceed 234.00 F.T.E.) $33,778,821

SECTION 9.235.— To the Department of Corrections
For the Division of Offender Rehabilitative Services
For the purpose of funding the Private Sector/Prison Industry Enhancement Program provided that not more than thirty-five percent (35%) flexibility is allowed between divisions
Expense and Equipment
From Working Capital Revolving Fund $866,486

***SECTION 9.240.**— To the Department of Corrections
For the Board of Probation and Parole provided that not more than thirty-five percent (35%) flexibility is allowed between Personal Service and Expense and Equipment and not more than thirty-five percent (35%) flexibility is allowed between divisions
Personal Service $62,432,600
Expense and Equipment 4,427,996
From General Revenue Fund 66,860,596

Expense and Equipment 7,944,155
For Community Justice Programs 250,000
From Inmate Revolving Fund 8,194,155
Total (Not to exceed 1,755.31 F.T.E.) $75,054,751

*I hereby veto $250,000 Inmate Revolving Fund for Community Justice Programs because such funds can only be used for programming within the Corrections-supervised population.

From $250,000 to $0 Inmate Revolving Fund.
From $8,194,155 to $7,944,155 from Inmate Revolving Fund.
From $75,054,751 to $74,804,751 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

SECTION 9.245.— To the Department of Corrections
For the Board of Probation and Parole
For the purpose of funding the St. Louis Community Release Center

Personal Service provided that not more than thirty-five percent (35%) flexibility is allowed between divisions
From General Revenue Fund (Not to exceed 129.71 F.T.E.) $4,079,316

SECTION 9.250. — To the Department of Corrections
For the Board of Probation and Parole
For the purpose of funding the Kansas City Community Release Center
Personal Service provided that not more than thirty-five percent (35%) flexibility is allowed between divisions
From General Revenue Fund $2,287,604
From Inmate Revolving Fund 47,423
Total (Not to exceed 78.69 F.T.E.) $2,335,027

SECTION 9.255. — To the Department of Corrections
For the Board of Probation and Parole
For the purpose of funding the Command Center provided that not more than thirty-five percent (35%) flexibility is allowed between Personal Service and Expense and Equipment and not more than thirty-five percent (35%) flexibility is allowed between divisions
Expense and Equipment
From General Revenue Fund $13,046

Personal Service
From Inmate Revolving Fund 542,932
Total (Not to exceed 14.40 F.T.E.) $555,978

SECTION 9.260. — To the Department of Corrections
For the Board of Probation and Parole
For the purpose of funding Local Sentencing Initiatives provided that not more than thirty-five percent (35%) flexibility is allowed between divisions
Expense and Equipment
From Inmate Revolving Fund $1,087,115

SECTION 9.265. — To the Department of Corrections
For the Board of Probation and Parole
For the purpose of funding residential treatment facilities provided that not more than thirty-five percent (35%) flexibility is allowed between divisions
Expense and Equipment
From Inmate Revolving Fund $4,989,458

SECTION 9.270. — To the Department of Corrections
For the Board of Probation and Parole
For the purpose of funding electronic monitoring provided that not more than thirty-five percent (35%) flexibility is allowed between divisions
Expense and Equipment
From Inmate Revolving Fund $1,980,289

SECTION 9.275. — To the Department of Corrections
For the Board of Probation and Parole
For the purpose of funding community supervision centers provided that not more than thirty-five percent (35%) flexibility is allowed between Personal Service and Expense and Equipment and not more than

thirty-five percent (35%) flexibility is allowed between divisions
Personal Service $4,232,634
Expense and Equipment 1,015,317
From General Revenue Fund (Not to exceed 154.00 F.T.E.) $5,247,951

SECTION 9.280. — To the Department of Corrections
For paying an amount in aid to the counties that is the net amount of costs in criminal cases, transportation of convicted criminals to the state penitentiaries, housing, and costs for reimbursement of the expenses associated with extradition, less the amount of unpaid city or county liability to furnish public defender office space and utility services pursuant to Section 600.040, RSMo provided that not more than thirty-five percent (35%) flexibility is allowed between divisions
From General Revenue Fund $43,060,616

BILL TOTALS
General Revenue Fund $604,146,521
Federal Budget Stabilization Fund 860,000
Federal Funds 6,841,995
Other Funds 53,074,936
Total $664,923,452

Approved June 25, 2009

HB 10 [CCS SCS HCS HB 10]

APPROPRIATIONS: DEPARTMENT OF MENTAL HEALTH, BOARD OF PUBLIC BUILDINGS, DEPARTMENT OF HEALTH AND SENIOR SERVICES AND MISSOURI HEALTH FACILITIES REVIEW COMMITTEE.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Department of Mental Health, the Board of Public Buildings, the Department of Health and Senior Services, and the several divisions and programs thereof, the Missouri Health Facilities Review Committee to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the period beginning July 1, 2009 and ending June 30, 2010.

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

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2009 and ending June 30, 2010, as follows:

***SECTION 10.005.** — To the Department of Mental Health
For the Office of the Director
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund $580,298

Personal Service	71,976
Expense and Equipment	104,574
From Federal Funds	176,550
Total (Not to exceed 8.52 F.T.E.)	$756,848

*I hereby veto $62,969 Federal Funds that would replace the 10% administrative general revenue core reduction. These funds are not needed for the efficient administration of programs and a veto of these additional funds is necessary to ensure a balanced budget.

Personal Service by $34,618 from $71,976 to $37,358 Federal Funds.
Expense and Equipment by $28,351 from $104,574 to $76,223 Federal Funds.
From $176,550 to $113,581 in total from Federal Funds.
From $756,848 to $693,879 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

SECTION 10.010.— To the Department of Mental Health
For the Office of the Director
For the purpose of paying overtime to state employees and/or paying otherwise authorized personal service expenditures in lieu of such overtime payments. Non-exempt state employees identified by Section 105.935, RSMo, will be paid first with any remaining funds being used to pay overtime to any other state employees

From General Revenue Fund	$1,410,617

SECTION 10.015.— There is transferred out of the State Treasury from Federal Funds to the OA Information Technology - Federal and Other Fund for the purpose of funding the consolidation of Information Technology Services

From Federal Funds	$60,000E

SECTION 10.020.— To the Department of Mental Health
For the Office of the Director
For the purpose of funding Mental Health Transformation - State Incentive grants

Personal Service	$726,856
Expense and Equipment	2,060,214E
From Federal Funds (Not to exceed 9.85 F.T.E.)	$2,787,070

SECTION 10.025.— To the Department of Mental Health
For the Office of the Director
For funding program operations and support
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund	$5,604,049

Personal Service	670,037
Expense and Equipment	847,016
From Federal Funds	1,517,053

For the MO HealthNet mental health partnership technology initiative

From General Revenue Fund	783,350
From Federal Budget Stabilization Fund	1,250,000

From Federal Funds 1,716,650

For the payment of fees to contractors who engage in revenue maximization projects on behalf of the Department of Mental Health
From Federal Funds 1E
Total (Not to exceed 125.05 F.T.E.) $10,871,103

SECTION 10.030. — To the Department of Mental Health
For the Office of the Director
For staff training
From General Revenue Fund $727,288
From Federal Funds 1,000,000
Total $1,727,288

SECTION 10.035. — To the Department of Mental Health
For the Office of the Director
For the purpose of funding insurance, private pay, licensure fee, and/or MO HealthNet refunds by state facilities operated by the Department of Mental Health
From General Revenue Fund $49,217E

For the purpose of making refund payments
From Federal Funds and Other Funds 1,100E

For the payment of refunds set off against debts as required by Section 143.786, RSMo
From Debt Offset Escrow Fund 70,000E
Total $120,317

SECTION 10.040. — There is transferred out of the State Treasury from the Abandoned Fund Account to Mental Health Trust Fund
From Abandoned Fund Account $50,000E

SECTION 10.045. — To the Department of Mental Health
For the Office of the Director
For the purpose of funding receipt and disbursement of donations and gifts which may become available to the Department of Mental Health during the year (excluding federal grants and funds)
Personal Service $427,464
Expense and Equipment 1,219,597
From Mental Health Trust Fund (Not to exceed 11.50 F.T.E.) $1,647,061

SECTION 10.050. — To the Department of Mental Health
For the Office of the Director
For the purpose of receiving and expending grants, donations, contracts, and payments from private, federal, and other governmental agencies which may become available between sessions of the General Assembly provided that the General Assembly shall be notified of the source of any new funds and the purpose for which they shall be expended, in writing, prior to the use of said funds
Personal Service $112,982E
Expense and Equipment 1,794,378E

From Federal Funds (Not to exceed 2.00 F.T.E.) $1,907,360

SECTION 10.055. — To the Department of Mental Health
For the Office of the Director
For the purpose of funding Children's System of Care $5,165,301
Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between personal service and expense and equipment 325,388
From Federal Funds (Not to exceed 2.20 F.T.E.) $5,490,689

SECTION 10.060. — To the Department of Mental Health
For the Office of the Director
For housing assistance for homeless veterans
From General Revenue Fund $300,000
From Federal Funds 1,498,162

For the purpose of funding Shelter Plus Care grants
From Federal Funds 9,713,890
Total $11,512,052

SECTION 10.065. — To the Department of Mental Health
For MO HealthNet payments related to intergovernmental payments
From Mental Health Intergovernmental Transfer Fund $8,000,000
From Federal Funds 11,000,000E
Total $19,000,000

SECTION 10.066. — To the Department of Mental Health
There is hereby transferred out of the State Treasury, chargeable to the General Revenue Fund, to the Department of Social Services Intergovernmental Fund for the purpose of providing the state match for the Department of Mental Health payments
From General Revenue Fund $82,200,000E

SECTION 10.070. — There is transferred out of the State Treasury from Federal Funds to the General Revenue Fund for the purpose of supporting the Division of Developmental Disabilities community programs
From Federal Funds $850,000

SECTION 10.075. — There is transferred out of the State Treasury from Federal Funds to the General Revenue Fund Disproportionate Share Hospital (DSH) funds leveraged by the Department of Mental Health - Institute of Mental Disease (IMD) facilities
From Federal Funds $37,304,309E

SECTION 10.080. — There is transferred out of the State Treasury from Federal Funds to the General Revenue Fund for the purpose of funding DD state-operated facilities
From Federal Funds $700,000

SECTION 10.100. — To the Department of Mental Health
For the Division of Alcohol and Drug Abuse

For the purpose of funding the administration of statewide comprehensive alcohol and drug abuse prevention and treatment programs
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund $1,042,493

Personal Service 903,597
Expense and Equipment 183,541
From Federal Funds 1,087,138

Personal Service
From Health Initiatives Fund 45,069

Personal Service 114,061
Expense and Equipment 52,372
From Mental Health Earnings Fund 166,433
Total (Not to exceed 44.46 F.T.E.) $2,341,133

SECTION 10.105.— To the Department of Mental Health
For the Division of Alcohol and Drug Abuse
For the purpose of funding prevention and education services
Personal Service
From General Revenue Fund $25,973

For prevention and education services 4,288,996
Personal Service 360,406
Expense and Equipment 102,363
From Federal Funds 4,751,765

For prevention and education services
Personal Service and/or Expense and Equipment
From Healthy Families Trust Fund 300,000

For tobacco retailer education
The Division of Alcohol and Drug Abuse shall be allowed to use persons under the age of eighteen for the purpose of tobacco retailer education in support of Synar requirements under the federal substance abuse prevention and treatment block grant
Personal Service 173,250
Expense and Equipment 103,622
From Federal Funds 276,872

For a state incentive program
Personal Service 131,043
Expense and Equipment 2,821,412
From Federal Funds 2,952,455

For Community 2000 Team programs
From General Revenue Fund 502,732
From Federal Funds 2,059,693
From Health Initiatives Fund 82,148

For school-based alcohol and drug abuse prevention programs
From Federal Funds 1,227,356
Total (Not to exceed 15.76 F.T.E.) $12,178,994

SECTION 10.110.— To the Department of Mental Health
For the Division of Alcohol and Drug Abuse
For the purpose of funding the treatment of alcohol and drug abuse
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment $4,946,526
For treatment of alcohol and drug abuse 28,527,034
From General Revenue Fund 33,473,560

For treatment of alcohol and drug abuse 43,813,205E
Personal Service 783,672
Expense and Equipment 3,079,750
From Federal Funds 47,676,627

For treatment of drug and alcohol abuse with the Access to Recovery Grant
For treatment services 6,589,796
Personal Service 156,900
Expense and Equipment 693,550
From Federal Funds 7,440,246

For treatment of alcohol and drug abuse
From Federal Budget Stabilization Fund 1,164,046
From Inmate Revolving Fund 3,999,560
From Healthy Families Trust Fund 1,925,500
From Health Initiatives Fund 6,075,180
From DMH Local Tax Matching Fund 685,753
Total (Not to exceed 54.81 F.T.E.) $102,440,472

SECTION 10.115.— To the Department of Mental Health
For the Division of Alcohol and Drug Abuse
For the purpose of funding treatment of compulsive gambling $454,615
Personal Service 39,936
Expense and Equipment 5,194
From Compulsive Gamblers Fund (Not to exceed 1.00 F.T.E.) $499,745

SECTION 10.120.— To the Department of Mental Health
For the Division of Alcohol and Drug Abuse
For the purpose of funding the Substance Abuse Traffic Offender Program
From Federal Funds $427,864
From Health Initiatives Fund 241,466
From Mental Health Earnings Fund 3,931,651E
Total (Not to exceed 5.48 F.T.E.) $4,600,981

***SECTION 10.200.**— To the Department of Mental Health
For the Division of Comprehensive Psychiatric Services
For the purpose of funding division administration
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal

service and expense and equipment
From General Revenue Fund $706,419

Personal Service 604,287
Expense and Equipment 459,011
From Federal Funds 1,063,298

For suicide prevention initiatives
Personal Service 24,892
Expense and Equipment 620,401
From Federal Funds 645,293
Total (Not to exceed 24.60 F.T.E.) $2,415,010

*I hereby veto $92,410 Federal Funds that would replace the 10% administrative general revenue core reduction. These funds are not needed for the efficient administration of programs and a veto of these additional funds is necessary to ensure a balanced budget.

Expense and Equipment by $92,410 from $459,011 to $366,601 Federal Funds.
From $1,063,298 to $970,888 in total from Federal Funds.
From $2,415,010 to $2,322,600 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

SECTION 10.205. — To the Department of Mental Health
For the Division of Comprehensive Psychiatric Services
For the purpose of funding the PRN nursing and direct care staff pool, provided that staff paid from the PRN nursing and direct care staff pool will only incur fringe benefit costs applicable to part-time employment Personal Service and/or Expense and Equipment
From General Revenue Fund $3,414,613

For the purpose of funding a staff pool to support the Psychiatric Acute Care Transformation process at the Department of Mental Health acute care facilities
From Mental Health Interagency Payment Fund 748,614
Total (Not to exceed 95.12 F.T.E.) $4,163,227

SECTION 10.210. — To the Department of Mental Health
For the Division of Comprehensive Psychiatric Services
For the purpose of funding adult community programs
Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund $454,841
From Federal Funds 2,008,633

For the purpose of funding adult community programs, provided that up to ten percent (10%) of this appropriation may be used for services for youth
From General Revenue Fund 86,420,435
From Federal Budget Stabilization Fund 1,197,245
From Federal Funds 88,167,437E
From Mental Health Earnings Fund 583,740E

From DMH Local Tax Matching Fund 233,596E

For the provision of mental health services and support services to other agencies
From Mental Health Interagency Payments Fund 1,272,400

For the purpose of funding programs for the homeless mentally ill
From General Revenue Fund 496,047
From Federal Funds 800,000
Total (Not to exceed 9.80 F.T.E.) $181,634,374

SECTION 10.215. — To the Department of Mental Health
For the Division of Comprehensive Psychiatric Services
For the purpose of reimbursing attorneys, physicians, and counties for fees in involuntary civil commitment procedures $774,099E
For distribution through the Office of Administration to counties pursuant to Section 56.700, RSMo 162,550
From General Revenue Fund $936,649

*I hereby veto $30,000 General Revenue Fund for Boone County Legal Fees. These funds are unable to be expended because they do not qualify under Section 56.700, RSMo.

For distribution through the Office of Administration to counties pursuant to Section 56.700, RSMo by $30,000 from $162,550 to $132,550 General Revenue Fund.
From $936,649 to $906,649 in total from General Revenue Fund.
From $936,649 to $906,649 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

SECTION 10.220. — To the Department of Mental Health
For the Division of Comprehensive Psychiatric Services
For the purpose of funding forensic support services
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund $800,434
From Federal Funds 4,094
Total (Not to exceed 20.39 F.T.E.) $804,528

SECTION 10.225. — To the Department of Mental Health
For the Division of Comprehensive Psychiatric Services
For the purpose of funding youth community programs
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund $191,471
From Federal Funds 1,291,914

For the purpose of funding youth community programs, provided that up to ten percent (10%) of this appropriation may be used for services for adults
From General Revenue Fund 23,383,370
From Federal Budget Stabilization Fund 318,255
From Federal Funds 24,055,097E

From DMH Local Tax Matching Fund 552,824E
Total (Not to exceed 6.29 F.T.E.) $49,792,931

SECTION 10.230.— To the Department of Mental Health
For the Division of Comprehensive Psychiatric Services
For the purpose of funding services for children who are clients of the Department of Social Services
Expense and Equipment
From Mental Health Interagency Payments Fund $156,135

SECTION 10.235.— To the Department of Mental Health
For the Division of Comprehensive Psychiatric Services
For the purchase and administration of new medication therapies
Expense and Equipment
From General Revenue Fund $11,272,508
From Federal Funds 916,243
Total $12,188,751

SECTION 10.240.— To the Department of Mental Health
For the Division of Comprehensive Psychiatric Services
For the purpose of funding costs for forensic clients resulting from loss of benefits under provisions of the Social Security Domestic Employment Reform Act of 1994
Expense and Equipment
From General Revenue Fund $913,685

SECTION 10.300.— To the Department of Mental Health
For the Division of Comprehensive Psychiatric Services
For the purpose of funding Fulton State Hospital
Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) may be spent on the Purchase of Community Services, including transitioning clients to the community or other state-operated facilities, and that not more than twenty percent (20%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund $52,012,428

Personal Service 180,322
Expense and Equipment 223,224
From Federal Funds 403,546

For the provision of support services to other agencies
Expense and Equipment
From Mental Health Interagency Payments Fund 250,000

For the purpose of paying overtime to state employees and/or paying otherwise authorized personal service expenditures in lieu of such overtime payments. Non-exempt state employees identified by Section 105.935, RSMo, will be paid first with any remaining funds being used to pay overtime to any other state employees
From General Revenue Fund 1,641,681
Total (Not to exceed 1,245.15 F.T.E.) $54,307,655

SECTION 10.305. — To the Department of Mental Health
For the Division of Comprehensive Psychiatric Services
For the purpose of funding Northwest Missouri Psychiatric Rehabilitation Center Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) may be spent on the Purchase of Community Services, including transitioning clients to the community or other state-operated facilities, and that not more than twenty percent (20%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund	$12,099,701
Personal Service	577,400
Expense and Equipment	105,903
From Federal Funds	683,303
For psychiatric services	
From Mental Health Trust Fund	447,558

For the purpose of paying overtime to state employees and/or paying otherwise authorized personal service expenditures in lieu of such overtime payments. Non-exempt state employees identified by Section 105.935, RSMo, will be paid first with any remaining funds being used to pay overtime to any other state employees

From General Revenue Fund	223,622
From Federal Funds	11,082
Total (Not to exceed 309.30 F.T.E.)	$13,465,266

SECTION 10.310. — To the Department of Mental Health
For the Division of Comprehensive Psychiatric Services
For the purpose of funding St. Louis Psychiatric Rehabilitation Center Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) may be spent on the Purchase of Community Services, including transitioning clients to the community or other state-operated facilities, and that not more than twenty percent (20%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund	$19,550,623
Personal Service	319,538
Expense and Equipment	93,210
From Federal Funds	412,748

For the purpose of paying overtime to state employees and/or paying otherwise authorized personal service expenditures in lieu of such overtime payments. Non-exempt state employees identified by Section 105.935, RSMo, will be paid first with any remaining funds being used to pay overtime to any other state employees

From General Revenue Fund	394,414
From Federal Funds	917
Total (Not to exceed 521.49 F.T.E.)	$20,358,702

SECTION 10.315. — To the Department of Mental Health
For the Division of Comprehensive Psychiatric Services
For the purpose of funding Southwest Missouri Psychiatric Rehabilitation Center

Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) may be spent on the Purchase of Community Services, including transitioning clients to the community or other state-operated facilities, and that not more than twenty percent (20%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund $2,947,287
From Federal Funds 193,761

For the purpose of paying overtime to state employees and/or paying otherwise authorized personal service expenditures in lieu of such overtime payments. Non-exempt state employees identified by Section 105.935, RSMo, will be paid first with any remaining funds being used to pay overtime to any other state employees

From General Revenue Fund 18,744
Total (Not to exceed 76.05 F.T.E.) $3,159,792

SECTION 10.320. — To the Department of Mental Health
For the Division of Comprehensive Psychiatric Services
For the purpose of funding Metropolitan St. Louis Psychiatric Center
Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) may be spent on the Purchase of Community Services, including transitioning clients to the community or other state-operated facilities, and that not more than twenty percent (20%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund $14,813,141

Personal Service
From Federal Funds 289,680

For the purpose of paying overtime to state employees and/or paying otherwise authorized personal service expenditures in lieu of such overtime payments. Non-exempt state employees identified by Section 105.935, RSMo, will be paid first with any remaining funds being used to pay overtime to any other state employees

From General Revenue Fund 89,394
From Federal Funds 1,126
Total (Not to exceed 340.03 F.T.E.) $15,193,341

SECTION 10.325. — To the Department of Mental Health
For the Division of Comprehensive Psychiatric Services
For the purpose of funding Mid-Missouri Mental Health Center or adult and youth community programs
Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) may be spent on the Purchase of Community Services, including transitioning clients to the community or other state-operated facilities, and that not more than twenty percent (20%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund $486,376

Personal Service
From Federal Funds 406,263

For services for children and youth
Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund 150,110

For the purpose of paying overtime to state employees and/or paying otherwise authorized personal service expenditures in lieu of such overtime payments. Non-exempt state employees identified by Section 105.935, RSMo, will be paid first with any remaining funds being used to pay overtime to any other state employees
From Federal Funds 5,973
Total (Not to exceed 23.00 F.T.E.) $1,048,722

SECTION 10.330.— To the Department of Mental Health
For the Division of Comprehensive Psychiatric Services
For the purpose of funding Southeast Missouri Mental Health Center
Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) may be spent on the Purchase of Community Services, including transitioning clients to the community or other state-operated facilities, and that not more than twenty percent (20%) flexibility is allowed between personal service and expense and equipment and not more than twenty percent (20%) flexibility is allowed between Southeast Missouri Mental Health Center and Southeast Missouri Mental Health Center - Missouri Sexual Offender Treatment Center
From General Revenue Fund $20,406,218
From Federal Funds 345,788

For the purpose of paying overtime to state employees and/or paying otherwise authorized personal service expenditures in lieu of such overtime payments. Non-exempt state employees identified by Section 105.935, RSMo, will be paid first with any remaining funds being used to pay overtime to any other state employees
From General Revenue Fund 282,138

For the purpose of funding Southeast Missouri Mental Health Center - Missouri Sexual Offender Treatment Center
Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between personal service and expense and equipment and not more than twenty percent (20%) flexibility is allowed between Southeast Missouri Mental Health Center - Missouri Sexual Offender Treatment Center and Southeast Missouri Mental Health Center
From General Revenue Fund 14,569,293
From Federal Funds 27,118

For the purpose of paying overtime to state employees and/or paying otherwise authorized personal service expenditures in lieu of such overtime payments. Non-exempt state employees identified by Section 105.935, RSMo, will be paid first with any remaining funds being used to pay overtime to any other state employees
From General Revenue Fund 170,698

Total (Not to exceed 881.85 F.T.E.) $35,801,253

SECTION 10.335.— To the Board of Public Buildings
For the Department of Mental Health
For operation and maintenance of the Southeast Missouri Mental Health Center
Expense and Equipment
From General Revenue Fund $55,593

SECTION 10.340.— To the Department of Mental Health
For the Division of Comprehensive Psychiatric Services
For the purpose of funding Western Missouri Mental Health Center
Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) may be spent on the Purchase of Community Services, including transitioning clients to the community or other state-operated facilities, and that not more than twenty percent (20%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund $13,422,051

Personal Service 97,274
Expense and Equipment 633,927
From Federal Funds 731,201

For the Western Missouri Mental Health Center and/or contracting for children's services in the Northwest Region
Personal Service and/or Expense and Equipment
From General Revenue Fund 1,068,060

For the purpose of paying overtime to state employees and/or paying otherwise authorized personal service expenditures in lieu of such overtime payments. Non-exempt state employees identified by Section 105.935, RSMo, will be paid first with any remaining funds being used to pay overtime to any other state employees
From General Revenue Fund 509,177
Total (Not to exceed 366.47 F.T.E.) $15,730,489

SECTION 10.350.— To the Department of Mental Health
For the Division of Comprehensive Psychiatric Services
For the purpose of funding Hawthorn Children's Psychiatric Hospital
Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund $6,766,967

Personal Service 1,528,169
Expense and Equipment 191,894
From Federal Funds 1,720,063

For the purpose of paying overtime to state employees and/or paying otherwise authorized personal service expenditures in lieu of such overtime payments. Non-exempt state employees identified by Section 105.935, RSMo, will be paid first with any remaining funds being used to pay overtime to any other state employees

From General Revenue Fund 123,515
From Federal Funds 7,116
Total (Not to exceed 214.14 F.T.E.) $8,617,661

SECTION 10.355.— To the Department of Mental Health
For the purpose of funding Cottonwood Residential Treatment Center
Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund $1,288,896

Personal Service 1,677,345
Expense and Equipment 350,000
From Federal Funds 2,027,345

For the purpose of paying overtime to state employees and/or paying otherwise authorized personal service expenditures in lieu of such overtime payments. Non-exempt state employees identified by Section 105.935, RSMo, will be paid first with any remaining funds being used to pay overtime to any other state employees
From General Revenue Fund 55,931
From Federal Funds 1,103
Total (Not to exceed 87.26 F.T.E.) $3,373,275

***SECTION 10.400.**— To the Department of Mental Health
For the Division of Developmental Disabilities
For the purpose of funding division administration
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund $1,811,651

Personal Service 303,009
Expense and Equipment 122,536
From Federal Funds 425,545
Total (Not to exceed 38.00 F.T.E.) $2,237,196

*I hereby veto $58,655 Federal Funds that would replace the 10% administrative general revenue core reduction. These funds are not needed for the efficient administration of programs and a veto of these additional funds is necessary to ensure a balanced budget.

Expense and Equipment by $58,655 from $122,536 to $63,881 Federal Funds.
From $425,545 to $366,890 in total from Federal Funds.
From $2,237,196 to $2,178,541 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

SECTION 10.405.— To the Department of Mental Health
For the purpose of funding cost associated with the Division of Developmental Disabilities to achieve personnel standards at habilitation centers
Personal Service and/or Expense and Equipment
From General Revenue Fund $3,363,262

From Federal Budget Stabilization Fund 1,962,449
From Federal Funds 3,685,199

To pay the state operated ICF/MR provider tax
From General Revenue Fund 4,582,418E
Total (Not to exceed 159.43 F.T.E.) $13,593,328

SECTION 10.410. — To the Department of Mental Health
For the Division of Developmental Disabilities
Provided that residential services for non-MO HealthNet eligibles shall not be reduced below the prior year expenditures as long as the person is evaluated to need the services
For the purpose of funding community programs
From General Revenue Fund $140,341,468
From Federal Funds 293, 725,210E

For the purpose of funding community programs
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund 691,403

Personal Service 184,788
Expense and Equipment 41,776
From Federal Funds 226,564

For consumer and family directed supports/in-home services/choices for families
From General Revenue Fund 17,790,422

For the purpose of funding programs and in-home family directed services for persons with autism and their families
From General Revenue Fund 9,446,176

For services for children who are clients of the Department of Social Services
From Mental Health Interagency Payments Fund 5,443,549E

For SB 40 Board Tax Funds to be used as match for MO HealthNet initiatives for clients of the division
From DMH Local Tax Matching Fund 12,853,770E
Total (Not to exceed 16.42 F.T.E.) $480,518,562

SECTION 10.415. — To the Department of Mental Health
For the Division of Developmental Disabilities
For the purpose of funding community support staff
Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund $8,616,056

Personal Service 11,151,353
Expense and Equipment 685,150
From Federal Funds 11,836,503

Total (Not to exceed 457.92 F.T.E.) $20,452,559

SECTION 10.420.— To the Department of Mental Health
For the Division of Developmental Disabilities
For the purpose of funding developmental disabilities services
Personal Service $372,505
Expense and Equipment 1,187,593
From Federal Funds (Not to exceed 7.98 F.T.E.) $1,560,098

SECTION 10.425.— There is transferred out of the State Treasury from the General Revenue Fund to the ICF/MR Reimbursement Allowance Fund
From General Revenue Fund $443,483E

SECTION 10.430.— There is transferred out of the State Treasury from the ICF/MR Reimbursement Allowance Fund to the General Revenue Fund as a result of recovering the ICF/MR Reimbursement Allowance Fund
From ICF/MR Reimbursement Allowance Fund $4,798,625E

There is transferred out of the State Treasury from the ICF/MR Reimbursement Allowance Fund to Federal Funds
From ICF/MR Reimbursement Allowance Fund 2,743,740E
Total $7,542,365

SECTION 10.500.— To the Department of Mental Health
For the Division of Developmental Disabilities
For the purpose of funding the Albany Regional Center
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund $865,101
From Federal Funds 16,241
Total (Not to exceed 19.99 F.T.E.) $881,342

SECTION 10.505.— To the Department of Mental Health
For the Division of Developmental Disabilities
For the purpose of funding the Central Missouri Regional Center
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund $1,007,895
From Federal Funds 47,836
Total (Not to exceed 28.91 F.T.E.) $1,055,731

SECTION 10.510.— To the Department of Mental Health
For the Division of Developmental Disabilities
For the purpose of funding the Hannibal Regional Center
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund $1,042,109
From Federal Funds 61,327
Total (Not to exceed 22.00 F.T.E.) $1,103,436

SECTION 10.515. — To the Department of Mental Health
For the Division of Developmental Disabilities
For the purpose of funding the Joplin Regional Center
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund (Not to exceed 24.14 F.T.E.) $1,166,370

SECTION 10.520. — To the Department of Mental Health
For the Division of Developmental Disabilities
For the purpose of funding the Kansas City Regional Center
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund $1,724,926
From Federal Funds 81,643
Total (Not to exceed 37.37 F.T.E.) $1,806,569

SECTION 10.525. — To the Department of Mental Health
For the Division of Developmental Disabilities
For the purpose of funding the Kirksville Regional Center
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund (Not to exceed 15.01 F.T.E.) $731,720

SECTION 10.530. — To the Department of Mental Health
For the Division of Developmental Disabilities
For the purpose of funding the Poplar Bluff Regional Center
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund (Not to exceed 20.70 F.T.E.) $893,782

SECTION 10.535. — To the Department of Mental Health
For the Division of Developmental Disabilities
For the purpose of funding the Rolla Regional Center
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund $894,826
From Federal Funds 127,698
Total (Not to exceed 26.50 F.T.E.) $1,022,524

SECTION 10.540. — To the Department of Mental Health
For the Division of Developmental Disabilities
For the purpose of funding the Sikeston Regional Center
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund (Not to exceed 20.55 F.T.E.) $945,102

SECTION 10.545. — To the Department of Mental Health
For the Division of Developmental Disabilities
For the purpose of funding the Springfield Regional Center
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund (Not to exceed 26.88 F.T.E.) $1,277,598

SECTION 10.550. — To the Department of Mental Health
For the Division of Developmental Disabilities
For the purpose of funding the St. Louis Regional Center
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund $3,197,381
From Federal Funds 92,395
Total (Not to exceed 85.80 F.T.E.) $3,289,776

SECTION 10.555. — To the Department of Mental Health
For the Division of Developmental Disabilities
For the purpose of funding Bellefontaine Habilitation Center
Personal Service and/or Expense and Equipment provided that not more than fifteen percent (15%) may be spent on the Purchase of Community Services, including transitioning clients to the community or other state-operated facilities, and that not more than twenty percent (20%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund $15,843,938
From Federal Funds 663,815

For the purpose of paying overtime to state employees and/or paying otherwise authorized personal service expenditures in lieu of such overtime payments. Non-exempt state employees identified by Section 105.935, RSMo, will be paid first with any remaining funds being used to pay overtime to any other state employees
From General Revenue Fund 1,157,255
From Federal Funds 38,167
Total (Not to exceed 478.29 F.T.E.) $17,703,175

SECTION 10.560. — To the Department of Mental Health
For the Division of Developmental Disabilities
For the purpose of funding Higginsville Habilitation Center
Personal Service and/or Expense and Equipment, provided that not more than fifteen percent (15%) may be spent on the Purchase of Community Services, including transitioning clients to the community or other state-operated facilities, and that not more than twenty percent (20%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund $9,157,221
From Federal Funds 281,677

For Northwest Community Services
Personal Service and/or Expense and Equipment, provided that not more than fifteen percent (15%) may be spent on the Purchase of Community

Services, including transitioning clients to the community or other state-operated facilities, and that not more than twenty percent (20%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund	2,617,663
From Federal Funds	1,399,421

For the purpose of paying overtime to state employees and/or paying otherwise authorized personal service expenditures in lieu of such overtime payments. Non-exempt state employees identified by Section 105.935, RSMo, will be paid first with any remaining funds being used to pay overtime to any other state employees

From General Revenue Fund	496,722
From Federal Funds	90,992
Total (Not to exceed 476.79 F.T.E.)	$14,043,696

SECTION 10.565. — To the Department of Mental Health
For the Division of Developmental Disabilities
For the purpose of funding Marshall Habilitation Center
Personal Service and/or Expense and Equipment, provided that not more than fifteen percent (15%) may be spent on the Purchase of Community Services, including transitioning clients to the community or other state-operated facilities, and that not more than twenty percent (20%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund	$9,798,960
From Federal Funds	11,359,138

For the purpose of paying overtime to state employees and/or paying otherwise authorized personal service expenditures in lieu of such overtime payments. Non-exempt state employees identified by Section 105.935, RSMo, will be paid first with any remaining funds being used to pay overtime to any other state employees

From General Revenue Fund	874,607
From Federal Funds	53,935
Total (Not to exceed 697.85 F.T.E.)	$22,086,640

SECTION 10.570. — To the Department of Mental Health
For the Division of Developmental Disabilities
For the purpose of funding Nevada Habilitation Center
Personal Service and/or Expense and Equipment, provided that not more than fifteen percent (15%) may be spent on the Purchase of Community Services, including transitioning clients to the community or other state-operated facilities, and that not more than twenty percent (20%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund	$9,719,707
From Federal Funds	3,104

For the purpose of paying overtime to state employees and/or paying otherwise authorized personal service expenditures in lieu of such overtime payments. Non-exempt state employees identified by Section 105.935, RSMo, will be paid first with any remaining funds being used to pay overtime to any other state employees

From General Revenue Fund	38,622

Total (Not to exceed 297.11 F.T.E.) $9,761,433

SECTION 10.575.— To the Department of Mental Health
For the Division of Developmental Disabilities
For the purpose of funding St. Louis Developmental Disabilities Treatment Center
Personal Service and/or Expense and Equipment, provided that not more than fifteen percent (15%) may be spent on the Purchase of Community Services, including transitioning clients to the community or other state-operated facilities, and that not more than twenty percent (20%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund $6,582,727
From Federal Funds 12,073,264
Total (Not to exceed 626.43 F.T.E.) $18,655,991

SECTION 10.580.— To the Department of Mental Health
For the Division of Developmental Disabilities
For the purpose of funding Southeast Missouri Residential Services
Personal Service and/or Expense and Equipment, provided that not more than fifteen percent (15%) may be spent on the Purchase of Community Services, including transitioning clients to the community or other state-operated facilities, and that not more than twenty percent (20%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund $5,843,231

For the purpose of paying overtime to state employees and/or paying otherwise authorized personal service expenditures in lieu of such overtime payments. Non-exempt state employees identified by Section 105.935, RSMo, will be paid first with any remaining funds being used to pay overtime to any other state employees
From General Revenue Fund 329,123
Total (Not to exceed 206.48 F.T.E.) $6,172,354

SECTION 10.600.— To the Department of Health and Senior Services
For the Office of the Director
For the purpose of funding program operations and support
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund $1,047,561
From Federal Funds 2,130,890
Total (Not to exceed 54.43 F.T.E.) $3,178,451

SECTION 10.605.— To the Department of Health and Senior Services
For the Division of Administration
For the purpose of funding program operations and support
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund $631,371

Personal Service
From Federal Funds 2,374,849

From Missouri Public Health Services Fund 129,417

Expense and Equipment
From Federal Funds and Other Funds 3,238,011
Total (Not to exceed 73.73 F.T.E.) $6,373,648

SECTION 10.610. — There is transferred out of the State Treasury from the Health Initiatives Fund to the Health Access Incentive Fund
From Health Initiatives Fund $3,241,003

SECTION 10.615. — To the Department of Health and Senior Services
For the Division of Administration
For the purpose of funding the payment of refunds set off against debts in accordance with Section 143.786, RSMo
From Debt Offset Escrow Fund $15,000E

SECTION 10.620. — To the Department of Health and Senior Services
For the Division of Administration
For the purpose of making refund payments
From General Revenue Fund $16,414E
From Federal Funds and Other Funds 44,736E
Total $61,150

SECTION 10.625. — To the Department of Health and Senior Services
For the Division of Administration
For the purpose of receiving and expending grants, donations, contracts, and payments from private, federal, and other governmental agencies which may become available between sessions of the General Assembly provided that the General Assembly shall be notified of the source of any new funds and the purpose for which they shall be expended, in writing, prior to the use of said funds
From Federal Funds $3,000,001E
From Department of Health - Donated Fund 450,000E
Total $3,450,001

SECTION 10.630. — To the Department of Health and Senior Services
For the Division of Administration
For contributions from federal and other sources that are deposited in the State Treasury for use by the Department of Health and Senior Services to furnish aid and relief pursuant to Section 192.326, RSMo
From DHSS Disaster Fund $1E

SECTION 10.635. — To the Department of Health and Senior Services
For the Division of Community and Public Health
For the purpose of funding program operations and support Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund $8,424,035
From Federal Funds 19,182,744

Personal Service
From Health Initiatives Fund 49,242
From Health Access Incentive Fund 94,028

Expense and Equipment
From Governor's Council on Physical Fitness Institution Gift Trust Fund 50,000

Personal Service 72,526
Expense and Equipment 16,900
From Professional and Practical Nursing Student Loan and Nurse Loan
Repayment Fund 89,426

Personal Service 196,479
Expense and Equipment 68,532
From Hazardous Waste Fund 265,011

Personal Service 108,540
Expense and Equipment 82,010
From Organ Donor Program Fund 190,550

Personal Service 325,199
Expense and Equipment 116,507
From Missouri Public Health Services Fund 441,706

Personal Service 360,142
Expense and Equipment 275,000E
From Department of Health and Senior Services Document Services Fund 635,142

Personal Service 174,182
Expense and Equipment 633,089
From Department of Health - Donated Fund 807,271

Personal Service 73,721
Expense and Equipment 28,756
From Putative Father Registry Fund 102,477
Total (Not to exceed 608.86 F.T.E.) $30,331,632

SECTION 10.640.— To the Department of Health and Senior Services
For the Division of Community and Public Health
For the purpose of funding core public health functions and related expenses
From General Revenue Fund $9,019,586

SECTION 10.645.— To the Department of Health and Senior Services
For the Division of Community and Public Health
For the purpose of funding community health programs and related expenses
From General Revenue Fund $10,082,738
From Federal Budget Stabilization Fund 1,200,000
From Federal Funds 41,756,938
From Health Initiatives Fund 5,364,564
From Organ Donor Program Fund 100,000
From C & M Smith Memorial Endowment Fund 35,000
From Crippled Children Fund 30,000

From Missouri Lead Abatement Loan Fund 76,000
From Missouri Public Health Services Fund 276,750
From Head Injury Fund 1,149,900
From Blindness Education, Screening and Treatment Program Fund 99,000
Total $60,170,890

SECTION 10.650. — To the Department of Health and Senior Services
For the Division of Community and Public Health
For the purpose of funding supplemental nutrition programs
From Federal Funds $156,891,116E

SECTION 10.655. — To the Department of Health and Senior Services
For the Division of Community and Public Health
For the purpose of funding alternatives to abortion services for women at or below 200 percent of Federal Poverty Level, consisting of services or counseling offered to a pregnant woman and continuing for one year thereafter, to assist her in carrying her unborn child to term instead of having an abortion, and to assist her in caring for her dependent child or placing her child for adoption, including, but not limited to the following: prenatal care; medical and mental health care; parenting skills; drug and alcohol testing and treatment; child care; newborn or infant care; housing utilities; educational services; food, clothing, and supplies relating to pregnancy, newborn care, and parenting; adoption assistance; job training and placement; establishing and promoting responsible paternity; ultrasound services; case management; domestic abuse protection; and transportation. Actual provisions and delivery of such services shall be dependent on client needs and not otherwise prioritized by the department. Such services shall be available only during pregnancy and continuing for one year thereafter, and shall exclude any family planning services. None of these funds shall be expended to perform or induce, assisting the performing or inducing of, or refer for, abortions; and none of these funds shall be granted to organizations or affiliates of organizations that perform or induce, assist in the performing or inducing of, or refer for, abortions
From General Revenue Fund $1,949,512

***SECTION 10.660.** — To the Department of Health and Senior Services
For the Division of Community and Public Health
For the purpose of funding the Primary Care Resource Initiative Program (PRIMO), Financial Aid to Medical Students, Area Health Education Centers, and Loan Repayment Programs
From Federal Budget Stabilization Fund $1,000,000
From Federal Funds 174,446
From Health Access Incentive Fund 3,021,500
From Department of Health - Donated Fund 839,525
From Professional and Practical Nursing Student Loan and Nurse Loan Repayment Fund 499,752
From Health Care Access Fund 1E
Total $5,535,224

*I hereby veto $500,000 Federal Budget Stabilization Fund for Area Health Education Centers. Given the revenue shortfall, limited resources need to be focused on essential services and a veto of these additional funds is necessary to ensure a balanced budget.

From $1,000,000 to $500,000 Federal Budget Stabilization Fund.
From $5,535,224 to $5,035,224 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

SECTION 10.665. — To the Department of Health and Senior Services
For the Division of Community and Public Health
For the Office of Minority Health
For the purpose of funding program operations and support
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund	$695,256
From Federal Funds	236,890

For Minority Health
Expense and Equipment and the purchase of services for the purpose of funding programs within Minority Health

From General Revenue Fund	165,707
From Federal Funds	45,045
Total (Not to exceed 7.73 F.T.E.)	$1,142,898

SECTION 10.670. — To the Department of Health and Senior Services
For the Division of Community and Public Health
For the Center for Emergency Response and Terrorism

Personal Service	$3,148,731
Expense and Equipment and Program Distribution	20,179,535
From Federal Funds (Not to exceed 63.01 F.T.E.)	$23,328,266

***SECTION 10.675.** — To the Department of Health and Senior Services
For the Division of Community and Public Health
For the purpose of funding the State Public Health Laboratory
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund	$2,330,804
From Federal Funds	1,802,215
From Other Funds	5,420,290
Total (Not to exceed 99.70 F.T.E.)	$9,553,309

*I hereby veto $24,576 General Revenue Fund for a Medical Laboratory Technician at the Poplar Bluff satellite laboratory. These funds are not needed for the efficient administration of programs and a veto of these additional funds is necessary to ensure a balanced budget.

Personal Service and/or Expense and Equipment by $24,576 from $2,330,804 to $2,306,228 General Revenue Fund.
From $9,553,309 to $9,528,733 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

SECTION 10.680. — To the Department of Health and Senior Services
For the Division of Senior and Disability Services
For the purpose of funding program operations and support
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund	$8,533,114
From Federal Funds	10,428,641
Total (Not to exceed 481.65 F.T.E.)	$18,961,755

SECTION 10.685. — To the Department of Health and Senior Services
For the Division of Senior and Disability Services
For the purpose of funding non-MO HealthNet reimbursable senior and disability programs, provided that one hundred percent (100%) flexibility is allowed between the non-MO HealthNet reimbursable senior and disability programs general revenue appropriation and the non-MO HealthNet, consumer-directed care program general revenue appropriation

From General Revenue Fund	$8,391,269
From Federal Funds	1,667,028

For the purpose of funding non-MO HealthNet, consumer directed in-home services

From General Revenue Fund	1,080,796
Total	$11,139,093

SECTION 10.688. — To the Department of Health and Senior Services
For the Division of Senior and Disability Services
For the purpose of providing naturalization assistance to refugees and/or legal immigrants who: have resided in Missouri more than five years, are unable to benefit or attend classroom instruction, and who require special assistance to successfully attain the requirements to become a citizen. Services may include direct tutoring, assistance with identifying and completing appropriate waiver requests to the Immigration and Customs Enforcement agency, and facilitating proper documentation. The department shall award a contract under this section to a qualified not for profit organization which can demonstrate its ability to work with this population. A report shall be compiled for the general assembly evaluating the program's effectiveness in helping senior refugees and immigrants in establishing citizenship and their ability to qualify individuals for Medicare

From Federal Budget Stabilization Fund	$200,000

SECTION 10.690. — To the Department of Health and Senior Services
For the Division of Senior and Disability Services
For the purpose of funding respite care, homemaker chore, personal care, advanced personal care, adult day care, AIDS, children's waiver services, home-delivered meals, and other related services under the MO HealthNet fee-for-service and managed care programs. Provided that individuals eligible for or receiving nursing home care must be given the opportunity to have those MO HealthNet dollars follow them to the community to the extent necessary to meet their unmet needs as determined by 19 CSR 30 81.030 and further be allowed to choose the personal care program option in the community that best meets the individuals' unmet needs.

This includes the Consumer Directed MO HealthNet State Plan. And further provided that individuals eligible for the MO HealthNet Personal Care Option must be allowed to choose, from among all the program options, that option which best meets their unmet needs as determined by 19 CSR 30 81.030; and also be allowed to have their MO HealthNet funds follow them to the extent necessary to meet their unmet needs whichever option they choose. This language does not create any entitlements not established by statute

From General Revenue Fund $172,438,881
From Federal Funds 308,965,029E
From In-Home Services Reimbursement Allowance Fund 1E
Total $481,403,911

SECTION 10.692.— There is transferred out of the State Treasury from the General Revenue Fund to the In-Home Services Reimbursement Allowance Fund
From General Revenue Fund $1E

SECTION 10.693.— There is transferred out of the State Treasury from the In-Home Services Reimbursement Allowance Fund to the General Revenue Fund as a result of recovering the In-Home Reimbursement Allowance Fund
From In-Home Services Reimbursement Allowance Fund $1E

SECTION 10.695.— To the Department of Health and Senior Services
For the Division of Senior and Disability Services
For the purpose of funding Alzheimer's grants
From General Revenue Fund $539,564
From Federal Funds 265,670
Total $805,234

SECTION 10.700.— To the Department of Health and Senior Services
For the Division of Senior and Disability Services
For the purpose of funding Home and Community Services grants, including funding for meals to be distributed to each Area Agency on Aging in proportion to the actual number of meals served during the preceding fiscal year, provided that at least $500,000 of existing General Revenue be used for non-MO HealthNet meals to be distributed to each Area Agency on Aging in proportion to the actual number of meals served during the preceding fiscal year and also including $2,275,197 for needs of the Area Agencies on Aging in Fiscal Year 2010 as approved by the Department
From General Revenue Fund $9,480,540
From Federal Funds 31,536,227E
From Elderly Home-Delivered Meals Trust Fund 100,000
Total $41,116,767

SECTION 10.705.— To the Department of Health and Senior Services
For the Division of Senior and Disability Services
For distributions to Area Agencies on Aging pursuant to the Older Americans Act and related programs
From General Revenue Fund $1,608,681

SECTION 10.710.— To the Department of Health and Senior Services
For the Division of Senior and Disability Services
For the purpose of funding Naturally Occurring Retirement Communities
From Federal Budget Stabilization Fund $127,500

SECTION 10.720.— To the Department of Health and Senior Services
For the Division of Regulation and Licensure
For the purpose of funding program operations and support
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund $10,715,752
From Federal Funds 11,915,047
From Nursing Facility Quality of Care Fund 2,159,158

Personal Service 72,171
Expense and Equipment 11,450
From Health Access Incentive Fund 83,621

Personal Service 61,387
Expense and Equipment 13,560
From Mammography Fund 74,947

Personal Service 206,785
Expense and Equipment 57,561
From Early Childhood Development, Education and Care Fund 264,346
Total (Not to exceed 503.66 F.T.E.) $25,212,871

SECTION 10.725.— To the Department of Health and Senior Services
For the Division of Regulation and Licensure
For the purpose of funding activities to improve the quality of childcare, increase the availability of early childhood development programs, before- and after-school care, in-home services for families with newborn children, and for general administration of the program
From Federal Funds $711,675
From Early Childhood Development, Education and Care Fund 728,740
Total $1,440,415

SECTION 10.730.— To the Department of Health and Senior Services
For the Division of Regulation and Licensure
For the purpose of funding program operations and support for the Missouri Health Facilities Review Committee
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund (Not to exceed 2.00 F.T.E.) $136,426

DEPARTMENT OF MENTAL HEALTH TOTALS
General Revenue Fund $594,853,914
Federal Budget Stabilization Fund 5,891,995
Federal Funds 568,777,355
Other Funds 42,271,054
Total $1,211,794,318

DEPARTMENT OF HEALTH AND SENIOR SERVICES TOTALS

General Revenue Fund	$247,271,593
Federal Budget Stabilization Fund	2,527,500
Federal Funds	619,002,497
Other Funds	24,275,597
Total	$893,077,187

Approved June 25, 2009

HB 11 [CCS#2 SCS HCS HB 11]

APPROPRIATIONS: DEPARTMENT OF SOCIAL SERVICES AND OFFICE OF ADMINISTRATION.

AN ACT to appropriate money for the expenses, grants, and distributions of the Department of Social Services and the Office of Administration and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the period beginning July 1, 2009 and ending June 30, 2010.

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

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2009 and ending June 30, 2010 as follows:

SECTION 11.005.— To the Department of Social Services
For the Office of the Director
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund $390,901

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
From Federal Funds 13,879

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
From Child Support Enforcement Collections Fund 63,883
Total (Not to exceed 6.00 F.T.E.) $468,663

SECTION 11.010.— To the Department of Social Services
For the Office of Administration
For administration of central mail personnel and resources by the Division of General Services
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed

between personal service and expense and equipment
From General Revenue Fund $309,116
From Federal Funds 29,151
From Child Support Enforcement Collections Fund 10,713
Total (Not to exceed 9.00 F.T.E.) $348,980

SECTION 11.015. — To the Department of Social Services
For the Office of the Director
For the purpose of receiving and expending grants, donations, contracts, and payments from private, federal, and other governmental agencies which may become available between sessions of the General Assembly provided that the General Assembly shall be notified of the source of any new funds and the purpose for which they shall be expended, in writing, prior to the use of said funds
From Federal Funds and Other Funds $5,954,958E

SECTION 11.020. — To the Department of Social Services
For the Office of the Director
For the Human Resources Center
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund $305,126
From Federal Funds 227,144
Total (Not to exceed 11.52 F.T.E.) $532,270

SECTION 11.025. — To the Department of Social Services
For the Office of the Director
For the purpose of funding field and line training
Expense and Equipment
From General Revenue Fund $136,782
From Federal Funds 131,840
Total $268,622

SECTION 11.030. — To the Department of Social Services
For the Division of Finance and Administrative Services
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund $2,183,202
From Federal Funds 1,253,528
From Department of Social Services Administrative Trust Fund 4,283
From Child Support Enforcement Collections Fund 50,136

For the purpose of funding the centralized inventory system, for reimbursable goods and services provided by the department, and for related equipment replacement and maintenance expenses
From Department of Social Services Administrative Trust Fund 5,447,752
Total (Not to exceed 87.50 F.T.E.) $8,938,901

SECTION 11.035. — To the Department of Social Services
For the Division of Finance and Administrative Services

For the payment of fees to contractors who engage in revenue maximization projects on behalf of the Department of Social Services
From Federal Funds $250,000E

SECTION 11.040.— To the Department of Social Services
For the Division of Finance and Administrative Services
For the purpose of funding the receipt and disbursement of refunds and incorrectly deposited receipts to allow the over-collection of accounts receivables to be paid back to the recipient
From Federal Funds and Other Funds $2,500,000E

SECTION 11.045.— To the Department of Social Services
For the Division of Finance and Administrative Services
For the purpose of funding payments to counties toward the care and maintenance of each delinquent or dependent child as provided in Section 211.156, RSMo
From General Revenue Fund $2,484,608

SECTION 11.050.— To the Department of Social Services
For the Division of Legal Services
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund $1,761,460
From Federal Funds 3,675,444
From Third Party Liability Collections Fund 668,140
From Child Support Enforcement Collections Fund 166,003
Total (Not to exceed 126.97 F.T.E.) $6,271,047

SECTION 11.055.— To the Department of Social Services
For the Family Support Division
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund $954,811
From Federal Funds 19,058,126
From Child Support Enforcement Collections Fund 1,497,550
Total (Not to exceed 170.95 F.T.E.) $21,510,487

SECTION 11.060.— To the Department of Social Services
For the Family Support Division
For the income maintenance field staff and operations
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund $26,368,221
From Federal Funds 65,292,138
From Child Support Enforcement Collections Fund 598,928
From Health Initiatives Fund 792,579
Total (Not to exceed 2,816.15 F.T.E.) $93,051,866

SECTION 11.065.— To the Department of Social Services
For the Family Support Division

For income maintenance and child support staff training
From General Revenue Fund $285,870
From Federal Funds 136,449
Total $422,319

SECTION 11.070. — To the Department of Social Services
For the Family Support Division
For the purpose of funding the electronic benefit transfers (EBT) system to reduce fraud, waste, and abuse
Expense and Equipment
From General Revenue Fund $3,754,203
From Federal Funds 3,341,516
Total $7,095,719

SECTION 11.075. — To the Department of Social Services
For the Family Support Division
For the purpose of funding the receipt of funds from the Polk County and Bolivar Charitable Trust for the exclusive benefit and use of the Polk County Office
From Family Support and Children's Divisions Donations Fund $10,000E

SECTION 11.080. — To the Department of Social Services
For the Family Support Division
For the purpose of funding contractor, hardware, and other costs associated with planning, development, and implementation of a Family Assistance Management Information System (FAMIS)
From General Revenue Fund $2,032,119
From Federal Funds 3,788,405
Total $5,820,524

SECTION 11.085. — To the Department of Social Services
For the Family Support Division
For the purpose of funding Community Partnerships
Personal Service
From General Revenue Fund $93,124

For grants and contracts to Community Partnerships and other community initiatives and related expenses
From General Revenue Fund 582,000
From Federal Funds 7,483,799

For Missouri Mentoring Partnership
From General Revenue Fund 606,781
From Federal Funds 778,143

For the purpose of funding a program for adolescent boys with the goal of preventing teen pregnancies
From Federal Funds 300,000
Total (Not to exceed 2.00 F.T.E.) $9,843,847

SECTION 11.090. — To the Department of Social Services
For the Family Support Division

For the purpose of funding the Family Nutrition Education Program
From Federal Funds $9,294,560

SECTION 11.095. — To the Department of Social Services
For the Family Support Division
For the purpose of funding the payment of Temporary Assistance for Needy Families (TANF) benefits, and for a transitional benefit and for community work support programs provided that total funding herein is sufficient to fund TANF benefits, provided that $1,700,000 of TANF federal funds is set aside from total funding herein to fund a St. Louis County pilot project to help increase TANF work participation
From General Revenue Fund $8,587,706
From Federal Funds 115,445,760E
Total $124,033,466

SECTION 11.100. — To the Department of Social Services
For the Family Support Division
For the purpose of funding supplemental payments to aged or disabled persons
From General Revenue Fund $69,665

SECTION 11.105. — To the Department of Social Services
For the Family Support Division
For the purpose of funding nursing care payments to aged, blind, or disabled persons, and for personal funds to recipients of Supplemental Nursing Care payments as required by Section 208.030, RSMo
From General Revenue Fund $25,807,581

SECTION 11.110. — To the Department of Social Services
For the Family Support Division
For the purpose of funding Blind Pension and supplemental payments to blind persons
From Blind Pension Fund $29,148,100

SECTION 11.115. — To the Department of Social Services
For the Family Support Division
For the purpose of funding benefits and services as provided by the Indochina Migration and Refugee Assistance Act of 1975 as amended and for the immigration pilot project
From Federal Funds $3,808,853

SECTION 11.120. — To the Department of Social Services
For the Family Support Division
For the purpose of funding community services programs provided by Community Action Agencies, including programs to assist the homeless, under the provisions of the Community Services Block Grant
From Federal Funds $19,144,171

SECTION 11.125. — To the Department of Social Services
For the Family Support Division
For the purpose of funding grants for local initiatives to assist the homeless
From Federal Funds $500,000

SECTION 11.130. — To the Department of Social Services
For the Family Support Division
For the purpose of funding the Emergency Shelter Grant Program
From Federal Funds $1,340,000

SECTION 11.135. — To the Department of Social Services
For the Family Support Division
For the purpose of funding the Surplus Food Distribution Program and the receipt and disbursement of Donated Commodities Program payments
From Federal Funds $1,175,585

SECTION 11.140. — To the Department of Social Services
For the Family Support Division
For the purpose of funding the Low-Income Home Energy Assistance Program
From Federal Funds (Not to exceed 6.50 F.T.E.) $40,826,051E

SECTION 11.145. — To the Department of Social Services
For the Family Support Division
For the purpose of funding services and programs to assist victims of domestic violence
From General Revenue Fund $4,750,000
From Federal Funds 1,687,653
Total $6,437,653

SECTION 11.150. — To the Department of Social Services
For the Family Support Division
For the purpose of funding administration of blind services
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund $85,114
From Federal Funds 3,798,473
From Blind Pension Fund 1,109,455
Total (Not to exceed 117.87 F.T.E.) $4,993,042

SECTION 11.155. — To the Department of Social Services
For the Family Support Division
For the purpose of funding services for the visually impaired
From Federal Funds $6,372,075
From Blind Pension Fund 1,737,081
From Family Support and Children's Divisions Donations Fund 99,995
From Blindness Education, Screening and Treatment Program Fund 250,000
Total $8,459,151

SECTION 11.160. — To the Department of Social Services
For the Family Support Division
For the purpose of funding Child Support Enforcement field staff and operations
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund $4,181,342
From Federal Funds 24,132,250

From Child Support Enforcement Collections Fund 7,443,814
Total (Not to exceed 861.24 F.T.E.) $35,757,406

SECTION 11.165.— To the Department of Social Services
For the Family Support Division
For the purpose of funding payments to private agencies collecting child support orders and arrearages
From Federal Funds $690,000E
From Child Support Enforcement Collections Fund 360,000E
Total $1,050,000

SECTION 11.170.— To the Department of Social Services
For the Family Support Division
For the purpose of funding reimbursement to counties and the City of St. Louis and contractual agreements with local governments providing child support enforcement services and for incentive payments to local governments
From General Revenue Fund $2,785,855
From Federal Funds 13,568,621E
From Child Support Enforcement Collections Fund 927,563
Total $17,282,039

SECTION 11.175.— To the Department of Social Services
For the Family Support Division
For the purpose of funding payment to the federal government for reimbursement of federal Temporary Assistance for Needy Families payments, incentive payments to other states, refunds of bonds, refunds of support payments or overpayments, and distributions to families
From Federal Funds $31,500,000E
From Debt Offset Escrow Fund 9,000,000E
Total $40,500,000

SECTION 11.180.— There is transferred out of the State Treasury from the Department of Social Services Federal and Other Fund to the Job Development and Training Fund
From Federal Funds $1,971,614

SECTION 11.185.— There is transferred out of the State Treasury from the Debt Offset Escrow Fund to the Department of Social Services Federal and Other Fund and/or the Child Support Enforcement Collections Fund
From Debt Offset Escrow Fund $700,000E

SECTION 11.190.— To the Department of Social Services
For the Children's Division
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund $1,060,881
From Federal Funds 5,886,452
From Early Childhood Development, Education and Care Fund 56,139

Expense and Equipment
From Third Party Liability Collections Fund 50,000
Total (Not to exceed 104.30 F.T.E.) $7,053,472

SECTION 11.195. — To the Department of Social Services
For the Children's Division
For the Children's Division field staff and operations
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund	$28,628,568
From Federal Funds	45,677,185
From Health Initiatives Fund	96,866
Total (Not to exceed 1,942.45 F.T.E.)	$74,402,619

SECTION 11.200. — To the Department of Social Services
For the Children's Division
For the purpose of funding Child Welfare Accreditation
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund	$5,894,942
From Federal Funds	2,803,775
Total (Not to exceed 152.50 F.T.E.)	$8,698,717

SECTION 11.205. — To the Department of Social Services
For the Children's Division
For Children's Division staff training

From General Revenue Fund	$892,028
From Federal Funds	384,041
Total	$1,276,069

SECTION 11.210. — To the Department of Social Services
For the Children's Division
For the purpose of funding children's treatment services provided that such programs are in existence as of the effective date of this section including, but not limited to, home-based services, day treatment services, preventive services, child care, family reunification services, or intensive in-home services

From General Revenue Fund	$6,810,191
From Federal Funds	5,166,047

For the purpose of funding crisis nursery

From General Revenue Fund	1,350,000

For the purpose of funding teen crisis care

From Federal Budget Stabilization Fund	400,000
Total	$13,726,238

SECTION 11.215. — To the Department of Social Services
For the Children's Division
For the purpose of funding grants to local community-based programs to strengthen the child welfare system locally to prevent child abuse and neglect and divert children from entering into the custody of the Children's Division

From General Revenue Fund	$1,900,000

SECTION 11.220. — To the Department of Social Services
For the Children's Division
For the purpose of funding placement costs including foster care payments; related services; expenses related to training of foster parents; residential treatment placements and therapeutic treatment services; and for the diversion of children from inpatient psychiatric treatment and services provided through comprehensive, expedited permanency systems of care for children and families

From General Revenue Fund	$57,769,636
From Federal Funds	30,822,478
Total	$88,592,114

SECTION 11.225. — To the Department of Social Services
For the Children's Division
For the purpose of providing comprehensive case management contracts through community-based organizations as described in Section 210.112, RSMo. The purpose of these contracts shall be to provide a system of care for children living in foster care, independent living, or residential care settings. Services eligible under this provision may include, but are not limited to, case management, foster care, residential treatment, intensive in-home services, family reunification services, and specialized recruitment and training of foster care families

From General Revenue Fund	$14,993,210
From Federal Funds	10,163,856
Total	$25,157,066

SECTION 11.230. — To the Department of Social Services
For the Children's Division
For the purpose of funding Adoption and Guardianship subsidy payments and related services

From General Revenue Fund	$58,449,953
From Federal Funds	23,289,411
Total	$81,739,364

SECTION 11.235. — To the Department of Social Services
For the Children's Division
For the purpose of funding Adoption Resource Centers

From General Revenue Fund	$200,000
From Federal Funds	100,000
Total	$300,000

SECTION 11.240. — To the Department of Social Services
For the Children's Division
For the purpose of funding independent living placements and transitional living payment services

From General Revenue Fund	$1,690,790
From Federal Funds	4,423,228
Total	$6,114,018

SECTION 11.245. — To the Department of Social Services
For the Children's Division

For the purpose of supplementing appropriations for children's treatment services; alternative care placement services; adoption subsidy services; independent living services; psychiatric diversion services and services provided through comprehensive, expedited permanency systems of care for children and families

From General Revenue Fund $8,247,347
From Federal Funds 6,773,261
Total $15,020,608

SECTION 11.250. — To the Department of Social Services
For the Children's Division
For the purpose of funding Regional Child Assessment Centers
From General Revenue Fund $1,498,952
From Federal Funds 800,000
Total $2,298,952

SECTION 11.255. — To the Department of Social Services
For the Children's Division
For the purpose of funding residential placement payments to counties for children in the custody of juvenile courts
From Federal Funds $400,000

SECTION 11.260. — To the Department of Social Services
For the Children's Division
For the purpose of funding the Child Abuse and Neglect Prevention Grant and Children's Justice Act Grant
From Federal Funds $188,316

SECTION 11.265. — To the Department of Social Services
For the Children's Division
For the purpose of funding transactions involving personal funds of children in the custody of the Children's Division or the Division of Youth Services
From Alternative Care Trust Fund $12,000,000E

SECTION 11.270. — To the Department of Social Services
For the Children's Division
For the purpose of funding child care services, the general administration of the programs and to support the Educare Program
From General Revenue Fund $66,837,747
From Federal Funds 111,402,702
From Early Childhood Development, Education and Care Fund 1,548,152

For the purpose of payments to accredited child care providers pursuant to Chapter 313, RSMo
From Early Childhood Development, Education and Care Fund 3,074,500

For the purpose of funding early childhood start-up and expansion grants pursuant to Chapter 313, RSMo
From Early Childhood Development, Education and Care Fund 3,689,400

For the purpose of funding early childhood development, education, and care programs for low-income families pursuant to Chapter 313, RSMo

From Early Childhood Development, Education and Care Fund 3,074,500

For the purpose of funding certificates to low-income, at-home families pursuant to Chapter 313, RSMo
From Early Childhood Development, Education and Care Fund 3,074,500
Total $192,701,501

SECTION 11.275. — To the Department of Social Services
For the Division of Youth Services
For the purpose of funding Central Office and Regional Offices
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund $1,437,793
From Federal Funds 668,320
Total (Not to exceed 42.33 F.T.E.) $2,106,113

SECTION 11.280. — To the Department of Social Services
For the Division of Youth Services
For the purpose of funding treatment services, including foster care and contractual payments
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund $21,181,594
From Federal Funds 28,539,631
From DOSS Educational Improvement Fund 5,853,082
From Health Initiatives Fund 135,503

Expense and Equipment
From Youth Services Products Fund 1E

For the purpose of paying overtime to nonexempt state employees as required by Section 105.935, RSMo, and/or for otherwise authorized Personal Service expenditures in lieu of such overtime payments
From General Revenue Fund 1,110,391
Total (Not to exceed 1,368.81 F.T.E.) $56,820,202

SECTION 11.285. — To the Department of Social Services
For the Division of Youth Services
For the purpose of funding incentive payments to counties for community-based treatment programs for youth
From General Revenue Fund $3,767,880
From Gaming Commission Fund 500,000
Total $4,267,880

SECTION 11.400. — To the Department of Social Services
For the MO HealthNet Division
For the purpose of funding administrative services
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund $4,711,705
From Federal Funds 9,566,475
From Pharmacy Reimbursement Allowance Fund 25,476
From Health Initiatives Fund 335,180
From Nursing Facility Quality of Care Fund 90,794
From Third Party Liability Collections Fund 867,770
From Missouri Rx Plan Fund 787,859
Total (Not to exceed 263.11 F.T.E.) $16,385,259

SECTION 11.405. — To the Department of Social Services
For the MO HealthNet Division
For the purpose of funding health care technology projects and initiatives to improve the delivery of care, reduce administrative burdens, and reduce waste, fraud, and abuse
From Health Care Technology Fund $3,000,000
From Federal Funds 2,500,000
Total $5,500,000

SECTION 11.410. — To the Department of Social Services
For the MO HealthNet Division
For the purpose of funding clinical services management related to the administration of the MO HealthNet Pharmacy fee-for-service and managed care programs and administration of the Missouri Rx Plan
From General Revenue Fund $551,123
From Federal Budget Stabilization Fund 2,187,500
From Federal Funds 12,215,288
From Third Party Liability Collections Fund 924,911
From Missouri Rx Plan Fund 4,160,894
Total $20,039,716

SECTION 11.415. — To the Department of Social Services
For the MO HealthNet Division
For the purpose of funding women and minority health care outreach programs
From General Revenue Fund $546,125
From Federal Funds 568,625
Total $1,114,750

SECTION 11.420. — To the Department of Social Services
For the MO HealthNet Division
For the purpose of funding a revenue maximization unit in the MO HealthNet Division
Personal Service $92,019
Expense and Equipment 8,114
From Federal Funds 100,133

Personal Service 92,019
Expense and Equipment 8,114
From Federal Reimbursement Allowance Fund 100,133
Total (Not to exceed 4.00 F.T.E.) $200,266

SECTION 11.425. — To the Department of Social Services
For the MO HealthNet Division

For the purpose of funding fees associated with third-party collections and other revenue maximization cost avoidance fees
From Federal Funds $1,500,000E
From Third Party Liability Collections Fund 1,500,000E
Total $3,000,000

SECTION 11.430.— To the Department of Social Services
For the MO HealthNet Division
For the purpose of funding the operation of the information systems
From General Revenue Fund $5,565,516
From Federal Funds 21,629,251

For the purpose of funding the modernization of the Medicaid Management Information System (MMIS) and the operation of the information systems
From Federal Funds 31,670,598
From Health Care Technology Fund 5,296,733
Total $64,162,098

***SECTION 11.432.**— To the Department of Social Services
For the MO HealthNet Division
For the purpose of funding contractor payments associated with a care coordination program for MO HealthNet recipients
From General Revenue Fund $3,000,000
From Federal Funds 5,375,209
Total $8,375,209

*I hereby veto $8,375,209, including $3,000,000 general revenue, for the Care Coordination Program. This is a pilot project that mirrors an existing program within the department, which is still being reviewed for its effectiveness. A veto of these additional funds is necessary to ensure a balanced budget.

Said section is vetoed in its entirety from $3,000,000 to $0 from General Revenue Fund.
From $5,375,209 to $0 from Federal Funds.
From $8,375,209 to $0 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

SECTION 11.435.— To the Department of Social Services
For the MO HealthNet Division
For the purpose of funding pharmaceutical payments and program expenses under the MO HealthNet and Missouri Rx Plan authorized by Sections 208.780 through 208.798, RSMo and for Medicare Part D Clawback payments and for administration of these programs. The line item appropriations within this section may be used for any other purpose for which line item funding is appropriated within this section provided that not more than $350,000 of the appropriations within this section shall be used to fund the Missouri RX Plan Advisory Commission's expenses
For the purpose of funding pharmaceutical payments under the MO HealthNet fee-for-service and managed care programs and for the purpose of funding professional fees for pharmacists and for a comprehensive chronic care risk management program and for the treatment of Sickle Cell Disease using the comprehensive chronic

care risk management model as implemented by the state's Chronic Care Improvement Program. And further provided that the aggregate dispensing fee and aggregate reimbursement rates shall be no less than the rates in FY2009

From General Revenue Fund	$125,426,149
From Federal Funds	606,750,829
From Life Sciences Research Trust Fund	28,725,000
From Pharmacy Rebates Fund	96,130,097E
From Third Party Liability Collections Fund	5,252,468
From Pharmacy Reimbursement Allowance Fund	60,479,712E
From Health Initiatives Fund	969,293
From Healthy Families Trust Fund	1,041,034
From Premium Fund	3,800,000

For the purpose of funding Medicare Part D Clawback payments and for funding MO HealthNet pharmacy payments as authorized by the provisions of Section 11.435

From General Revenue Fund	185,000,000
From Federal Funds	1E

For the purpose of funding pharmaceutical payments under the Missouri Rx Plan authorized by Sections 208.780 through 208.798, RSMo

From Missouri Rx Plan Fund	5,781,772E
From Healthy Families Trust Fund	13,820,394
Total	$1,133,176,749

SECTION 11.440.— There is transferred out of the State Treasury from the General Revenue Fund to the Pharmacy Reimbursement Allowance Fund

From General Revenue Fund	$30,000,000E

SECTION 11.445.— There is transferred out of the State Treasury from the Pharmacy Reimbursement Allowance Fund to the General Revenue Fund as a result of recovering the Pharmacy Reimbursement Allowance Fund

From Pharmacy Reimbursement Allowance Fund	$30,000,000E

SECTION 11.450.— To the Department of Social Services
For the MO HealthNet Division
For the purpose of funding physician services and related services including, but not limited to, clinic and podiatry services, telemedicine services, physician-sponsored services and fees, laboratory and x-ray services, and family planning services under the MO HealthNet fee-for-service and managed care programs and for a comprehensive chronic care risk management program and Major Medical Prior Authorization and for the treatment of Sickle Cell Disease using the comprehensive chronic care risk management model as implemented by the state's Chronic Care Improvement Program

From General Revenue Fund	$164,521,124
From Federal Funds	324,089,254
From Third Party Liability Collections Fund	1,906,107
From Health Initiatives Fund	1,247,544
From Healthy Families Trust Fund	1,041,034
Total	$492,805,063

***SECTION 11.455.** — To the Department of Social Services
For the MO HealthNet Division
For the purpose of funding dental services under the MO HealthNet fee-for-service and managed care programs and for the treatment of Sickle Cell Disease using the comprehensive chronic care risk management model as implemented by the state's Chronic Care Improvement Program

From General Revenue Fund	$4,761,170
From Federal Funds	10,253,383
From Health Initiatives Fund	71,162
From Healthy Families Trust Fund	848,773
Total	$15,934,488

*I hereby veto $1,326,075 including $475,000 general revenue to increase dental rates in the Medicaid program. The appropriation will still include funding for a smaller rate increase. Given revenue constraints, a veto of these additional funds is necessary to ensure a balanced budget.

From $4,761,170 to $4,286,170 from General Revenue Fund.
From $10,253,383 to $9,402,308 from Federal Funds.
From $15,934,488 to $14,608,413 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

SECTION 11.460. — To the Department of Social Services
For the MO HealthNet Division
For the purpose of funding payments to third-party insurers, employers, or policyholders for health insurance

From General Revenue Fund	$55,028,382
From Federal Funds	102,606,126
Total	$157,634,508

SECTION 11.465. — To the Department of Social Services
For the MO HealthNet Division
For funding long-term care services
For the purpose of funding care in nursing facilities or other long-term care services under the MO HealthNet fee-for-service and managed care programs and for contracted services to develop model policies and practices that improve the quality of life for long-term care residents and for the treatment of Sickle Cell Disease using the comprehensive chronic care risk management model as implemented by the state's Chronic Care Improvement Program

From General Revenue Fund	$150,973,789
From Federal Funds	403,485,546
From Uncompensated Care Fund	58,516,478
From Nursing Facility Federal Reimbursement Allowance Fund	9,134,756
From Healthy Families Trust Fund	17,973
From Third Party Liability Collections Fund	2,592,981

For the purpose of funding home health for the elderly, or other long-term care services under the MO HealthNet fee-for-service and managed care programs

From General Revenue Fund	2,393,434
From Federal Funds	4,573,837

From Health Initiatives Fund 159,305

For the purpose of funding Program for All-Inclusive Care for the Elderly, or other long-term care services under the MO HealthNet fee-for-service and managed care programs
From General Revenue Fund 2,251,372
From Federal Funds 4,073,454
Total $638,172,925

SECTION 11.470.— To the Department of Social Services
For the MO HealthNet Division
For the purpose of funding all other non-institutional services provided that such programs and services are in existence as of the effective date of this section including, but not limited to, rehabilitation, optometry, audiology, ambulance, non-emergency medical transportation, durable medical equipment, and eyeglasses under the MO HealthNet fee-for-service and managed care programs, and for rehabilitation services provided by residential treatment facilities as authorized by the Children's Division for children in the care and custody of the Children's Division and for the treatment of Sickle Cell Disease using the comprehensive chronic care risk management model as implemented by the state's Chronic Care Improvement Program. A portion of this funding allows for contracted services related to prior authorization of certain MO HealthNet services
From General Revenue Fund $76,671,333
From Federal Funds 155,151,728
From Nursing Facility Federal Reimbursement Allowance Fund 1,414,043
From Healthy Families Trust Fund 831,745
From Health Initiatives Fund 194,881
From Ambulance Service Reimbursement Allowance Fund 9,069,225E

For the purpose of funding non-emergency medical transportation and for the treatment of Sickle Cell Disease using the comprehensive chronic care risk management model as implemented by the state's Chronic Care Improvement Program
From General Revenue Fund 11,400,003
From Federal Funds 20,584,219

For the purpose of funding the federal share of MO HealthNet reimbursable non-emergency medical transportation for public entities
From Federal Funds 6,460,100
Total $281,777,277

SECTION 11.472.— There is transferred out of the State Treasury from the General Revenue Fund to the Ambulance Service Reimbursement Allowance Fund
From General Revenue Fund $9,069,225E

SECTION 11.473.— There is transferred out of the State Treasury from the Ambulance Service Reimbursement Allowance Fund to the General Revenue Fund as a result of recovering the Ambulance Service Reimbursement Allowance Fund
From Ambulance Service Reimbursement Allowance Fund $9,069,225E

***SECTION 11.475.** — To the Department of Social Services
For the MO HealthNet Division
For the purpose of funding the payment to comprehensive prepaid health care plans or for payments to providers of health care services for persons eligible for medical assistance under the MO HealthNet fee-for-service programs or State Medical Program as provided by federal or state law or for payments to programs authorized by the Frail Elderly Demonstration Project Waiver as provided by the Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508, Section 4744) and by Section 208.152 (16), RSMo

From General Revenue Fund	$248,151,985
From Federal Funds	688,308,950
From MO HealthNet Managed Care Organization Reimbursement Allowance Fund	11,478,156E
From Health Initiatives Fund	8,055,080
From Federal Reimbursement Allowance Fund	93,533,441
From Healthy Families Trust Fund	4,447,110
Total	$1,053,974,722

*I hereby veto $1,846,922 including $637,500 general revenue to increase dental rates in the Medicaid program. The appropriation will still include funding for a smaller rate increase. Given revenue constraints, a veto of these additional funds is necessary to ensure a balanced budget.

From $248,151,985 to $247,514,485 from General Revenue Fund.
From $688,308,950 to $687,099,528 from Federal Funds.
From $1,053,974,722 to $1,052,127,800 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

SECTION 11.480. — There is transferred out of the State Treasury from the General Revenue Fund to the MO HealthNet Managed Care Organization Reimbursement Allowance Fund

From General Revenue Fund	$21,400,000E

SECTION 11.485. — There is transferred out of the State Treasury from the MO HealthNet Managed Care Organization Reimbursement Allowance Fund to the General Revenue Fund as a result of recovering the MO HealthNet Managed Care Organization Reimbursement Allowance Fund

From MO HealthNet Managed Care Organization Reimbursement Allowance Fund	$21,400,000E

***SECTION 11.490.** — To the Department of Social Services
For the MO HealthNet Division
For the purpose of funding hospital care under the MO HealthNet fee-for-service and managed care programs, and for a comprehensive chronic care risk management program and for the treatment of Sickle Cell Disease using the comprehensive chronic care risk management model as implemented by the state's Chronic Care Improvement Program. The MO HealthNet Division may adjust state Fiscal Year 2010 costs of the uninsured payments to hospitals to reflect the impact on hospitals of the elimination of MO HealthNet coverage for adults with incomes

above the TANF level and who were covered through a Section 1931 transfer. The MO HealthNet Division shall track payments to out-of-state hospitals by location and by services for adults and by services for children

From General Revenue Fund	$35,925,422
From Federal Funds	473,713,006
From Uncompensated Care Fund	32,483,522
From Federal Reimbursement Allowance Fund	148,498,958
From Health Initiatives Fund	2,797,179
From Third Party Liability Collections Fund	1,062,735
From Healthy Families Trust Fund	2,365,987

For Safety Net Payments

From Healthy Families Trust Fund	30,365,444

For Graduate Medical Education

From Healthy Families Trust Fund	10,000,000

For the purpose of funding a community-based care coordinating program that includes in-home visits and/or phone contact by a nurse care manager or electronic monitor. The purpose of such program shall be to ensure that patients are discharged from hospitals to an appropriate level of care and services and that targeted MO HealthNet beneficiaries with chronic illnesses and high-risk pregnancies receive care in the most cost-effective setting. Areas of implementation shall include, but not be limited to, Greene County. The project shall be contingent upon adoption of an offsetting increase in the applicable provider tax and administered by the MO HealthNet Division's Disease Management Program

From Federal Budget Stabilization Fund	200,000
From Federal Funds	400,000
From Federal Reimbursement Allowance Fund	200,000

For the purpose of funding hospital care under the MO HealthNet fee-for-service and managed care programs, and funding costs incurred by hospitals for the staffing of the emergency department with MO HealthNet enrolled physicians of Level I, II, III Trauma Centers as defined by the Department of Health and Senior Services and Critical Access Hospitals as defined by the Department of Social Services, MO HealthNet Division, contingent upon adoption of an offsetting increase in the applicable provider tax

From Federal Funds	30,000,000E
From Federal Reimbursement Allowance Fund	20,000,000E

For the purpose of continuing funding in Southwest Missouri and metropolitan Kansas City Regions of the pager project facilitating medication compliance for the chronically ill MO HealthNet participants identified by the Division as having high utilization of acute care because of poor management of their condition. The project shall be contingent upon adoption of an offsetting increase in the applicable provider tax and administered by the MO HealthNet Division's Disease Management Program

From Federal Funds	215,000
From Federal Reimbursement Allowance Fund	215,000
Total	$788,442,253

*I hereby veto $200,000 Federal Budget Stabilization Fund for the telemonitoring program. This is not an essential service and a veto of these additional funds is necessary to ensure a balanced budget.

From $200,000 to $0 from Federal Budget Stabilization Fund.
From $788,442,253 to $788,242,253 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

SECTION 11.495. — To the Department of Social Services
For the MO HealthNet Division
For payment to Tier 1 Safety Net Hospitals, by maximizing eligible costs for federal Medicaid funds, utilizing current state and local funding sources as match for services that are not currently matched with federal Medicaid payments
From Federal Funds $8,000,000E

SECTION 11.500. — To the Department of Social Services
For the MO HealthNet Division
For the purpose of funding grants to Federally Qualified Health Centers
From General Revenue Fund $9,250,000

SECTION 11.505. — To the Department of Social Services
For the MO HealthNet Division
For the purpose of funding a pilot project for rural health clinics using telehealth
From General Revenue Fund $265,000
From Federal Funds 436,430
Total $701,430

SECTION 11.510. — To the Department of Social Services
For the MO HealthNet Division
For the purpose of funding payments to hospitals under the Federal Reimbursement Allowance Program including state costs to pay for an independent audit of DSH payments as required by CMS and for the expenses of the Poison Control Center in order to provide services to all hospitals within the state
From Federal Reimbursement Allowance Fund $799,784,207E

SECTION 11.511. — To the Department of Social Services
There is hereby transferred out of the State Treasury, chargeable to the Department of Social Services Intergovernmental Transfer Fund to the General Revenue Fund for the purpose of providing the state match for Medicaid payments
From Department of Social Services Intergovernmental Transfer Fund $82,200,000E

SECTION 11.512. — To the Department of Social Services
For the Mo HealthNet Division
For the purpose of funding payments to the Tier 1 Safety Net Hospitals using Intergovernmental transfers
From Department of Social Services Intergovernmental Transfer Fund $66,300,000E
From Federal Funds 112,900,000E
Total $179,200,000

SECTION 11.515. — To the Department of Social Services
For the MO HealthNet Division
For funding extended women's health services using fee-for-service, prepaid health plans, or other alternative service delivery and reimbursement methodology approved by the director of the Department of Social Services

From General Revenue Fund	$1,245,779
From Federal Funds	11,833,516
From Federal Reimbursement Allowance Fund	167,756
From Pharmacy Reimbursement Allowance Fund	49,034

For the purpose of funding health care services provided to uninsured adults through local initiatives for the uninsured

From Federal and Other Funds	1E
Total	$13,296,086

SECTION 11.517. — To the Department of Social Services
For the MO HealthNet Division
For the purpose of implementing and administering the Show-Me Health Coverage Plan as established by SB 306, however, such appropriation shall be contingent upon passage and approval of SB 306 by the 95th General Assembly, First Regular Session and signing into law of SB 306

From Federal Reimbursement Allowance Fund	$52,615,793
From Federal Funds	94,273,635
Total	$146,889,428

***SECTION 11.520.** — To the Department of Social Services
For the MO HealthNet Division
For funding programs to enhance access to care for uninsured children using fee-for-services, prepaid health plans, or other alternative service delivery and reimbursement methodology approved by the director of the Department of Social Services. Provided that families of children receiving services under this section shall pay the following premiums to be eligible to receive such services: zero percent on the amount of a family's income which is less than 150 percent of the federal poverty level; four percent on the amount of a family's income which is less than 185 percent of the federal poverty level but greater than 150 percent of the federal poverty level; eight percent of the amount on a family's income which is less than 225 percent of the federal poverty level but greater than 185 percent of the federal poverty level; fourteen percent on the amount of a family's income which is less than 300 percent of the federal poverty level but greater than 225 percent of the federal poverty level not to exceed five percent of total income. Families with an annual income of more than 300 percent of the federal poverty level are ineligible for this program

From General Revenue Fund	$30,895,887
From MO HealthNet Managed Care Organization Reimbursement Allowance Fund	267,800
From Federal Funds	143,144,832
From Federal Reimbursement Allowance Fund	7,719,204
From Health Initiatives Fund	5,375,576
From Pharmacy Rebates Fund	225,430
From Pharmacy Reimbursement Allowance Fund	907,611
From Premium Fund	2,592,452
Total	$191,128,792

*I hereby veto $279,174 including $100,000 general revenue to increase dental rates in the Medicaid program. The appropriation will still include funding for a smaller rate increase. Given revenue constraints, a veto of these additional funds is necessary to ensure a balanced budget.

From $30,895,887 to $30,795,887 from General Revenue Fund.
From $143,144,832 to $142,965,658 from Federal Funds.
From $191,128,792 to $190,849,618 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

SECTION 11.525.— There is transferred out of the State Treasury from the General Revenue Fund to the Federal Reimbursement Allowance Fund
From General Revenue Fund $450,000,000E

SECTION 11.530.— There is transferred out of the State Treasury from the Federal Reimbursement Allowance Fund to the General Revenue Fund as a result of recovering the Federal Reimbursement Allowance Fund
From Federal Reimbursement Allowance Fund $450,000,000E

SECTION 11.535.— There is transferred out of the State Treasury from the General Revenue Fund to the Nursing Facility Federal Reimbursement Allowance Fund
From General Revenue Fund $120,000,000E

SECTION 11.540.— There is transferred out of the State Treasury from the Nursing Facility Federal Reimbursement Allowance Fund to the General Revenue Fund as a result of recovering the Nursing Facility Federal Reimbursement Allowance Fund
From Nursing Facility Federal Reimbursement Allowance Fund $120,000,000E

SECTION 11.545.— There is transferred out of the State Treasury from the Nursing Facility Federal Reimbursement Allowance Fund to the Nursing Facility Quality of Care Fund
From Nursing Facility Federal Reimbursement Allowance Fund $1,500,000

SECTION 11.550.— To the Department of Social Services
For the MO HealthNet Division
For the purpose of funding Nursing Facility Federal Reimbursement Allowance payments as provided by law
From Nursing Facility Federal Reimbursement Allowance Fund $235,091,756E

SECTION 11.555.— To the Department of Social Services
For the MO HealthNet Division
For the purpose of funding MO HealthNet services for the Department of Elementary and Secondary Education under the MO HealthNet fee-for-service and managed care programs
From General Revenue Fund $69,954
From Federal Funds 33,299,954E
Total $33,369,908

***SECTION 11.560.** — To the Department of Social Services
For the MO HealthNet Division
For the purpose of funding medical benefits for recipients of the state medical programs, including coverage in managed care programs and for the treatment of Sickle Cell Disease using the comprehensive chronic care risk management model as implemented by the state's Chronic Care Improvement Program

From General Revenue Fund	$29,421,161
From Pharmacy Reimbursement Allowance Fund	1,460,328
From Health Initiatives Fund	353,437
Total	$31,234,926

*I hereby veto $37,500 general revenue, to increase dental rates in the Medicaid program. The appropriation will still include funding for a smaller rate increase. Given revenue constraints, a veto of these additional funds is necessary to ensure a balanced budget.

From $29,421,161 to $29,383,661 from General Revenue Fund.
From $31,234,926 to $31,197,426 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

SECTION 11.565. — To the Department of Social Services
For the MO HealthNet Division
For the purpose of supplementing appropriations for any medical service under the MO HealthNet fee-for-service, managed care, or state medical programs, including related services and for the treatment of Sickle Cell Disease using the comprehensive chronic care risk management model as implemented by the state's Chronic Care Improvement Program, provided that the funds appropriated herein shall not be used to implement new programs or services and that such programs and services are in existence as of the effective date of this section

From Federal Funds	$24,107,486
From Premium Fund	3,837,940
From Third Party Liability Collections Fund	7,571,156
From Uncompensated Care Fund	1
From Federal Reimbursement Allowance Fund	1
From Nursing Facility Federal Reimbursement Allowance Fund	181,500
Total	$35,698,084

BILL TOTALS

General Revenue Fund	$1,520,263,903
Federal Budget Stabilization Fund	2,787,500
Federal Funds	4,006,249,143
Other Funds	1,945,406,004
Total	$7,474,706,550

Approved June 25, 2009

HB 12 [CCS SCS HCS HB 12]

APPROPRIATIONS: CHIEF EXECUTIVE'S OFFICE AND MANSION, LT. GOVERNOR, SECRETARY OF STATE, STATE AUDITOR, STATE TREASURER, ATTORNEY GENERAL, MISSOURI PROSECUTING ATTORNEYS AND CIRCUIT ATTORNEYS RETIREMENT SYSTEMS, JUDICIARY, OFFICE OF THE STATE PUBLIC DEFENDER, GENERAL ASSEMBLY, MISSOURI COMMISSION ON INTERSTATE COOPERATION, COMMITTEE ON LEGISLATIVE RESEARCH, VARIOUS JOINT COMMITTEES AND INTERIM COMMITTEES.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Chief Executive's Office and Mansion, Lieutenant Governor, Secretary of State, State Auditor, State Treasurer, Attorney General, Missouri Prosecuting Attorneys and Circuit Attorneys Retirement Systems, and the Judiciary and the Office of the State Public Defender, and the several divisions and programs thereof, and for the payment of salaries and mileage of members of the State Senate and the House of Representatives and contingent expenses of the General Assembly, including salaries and expenses of elective and appointive officers and necessary capital improvements expenditures; for salaries and expenses of members and employees and other necessary operating expenses of the Missouri Commission on Interstate Cooperation, the Committee on Legislative Research, various joint committees, for the expenses of the interim committees established by the General Assembly, and to transfer money among certain funds, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the period beginning July 1, 2009 and ending June 30, 2010.

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

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated, for the period beginning July 1, 2009 and ending June 30, 2010 as follows:

SECTION 12.005.— To the Governor
Personal Service and/or Expense and Equipment $2,084,261
Personal Service and/or Expense and Equipment for the Mansion 142,628
From General Revenue Fund (Not to exceed 39.00 F.T.E.) $2,226,889

SECTION 12.010.— To the Governor
For expenses incident to emergency duties performed by the National Guard when ordered out by the Governor
From General Revenue Fund $1E

SECTION 12.015.— To the Governor
For conducting special audits
From General Revenue Fund $30,000

SECTION 12.020.— To the Governmental Emergency Fund Committee
For allocation by the committee to state agencies that qualify for emergency or supplemental funds under the provisions of Section 33.720, RSMo
From General Revenue Fund $1E

SECTION 12.025.— To the Lieutenant Governor
Personal Service and/or Expense and Equipment
From General Revenue Fund (Not to exceed 8.50 F.T.E.) $433,117

SECTION 12.030.— To the Lieutenant Governor
For the Veteran's Remembrance Project
From Federal Budget Stabilization Fund $600,000

SECTION 12.035.— To the Secretary of State
Personal Service and/or Expense and Equipment
From General Revenue Fund $9,772,542
From Federal Funds and Other Funds 856,639
From Secretary of State's Technology Trust Fund Account 6,407,190
From Local Records Preservation Fund 1,562,485
From Secretary of State - Wolfner State Library Fund 14,500
From Investor Education and Protection Fund 1,195,894
From Election Administrative Improvement Fund 261,191
From National Endowment Humanities Save America Treasures Grant 241,949
Total (Not to exceed 280.30 F.T.E.) $20,312,390

SECTION 12.040.— To the Secretary of State
For the purpose of receiving and expending grants, donations, contracts, and payments from private, federal, or other governmental agencies provided that the General Assembly shall be notified of the source of any new funds and the purpose for which they will be expended, in writing, prior to the expenditure of said funds
From Federal Funds and Other Funds $200,000E

SECTION 12.045.— To the Secretary of State
For costs related to the publication of the State's Official Manual
From Federal Budget Stabilization Fund $500,000

SECTION 12.050.— To the Secretary of State
For refunds of securities, corporations, uniform commercial code, and miscellaneous collections of the Secretary of State's Office
From General Revenue Fund $50,000E

SECTION 12.055.— To the Secretary of State
For reimbursement to victims of securities fraud and other violations pursuant to Section 409.407, RSMo
From Investors Restitution Fund $55,000E

SECTION 12.060.— To the Secretary of State
For expenses of initiative referendum and constitutional amendments
From General Revenue Fund $100,000E

SECTION 12.065.— To the Secretary of State
For election costs associated with absentee ballots
From General Revenue Fund $50,000E

SECTION 12.070.— To the Secretary of State
For costs associated with providing provisional ballots and voter

registration applications
From General Revenue Fund $21,395

SECTION 12.075.— To the Secretary of State
For election reform grants, transactions costs, election administration improvements within Missouri, and support of Help America Vote Act activities
From Federal Funds and Other Funds $13,709,152E

SECTION 12.080.— There is transferred out of the State Treasury, chargeable to the General Revenue Fund such amounts as may become necessary, to the State Elections Subsidy Fund
From General Revenue Fund $4,284,000E

SECTION 12.085.— To the Secretary of State
For the state's share of special election costs as required by Chapter 115, RSMo
From State Elections Subsidy Fund $400,000E

SECTION 12.090.— There is transferred out of the State Treasury, chargeable to the State Elections Subsidy Fund, to the Election Administration Improvement Fund
From State Elections Subsidy Fund $3,784,000E

SECTION 12.095.— To the Secretary of State
For historical repository grants
From Federal Funds $15,000

SECTION 12.105.— To the Secretary of State
For local records preservation grants
From Local Records Preservation Fund $400,000E

SECTION 12.110.— To the Secretary of State
For preserving legal, historical, and genealogical materials and making them available to the public
From State Document Preservation Fund $189,260E

For costs related to establishing and operating a St. Louis Record Center
From Missouri State Archives - St. Louis Trust Fund 1E
Total $189,261

SECTION 12.115.— To the Secretary of State
For aid to public libraries
From General Revenue Fund $4,004,456

SECTION 12.120.— To the Secretary of State
For the Remote Electronic Access for Libraries (REAL) Program
From General Revenue Fund $3,109,250

SECTION 12.125.— To the Secretary of State
For the Literacy Investment for Tomorrow (LIFT) Program
From General Revenue Fund $69,450

SECTION 12.130. — To the Secretary of State
For all allotments, grants, and contributions from the federal government or from any sources that may be deposited in the State Treasury for the use of the Missouri State Library
From Federal Funds $2,750,000E

SECTION 12.135. — To the Secretary of State
For library networking grants and other grants and donations
From Library Networking Fund $4,507,501E

SECTION 12.140. — To the Secretary of State
There is transferred out of the State Treasury, chargeable to the General Revenue Fund, to the Library Networking Fund
From General Revenue Fund $1,607,500

SECTION 12.145. — To the State Auditor
Personal Service and/or Expense and Equipment
From General Revenue Fund $6,856,182
From Federal Funds 512,393
From Conservation Commission Fund 45,651
From Parks Sales Tax Fund 21,496
From Soil and Water Sales Tax Fund 20,728
From Petition Audit Revolving Trust Fund 844,350
Total (Not to exceed 168.77 F.T.E.) $8,300,800

SECTION 12.150. — To the State Treasurer
Personal Service and/or Expense and Equipment
From State Treasurer's General Operations Fund $1,824,020
From Central Check Mailing Service Revolving Fund 247,978E
From Workers' Compensation - Second Injury Fund 45,069

For Unclaimed Property Division administrative costs including personal service, expense and equipment for auctions, advertising, and promotions
From Abandoned Fund Account 841,001E

For preparation and dissemination of information or publications, or for refunding overpayments
From Treasurer's Information Fund 8,000
Total (Not to exceed 49.40 F.T.E.) $2,966,068

SECTION 12.155. — To the State Treasurer
For issuing duplicate checks or drafts and outlawed checks as provided by law
From General Revenue Fund $1,000,000E

SECTION 12.160. — To the State Treasurer
For payment of claims for abandoned property transferred by holders to the state
From Abandoned Fund Account $22,500,000E

SECTION 12.165. — To the State Treasurer
For transfer of such sums as may be necessary to make payment of claims from the Abandoned Fund Account pursuant to Chapter 447, RSMo

From General Revenue Fund $1E

SECTION 12.170.— To the State Treasurer
There is transferred out of the State Treasury, chargeable to the Abandoned Fund Account, to the General Revenue Fund
From Abandoned Fund Account $30,000,000E

SECTION 12.175.— To the State Treasurer
For refunds of excess interest from the Linked Deposit Program
From General Revenue Fund $100E

SECTION 12.180.— To the State Treasurer
There is transferred out of the State Treasury, chargeable to the Debt Offset Escrow Fund, to the General Revenue Fund
From Debt Offset Escrow Fund $100,000E

SECTION 12.185.— To the State Treasurer
There is transferred out of the State Treasury, chargeable to various funds, to the General Revenue Fund
From Various Funds $1E

SECTION 12.190.— To the State Treasurer
There is transferred out of the State Treasury, chargeable to the Abandoned Fund Account, to the State Public School Fund
From Abandoned Fund Account $1,500,000E

***SECTION 12.195.**— To the Attorney General
Personal Service and/or Expense and Equipment

From General Revenue Fund	$13,721,018
From Federal Funds	2,221,077
From Gaming Commission Fund	140,029
From Natural Resources Protection Fund-Water Pollution Permit Fee Subaccount	41,327
From Solid Waste Management Fund	41,827
From Petroleum Storage Tank Insurance Fund	25,108
From Motor Vehicle Commission Fund	49,467
From Health Spa Regulatory Fund	5,000
From Natural Resources Protection Fund-Air Pollution Permit Fee Subaccount	41,302
From Attorney General's Court Costs Fund	187,000
From Soil and Water Sales Tax Fund	14,464
From Merchandising Practices Revolving Fund	2,566,162
From Workers' Compensation Fund	468,101
From Workers' Compensation - Second Injury Fund	3,061,571
From Lottery Enterprise Fund	55,256
From Attorney General's Anti-Trust Fund	624,232
From Hazardous Waste Fund	298,481
From Safe Drinking Water Fund	14,489
From Inmate Incarceration Reimbursement Act Revolving Fund	137,584
From Mined Land Reclamation Fund	14,459
Total (Not to exceed 409.05 F.T.E.)	$23,727,954

*I hereby veto $42,500 Workers' Compensation - Second Injury Fund for the purpose of hiring one of four additional assistant attorneys general. Three new staff should be sufficient to fulfill these responsibilities.

Personal Service and/or Expense and Equipment by $42,500 from $3,061,571 to $3,019,071 Workers' Compensation - Second Injury Fund.
From $23,727,954 to $23,685,454 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

SECTION 12.200.— To the Attorney General
For law enforcement, domestic violence, and victims' services
Expense and Equipment
From Federal Funds $100,000

SECTION 12.205.— To the Attorney General
For a Medicaid fraud unit
Personal Service and/or Expense and Equipment
From General Revenue Fund $561,050
From Federal Funds 1,683,148
Total (Not to exceed 23.00 F.T.E.) $2,244,198

SECTION 12.210.— To the Attorney General
For the Missouri Office of Prosecution Services
Personal Service and/or Expense and Equipment
From General Revenue 107,900
From Federal Funds 1,070,855
From Missouri Office of Prosecution Services Fund 2,020,441
From Missouri Office of Prosecution Services Revolving Fund 150,000E
Total (Not to exceed 9.00 F.T.E.) $3,349,196

SECTION 12.215.— To the Attorney General
For the Missouri Office of Prosecution Services
There is transferred out of the State Treasury, chargeable to the Attorney General Federal Fund, to the Missouri Office of Prosecution Services Fund
From Federal Funds $100,000

SECTION 12.220.— To the Attorney General
For the fulfillment or failure of conditions, or other such developments, necessary to determine the appropriate disposition of such funds, to those individuals, entities, or accounts within the State Treasury, certified by the Attorney General as being entitled to receive them
Expense and Equipment
From Attorney General Trust Fund $1E

SECTION 12.225.— To the Attorney General
There is transferred out of the State Treasury, chargeable to the General Revenue Fund, to the Attorney General's Court Costs Fund
From General Revenue Fund $165,600

SECTION 12.230.— To the Attorney General
There is transferred out of the State Treasury, chargeable to the General Revenue Fund, to the Attorney General's Anti-Trust Fund

From General Revenue Fund $69,000

***SECTION 12.300.** — To the Supreme Court
For the purpose of funding Judicial Proceedings and Review
Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between Personal Service and Expense and Equipment
From General Revenue Fund $4,479,674
From Federal Budget Stabilization Fund 626,321

Personal Service
From Federal Funds 485,026

Expense and Equipment
From Supreme Court Publications Revolving Fund 150,000

For the purpose of funding basic legal services
Personal Service 51,968
Expense and Equipment 10,266
Program Specific Distribution 3,200,000E
From Basic Civic Legal Services Fund 3,262,234
Total (Not to exceed 83.00 F.T.E.) $9,003,255

*I hereby veto $100,000 Federal Budget Stabilization Fund for increased funding for the Supreme Court Library. Due to revenue shortfalls, a veto of these increased funds is necessary to ensure a balanced budget.

Personal Service and/or Expense and Equipment by $100,000 from $626,321 to $526,321 Federal Budget Stabilization Fund.
From $9,003,255 to $8,903,255 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

SECTION 12.305. — To the Supreme Court
For the purpose of funding the State Courts Administrator
Personal Service $3,074,789
Expense and Equipment 430,172
From General Revenue Fund 3,504,961

Personal Service 161,831
Expense and Equipment 99,720
From Federal Budget Stabilization Fund 261,551

For the purpose of implementing and supporting an integrated case management system
Personal Service 2,946,411
Expense and Equipment 3,957,093
From General Revenue Fund 6,903,504

Personal Service 155,074
Expense and Equipment 297,846
From Federal Budget Stabilization Fund 452,920

Expense and Equipment
From State Court Administration Revolving Fund 30,000

Expense and Equipment
From Crime Victims' Compensation Fund 887,200
Total (Not to exceed 136.00 F.T.E.) $12,040,136

SECTION 12.310. — To the Supreme Court
For the purpose of funding all grants and contributions of funds from the federal government or from any other source which may be deposited in the State Treasury for the use of the Supreme Court and other state courts
Personal Service $2,217,578
Expense and Equipment 5,609,649E
From Federal Funds 7,827,227

Personal Service 30,942
Expense and Equipment 300
From Basic Civil Legal Services Fund 31,242
Total (Not to exceed 45.25 F.T.E.) $7,858,469

SECTION 12.315. — To the Supreme Court
For the purpose of developing and implementing a program of statewide court automation
Personal Service $1,561,021
Expense and Equipment 2,885,181E
From the Statewide Court Automation Fund, and any grants, contributions, or receipts from the federal government or any other source deposited into the State Treasury for court automation
(Not to exceed 34.00 F.T.E.) $4,446,202

SECTION 12.320. — There is transferred out of the State Treasury, chargeable to the General Revenue Fund, to the Judiciary Education and Training Fund
From General Revenue Fund $1,297,688
From Federal Budget Stabilization Fund 97,675
Total $1,395,363

SECTION 12.325. — To the Supreme Court
For the purpose of funding judicial education and training
Expense and Equipment
From Federal Funds $225,000

Personal Service 618,477
Expense and Equipment 1,033,445
From Judiciary Education and Training Fund 1,651,922
Total (Not to exceed 13.00 F.T.E.) $1,876,922

SECTION 12.330. — To the Supreme Court
For the purpose of funding the Court of Appeals-Western District
Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between Personal Service and Expense and Equipment
From General Revenue Fund $3,616,543

From Federal Budget Stabilization Fund 125,075
Total (Not to exceed 53.50 F.T.E.) $3,741,618

SECTION 12.335. — To the Supreme Court
For the purpose of funding the Court of Appeals-Eastern District
Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between Personal Service and Expense and Equipment
From General Revenue Fund $4,658,559
From Federal Budget Stabilization Fund 159,878
Total (Not to exceed 73.75 F.T.E.) $4,818,437

SECTION 12.340. — To the Supreme Court
For the purpose of funding the Court of Appeals-Southern District
Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between Personal Service and Expense and Equipment
From General Revenue Fund $2,237,986
From Federal Budget Stabilization Fund 76,309
Total (Not to exceed 31.60 F.T.E.) $2,314,295

SECTION 12.345. — To the Supreme Court
For the purpose of funding the Circuit Courts
Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between Personal Service and Expense and Equipment $120,241,375
Expense and Equipment 571,003
From General Revenue Fund 120,812,378

Personal Service and Expense and Equipment
From Federal Budget Stabilization Fund 4,046,398

Personal Service 1,541,273
Expense and Equipment 329,661
From Federal Funds 1,870,934

Personal Service 252,524
Expense and Equipment 128,039
From Third Party Liability Collections Fund 380,563

Expense and Equipment
From State Court Administration Revolving Fund 200,000

Program Distribution
For Entitlement Programs
From General Revenue Fund 2,071,000
From Federal Budget Stabilization Fund 155,882
Total (Not to exceed 2,928.20 F.T.E.) $129,537,155

SECTION 12.350. — To the Supreme Court
For the purpose of making payments due from litigants in court proceedings under set-off against debts authority as provided in Section 488.020(3), RSMo

From Circuit Courts Escrow Fund $505,500E

For the payment to counties for salaries of juvenile court personnel as provided by Sections 211.393 and 211.394, RSMo
From General Revenue Fund 6,854,960
From Federal Budget Stabilization Fund 724,940

For the purpose of funding the court-appointed special advocacy program statewide office
From General Revenue Fund 279,000
From Federal Budget Stabilization Fund 21,000

For the purpose of funding court-appointed special advocacy programs as provided in Section 476.777, RSMo
From Missouri CASA Fund 100,000E

For the purpose of funding costs associated with creating the handbook and other programs as provided in Section 452.554, RSMo
From the Domestic Relations Resolution Fund 300,000
Total $8,785,400

SECTION 12.355.— There is transferred out of the State Treasury, chargeable to the General Revenue Fund, to the Drug Court Resources Fund
From General Revenue Fund $5,725,500

SECTION 12.360.— To the Supreme Court
For the purpose of funding drug courts
Personal Service $193,656
Expense and Equipment 5,723,698E
From the Drug Court Resources Fund, and any grants, contributions, or receipts from the federal government or any other source deposited into the State Treasury for drug courts (Not to exceed 4.00 F.T.E.) $5,917,354

SECTION 12.365.— To the Commission on Retirement, Removal, and Discipline of Judges
For the purpose of funding the expenses of the Commission Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between personal service and expense and equipment
From General Revenue Fund (Not to exceed 2.75 F.T.E.) $220,644

SECTION 12.370.— To the Supreme Court
For the purpose of funding the expenses of the members of the Appellate Judicial Commission and the several circuit judicial commissions in circuits having the non-partisan court plan, and for services rendered by clerks of the Supreme Court, courts of appeals, and clerks in circuits having the non-partisan court plan for giving notice of and conducting elections as ordered by the Supreme Court
From General Revenue Fund $7,741

SECTION 12.375.— To the Supreme Court
For the purpose of funding the Missouri Sentencing and Advisory Commission

Personal Service	$35,316
Expense and Equipment	43,667
From General Revenue Fund (Not to exceed 1.00 F.T.E.)	$78,983

SECTION 12.400. — To the Office of the State Public Defender

For the purpose of funding the State Public Defender System	
Personal Service and/or Expense and Equipment	$31,649,041
For payment of expenses as provided by Chapter 600, RSMo, associated with the defense of violent crimes and/or the contracting of criminal representation with entities outside of the Missouri Public Defender System	2,558,059
From General Revenue Fund	34,207,100
For expenses authorized by the Public Defender Commission as provided by Section 600.090, RSMo	
Personal Service	129,507
Expense and Equipment	2,850,756
From Legal Defense and Defender Fund	2,980,263
For refunds set-off against debts as required by Section 143.786, RSMo	
From Debt Offset Escrow Fund	350,000E
For all grants and contributions of funds from the federal government or from any other source which may be deposited in the State Treasury for the use of the Office of the State Public Defender	
From Federal Funds	125,000
Total (Not to exceed 572.13 F.T.E.)	$37,662,363

SECTION 12.500. — To the Senate

Salaries of Members	$1,152,156
Mileage of Members	96,435
Senate Per Diem	226,100
Senate Contingent Expenses	9,245,883
Joint Contingent Expenses	125,000
Annual salary adjustment in accordance with Section 105.005, RSMo	74,454
From General Revenue Fund	10,920,028
Senate Contingent Expenses	
From Senate Revolving Fund	40,000
Total (Not to exceed 214.00 F.T.E.)	$10,960,028

SECTION 12.505. — To the House of Representatives

Salaries of Members	$5,493,197
Mileage of Members	440,491
Members' Per Diem	1,290,960
Representatives' Expense Vouchers	1,566,554
House Contingent Expenses	11,327,028
Annual salary adjustment in accordance with Section 105.005, RSMo	367,948
From General Revenue Fund	20,486,178
House Contingent Expenses	
From House of Representatives Revolving Fund	45,000E
Total (Not to exceed 441.84 F.T.E.)	$20,531,178

SECTION 12.510. — To the Missouri Commission on Interstate Cooperation
For payment of dues
National Conference of State Legislatures $169,850
American Legislative Exchange Council 9,850
National Conference of Commissioners of Uniform State Laws 36,000
Council of State Governments 128,897
From Federal Budget Stabilization Fund $344,597

***SECTION 12.515.** — To the Committee on Legislative Research
For payment of expenses of members, salaries and expenses of employees, and other necessary operating expenses, provided that not more than twenty-five percent (25%) flexibility is allowed between each appropriation
For the Legislative Research Administration $1,054,354
For the Oversight Division 685,522
For the Legislative Budget Office 242,535
From General Revenue Fund 1,982,411

Performance Measure Evaluation
From Federal Budget Stabilization Fund 90,000
Total (Not to exceed 40.20 F.T.E.) $2,072,411

*I hereby veto $90,000 Federal Budget Stabilization Fund for performance measure evaluation. Program evaluation will continue to be a focus of each department, but due to revenue shortfalls, a veto of these funds is necessary to ensure a balanced budget.

From $90,000 to $0 from Federal Budget Stabilization Fund.
From $2,072,411 to $1,982,411 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

SECTION 12.520. — To the Committee on Legislative Research
For paper, printing, binding, editing, proofreading, and other necessary expenses of publishing the Supplement to the Revised Statutes of the State of Missouri
From General Revenue Fund $380,459

From Statutory Revision Fund 207,255E
Total (Not to exceed 6.30 F.T.E.) $587,714

SECTION 12.525. — To the Interim Committees of the General Assembly
For the Joint Committee on Corrections $12,000
For the Joint Committee on Administrative Rules 128,977
For the Joint Committee on Public Employee Retirement 169,274
For the Joint Committee on Capital Improvements and Leases Oversight 129,300
For the Joint Committee on Transportation Oversight 5,000
For the Joint Committee on Tax Policy 78,045
For the Joint Committee on Education 81,800
From General Revenue Fund (Not to exceed 9.00 F.T.E.) $604,396

ELECTED OFFICIALS TOTALS

General Revenue Fund	$48,189,352
Federal Budget Stabilization Fund	1,100,000
Federal Funds	23,621,404
Other Funds	45,554,692
Total	$118,465,448

JUDICIARY TOTALS

General Revenue Fund	$162,749,121
Federal Budget Stabilization Fund	6,747,949
Federal Funds	10,408,187
Other Funds	10,292,941
Total	$190,198,198

PUBLIC DEFENDER COMMISSION TOTALS

General Revenue Fund	$34,207,100
Federal Funds	125,000
Other Funds	2,980,263
Total	$37,312,363

GENERAL ASSEMBLY TOTALS

General Revenue Fund	$34,373,472
Federal Budget Stabilization Fund	434,597
Other Funds	292,255
Total	$35,100,324

Approved June 25, 2009

HB 13 [CCS SCS HB 13]

APPROPRIATIONS: LEASES AND CAPITAL IMPROVEMENTS.

AN ACT to appropriate money for real property leases, related services, utilities, systems furniture, structural modifications, and related expenses for the several departments of state government and the divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to appropriate money for capital improvements and the other expenses of the Office of Administration and the divisions and programs thereof, and to transfer money among certain funds for the period beginning July 1, 2009 and ending June 30, 2010.

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

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2009 and ending June 30, 2010 as follows:

SECTION 13.005. — To the Office of Administration
For the Division of Facilities Management, Design and Construction

For the Department of Elementary and Secondary Education
For the payment of real property leases, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From General Revenue Fund $362,396
From Federal Funds and Other Funds 2,195,167

For operation of state-owned facilities, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From General Revenue Fund 452,780
From Federal Funds and Other Funds 1,079,085

For operation of institutional facilities, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From General Revenue Fund 2,655,491
Total $6,744,919

SECTION 13.010.— To the Office of Administration
For the Division of Facilities Management, Design and Construction
For the Department of Higher Education
For the payment of real property leases, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From General Revenue Fund $111,997
From Other Funds 214,898
Total $326,895

SECTION 13.015.— To the Office of Administration
For the Division of Facilities Management, Design and Construction
For the Department of Revenue
For the payment of real property leases, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From General Revenue Fund $747,302

For operation of state-owned facilities, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From General Revenue Fund 684,381
From Facilities Maintenance Reserve Fund 1,557,251
Total $2,988,934

SECTION 13.020.— To the Office of Administration
For the Division of Facilities Management, Design and Construction
For the Department of Revenue
For the State Lottery Commission
For the payment of real property leases, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From Other Funds $438,280

For operation of state-owned facilities, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From Other Funds 2,953

For operation of institutional facilities, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From Other Funds 130,435
Total $571,668

SECTION 13.025.— To the Office of Administration
For the Division of Facilities Management, Design and Construction
For the Office of Administration
For the payment of real property leases, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From General Revenue Fund $180,976
From Other Funds 522,983

For operation of state-owned facilities, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From General Revenue Fund 2,134,094
From Other Funds 723,031
Total $3,561,084

SECTION 13.030.— To the Office of Administration
For the Division of Facilities Management, Design and Construction
For the Office of Administration
For the collection and payment of real property leases, related services, utilities, systems furniture, structural modifications, and related expenses for non-state agencies located in state leased property
Expense and Equipment
From Office of Administration Revolving Administrative Trust Fund $119,233E

For collection and payment due for the operation of state-owned facilities, related services, utilities, systems furniture, structural modifications, and related expenses for space occupied by non-state agencies
Expense and Equipment
From Office of Administration Revolving Administrative Trust Fund 447,622E

For collection and payment due for the operation of institutional facilities, related services, utilities, systems furniture, structural modifications, and related expenses for space occupied by non-state agencies
From Office of Administration Revolving Administrative Trust Fund 279,767E
Total $846,622

SECTION 13.035.— To the Office of Administration
For the Division of Facilities Management, Design and Construction
For the Ethics Commission

For the payment of real property leases, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From General Revenue Fund $83,500

SECTION 13.040. — To the Office of Administration
For the Division of Facilities Management, Design and Construction
For the Department of Agriculture
For the payment of real property leases, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From General Revenue Fund $290,479
From Federal and Other Funds 108,508

For operation of state-owned facilities, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From General Revenue Fund 291,253
From Federal Funds and Other Funds 120,793

For operation of institutional facilities, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From Other Funds 467,177
Total $1,278,210

SECTION 13.045. — To the Office of Administration
For the Division of Facilities Management, Design and Construction
For the Department of Natural Resources
For the payment of real property leases, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From General Revenue Fund $286,647
From Federal Funds and Other Funds 1,584,569

For operation of state-owned facilities, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From General Revenue Fund 322,648
From Federal Funds and Other Funds 1,082,678
Total $3,276,542

SECTION 13.050. — To the Office of Administration
For the Division of Facilities Management, Design and Construction
For the Department of Economic Development
For the payment of real property leases, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From General Revenue Fund $81,597
From Federal Funds and Other Funds 2,708,611

For operation of state-owned facilities, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From General Revenue Fund 185,733

From Federal Funds and Other Funds 1,331,265
Total $4,307,206

SECTION 13.055. — To the Office of Administration
For the Division of Facilities Management, Design and Construction
For the Department of Insurance, Finance and Professional Registration
For the payment of real property leases, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From Other Funds $111,233

For operation of state-owned facilities, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From Other Funds 866,341
Total $977,574

SECTION 13.060. — To the Office of Administration
For the Division of Facilities Management, Design and Construction
For the Department of Labor and Industrial Relations
For the payment of real property leases, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From General Revenue Fund $7,539
From Federal Funds and Other Funds. 338,215

For operation of state-owned facilities, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From General Revenue Fund 57,831
From Federal Funds and Other Funds 1,431,768
Total $1,835,353

SECTION 13.065. — To the Office of Administration
For the Division of Facilities Management, Design and Construction
For the Department of Public Safety
For the payment of real property leases, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From General Revenue Fund $501,709
From Federal Funds 79,528

For operation of state-owned facilities, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From General Revenue Fund 208,060
From Federal Funds and Other Funds 135,816

For operation of institutional facilities, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From General Revenue Fund 2,190,395
From Other Funds 43,357
Total $3,158,865

SECTION 13.070. — To the Office of Administration
For the Division of Facilities Management, Design and Construction
For the Department of Public Safety
For the State Highway Patrol
For the payment of real property leases, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From General Revenue Fund $35,923
From Federal Funds and Other Funds. 1,073,903

For operation of state-owned facilities, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From Other Funds 121,438

For operation of institutional facilities, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From General Revenue Fund 287,878
From Federal Funds and Other Funds 1,787,937
Total $3,307,079

SECTION 13.075. — To the Office of Administration
For the Division of Facilities Management, Design and Construction
For the Department of Public Safety
For the Adjutant General
For the payment of real property leases, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From Federal Funds $977,287E

For operation of institutional facilities, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From General Revenue Fund 873,796
From Federal Funds and Other Funds 4,116,009E
Total $5,967,092

SECTION 13.080. — To the Office of Administration
For the Division of Facilities Management, Design and Construction
For the Department of Public Safety
For the Gaming Commission
For the payment of real property leases, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment

From Gaming Commission Fund $524,239

SECTION 13.085.— To the Office of Administration
For the Division of Facilities Management, Design and Construction
For the Department of Corrections
For the payment of real property leases, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From General Revenue Fund $7,014,872
From Other Funds 167,852

For operation of state-owned facilities, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From General Revenue Fund 1,002,378

For operation of institutional facilities, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From General Revenue Fund 44,141,614
From Other Funds 1,420,506
Total $53,747,222

SECTION 13.090.— To the Office of Administration
For the Division of Facilities Management, Design and Construction
For the Department of Mental Health
For the payment of real property leases, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From General Revenue Fund $2,264,873
From Federal Funds 4,789

For operation of state-owned facilities, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From General Revenue Fund 415,584
From Federal Funds and Other Funds 258,579

For operation of institutional facilities, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From General Revenue Fund 13,326,847
Total $16,270,672

SECTION 13.095.— To the Office of Administration
For the Division of Facilities Management, Design and Construction
For the Department of Health and Senior Services
For the payment of real property leases, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From General Revenue Fund $1,960,909
From Federal Funds 2,255,490

For operation of state-owned facilities, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From General Revenue Fund 686,191
From Federal Funds and Other Funds 981,957
Total $5,884,547

SECTION 13.100. — To the Office of Administration
For the Division of Facilities Management, Design and Construction
For the Department of Social Services
For the payment of real property leases, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From General Revenue Fund $10,967,212
From Federal Funds and Other Funds. 6,085,165

For operation of state-owned facilities, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From General Revenue Fund 5,314,142
From Federal Funds and Other Funds 749,113

For operation of institutional facilities, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From General Revenue Fund 512,083
From Federal Funds 758,692
Total $24,386,407

SECTION 13.105. — To the Office of Administration
For the Division of Facilities Management, Design and Construction
For the Governor's Office
For operation of state-owned facilities, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From General Revenue Fund $329,646

SECTION 13.110. — To the Office of Administration
For the Division of Facilities Management, Design and Construction
For the Lieutenant Governor's Office
For operation of state-owned facilities, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From General Revenue Fund $35,901

SECTION 13.115. — To the Office of Administration
For the Division of Facilities Management, Design and Construction
For the State Legislature
For the payment of real property leases, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From General Revenue Fund $7,846

For operation of state-owned facilities, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From General Revenue Fund 1,924,784
Total $1,932,630

SECTION 13.120. — To the Office of Administration
For the Division of Facilities Management, Design and Construction
For the Secretary of State
For the payment of real property leases, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From General Revenue Fund $892,353
From Other Funds 3,592

For operation of state-owned facilities, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From General Revenue Fund 1,017,857
From Other Funds 40,972
Total $1,954,774

SECTION 13.125. — To the Office of Administration
For the Division of Facilities Management, Design and Construction
For the State Auditor
For the payment of real property leases, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From General Revenue Fund $23,424

For operation of state-owned facilities, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From General Revenue Fund 213,985
Total $237,409

SECTION 13.130. — To the Office of Administration
For the Division of Facilities Management, Design and Construction
For the Attorney General
For the payment of real property leases, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From General Revenue Fund $583,606
From Federal Funds and Other Funds. 332,804

For operation of state-owned facilities, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From General Revenue Fund 444,921
From Federal Funds and Other Funds 236,372
Total $1,597,703

SECTION 13.135.— To the Office of Administration
For the Division of Facilities Management, Design and Construction
For the State Treasurer
For operation of state-owned facilities, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From Other Funds $214,836

SECTION 13.140.— To the Office of Administration
For the Division of Facilities Management, Design and Construction
For the Judiciary
For the payment of real property leases, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From General Revenue Fund $2,445,416
From Federal Funds and Other Funds 171,969

For operation of state-owned facilities, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From General Revenue Fund 268,426
Total $2,885,811

***SECTION 13.145.**— To the Office of Administration
For the Division of Facilities Management, Design and Construction
For the payment of rent shortfalls and other contingency needs of real property leases, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From General Revenue Fund $250,000
From Federal Funds and Other Funds 250,000

For the payment of rent shortfalls and other contingency needs for operation of state-owned and institutional facilities, related services, utilities, systems furniture, structural modifications, and related expenses
Expense and Equipment
From General Revenue Fund 250,000
From Federal Funds and Other Funds 250,000
Total $1,000,000

*I hereby veto $1,000,000, including $500,000 general revenue, from Real Estate contingency needs for projected efficiencies. A veto of these additional funds is necessary to ensure a balanced budget.

Said section is vetoed in its entirety from $500,000 to $0 from General Revenue Fund.
From $500,000 to $0 from Federal Funds and Other Funds.
From $1,000,000 to $0 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

BILL TOTALS

General Revenue Fund	$109,329,275
Federal Funds	24,007,966
Other Funds	13,099,628
Total	$146,436,869

Approved June 25, 2009

HB 14 [SCS HCS HB 14]

APPROPRIATIONS: SUPPLEMENTAL PURPOSES.

AN ACT to appropriate money for supplemental purposes for the several departments and offices of state government, and for the purchase of equipment, and for the payment of various claims for refunds, for persons, firms, and corporations, and for other purposes, and to transfer money among certain funds, from the funds designated for the fiscal period ending June 30, 2009.

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

SECTION 14.005. — To the Department of Elementary and Secondary Education
For distributions to the free public schools under the School Foundation Program as provided in Chapter 163, RSMo, as follows: At least $12,773,414 for the foundation formula; and no more than $14,319,304 for Early Childhood Special Education

From State School Moneys Fund	$1E
From Schools First Elementary and Secondary Education Improvement Fund	27,092,714E
From Lottery Proceeds Fund	1E
From Outstanding Schools Trust Fund1E From Classroom Trust Fund	1E
Total	$27,092,718

SECTION 14.020. — To the Department of Elementary and Secondary Education
For the Wallace Leadership Grants Program

From Federal Funds	$200,000

SECTION 14.025. — To the Department of Elementary and Secondary Education
For the Vocational Rehabilitation Program

From General Revenue Fund	$32,767
From Federal Funds	121,067
Total	$153,834

SECTION 14.030. — To the Department of Elementary and Secondary Education
For special education excess costs

From Schools First Elementary and Secondary Education Improvement Fund	$2,500,000

SECTION 14.035. — To the Department of Elementary and Secondary Education
Funds are to be transferred out of the State Treasury, chargeable to the General Revenue Fund, to the State School Moneys Fund

From General Revenue Fund	$1E

SECTION 14.040.— To the Department of Elementary and Secondary Education
Funds are to be transferred out of the State Treasury, chargeable to the Gaming Proceeds for Education Fund, to the Schools First Elementary and Secondary Education Improvement Fund
From Gaming Proceeds for Education Fund $29,592,714E

SECTION 14.045.— To the Department of Higher Education
Funds are to be transferred out of the State Treasury, chargeable to the Advantage Missouri Trust Fund, to the General Revenue Fund
From Advantage Missouri Trust Fund $735,000E

SECTION 14.050.— To the Department of Revenue
For the purpose of funding additional postage for plate reissuance
From State Highways and Transportation Department Fund $169,452

SECTION 14.055.— To the Department of Revenue
For the Division of Customer Services-Motor Vehicle and Driver Licensing Expense and Equipment
From General Revenue Fund $10,500

Personal Service 500E
Expense and Equipment 250,000E
From Federal Funds 250,500
Total $261,000

SECTION 14.060.— To the Department of Revenue
For payment of fees to counties for the filing of lien notices and lien releases
From General Revenue Fund $25,000

SECTION 14.065.— Funds are to be transferred out of the State Treasury, chargeable to the General Revenue Fund, to the State Highways and Transportation Department Fund, for reimbursement of collection expenditures in excess of the three percent limit established by Article IV, Sections 29, 30(a), 30(b), and 30(c)
From General Revenue Fund $1,110,269

SECTION 14.070.— To the Department of Revenue
For the State Lottery Commission
For motor fuel cost increases
From Lottery Enterprise Fund $34,450

SECTION 14.080.— To the Office of Administration
For the Information Technology Services Division Expense and Equipment
From Unemployment Automation Fund $5,000,000

SECTION 14.085.— To the Office of Administration
For the Division of Facilities Management, Design and Construction Asset Management
For the payment of fuel and utilities
From State Facility Maintenance and Operation Fund $1,746,297

SECTION 14.095. — To the Department of Economic Development
For the Division of Business and Community Services
For refunding any overpayment or erroneous payment of any amount that is credited to the Economic Development Advancement Fund
From Economic Development Advancement Fund $1E

SECTION 14.100. — To the Department of Economic Development
For the Office of the Film Commission
Expense and Equipment
From General Revenue Fund $97,480

SECTION 14.105. — To the Department of Economic Development
For Manufactured Housing
From Manufactured Housing Consumer Recovery Fund $48,000

SECTION 14.110. — To the Department of Economic Development
Funds are to be transferred out of the State Treasury, chargeable to the Manufactured Housing Fund, to the Manufactured Housing Consumer Recovery Fund
From Manufactured Housing Fund $48,000

SECTION 14.115. — To the Department of Insurance, Financial Institutions and Professional Registration
For the Missouri Dental Board
Expense and Equipment
From Dental Board Fund $51,984

SECTION 14.120. — To the Department of Insurance, Financial Institutions and Professional Registration
For the State Board of Nursing
Expense and Equipment
From Board of Nursing Fund $50,128

SECTION 14.125. — To the Department of Labor and Industrial Relations
For the Division of Workers' Compensation
For payment of special claims
From Workers' Compensation - Second Injury Fund $14,453,281

SECTION 14.130. — To the Department of Public Safety
For the State Highway Patrol
For gasoline expenses for State Highway Patrol vehicles, including aircraft and Gaming Commission vehicles
Expense and Equipment
From General Revenue Fund $70,169
From Gaming Commission Fund 88,834
From State Highways and Transportation Department Fund 637,010
Total $796,013

SECTION 14.135. — To the Department of Public Safety
For the State Water Patrol
Expense and Equipment
From General Revenue Fund $232,533

SECTION 14.140. — To the Department of Public Safety
For the Division of Alcohol and Tobacco Control
Expense and Equipment
From General Revenue Fund $22,002

SECTION 14.145. — To the Department of Public Safety
For the Division of Fire Safety
Expense and Equipment
From Elevator Safety Fund $1,212
From Boiler and Pressure Vessels Safety Fund 1,212
From Missouri Explosives Safety Act Administration Fund 303
Total $2,727

SECTION 14.150. — To the Department of Public Safety
For the Missouri Veterans' Commission
For Missouri Veterans' Homes
Expense and Equipment
From Missouri Veterans' Homes Fund $491,716

SECTION 14.155. — To the Department of Corrections
For the Division of Human Services
For the purchase, transportation, and storage of food and food service items, and operational expenses of food preparation facilities at all correctional institutions
Expense and Equipment
From General Revenue Fund $775,871

SECTION 14.160. — To the Department of Corrections
For the purpose of funding the Board of Probation and Parole
Personal Service
General Revenue Fund $2,931,580

SECTION 14.165. — To the Department of Mental Health
For the Office of the Director
For the purpose of paying overtime to state employees and/or paying otherwise authorized personal service expenditures in lieu of such overtime payments. Non-exempt state employees identified by Section 105.935, RSMo, will be paid first with any remaining funds being used to pay overtime to any other state employees
From General Revenue Fund $4,243,854

SECTION 14.170. — To the Department of Mental Health
For MO HealthNet treatment services department-wide
From General Revenue Fund $2,188,618
From Federal Funds 3,682,391E
Total $5,871,009

SECTION 14.175. — To the Department of Mental Health
For the Office of the Director
For the purpose of funding Shelter Plus Care grants
From Federal Funds $1,696,475

SECTION 14.180. — To the Department of Mental Health
For the Division of Comprehensive Psychiatric Services
For the provision of mental health services and support services to other agencies
From Mental Health Interagency Payments Fund $895,350

SECTION 14.185. — To the Department of Mental Health
To pay the state operated ICF/MR provider tax
From General Revenue Fund $227,276E

SECTION 14.190. — To the Department of Mental Health
For the Division of Developmental Disabilities
For services for children who are clients of the Department of Social Services
From Mental Health Interagency Payments Fund $2,000,000E

SECTION 14.192. — To the Department of Mental Health
There is hereby transferred out of the State Treasury, chargeable to the General Revenue Fund, to the Department of Social Services Intergovernmental Transfer Fund for the purpose of providing the state match for the Department of Mental Health payments
From General Revenue Fund $82,200,000E

SECTION 14.195. — To the Department of Health and Senior Services
For the Division of Senior and Disability Services
For the purpose of funding respite care, homemaker chore, personal care, advanced personal care, adult day care, AIDS, children's waiver services, home-delivered meals, and other related services under the MO HealthNet fee-for-service and managed care programs. Provided that individuals eligible for or receiving nursing home care must be given the opportunity to have those MO HealthNet dollars follow them to the community to the extent necessary to meet their unmet needs as determined by 19 CSR 30 81.030 and further be allowed to choose the personal care program option in the community that best meets the individuals' unmet needs. This includes the Consumer Directed MO HealthNet State Plan. And further provided that individuals eligible for the MO HealthNet Personal Care Option must be allowed to choose, from among all the program options, that option which best meets their unmet needs as determined by 19 CSR 30 81.030; and also be allowed to have their MO HealthNet funds follow them to the extent necessary to meet their unmet needs whichever option they choose. This language does not create any entitlements not established by statute. Upon receipt of a properly completed referral for MO HealthNet funded home and community-based care containing a nurse assessment or physician's order, the department shall review the recommendations regarding services and process the referral within fifteen (15) business days. When information contained in the referral is sufficient to establish eligibility for MO HealthNet funded long-term care and determine the level of service need as required pursuant to state and federal regulations, the department shall prior-authorize Home and Community-based services and arrange for the provision of services and the in-home provider shall be reimbursed for one authorized nurse visit to complete the nurse assessment. For authorized referrals, MO HealthNet reimbursement for personal care benefits shall be effective the date of the assessment or physician's order,

and MO HealthNet reimbursement for Waiver services shall be effective the date the state reviews and approves the care plan. At such time the state shall notify the referring entity. The department shall notify the referring entity if additional information is required to process the referral within five (5) business days of receiving the referral. The in-home provider shall be reimbursed a minimum of one (1) and no more than two (2) authorized nurse visits to make a properly completed referral. When information is insufficient or the proposed care plan requires additional evaluation by state staff that is not obtainable from the referring entity, the department shall inform the provider and contact the individual to schedule an in-home assessment to be conducted by the state staff within thirty (30) days

From General Revenue Fund $15,688,000
From Federal Funds 26,712,000
Total $42,400,000

SECTION 14.200.— To the Department of Social Services
For the MO HealthNet Division
For payment of attorney fees
From General Revenue Fund $105,000

SECTION 14.205.— To the Department of Social Services
For the MO HealthNet Division
For the purpose of funding health care technology projects and initiatives to improve the delivery of care, reduce administrative burdens, and reduce waste, fraud, and abuse
From Health Care Technology Fund $250,000

SECTION 14.215.— To the Department of Social Services
For the MO HealthNet Division
For the purpose of supplementing appropriations for any medical service under the MO HealthNet fee-for-service, managed care, or state medical programs, including related services and for the treatment of Sickle Cell Disease using the comprehensive chronic care risk management model as implemented by the state's Chronic Care Improvement Program, provided that the funds appropriated herein shall not be used to implement new programs or services and that such programs and services are in existence as of the effective date of this section
From Federal Funds $11,668,707
From Uncompensated Care Fund 8,317,899
Total $19,986,606

SECTION 14.217.— To the Department of Social Services
There is hereby transferred out of the State Treasury, chargeable to the Department of Social Services Intergovernmental Transfer Fund to the General Revenue Fund for the purpose of providing the state match for Medicaid payments
From Department of Social Services Intergovernmental Transfer Fund $82,200,000E

SECTION 14.218.— To the Department of Social Services
For the MO HealthNet Division

For the purpose of funding payments to the Tier 1 Safety Net Hospitals using Intergovernmental transfers
From Department of Social Services Intergovernmental Transfer Fund $66,300,000E
From Federal Funds 112,900,000E
Total $179,200,000

SECTION 14.220. — To the State Auditor
Personal Service and/or Expense and Equipment
From General Revenue Fund $44,067

SECTION 14.225. — To the Office of Administration
For the Division of Facilities Management, Design and Construction
For the Office of Administration
For collection and payment due for the operation of state-owned and institutional facilities, related services, utilities, systems furniture, structural modifications, and related expenses for space occupied by non-state agencies
Expense and Equipment
From General Revenue Fund $50,000

SECTION 14.230. — To the Office of Administration
For the Division of Facilities Management, Design and Construction
For payment of fuel and utilities
From General Revenue Fund $835,727
From Federal and Other Funds 1,440,681
Total $2,276,408

SECTION 14.235. — To the Department of Transportation
For the Construction and Maintenance Programs
Funds are to be transferred out of the State Treasury, chargeable to the Federal Stimulus Fund, to the State Road Fund, for reimbursement of expenditures for highway infrastructure investment projects pursuant to Title XII of the American Recovery and Reinvestment Act of 2009 as enacted by the 111th United States Congress
From the Federal Stimulus Fund $125,000,000E

SECTION 14.240. — To the Department of Transportation
For the Transit Program
Funds are to be transferred out of the State Treasury, chargeable to the Federal Stimulus Fund, to Federal Funds, for expenditures for transit capital assistance and capital investment projects pursuant to Title XII of the American Recovery and Reinvestment Act of 2009 as enacted by the 111th United States Congress
From the Federal Stimulus Fund $7,000,000E

SECTION 14.245. — To the Department of Transportation
For the Rail Program
Funds are to be transferred out of the State Treasury, chargeable to the Federal Stimulus Fund, to the Federal Funds, for expenditures for capital assistance for rail improvement projects pursuant to Title XII of the American Recovery and Reinvestment Act of 2009 as enacted by the 111th United States Congress

From the Federal Stimulus Fund $2,000,000E

SECTION 14.250.— To the Department of Transportation
For the Aviation Program
Funds are to be transferred out of the State Treasury, chargeable to the Federal Stimulus Fund, to Federal Funds, for expenditures for construction, capital improvements, planning and maintenance of aviation projects pursuant to Title XII of the American Recovery and Reinvestment Act of 2009 as enacted by the 111th United States Congress
From the Federal Stimulus Fund $2,500,000E

BILL TOTALS
General Revenue Fund $28,463,438
Federal Funds 157,863,090
Other Funds 125,987,186
Total $312,313,714

Approved April 7, 2009

HB 15 [HB 15]

APPROPRIATIONS: SUPPLEMENTAL PURPOSES.

AN ACT to appropriate money for supplemental purposes for the several departments and offices of state government, and for the payment of various claims for refunds, for persons, firms, and corporations, and for other purposes, and to transfer money among certain funds, from the funds designated for the fiscal period ending June 30, 2009.

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

There is appropriated out of the State Treasury, chargeable to the fund and for the agency and purpose designated, for the period ending June 30, 2009, as follows:

SECTION 15.005.— To the Department of Elementary and Secondary Education
For Vocational Rehabilitation Programs
From Federal Stimulus Fund $5,687,633

SECTION 15.010.— To the Department of Elementary and Secondary Education
For Independent Living Centers
From Federal Stimulus Fund $130,511

SECTION 15.015.— To the Office of Administration
For transferring funds for COBRA stimulus credits to the Missouri Consolidated Health Care Plan Benefit Fund $320,000
For transferring funds for COBRA stimulus credits to the State Road Fund . . . 40,000
For transferring funds for COBRA stimulus credits to the Conservation Commission Fund 40,000
From the OASDHI Contributions Fund $400,000

SECTION 15.020. — To the Office of Administration
For payment of COBRA stimulus credits to the Missouri Consolidated Health Care Plan
From Missouri Consolidated Health Care Plan Benefit Fund $320,000

For payment of COBRA stimulus credits to Missouri Department of Transportation/Missouri State Highway Patrol Medical & Life Insurance Plan
From State Road Fund 40,000

For payment of COBRA stimulus credits to Conservation Employees' Benefit Plan Trust Fund
From Conservation Commission Fund 40,000
Total $400,000

SECTION 15.025. — To the Office of Administration
For information technology services related to unemployment compensation
From Federal Stimulus Fund $22,440

SECTION 15.030. — To the Office of Administration
For transferring funds for all state employees and participating political subdivisions to the OASDHI Contributions Fund
From Federal Stimulus Fund $169,175E

SECTION 15.035. — To the Office of Administration
For the payment of OASDHI taxes for all state employees and for participating political subdivisions within the state to the Treasurer of the United States for compliance with current provisions of Title 2 of the Federal Social Security Act, as amended, in accordance with the agreement between the State Social Security Administrator and the Secretary of the Department of Health and Human Services; and for administration of the agreement under Section 218 of the Social Security Act which extends Social Security benefits to state and local public employees
From OASDHI Contributions Fund $169,175E

SECTION 15.040. — To the Office of Administration
For transferring funds for the state's contribution to the Missouri State Employees' Retirement System to the State Retirement Contributions Fund
From Federal Stimulus Fund $277,093E

SECTION 15.045. — To the Office of Administration
For payment of the state's contribution to the Missouri State Employees' Retirement System
From State Retirement Contributions Fund $277,093E

SECTION 15.050. — To the Office of Administration
For transferring funds for the state's contribution to the Missouri Consolidated Health Care Plan to the Missouri Consolidated Health Care Plan Benefit Fund
From Federal Stimulus Fund $304,194E

SECTION 15.055. — To the Office of Administration
For payment of the state's contribution to the Missouri Consolidated Health Care Plan
From Missouri Consolidated Health Care Plan Benefit Fund $304,194E

SECTION 15.057. — To the Department of Agriculture
For aquaculture producer assistance
From Federal Stimulus Fund $500,000E

SECTION 15.060. — To the Department of Natural Resources
For the promotion of energy, renewable energy, and energy efficiency, including administrative costs
From Federal Stimulus Fund $26,511,504E

SECTION 15.065. — To the Department of Natural Resources
For grants, contracts or loans pursuant to Sections 644.026 through 644.124, RSMo, including administrative costs
From Water and Wastewater Loan Fund $50,000,000

For grants, contracts or loans for drinking water systems pursuant to Sections 644.026 through 644.124, RSMo, including administrative costs
From Water and Wastewater Loan Fund 12,000,000
Total $62,000,000

SECTION 15.070. — To the Department of Natural Resources
For grants and contracts for air pollution control activities, including administrative costs
From Federal Stimulus Fund $807,845

SECTION 15.075. — To the Department of Natural Resources
For the cleanup of leaking underground storage tanks, including administrative costs
From Federal Stimulus Fund $454,094

SECTION 15.080. — To the Department of Conservation
For the control, management, restoration, conservation and regulation of the bird, fish, game, forestry and all wildlife resources of the state, including administrative costs
From Federal Stimulus Fund $250,000E

SECTION 15.085. — To the Department of Economic Development
For the purpose of receiving and expending grants for the Community Development Block Grant Program
From Federal Stimulus Fund $3,550,000

SECTION 15.100. — To the Department of Economic Development
For the purpose of receiving and expending grants for employment service activities, including administrative costs
From Federal Stimulus Fund $1,849,802

SECTION 15.105. — To the Department of Economic Development
For the purpose of receiving and expending grants for adult, youth and

dislocated workers employment and training activities, including administrative costs
From Federal Stimulus Fund $30,871,482

SECTION 15.110. — To the Department of Labor and Industrial Relations
For administration of unemployment insurance programs
From Federal Stimulus Fund $397,761E

SECTION 15.115. — To the Department of Labor and Industrial Relations
Funds are to be transferred, for reimbursement of costs incurred by Department of Labor and Industrial Relations Federal Funds, which are reimbursed by the US Department of Labor, in the following amount
From Federal Stimulus Fund $217,179E

SECTION 15.120. — To the Department of Labor and Industrial Relations
Funds are to be transferred, for payment of administrative costs, the following amount, to the Department of Labor and Industrial Relations Administrative Fund
From Federal Stimulus Fund $57,386E

SECTION 15.125. — To the Department of Public Safety
For the purpose of receiving and expending grants for the Violence Against Women Program, including administrative costs
From Federal Stimulus Fund $45,181

SECTION 15.130. — To the Department of Public Safety
For the purpose of receiving and expending grants for Crime Victims Assistance Grants Program, including administrative costs
From Federal Stimulus Fund $7,763

SECTION 15.135. — To the Department of Public Safety
For the purpose of receiving and expending grants for the Byrne/Justice Assistance Grants Program, including administrative costs
From Federal Stimulus Fund $217,074

SECTION 15.140. — To the Department of Health and Senior Services
For the Women, Infants and Children Nutrition Program, including administrative costs
From Federal Stimulus Fund $1,000,000E

SECTION 15.145. — To the Department of Health and Senior Services
For Senior Nutrition Services, including administrative costs
From Federal Stimulus Fund $1,917,189

SECTION 15.150. — To the Department of Health and Senior Services
For Community Service Employment for Older Americans, including administrative costs
From Federal Stimulus Fund $586,706

SECTION 15.155. — To the Department of Social Services
For administration of the Supplemental Nutrition Assistance Program
From Federal Stimulus Fund $3,240,639

SECTION 15.160. — To the Department of Social Services
For Emergency Shelter grants and services and homeless prevention initiatives
From Federal Stimulus Fund $1,000,000

SECTION 15.165. — To the Department of Social Services
For the Surplus Food Distribution Program and the receipt and disbursement of Donated Commodities Program payments
From Federal Stimulus Fund $491,616

SECTION 15.170. — To the Department of Social Services
For Child Support Enforcement services and initiatives
From Federal Stimulus Fund $4,234,364

SECTION 15.175. — To the Department of Social Services
For Department of Mental Health political subdivisions
From Federal Budget Stabilization Fund $2,392,359E

SECTION 15.180. — To the Department of Social Services
For Department of Elementary and Secondary Education political subdivisions
From Federal Budget Stabilization Fund $140,266E

SECTION 15.185. — To the Department of Social Services
For Department of Social Services political subdivisions
From Federal Budget Stabilization Fund $6,007,226E

BILL TOTALS
Federal Funds $93,338,482
Other Funds 62,400,000
Total $155,738,482

Approved May 13, 2009

HB 17 [SCS HCS HB 17]

APPROPRIATIONS: CAPITAL IMPROVEMENTS.

AN ACT to appropriate money for capital improvement and other purposes for the several departments of state government and the divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, from the funds herein designated for the period beginning July 1, 2009 and ending June 30, 2011.

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

There is appropriated out of the State Treasury, for the agency, program, and purpose stated, chargeable to the fund designated, for the period beginning July 1, 2009 and ending June 30, 2011 the unexpended balances available as of June 30, 2009 but not to exceed the amounts stated herein, as follows:

SECTION 17.005. — To the Office of Administration
For the Department of Elementary and Secondary Education

For maintenance, repairs, replacements, and improvements at facilities statewide
Representing expenditures originally authorized under the provisions of House Bill Section 18.005, an Act of the 94th General Assembly, First Regular Session
From Facilities Maintenance Reserve Fund $7,073,154

SECTION 17.010.— To the Office of Administration
For the Department of Elementary and Secondary Education
For the design, renovation, construction, and improvements of vocational technical schools. Local matching funds must be provided on a 50/50 state/local match rate in order to be eligible for state funds.
Representing expenditures originally authorized under the provisions of House Bill Section 23.003, an Act of the 94th General Assembly, Second Regular Session
For vocational education facilities in Columbia $2,495,095
For vocational education facilities in Waynesville 114,468
For vocational education facilities in Carthage 2,150,000
For vocational education facilities in Chillicothe 1,137,500
For vocational education facilities in Mexico 58,267
From General Revenue Fund 5,955,330

For vocational education facilities in Camdenton 1,250,000
For vocational education facilities in Poplar Bluff 250,000
For vocational education facilities in Monett 1,459,805
From Lottery Proceeds Fund 2,959,805
Total $8,915,135

SECTION 17.015.— To the Office of Administration
For the Department of Elementary and Secondary Education
For operational maintenance and repair
Representing expenditures originally authorized under the provisions of House Bill Section 18.015, an Act of the 94th General Assembly, First Regular Session
From Lottery Proceeds Fund $581,309

SECTION 17.020.— To the University of Central Missouri
For planning, design, renovation, and construction at the Morrow and Garrison Buildings
Representing expenditures originally authorized under the provisions of House Bill Section 16.035, an Act of the 94th General Assembly, First Regular Session, and most recently authorized under the provision of House Bill Section 17.255, an Act of the 94th General Assembly, First Regular Session
From Lewis and Clark Discovery Fund $12,399,284

SECTION 17.025.— To Harris-Stowe State University
For planning, design, renovation, and construction of an early childhood and parent education center
Representing expenditures originally authorized under the provisions of House Bill Section 16.040, an Act of the 94th General Assembly, First Regular Session, and most recently authorized under the provision

of House Bill Section 17.260, an Act of the 94th General Assembly, First Regular Session
From Lewis and Clark Discovery Fund $9,252,803

SECTION 17.030.— To Lincoln University
For planning, design, renovation, and construction at Jason Hall
Representing expenditures originally authorized under the provisions of House Bill Section 16.045, an Act of the 94th General Assembly, First Regular Session, and most recently authorized under the provision of House Bill Section 17.265, an Act of the 94th General Assembly, First Regular Session
From Lewis and Clark Discovery Fund $1,085,835

SECTION 17.035.— To Linn State Technical College
For planning, design, renovation, and construction of a new facility for heavy equipment technology
Representing expenditures originally authorized under the provisions of House Bill Section 16.050, an Act of the 94th General Assembly, First Regular Session, and most recently authorized under the provision of House Bill Section 17.270, an Act of the 94th General Assembly, First Regular Session
From Lewis and Clark Discovery Fund $4,393,526

SECTION 17.040.— To Missouri Southern State University
For planning, design, renovation, and construction of a health sciences building
Representing expenditures originally authorized under the provisions of House Bill Section 16.055, an Act of the 94th General Assembly, First Regular Session, and most recently authorized under the provision of House Bill Section 17.275, an Act of the 94th General Assembly, First Regular Session
From Lewis and Clark Discovery Fund $14,301,775

SECTION 17.045.— To Missouri State University
For planning, design, construction, and renovations necessary to implement phase one of the facilities reutilization plan
Representing expenditures originally authorized under the provisions of House Bill Section 16.060, an Act of the 94th General Assembly, First Regular Session, and most recently authorized under the provision of House Bill Section 17.280, an Act of the 94th General Assembly, First Regular Session
From Lewis and Clark Discovery Fund $27,363,101

SECTION 17.050.— To Missouri State University
For planning, design, renovation, and construction of a business incubator
Representing expenditures originally authorized under the provisions of House Bill Section 16.065, an Act of the 94th General Assembly, First Regular Session, and most recently authorized under the provision of House Bill Section 17.285, an Act of the 94th General Assembly, First Regular Session
From Lewis and Clark Discovery Fund $3,499,072

SECTION 17.055. — To Missouri Western State University
For planning, design, renovation, and construction of the Agenstein Science and Math facility
Representing expenditures originally authorized under the provisions of House Bill Section 16.070, an Act of the 94th General Assembly, First Regular Session, and most recently authorized under the provision of House Bill Section 17.290, an Act of the 94th General Assembly, First Regular Session
From Lewis and Clark Discovery Fund $25,112,770

SECTION 17.060. — To Northwest Missouri State University
For planning, design, renovation, and construction of a center for plant biologics
Representing expenditures originally authorized under the provisions of House Bill Section 16.075, an Act of the 94th General Assembly, First Regular Session, and most recently authorized under the provision of House Bill Section 17.295, an Act of the 94th General Assembly, First Regular Session
From Lewis and Clark Discovery Fund $12,896,196

SECTION 17.065. — To Southeast Missouri State University
For planning, design, renovation, and construction of a business incubator
Representing expenditures originally authorized under the provisions of House Bill Section 16.085, an Act of the 94th General Assembly, First Regular Session, and most recently authorized under the provision of House Bill Section 17.305, an Act of the 94th General Assembly, First Regular Session
From Lewis and Clark Discovery Fund $4,500,000

SECTION 17.070. — To Southeast Missouri State University
For planning, design, renovation, and construction of an autism center
Representing expenditures originally authorized under the provisions of House Bill Section 16.095, an Act of the 94th General Assembly, First Regular Session, and most recently authorized under the provision of House Bill Section 17.315, an Act of the 94th General Assembly, First Regular Session
From Lewis and Clark Discovery Fund $2,572,775

SECTION 17.075. — To Truman State University
For planning, design, renovation, and construction at the Pershing Building
Representing expenditures originally authorized under the provisions of House Bill Section 16.100, an Act of the 94th General Assembly, First Regular Session, and most recently authorized under the provision of House Bill Section 17.320, an Act of the 94th General Assembly, First Regular Session
From Lewis and Clark Discovery Fund $20,718,367

SECTION 17.080. — To the University of Missouri
For planning, design, renovation, and construction of a plant science research facility in Mexico, Missouri
Representing expenditures originally authorized under the provisions of House Bill Section 16.110, an Act of the 94th General Assembly, First Regular Session, and most recently authorized under the provision

of House Bill Section 17.325, an Act of the 94th General Assembly, First Regular Session
From Lewis and Clark Discovery Fund $5,000,000

SECTION 17.085. — To the University of Missouri
For planning, design, renovation, construction, and/or purchase of equipment for the Greenley Learning and Discovery Park
Representing expenditures originally authorized under the provisions of House Bill Section 16.115, an Act of the 94th General Assembly, First Regular Session, and most recently authorized under the provision of House Bill Section 17.330, an Act of the 94th General Assembly, First Regular Session
From Lewis and Clark Discovery Fund $1,887,572

SECTION 17.090. — To the University of Missouri
For planning, design, renovation, construction, and/or purchase of equipment for a plant science greenhouse at the Delta Research Center
Representing expenditures originally authorized under the provisions of House Bill Section 16.120, an Act of the 94th General Assembly, First Regular Session, and most recently authorized under the provision of House Bill Section 17.335, an Act of the 94th General Assembly, First Regular Session
From Lewis and Clark Discovery Fund $1,798,710

SECTION 17.095. — To the University of Missouri
For planning, design, renovation, construction, and/or purchase of equipment for an education and outreach center in Lawrence County
Representing expenditures originally authorized under the provisions of House Bill Section 16.125, an Act of the 94th General Assembly, First Regular Session, and most recently authorized under the provision of House Bill Section 17.340, an Act of the 94th General Assembly, First Regular Session
From Lewis and Clark Discovery Fund $3,067,054

SECTION 17.100. — To the University of Missouri
For planning, design, renovation, construction, and/or purchase of equipment for a meeting and education facility in Atchison and Holt Counties
Representing expenditures originally authorized under the provisions of House Bill Section 16.130, an Act of the 94th General Assembly, First Regular Session, and most recently authorized under the provision of House Bill Section 17.345, an Act of the 94th General Assembly, First Regular Session
From Lewis and Clark Discovery Fund $580,109

SECTION 17.105. — To the University of Missouri
For planning, design, renovation, construction, and/or purchase of equipment for an agroforestry education and research center and meeting and education facilities in Howard County
Representing expenditures originally authorized under the provisions of House Bill Section 16.135, an Act of the 94th General Assembly, First Regular Session, and most recently authorized under the provision

of House Bill Section 17.350, an Act of the 94th General Assembly, First Regular Session
From Lewis and Clark Discovery Fund $3,009,377

SECTION 17.110. — To the University of Missouri
For planning, design, renovation, construction, and/or purchase of equipment for a learning discovery center in Gentry County
Representing expenditures originally authorized under the provisions of House Bill Section 16.140, an Act of the 94th General Assembly, First Regular Session, and most recently authorized under the provision of House Bill Section 17.355, an Act of the 94th General Assembly, First Regular Session
From Lewis and Clark Discovery Fund $304,939

SECTION 17.115. — To the University of Missouri
For planning, design, renovation, construction, and/or purchase of equipment for a headquarters building and meeting room in Grundy County
Representing expenditures originally authorized under the provisions of House Bill Section 16.145, an Act of the 94th General Assembly, First Regular Session, and most recently authorized under the provision of House Bill Section 17.360, an Act of the 94th General Assembly, First Regular Session
From Lewis and Clark Discovery Fund $695,345

SECTION 17.120. — To the University of Missouri
For planning, design, renovation, construction, and/or purchase of equipment for a meeting and education facility in Crawford County
Representing expenditures originally authorized under the provisions of House Bill Section 16.150, an Act of the 94th General Assembly, First Regular Session, and most recently authorized under the provision of House Bill Section 17.365, an Act of the 94th General Assembly, First Regular Session
From Lewis and Clark Discovery Fund $553,084

SECTION 17.125. — To the University of Missouri
For planning, design, renovation, construction, and/or purchase of equipment for swine confinement buildings and a biomedical swine research facility in Boone County
Representing expenditures originally authorized under the provisions of House Bill Section 16.155, an Act of the 94th General Assembly, First Regular Session, and most recently authorized under the provision of House Bill Section 17.370, an Act of the 94th General Assembly, First Regular Session
From Lewis and Clark Discovery Fund $2,397,320

SECTION 17.130. — To the University of Missouri
For planning, design, renovation, construction, and/or purchase of equipment for a swine research isolation facility in Callaway County
Representing expenditures originally authorized under the provisions of House Bill Section 16.160, an Act of the 94th General Assembly, First Regular Session, and most recently authorized under the provision

of House Bill Section 17.375, an Act of the 94th General Assembly, First Regular Session
From Lewis and Clark Discovery Fund $600,000

SECTION 17.135. — To the University of Missouri
For equipment replacement at the School of Dentistry on the Kansas City campus
Representing expenditures originally authorized under the provisions of House Bill Section 16.170, an Act of the 94th General Assembly, First Regular Session, and most recently authorized under the provision of House Bill Section 17.380, an Act of the 94th General Assembly, First Regular Session
From Lewis and Clark Discovery Fund $249,075

SECTION 17.140. — To the University of Missouri
For planning, design, renovation, and construction of Benton and Stadler Halls on the St. Louis campus
Representing expenditures originally authorized under the provisions of House Bill Section 16.180, an Act of the 94th General Assembly, First Regular Session, and most recently authorized under the provision of House Bill Section 17.390, an Act of the 94th General Assembly, First Regular Session
From Lewis and Clark Discovery Fund $28,225,528

SECTION 17.145. — To the Coordinating Board of Higher Education
For maintenance and repair at community colleges, local matching funds must be provided on a 50/50 state/local match rate in order to be eligible for state funds
Representing expenditures originally authorized under the provisions of House Bill Section 16.185, an Act of the 94th General Assembly, First Regular Session, and most recently authorized under the provision of House Bill Section 17.395, an Act of the 94th General Assembly, First Regular Session
From Lewis and Clark Discovery Fund $790,171

SECTION 17.150. — To the University of Missouri
For planning, design, renovation, and construction at the Ellis Fischel Cancer and Medical Education Center on the Columbia campus
Representing expenditures originally authorized under the provisions of House Bill Section 19.005, an Act of the 94th General Assembly, Second Regular Session, and most recently authorized under the provision of House Bill Section 16.005, an Act of the 94th General Assembly, Second Regular Session
From Lewis and Clark Discovery Fund $31,182,000

SECTION 17.155. — To the University of Missouri
For planning, design, renovation, and construction of the Pharmacy and Nursing Building on the Kansas City campus
Representing expenditures originally authorized under the provisions of House Bill Section 19.010, an Act of the 94th General Assembly, Second Regular Session, and most recently authorized under the provision of House Bill Section 16.010, an Act of the 94th General Assembly, Second Regular Session

From Lewis and Clark Discovery Fund $9,487,485

SECTION 17.160.— To Missouri State University
For start-up costs of a joint engineering program with Missouri University of Science and Technology, including but not limited to laboratory development, equipment purchases, and laboratory set-up
Representing expenditures originally authorized under the provisions of House Bill Section 20.005, an Act of the 94th General Assembly, Second Regular Session, and most recently authorized under the provision of House Bill Section 16.015, an Act of the 94th General Assembly, Second Regular Session
From General Revenue Fund $500,000

SECTION 17.165.— To the University of Missouri
For start-up costs at the Missouri University of Science and Technology for a joint engineering program with Missouri State University, including but not limited to distance education facility development, equipment purchases, laboratory development, and course development
Representing expenditures originally authorized under the provisions of House Bill Section 20.010, an Act of the 94th General Assembly, Second Regular Session, and most recently authorized under the provision of House Bill Section 16.020, an Act of the 94th General Assembly, Second Regular Session
From General Revenue Fund $22,160

SECTION 17.170.— To Linn State Technical College
For the planning, design, and construction of a new facility for heavy equipment technology
Representing expenditures originally authorized under the provisions of House Bill Section 23.005, an Act of the 94th General Assembly, Second Regular Session
From Lottery Proceeds Fund $10,000,000

SECTION 17.175.— To Southeast Missouri State University
For renovation and improvements at Perryville facilities
Representing expenditures originally authorized under the provisions of House Bill Section 23.009, an Act of the 94th General Assembly, Second Regular Session
From Lottery Proceeds Fund $419,599

SECTION 17.180.— To the University of Missouri
For planning, design, renovation, construction, and/or purchase of a facility for the Thompson Center for Autism and Neurodevelopmental Disorders
Representing expenditures originally authorized under the provisions of House Bill Section 23.010, an Act of the 94th General Assembly, Second Regular Session
From General Revenue Fund $5,000,000

SECTION 17.185.— To the University of Missouri
For the planning and design of a new Nursing and Optometry School on the St. Louis campus

Representing expenditures originally authorized under the provisions of House Bill Section 23.012, an Act of the 94th General Assembly, Second Regular Session
From Bingo Proceeds for Education Fund $300,000

SECTION 17.190.— To the University of Missouri
For the planning and design of a new Nursing/Health Professions School on the Columbia campus
Representing expenditures originally authorized under the provisions of House Bill Section 23.019, an Act of the 94th General Assembly, Second Regular Session
From Bingo Proceeds for Education Fund $300,000

SECTION 17.195.— To the University of Missouri
For planning money to research expansion options for the existing dental school on the Kansas City campus
Representing expenditures originally authorized under the provisions of House Bill Section 23.020, an Act of the 94th General Assembly, Second Regular Session
From Lottery Proceeds Fund $300,000

SECTION 17.200.— To the University of Missouri
For the planning, design, renovation, and improvements at Missouri Agricultural Experiment Station facilities
Representing expenditures originally authorized under the provisions of House Bill Section 23.021, an Act of the 94th General Assembly, Second Regular Session
From General Revenue Fund $2,000,000

SECTION 17.205.— To the Department of Transportation
For Port Authority Capital Improvements
For infrastructure development of Missouri ports
Representing expenditures originally authorized under the provisions of House Bill Section 23.025, an Act of the 94th General Assembly, Second Regular Session
For Pemiscot County Port Authority $1,681,667
For St. Joseph Regional Port Authority 402,150
For New Bourbon Regional Port Authority 506,956
For Howard/Cooper County Port Authority 84,000
For City of St. Louis Port Authority 225,000
For New Madrid County Port Authority 227,770
For Southeast Missouri Regional Port Authority 563,686
From General Revenue Fund $3,691,229

SECTION 17.210.— To the Department of Transportation
For the Rail Program
For the planning, design, construction, and/or improvement of sidetrack along the railroad tracks utilized by Amtrak passenger trains that receive an operating subsidy from the State of Missouri
Representing expenditures originally authorized under the provisions of House Bill Section 23.026, an Act of the 94th General Assembly, Second Regular Session

From General Revenue Fund $5,000,000

SECTION 17.215.— To the Office of Administration
For the Division of Facilities, Management, Design and Construction
For maintenance, repairs, replacements, unprogrammed requirements, emergency requirements, and improvements at facilities statewide
Representing expenditures originally authorized under the provisions of House Bill Section 18.010, an Act of the 93rd General Assembly, First Regular Session, authorized under the provisions of House Bill Section 17.045, an Act of the 94th General Assembly, First Regular Session and most recently authorized under the provisions of House Bill Section 18.010, an Act of the 94th General Assembly, First Regular Session

From General Revenue Fund	$662,664
From Facilities Maintenance Reserve Fund	36,164,496
From Bingo Proceeds for Education Fund	40,763
From Veterans' Commission Capital Improvement Trust Fund	456,264
From State Highways and Transportation Department Fund	508,716
From Special Employment Security Fund	791,412
Total	$38,624,315

SECTION 17.220.— To the Office of Administration
For the Division of Facilities Management, Design and Construction
For operational maintenance and repair
Representing expenditures originally authorized under the provisions of House Bill Section 18.015, an Act of the 94th General Assembly, First Regular Session
From Facilities Maintenance Reserve Fund $890,749

SECTION 17.225.— To the Office of Administration
For the Division of Facilities Management, Design and Construction
For receipt and disbursement of federal or state emergency management funds
Representing expenditures originally authorized under the provisions of House Bill Section 18.020, an Act of the 94th General Assembly, First Regular Session
From Federal Funds $27,729E

SECTION 17.230.— To the Office of Administration
For the Division of Facilities Management, Design and Construction
For appraisals and surveys of state facilities
Representing expenditures originally authorized under the provisions of House Bill Section 21.020, an Act of the 93rd General Assembly, Second Regular Session, authorized under the provisions of House Bill Section 17.060, an Act of the 94th General Assembly, First Regular Session, and most recently authorized under the provisions of House Bill Section 23.030, an Act of the 94th General Assembly, Second Regular Session
From General Revenue Fund $330,762

SECTION 17.235.— To the Office of Administration
For the Division of Facilities Management, Design and Construction

For the receipt and disbursement of funds related to the redevelopment of the Missouri State Penitentiary site
Representing expenditures originally authorized under the provisions of House Bill Section 21.025, an Act of the 93rd General Assembly, Second Regular Session, authorized under the provisions of House Bill Section 17.065, an Act of the 94th General Assembly, First Regular Session, authorized under the provisions of House Bill Section 18.040, an Act of the 94th General Assembly, First Regular Session, and most recently authorized under the provisions of House Bill Section 23.045, an Act of the 94th General Assembly, Second Regular Session
From Missouri State Penitentiary Redevelopment Commission Fund $350,001E
From Federal Funds 1E
From General Revenue Fund 932,207
Total $1,282,209

SECTION 17.240. — To the Office of Administration
For the Department of Labor and Industrial Relations
For maintenance, repairs, replacements, and improvements at Workers' Compensation facilities
Representing expenditures originally authorized under the provisions of House Bill Section 18.075, an Act of the 94th General Assembly, First Regular Session
From Facilities Maintenance Reserve Fund $741,805

SECTION 17.245. — To the Office of Administration
For the Division of Facilities Management, Design and Construction
For construction, renovations, and improvements at the Environmental Control Center in Jefferson City
Representing expenditures originally authorized under the provisions of House Bill Section 20.015, an Act of the 94th General Assembly, Second Regular Session, and most recently authorized under the provisions of House Bill Section 16.025, an Act of the 94th General Assembly, Second Regular Session
From General Revenue Fund $2,128,370

SECTION 17.250. — To the Office of Administration
For the Division of Facilities Management, Design and Construction
For maintenance, repairs, replacements, and improvements at the Governor's Mansion
Representing expenditures originally authorized under the provisions of House Bill Section 14.237 an Act of the 94th General Assembly, Second Regular Session, and most recently authorized under the provisions of House Bill Section 16.026, an Act of the 94th General Assembly, Second Regular Session
From Facilities Maintenance Reserve Fund $59,119

SECTION 17.255. — To the Office of Administration
For the Division of Facilities Management, Design and Construction
For planning, design, renovation, and construction for a disaster recovery remote data center

Representing expenditures originally authorized under the provisions of House Bill Section 23.035, an Act of the 94th General Assembly, Second Regular Session
From General Revenue Fund $422,161

SECTION 17.260. — To the Office of Administration
For the Division of Facilities Management, Design and Construction
For planning, design, renovation, maintenance, repair, and construction for security upgrades and other improvements at the Capitol Building and Governor's Mansion
Representing expenditures originally authorized under the provisions of House Bill Section 23.040, an Act of the 94th General Assembly, Second Regular Session
From General Revenue Fund $2,843,959
From Federal Funds 1E
From Facilities Maintenance Reserve Fund 4,073,853
Total $6,917,813

SECTION 17.265. — To the Office of Administration
For the Division of Facilities Management, Design and Construction
For the demolition of the old health laboratory and attached EDP Building and pavement of the property
Representing expenditures originally authorized under the provisions of House Bill Section 23.047, an Act of the 94th General Assembly, Second Regular Session
From Facilities Maintenance Reserve Fund $950,355

SECTION 17.270. — To the Office of Administration
For the Division of Facilities Management, Design and Construction
For demolition and relocation of the current surplus property facility and construction of a new surplus property facility at Church Farm
Representing expenditures originally authorized under the provisions of House Bill Section 23.048, an Act of the 94th General Assembly, Second Regular Session
From Federal Surplus Property Fund $702,583

SECTION 17.275. — To the Office of Administration
For the Department of Agriculture
For operational maintenance and repair
Representing expenditures originally authorized under the provisions of House Bill Section 18.015, an Act of the 94th General Assembly, First Regular Session
From Facilities Maintenance Reserve Fund $62,801

SECTION 17.280. — To the Office of Administration
For the Department of Agriculture
For maintenance, repairs, replacements, and improvements at facilities statewide
Representing expenditures originally authorized under the provisions of House Bill Section 18.050, an Act of the 94th General Assembly, First Regular Session
From Facilities Maintenance Reserve Fund $30,647

SECTION 17.285.— To the Office of Administration
For the Department of Agriculture
For planning, design, construction, and improvements of existing campsites at the Missouri State Fairgrounds
Representing expenditures originally authorized under the provisions of House Bill Section 20.020, an Act of the 94th General Assembly, Second Regular Session, and most recently authorized under the provisions of House Bill Section 16.030, an Act of the 94th General Assembly, Second Regular Session
From General Revenue Fund $1,504,744

SECTION 17.290.— To the Office of Administration
For the Department of Natural Resources
For operational maintenance and repair
Representing expenditures originally authorized under the provisions of House Bill Section 18.015, an Act of the 94th General Assembly, First Regular Session
From Facilities Maintenance Reserve Fund $15,037

SECTION 17.305.— To the Department of Natural Resources
For the Division of State Parks
For maintenance, repairs, replacements, renovations, and improvements at park and campground facilities statewide
Representing expenditures originally authorized under the provisions of House Bill Section 18.040, an Act of the 93rd General Assembly, First Regular Session, authorized under the provisions of House Bill Section 17.090, an Act of the 94th General Assembly, First Regular Session, authorized under the provisions of House Bill Section 18.060, an Act of the 94th General Assembly, First Regular Session, and most recently authorized under the provisions of House Bill Section 23.063, an Act of the 94th General Assembly, Second Regular Session
From State Parks Earnings Fund $2,213,769
From Parks Sales Tax Fund 7,525,290
Total $9,739,059

SECTION 17.310.— To the Department of Natural Resources
For the Division of State Parks
For design, renovation, construction, and improvements of state parks
Representing expenditures originally authorized under the provisions of House Bill Section 19.010, an Act of the 93rd General Assembly, First Regular Session, authorized under the provisions of House Bill Section 17.095, an Act of the 94th General Assembly, First Regular Session, and most recently authorized under the provisions of House Bill Section 23.060, an Act of the 94th General Assembly, Second Regular Session
From Parks Sales Tax Fund $760,167
From State Parks Earnings Fund 1,733,799
Total $2,493,966

SECTION 17.315.— To the Department of Natural Resources
For the Division of State Parks

For design, renovation, construction, and improvements of interpretive sites throughout the state
Representing expenditures originally authorized under the provisions of House Bill Section 19.020, an Act of the 93rd General Assembly, First Regular Session, authorized under the provisions of House Bill Section 17.100, an Act of the 94th General Assembly, First Regular Session, and most recently authorized under the provisions of House Bill Section 23.050, an Act of the 94th General Assembly, Second Regular Session
From State Parks Earnings Fund $998,074

SECTION 17.320. — To the Department of Natural Resources
For the Division of State Parks
For adjacent land purchases
Representing expenditures originally authorized under the provisions of House Bill Section 19.025, an Act of the 93rd General Assembly, First Regular Session, authorized under the provisions of House Bill Section 17.105, an Act of the 94th General Assembly, First Regular Session, and most recently authorized under the provisions of House Bill Section 23.062, an Act of the 94th General Assembly, Second Regular Session
From State Parks Earnings Fund $218,157

SECTION 17.325. — To the Department of Natural Resources
For the Division of State Parks
For development of a law enforcement center at the Lake of the Ozarks State Park
Representing expenditures originally authorized under the provisions of House Bill Section 21.030, an Act of the 93rd General Assembly, Second Regular Session, and most recently authorized under the provisions of House Bill Section 17.110, an Act of the 94th General Assembly, First Regular Session
From State Parks Earnings Fund $350,000

SECTION 17.330. — To the Office of Administration
For the Department of Natural Resources
For maintenance, repairs, replacements, and improvements at Division of Geology and Land Survey facilities statewide
Representing expenditures originally authorized under the provisions of House Bill Section 18.055, an Act of the 94th General Assembly, First Regular Session
From Facilities Maintenance Reserve Fund $156,953

SECTION 17.335. — To the Department of Natural Resources
For the Division of State Parks
For capital improvement expenditures from recoupments, donations, and grants
Representing expenditures originally authorized under the provisions of House Bill Section 18.065, an Act of the 94th General Assembly, First Regular Session, authorized under the provisions of House Bill Section 20.030, an Act of the 94th General Assembly, Second Regular Session, and most recently authorized under the provisions of House

Bill Section 16.040, an Act of the 94th General Assembly, Second Regular Session
From Federal Funds and Other Funds $7,616,013E

SECTION 17.350.— To the Department of Conservation
For stream access acquisition and development; lake site acquisition and development; financial assistance to other public agencies or in partnership with other public agencies including, but not limited to infrastructure and equipment for statewide interoperability; land acquisition for upland wildlife, state forests, wetlands, and natural areas and additions to existing areas; for major improvements and repairs (including materials, supplies, and labor) to buildings, roads, hatcheries, and other departmental structures; and for soil conservation activities and erosion control on department land
Representing expenditures originally authorized under the provisions of House Bill Section 21.005, an Act of the 94th General Assembly, Second Regular Session, authorized under the provisions of House Bill Section 16.045, an Act of the 94th General Assembly, Second Regular Session, and most recently authorized under the provisions of House Bill Section 23.065, an Act of the 94th General Assembly, Second Regular Session
From Conservation Commission Fund $28,909,593

SECTION 17.355.— To the Department of Economic Development
For operational maintenance and repair
Representing expenditures originally authorized under the provisions of House Bill Section 18.015, an Act of the 94th General Assembly, First Regular Session
From Facilities Maintenance Reserve Fund $70,000

SECTION 17.360.— To the Office of Administration
For the Department of Economic Development
For the purpose of funding renovations and upgrades for a battery and energetic device project in Joplin
Representing expenditures originally authorized under the provisions of House Bill Section 23.067, an Act of the 94th General Assembly, Second Regular Session
From General Revenue Fund $625,000

SECTION 17.365.— To the Department of Labor and Industrial Relations
For operational maintenance and repair
Representing expenditures originally authorized under the provisions of House Bill Section 18.015, an Act of the 94th General Assembly, First Regular Session
From Facilities Maintenance Reserve Fund $120,000

SECTION 17.370.— To the Office of Administration
For the Department of Labor and Industrial Relations
For maintenance, repairs, replacements, and improvements at Employment Security and Job Service facilities
Representing expenditures originally authorized under the provisions of House Bill Section 18.055, an Act of the 93rd General Assembly,

First Regular Session, authorized under the provisions of House Bill Section 17.120, an Act of the 94th General Assembly, First Regular Session, and most recently authorized under the provisions of House Bill Section 18.070, an Act of the 94th General Assembly, First Regular Session
From Special Employment Security Fund $1,598,494

SECTION 17.375. — To the Department of Public Safety
For operational maintenance and repair
Representing expenditures originally authorized under the provisions of House Bill Section 18.015, an Act of the 94th General Assembly, First Regular Session
From Facilities Maintenance Reserve Fund $809,505

SECTION 17.380. — To the Office of Administration
For the Department of Public Safety
For Phase I of the Radio Interoperability Implementation Project
Representing expenditures originally authorized under the provisions of House Bill Section 14.250, an Act of the 94th General Assembly, First Regular Session, and most recently authorized under the provisions of House Bill Section 17.125, an Act of the 94th General Assembly, First Regular Session
From State Highways and Transportation Department Fund $239,969

SECTION 17.385. — To the Office of Administration
For the Department of Public Safety
For repairs, replacements, and improvements at Missouri State Highway Patrol facilities
Representing expenditures originally authorized under the provisions of House Bill Section 18.060, an Act of the 93rd General Assembly, First Regular Session, authorized under the provisions of House Bill Section 17.130, an Act of the 94th General Assembly, First Regular Session, and most recently authorized under the provisions of House Bill Section 18.080, an Act of the 94th General Assembly, First Regular Session
From State Highways and Transportation Department Fund $3,062,068

SECTION 17.390. — To the Office of Administration
For the Department of Public Safety
For planning, design, and construction of commercial drivers license sites in Rolla, Carthage, and Kirkwood
Representing expenditures originally authorized under the provisions of House Bill Section 19.055, an Act of the 93rd General Assembly, First Regular Session, and most recently authorized under the provisions of House Bill Section 17.145, an Act of the 94th General Assembly, First Regular Session
From State Highways and Transportation Department Fund $31,708

SECTION 17.395. — To the Office of Administration
For the Department of Public Safety
For the State Highway Patrol

For planning, design, and construction of a new commercial drivers licensing facility in Hannibal
Representing expenditures originally authorized under the provisions of House Bill Section 23.070, an Act of the 94th General Assembly, Second Regular Session
From State Highways and Transportation Department Fund $258,775

SECTION 17.400. — To the Office of Administration
For the Department of Public Safety
For the State Highway Patrol
For planning, design, and construction of an addition to the existing crime lab in Jefferson City for storage of DNA samples
Representing expenditures originally authorized under the provisions of House Bill Section 23.075, an Act of the 94th General Assembly, Second Regular Session
From DNA Profiling Analysis Fund $307,560

SECTION 17.405. — To the Office of Administration
For the Department of Public Safety
For the State Highway Patrol
For planning, design, renovation, and construction, and/or purchase of a new crime lab in Jasper County
Representing expenditures originally authorized under the provisions of House Bill Section 23.076, an Act of the 94th General Assembly, Second Regular Session
From General Revenue Fund $629,248
From State Highways and Transportation Department Fund 419,499
Total $1,048,747

SECTION 17.410. — To the Office of Administration
For the Department of Public Safety
For the State Highway Patrol
For planning, design, and construction, and/or lease-purchase of a new crime lab in Springfield
Representing expenditures originally authorized under the provisions of House Bill Section 23.077, an Act of the 94th General Assembly, Second Regular Session
From General Revenue Fund $999,000
From State Highways and Transportation Department Fund 666,000
Total $1,665,000

SECTION 17.415. — To the Office of Administration
For the Department of Public Safety
For planning, design, and construction of a Water Patrol Marine shop in Jefferson City
Representing expenditures originally authorized under the provisions of House Bill Section 23.080, an Act of the 94th General Assembly, Second Regular Session
From Missouri State Water Patrol Fund $796,060

SECTION 17.420. — To the Office of Administration
For the Department of Public Safety

For the construction, renovations, and improvements at state veterans' homes
Representing expenditures originally authorized under the provisions of House Bill Section 21.010, an Act of the 92nd General Assembly, Second Regular Session, authorized under the provisions of House Bill Section 15.165, an Act of the 93rd General Assembly, First Regular Session, and most recently authorized under the provisions of House Bill Section 17.155, an Act of the 94th General Assembly, First Regular Session
From Veterans' Commission Capital Improvement Trust Fund $132,783

SECTION 17.425. — To the Office of Administration
For the Department of Public Safety
For repairs, replacements, and improvements at veterans' homes
Representing expenditures originally authorized under the provisions of House Bill Section 18.065, an Act of the 93rd General Assembly, First Regular Session, authorized under the provisions of House Bill Section 17.160, an Act of the 94th General Assembly, First Regular Session, and most recently authorized under the provisions of House Bill Section 18.085, an Act of the 94th General Assembly, First Regular Session

From Federal Funds	$1E
From Facilities Maintenance Reserve Fund	1,111,273
From Veterans' Commission Capital Improvement Trust Fund	27,381
Total	$1,138,655

SECTION 17.430. — To the Office of Administration
For the Department of Public Safety
For construction of a new veterans' cemetery in Fort Leonard Wood
Representing expenditures originally authorized under the provisions of House Bill Section 21.035, an Act of the 93rd General Assembly, Second Regular Session, and most recently authorized under the provisions of House Bill Section 17.165, an Act of the 94th General Assembly, First Regular Session
From Federal Funds $7,163,520E

SECTION 17.435. — To the Office of Administration
For the Department of Public Safety
For planning, design, and installation of new emergency generators at veterans' homes statewide
Representing expenditures originally authorized under the provisions of House Bill Section 20.045, an Act of the 94th General Assembly, Second Regular Session, and most recently authorized under the provisions of House Bill Section 16.060, an Act of the 94th General Assembly, Second Regular Session
From Veterans' Commission Capital Improvement Trust Fund $3,180,266

SECTION 17.440. — To the Office of Administration
For the Department of Public Safety
For construction, renovations, and improvements at the Cape Girardeau Veterans' Home
Representing expenditures originally authorized under the provisions of House Bill Section 20.050, an Act of the 94th General Assembly,

Second Regular Session, and most recently authorized under the provisions of House Bill Section 16.065, an Act of the 94th General Assembly, Second Regular Session

From Veterans' Commission Capital Improvement Trust Fund $434,683
From Federal Funds 1E
Total $434,684

SECTION 17.445. — To the Office of Administration
For the Adjutant General - Missouri National Guard
For design and construction of a new aviation maintenance facility in Springfield

Representing expenditures originally authorized under the provisions of House Bill Section 19.075, an Act of the 92nd General Assembly, First Regular Session, authorized under the provisions of House Bill Section 15.195, an Act of the 93rd General Assembly, First Regular Session, and most recently authorized under the provisions of House Bill Section 17.170, an Act of the 94th General Assembly, First Regular Session

From Federal Funds $150,000E

SECTION 17.450. — To the Office of Administration
For the Adjutant General - Missouri National Guard
For the federal real property maintenance and minor construction programs at National Guard facilities

Representing expenditures originally authorized under the provisions of House Bill Section 18.070, an Act of the 93rd General Assembly, First Regular Session, authorized under the provisions of House Bill Section 17.175, an Act of the 94th General Assembly, First Regular Session, and most recently authorized under the provisions of House Bill Section 18.095, an Act of the 94th General Assembly, First Regular Session

From Federal Funds $3,257,172E

SECTION 17.455. — To the Office of Administration
For the Adjutant General - Missouri National Guard
For federal environmental compliance at non-armory facilities

Representing expenditures originally authorized under the provisions of House Bill Section 19.060, an Act of the 93rd General Assembly, First Regular Session, authorized under the provisions of House Bill Section 17.180, an Act of the 94th General Assembly, First Regular Session, and most recently authorized under the provisions of House Bill Section 23.085, an Act of the 94th General Assembly, Second Regular Session

From Federal Funds $2,590,935E

SECTION 17.460. — To the Office of Administration
For the Adjutant General - Missouri National Guard
For administrative support of federal projects

Representing expenditures originally authorized under the provisions of House Bill Section 19.065, an Act of the 93rd General Assembly, First Regular Session, authorized under the provisions of House Bill Section 17.185, an Act of the 94th General Assembly, First Regular

Session, authorized under the provisions of House Bill Section 20.055, an Act of the 94th General Assembly, Second Regular Session, and most recently authorized under the provisions of House Bill Section 16.070, an Act of the 94th General Assembly, Second Regular Session

From General Revenue Fund $105,758
From Federal Funds 12,507E
Total $118,265

SECTION 17.465. — To the Office of Administration
For the Adjutant General - Missouri National Guard
For design and construction of National Guard facilities statewide
Representing expenditures originally authorized under the provisions of House Bill Section 19.070, an Act of the 93rd General Assembly, First Regular Session, and most recently authorized under the provisions of House Bill Section 17.190, an Act of the 94th General Assembly, First Regular Session

From Federal Funds $1,565,464E

SECTION 17.480. — To the Office of Administration
For the Adjutant General - Missouri National Guard
For planning, design, and construction of an aviation hangar and maintenance facility in Springfield
Representing expenditures originally authorized under the provisions of House Bill Section 19.085, an Act of the 93rd General Assembly, First Regular Session, and most recently authorized under the provisions of House Bill Section 17.205, an Act of the 94th General Assembly, First Regular Session

From General Revenue Fund $459,667
From Federal Funds 61,567,366E
Total $62,027,033

SECTION 17.485. — To the Office of Administration
For the Adjutant General - Missouri National Guard
For design and construction of an addition to the Albany armory
Representing expenditures originally authorized under the provisions of House Bill Section 19.090, an Act of the 93rd General Assembly, First Regular Session, and most recently authorized under the provisions of House Bill Section 17.210, an Act of the 94th General Assembly, First Regular Session

From Federal Funds $98,218E

SECTION 17.490. — To the Office of Administration
For the Adjutant General - Missouri National Guard
For planning, design, and construction of organizational maintenance shops at the Kansas City and Richmond armories
Representing expenditures originally authorized under the provisions of House Bill Section 19.100, an Act of the 93rd General Assembly, First Regular Session, and most recently authorized under the provisions of House Bill Section 17.220, an Act of the 94th General Assembly, First Regular Session

From Federal Funds $3,682,182E

SECTION 17.495. — To the Office of Administration
For the Adjutant General - Missouri National Guard
For maintenance, repairs, replacements, and improvements at National Guard facilities statewide
Representing expenditures originally authorized under the provisions of House Bill Section 18.090, an Act of the 94th General Assembly, First Regular Session
From Facilities Maintenance Reserve Fund $1,891,103

SECTION 17.500. — To the Department of Corrections
For operational maintenance and repair
Representing expenditures originally authorized under the provisions of House Bill Section 18.015, an Act of the 94th General Assembly, First Regular Session
From Facilities Maintenance Reserve Fund $1,929,699

SECTION 17.520. — To the Office of Administration
For the Department of Corrections
For maintenance, repairs, replacements, and improvements at facilities statewide
Representing expenditures originally authorized under the provisions of House Bill Section 18.100, an Act of the 94th General Assembly, First Regular Session
From Facilities Maintenance Reserve Fund $17,632,716

SECTION 17.525. — To the Office of Administration
For the Department of Corrections
For construction, renovations, and improvements at the Ozark Correctional Center sewer treatment plant
Representing expenditures originally authorized under the provisions of House Bill Section 23.090, an Act of the 94th General Assembly, Second Regular Session
From General Revenue Fund $718,737

SECTION 17.530. — To the Department of Mental Health
For operational maintenance and repair
Representing expenditures originally authorized under the provisions of House Bill Section 18.015, an Act of the 94th General Assembly, First Regular Session
From Facilities Maintenance Reserve Fund $1,921,246

SECTION 17.535. — To the Office of Administration
For the Department of Mental Health
For fuel spill remediation at Fulton State Hospital
Representing expenditures originally authorized under the provisions of House Bill Section 21.040, an Act of the 93rd General Assembly, Second Regular Session, and most recently authorized under the provisions of House Bill Section 17.240, an Act of the 94th General Assembly, First Regular Session
From General Revenue Fund $385,209

SECTION 17.540. — To the Office of Administration
For the Department of Mental Health
For planning, design, and construction of wards at the Missouri Sexual Offender Treatment Center
Representing expenditures originally authorized under the provisions of House Bill Section 21.045, an Act of the 93rd General Assembly, Second Regular Session, and most recently authorized under the provisions of House Bill Section 17.245, an Act of the 94th General Assembly, First Regular Session
From General Revenue Fund $1,799,746

SECTION 17.545. — To the Office of Administration
For the Department of Mental Health
For maintenance, repairs, replacements, and improvements at facilities statewide
Representing expenditures originally authorized under the provisions of House Bill Section 18.105, an Act of the 94th General Assembly, First Regular Session
From Facilities Maintenance Reserve Fund $21,866,609

SECTION 17.550. — To the Office of Administration
For the Department of Mental Health
For planning money for a study of options for construction of a new Fulton State Hospital
Representing expenditures originally authorized under the provisions of House Bill Section 23.095, an Act of the 94th General Assembly, Second Regular Session
From General Revenue Fund $16,540

SECTION 17.555. — To the Office of Administration
For the Board of Public Buildings
For the construction of a new State Public Health Laboratory
Representing expenditures originally authorized under the provisions of House Bill Section 21.015, an Act of the 93rd General Assembly, Second Regular Session, authorized under the provisions of House Bill Section 14.245, an Act of the 94th General Assembly, First Regular Session, and most recently authorized under the provisions of House Bill Section 17.055, an Act of the 94th General Assembly, First Regular Session
From Board of Public Buildings Series A 2003 Bond Proceeds - Projects Fund . . $15,367

SECTION 17.560. — To the Department of Social Services
For the Division of Medical Services
For design, renovation, construction, improvements, and purchase of equipment for Federally Qualified Health Centers statewide
Representing expenditures originally authorized under the provisions of House Bill Section 16.030, an Act of the 94th General Assembly, First Regular Session, and most recently authorized under the provisions of House Bill Section 17.250, an Act of the 94th General Assembly, First Regular Session
From General Revenue Fund $32,034,174

SECTION 17.565. — To the Department of Social Services
For operational maintenance and repair
Representing expenditures originally authorized under the provisions of House Bill Section 18.015, an Act of the 94th General Assembly, First Regular Session
From Facilities Maintenance and Reserve Fund $490,794
From Federal Funds 134,634
Total $625,428

SECTION 17.570. — To the Office of Administration
For the Department of Social Services
For maintenance, repairs, replacements, and improvements at facilities statewide
Representing expenditures originally authorized under the provisions of House Bill Section 18.110, an Act of the 94th General Assembly, First Regular Session
From Facilities Maintenance Reserve Fund $2,721,368

SECTION 17.575. — To the Office of Administration
For the Department of Social Services
For planning, design, and construction of a water tower at the W.E. Sears Youth Center
Representing expenditures originally authorized under the provisions of House Bill Section 20.065, an Act of the 94th General Assembly, Second Regular Session, and most recently authorized under the provisions of House Bill Section 16.080, an Act of the 94th General Assembly, Second Regular Session
From General Revenue Fund $428,482

SECTION 17.580. — To the Office of Administration
For the Department of Social Services
For planning, design, and construction of a multi-purpose building at Delmina Woods Park Camp
Representing expenditures originally authorized under the provisions of House Bill Section 23.100, an Act of the 94th General Assembly, Second Regular Session
From General Revenue Fund $940,486

SECTION 17.585. — To the Office of Administration
For the Department of Social Services
For planning, design, and construction of a new dormitory building at W.E. Sears Youth Center
Representing expenditures originally authorized under the provisions of House Bill Section 23.105, an Act of the 94th General Assembly, Second Regular Session
From General Revenue Fund $714,268

Approved June 25, 2009

HB 21 [SCS HCS HB 21]

APPROPRIATIONS: FEDERAL STIMULUS FUNDS.

AN ACT to appropriate money for purposes for the several departments and offices of state government; for the purchase of equipment; for planning, expenses, and for capital improvements including but not limited to major additions and renovations, new structures, and land improvements; and for the payment of various claims for refunds, for persons, firms, and corporations, and for other purposes, and to transfer money among certain funds, from the funds designated for the fiscal period beginning July 1, 2009 and ending June 30, 2010.

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

There is appropriated out of the State Treasury, chargeable to the fund and for the agency and purpose designated, for the period beginning July 1, 2009 and ending June 30, 2010, as follows:

SECTION 21.005. — To the Department of Elementary and Secondary Education
For Equipment Grants within the National School Lunch Program
From Federal Stimulus Fund $2,022,044

SECTION 21.015. — To the Department of Elementary and Secondary Education
For Institute for Educational Sciences grants
From Federal Stimulus Fund $9,000,000

SECTION 21.020. — To the Department of Elementary and Secondary Education
For State Incentive Grants
From Federal Stimulus Fund $5,000,000

SECTION 21.025. — To the Department of Elementary and Secondary Education
For Enhancing Education through Technology projects
From Federal Stimulus Fund $10,734,112

SECTION 21.030. — To the Department of Elementary and Secondary Education
For the Title I Education for Disadvantaged $162,381,742
For the Title I School Improvement 53,458,919
From Federal Stimulus Fund $215,840,661

SECTION 21.035. — To the Department of Elementary and Secondary Education
For grants to program innovative educational strategies for Homeless Children (McKinney-Vento)
From Federal Stimulus Fund $1,254,097

SECTION 21.040. — To the Department of Elementary and Secondary Education
For Vocational Rehabilitation programs
From Federal Stimulus Fund $12,512,792

SECTION 21.045. — To the Department of Elementary and Secondary Education
For Independent Living Centers
From Federal Stimulus Fund $287,124

SECTION 21.050. — To the Department of Elementary and Secondary Education
For Special Education programs
From Federal Stimulus Fund $256,929,538

SECTION 21.055. — To the Department of Elementary and Secondary Education
For the First Steps Program
From Federal Stimulus Fund $8,570,018

SECTION 21.060. — To the Department of Higher Education, Linn State Technical College, the University of Central Missouri, Southeast Missouri State University, Missouri State University, Lincoln University, Truman State University, Northwest Missouri State University, Missouri Southern State University, Missouri Western State University, Harris-Stowe State University, and the University of Missouri
For the purpose of receiving and expending grants from the American Recovery and Reinvestment Act for those provided by the:
Institute for Educational Sciences for the development and expansion of student data systems $15,000,000
U.S. Department of Education for the improving teacher quality state grants program 15,000,000
U.S. Department of Labor for health care workforce development 10,000,000
National Science Foundation, the Department of Energy, the Department of Education, and the Department of Commerce for the establishment and operation of centers of excellence in renewable/sustainable energy, education, homeland security and campus safety 59,000,000
From Federal Stimulus Fund $99,000,000

SECTION 21.065. — To the Department of Transportation
For Construction and Maintenance Programs
Funds are to be transferred out of the State Treasury, chargeable to the Federal Stimulus Fund, to the State Road Fund, for reimbursement of expenditures for highway and bridge infrastructure investment projects
From Federal Stimulus Fund $695,884,200E

SECTION 21.070. — To the Department of Transportation
For the Waterways Program
Funds are to be transferred out of the State Treasury, chargeable to the Federal Stimulus Fund, to the Multimodal Federal Fund, for reimbursement of expenditures for port infrastructure investment projects
From Federal Stimulus Fund $4,950,000E

SECTION 21.075. — To the Department of Transportation
For the Transit Program
Funds are to be transferred out of the State Treasury, chargeable to the Federal Stimulus Fund, to the Multimodal Federal Fund, for expenditures for public transportation or intercity bus service
From Federal Stimulus Fund $22,768,109E

SECTION 21.077. — To the Department of Transportation
Funds are to be transferred out of the State Treasury, chargeable to the Federal Stimulus Fund, to the Multimodal Federal Fund and/or the

State Road Fund, for reimbursement of expenditures for surface transportation infrastructure, including highway, bridge, port, transit, and rail projects
From Federal Stimulus Fund $34,500,000E

SECTION 21.080. — To the Department of Transportation
For the Rail Program
Funds are to be transferred out of the State Treasury, chargeable to the Federal Stimulus Fund, to the Multimodal Federal Fund, including a feasibility study for corridor expansion in Missouri to the extent the state receives a federal grant for such purposes
From Federal Stimulus Fund $11,000,000E

SECTION 21.085. — To the Department of Transportation
For the Aviation Program
Funds are to be transferred out of the State Treasury, chargeable to the Federal Stimulus Fund, to the Multimodal Federal Fund, for expenditures for airport improvement projects
From Federal Stimulus Fund $33,000,000E

SECTION 21.090. — To the Office of Administration
For the purpose of receiving and expending grants from the American Recovery and Reinvestment Act for grants provided by the U.S. Department of Energy to reduce energy consumption
From Federal Stimulus Fund $7,000,000

SECTION 21.095. — To the Office of Administration
For administrative, contracting and data software and systems costs to ensure the state meets federal reporting and purchasing requirements
From Federal Budget Stabilization Fund $950,000

SECTION 21.100. — To the Office of Administration
For transferring funds for COBRA stimulus credits to the Missouri Consolidated Health Care Plan Benefit Fund $960,000
For transferring funds for COBRA stimulus credits to the State Road Fund 120,000
For transferring funds for COBRA stimulus credits to the Conservation Commission Fund 120,000
From the OASDHI Contributions Fund $1,200,000

SECTION 21.105. — To the Office of Administration
For payment of COBRA stimulus credits to the Missouri Consolidated Health Care Plan
From Missouri Consolidated Health Care Plan Benefit Fund $960,000

For payment of COBRA stimulus credits to Missouri Department of Transportation/Missouri State Highway Patrol Medical and Life Insurance Plan
From State Road Fund 120,000

For payment of COBRA stimulus credits to Conservation Employees' Benefit Plan Trust Fund
From Conservation Commission Fund 120,000
Total $1,200,000

SECTION 21.110.— To the Office of Administration
For information technology services related to unemployment compensation administration
From Federal Stimulus Fund $33,132E

SECTION 21.115.— To the Office of Administration
For broadband technology opportunities
From Federal Stimulus Fund $185,000,000E
From Federal Budget Stabilization Fund 40,000,000
Total $225,000,000

SECTION 21.120.— To the Office of Administration
For the construction of research facilities
From Federal Stimulus Fund $11,880,000E

SECTION 21.125.— To the Office of Administration
For planning and implementation of electronic healthcare information technology
From Federal Stimulus Funds $15,120,000
From Federal Budget Stabilization Fund 1,680,000
Total $16,800,000

SECTION 21.130.— To the Office of Administration
For transferring funds for all state employees and participating political subdivisions to the OASDHI Contributions Fund
From Federal Stimulus Fund $697,276E
From Federal Budget Stabilization Fund 1E
From Other Funds 1E
Total $697,278

SECTION 21.135.— To the Office of Administration
For the payment of OASDHI taxes for all state employees and for participating political subdivisions within the state to the Treasurer of the United States for compliance with current provisions of Title 2 of the Federal Social Security Act, as amended, in accordance with the agreement between the State Social Security Administrator and the Secretary of the Department of Health and Human Services; and for administration of the agreement under Section 218 of the Social Security Act which extends Social Security benefits to state and local public employees
From OASDHI Contributions Fund $697,278E

SECTION 21.140.— To the Office of Administration
For transferring funds for the state's contribution to the Missouri State Employees' Retirement System to the State Retirement Contributions Fund
From Federal Stimulus Fund $1,148,024E
From Federal Budget Stabilization Fund 1E
From Other Funds 1E
Total $1,148,026

SECTION 21.145.— To the Office of Administration
For payment of the state's contribution to the Missouri State Employees' Retirement System

From State Retirement Contributions Fund $1,148,026E

SECTION 21.150.— To the Office of Administration
For transferring funds for the state's contribution to the Missouri Consolidated Health Care Plan to the Missouri Consolidated Health Care Plan Benefit Fund
From Federal Stimulus Fund $1,074,604E
From Federal Budget Stabilization Fund 1E
From Other Funds 1E
Total $1,074,606

SECTION 21.155.— To the Office of Administration
For payment of the state's contribution to the Missouri Consolidated Health Care Plan
From Missouri Consolidated Health Care Plan Benefit Fund $1,074,606E

SECTION 21.160.— To the Department of Agriculture
For the purpose of receiving and expending grants from the American Recovery and Reinvestment Act for grants related to food, fuel, and fiber production, processing and marketing
From Federal Stimulus Fund $10,000,000

SECTION 21.165.— To the Department of Agriculture
For aquaculture producer assistance
From Federal Stimulus Fund $550,000E

SECTION 21.170.— To the Department of Natural Resources
For the purpose of receiving and expending grants from the American Recovery and Reinvestment Act for grants provided for environmental quality, state park, energy or efficiency activities
From Federal Stimulus Fund $10,000,000

***SECTION 21.175.**— To the Department of Natural Resources
For the promotion of energy, renewable energy, and energy efficiency, including administrative costs, provided that the state distribution plan shall be approved by the chair of the House Budget and Senate Appropriations Committee prior to any expenditures of such funds
From Federal Stimulus Fund $227,745,130E

*I hereby veto the words "provided that the state distribution plan shall be approved by the chair of the House Budget and Senate Appropriations Committee prior to any expenditures of such funds." The approval language is null and void because such authority is reserved to the executive branch in accordance with Article IV, Section 28 of the Missouri Constitution. This language is unconstitutional and could raise concerns by grantees that they will not receive funds in a timely manner, delaying the completion of projects and potentially jeopardizing federal funds through missed deadlines.

JEREMIAH W. (JAY) NIXON, GOVERNOR

SECTION 21.180.— To the Department of Natural Resources
For grants, contracts or loans pursuant to Sections 644.026 through 644.124, RSMo, including but not limited to infrastructure to create immediate

economic benefit through the creation of construction jobs, long-term economic benefits as on-going jobs are created to operate these facilities, and administrative costs
From Water and Wastewater Loan Fund $119,505,989E

For grants, contracts or loans for drinking water systems pursuant to Sections 644.026 through 644.124, RSMo, including but not limited to infrastructure to create immediate economic benefit through the creation of construction jobs, long-term economic benefits as on-going jobs are created to operate these facilities, and administrative costs
From Federal Stimulus Fund 2,152,964
From Water and Wastewater Loan Fund 39,495,236E
Total $161,154,189

SECTION 21.185. — To the Department of Natural Resources
For grants and contracts to study or reduce water pollution, improve ground water and/or surface water quality
From Federal Stimulus Fund $1,207,131E

SECTION 21.190. — To the Department of Natural Resources
For grants and contracts for air pollution control activities, including administrative costs
From Federal Stimulus Fund $12,902,353

SECTION 21.195. — To the Department of Natural Resources
For the cleanup of leaking underground storage tanks, including administrative costs
From Federal Stimulus Fund $3,674,000E

SECTION 21.200. — To the Department of Conservation
For the purpose of receiving and expending grants from the American Recovery and Reinvestment Act for grants provided by the U.S. Corps of Engineers and the U.S. Fish and Wildlife Services for wetland renovation
From Federal Stimulus Fund $11,100,000

SECTION 21.205. — To the Department of Conservation
For the control, management, restoration, conservation and regulation of the bird, fish, game, forestry and all wildlife resources of the state, including administrative costs
From Federal Stimulus Fund $7,450,000

SECTION 21.215. — To the Department of Economic Development
For the purpose of receiving and expending National Endowment for the Arts grants
From Federal Stimulus Fund $400,000

SECTION 21.220. — To the Department of Economic Development
For the purpose of receiving and expending grants for the Community Development Block Grant Program, including administrative costs. To the extent permitted by law, the department, in coordination with other departments of the state, shall contact maternity homes and

pregnancy resource centers qualified under sections 135.600 and 135.630, RSMo, regarding grants under this section, section 21.400, and other funds under the American Recovery and Reinvestment Act of 2009 (ARRA). The departments shall make it possible for maternity homes and pregnancy resource centers in all areas of the state, including urban and "continuum of care" areas, to be eligible for grant and funding opportunities. To the extent permitted by law, the departments shall allocate at least $2,000,000 in the aggregate from this section, section 21.400, and other ARRA funds for grant and funding opportunities for maternity homes and pregnancy resource centers. The departments shall report in writing to the Chairman of the Senate Appropriations Committee and the Chairman of the House Budget Committee on their efforts and on grants and funds received by maternity homes and pregnancy resource centers

From Federal Stimulus Fund $7,100,000

SECTION 21.225. — To the Department of Economic Development

For the purpose of receiving and expending grants for redevelopment of abandoned and foreclosed homes, including administrative costs

From Federal Stimulus Fund $60,244,576

SECTION 21.230. — To the Department of Economic Development

For the purpose of receiving and expending grants for economic development assistance, including administrative costs

From Federal Stimulus Fund $1,500,000E

SECTION 21.235. — To the Department of Economic Development

For the purpose of receiving and expending grants for national and community service, including administrative costs

From Federal Stimulus Fund $1,500,000

SECTION 21.240. — To the Department of Economic Development

For the Innovative Technology Loan Guarantee Program, including administrative costs

From Federal Stimulus Fund $1,050,000E

SECTION 21.245. — To the Department of Economic Development

For the purpose of receiving and expending grants for employment service activities, including administrative costs

From Federal Stimulus Fund $8,100,000

SECTION 21.250. — To the Department of Economic Development

For the purpose of receiving and expending grants for adult, youth and dislocated workers employment and training activities, including administrative costs

From Federal Stimulus Fund $67,900,000

SECTION 21.255. — To the Department of Economic Development

For the purpose of receiving and expending grants for the Dislocated Workers Assistance National Reserve Program

From Federal Stimulus Fund $6,000,000

SECTION 21.260. — To the Department of Economic Development
For the purpose of receiving and expending grants for the Youth Build Program
From Federal Stimulus Fund $1,500,000

SECTION 21.265. — To the Department of Economic Development
For the purpose of receiving and expending grants for the Emerging Industry Competitive Grants Program
From Federal Stimulus Fund $22,500,000

SECTION 21.270. — To the Department of Labor and Industrial Relations
For the purpose of receiving and expending grants from the American Recovery and Reinvestment Act for administrative costs related to oversight and monitoring of compliance with worker protection laws and regulations and to the provision of workplace safety training and assistance
From Federal Stimulus Fund $1,000,000

SECTION 21.275. — To the Department of Labor and Industrial Relations
For administration of unemployment insurance programs
From Federal Stimulus Fund $673,639E

SECTION 21.280. — To the Department of Labor and Industrial Relations
Funds are to be transferred, for reimbursement of costs incurred by Department of Labor and Industrial Relations Federal Funds, which are reimbursed by the U. S. Department of Labor, in the following amount
From Federal Stimulus Fund $404,384E

SECTION 21.285. — To the Department of Labor and Industrial Relations
Funds are to be transferred, for payment of administrative costs, the following amount, to the Department of Labor and Industrial Relations Administrative Fund
From Federal Stimulus Fund $103,492E

SECTION 21.290. — To the Department of Public Safety
For the purpose of receiving and expending grants from the American Recovery and Reinvestment Act for the Rural Law Enforcement Competitive grant and the Byrne Memorial Competitive Grant
From Federal Stimulus Fund $10,000,000

SECTION 21.295. — To the Department of Public Safety
For the purpose of receiving and expending grants for the Violence Against Women Program, including administrative costs
From Federal Stimulus Fund $2,921,593

SECTION 21.300. — To the Department of Public Safety
For the purpose of receiving and expending grants for the Crime Victims' Compensation Program, including administrative costs
From Federal Stimulus Fund $1,078,384

SECTION 21.305. — To the Department of Public Safety
For the purpose of receiving and expending grants for the Crime Victims Assistance Grants Program, including administrative costs
From Federal Stimulus Fund $980,100

SECTION 21.310. — To the Department of Public Safety
For the purpose of receiving and expending grants for the Byrne/Justice Assistance Grants Program, including $700,000 for a pseudoephedrine tracking system administered in conjunction with the Department of Health and Senior Services and administrative costs to the extent the state receives a federal grant for such purposes
From Federal Stimulus Fund $27,921,231E

SECTION 21.315. — To the Department of Corrections
For the purpose of receiving and expending grants from the American Recovery and Reinvestment Act through the Bryne Memorial Competitive Grant
From Federal Stimulus Fund $1,767,334

SECTION 21.320. — To the Department of Mental Health
For the purpose of receiving and expending grants from the American Recovery and Reinvestment Act for grants related to security enhancements at the Missouri Sexual Offender Treatment Center and health, prevention and wellness grants for specialized mental health training and screening programs
From Federal Stimulus Fund $3,000,000

SECTION 21.325. — To the Department of Health and Senior Services
For the purpose of receiving and expending grants from the American Recovery and Reinvestment Act for grants made available to states from various federal public health and health care agencies, including the National Institutes of Health, Agency for HealthCare Research and Quality, and Institute of Medicine
From Federal Stimulus Fund $10,000,000

SECTION 21.330. — To the Department of Health and Senior Services
For immunization related expenses, including administrative costs
From Federal Stimulus Fund $990,000

SECTION 21.335. — To the Department of Health and Senior Services
For immunization demonstration projects, including administrative costs
From Federal Stimulus Fund $3,000,000

SECTION 21.340. — To the Department of Health and Senior Services
For upgrade and expansion of the Missouri Cancer Registry
From Federal Stimulus Fund $1,320,000

SECTION 21.345. — To the Department of Health and Senior Services
For chronic disease prevention and management, including administrative costs
From Federal Stimulus Fund $18,350,000

SECTION 21.350. — To the Department of Health and Senior Services
For reducing health care associated infections, including administrative costs
From Federal Stimulus Fund $921,500

SECTION 21.355. — To the Department of Health and Senior Services
For a new management information system for the Women, Infants and Children Nutrition Program

From Federal Stimulus Fund $1,500,000

SECTION 21.360.— To the Department of Health and Senior Services
For the Women, Infants and Children Nutrition Program, including administrative costs
From Federal Stimulus Fund $8,000,000E

SECTION 21.365.— To the Department of Health and Senior Services
For the Health Professional Loan Repayment Program
From Federal Stimulus Fund $150,000E

SECTION 21.370.— To the Department of Health and Senior Services
For Senior Nutrition Services, including administrative costs
From Federal Stimulus Fund $2,108,908

SECTION 21.375.— To the Department of Health and Senior Services
For Community Service Employment for Older Americans, including administrative costs
From Federal Stimulus Fund $645,377

SECTION 21.380.— To the Department of Social Services
For the purpose of receiving and expending grants related to capacity building initiatives for non-profit agencies; grants for providing services to individuals that address the economic recovery issues present in communities; grants for early childhood programs; grants to increase information and education technology, job readiness and employment services for youth in the care of the Department; State Health Access Program grants; and grants for expanded treatment and education services for the Division of Youth Services
From Federal Stimulus Fund $15,000,000

SECTION 21.385.— To the Department of Social Services
For the administration of the Supplemental Nutrition Assistance Program
From Federal Stimulus Fund $7,129,406

SECTION 21.390.— To the Department of Social Services
For the payment of Temporary Assistance for Needy Families (TANF) benefits
From Federal Stimulus Fund $11,224,576

SECTION 21.395.— To the Department of Social Services
For community services programs provided by Community Action Agencies, including programs to assist the homeless, residents of maternity homes, clients of pregnancy resource centers, and women and children assisted under sections 135.600, 135.630, and 188.325, RSMo, under the provisions of the Community Services Block Grant, including administrative costs
From Federal Stimulus Fund $30,438,100

SECTION 21.400.— To the Department of Social Services
For Emergency Shelter grants and services and homeless prevention initiatives, including administrative costs. To the extent permitted by law, the department, in coordination with other departments of the state, shall contact maternity homes and pregnancy resource centers qualified under

sections 135.600 and 135.630, RSMo, regarding grants under this section, section 21.220, and other funds under the American Recovery and Reinvestment Act of 2009 (ARRA). The departments shall make it possible for maternity homes and pregnancy resource centers in all areas of the state, including urban and "continuum of care" areas, to be eligible for grant and funding opportunities. To the extent permitted by law, the departments shall allocate at least $2,000,000 in the aggregate from this section, section 21.220, and other ARRA funds for grant and funding opportunities for maternity homes and pregnancy resource centers. The departments shall report in writing to the Chairman of the Senate Appropriations Committee and the Chairman of the House Budget Committee on their efforts and on grants and funds received by maternity homes and pregnancy resource centers

From Federal Stimulus Fund $13,212,388

SECTION 21.405.— To the Department of Social Services
For the Surplus Food Distribution Program and the receipt and disbursement of Donated Commodities Program payments
From Federal Stimulus Fund $1,081,555

SECTION 21.410.— To the Department of Social Services
For Older Individuals with Blindness services for the visually impaired
From Federal Stimulus Fund $778,752

SECTION 21.415.— To the Department of Social Services
For Child Support Enforcement services and initiatives
From Federal Stimulus Fund $7,763,003

SECTION 21.420.— To the Department of Social Services
For child care services and related programs and initiatives
From Federal Stimulus Fund $42,550,200

SECTION 21.425.— To the Department of Social Services
For Healthcare Technology Incentives, including administrative costs
From Federal Stimulus Fund $68,050,000

SECTION 21.430.— To the Department of Social Services
For Department of Mental Health political subdivisions
For Enhanced Medicaid Match
From Federal Budget Stabilization Fund $4,812,452E

SECTION 21.435.— To the Department of Social Services
For Department of Elementary and Secondary Education political subdivisions
For Enhanced Medicaid Match
From Federal Budget Stabilization Fund $280,532E

SECTION 21.440.— To the Department of Social Services
For Department of Social Services political subdivisions
For Enhanced Medicaid Match
From Federal Budget Stabilization Fund $12,014,452E

SECTION 21.445. — To the Department of Social Services
For the federal share of payments to hospitals from an increase in Missouri's Disproportionate Share Hospital (DSH)
From Federal Budget Stabilization Fund $24,983,560

SECTION 21.450. — To the Judiciary
For the purpose of receiving and expending grants from the American Recovery and Reinvestment Act for funds provided through the Bryne Memorial Competitive Grant
From Federal Stimulus Fund $6,792,469

BILL TOTALS

Federal Budget Stabilization Fund	$84,720,999
Federal Funds	2,410,638,276
Other Funds	160,201,228
Total	$2,655,560,503

Approved June 25, 2009

HB 22 [SS SCS HCS HB 22]

APPROPRIATIONS: FEDERAL BUDGET STABILIZATION FUNDS.

AN ACT to appropriate money for purposes for the several departments and offices of state government; for the purchase of equipment; for planning, expenses, and for capital improvement projects involving the maintenance, repair, replacement, and improvement of state buildings and facilities, including installation, modification, and renovation of facility components, equipment or systems; for grants, refunds, distributions, planning, expenses, and capital improvements including but not limited to major additions and renovations, new structures, and land improvements or acquisitions; and to transfer money among certain funds.

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

There is appropriated out of the State Treasury, for the agency, program, and purpose stated, chargeable to the fund designated for the period beginning July 1, 2009 and ending June 30, 2011, as follows:

SECTION 22.010. — Funds are to be transferred out of the State Treasury, chargeable to the General Revenue Fund, to the Facilities Maintenance Reserve Fund

For Fiscal Year 2010	$35,832,197
For Fiscal Year 2011	72,000,000
Total	$107,832,197

SECTION 22.011. — To the Department of Elementary and Secondary Education
For a safe schools initiative to include, but not limited to, safe school grants, alternative education program grants, equipment, anti-violence curriculum development and conflict resolution
From Federal Budget Stabilization Fund $2,250,000

SECTION 22.012. — To the Department of Elementary and Secondary Education
For the purpose of funding an outreach program for high school dropouts in St. Louis
From Federal Budget Stabilization Fund $500,000

***SECTION 22.015.** — To the University of Missouri
For the University of Missouri Hospital and Clinics
For renovations, improvements, maintenance, repairs and equipment purchases for Mid-Missouri Mental Health Center
From Federal Budget Stabilization Fund $6,500,000

*I hereby veto $50,000 Federal Budget Stabilization Fund for renovations, improvements, maintenance, repairs, and equipment purchases for the Mid-Missouri Mental Health Center. These funds are in excess of the amount needed for this purpose.

From $6,500,000 to $6,450,000 from Federal Budget Stabilization Fund.
From $6,500,000 to $6,450,000 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

***SECTION 22.021.** — To the Coordinating Board for Higher Education
For maintenance, repairs, replacements and improvements at community colleges
From Federal Budget Stabilization Fund $13,000,000

*I hereby veto $5,000,000 Federal Budget Stabilization Fund for maintenance, repairs, replacements, and improvements at community colleges. Community colleges have other funding for this purpose and a veto of these additional funds is necessary to ensure a balanced budget.

From $13,000,000 to $8,000,000 from Federal Budget Stabilization Fund.
From $13,000,000 to $8,000,000 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

SECTION 22.025. — To the Office of Administration
For the Department of Elementary and Secondary Education
For the design, renovation, construction, and improvements of vocational technical schools. Local matching funds must be provided on a 50/50 state/local match rate in order to be eligible for state funds
For vocational education facilities in Joplin $3,000,000
For vocational education facilities in Kirksville 5,250,000
For vocational education facilities in Pike County 2,250,000
From Lottery Proceeds Fund $10,500,000

SECTION 22.028. — To the Department of Economic Development
Funds are to be transferred out of the State Treasury, chargeable to the Federal Budget Stabilization Fund, to the Missouri Job Creation and Federal Match Fund
From Federal Budget Stabilization Fund $50,000,000

SECTION 22.029. — To the Department of Economic Development
For not more than two new manufacturing company locations or existing manufacturing company expansions that use existing battery technologies. Any recipient shall create not less than 500 new jobs in the state, shall build new production facilities in the state, shall be the successful recipient of U.S. Department of Energy funding in an amount not less than $40 million, and shall have a total project cost of not less than $150 million; and where any company shall receive no more than $25 million through a forgivable loan whereby amounts of the principal and interest are forgiven only upon successful completion of contracted benchmarks of job creation, private investment and job retention over the term of the loan; with actual total award amounts calculated on a combination of the positive economic return to the state, the salaries and benefits provided to the employees, the gap in private financing, and the amount of funds required to accomplish the federal match. Any unused funds not obligated using the criteria found in this section shall be returned to the Missouri Federal Budget Stabilization Fund
From Missouri Job Creation and Federal Match Fund $50,000,000

SECTION 22.030. — To the Office of Administration
For the Division of Facilities Management, Design and Construction
For maintenance, repairs, replacements, unprogrammed requirements, emergency requirements, operational maintenance and repair, and improvements at facilities statewide
From Facilities Maintenance Reserve Fund $49,154,459
From Office of Administration Revolving Administrative Trust Fund 1,228,000E
From Veterans' Commission Capital Improvement Trust Fund 500,000
From State Highways and Transportation Department Fund 500,000
From Workers Compensation Fund 200,000
From Special Employment Security Fund 400,000
Total $51,982,459

SECTION 22.035. — To the Office of Administration
For the Division of Facilities Management, Design and Construction
For operational maintenance and repair at facilities statewide
From Federal Funds $276,486E
From Lottery Proceeds Fund 685,508
Total $961,994

SECTION 22.040. — To the Office of Administration
For maintenance, repairs, replacements, unprogrammed requirements, emergency requirements and improvements for the following Departments
For the Department of Elementary and Secondary Education $4,980,490
For the Department of Natural Resources - Geology and Land Survey 235,686
For the Department of Economic Development 1,867,115
For the Department of Labor and Industrial Relations 445,063
For the Department of Public Safety - Veterans' Commission 1,120,098
For the Department of Public Safety - National Guard 7,356,078
For the Department of Corrections 23,191,548
For the Department of Mental Health 17,637,799
For the Department of Social Services - Youth Services 1,843,861
From Facilities Maintenance Reserve Fund $58,677,738

SECTION 22.045. — To the Office of Administration
For the Division of Facilities Management, Design and Construction
For receipt and disbursement of federal or state emergency management funds
From Federal Funds $1E

SECTION 22.050. — To the Office of Administration
For the Division of Facilities Management, Design and Construction
For receipt and disbursement of funds received from class action lawsuits to repair state owned or leased facilities
From Office of Administration Revolving Administrative Trust Fund $1E

SECTION 22.055. — To the Office of Administration
For the Division of Facilities Management, Design and Construction
For the receipt and disbursement of recovered costs related to capital improvements
From Office of Administration Revolving Administrative Trust Fund $1E

***SECTION 22.060.** — To the Office of Administration
For the Division of Facilities Management, Design and Construction
For the appropriation authority to spend the remaining balance due to interest earnings
From Board of Public Buildings Series A 2003 Bond Proceeds - Projects Fund $2,250,000E

*I hereby veto $2,250,000E Board of Public Buildings - Series A 2003 Bond Proceeds - Projects Fund. A veto of these additional funds is necessary to ensure a balanced budget.

Said section is vetoed in its entirety from $2,250,000E to $0 from Board of Public Buildings Series A 2003 Bond Proceeds - Projects Fund.
From $2,250,000E to $0 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

SECTION 22.065. — To the Office of Administration
For the Division of Facilities Management, Design and Construction
For capital improvement projects that are identified as having an energy savings payback of 15 years or less and renewable energy opportunities at all state-owned facilities; provided that the General Assembly shall be notified in writing prior to the use of the funds from this section
From Office of Administration Revolving Administrative Trust Fund $1E

SECTION 22.076. — To the Office of Administration
For the Commissioner's Office
For the allocation of state funds limited to the State Complete Count Committee to develop a state 2010 Census Website with links to the Census Bureau Website to create promotional materials and advertising
From Federal Budget Stabilization Fund $434,215

***SECTION 22.077.** — To the Office of Administration
For Information Technology Services Division
For the purpose of implementing and administering a pseudoephedrine tracking system in conjunction with the Department of Health and Senior Services including administrative costs

From Federal Budget Stabilization Fund $886,455

*I hereby veto $275,000 Federal Budget Stabilization Fund for implementation and administration of a pseudoephedrine tracking system. Sufficient resources still remain to begin implementing this project. A veto of these additional funds is necessary to ensure a balanced budget.

From $886,455 to $611,455 from Federal Budget Stabilization Fund.
From $886,455 to $611,455 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

***SECTION 22.080.**— To the Office of Administration
For the Department of Economic Development
For maintenance, repairs, replacements, and improvements
at Employment Security and Job Service facilities
From Special Employment Security Fund $432,000

*I hereby veto $432,000 Special Employment Security Fund for maintenance, repairs, replacements, and improvements at Employment Security and Job Service facilities. This item will be funded in HB 13 in Fiscal Year 2010.

Said section is vetoed in its entirety from $432,000 to $0 from Special Employment Security Fund.
From $432,000 to $0 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

SECTION 22.085.— To the Office of Administration
For the Department of Public Safety
For emergency generators at various veterans' homes
From Veterans' Commission Capital Improvement Trust Fund $4,876,500
From Federal Funds 1E
Total $4,876,501

SECTION 22.090.— To the Office of Administration
For the Department of Public Safety
For sprinkler installation at the St. James Veterans' Home
From Veterans' Commission Capital Improvement Trust Fund $1,976,986
From Federal Funds 1E
Total $1,976,987

SECTION 22.095.— To the Office of Administration
For the Department of Public Safety
For roof replacement at the St. James Veterans' Home
From Veterans' Commission Capital Improvement Trust Fund $1,367,528
From Federal Funds 1E
Total $1,367,529

SECTION 22.100.— To the Office of Administration
For the Department of Public Safety
For roof replacement at the Mexico Veterans' Home

From Veterans' Commission Capital Improvement Trust Fund $846,579
From Federal Funds 1E
Total $846,580

SECTION 22.105. — To the Office of Administration
For the Department of Public Safety
For construction of a solarium at the Warrensburg Veterans' Home
From Veterans' Commission Capital Improvement Trust Fund $328,168
From Federal Funds 1E
Total $328,169

SECTION 22.110. — To the Office of Administration
For the Department of Public Safety
For construction of a new chapel and renovation of the existing chapel for conference/training room space at the Warrensburg Veterans' Home
From Veterans' Commission Capital Improvement Trust Fund $959,126
From Federal Funds 1E
Total $959,127

SECTION 22.111. — To the Office of Administration
For the Department of Public Safety
For construction of a solarium at the Cameron Veterans' Home
From Veterans' Commission Capital Improvement Trust Fund $328,168
From Federal Funds 1E
Total $328,169

SECTION 22.112. — To the Office of Administration
For the Department of Public Safety
For construction of a new chapel and renovation of the existing chapel for conference/training room space at the Cameron Veterans' Home
From Veterans' Commission Capital Improvement Trust Fund $959,126
From Federal Funds 1E
Total $959,127

SECTION 22.115. — To the Office of Administration
For the Department of Public Safety
For construction of a new columbarium wall and spoils area at the Higginsville Veterans' Cemetery
From Veterans' Commission Capital Improvement Trust Fund $2,822,681
From Federal Funds 1E
Total $2,822,682

SECTION 22.120. — To the Office of Administration
For the Department of Public Safety
For construction of a new columbarium wall at the Springfield Veterans' Cemetery
From Veterans' Commission Capital Improvement Trust Fund $1,638,878
From Federal Funds 1E
Total $1,638,879

SECTION 22.125. — To the Office of Administration
For the Adjutant General - Missouri National Guard

For statewide maintenance and repair at National Guard facilities
From Federal Funds $1E

SECTION 22.130.— To the Office of Administration
For the Adjutant General - Missouri National Guard
For design and construction of National Guard facilities statewide
From Federal Funds $1E

SECTION 22.135.— To the Office of Administration
For the Adjutant General - Missouri National Guard
For construction of a new National Guard readiness center in Boonville
From General Revenue Fund $880,417
From Federal Funds 2,458,496E
Total $3,338,913

***SECTION 22.140.**— To the Office of Administration
For the Department of Public Safety
For the purpose of construction of a paved lot in Pettis County for use by Troop A as a commercial drivers license facility
From State Highways and Transportation Department Fund $300,000

*I hereby veto $300,000 State Highways and Transportation Department Fund for construction of a paved lot in Pettis County for the Troop A commercial drivers license facility. This project is not a high priority for limited highway funds and a veto of these additional funds is necessary to ensure a balanced budget.

Said section is vetoed in its entirety from $300,000 to $0 from State Highways and Transportation Department Fund.
From $300,000 to $0 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

***SECTION 22.145.**— To the Office of Administration
For the Department of Public Safety
For purchase of two existing radio towers at Troop C in St. Louis
From State Highways and Transportation Department Fund $931,086

*I hereby veto $931,086 State Highways and Transportation Department Fund for the purchase of the Troop C radio towers. This expenditure is not a high priority for limited highway funds and a veto of these additional funds is necessary to ensure a balanced budget.

Said section is vetoed in its entirety from $931,086 to $0 from State Highways and Transportation Department Fund.
From $931,086 to $0 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

SECTION 22.150.— To the Office of Administration
For the Department of Corrections
For maintenance, repair, and improvements at the Missouri Vocational Enterprises facility
From Working Capital Revolving Fund $113,513

SECTION 22.155. — To the Office of Administration
For the Department of Corrections
For roof replacement at the Missouri Vocational Enterprises facility
From Working Capital Revolving Fund $377,535

SECTION 22.160. — To the Office of Administration
For the Department of Mental Health
For planning, design, construction, and improvements at the Bellefontaine Habilitation Center
From Federal Budget Stabilization Fund $9,300,000

***SECTION 22.170.** — To the Department of Agriculture
There is transferred out of the State Treasury, chargeable to the Federal Budget Stabilization Fund, to the Missouri Qualified Fuel Ethanol Producer Incentive Fund
From Federal Budget Stabilization Fund $23,000,000

*I hereby veto $12,643,617 Federal Budget Stabilization Fund for a transfer to the Missouri Qualified Fuel Ethanol Producer Incentive Fund, intended to pre-pay incentives. Sufficient funding remains in the budget for Fiscal Years 2010 and 2011 commitments.

From $23,000,000 to $10,356,383 from Federal Budget Stabilization Fund.
From $23,000,000 to $10,356,383 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

***SECTION 22.175.** — To the Department of Agriculture
For Missouri Ethanol Producer Incentive Payments
From Missouri Qualified Fuel Ethanol Producer Incentive Fund $23,000,000

*I hereby veto $12,643,617 Missouri Qualified Fuel Ethanol Producer Incentive Fund for Missouri ethanol producer incentive payments. Sufficient funding remains in the budget for Fiscal Years 2010 and 2011 commitments.

From $23,000,000 to $10,356,383 from Missouri Qualified Fuel Ethanol Producer Incentive Fund.
From $23,000,000 to $10,356,383 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

***SECTION 22.176.** — To the Department of Transportation
For the Construction Program
For the purpose of improving highway access to the Missouri State Penitentiary Site
From Federal Budget Stabilization Fund $10,000,000

*I hereby veto $10,000,000 Federal Budget Stabilization Fund for highway access to the Missouri State Penitentiary Site. Highway funds should be the source of funding for such a project and a veto of these additional funds is necessary to ensure a balanced budget.

Said section is vetoed in its entirety from $10,000,000 to $0 from Federal Budget Stabilization Fund.

From $10,000,000 to $0 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

SECTION 22.180. — To the Department of Natural Resources
For the Division of State Parks
For capital improvement projects related to civil war-era buildings and artifacts in preparation for Missouri's Civil War Sesquicentennial
From Parks Sales Tax Fund $1,226,000

SECTION 22.185. — To the Department of Natural Resources
For the Division of State Parks
For planned and unforeseen maintenance, renovation and replacement projects for the state parks and historic properties system
From Parks Sales Tax Fund $1,450,000

SECTION 22.190. — To the Department of Natural Resources
For the Division of State Parks
For water and wastewater improvements for the state parks and historic properties system
From Parks Sales Tax Fund $1,500,000
From State Parks Earnings Fund 2,000,000
Total $3,500,000

SECTION 22.195. — To the Department of Natural Resources
For the Division of State Parks
For maintenance and repair to existing roadways, parking areas, and trails at state parks and historic properties statewide
From State Parks Earnings Fund $780,000

SECTION 22.200. — To the Department of Natural Resources
For the Division of State Parks
For acquisition, restoration, and marketing of endangered historic properties
From Historic Preservation Revolving Fund $1,000,000

SECTION 22.205. — To the Department of Natural Resources
For the Division of State Parks
For unforeseen maintenance, repairs, and improvements to state parks and historic sites statewide
From Parks Sales Tax Fund $800,000

SECTION 22.210. — To the Department of Natural Resources
For the Division of State Parks
For capital improvement expenditures from recoupments, donations, and grants
From Federal Funds and Other Funds $100,000E

SECTION 22.215. — To the Department of Natural Resources
For the Division of State Parks
For design, renovation, construction, and improvements of state parks
From State Parks Earnings Fund $1,400,000

SECTION 22.220. — To the Department of Natural Resources
For the Division of State Parks
For adjacent land purchases
From State Parks Earnings Fund $1,300,000

SECTION 22.225. — To the Department of Natural Resources
For the Division of State Parks
For replacement of existing, or installation of new interpretive exhibits within state parks and historic sites statewide
From State Parks Earnings Fund $700,000

***SECTION 22.230.** — To the Department of Natural Resources
For the cleanup of hazardous waste sites
From Federal Budget Stabilization Fund $7,821,249

*I hereby veto $2,673,949 Federal Budget Stabilization Fund for cleanup of hazardous waste sites. Sufficient funding remains for commitments through Fiscal Year 2011.

From $7,821,249 to $5,147,300 from Federal Budget Stabilization Fund.
From $7,821,249 to $5,147,300 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

SECTION 22.232. — To the Department of Natural Resources
For the Division of State Parks
For renovation and preservation of the historic Jackson County Courthouse in Independence where the 33rd President, Harry S. Truman served
From Federal Budget Stabilization Fund $500,000

SECTION 22.235. — To the Department of Conservation
For stream access acquisition and development; lake site acquisition and development; financial assistance to other public agencies or in partnership with other public agencies; land acquisition for upland wildlife, state forests, wetlands, and natural areas and additions to existing areas; for major improvements and repairs (including materials, supplies, and labor) to buildings, roads, hatcheries, and other departmental structures; and for soil conservation activities and erosion control on department land
From Conservation Commission Fund $46,000,000

***SECTION 22.240.** — To the Office of Administration
For a statewide interoperable communications system for the Missouri State Highway Patrol and other state agencies
From Federal Budget Stabilization Fund $111,700,000

*I hereby veto $24,700,000 Federal Budget Stabilization Fund for statewide interoperable communication system development for the Missouri State Highway Patrol and other state agencies. Sufficient funding remains for statewide replacement of the Missouri State Highway Patrol radio system and the interoperability projects.

From $111,700,000 to $87,000,000 from Federal Budget Stabilization Fund.
From $111,700,000 to $87,000,000 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

SECTION 22.245. — To the Department of Health and Senior Services
For the Division of Senior and Disability Services
For the purpose of providing a rate increase for pediatric nursing services for Fiscal Year 2010

From Federal Budget Stabilization Fund	$292,291
From Federal Funds	523,709
Total	$816,000

*I hereby veto $408,004, including $146,147 Federal Budget Stabilization Fund for the purpose of providing a rate increase for pediatric nursing services. The appropriation will still include funding for a smaller rate increase. Given revenue constraints, a veto of these additional funds is necessary to ensure a balanced budget.

From $292,291 to $146,144 from Federal Budget Stabilization Fund.
From $523,709 to $261,852 from Federal Funds.
From $816,000 to $407,996 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

SECTION 22.250. — To the Department of Health and Senior Services
For the Division of Senior and Disability Services
For the purpose of providing a rate increase for in-home services for Fiscal Year 2010

From Federal Budget Stabilization Fund	$7,909,073
From Federal Funds	13,398,812
Total	$21,307,885

SECTION 22.254. — To the Department of Social Services
For the Mo HealthNet Division
For the purpose of funding contractor and provider payments associated with participant case management services for MO HealthNet recipients

From Federal Budget Stabilization Fund	$2,000,000
From Federal Funds	2,000,000
Total	$4,000,000

*I hereby veto $4,000,000, including $2,000,000 Federal Budget Stabilization Fund for the purpose of funding contractor and provider payments associated with participant case management services for Medicaid. Sufficient funds are appropriated in House Bill 11 for a chronic care management pilot and a veto of these additional funds is necessary to ensure a balanced budget.

Said section is vetoed in its entirety from $2,000,000 to $0 from Federal Budget Stabilization Fund.
From $2,000,000 to $0 from Federal Funds.
From $4,000,000 to $0 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

SECTION 22.255. — To the Department of Social Services
For the MO HealthNet Division
For the purpose of providing a rate increase for in-home services for Fiscal Year 2010

From Federal Budget Stabilization Fund $51,003
From Federal Funds 91,385
Total $142,388

SECTION 22.256.— To the Department of Social Services
For the Children's Division
For the purpose of providing an increase to the clothing allowance for children in alternative care and to increase the age limit for diaper allowance for Fiscal Year 2010
From Federal Budget Stabilization Fund $1,326,926
From Federal Funds 329,525
Total $1,656,451

SECTION 22.260.— To the Office of the State Public Defender
For contracting of court representation with entities outside of the State Public Defender
From Federal Budget Stabilization Fund $2,000,000

SECTION 22.285.— To the Department of Transportation
For the Transit Program
For distribution to a public transit provider whose service area includes a city not within a county
From Federal Budget Stabilization Fund $12,000,000

***SECTION 22.290.**— To Missouri State University
For planning, design, construction, and renovations necessary to implement phase one of the facilities reutilization plan provided that no more than $19,228,211 is expended for this project regardless of appropriation source
From Federal Budget Stabilization Fund $19,228,211

*The words "provided that no more than $19,228,211 is expended for this project regardless of appropriation source" are deleted and not approved for the reason that they do not reflect the true intent of the language. The intent of the language was to ensure that this capital project appropriation, which is the remaining balance of a larger project and which was being considered in several different bills, not be appropriated and expended multiple times. However, because the larger project has received other sources of state funding, this restrictive language would not allow for expenditures on the project beyond this partial funding amount.

JEREMIAH W. (JAY) NIXON, GOVERNOR

***SECTION 22.295.**— To the Southeast Missouri State University
For planning, design, renovation, and construction of a business incubator provided that no more than $4,500,000 is expended for this project regardless of appropriation source
From Federal Budget Stabilization Fund $4,500,000

*I hereby veto $4,500,000 Federal Budget Stabilization Fund for planning, design, renovation, and construction of a business incubator at Southeast Missouri State University. Given the current revenue shortfall, a veto of these funds is necessary to ensure a balanced budget.

Said section is vetoed in its entirety from $4,500,000 to $0 from Federal Budget Stabilization Fund.
From $4,500,000 to $0 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

***SECTION 22.300.**— To Truman State University
For planning, design, renovation, and construction at the Pershing
Building provided that no more than $10,222,081 is expended
for this project regardless of appropriation source
From Federal Budget Stabilization Fund $10,222,081

*The words "provided that no more than $10,222,081 is expended for this project regardless of appropriation source" are deleted and not approved for the reason that they do not reflect the true intent of the language. The intent of the language was to ensure that this capital project appropriation, which is the remaining balance of a larger project and which was being considered in several different bills, not be appropriated and expended multiple times. However, because the larger project has received other sources of state funding, this restrictive language would not allow for expenditures on the project beyond this partial funding amount.

JEREMIAH W. (JAY) NIXON, GOVERNOR

***SECTION 22.305.**— To the University of Missouri
For planning, design, renovation, and construction of a new Ellis Fischel
Cancer and Medical Education Center on the Columbia campus
provided that no more than $31,182,000 is expended for this project
regardless of appropriation source
From Federal Budget Stabilization Fund $31,182,000

*The words "provided that no more than $31,182,000 is expended for this project regardless of appropriation source" are deleted and not approved for the reason that they do not reflect the true intent of the language. The intent of the language was to ensure that this capital project appropriation, which is the remaining balance of a larger project and which was being considered in several different bills, not be appropriated and expended multiple times. However, because the larger project has received other sources of state funding, this restrictive language would not allow for expenditures on the project beyond this partial funding amount.

JEREMIAH W. (JAY) NIXON, GOVERNOR

***SECTION 22.310.**— To the University of Missouri
For planning, design, renovation, construction, and/or purchase of
equipment for the Greenley Learning and Discovery Park provided
that no more than $1,859,737 is expended for this project
regardless of appropriation source
From Federal Budget Stabilization Fund $1,859,737

*I hereby veto $1,859,737 Federal Budget Stabilization Fund for planning, design, renovation, construction, and/or purchase of equipment for the Greenley Learning and Discovery Park. Given the current revenue shortfall, a veto of these funds is necessary to ensure a balanced budget.

Said section is vetoed in its entirety from $1,859,737 to $0 from Federal Budget Stabilization Fund.
From $1,859,737 to $0 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

***SECTION 22.315.** — To the University of Missouri
For planning, design, renovation, construction, and/or purchase of equipment for a plant science greenhouse at the Delta Research Center provided that no more than $1,726,810 is expended for this project regardless of appropriation source
From Federal Budget Stabilization Fund $1,726,810

*I hereby veto $1,726,810 Federal Budget Stabilization Fund for planning, design, renovation, construction, and/or purchase of equipment for a plant science greenhouse at the Delta Research Center. Given the current revenue shortfall, a veto of these funds is necessary to ensure a balanced budget.

Said section is vetoed in its entirety from $1,726,810 to $0 from Federal Budget Stabilization Fund.
From $1,726,810 to $0 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

***SECTION 22.320.** — To the University of Missouri
For planning, design, renovation, construction, and/or purchase of equipment for an education and outreach center in Lawrence County provided that no more than $3,059,191 is expended for this project regardless of appropriation source
From Federal Budget Stabilization Fund $3,059,191

*I hereby veto $3,059,191 Federal Budget Stabilization Fund for planning, design, renovation, construction, and/or purchase of equipment for an education and outreach center in Lawrence County. Given the current revenue shortfall, a veto of these funds is necessary to ensure a balanced budget.

Said section is vetoed in its entirety from $3,059,191 to $0 from Federal Budget Stabilization Fund.
From $3,059,191 to $0 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

***SECTION 22.325.** — To the University of Missouri
For planning, design, renovation, construction, and/or purchase of equipment for a meeting and education facility in Atchison and Holt Counties provided that no more than $579,754 is expended for this project regardless of appropriation source
From Federal Budget Stabilization Fund $579,754

*I hereby veto $579,754 Federal Budget Stabilization Fund for planning, design, renovation, construction, and/or purchase of equipment for a meeting and education facility in Atchison and

Holt Counties. Given the current revenue shortfall, a veto of these funds is necessary to ensure a balanced budget.

Said section is vetoed in its entirety from $579,754 to $0 from Federal Budget Stabilization Fund.
From $579,754 to $0 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

***SECTION 22.330.** — To the University of Missouri
For planning, design, renovation, construction, and/or purchase of
equipment for an agroforestry education and research center
andmeeting and education facilities in Howard County provided
that no more than $2,998,232 is expended for this project
regardless of appropriation source
From Federal Budget Stabilization Fund $2,998,232

*I hereby veto $2,998,232 Federal Budget Stabilization Fund for planning, design, renovation, construction, and/or purchase of equipment for an agroforestry education and research center and meeting and education facilities in Howard County. Given the current revenue shortfall, a veto of these funds is necessary to ensure a balanced budget.

Said section is vetoed in its entirety from $2,998,232 to $0 from Federal Budget Stabilization Fund.
From $2,998,232 to $0 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

***SECTION 22.335.** — To the University of Missouri
For planning, design, renovation, construction, and/or purchase of
equipment for a headquarters building and meeting room in Grundy
County provided that no more than $671,256 is expended for this
project regardless of appropriation source
From Federal Budget Stabilization Fund $671,256

*I hereby veto $671,256 Federal Budget Stabilization Fund for planning, design, renovation, construction, and/or purchase of equipment for a headquarters building and meeting room in Grundy County. Given the current revenue shortfall, a veto of these funds is necessary to ensure a balanced budget.

Said section is vetoed in its entirety from $671,256 to $0 from Federal Budget Stabilization Fund.
From $671,256 to $0 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

***SECTION 22.340.** — To the University of Missouri
For planning, design, renovation, construction, and/or purchase of
equipment for a meeting and education facility in Crawford
County provided that no more than $527,101 is expended for this
project regardless of appropriation source
From Federal Budget Stabilization Fund $527,101

*I hereby veto $527,101 Federal Budget Stabilization Fund for planning, design, renovation, construction, and/or purchase of equipment for a meeting and education facility in Crawford County. Given the current revenue shortfall, a veto of these funds is necessary to ensure a balanced budget.

Said section is vetoed in its entirety from $527,101 to $0 from Federal Budget Stabilization Fund.
From $527,101 to $0 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

***SECTION 22.345.** — To the University of Missouri
For planning, design, renovation, construction, and/or purchase of
equipment for a swine research isolation facility in Callaway
County provided that no more than $600,000 is expended for this
project regardless of appropriation source
From Federal Budget Stabilization Fund $600,000

*I hereby veto $600,000 Federal Budget Stabilization Fund for planning, design, renovation, construction, and/or purchase of equipment for a swine research isolation facility in Callaway County. Given the current revenue shortfall, a veto of these funds is necessary to ensure a balanced budget.

Said section is vetoed in its entirety from $600,000 to $0 from Federal Budget Stabilization Fund.
From $600,000 to $0 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

***SECTION 22.350.** — To the University of Missouri
For planning, design, renovation, and construction of Benton and
Stadler Halls on the St. Louis campus provided that no more than
$28,130,767 is expended for this project regardless of
appropriation source
From Federal Budget Stabilization Fund $28,130,767

*The words "provided that no more than $28,130,767 is expended for this project regardless of appropriation source" are deleted and not approved for the reason that they do not reflect the true intent of the language. The intent of the language was to ensure that this capital project appropriation, which is the remaining balance of a larger project and which was being considered in several different bills, not be appropriated and expended multiple times. However, because the larger project has receive d other sources of state funding, this restrictive language would not allow for expenditures on the project beyond this partial funding amount.

JEREMIAH W. (JAY) NIXON, GOVERNOR

***SECTION 22.355.** — To the Department of Economic Development
For the Missouri Technology Corporation
For planning, design, renovation, equipment purchase and construction
of a plant science research facility in Mexico, Missouri
provided that no more than $2,500,000 is expended for this
project regardless of appropriation source

From Federal Budget Stabilization Fund $2,500,000

*The words "provided that no more than $2,500,000 is expended for this project regardless of appropriation source" are deleted and not approved for the reason that they do not reflect the true intent of the language. The intent of the language was to ensure that this capital project appropriation, which is the remaining balance of a larger project and which was being considered in several different bills, not be appropriated and expended multiple times. However, because the larger project has received other sources of state funding, this restrictive language would not allow for expenditures on the project beyond this partial funding amount.

JEREMIAH W. (JAY) NIXON, GOVERNOR

***SECTION 22.360.**— To the Department of Economic Development
For the Division of Business and Community Services
For the purpose of design, construction, rehabilitation and upgrades to trade zone facilities in the state that will focus on developing markets for Missouri products and associated marketing development
From Federal Budget Stabilization Fund $12,000,000

*I hereby veto $2,000,000 Federal Budget Stabilization Fund for trade zone facilities in the state. Given the current revenue shortfall, a veto of these funds is necessary to ensure a balanced budget. The remaining appropriation amount will provide sufficient resources for this project.

From $12,000,000 to $10,000,000 from Federal Budget Stabilization Fund.
From $12,000,000 to $10,000,000 in total for the section.

JEREMIAH W. (JAY) NIXON, GOVERNOR

YEAR ONE BILL TOTALS

General Revenue Fund	$36,712,614
Federal Budget Stabilization Fund	348,268,019
Federal Funds	18,965,183
Other Funds	55,546,326
Total	$459,492,142

YEAR TWO BILL TOTALS

General Revenue Fund	$72,000,000
Federal Budget Stabilization Fund	32,988,333
Federal Funds	163,243
Other Funds	35,953,056
Total	$141,104,632

Approved June 25, 2009

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HB 62 [CCS SS SCS HCS HB 62]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding crime

AN ACT to repeal sections 43.500, 43.503, 43.506, 174.700, 192.925, 217.450, 217.460, 217.665, 229.110, 303.024, 311.325, 311.326, 409.5-508, 409.6-604, 544.665, 545.050, 550.040, 550.050, 550.070, 550.080, 550.090, 556.036, 561.031, 565.063, 565.081, 565.082, 565.083, 565.084, 566.147, 566.149, 568.045, 570.030, 570.040, 570.080, 573.020, 573.023, 573.025, 573.030, 573.035, 573.037, 573.040, 573.060, 573.065, 575.150, 575.260, 576.050, 577.029, 578.250, 578.255, 578.260, 578.265, 589.400, 589.425, 595.027, 650.052, and 650.055, RSMo, section 302.060 as enacted by conference committee substitute for house committee substitute for senate committee substitute for senate bills nos. 930 & 947, ninety-fourth general assembly, second regular session and section 302.060 as enacted by house committee substitute for senate committee substitute for senate bills nos. 37, 322, 78, 351 & 424, ninety-third general assembly, first regular session, and section 577.023 as enacted by senate committee substitute for house committee substitute for house bill no. 1715 merged with conference committee substitute for house committee substitute for senate committee substitute for senate bills nos. 930 & 947, ninety-fourth general assembly, second regular session, and section 577.023 as enacted by senate committee substitute for house committee substitute for house bill no. 1715, ninety-fourth general assembly, second regular session, and to enact in lieu thereof seventy-four new sections relating to crime, with penalty provisions and an emergency clause for certain sections.

SECTION

A. Enacting clause.
43.500. Definitions.
43.503. Arrest, charge and disposition of misdemeanors and felonies to be sent to highway patrol — procedure for certain juveniles.
43.506. Crimes to be reported, exceptions — method of reporting — repository of latent prints.
173.754. Unlawful use false or misleading degree, when — violation, penalty.
174.700. Board of regents and board of governors may appoint necessary police officers.
192.925. Awareness program established — focus of program — cooperation with department of social services, distribution of program information.
217.439. Photograph of offender to be taken prior to release, when — provided to victim upon request.
217.450. Offender may request final disposition of pending indictment, information or complaint, how requested — director to notify offender of pending actions, failure to notify, effect.
217.460. Trial to be held, when — failure, effect.
217.665. Board members, appointment, qualifications — terms, vacancies — compensation, expenses — chairman, designation.
273.033. Killing or injuring a dog, reasonable apprehension of imminent harm is an absolute defense.
273.036. Owner liable, when — fine, amount.
302.060. License not to be issued to whom, exceptions — reinstatement requirements.
302.060. License not to be issued to whom, exceptions — reinstatement requirements.
303.024. Insurance identification cards issued by insurer, contents — identification cards for self-insured issued by director, contents — exhibition of card to peace officers or commercial vehicle enforcement officers — failure to exhibit, violation of section 303.025.
304.820. Text messaging while operating a motor vehicle prohibited — exceptions — definitions — violation, penalty.
306.109. Alcoholic drinking devices, containers, and coolers prohibited on rivers — violation, penalty.
311.325. Purchase or possession by minor, a misdemeanor — container need not be opened and contents verified, when — consent to chemical testing deemed given, when — burden of proof on violator to prove not intoxicating liquor — section not applicable to certain students, requirements.
311.326. Expungement of record permitted, when.
407.1500. Definitions — notice to consumer for breach of security, procedure — attorney general may bring action for damages.

409.5-508. Criminal penalties.
409.6-604. Administrative enforcement.
544.665. Failure to appear, penalty.
545.050. Name of prosecutor on indictment, when.
550.040. State or county to pay costs on acquittal.
556.036. Time limitations.
561.031. Physical appearance in court of a prisoner may be made by using two-way audio-visual communication including closed circuit television, when — requirements.
565.063. Prior and persistent domestic violence offenders — definitions — sentencing — procedure at trial — evidence of prior convictions, proof, how heard — past history of domestic violence, evidence admissible.
565.081. Assault of a law enforcement officer, corrections officer, emergency personnel, highway worker, probation and parole officer, or transit operator in the first degree, definition, penalty.
565.082. Assault of a law enforcement officer, corrections officer, emergency personnel, highway worker, probation and parole officer, or transit operator in the second degree, definition, penalty.
565.083. Assault of a law enforcement officer, corrections officer, emergency personnel, highway worker, probation and parole officer, or transit operator in the third degree, definition, penalty.
565.084. Tampering with a judicial officer, penalty.
566.013. Criminal investigations, site of criminal conduct undetermined, attorney general may subpoena witnesses and documents.
566.147. Certain offenders not to reside within one thousand feet of a school or child-care facility.
566.148. Certain offenders not to physically be present or loiter within five hundred feet of a child care facility — violation, penalty.
566.149. Certain offenders not to be present within five hundred feet of school property, exception — permission required for parents or guardians who are offenders, procedure — penalty.
566.150. Certain offenders not to be present or loiter within five hundred feet of a public park or swimming pool — violation, penalty.
566.155. Certain offenders not to serve as athletic coaches, managers, or trainers — violation, penalty.
568.045. Endangering the welfare of a child in the first degree, penalties.
570.030. Stealing — penalties.
570.040. Stealing, third offense.
570.080. Receiving stolen property.
573.013. Criminal investigations, site of criminal conduct undetermined, attorney general may subpoena witness and documents.
573.020. Promoting obscenity in the first degree.
573.023. Sexual exploitation of a minor, penalties.
573.025. Promoting child pornography in the first degree.
573.030. Promoting obscenity in the second degree.
573.035. Promoting child pornography in the second degree.
573.037. Possession of child pornography.
573.040. Furnishing pornographic materials to minors.
573.060. Public display of explicit sexual material.
573.065. Coercing acceptance of obscene material.
575.150. Resisting or interfering with arrest — penalty.
575.153. Crime of disarming a peace officer or correctional officer — violation, penalty.
575.260. Tampering with a judicial proceeding.
576.050. Misuse of official information.
577.023. Aggravated, chronic, persistent and prior offenders — enhanced penalties — imprisonment requirements, exceptions — procedures — definitions.
577.023. Aggravated, chronic, persistent and prior offenders — enhanced penalties — imprisonment requirements, exceptions — procedures — definitions.
577.029. Blood alcohol content tests, how made, by whom, when — person tested to receive certain information, when.
578.022. Law enforcement dogs, exempt from certain laws, when.
578.024. Subsequent dog bites, liability of owner, penalty — exceptions.
578.028. Removal of certain collars from dogs with intent to prevent or hinder locating the dog, restitution required.
578.250. Inhalation or inducing others to inhale solvent fumes to cause certain reactions, prohibited — exceptions.
578.255. Inducing, or possession with intent to induce, symptoms by use of certain solvents and other substances, prohibited.
578.260. Possession or purchase of solvents to aid others in violations, prohibited — violations of sections 578.250 to 578.260 — penalty.
578.265. Selling or transferring solvents to cause certain symptoms, penalty — certain alcoholic beverage sellers prohibited from selling, penalty.
589.400. Registration of certain offenders with chief law officers of county of residence — time limitation — cities may request copy of registration — fees — automatic removal from registry — petitions for

removal — procedure, notice, denial of petition — higher education students and workers — persons removed.
589.425. Failure to register, penalty — subsequent violations, penalty.
590.701. Definitions — recording required for certain crimes — may be recorded, when — written policy required — violation, penalty.
595.027. Medical providers to submit information, when, penalty — medical providers, defined.
650.052. Consultation with crime laboratories — DNA system, powers and duties — expert testimony — rulemaking authority.
650.055. Felony convictions for certain offenses to have biological samples collected, when — use of sample — highway patrol and department of corrections, duty — DNA records and biological materials to be closed record, disclosure, when — expungement of record, when.
650.059. Crime laboratory review commission established, purpose, members, vacancies, powers and duties.
1. Inspection of records of certain licensees by law enforcement — hold order, contents — violation, penalty — confidentiality of information.
2. Revisor to make certain statutory reference changes.
3. Crime of promoting on-line sexual solicitation, violation, penalty.
229.110. Hedge fences, regulations — penalty — duties and liabilities of prosecuting attorney.
550.050. Prosecutor to pay costs upon acquittal — exception for public officers.
550.070. Prosecutor to pay costs if accused discharged upon examination.
550.080. Judgment rendered against prosecutor, when.
550.090. Prosecutor to pay costs, when.
577.029. Blood alcohol content tests, how made, by whom, when — person tested to receive certain information, when.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 43.500, 43.503, 43.506, 174.700, 192.925, 217.450, 217.460, 217.665, 229.110, 303.024, 311.325, 311.326, 409.5-508, 409.6-604, 544.665, 545.050, 550.040, 550.050, 550.070, 550.080, 550.090, 556.036, 561.031, 565.063, 565.081, 565.082, 565.083, 565.084, 566.147, 566.149, 568.045, 570.030, 570.040, 570.080, 573.020, 573.023, 573.025, 573.030, 573.035, 573.037, 573.040, 573.060, 573.065, 575.150, 575.260, 576.050, 577.029, 578.250, 578.255, 578.260, 578.265, 589.400, 589.425, 595.027, 650.052, and 650.055, RSMo, section 302.060 as enacted by conference committee substitute for house committee substitute for senate committee substitute for senate bills nos. 930 & 947, ninety-fourth general assembly, second regular session and section 302.060 as enacted by house committee substitute for senate committee substitute for senate bills nos. 37, 322, 78, 351 & 424, ninety-third general assembly, first regular session, and section 577.023 as enacted by senate committee substitute for house committee substitute for house bill no. 1715 merged with conference committee substitute for house committee substitute for senate committee substitute for senate bills nos. 930 & 947, ninety-fourth general assembly, second regular session, and section 577.023 as enacted by senate committee substitute for house committee substitute for house bill no. 1715, ninety-fourth general assembly, second regular session, are repealed and seventy-four new sections enacted in lieu thereof, to be known as sections 43.500, 43.503, 43.506, 173.754, 174.700, 192.925, 217.439, 217.450, 217.460, 217.665, 273.033, 273.036, 302.060, 303.024, 304.820, 306.109, 311.325, 311.326, 407.1500, 409.5-508, 409.6-604, 544.665, 545.050, 550.040, 556.036, 561.031, 565.063, 565.081, 565.082, 565.083, 565.084, 566.013, 566.147, 566.148, 566.149, 566.150, 566.155, 568.045, 570.030, 570.040, 570.080, 573.013, 573.020, 573.023, 573.025, 573.030, 573.035, 573.037, 573.040, 573.060, 573.065, 575.150, 575.153, 575.260, 576.050, 577.023, 577.029, 578.022, 578.024, 578.028, 578.250, 578.255, 578.260, 578.265, 589.400, 589.425, 590.701, 595.027, 650.052, 650.055, 650.059, 1, 2, and 3, to read as follows:

43.500. DEFINITIONS. — As used in sections 43.500 to 43.543, the following terms mean:

(1) "Administration of criminal justice", performance of any of the following activities: detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The

administration of criminal justice shall include criminal identification activities and the collection, storage, and dissemination of criminal history information, including fingerprint searches, photographs, and other **[**indicia of**]** **unique biometric** identification;

(2) "Central repository", the **division within the** Missouri state highway patrol **[**criminal records and identification division**]** **responsible** for compiling and disseminating complete and accurate criminal history records and for compiling, maintaining, and disseminating criminal incident and arrest reports and statistics;

(3) "Committee", criminal records and justice information advisory committee;

(4) **"Comparable ordinance violation", a violation of an ordinance having all the essential elements of a statutory felony or a class A misdemeanor;**

(5) "Criminal history record information", information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal criminal charges, and any disposition arising therefrom, sentencing, correctional supervision, and release;

[(5)**]** **(6)** "Final disposition", the formal conclusion of a criminal proceeding at whatever stage it occurs in the criminal justice system;

[(6)**]** **(7)** "Missouri charge code", a unique number assigned by the office of state courts administrator to an offense for tracking and grouping offenses. Beginning January 1, 2005, the complete charge code shall consist of digits assigned by the office of state courts administrator, the two-digit national crime information center modifiers and a single digit designating attempt, accessory, or conspiracy. The only exception to the January 1, 2005, date shall be the courts that are not using the statewide court automation case management pursuant to section 476.055, RSMo; the effective date will be as soon thereafter as economically feasible for all other courts;

[(7)**]** **(8)** "State offense cycle number", a unique number, supplied by or approved by the Missouri state highway patrol, on the state criminal fingerprint card. The offense cycle number, OCN, is used to link the identity of a person, through **[**fingerprints**]** **unique biometric identification**, to one or many offenses for which the person is arrested or charged. The OCN will be used to track an offense incident from the date of arrest to the final disposition when the offender exits from the criminal justice system**[**.**]** **;**

(9) "Unique biometric identification", automated methods of recognizing and identifying an individual based on a physiological characteristic. Biometric identification methods may include but are not limited to facial recognition, fingerprints, palm prints, hand geometry, iris recognition, and retinal scan.

43.503. ARREST, CHARGE AND DISPOSITION OF MISDEMEANORS AND FELONIES TO BE SENT TO HIGHWAY PATROL — PROCEDURE FOR CERTAIN JUVENILES. — 1. For the purpose of maintaining complete and accurate criminal history record information, all police officers of this state, the clerk of each court, the department of corrections, the sheriff of each county, the chief law enforcement official of a city not within a county and the prosecuting attorney of each county or the circuit attorney of a city not within a county shall submit certain criminal arrest, charge, and disposition information to the central repository for filing without undue delay in the form and manner required by sections 43.500 to 43.543.

2. All law enforcement agencies making misdemeanor and felony arrests as determined by section 43.506 shall furnish without undue delay, to the central repository, fingerprints, **photograph, and if available, any other unique biometric identification collected,** charges, appropriate charge codes, and descriptions of all persons who are arrested for such offenses on standard fingerprint forms supplied or approved by the highway patrol or electronically in a format and manner approved by the highway patrol **and in compliance with the standards set by the Federal Bureau of Investigation in its Automated Fingerprint Identification System or its successor program**. All such agencies shall also notify the central repository of all decisions not to refer such arrests for prosecution. An agency making such arrests may enter into arrangements with other law enforcement agencies for the purpose of furnishing without undue

delay such fingerprints, **photograph, and if available, any other unique biometric identification collected,** charges, appropriate charge codes, and descriptions to the central repository upon its behalf.

3. In instances where an individual less than seventeen years of age and not currently certified as an adult is taken into custody for an offense which would be a felony if committed by an adult, the arresting officer shall take fingerprints for the central repository. These fingerprints shall be taken on fingerprint cards supplied by or approved by the highway patrol or transmitted electronically in a format and manner approved by the highway patrol **and in compliance with the standards set by the Federal Bureau of Investigation in its Automated Fingerprint Identification System or its successor program**. The fingerprint cards shall be so constructed that the name of the juvenile should not be made available to the central repository. The individual's name and the unique number associated with the fingerprints and other pertinent information shall be provided to the court of jurisdiction by the agency taking the juvenile into custody. The juvenile's fingerprints and other information shall be forwarded to the central repository and the courts without undue delay. The fingerprint information from the card shall be captured and stored in the automated fingerprint identification system operated by the central repository. In the event the fingerprints are found to match other tenprints or unsolved latent prints, the central repository shall notify the submitting agency who shall notify the court of jurisdiction as per local agreement. **Under section 211.031, RSMo, in instances where a juvenile over fifteen and one-half years of age is alleged to have violated a state or municipal traffic ordinance or regulation, which does not constitute a felony, and the juvenile court does not have jurisdiction, the juvenile shall not be fingerprinted unless certified as an adult.**

4. Upon certification of the individual as an adult, the certifying court shall order a law enforcement agency to immediately fingerprint **and photograph** the individual **and certification papers will be forwarded to the appropriate law enforcement agency with the order for fingerprinting**. The law enforcement agency shall submit such fingerprints**, photograph, and certification papers** to the central repository within fifteen days and shall furnish the offense cycle number associated with the fingerprints to the prosecuting attorney or the circuit attorney of a city not within a county and to the clerk of the court ordering the subject fingerprinted. If the juvenile is acquitted of the crime and is no longer certified as an adult, the prosecuting attorney shall notify within fifteen days the central repository of the change of status of the juvenile. Records of a child who has been fingerprinted and photographed after being taken into custody shall be closed records as provided under section 610.100, RSMo, if a petition has not been filed within thirty days of the date that the child was taken into custody; and if a petition for the child has not been filed within one year of the date the child was taken into custody, any records relating to the child concerning the alleged offense may be expunged under the procedures in sections 610.122 to 610.126, RSMo.

5. The prosecuting attorney of each county or the circuit attorney of a city not within a county **or the municipal prosecuting attorney** shall notify the central repository on standard forms supplied by the highway patrol or in a manner approved by the highway patrol **[**of all charges filed, including all those added subsequent to the filing of a criminal court case, and whether charges were not filed in criminal cases for which the central repository has a record of an arrest**] of his or her decision to not file a criminal charge on any charge referred to such prosecuting attorney or circuit attorney for criminal charges**. All records forwarded to the central repository **and the courts** by prosecutors or circuit attorneys as required by sections 43.500 to 43.530 shall include the state offense cycle number of the offense, the charge code for the offense, and the originating agency identifier number of the reporting prosecutor, using such numbers as assigned by the highway patrol.

6. The clerk of the courts of each county or city not within a county **or municipal court clerk** shall furnish the central repository, on standard forms supplied by the highway patrol or in a manner approved by the highway patrol, with **a record of all charges filed, including all**

those added subsequent to the filing of a criminal court case, amended charges, and all final dispositions of cases for which the central repository has a record of an arrest or a record of fingerprints reported pursuant to sections 43.500 to 43.506. Such information shall include, for each charge:

(1) All judgments of not guilty, acquittals on the ground of mental disease or defect excluding responsibility, judgments or pleas of guilty including the sentence, if any, or probation, if any, pronounced by the court, nolle pros, discharges, releases and dismissals in the trial court;

(2) Court orders filed with the clerk of the courts which reverse a reported conviction or vacate or modify a sentence;

(3) Judgments terminating or revoking a sentence to probation, supervision or conditional release and any resentencing after such revocation; and

(4) The offense cycle number of the offense, and the originating agency identifier number of the sentencing court, using such numbers as assigned by the highway patrol.

7. The clerk of the courts of each county or city not within a county shall furnish, to the department of corrections or department of mental health, court judgment and sentence documents and the state offense cycle number and the charge code of the offense which resulted in the commitment or assignment of an offender to the jurisdiction of the department of corrections or the department of mental health if the person is committed pursuant to chapter 552, RSMo. This information shall be reported to the department of corrections or the department of mental health at the time of commitment or assignment. If the offender was already in the custody of the department of corrections or the department of mental health at the time of such subsequent conviction, the clerk shall furnish notice of such subsequent conviction to the appropriate department by certified mail, return receipt requested, or in a manner and format mutually agreed to, within fifteen days of such disposition.

8. Information and fingerprints, **[**and other indicia**] photograph and if available, and any other unique biometric identification collected,** forwarded to the central repository, normally obtained from a person at the time of the arrest, may be obtained at any time the subject is in the criminal justice system or committed to the department of mental health. A law enforcement agency or the department of corrections may fingerprint**, photograph, and capture any other unique biometric identification of** the person **unless collecting other unique biometric identification of the person is not financially feasible for the law enforcement agency,** and obtain the necessary information at any time the subject is in custody. If at the time of **[**disposition**] any court appearance**, the defendant has not been fingerprinted **and photographed** for an offense in which a fingerprint **and photograph** is required by statute to be collected, maintained, or disseminated by the central repository, the court shall order a law enforcement agency **or court marshal** to fingerprint **and photograph** immediately the defendant. **The order for fingerprints shall contain the offense, charge code, date of offense, and any other information necessary to complete the fingerprint card.** The law enforcement agency **or court marshal** shall submit such fingerprints**, photograph, and if available, any other unique biometric identification collected,** to the central repository without undue delay and within thirty days and shall furnish the offense cycle number associated with the fingerprints to the prosecuting attorney or the circuit attorney of a city not within a county and to the court clerk of the court ordering the subject fingerprinted.

9. The department of corrections and the department of mental health shall furnish the central repository with all information concerning the receipt, escape, execution, death, release, pardon, parole, commutation of sentence, granting of executive clemency, legal name change, or discharge of an individual who has been sentenced to that department's custody for any offenses which are mandated by law to be collected, maintained or disseminated by the central repository. All records forwarded to the central repository by the department as required by sections 43.500 to 43.543 shall include the offense cycle number of the offense, and the originating agency identifier number of the department using such numbers as assigned by the highway patrol.

43.506. CRIMES TO BE REPORTED, EXCEPTIONS — METHOD OF REPORTING — REPOSITORY OF LATENT PRINTS. — 1. Those offenses considered reportable for the purposes of sections 43.500 to 43.543 include all felonies **[**and serious or aggravated**]** **; class A** misdemeanors**; all violations for driving under the influence of drugs or alcohol; any offense that can be enhanced to a class A misdemeanor or higher for subsequent violations; and comparable ordinance violations** consistent with the reporting standards established by the National Crime Information Center, Federal Bureau of Investigation, for the Federal Interstate Identification Index System**[**. In addition,**]** **; and** all cases arising **[**pursuant to sections 566.010 to 566.141, RSMo, where the defendant pleads guilty to an offense involving a child under seventeen years of age and the court imposes a suspended imposition of sentence shall be reported**]** **under chapter 566, RSMo**. The following types of offenses shall not be considered reportable for the purposes of sections 57.403, RSMo, 43.500 to 43.543, and 595.200 to 595.218, RSMo: **[**disturbing the peace, curfew violation, loitering, false fire alarm, disorderly conduct,**]** nonspecific charges of suspicion or investigation, **[**and**]** general traffic violations and all misdemeanor violations of the state wildlife code. **[**All violations for driving under the influence of drugs or alcohol are reportable.**]** All offenses considered reportable shall be reviewed annually and noted in the Missouri charge code manual established in section 43.512. All information collected pursuant to sections 43.500 to 43.543 shall be available only as set forth in section 610.120, RSMo.

2. Law enforcement agencies, court clerks, prosecutors and custody agencies may report required information by electronic medium either directly to the central repository or indirectly to the central repository via other criminal justice agency computer systems in the state with the approval of the highway patrol, based upon standards established by the advisory committee.

3. In addition to the repository of fingerprint records for individual offenders and applicants, the central repository of criminal history and identification records for the state shall maintain a repository of latent prints, palm prints and other **[**prints**]** **unique biometric identification** submitted to the repository.

173.754. UNLAWFUL USE FALSE OR MISLEADING DEGREE, WHEN — VIOLATION, PENALTY. — 1. It is unlawful for a person to knowingly use or attempt to use, in connection with admission to any institution of higher education or in connection with any business, employment, occupation, profession, trade, or public office:

(1) A false or misleading degree from any institution of higher education, regardless of whether that institution is located in Missouri and regardless of whether the institution has been issued a certificate of approval or temporary certificate of approval by the board; or

(2) A degree from any institution of higher education in a false or misleading manner, regardless of whether that institution is located in Missouri and regardless of whether the institution has been issued a certificate of approval or temporary certificate of approval by the board.

2. For the purposes of this section, a degree is false or misleading or is used in a false or misleading manner if it:

(1) States or suggests that the person named in the degree has completed the requirements of an academic or professional program of study in a particular field of endeavor beyond the secondary school level and the person has not, in fact, completed the requirements of the program of study;

(2) Is offered as his or her own by a person other than the person who completed the requirements of the program of study; or

(3) Is awarded, bestowed, conferred, given, granted, conveyed, or sold in violation of this chapter.

3. The penalty for a violation of this section shall be a class C misdemeanor.

4. For purposes of this section, the term "board" shall mean the coordinating board for higher education.

174.700. BOARD OF REGENTS AND BOARD OF GOVERNORS MAY APPOINT NECESSARY POLICE OFFICERS. — The board of regents or board of governors of any state college or university may appoint and employ as many college or university police officers as it may deem necessary to protect persons, property, and to preserve peace and good order only in the public buildings, properties, grounds, and other facilities and locations over which it has charge or control **and to respond to emergencies or natural disasters outside of the boundaries of university property and provide services if requested by the law enforcement agency with jurisdiction**.

192.925. AWARENESS PROGRAM ESTABLISHED — FOCUS OF PROGRAM — COOPERATION WITH DEPARTMENT OF SOCIAL SERVICES, DISTRIBUTION OF PROGRAM INFORMATION. — 1. To increase public awareness of the problem of elder abuse and neglect **and financial exploitation of the elderly**, the department of health and senior services shall implement an education and awareness program. Such program shall have the goal of reducing the incidences of elder abuse and neglect **and financial exploitation of the elderly**, and may focus on:

(1) The education and awareness of mandatory reporters on their responsibility to report elder abuse and neglect **and financial exploitation of the elderly**;

(2) Targeted education and awareness for the public on the problem, identification and reporting of elder abuse and neglect **and financial exploitation of the elderly**;

(3) Publicizing the elder abuse and neglect hot line telephone number;

(4) Education and awareness for law enforcement agencies and prosecutors on the problem and identification of elder abuse and neglect **and financial exploitation of the elderly**, and the importance of prosecuting cases pursuant to chapter 565, RSMo; and

(5) Publicizing the availability of background checks prior to hiring an individual for caregiving purposes.

2. The department of social services and facilities licensed pursuant to chapters 197 and 198, RSMo, shall cooperate fully with the department of health and senior services in the distribution of information pursuant to this program.

217.439. PHOTOGRAPH OF OFFENDER TO BE TAKEN PRIOR TO RELEASE, WHEN — PROVIDED TO VICTIM UPON REQUEST. — Upon the victim's request, a photograph shall be taken of the incarcerated individual prior to release from incarceration and a copy of the photograph shall be provided to the crime victim.

217.450. OFFENDER MAY REQUEST FINAL DISPOSITION OF PENDING INDICTMENT, INFORMATION OR COMPLAINT, HOW REQUESTED — DIRECTOR TO NOTIFY OFFENDER OF PENDING ACTIONS, FAILURE TO NOTIFY, EFFECT. — 1. Any person confined in a department correctional facility may request a final disposition of any untried indictment, information or complaint pending in this state on the basis of which a **law enforcement agency, prosecuting attorney's office, or circuit attorney's office has delivered a certified copy of a warrant and has requested that a** detainer **[**has been**] be** lodged against him **[**while so imprisoned**] with the facility where the offender is confined**. The request shall be in writing addressed to the court in which the indictment, information or complaint is pending and to the prosecuting attorney charged with the duty of prosecuting it, and shall set forth the place of imprisonment.

2. **When the director receives a certified copy of a warrant and a written request by the issuing agency to place a detainer, the director shall lodge a detainer in favor of the requesting agency.** The director shall promptly inform each offender in writing of the source and nature of any untried indictment, information or complaint for which a detainer has been

lodged against him of which the director has knowledge, and of his right to make a request for final disposition of such indictment, information or complaint on which the detainer is based.

3. Failure of the director to **[**inform an offender, as required by this section, within one year after a detainer has been filed at the facility shall entitle him to a final dismissal of the indictment, information or complaint with prejudice**]** **comply with this section shall not be the basis for dismissing the indictment, information, or complaint unless the court also finds that the offender has been denied his or her constitutional right to a speedy trial**.

217.460. TRIAL TO BE HELD, WHEN — FAILURE, EFFECT. — Within one hundred eighty days after the receipt of the request and certificate, pursuant to sections 217.450 and 217.455, by the court and the prosecuting attorney or within such additional necessary or reasonable time as the court may grant, for good cause shown in open court, the offender or his counsel being present, the indictment, information or complaint shall be brought to trial. The parties may stipulate for a continuance or a continuance may be granted if notice is given to the attorney of record with an opportunity for him to be heard. If the indictment, information or complaint is not brought to trial within the period **and if the court finds that the offender's constitutional right to a speedy trial has been denied**, no court of this state shall have jurisdiction of such indictment, information or complaint, nor shall the untried indictment, information or complaint be of any further force or effect; and the court shall issue an order dismissing the same with prejudice.

217.665. BOARD MEMBERS, APPOINTMENT, QUALIFICATIONS — TERMS, VACANCIES — COMPENSATION, EXPENSES — CHAIRMAN, DESIGNATION. — 1. Beginning August 28, 1996, the board of probation and parole shall consist of seven members appointed by the governor by and with the advice and consent of the senate.

2. Beginning August 28, 1996, members of the board shall be persons of recognized integrity and honor, known to possess education and ability in decision making through career experience and other qualifications for the successful performance of their official duties. Not more than four members of the board shall be of the same political party.

3. At the expiration of the term of each member and of each succeeding member, the governor shall appoint a successor who shall hold office for a term of six years and until his successor has been appointed and qualified. Members may be appointed to succeed themselves.

4. Vacancies occurring in the office of any member shall be filled by appointment by the governor for the unexpired term.

5. The governor shall designate one member of the board as chairman **and one member as vice-chairman**. The chairman shall be the director of the division and shall have charge of the division's operations, funds and expenditures. **In the event of the chairman's removal, death, resignation, or inability to serve, the vice-chairman shall act as chairman upon written order of the governor or chairman. [**The chairman shall designate by order of record another member to act as chairman in the event of absence or sickness of the chairman, and during such time the member so appointed by the chairman shall possess all powers of the chairman.**]**

6. Members of the board shall devote full time to the duties of their office and before taking office shall subscribe to an oath or affirmation to support the Constitution of the United States and the Constitution of the State of Missouri. The oath shall be signed in the office of the secretary of state.

7. The annual compensation for each member of the board whose term commenced before August 28, 1999, shall be forty-five thousand dollars plus any salary adjustment, including prior salary adjustments, provided pursuant to section 105.005, RSMo. Salaries for board members whose terms commence after August 27, 1999, shall be set as provided in section 105.950, RSMo; provided, however, that the compensation of a board member shall not be increased during the member's term of office, except as provided in section 105.005, RSMo. In addition

to compensation provided by law, the members shall be entitled to reimbursement for necessary travel and other expenses incurred pursuant to section 33.090, RSMo.

8. Any person who served as a member of the board of probation and parole prior to July 1, 2000, shall be made, constituted, appointed and employed by the board of trustees of the state employees' retirement system as a special consultant on the problems of retirement, aging and other state matters. As compensation for such services, such consultant shall not be denied use of any unused sick leave, or the ability to receive credit for unused sick leave pursuant to chapter 104, RSMo, provided such sick leave was maintained by the board of probation and parole in the regular course of business prior to July 1, 2000, but only to the extent of such sick leave records are consistent with the rules promulgated pursuant to section 36.350, RSMo. Nothing in this section shall authorize the use of any other form of leave that may have been maintained by the board prior to July 1, 2000.

273.033. KILLING OR INJURING A DOG, REASONABLE APPREHENSION OF IMMINENT HARM IS AN ABSOLUTE DEFENSE. — 1. In any action for damages or a criminal prosecution against any person for killing or injuring a dog, a showing by a preponderance of the evidence that such person was in reasonable apprehension of imminent harmful contact by the dog or was acting to prevent such imminent harmful contact against another person by the dog shall constitute an absolute defense to criminal prosecution or civil liability for the killing or injuring of such animal.

2. If a person has, on at least two occasions, complained to the county sheriff or to the appropriate animal control authority in his or her jurisdiction that a dog, not on a leash, has trespassed on property that such person owns, rents, or leases or on any property that constitutes such person's residence, and when at least one of the prior two complaints was motivated by reasonable apprehension for such person's safety or the safety of another person or apprehension of substantial damage to livestock or property, then any subsequent trespass by such dog shall constitute prima facie evidence that such person was in reasonable apprehension of imminent harmful contact. The county sheriff or animal control authority to which any complaint under this section is made shall notify the owner of the alleged trespassing dog of such complaint. Failure by a county sheriff or animal control authority to notify a dog owner under this subsection shall not invalidate or be construed in any way to limit any other provision of this subsection.

3. The court shall award attorney's fees, court costs, and all reasonable expenses incurred by the defendant in defense of any criminal prosecution or in any civil action brought by a plaintiff if the court finds that the defendant has an absolute defense as provided in subsection 1 of this section.

4. This section shall not be construed to provide an absolute defense to a person who is engaged in or attempting to engage in a criminal activity at the time of the apprehension of imminent harmful contact, or to a person for any damage or injury to any person or property other than the dog itself that may result from actions taken in an attempt to injure or kill such dog.

273.036. OWNER LIABLE, WHEN — FINE, AMOUNT. — 1. The owner or possessor of any dog that bites, without provocation, any person while such person is on public property, or lawfully on private property, including the property of the owner or possessor of the dog, is strictly liable for damages suffered by persons bitten, regardless of the former viciousness of the dog or the owner's or possessor's knowledge of such viciousness. Owners and possessors of dogs shall also be strictly liable for any damage to property or livestock proximately caused by their dogs. If it is determined that the damaged party had fault in the incident, any damages owed by the owner or possessor of the biting dog shall be reduced by the same percentage that the damaged party's fault contributed to the incident. The provisions of this section shall not apply to dogs killing or maiming sheep or other domestic animals under section 273.020.

2. Any person who is held liable under the provisions of subsection 1 of this section shall pay a fine not exceeding one thousand dollars. The remedies provided by this section are in addition to and cumulative with any other remedy provided by statute or common law.

302.060. LICENSE NOT TO BE ISSUED TO WHOM, EXCEPTIONS — REINSTATEMENT REQUIREMENTS. — 1. The director shall not issue any license and shall immediately deny any driving privilege:

(1) To any person who is under the age of eighteen years, if such person operates a motor vehicle in the transportation of persons or property as classified in section 302.015;

(2) To any person who is under the age of sixteen years, except as hereinafter provided;

(3) To any person whose license has been suspended, during such suspension, or to any person whose license has been revoked, until the expiration of one year after such license was revoked;

(4) To any person who is an habitual drunkard or is addicted to the use of narcotic drugs;

(5) To any person who has previously been adjudged to be incapacitated and who at the time of application has not been restored to partial capacity;

(6) To any person who, when required by this law to take an examination, has failed to pass such examination;

(7) To any person who has an unsatisfied judgment against such person, as defined in chapter 303, RSMo, until such judgment has been satisfied or the financial responsibility of such person, as defined in section 303.120, RSMo, has been established;

(8) To any person whose application shows that the person has been convicted within one year prior to such application of violating the laws of this state relating to failure to stop after an accident and to disclose the person's identity or driving a motor vehicle without the owner's consent;

(9) To any person who has been convicted more than twice of violating state law, or a county or municipal ordinance where the defendant was represented by or waived the right to an attorney in writing, relating to driving while intoxicated; except that, after the expiration of ten years from the date of conviction of the last offense of violating such law or ordinance relating to driving while intoxicated, a person who was so convicted may petition the circuit court of the county in which such last conviction was rendered and the court shall review the person's habits and conduct since such conviction. If the court finds that the petitioner has not been convicted of any offense related to alcohol, controlled substances or drugs during the preceding ten years and that the petitioner's habits and conduct show such petitioner to no longer pose a threat to the public safety of this state, the court may order the director to issue a license to the petitioner if the petitioner is otherwise qualified pursuant to the provisions of sections 302.010 to 302.540. No person may obtain a license pursuant to the provisions of this subdivision through court action more than one time;

(10) To any person who has been convicted twice within a five-year period of violating state law, or a county or municipal ordinance **[**where the defendant was represented by or waived the right to an attorney in writing**]**, of driving while intoxicated, **or any other intoxication-related traffic offense as defined in subdivision (3) of subsection 1 of section 577.023, RSMo,** or who has been convicted of the crime of involuntary manslaughter while operating a motor vehicle in an intoxicated condition. The director shall not issue a license to such person for five years from the date such person was convicted **or pled guilty** for involuntary manslaughter while operating a motor vehicle in an intoxicated condition or for driving while intoxicated **or any other intoxication-related traffic offense as defined in subdivision (3) of subsection 1 of section 577.023, RSMo,** for the second time**[**. Any person who has been denied a license for two convictions of driving while intoxicated prior to July 27, 1989, shall have the person's license issued, upon application, unless the two convictions occurred within

a five-year period, in which case, no license shall be issued to the person for five years from the date of the second conviction**]**;

(11) To any person who is otherwise disqualified pursuant to the provisions of sections 302.010 to 302.780, chapter 303, RSMo, or section 544.046, RSMo;

(12) To any person who is under the age of eighteen years, if such person's parents or legal guardians file a certified document with the department of revenue stating that the director shall not issue such person a driver's license. Each document filed by the person's parents or legal guardians shall be made upon a form furnished by the director and shall include identifying information of the person for whom the parents or legal guardians are denying the driver's license. The document shall also contain identifying information of the person's parents or legal guardians. The document shall be certified by the parents or legal guardians to be true and correct. This provision shall not apply to any person who is legally emancipated. The parents or legal guardians may later file an additional document with the department of revenue which reinstates the person's ability to receive a driver's license.

2. Any person whose license is reinstated under the provisions of subdivisions (9) and (10) of subsection 1 of this section shall be required to file proof with the director of revenue that any motor vehicle operated by the person is equipped with a functioning, certified ignition interlock device as a required condition of reinstatement. The ignition interlock device shall further be required to be maintained on all motor vehicles operated by the person for a period of not less than six months immediately following the date of reinstatement. If the person fails to maintain such proof with the director, the license shall be suspended for the remainder of the six-month period or until proof as required by this section is filed with the director. Upon the completion of the six-month period, the license shall be shown as reinstated, if the person is otherwise eligible.

[302.060. LICENSE NOT TO BE ISSUED TO WHOM, EXCEPTIONS — REINSTATEMENT REQUIREMENTS. — The director shall not issue any license and shall immediately deny any driving privilege:

(1) To any person who is under the age of eighteen years, if such person operates a motor vehicle in the transportation of persons or property as classified in section 302.015;

(2) To any person who is under the age of sixteen years, except as hereinafter provided;

(3) To any person whose license has been suspended, during such suspension, or to any person whose license has been revoked, until the expiration of one year after such license was revoked;

(4) To any person who is an habitual drunkard or is addicted to the use of narcotic drugs;

(5) To any person who has previously been adjudged to be incapacitated and who at the time of application has not been restored to partial capacity;

(6) To any person who, when required by this law to take an examination, has failed to pass such examination;

(7) To any person who has an unsatisfied judgment against such person, as defined in chapter 303, RSMo, until such judgment has been satisfied or the financial responsibility of such person, as defined in section 303.120, RSMo, has been established;

(8) To any person whose application shows that the person has been convicted within one year prior to such application of violating the laws of this state relating to failure to stop after an accident and to disclose the person's identity or driving a motor vehicle without the owner's consent;

(9) To any person who has been convicted more than twice of violating state law, or a county or municipal ordinance where the defendant was represented by or waived the right to an attorney in writing, relating to driving while intoxicated; except that, after the expiration of ten years from the date of conviction of the last offense of violating such law or ordinance relating to driving while intoxicated, a person who was so convicted may petition the circuit court of the county in which such last conviction was rendered and the court shall review the person's habits

and conduct since such conviction. If the court finds that the petitioner has not been convicted of any offense related to alcohol, controlled substances or drugs during the preceding ten years and that the petitioner's habits and conduct show such petitioner to no longer pose a threat to the public safety of this state, the court may order the director to issue a license to the petitioner if the petitioner is otherwise qualified pursuant to the provisions of sections 302.010 to 302.540. No person may obtain a license pursuant to the provisions of this subdivision through court action more than one time;

(10) To any person who has been convicted twice within a five-year period of violating state law, or a county or municipal ordinance where the defendant was represented by or waived the right to an attorney in writing, of driving while intoxicated, or who has been convicted of the crime of involuntary manslaughter while operating a motor vehicle in an intoxicated condition. The director shall not issue a license to such person for five years from the date such person was convicted for involuntary manslaughter while operating a motor vehicle in an intoxicated condition or for driving while intoxicated for the second time. Any person who has been denied a license for two convictions of driving while intoxicated prior to July 27, 1989, shall have the person's license issued, upon application, unless the two convictions occurred within a five-year period, in which case, no license shall be issued to the person for five years from the date of the second conviction;

(11) To any person who is otherwise disqualified pursuant to the provisions of sections 302.010 to 302.780, chapter 303, RSMo, or section 544.046, RSMo;

(12) To any person who is under the age of eighteen years, if such person's parents or legal guardians file a certified document with the department of revenue stating that the director shall not issue such person a driver's license. Each document filed by the person's parents or legal guardians shall be made upon a form furnished by the director and shall include identifying information of the person for whom the parents or legal guardians are denying the driver's license. The document shall also contain identifying information of the person's parents or legal guardians. The document shall be certified by the parents or legal guardians to be true and correct. This provision shall not apply to any person who is legally emancipated. The parents or legal guardians may later file an additional document with the department of revenue which reinstates the person's ability to receive a driver's license.**]**

303.024. INSURANCE IDENTIFICATION CARDS ISSUED BY INSURER, CONTENTS — IDENTIFICATION CARDS FOR SELF-INSURED ISSUED BY DIRECTOR, CONTENTS — EXHIBITION OF CARD TO PEACE OFFICERS OR COMMERCIAL VEHICLE ENFORCEMENT OFFICERS — FAILURE TO EXHIBIT, VIOLATION OF SECTION 303.025. — 1. Each insurer issuing motor vehicle liability policies in this state, or an agent of the insurer, shall furnish an insurance identification card to the named insured for each motor vehicle insured by a motor vehicle liability policy that complies with the requirements of sections 303.010 to 303.050, 303.060, 303.140, 303.220, 303.290, 303.330 and 303.370.

2. The insurance identification card shall include all of the following information:

(1) The name and address of the insurer;

(2) The name of the named insured;

(3) The policy number;

(4) The effective dates of the policy, including month, day and year;

(5) A description of the insured motor vehicle, including year and make or at least five digits of the vehicle identification number or the word "Fleet" if the insurance policy covers five or more motor vehicles; and

(6) The statement "THIS CARD MUST BE CARRIED IN THE INSURED MOTOR VEHICLE FOR PRODUCTION UPON DEMAND" prominently displayed on the card.

3. A new insurance identification card shall be issued when the insured motor vehicle is changed, when an additional motor vehicle is insured, and when a new policy number is

assigned. A replacement insurance identification card shall be issued at the request of the insured in the event of loss of the original insurance identification card.

4. The director shall furnish each self-insurer, as provided for in section 303.220, an insurance identification card for each motor vehicle so insured. The insurance identification card shall include all of the following information:

(1) Name of the self-insurer;

(2) The word "self-insured"; and

(3) The statement "THIS CARD MUST BE CARRIED IN THE SELF-INSURED MOTOR VEHICLE FOR PRODUCTION UPON DEMAND" prominently displayed on the card.

5. An insurance identification card shall be carried in the insured motor vehicle at all times. The operator of an insured motor vehicle shall exhibit the insurance identification card on the demand of any peace officer, commercial vehicle enforcement officer or commercial vehicle inspector who lawfully stops such operator or investigates an accident while that officer or inspector is engaged in the performance of the officer's or inspector's duties. If the operator fails to exhibit an insurance identification card, the officer or inspector shall issue a citation to the operator for a violation of section 303.025. A motor vehicle liability insurance policy, a motor vehicle liability insurance binder, or receipt which contains the policy information required in subsection 2 of this section, shall be satisfactory evidence of insurance in lieu of an insurance identification card.

6. Any person who knowingly or intentionally produces, manufactures, sells, or otherwise distributes a fraudulent document intended to serve as an insurance identification card is guilty of a class D felony. Any person who knowingly or intentionally possesses a fraudulent document intended to serve as an insurance identification card is guilty of a class B misdemeanor.

304.820. TEXT MESSAGING WHILE OPERATING A MOTOR VEHICLE PROHIBITED — EXCEPTIONS — DEFINITIONS — VIOLATION, PENALTY. — 1. Except as otherwise provided in this section, no person twenty-one years of age or younger operating a moving motor vehicle upon the highways of this state shall, by means of a hand-held electronic wireless communications device, send, read, or write a text message or electronic message.

2. The provisions of subsection 1 of this section shall not apply to a person operating:

(1) An authorized emergency vehicle; or

(2) A moving motor vehicle while using a hand-held electronic wireless communications device to:

(a) Report illegal activity;

(b) Summon medical or other emergency help;

(c) Prevent injury to a person or property; or

(d) Relay information between a transit or for-hire operator and that operator's dispatcher, in which the device is permanently affixed to the vehicle.

3. Nothing in this section shall be construed or interpreted as prohibiting a person from making or taking part in a telephone call, by means of a hand-held electronic wireless communications device, while operating a motor vehicle upon the highways of this state.

4. As used in this section, "electronic message" means a self-contained piece of digital communication that is designed or intended to be transmitted between hand-held electronic wireless communication devices. "Electronic message" includes, but is not limited to, electronic mail, a text message, an instant message, or a command or request to access an Internet site.

5. As used in this section, "hand-held electronic wireless communications device" includes any hand-held cellular phone, palm pilot, blackberry, or other mobile electronic device used to communicate verbally or by text or electronic messaging, but shall not

apply to any device that is permanently embedded into the architecture and design of the motor vehicle.

6. As used in this section, "making or taking part in a telephone call" means listening to or engaging in verbal communication through a hand-held electronic wireless communication device.

7. As used in this section, "send, read, or write a text message or electronic message" means using a hand-held electronic wireless telecommunications device to manually communicate with any person by using an electronic message. Sending, reading, or writing a text message or electronic message does not include reading, selecting, or entering a phone number or name into a hand-held electronic wireless communications device for the purpose of making a telephone call.

8. A violation of this section shall be deemed an infraction and shall be deemed a moving violation for purposes of point assessment under section 302.302, RSMo.

9. The state preempts the field of regulating the use of hand-held electronic wireless communications devices in motor vehicles, and the provisions of this section shall supercede any local laws, ordinances, orders, rules, or regulations enacted by a county, municipality, or other political subdivision to regulate the use of hand-held electronic wireless communication devices by the operator of a motor vehicle.

10. The provisions of this section shall not apply to:

(1) The operator of a vehicle that is lawfully parked or stopped;

(2) Any of the following while in the performance of their official duties: a law enforcement officer; a member of a fire department; or the operator of a public or private ambulance;

(3) The use of factory-installed or aftermarket global positioning systems (GPS) or wireless communications devices used to transmit or receive data as part of a digital dispatch system;

(4) The use of voice operated technology;

(5) The use of two-way radio transmitters or receivers by a licensee of the Federal Communications Commission in the Amateur Radio Service.

306.109. ALCOHOLIC DRINKING DEVICES, CONTAINERS, AND COOLERS PROHIBITED ON RIVERS — VIOLATION, PENALTY. — 1. No person shall possess or use beer bongs or other drinking devices used to consume similar amounts of alcohol on the rivers of this state. As used in this section, the term "beer bong" includes any device that is intended and designed for the rapid consumption or intake of an alcoholic beverage, including but not limited to funnels, tubes, hoses, and modified containers with additional vents.

2. No person shall possess or use any large volume alcohol containers that hold more than four gallons of an alcoholic beverage on the rivers of this state.

3. No person shall possess expanded polypropylene coolers on or within fifty feet of any river of this state, except in developed campgrounds, picnic areas, landings, roads and parking lots located within fifty feet of such rivers. This subsection shall not apply to high density bait containers used solely for such purpose.

4. Any person who violates the provisions of this section is guilty of a class A misdemeanor.

5. The provisions of this section shall not apply to persons on the Mississippi River, Missouri River, or Osage River.

311.325. PURCHASE OR POSSESSION BY MINOR, A MISDEMEANOR — CONTAINER NEED NOT BE OPENED AND CONTENTS VERIFIED, WHEN — CONSENT TO CHEMICAL TESTING DEEMED GIVEN, WHEN — BURDEN OF PROOF ON VIOLATOR TO PROVE NOT INTOXICATING LIQUOR — SECTION NOT APPLICABLE TO CERTAIN STUDENTS, REQUIREMENTS. — 1. Any person under the age of twenty-one years, who purchases or attempts to purchase, or has in his

or her possession, any intoxicating liquor as defined in section 311.020 or who is visibly **in an** intoxicated **condition** as defined in section 577.001, RSMo, or has a detectable blood alcohol content of more than two-hundredths of one percent or more by weight of alcohol in such person's blood is guilty of a misdemeanor. For purposes of prosecution under this section or any other provision of this chapter involving an alleged illegal sale or transfer of intoxicating liquor to a person under twenty-one years of age, a manufacturer-sealed container describing that there is intoxicating liquor therein need not be opened or the contents therein tested to verify that there is intoxicating liquor in such container. The alleged violator may allege that there was not intoxicating liquor in such container, but the burden of proof of such allegation is on such person, as it shall be presumed that such a sealed container describing that there is intoxicating liquor therein contains intoxicating liquor.

2. For purposes of determining violations of any provision of this chapter, or of any rule or regulation of the supervisor of alcohol and tobacco control, a manufacturer-sealed container describing that there is intoxicating liquor therein need not be opened or the contents therein tested to verify that there is intoxicating liquor in such container. The alleged violator may allege that there was not intoxicating liquor in such container, but the burden of proof of such allegation is on such person, as it shall be presumed that such a sealed container describing that there is intoxicating liquor therein contains intoxicating liquor.

3. **Any person under the age of twenty-one years who purchases or attempts to purchase, or has in his or her possession, any intoxicating liquor, or who is visibly in an intoxicated condition as defined in section 577.001, RSMo, shall be deemed to have given consent to a chemical test or tests of the person's breath, blood, saliva, or urine for the purpose of determining the alcohol or drug content of the person's blood. The implied consent to submit to the chemical tests listed in this subsection shall be limited to not more than two such tests arising from the same arrest, incident, or charge. Chemical analysis of the person's breath, blood, saliva, or urine shall be performed according to methods approved by the state department of health and senior services by licensed medical personnel or by a person possessing a valid permit issued by the state department of health and senior services for this purpose. The state department of health and senior services shall approve satisfactory techniques, devices, equipment, or methods to be considered valid and shall establish standards to ascertain the qualifications and competence of individuals to conduct analyses and to issue permits which shall be subject to termination or revocation by the state department of health and senior services. The person tested may have a physician, or a qualified technician, chemist, registered nurse, or other qualified person at the choosing and expense of the person to be tested, administer a test in addition to any administered at the direction of a law enforcement officer. The failure or inability to obtain an additional test by a person shall not preclude the admission of evidence relating to the test taken at the direction of a law enforcement officer. Upon the request of the person who is tested, full information concerning the test shall be made available to such person. "Full information" is limited to the following:**

(1) The type of test administered and the procedures followed;

(2) The time of the collection of the blood or breath sample or urine analyzed;

(3) The numerical results of the test indicating the alcohol content of the blood and breath and urine;

(4) The type and status of any permit which was held by the person who performed the test;

(5) If the test was administered by means of a breath-testing instrument, the date of performance of the most recent required maintenance of such instrument.

"Full information" does not include manuals, schematics, or software of the instrument used to test the person or any other material that is not in the actual possession of the state.

Additionally, "full information" does not include information in the possession of the manufacturer of the test instrument.

4. The provisions of this section shall not apply to a student who:

(1) Is eighteen years of age or older;

(2) Is enrolled in an accredited college or university and is a student in a culinary course;

(3) Is required to taste, but not consume or imbibe, any beer, ale, porter, wine, or other similar malt or fermented beverage as part of the required curriculum; and

(4) Tastes a beverage under subdivision (3) of this subsection only for instructional purposes during classes that are part of the curriculum of the accredited college or university.

The beverage must at all times remain in the possession and control of an authorized instructor of the college or university, who must be twenty-one years of age or older. Nothing in this subsection may be construed to allow a student under the age of twenty-one to receive any beer, ale, porter, wine, or other similar malt or fermented beverage unless the beverage is delivered as part of the student's required curriculum and the beverage is used only for instructional purposes during classes conducted as part of the curriculum.

311.326. EXPUNGEMENT OF RECORD PERMITTED, WHEN. — After a period of not less than one year**[**, or upon**] after** reaching the age of twenty-one**[**, whichever occurs first,**]** a person who has pleaded guilty to or has been found guilty of violating section 311.325 for the first time, and who since such conviction has not been convicted of any other alcohol-related offense, may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial and conviction. If the court determines, upon review, that such person has not been convicted of any other alcohol-related offense at the time of the application for expungement, and the person has had no other alcohol-related enforcement contacts, as defined in section 302.525, RSMo, the court shall enter an order of expungement. The effect of such an order shall be to restore such person to the status he or she occupied prior to such arrest, plea or conviction, as if such event had never happened. No person as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his or her failure to recite or acknowledge such arrest, plea, trial, conviction or expungement in response to any inquiry made of him or her for any purpose whatsoever. A person shall be entitled to only one expungement pursuant to this section. Nothing contained in this section shall prevent courts or other state officials from maintaining such records as are necessary to ensure that an individual receives only one expungement pursuant to this section.

407.1500. DEFINITIONS — NOTICE TO CONSUMER FOR BREACH OF SECURITY, PROCEDURE — ATTORNEY GENERAL MAY BRING ACTION FOR DAMAGES. — 1. As used in this section, the following terms mean:

(1) "Breach of security" or "breach", unauthorized access to and unauthorized acquisition of personal information maintained in computerized form by a person that compromises the security, confidentiality, or integrity of the personal information. Good faith acquisition of personal information by a person or that person's employee or agent for a legitimate purpose of that person is not a breach of security, provided that the personal information is not used in violation of applicable law or in a manner that harms or poses an actual threat to the security, confidentiality, or integrity of the personal information;

(2) "Consumer", an individual who is a resident of this state;

(3) "Consumer reporting agency", the same as defined by the federal Fair Credit Reporting Act, 15 U.S.C. Section 1681a;

(4) "Encryption", the use of an algorithmic process to transform data into a form in which the data is rendered unreadable or unusable without the use of a confidential process or key;

(5) "Health insurance information", an individual's health insurance policy number or subscriber identification number, any unique identifier used by a health insurer to identify the individual;

(6) "Medical information", any information regarding an individual's medical history, mental or physical condition, or medical treatment or diagnosis by a health care professional;

(7) "Owns or licenses" includes, but is not limited to, personal information that a business retains as part of the internal customer account of the business or for the purpose of using the information in transactions with the person to whom the information relates;

(8) "Person", any individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, governmental agency, governmental instrumentality, public corporation, or any other legal or commercial entity;

(9) "Personal information", an individual's first name or first initial and last name in combination with any one or more of the following data elements that relate to the individual if any of the data elements are not encrypted, redacted, or otherwise altered by any method or technology in such a manner that the name or data elements are unreadable or unusable:

(a) Social Security number;

(b) Driver's license number or other unique identification number created or collected by a government body;

(c) Financial account number, credit card number, or debit card number in combination with any required security code, access code, or password that would permit access to an individual's financial account;

(d) Unique electronic identifier or routing code, in combination with any required security code, access code, or password that would permit access to an individual's financial account;

(e) Medical information; or

(f) Health insurance information.

"Personal information" does not include information that is lawfully obtained from publicly available sources, or from federal, state, or local government records lawfully made available to the general public;

(10) "Redacted", altered or truncated such that no more than five digits of a social security number or the last four digits of a driver's license number, state identification card number, or account number is accessible as part of the personal information.

2. (1) Any person that owns or licenses personal information of residents of Missouri or any person that conducts business in Missouri that owns or licenses personal information in any form of a resident of Missouri shall provide notice to the affected consumer that there has been a breach of security following discovery or notification of the breach. The disclosure notification shall be:

(a) Made without unreasonable delay;

(b) Consistent with the legitimate needs of law enforcement, as provided in this section; and

(c) Consistent with any measures necessary to determine sufficient contact information and to determine the scope of the breach and restore the reasonable integrity, security, and confidentiality of the data system.

(2) Any person that maintains or possesses records or data containing personal information of residents of Missouri that the person does not own or license, or any person

that conducts business in Missouri that maintains or possesses records or data containing personal information of a resident of Missouri that the person does not own or license, shall notify the owner or licensee of the information of any breach of security immediately following discovery of the breach, consistent with the legitimate needs of law enforcement as provided in this section.

(3) The notice required by this section may be delayed if a law enforcement agency informs the person that notification may impede a criminal investigation or jeopardize national or homeland security, provided that such request by law enforcement is made in writing or the person documents such request contemporaneously in writing, including the name of the law enforcement officer making the request and the officer's law enforcement agency engaged in the investigation. The notice required by this section shall be provided without unreasonable delay after the law enforcement agency communicates to the person its determination that notice will no longer impede the investigation or jeopardize national or homeland security.

(4) The notice shall at minimum include a description of the following:

(a) The incident in general terms;

(b) The type of personal information that was obtained as a result of the breach of security;

(c) A telephone number that the affected consumer may call for further information and assistance, if one exists;

(d) Contact information for consumer reporting agencies;

(e) Advice that directs the affected consumer to remain vigilant by reviewing account statements and monitoring free credit reports.

(5) Notwithstanding subdivisions (1) and (2) of this subsection, notification is not required if, after an appropriate investigation by the person or after consultation with the relevant federal, state, or local agencies responsible for law enforcement, the person determines that a risk of identity theft or other fraud to any consumer is not reasonably likely to occur as a result of the breach. Such a determination shall be documented in writing and the documentation shall be maintained for five years.

(6) For purposes of this section, notice to affected consumers shall be provided by one of the following methods:

(a) Written notice;

(b) Electronic notice for those consumers for whom the person has a valid e-mail address and who have agreed to receive communications electronically, if the notice provided is consistent with the provisions of 15 U.S.C. Section 7001 regarding electronic records and signatures for notices legally required to be in writing;

(c) Telephonic notice, if such contact is made directly with the affected consumers; or

(d) Substitute notice, if:

a. The person demonstrates that the cost of providing notice would exceed one hundred thousand dollars; or

b. The class of affected consumers to be notified exceeds one hundred fifty thousand; or

c. The person does not have sufficient contact information or consent to satisfy paragraphs (a), (b), or (c) of this subdivision, for only those affected consumers without sufficient contact information or consent; or

d. The person is unable to identify particular affected consumers, for only those unidentifiable consumers.

(7) Substitute notice under paragraph (d) of subdivision (6) of this subsection shall consist of all the following:

a. E-mail notice when the person has an electronic mail address for the affected consumer;

b. Conspicuous posting of the notice or a link to the notice on the Internet web site of the person if the person maintains an Internet web site; and

c. Notification to major statewide media.

(8) In the event a person provides notice to more than one thousand consumers at one time pursuant to this section, the person shall notify, without unreasonable delay, the attorney general's office and all consumer reporting agencies that compile and maintain files on consumers on a nationwide basis, as defined in 15 U.S.C. Section 1681a(p), of the timing, distribution, and content of the notice.

3. (1) A person that maintains its own notice procedures as part of an information security policy for the treatment of personal information, and whose procedures are otherwise consistent with the timing requirements of this section, is deemed to be in compliance with the notice requirements of this section if the person notifies affected consumers in accordance with its policies in the event of a breach of security of the system.

(2) A person that is regulated by state or federal law and that maintains procedures for a breach of the security of the system pursuant to the laws, rules, regulations, guidances, or guidelines established by its primary or functional state or federal regulator is deemed to be in compliance with this section if the person notifies affected consumers in accordance with the maintained procedures when a breach occurs.

(3) A financial institution that is:

(a) Subject to and in compliance with the Federal Interagency Guidance Response Programs for Unauthorized Access to Customer Information and Customer Notice, issued on March 29, 2005, by the board of governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision, and any revisions, additions, or substitutions relating to said interagency guidance; or

(b) Subject to and in compliance with the National Credit Union Administration regulations in 12 CFR Part 748; or

(c) Subject to and in compliance with the provisions of Title V of the Gramm-Leach-Bliley Financial Modernization Act of 1999, 15 U.S.C. Sections 6801 to 6809;

shall be deemed to be in compliance with this section.

4. The attorney general shall have exclusive authority to bring an action to obtain actual damages for a willful and knowing violation of this section and may seek a civil penalty not to exceed one hundred fifty thousand dollars per breach of the security of the system or series of breaches of a similar nature that are discovered in a single investigation.

409.5-508. CRIMINAL PENALTIES. — (a) A person **[**that**]** **commits the crime of criminal securities fraud when such person** willfully violates **section 409.5-501.**

(b) A person commits a criminal securities violation when such person willfully violates any other provision of this act, or a rule adopted or order issued under this act, except Section 409.5-504 or the notice filing requirements of section 409.3-302 or 409.4-405, or that willfully violates section 409.5-505 knowing the statement made to be false or misleading in a material respect**[**, upon conviction, shall be fined not more than one million dollars or imprisoned not more than ten years, or both**]**.

(c) A person convicted of criminal securities fraud or any other criminal securities violation shall be fined not more than one million dollars or imprisoned not more than ten years, or both, and if the violation was committed against an elderly or disabled person, then the fine shall be not less than fifty thousand dollars. For purposes of this section, the following terms mean:

(1) "Disabled person", a person with a physical or mental impairment that substantially limits one or more of the major life activities of such individual, a record of such impairment, or being regarded as having such an impairment;

(2) "Elderly person", a person sixty years of age or older.

(d) An individual convicted of violating a rule or order under this act may be fined, but may not be imprisoned, if the individual did not have knowledge of the rule or order.

[(b)**] (e)** The attorney general or the proper prosecuting attorney with or without a reference from the commissioner may institute criminal proceedings under this act.

[(c)**] (f)** This act does not limit the power of this state to punish a person for conduct that constitutes a crime under other laws of this state.

409.6-604. ADMINISTRATIVE ENFORCEMENT. — (a) If the commissioner determines that a person has engaged, is engaging, or is about to engage in an act, practice, or course of business constituting a violation of this act or a rule adopted or order issued under this act or that a person has materially aided, is materially aiding, or is about to materially aid an act, practice, or course of business constituting a violation of this act or a rule adopted or order issued under this act, the commissioner may:

(1) Issue an order directing the person to cease and desist from engaging in the act, practice, or course of business or to take other action necessary or appropriate to comply with this act;

(2) Issue an order denying, suspending, revoking, or conditioning the exemptions for a broker-dealer under section 409.4-401(b)(1)(D) or (F) or an investment adviser under section 409.4-403(b)(1)(C); or

(3) Issue an order under section 409.2-204.

(b) An order under subsection (a) is effective on the date of issuance. Upon issuance of the order, the commissioner shall promptly serve each person subject to the order with a copy of the order and a notice that the order has been entered. The order must include a statement whether the commissioner will seek a civil penalty or costs of the investigation, a statement of the reasons for the order, and notice that, within fifteen days after receipt of a request in a record from the person, the matter will be scheduled for a hearing. If a person subject to the order does not request a hearing and none is ordered by the commissioner within thirty days after the date of service of the order, the order becomes final as to that person by operation of law. If a hearing is requested or ordered, the commissioner, after notice of and opportunity for hearing to each person subject to the order, may modify or vacate the order or extend it until final determination.

(c) If a hearing is requested or ordered pursuant to subsection (b), a hearing before the commissioner must be provided. A final order may not be issued unless the commissioner makes findings of fact and conclusions of law in a record in accordance with the provisions of chapter 536, RSMo, and procedural rules promulgated by the commissioner. The final order may make final, vacate, or modify the order issued under subsection (a).

(d) In a final order under subsection (c), the commissioner may**:**

(1) Impose a civil penalty up to one thousand dollars for a single violation or up to ten thousand dollars for more than one violation**;**

(2) Order a person subject to the order to pay restitution for any loss, including the amount of any actual damages that may have been caused by the conduct and interest at the rate of eight percent per year from the date of the violation causing the loss or disgorge any profits arising from the violation;

(3) In addition to any civil penalty otherwise provided by law, impose an additional civil penalty not to exceed five thousand dollars for each such violation if the commissioner finds that a person subject to the order has violated any provision of this act and that such violation was committed against an elderly or disabled person. For purposes of this section, the following terms mean:

(A) "Disabled person", a person with a physical or mental impairment that substantially limits one or more of the major life activities of such individual, a record of such impairment, or being regarded as having such an impairment;

(B) "Elderly person", a person sixty years of age or older.

(e) In a final order, the commissioner may charge the actual cost of an investigation or proceeding for a violation of this act or a rule adopted or order issued under this act. These funds may be paid into the investor education and protection fund.

(f) If a petition for judicial review of a final order is not filed in accordance with section 409.6-609, the commissioner may file a certified copy of the final order with the clerk of a court of competent jurisdiction. The order so filed has the same effect as a judgment of the court and may be recorded, enforced, or satisfied in the same manner as a judgment of the court.

(g) If a person does not comply with an order under this section, the commissioner may petition a court of competent jurisdiction to enforce the order. The court may not require the commissioner to post a bond in an action or proceeding under this section. If the court finds, after service and opportunity for hearing, that the person was not in compliance with the order, the court may adjudge the person in civil contempt of the order. The court may impose a further civil penalty against the person for contempt in an amount not less than five thousand dollars but not greater than one hundred thousand dollars for each violation and may grant any other relief the court determines is just and proper in the circumstances.

(h) The commissioner is authorized to issue administrative consent orders in the settlement of any proceeding in the public interest under this act.

544.665. FAILURE TO APPEAR, PENALTY. — 1. In addition to the forfeiture of any security which was given or pledged for a person's release, any person who, having been released **[**pursuant to sections 544.040 to 544.665, or**]** upon a recognizance or bond pursuant to any other provisions of law **while pending preliminary hearing, trial, sentencing, appeal, probation or parole revocation, or any other stage of a criminal matter against him or her**, **[**willfully**] knowingly** fails to appear before any court or judicial officer as required shall be guilty of **[**an offense and punished as follows:**] the crime of failure to appear.**

[(1)**] 2. Failure to appear is:**

(1) A class D felony if **[**arrested for or charged with**] the criminal matter for which the person was released included** a felony**[**, by a fine of not more than five thousand dollars or imprisoned for not more than five years**]**;

(2) **A class A misdemeanor** if **[**arrested for or charged with**] the criminal matter for which the person was released includes** a misdemeanor**[**, by a fine of not more than one thousand dollars or confinement in the county jail for not more than one year**] or misdemeanors but no felony or felonies**;

(3) **An infraction** if **[**arrested for or charged with**] the criminal matter for which the person was released includes only** an infraction**[**, by a fine of not more than five hundred dollars**] or infractions**;

(4) **An infraction** if **[**arrested for**] the criminal matter for which the person was released includes only** the violation of a municipal ordinance, **[**by a fine not to exceed five hundred dollars;**]** provided that the sentence imposed shall not exceed the maximum fine **[**or maximum period of imprisonment**]** which could be imposed for the **[**offense**] municipal ordinance** for which the accused was arrested.

[2.**] 3.** Nothing in sections 544.040 to 544.665 shall prevent the exercise by any court of its power to punish for contempt.

545.050. NAME OF PROSECUTOR ON INDICTMENT, WHEN. — **[**1.**]** No indictment for any trespass against the person or property of another, not amounting to a felony, except for petit larceny, and no indictment for the disturbance of the peace of a person, or for libel or slander, shall be preferred unless the name of a prosecutor is affixed thereto, thus: "A B, prosecutor",

except where the same is preferred upon the information and testimony of one or more grand jurors, or of some public officer in the necessary discharge of his **or her** duty.

[2. If the defendant be acquitted or the prosecution fails, judgment shall be entered against such prosecutor for the costs.**]**

550.040. STATE OR COUNTY TO PAY COSTS ON ACQUITTAL. — In all capital cases, and those in which imprisonment in the penitentiary is the sole punishment for the offense, if the defendant is acquitted, the costs shall be paid by the state; and in all other trials on indictments or information, if the defendant is acquitted, the costs shall be paid by the county in which the indictment was found or information filed**[**, except when the prosecutor shall be adjudged to pay them or it shall be otherwise provided by law**]**.

556.036. TIME LIMITATIONS. — 1. A prosecution for murder, forcible rape, attempted forcible rape, forcible sodomy, attempted forcible sodomy, or any class A felony may be commenced at any time.

2. Except as otherwise provided in this section, prosecutions for other offenses must be commenced within the following periods of limitation:

(1) For any felony, three years**, except as provided in subdivision (4) of this subsection**;

(2) For any misdemeanor, one year;

(3) For any infraction, six months**;**

(4) For any violation of section 569.040, RSMo, when classified as a class B felony, or any violation of section 569.050 or 569.055, RSMo, five years.

3. If the period prescribed in subsection 2 of this section has expired, a prosecution may nevertheless be commenced for:

(1) Any offense a material element of which is either fraud or a breach of fiduciary obligation within one year after discovery of the offense by an aggrieved party or by a person who has a legal duty to represent an aggrieved party and who is himself or herself not a party to the offense, but in no case shall this provision extend the period of limitation by more than three years. As used in this subdivision, the term "person who has a legal duty to represent an aggrieved party" shall mean the attorney general or the prosecuting or circuit attorney having jurisdiction pursuant to section 407.553, RSMo, for purposes of offenses committed pursuant to sections 407.511 to 407.556, RSMo; and

(2) Any offense based upon misconduct in office by a public officer or employee at any time when the defendant is in public office or employment or within two years thereafter, but in no case shall this provision extend the period of limitation by more than three years; and

(3) Any offense based upon an intentional and willful fraudulent claim of child support arrearage to a public servant in the performance of his or her duties within one year after discovery of the offense, but in no case shall this provision extend the period of limitation by more than three years.

4. An offense is committed either when every element occurs, or, if a legislative purpose to prohibit a continuing course of conduct plainly appears, at the time when the course of conduct or the defendant's complicity therein is terminated. Time starts to run on the day after the offense is committed.

5. A prosecution is commenced for a misdemeanor or infraction when the information is filed and for a felony when the complaint or indictment is filed.

6. The period of limitation does not run:

(1) During any time when the accused is absent from the state, but in no case shall this provision extend the period of limitation otherwise applicable by more than three years; or

(2) During any time when the accused is concealing himself from justice either within or without this state; or

(3) During any time when a prosecution against the accused for the offense is pending in this state; or

(4) During any time when the accused is found to lack mental fitness to proceed pursuant to section 552.020, RSMo.

561.031. PHYSICAL APPEARANCE IN COURT OF A PRISONER MAY BE MADE BY USING TWO-WAY AUDIO-VISUAL COMMUNICATION INCLUDING CLOSED CIRCUIT TELEVISION, WHEN — REQUIREMENTS. — 1. In the following proceedings, the provisions of section 544.250, 544.270, 544.275, RSMo, 546.030, RSMo, or of any other statute, or the provisions of supreme court rules 21.10, 22.07, 24.01, 24.02, 27.01, 29.07, 31.02, 31.03, 36.01, 37.16, 37.47, 37.48, 37.50, 37.57, 37.58, 37.59, and 37.64 to the contrary notwithstanding, when the physical appearance in person in court is required of any person held in a place of custody or confinement, such personal appearance may be made by means of two-way audio-visual communication, including but not limited to, closed circuit television or computerized video conferencing; provided that such audio-visual communication facilities provide two-way audio-visual communication between the court and the place of custody or confinement **[**and that a full record of such proceedings be made by split-screen imaging and recording of the proceedings in the courtroom and the place of confinement or custody in addition to such other record as may be required**]**:

(1) First appearance before an associate circuit judge on a criminal complaint;

(2) Waiver of preliminary hearing;

(3) Arraignment on an information or indictment where a plea of not guilty is entered;

(4) Arraignment on an information or indictment where a plea of guilty is entered upon waiver of any right such person might have to be physically present;

(5) Any pretrial or posttrial criminal proceeding not allowing the cross-examination of witnesses;

(6) Sentencing after conviction at trial upon waiver of any right such person might have to be physically present;

(7) Sentencing after entry of a plea of guilty; and

(8) Any civil proceeding other than trial by jury.

2. This section shall not prohibit other appearances via closed circuit television upon waiver of any right such person held in custody or confinement might have to be physically present.

3. Nothing contained in this section shall be construed as establishing a right for any person held in custody to appear on television or as requiring that any governmental entity or place of custody or confinement provide a two-way audio-visual communication system.

565.063. PRIOR AND PERSISTENT DOMESTIC VIOLENCE OFFENDERS — DEFINITIONS — SENTENCING — PROCEDURE AT TRIAL — EVIDENCE OF PRIOR CONVICTIONS, PROOF, HOW HEARD — PAST HISTORY OF DOMESTIC VIOLENCE, EVIDENCE ADMISSIBLE. — 1. As used in this section, the following terms mean:

(1) "Domestic assault offense":

(a) The commission of the crime of domestic assault in the first degree **[**pursuant to section 565.072**]** or domestic assault in the second degree **[**pursuant to section 565.073**]**; or

(b) The commission of the crime of assault in the first degree **[**pursuant to the provisions of section 565.050**]** or assault in the second degree **[**pursuant to the provisions of section 565.060,**]** if the victim of the assault was a family or household member;

(c) The commission of a crime in another state, or any federal, tribal, or military offense which, if committed in this state, would be a violation of any offense listed in paragraph (a) or (b) of this subdivision;

(2) "Family" or "household member", spouses, former spouses, adults related by blood or marriage, adults who are presently residing together or have resided together in the past and adults who have a child in common regardless of whether they have been married or have resided together at any time;

(3) "Persistent domestic violence offender", a person who has pleaded guilty to or has been found guilty of two or more domestic assault offenses, where such two or more offenses occurred within ten years of the occurrence of the domestic assault offense for which the person is charged; and

(4) "Prior domestic violence offender", a person who has pleaded guilty to or has been found guilty of one domestic assault offense, where such prior offense occurred within five years of the occurrence of the domestic assault offense for which the person is charged.

2. No court shall suspend the imposition of sentence as to a prior or persistent domestic violence offender pursuant to this section nor sentence such person to pay a fine in lieu of a term of imprisonment, section 557.011, RSMo, to the contrary notwithstanding, nor shall such person be eligible for parole or probation until such person has served a minimum of six months' imprisonment.

3. The court shall find the defendant to be a prior domestic violence offender or persistent domestic violence offender, if:

(1) The indictment or information, original or amended, or the information in lieu of an indictment pleads all essential facts warranting a finding that the defendant is a prior domestic violence offender or persistent domestic violence offender; and

(2) Evidence is introduced that establishes sufficient facts pleaded to warrant a finding beyond a reasonable doubt the defendant is a prior domestic violence offender or persistent domestic violence offender; and

(3) The court makes findings of fact that warrant a finding beyond a reasonable doubt by the court that the defendant is a prior domestic violence offender or persistent domestic violence offender.

4. In a jury trial, such facts shall be pleaded, established and found prior to submission to the jury outside of its hearing.

5. In a trial without a jury or upon a plea of guilty, the court may defer the proof in findings of such facts to a later time, but prior to sentencing.

6. The defendant shall be accorded full rights of confrontation and cross-examination, with the opportunity to present evidence, at such hearings.

7. The defendant may waive proof of the facts alleged.

8. Nothing in this section shall prevent the use of presentence investigations or commitments.

9. At the sentencing hearing both the state and the defendant shall be permitted to present additional information bearing on the issue of sentence.

10. The pleas or findings of guilty shall be prior to the date of commission of the present offense.

11. The court shall not instruct the jury as to the range of punishment or allow the jury, upon a finding of guilty, to assess and declare the punishment as part of its verdict in cases of prior domestic violence offenders or persistent domestic violence offenders.

12. Evidence of prior convictions shall be heard and determined by the trial court out of the hearing of the jury prior to the submission of the case to the jury, and shall include but not be limited to evidence of convictions received by a search of the records of the Missouri uniform law enforcement system maintained by the Missouri state highway patrol. After hearing the evidence, the court shall enter its findings thereon.

13. Evidence of similar criminal convictions of domestic violence pursuant to this chapter, chapter 566, RSMo, or chapter 568, RSMo, within five years of the offense at issue, shall be admissible for the purposes of showing a past history of domestic violence.

14. Any person who has pleaded guilty to or been found guilty of a violation of section 565.072 shall be sentenced to the authorized term of imprisonment for a class A felony if the court finds the offender is a prior domestic violence offender. The offender shall be sentenced to the authorized term of imprisonment for a class A felony which term shall be served without

probation or parole if the court finds the offender is a persistent domestic violence offender or the prior domestic violence offender inflicts serious physical injury on the victim.

15. Any person who has pleaded guilty to or been found guilty of a violation of section 565.073 shall be sentenced:

(a) To the authorized term of imprisonment for a class B felony if the court finds the offender is a prior domestic violence offender; or

(b) To the authorized term of imprisonment for a class A felony if the court finds the offender is a persistent domestic violence offender.

565.081. ASSAULT OF A LAW ENFORCEMENT OFFICER, CORRECTIONS OFFICER, EMERGENCY PERSONNEL, HIGHWAY WORKER, PROBATION AND PAROLE OFFICER, OR TRANSIT OPERATOR IN THE FIRST DEGREE, DEFINITION, PENALTY. — 1. A person commits the crime of assault of a law enforcement officer, **corrections officer,** emergency personnel, or probation and parole officer in the first degree if such person attempts to kill or knowingly causes or attempts to cause serious physical injury to a law enforcement officer **[**or**] , corrections officer,** emergency personnel**, or probation and parole officer**.

2. As used in this section, "emergency personnel" means any paid or volunteer firefighter, emergency room or trauma center personnel, or emergency medical technician as defined in subdivisions (15), (16), **[**and**]** (17)**, and (18)** of section 190.100, RSMo.

3. **As used in this section the term "corrections officer" includes any jailer or corrections officer of the state or any political subdivision of the state.**

4. Assault of a law enforcement officer, **corrections officer,** emergency personnel, or probation and parole officer in the first degree is a class A felony.

565.082. ASSAULT OF A LAW ENFORCEMENT OFFICER, CORRECTIONS OFFICER, EMERGENCY PERSONNEL, HIGHWAY WORKER, PROBATION AND PAROLE OFFICER, OR TRANSIT OPERATOR IN THE SECOND DEGREE, DEFINITION, PENALTY. — 1. A person commits the crime of assault of a law enforcement officer, **corrections officer,** emergency personnel, or probation and parole officer in the second degree if such person:

(1) Knowingly causes or attempts to cause physical injury to a law enforcement officer, **corrections officer,** emergency personnel, or probation and parole officer by means of a deadly weapon or dangerous instrument;

(2) Knowingly causes or attempts to cause physical injury to a law enforcement officer, **corrections officer,** emergency personnel, highway worker in a construction zone or work zone, or probation and parole officer by means other than a deadly weapon or dangerous instrument;

(3) Recklessly causes serious physical injury to a law enforcement officer, **corrections officer,** emergency personnel, or probation and parole officer; or

(4) While in an intoxicated condition or under the influence of controlled substances or drugs, operates a motor vehicle or vessel in this state and when so operating, acts with criminal negligence to cause physical injury to a law enforcement officer, **corrections officer,** emergency personnel, or probation and parole officer;

(5) Acts with criminal negligence to cause physical injury to a law enforcement officer, **corrections officer,** emergency personnel, or probation and parole officer by means of a deadly weapon or dangerous instrument;

(6) Purposely or recklessly places a law enforcement officer, **corrections officer,** emergency personnel, or probation and parole officer in apprehension of immediate serious physical injury; or

(7) Acts with criminal negligence to create a substantial risk of death or serious physical injury to a law enforcement officer, **corrections officer,** emergency personnel, or probation and parole officer.

2. As used in this section, "emergency personnel" means any paid or volunteer firefighter, emergency room or trauma center personnel, or emergency medical technician as defined in subdivisions (15), (16), **[**and**]** (17)**, and (18)** of section 190.100, RSMo.

3. **As used in this section the term "corrections officer" includes any jailer or corrections officer of the state or any political subdivision of the state.**

4. Assault of a law enforcement officer, **corrections officer,** emergency personnel, or probation and parole officer in the second degree is a class B felony unless committed pursuant to subdivision (2), (5), (6), or (7) of subsection 1 of this section in which case it is a class C felony.

565.083. ASSAULT OF A LAW ENFORCEMENT OFFICER, CORRECTIONS OFFICER, EMERGENCY PERSONNEL, HIGHWAY WORKER, PROBATION AND PAROLE OFFICER, OR TRANSIT OPERATOR IN THE THIRD DEGREE, DEFINITION, PENALTY. — 1. A person commits the crime of assault of a law enforcement officer, **corrections officer,** emergency personnel, or probation and parole officer in the third degree if:

(1) Such person recklessly causes physical injury to a law enforcement officer, **corrections officer,** emergency personnel, or probation and parole officer;

(2) Such person purposely places a law enforcement officer, **corrections officer,** emergency personnel, or probation and parole officer in apprehension of immediate physical injury;

(3) Such person knowingly causes or attempts to cause physical contact with a law enforcement officer, **corrections officer,** emergency personnel, or probation and parole officer without the consent of the law enforcement officer **[**or**] , corrections officer,** emergency personnel**, or probation and parole officer**.

2. As used in this section, "emergency personnel" means any paid or volunteer firefighter, emergency room or trauma center personnel, or emergency medical technician as defined in subdivisions (15), (16), **[**and**]** (17)**, and (18)** of section 190.100, RSMo.

3. **As used in this section the term "corrections officer" includes any jailor or corrections officer of the state or any political subdivision of the state.**

4. Assault of a law enforcement officer, **corrections officer,** emergency personnel, or probation and parole officer in the third degree is a class A misdemeanor.

565.084. TAMPERING WITH A JUDICIAL OFFICER, PENALTY. — 1. A person commits the crime of tampering with a judicial officer if, with the purpose to harass, intimidate or influence a judicial officer in the performance of such officer's official duties, **[**he**] such person**:

(1) Threatens or causes harm to such judicial officer or members of such judicial officer's family;

(2) Uses force, threats, or deception against or toward such judicial officer or members of such judicial officer's family;

(3) Offers, conveys or agrees to convey any benefit direct or indirect upon such judicial officer or such judicial officer's family;

(4) Engages in conduct reasonably calculated to harass or alarm such judicial officer or such judicial officer's family, including stalking pursuant to section 565.225.

2. A judicial officer for purposes of this section shall be a judge, arbitrator, special master, **juvenile officer, deputy juvenile officer, state prosecuting or circuit attorney, state assistant prosecuting or circuit attorney,** juvenile court commissioner, state probation or parole officer, or referee.

3. A judicial officer's family for purposes of this section shall be:

(1) **[**His**] Such officer's** spouse; or

(2) **[**His**] Such officer** or **[**his**] such officer's** spouse's ancestor or descendant by blood or adoption; or

(3) **[**His**] Such officer's** stepchild, while the marriage creating that relationship exists.

4. Tampering with a judicial officer is a class C felony.

566.013. CRIMINAL INVESTIGATIONS, SITE OF CRIMINAL CONDUCT UNDETERMINED, ATTORNEY GENERAL MAY SUBPOENA WITNESSES AND DOCUMENTS. — In the course of a criminal investigation under this chapter, when the venue of the alleged criminal conduct cannot be readily determined without further investigation, the attorney general may request the prosecuting attorney of Cole County to request a circuit or associate circuit judge of Cole County to issue a subpoena to any witness who may have information for the purpose of oral examination under oath or to require access to data or the production of books, papers, records, or other material of evidentiary nature at the office of the attorney general. If, upon review of the evidence produced pursuant to the subpoenas, it appears that a violation of this chapter may have been committed, the attorney general shall provide the evidence produced pursuant to subpoena to an appropriate county prosecuting attorney or circuit attorney having venue over the criminal offense.

566.147. CERTAIN OFFENDERS NOT TO RESIDE WITHIN ONE THOUSAND FEET OF A SCHOOL OR CHILD-CARE FACILITY. — 1. Any person who, since July 1, 1979, has been or hereafter has pleaded guilty or nolo contendere to, or been convicted of, or been found guilty of**:**

(1) Violating any of the provisions of this chapter or the provisions of subsection 2 of section 568.020, RSMo, incest; section 568.045, RSMo, endangering the welfare of a child in the first degree; subsection 2 of section 568.080, RSMo, use of a child in a sexual performance; section 568.090, RSMo, promoting a sexual performance by a child; section 573.023, RSMo, sexual exploitation of a minor; section 573.025, RSMo, promoting child pornography in the first degree; section 573.035, RSMo, promoting child pornography in the second degree; section 573.037, RSMo, possession of child pornography, or section 573.040, RSMo, furnishing pornographic material to minors; or **[**for an**]**

(2) Any offense in any other state or foreign country, or under federal, tribal, or military jurisdiction which, if committed in this state, would be a violation listed in this section**;**

shall not reside within one thousand feet of any public school as defined in section 160.011, RSMo, or any private school giving instruction in a grade or grades not higher than the twelfth grade, or child-care facility as defined in section 210.201, RSMo, which is in existence at the time the individual begins to reside at the location.

2. If such person has already established a residence and a public school, a private school, or child-care facility is subsequently built or placed within one thousand feet of such person's residence, then such person shall, within one week of the opening of such public school, private school, or child-care facility, notify the county sheriff where such public school, private school, or child-care facility is located that he or she is now residing within one thousand feet of such public school, private school, or child-care facility and shall provide verifiable proof to the sheriff that he or she resided there prior to the opening of such public school, private school, or child-care facility.

3. For purposes of this section, "resides" means sleeps in a residence, which may include more than one location and may be mobile or transitory.

4. Violation of the provisions of subsection 1 of this section is a class D felony except that the second or any subsequent violation is a class B felony. Violation of the provisions of subsection 2 of this section is a class A misdemeanor except that the second or subsequent violation is a class D felony.

566.148. CERTAIN OFFENDERS NOT TO PHYSICALLY BE PRESENT OR LOITER WITHIN FIVE HUNDRED FEET OF A CHILD CARE FACILITY — VIOLATION, PENALTY. — 1. Any person who has pleaded guilty or nolo contendere to, or been convicted of, or been found guilty of:

(1) Violating any of the provisions of this chapter or the provisions of subsection 2 of section 568.020, RSMo, incest; section 568.045, RSMo, endangering the welfare of a child in the first degree; subsection 2 of section 568.080, RSMo, use of a child in a sexual performance; section 568.090, RSMo, promoting a sexual performance by a child; section 573.023, RSMo, sexual exploitation of a minor; section 573.025, RSMo, promoting child pornography in the first degree; section 573.035, RSMo, promoting child pornography in the second degree; section 573.037, RSMo, possession of child pornography, or section 573.040, RSMo, furnishing pornographic material to minors; or

(2) Any offense in any other state or foreign country, or under federal, tribal, or military jurisdiction which, if committed in this state, would be a violation listed in this section;

shall not knowingly be physically present in or loiter within five hundred feet of or to approach, contact, or communicate with any child under eighteen years of age in any child care facility building, on the real property comprising any child care facility when persons under the age of eighteen are present in the building, on the grounds, or in the conveyance, unless the offender is a parent, legal guardian, or custodian of a student present in the building or on the grounds.

2. For purposes of this section, "child care facility" shall have the same meaning as such term is defined in section 210.201, RSMo.

3. Any person who violates the provisions of this section is guilty of a class A misdemeanor.

566.149. CERTAIN OFFENDERS NOT TO BE PRESENT WITHIN FIVE HUNDRED FEET OF SCHOOL PROPERTY, EXCEPTION — PERMISSION REQUIRED FOR PARENTS OR GUARDIANS WHO ARE OFFENDERS, PROCEDURE — PENALTY. — 1. Any person who has pleaded guilty or nolo contendere to, or been convicted of, or been found guilty of**:**

(1) Violating any of the provisions of this chapter or the provisions of subsection 2 of section 568.020, RSMo, incest; section 568.045, RSMo, endangering the welfare of a child in the first degree; subsection 2 of section 568.080, RSMo, use of a child in a sexual performance; section 568.090, RSMo, promoting a sexual performance by a child; section 573.023, RSMo, sexual exploitation of a minor; section 573.025, RSMo, promoting child pornography; or section 573.040, RSMo, furnishing pornographic material to minors; or **[**for an**]**

(2) Any offense in any other state or foreign country, or under tribal, federal, or military jurisdiction which, if committed in this state, would be a violation listed in this section**;**

shall not be present in or loiter within five hundred feet of any school building, on real property comprising any school, or in any conveyance owned, leased, or contracted by a school to transport students to or from school or a school-related activity when persons under the age of eighteen are present in the building, on the grounds, or in the conveyance, unless the offender is a parent, legal guardian, or custodian of a student present in the building and has met the conditions set forth in subsection 2 of this section.

2. No parent, legal guardian, or custodian who has pleaded guilty or nolo contendere to, or been convicted of, or been found guilty of violating any of the offenses listed in subsection 1 of this section shall be present in any school building, on real property comprising any school, or in any conveyance owned, leased, or contracted by a school to transport students to or from school or a school-related activity when persons under the age of eighteen are present in the building, on the grounds or in the conveyance unless the parent, legal guardian, or custodian has permission to be present from the superintendent or school board or in the case of a private school from the principal. In the case of a public school, if permission is granted, the superintendent or school board president must inform the principal of the school where the sex offender will be present. Permission may be granted by the superintendent, school board, or in

the case of a private school from the principal for more than one event at a time, such as a series of events, however, the parent, legal guardian, or custodian must obtain permission for any other event he or she wishes to attend for which he or she has not yet had permission granted.

3. **Regardless of the person's knowledge of his or her proximity to school property or a school-related activity,** violation of the provisions of this section shall be a class A misdemeanor.

566.150. CERTAIN OFFENDERS NOT TO BE PRESENT OR LOITER WITHIN FIVE HUNDRED FEET OF A PUBLIC PARK OR SWIMMING POOL — VIOLATION, PENALTY. — 1. Any person who has pleaded guilty to, or been convicted of, or been found guilty of:

(1) Violating any of the provisions of this chapter or the provisions of subsection 2 of section 568.020, RSMo, incest; section 568.045, RSMo, endangering the welfare of a child in the first degree; subsection 2 of section 568.080, RSMo, use of a child in a sexual performance; section 568.090, RSMo, promoting a sexual performance by a child; section 573.023, RSMo, sexual exploitation of a minor; section 573.025, RSMo, promoting child pornography; or section 573.040, RSMo, furnishing pornographic material to minors; or

(2) Any offense in any other state or foreign country, or under federal, tribal, or military jurisdiction which, if committed in this state, would be a violation listed in this section;

shall not knowingly be present in or loiter within five hundred feet of any real property comprising any public park with playground equipment or a public swimming pool.

2. The first violation of the provisions of this section shall be a class D felony.

3. A second or subsequent violation of this section shall be a class C felony.

566.155. CERTAIN OFFENDERS NOT TO SERVE AS ATHLETIC COACHES, MANAGERS, OR TRAINERS — VIOLATION, PENALTY. — 1. Any person who has pleaded guilty to, or been convicted of, or been found guilty of:

(1) Violating any of the provisions of this chapter or the provisions of subsection 2 of section 568.020, RSMo, incest; section 568.045, RSMo, endangering the welfare of a child in the first degree; subsection 2 of section 568.080, RSMo, use of a child in a sexual performance; section 568.090, RSMo, promoting a sexual performance by a child; section 573.023, RSMo, sexual exploitation of a minor; section 573.025, RSMo, promoting child pornography; or section 573.040, RSMo, furnishing pornographic material to minors; or

(2) Any offense in any other state or foreign country, or under federal, tribal, or military jurisdiction which, if committed in this state, would be a violation listed in this section;

shall not serve as an athletic coach, manager, or athletic trainer for any sports team in which a child less than seventeen years of age is a member.

2. The first violation of the provisions of this section shall be a class D felony.

3. A second or subsequent violation of this section shall be a class C felony.

568.045. ENDANGERING THE WELFARE OF A CHILD IN THE FIRST DEGREE, PENALTIES. — 1. A person commits the crime of endangering the welfare of a child in the first degree if:

(1) The person knowingly acts in a manner that creates a substantial risk to the life, body, or health of a child less than seventeen years old; or

(2) The person knowingly engages in sexual conduct with a person under the age of seventeen years over whom the person is a parent, guardian, or otherwise charged with the care and custody;

(3) The person knowingly encourages, aids or causes a child less than seventeen years of age to engage in any conduct which violates the provisions of chapter 195, RSMo;

(4) Such person enlists the aid, either through payment or coercion, of a person less than seventeen years of age to unlawfully manufacture, compound, produce, prepare, sell, transport, test or analyze amphetamine or methamphetamine or any of their analogues, or to obtain any material used to manufacture, compound, produce, prepare, test or analyze amphetamine or methamphetamine or any of their analogues; or

(5) Such person, in the presence of a person less than seventeen years of age or in a residence where a person less than seventeen years of age resides, unlawfully manufactures, or attempts to manufacture compounds, **possesses,** produces, prepares, sells, transports, tests or analyzes amphetamine or methamphetamine or any of their analogues.

2. Endangering the welfare of a child in the first degree is a class C felony unless the offense is committed as part of a ritual or ceremony, or except on a second or subsequent offense, in which case the crime is a class B felony.

3. This section shall be known as "Hope's Law".

570.030. STEALING — PENALTIES. — 1. A person commits the crime of stealing if he or she appropriates property or services of another with the purpose to deprive him or her thereof, either without his or her consent or by means of deceit or coercion.

2. Evidence of the following is admissible in any criminal prosecution pursuant to this section on the issue of the requisite knowledge or belief of the alleged stealer:

(1) That he or she failed or refused to pay for property or services of a hotel, restaurant, inn or boardinghouse;

(2) That he or she gave in payment for property or services of a hotel, restaurant, inn or boardinghouse a check or negotiable paper on which payment was refused;

(3) That he or she left the hotel, restaurant, inn or boardinghouse with the intent to not pay for property or services;

(4) That he or she surreptitiously removed or attempted to remove his or her baggage from a hotel, inn or boardinghouse;

(5) That he or she, with intent to cheat or defraud a retailer, possesses, uses, utters, transfers, makes, alters, counterfeits, or reproduces a retail sales receipt, price tag, or universal price code label, or possesses with intent to cheat or defraud, the device that manufactures fraudulent receipts or universal price code labels.

3. Notwithstanding any other provision of law, any offense in which the value of property or services is an element is a class C felony if:

(1) The value of the property or services appropriated is five hundred dollars or more but less than twenty-five thousand dollars; or

(2) The actor physically takes the property appropriated from the person of the victim; or

(3) The property appropriated consists of:

(a) Any motor vehicle, watercraft or aircraft; or

(b) Any will or unrecorded deed affecting real property; or

(c) Any credit card or letter of credit; or

(d) Any firearms; or

(e) **Any explosive weapon as defined in section 571.010, RSMo; or**

(f) A United States national flag designed, intended and used for display on buildings or stationary flagstaffs in the open; or

[(f)**] (g)** Any original copy of an act, bill or resolution, introduced or acted upon by the legislature of the state of Missouri; or

[(g)**] (h)** Any pleading, notice, judgment or any other record or entry of any court of this state, any other state or of the United States; or

[(h)**] (i)** Any book of registration or list of voters required by chapter 115, RSMo; or

[(i)**] (j)** Any animal **[**of the species of horse, mule, ass, cattle, swine, sheep, or goat**] considered livestock as that term is defined in section 144.010, RSMo**; or

[(j)**] (k)** Live fish raised for commercial sale with a value of seventy-five dollars; or

(l) Captive wildlife held under permit issued by the conservation commission; or

[(k)**] (m)** Any controlled substance as defined by section 195.010, RSMo; or

[(l)**] (n)** Anhydrous ammonia;

[(m)**] (o)** Ammonium nitrate; or

[(n)**] (p)** Any document of historical significance which has fair market value of five hundred dollars or more.

4. If an actor appropriates any material with a value less than five hundred dollars in violation of this section with the intent to use such material to manufacture, compound, produce, prepare, test or analyze amphetamine or methamphetamine or any of their analogues, then such violation is a class C felony. The theft of any amount of anhydrous ammonia or liquid nitrogen, or any attempt to steal any amount of anhydrous ammonia or liquid nitrogen, is a class B felony. The theft of any amount of anhydrous ammonia by appropriation of a tank truck, tank trailer, rail tank car, bulk storage tank, field (nurse) tank or field applicator is a class A felony.

5. The theft of any item of property or services pursuant to subsection 3 of this section which exceeds five hundred dollars may be considered a separate felony and may be charged in separate counts.

6. Any person with a prior conviction of **[**paragraph (i)**] paragraphs (j) or (l)** of subdivision (3) of subsection 3 of this section and who violates the provisions of **[**paragraph (i)**] paragraphs (j) or (l)** of subdivision (3) of subsection 3 of this section when the value of the animal or animals stolen exceeds three thousand dollars is guilty of a class B felony. **Notwithstanding any provision of law to the contrary, such person shall serve a minimum prison term of not less than eighty percent of his or her sentence before he or she is eligible for probation, parole, conditional release, or other early release by the department of corrections.**

7. Any offense in which the value of property or services is an element is a class B felony if the value of the property or services equals or exceeds twenty-five thousand dollars.

8. Any violation of this section for which no other penalty is specified in this section is a class A misdemeanor.

570.040. STEALING, THIRD OFFENSE. — 1. Every person who has previously pled guilty **to** or been found guilty **[**on two separate occasions**]** of **[**a**] two** stealing-related **[**offense**] offenses committed on two separate occasions** where such offenses occurred within ten years of the date of occurrence of the present offense **[**and where the person received a sentence of ten days or more on such previous offense**]** and who subsequently pleads guilty or is found guilty of a stealing-related offense is guilty of a class D felony, unless the subsequent plea or guilty verdict is pursuant to paragraph (a) of subdivision (3) of subsection 3 of section 570.030, in which case the person shall be guilty of a class B felony, and shall be punished accordingly.

2. As used in this section, the term "stealing-related offense" shall include federal and state violations of criminal statutes against stealing**, robbery,** or buying or receiving stolen property and shall also include municipal ordinances against same if the defendant was either represented by counsel or knowingly waived counsel in writing and the judge accepting the plea or making the findings was a licensed attorney at the time of the court proceedings.

3. Evidence of prior guilty pleas or findings of guilt shall be heard by the court, out of the hearing of the jury, prior to the submission of the case to the jury, and the court shall determine the existence of the prior guilty pleas or findings of guilt.

570.080. RECEIVING STOLEN PROPERTY. — 1. A person commits the crime of receiving stolen property if for the purpose of depriving the owner of a lawful interest therein, he or she receives, retains or disposes of property of another knowing that it has been stolen, or believing that it has been stolen.

2. Evidence of the following is admissible in any criminal prosecution pursuant to this section to prove the requisite knowledge or belief of the alleged receiver:

(1) That he or she was found in possession or control of other property stolen on separate occasions from two or more persons;

(2) That he or she received other stolen property in another transaction within the year preceding the transaction charged;

(3) That he or she acquired the stolen property for a consideration which he or she knew was far below its reasonable value;

(4) That he or she obtained control over stolen property knowing the property to have been stolen or under such circumstances as would reasonably induce a person to believe the property was stolen.

3. Receiving stolen property is a class A misdemeanor unless the property involved has a value of five hundred dollars or more, or the person receiving the property is a dealer in goods of the type in question, **or the property involved is an explosive weapon as that term is defined in section 571.010, RSMo,** in which cases receiving stolen property is a class C felony.

573.013. CRIMINAL INVESTIGATIONS, SITE OF CRIMINAL CONDUCT UNDETERMINED, ATTORNEY GENERAL MAY SUBPOENA WITNESS AND DOCUMENTS. — In the course of a criminal investigation under this chapter, when the venue of the alleged criminal conduct cannot be readily determined without further investigation, the attorney general may request the prosecuting attorney of Cole County to request a circuit or associate circuit judge of Cole County to issue a subpoena to any witness who may have information for the purpose of oral examination under oath or to require access to data or the production of books, papers, records, or other material of evidentiary nature at the office of the attorney general. If, upon review of the evidence produced pursuant to the subpoenas, it appears that a violation of this chapter may have been committed, the attorney general shall provide the evidence produced pursuant to subpoena to an appropriate county prosecuting attorney or circuit attorney having venue over the criminal offense.

573.020. PROMOTING OBSCENITY IN THE FIRST DEGREE. — 1. A person commits the crime of promoting obscenity in the first degree if**[**, knowing its content and character**]**:

(1) He or she wholesale promotes or possesses with the purpose to wholesale promote any obscene material; or

(2) He or she wholesale promotes for minors or possesses with the purpose to wholesale promote for minors any material pornographic for minors; or

(3) He or she promotes, wholesale promotes or possesses with the purpose to wholesale promote for minors material that is pornographic for minors via computer, Internet or computer network if the person made the matter available to a specific individual known by the defendant to be a minor.

2. Promoting obscenity in the first degree is a class D felony.

573.023. SEXUAL EXPLOITATION OF A MINOR, PENALTIES. — 1. A person commits the crime of sexual exploitation of a minor if**[**, knowing of its content and character,**]** such person **knowingly or recklessly** photographs, films, videotapes, produces or otherwise creates obscene material with a minor or child pornography.

2. Sexual exploitation of a minor is a class B felony unless the minor is a child, in which case it is a class A felony.

573.025. PROMOTING CHILD PORNOGRAPHY IN THE FIRST DEGREE. — 1. A person commits the crime of promoting child pornography in the first degree if**[**, knowing of its content and character,**]** such person possesses with the intent to promote or promotes child pornography of a child less than fourteen years of age or obscene material portraying what appears to be a child less than fourteen years of age.

2. Promoting child pornography in the first degree is a class B felony unless the person knowingly promotes such material to a minor, in which case it is a class A felony. No person who pleads guilty to or is found guilty of, or is convicted of, promoting child pornography in the first degree shall be eligible for probation, parole, or conditional release for a period of three calendar years.

3. Nothing in this section shall be construed to require a provider of electronic communication services or remote computing services to monitor any user, subscriber or customer of the provider, or the content of any communication of any user, subscriber or customer of the provider.

573.030. PROMOTING OBSCENITY IN THE SECOND DEGREE. — 1. A person commits the crime of promoting pornography for minors or obscenity in the second degree if**[**, knowing its content or character,**]** he or she:

(1) Promotes or possesses with the purpose to promote any obscene material for pecuniary gain; or

(2) Produces, presents, directs or participates in any obscene performance for pecuniary gain; or

(3) Promotes or possesses with the purpose to promote any material pornographic for minors for pecuniary gain; or

(4) Produces, presents, directs or participates in any performance pornographic for minors for pecuniary gain; or

(5) Promotes, possesses with the purpose to promote, produces, presents, directs or participates in any performance that is pornographic for minors via computer, electronic transfer, Internet or computer network if the person made the matter available to a specific individual known by the defendant to be a minor.

2. Promoting pornography for minors or obscenity in the second degree is a class A misdemeanor unless the person has pleaded guilty to or has been found guilty of an offense pursuant to this section committed at a different time, in which case it is a class D felony.

573.035. PROMOTING CHILD PORNOGRAPHY IN THE SECOND DEGREE. — 1. A person commits the crime of promoting child pornography in the second degree if **[**knowing of its content and character**]** such person possesses with the intent to promote or promotes child pornography of a minor under the age of eighteen or obscene material portraying what appears to be a minor under the age of eighteen.

2. Promoting child pornography in the second degree is a class C felony unless the person knowingly promotes such material to a minor, in which case it is a class B felony. No person who is found guilty of, pleads guilty to, or is convicted of promoting child pornography in the second degree shall be eligible for probation.

573.037. POSSESSION OF CHILD PORNOGRAPHY. — 1. A person commits the crime of possession of child pornography if**[**, knowing of its content and character,**]** such person **knowingly or recklessly** possesses any child pornography of a minor under the age of eighteen or obscene material portraying what appears to be a minor under the age of eighteen.

2. Possession of child pornography is a class C felony unless the person possesses more than twenty still images of child pornography, possesses one motion picture, film, videotape, videotape production, or other moving image of child pornography, or has pleaded guilty to or has been found guilty of an offense under this section, in which case it is a class B felony.

573.040. FURNISHING PORNOGRAPHIC MATERIALS TO MINORS. — 1. A person commits the crime of furnishing pornographic material to minors if**[**, knowing its content and character,**]** he or she:

(1) Furnishes any material pornographic for minors, knowing that the person to whom it is furnished is a minor or acting in reckless disregard of the likelihood that such person is a minor; or

(2) Produces, presents, directs or participates in any performance pornographic for minors that is furnished to a minor knowing that any person viewing such performance is a minor or acting in reckless disregard of the likelihood that a minor is viewing the performance; or

(3) Furnishes, produces, presents, directs, participates in any performance or otherwise makes available material that is pornographic for minors via computer, electronic transfer, Internet or computer network if the person made the matter available to a specific individual known by the defendant to be a minor.

2. It is not an affirmative defense to a prosecution for a violation of this section that the person being furnished the pornographic material is a peace officer masquerading as a minor.

3. Furnishing pornographic material to minors or attempting to furnish pornographic material to minors is a class A misdemeanor unless the person has pleaded guilty to or has been found guilty of an offense committed at a different time pursuant to this chapter, chapter 566 or chapter 568, RSMo, in which case it is a class D felony.

573.060. PUBLIC DISPLAY OF EXPLICIT SEXUAL MATERIAL. — 1. A person commits the crime of public display of explicit sexual material if he knowingly **or recklessly**:

(1) Displays publicly explicit sexual material; or

(2) Fails to take prompt action to remove such a display from property in his possession after learning of its existence.

2. Public display of explicit sexual material is a class A misdemeanor unless the person has pleaded guilty to or has been found guilty of an offense under this section committed at a different time, in which case it is a class D felony.

3. For purposes of this section, each day there is a violation of this section shall constitute a separate offense.

573.065. COERCING ACCEPTANCE OF OBSCENE MATERIAL. — 1. A person commits the crime of coercing acceptance of obscene material if**[**, knowing its content and character**]**:

(1) He requires acceptance of obscene material as a condition to any sale, allocation, consignment or delivery of any other material; or

(2) He denies any franchise or imposes any penalty, financial or otherwise, by reason of the failure or refusal of any person to accept any material obscene or pornographic for minors.

2. Coercing acceptance of obscene material is a class D felony.

575.150. RESISTING OR INTERFERING WITH ARREST — PENALTY. — 1. A person commits the crime of resisting or interfering with arrest, detention, or stop if, knowing that a law enforcement officer is making an arrest, or attempting to lawfully detain or stop an individual or vehicle, or the person reasonably should know that a law enforcement officer is making an arrest or attempting to lawfully detain or lawfully stop an individual or vehicle, for the purpose of preventing the officer from effecting the arrest, stop or detention, the person:

(1) Resists the arrest, stop or detention of such person by using or threatening the use of violence or physical force or by fleeing from such officer; or

(2) Interferes with the arrest, stop or detention of another person by using or threatening the use of violence, physical force or physical interference.

2. This section applies to**:**

(1) Arrests, stops**,** or detentions**,** with or without warrants **[**and to**] ;**

(2) Arrests, stops**,** or detentions**,** for any crime, infraction**,** or ordinance violation**; and**

(3) Arrests for warrants issued by a court or a probation and parole officer.

3. A person is presumed to be fleeing a vehicle stop if that person continues to operate a motor vehicle after that person has seen or should have seen clearly visible emergency lights or

has heard or should have heard an audible signal emanating from the law enforcement vehicle pursuing that person.

4. It is no defense to a prosecution pursuant to subsection 1 of this section that the law enforcement officer was acting unlawfully in making the arrest. However, nothing in this section shall be construed to bar civil suits for unlawful arrest.

5. Resisting or interfering with an arrest **is a class D felony** for **an arrest for** a **[**felony is a class D felony**] :**

(1) Felony;

(2) Warrant issued for failure to appear on a felony case; or

(3) Warrant issued for a probation violation on a felony case.

Resisting an arrest, detention or stop by fleeing in such a manner that the person fleeing creates a substantial risk of serious physical injury or death to any person is a class D felony; otherwise, resisting or interfering with an arrest, detention or stop in violation of subdivision (1) or (2) of subsection 1 of this section is a class A misdemeanor.

575.153. CRIME OF DISARMING A PEACE OFFICER OR CORRECTIONAL OFFICER — VIOLATION, PENALTY. — 1. A person commits the crime of disarming a peace officer, as defined in section 590.100, RSMo, or a correctional officer if such person intentionally:

(1) Removes a firearm or other deadly weapon from the person of a peace officer or correctional officer while such officer is acting within the scope of his or her official duties; or

(2) Deprives a peace officer or correctional officer of such officer's use of a firearm or deadly weapon while the officer is acting within the scope of his or her official duties.

2. The provisions of this section shall not apply when:

(1) The defendant does not know or could not reasonably have known that the person he or she disarmed was a peace officer or correctional officer; or

(2) The peace officer or correctional officer was engaged in an incident involving felonious conduct by the peace officer or correctional officer at the time the defendant disarmed such officer.

3. Disarming a peace officer or correctional officer is a class C felony.

575.260. TAMPERING WITH A JUDICIAL PROCEEDING. — 1. A person commits the crime of tampering with a judicial proceeding if, with purpose to influence the official action of a judge, juror, special master, referee **[**or**] ,** arbitrator**, state prosecuting or circuit attorney, state assistant prosecuting or circuit attorney, or attorney general** in a judicial proceeding, he **or she**:

(1) Threatens or causes harm to any person or property; or

(2) Engages in conduct reasonably calculated to harass or alarm such official or juror; or

(3) Offers, confers or agrees to confer any benefit, direct or indirect, upon such official or juror.

2. Tampering with a judicial proceeding is a class C felony.

576.050. MISUSE OF OFFICIAL INFORMATION. — 1. A public servant commits the crime of misuse of official information if, in contemplation of official action by himself or herself or by a governmental unit with which he or she is associated, or in reliance on information to which he or she has access in his or her official capacity and which has not been made public, he or she knowingly:

(1) Acquires a pecuniary interest in any property, transaction, or enterprise which may be affected by such information or official action; or

(2) Speculates or wagers on the basis of such information or official action; or

(3) Aids, advises or encourages another to do any of the foregoing with purpose of conferring a pecuniary benefit on any person.

2. A person commits **[**this**]** **the** crime **of misuse of official information** if he or she knowingly **or recklessly** obtains or **[**recklessly**]** discloses information from the Missouri uniform law enforcement system (MULES) or the National Crime Information Center System (NCIC)**, or any other criminal justice information sharing system that contains individually identifiable information** for private or personal use, or for a purpose other than in connection with their official duties and performance of their job.

3. Misuse of official information is a class A misdemeanor.

[577.023. AGGRAVATED, CHRONIC, PERSISTENT AND PRIOR OFFENDERS — ENHANCED PENALTIES — IMPRISONMENT REQUIREMENTS, EXCEPTIONS — PROCEDURES — DEFINITIONS. — 1. For purposes of this section, unless the context clearly indicates otherwise:

(1) An "aggravated offender" is a person who:

(a) Has pleaded guilty to or has been found guilty of three or more intoxication-related traffic offenses; or

(b) Has pleaded guilty to or has been found guilty of one or more intoxication-related traffic offense and, in addition, any of the following: involuntary manslaughter under subdivision (2) or (3) of subsection 1 of section 565.024, RSMo; murder in the second degree under section 565.021, RSMo, where the underlying felony is an intoxication-related traffic offense; or assault in the second degree under subdivision (4) of subsection 1 of section 565.060, RSMo; or assault of a law enforcement officer in the second degree under subdivision (4) of subsection 1 of section 565.082, RSMo;

(2) A "chronic offender" is:

(a) A person who has pleaded guilty to or has been found guilty of four or more intoxication-related traffic offenses; or

(b) A person who has pleaded guilty to or has been found guilty of, on two or more separate occasions, any combination of the following: involuntary manslaughter under subdivision (2) or (3) of subsection 1 of section 565.024, RSMo; murder in the second degree under section 565.021, RSMo, where the underlying felony is an intoxication-related traffic offense; assault in the second degree under subdivision (4) of subsection 1 of section 565.060, RSMo; or assault of a law enforcement officer in the second degree under subdivision (4) of subsection 1 of section 565.082, RSMo; or

(c) A person who has pleaded guilty to or has been found guilty of two or more intoxication-related traffic offenses and, in addition, any of the following: involuntary manslaughter under subdivision (2) or (3) of subsection 1 of section 565.024, RSMo; murder in the second degree under section 565.021, RSMo, where the underlying felony is an intoxication-related traffic offense; assault in the second degree under subdivision (4) of subsection 1 of section 565.060, RSMo; or assault of a law enforcement officer in the second degree under subdivision (4) of subsection 1 of section 565.082, RSMo;

(3) An "intoxication-related traffic offense" is driving while intoxicated, driving with excessive blood alcohol content, involuntary manslaughter pursuant to subdivision (2) or (3) of subsection 1 of section 565.024, RSMo, murder in the second degree under section 565.021, RSMo, where the underlying felony is an intoxication-related traffic offense, assault in the second degree pursuant to subdivision (4) of subsection 1 of section 565.060, RSMo, assault of a law enforcement officer in the second degree pursuant to subdivision (4) of subsection 1 of section 565.082, RSMo, or driving under the influence of alcohol or drugs in violation of state law or a county or municipal ordinance, where the defendant was represented by or waived the right to an attorney in writing;

(4) A "persistent offender" is one of the following:

(a) A person who has pleaded guilty to or has been found guilty of two or more intoxication-related traffic offenses;

(b) A person who has pleaded guilty to or has been found guilty of involuntary manslaughter pursuant to subdivision (2) or (3) of subsection 1 of section 565.024, RSMo, assault in the second degree pursuant to subdivision (4) of subsection 1 of section 565.060, RSMo, assault of a law enforcement officer in the second degree pursuant to subdivision (4) of subsection 1 of section 565.082, RSMo; and

(5) A "prior offender" is a person who has pleaded guilty to or has been found guilty of one intoxication-related traffic offense, where such prior offense occurred within five years of the occurrence of the intoxication-related traffic offense for which the person is charged.

2. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or 577.012 who is alleged and proved to be a prior offender shall be guilty of a class A misdemeanor.

3. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or 577.012 who is alleged and proved to be a persistent offender shall be guilty of a class D felony.

4. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or section 577.012 who is alleged and proved to be an aggravated offender shall be guilty of a class C felony.

5. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or section 577.012 who is alleged and proved to be a chronic offender shall be guilty of a class B felony.

6. No state, county, or municipal court shall suspend the imposition of sentence as to a prior offender, persistent offender, aggravated offender, or chronic offender under this section nor sentence such person to pay a fine in lieu of a term of imprisonment, section 557.011, RSMo, to the contrary notwithstanding. No prior offender shall be eligible for parole or probation until he or she has served a minimum of five days imprisonment, unless as a condition of such parole or probation such person performs at least thirty days of community service under the supervision of the court in those jurisdictions which have a recognized program for community service. No persistent offender shall be eligible for parole or probation until he or she has served a minimum of ten days imprisonment, unless as a condition of such parole or probation such person performs at least sixty days of community service under the supervision of the court. No aggravated offender shall be eligible for parole or probation until he or she has served a minimum of sixty days imprisonment. No chronic offender shall be eligible for parole or probation until he or she has served a minimum of two years imprisonment.

7. The state, county, or municipal court shall find the defendant to be a prior offender, persistent offender, aggravated offender, or chronic offender if:

(1) The indictment or information, original or amended, or the information in lieu of an indictment pleads all essential facts warranting a finding that the defendant is a prior offender or persistent offender; and

(2) Evidence is introduced that establishes sufficient facts pleaded to warrant a finding beyond a reasonable doubt the defendant is a prior offender, persistent offender, aggravated offender, or chronic offender; and

(3) The court makes findings of fact that warrant a finding beyond a reasonable doubt by the court that the defendant is a prior offender, persistent offender, aggravated offender, or chronic offender.

8. In a jury trial, the facts shall be pleaded, established and found prior to submission to the jury outside of its hearing.

9. In a trial without a jury or upon a plea of guilty, the court may defer the proof in findings of such facts to a later time, but prior to sentencing.

10. The defendant shall be accorded full rights of confrontation and cross-examination, with the opportunity to present evidence, at such hearings.

11. The defendant may waive proof of the facts alleged.

12. Nothing in this section shall prevent the use of presentence investigations or commitments.

13. At the sentencing hearing both the state, county, or municipality and the defendant shall be permitted to present additional information bearing on the issue of sentence.

14. The pleas or findings of guilt shall be prior to the date of commission of the present offense.

15. The court shall not instruct the jury as to the range of punishment or allow the jury, upon a finding of guilt, to assess and declare the punishment as part of its verdict in cases of prior offenders, persistent offenders, aggravated offenders, or chronic offenders.

16. Evidence of a prior conviction, plea of guilty, or finding of guilt in an intoxication-related traffic offense shall be heard and determined by the trial court out of the hearing of the jury prior to the submission of the case to the jury, and shall include but not be limited to evidence of convictions received by a search of the records of the Missouri uniform law enforcement system maintained by the Missouri state highway patrol. After hearing the evidence, the court shall enter its findings thereon. A plea of guilty or a finding of guilt followed by incarceration, a fine, a suspended imposition of sentence, suspended execution of sentence, probation or parole or any combination thereof in any intoxication-related traffic offense in a state, county, or municipal court, or any combination thereof, shall be treated as a prior plea of guilty or finding of guilt for purposes of this section.**]**

577.023. AGGRAVATED, CHRONIC, PERSISTENT AND PRIOR OFFENDERS — ENHANCED PENALTIES — IMPRISONMENT REQUIREMENTS, EXCEPTIONS — PROCEDURES — DEFINITIONS. — 1. For purposes of this section, unless the context clearly indicates otherwise:

(1) An "aggravated offender" is a person who:

(a) Has pleaded guilty to or has been found guilty of three or more intoxication-related traffic offenses; or

(b) Has pleaded guilty to or has been found guilty of one or more intoxication-related traffic offense and, in addition, any of the following: involuntary manslaughter under subdivision (2) or (3) of subsection 1 of section 565.024, RSMo; murder in the second degree under section 565.021, RSMo, where the underlying felony is an intoxication-related traffic offense; or assault in the second degree under subdivision (4) of subsection 1 of section 565.060, RSMo; or assault of a law enforcement officer in the second degree under subdivision (4) of subsection 1 of section 565.082, RSMo;

(2) A "chronic offender" is:

(a) A person who has pleaded guilty to or has been found guilty of four or more intoxication-related traffic offenses; or

(b) A person who has pleaded guilty to or has been found guilty of, on two or more separate occasions, any combination of the following: involuntary manslaughter under subdivision (2) or (3) of subsection 1 of section 565.024, RSMo; murder in the second degree under section 565.021, RSMo, where the underlying felony is an intoxication-related traffic offense; assault in the second degree under subdivision (4) of subsection 1 of section 565.060, RSMo; or assault of a law enforcement officer in the second degree under subdivision (4) of subsection 1 of section 565.082, RSMo; or

(c) A person who has pleaded guilty to or has been found guilty of two or more intoxication-related traffic offenses and, in addition, any of the following: involuntary manslaughter under subdivision (2) or (3) of subsection 1 of section 565.024, RSMo; murder in the second degree under section 565.021, RSMo, where the underlying felony is an intoxication-related traffic offense; assault in the second degree under subdivision (4) of subsection 1 of section 565.060, RSMo; or assault of a law enforcement officer in the second degree under subdivision (4) of subsection 1 of section 565.082, RSMo;

(3) **"Continuous alcohol monitoring", automatically testing breath, blood, or transdermal alcohol concentration levels and tampering attempts at least once every hour, regardless of the location of the person who is being monitored, and regularly transmitting**

the data. Continuous alcohol monitoring shall be considered an electronic monitoring service under subsection 3 of section 217.690, RSMo;

(4) An "intoxication-related traffic offense" is driving while intoxicated, driving with excessive blood alcohol content, involuntary manslaughter pursuant to subdivision (2) or (3) of subsection 1 of section 565.024, RSMo, murder in the second degree under section 565.021, RSMo, where the underlying felony is an intoxication-related traffic offense, assault in the second degree pursuant to subdivision (4) of subsection 1 of section 565.060, RSMo, assault of a law enforcement officer in the second degree pursuant to subdivision (4) of subsection 1 of section 565.082, RSMo, or driving under the influence of alcohol or drugs in violation of state law or a county or municipal ordinance**[**, where the defendant was represented by or waived the right to an attorney in writing**]**;

[(4)**] (5)** A "persistent offender" is one of the following:

(a) A person who has pleaded guilty to or has been found guilty of two or more intoxication-related traffic offenses;

(b) A person who has pleaded guilty to or has been found guilty of involuntary manslaughter pursuant to subdivision (2) or (3) of subsection 1 of section 565.024, RSMo, assault in the second degree pursuant to subdivision (4) of subsection 1 of section 565.060, RSMo, assault of a law enforcement officer in the second degree pursuant to subdivision (4) of subsection 1 of section 565.082, RSMo; and

[(5)**] (6)** A "prior offender" is a person who has pleaded guilty to or has been found guilty of one intoxication-related traffic offense, where such prior offense occurred within five years of the occurrence of the intoxication-related traffic offense for which the person is charged.

2. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or 577.012 who is alleged and proved to be a prior offender shall be guilty of a class A misdemeanor.

3. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or 577.012 who is alleged and proved to be a persistent offender shall be guilty of a class D felony.

4. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or section 577.012 who is alleged and proved to be an aggravated offender shall be guilty of a class C felony.

5. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or section 577.012 who is alleged and proved to be a chronic offender shall be guilty of a class B felony.

6. No state, county, or municipal court shall suspend the imposition of sentence as to a prior offender, persistent offender, aggravated offender, or chronic offender under this section nor sentence such person to pay a fine in lieu of a term of imprisonment, section 557.011, RSMo, to the contrary notwithstanding. No prior offender shall be eligible for parole or probation until he or she has served a minimum of five days imprisonment, unless as a condition of such parole or probation such person performs at least thirty days of community service under the supervision of the court in those jurisdictions which have a recognized program for community service. No persistent offender shall be eligible for parole or probation until he or she has served a minimum of ten days imprisonment, unless as a condition of such parole or probation such person performs at least sixty days of community service under the supervision of the court. No aggravated offender shall be eligible for parole or probation until he or she has served a minimum of sixty days imprisonment. No chronic offender shall be eligible for parole or probation until he or she has served a minimum of two years imprisonment. **In addition to any other terms or conditions of probation, the court shall consider, as a condition of probation for any person who pleads guilty to or is found guilty of an intoxication-related traffic offense, requiring the offender to abstain from consuming or using alcohol or any products containing alcohol as demonstrated by continuous alcohol monitoring or by verifiable breath alcohol testing performed a minimum of four times per day as scheduled by the court for such duration as determined by the court, but not less than ninety days.**

The court may, in addition to imposing any other fine, costs, or assessments provided by law, require the offender to bear any costs associated with continuous alcohol monitoring or verifiable breath alcohol testing.

7. The state, county, or municipal court shall find the defendant to be a prior offender, persistent offender, aggravated offender, or chronic offender if:

(1) The indictment or information, original or amended, or the information in lieu of an indictment pleads all essential facts warranting a finding that the defendant is a prior offender or persistent offender; and

(2) Evidence is introduced that establishes sufficient facts pleaded to warrant a finding beyond a reasonable doubt the defendant is a prior offender, persistent offender, aggravated offender, or chronic offender; and

(3) The court makes findings of fact that warrant a finding beyond a reasonable doubt by the court that the defendant is a prior offender, persistent offender, aggravated offender, or chronic offender.

8. In a jury trial, the facts shall be pleaded, established and found prior to submission to the jury outside of its hearing.

9. In a trial without a jury or upon a plea of guilty, the court may defer the proof in findings of such facts to a later time, but prior to sentencing.

10. The defendant shall be accorded full rights of confrontation and cross-examination, with the opportunity to present evidence, at such hearings.

11. The defendant may waive proof of the facts alleged.

12. Nothing in this section shall prevent the use of presentence investigations or commitments.

13. At the sentencing hearing both the state, county, or municipality and the defendant shall be permitted to present additional information bearing on the issue of sentence.

14. The pleas or findings of guilt shall be prior to the date of commission of the present offense.

15. The court shall not instruct the jury as to the range of punishment or allow the jury, upon a finding of guilt, to assess and declare the punishment as part of its verdict in cases of prior offenders, persistent offenders, aggravated offenders, or chronic offenders.

16. Evidence of a prior **conviction,** plea of guilty**,** or finding of guilt in an intoxication-related traffic offense shall be heard and determined by the trial court out of the hearing of the jury prior to the submission of the case to the jury, and shall include but not be limited to evidence of convictions received by a search of the records of the Missouri uniform law enforcement system maintained by the Missouri state highway patrol. After hearing the evidence, the court shall enter its findings thereon. A plea of guilty or a finding of guilt followed by incarceration, **a fine,** a suspended imposition of sentence, suspended execution of sentence, probation or parole or any combination thereof in any intoxication-related traffic offense in a state, county or municipal court or any combination thereof, shall be treated as a prior plea of guilty or finding of guilt for purposes of this section.

577.029. BLOOD ALCOHOL CONTENT TESTS, HOW MADE, BY WHOM, WHEN — PERSON TESTED TO RECEIVE CERTAIN INFORMATION, WHEN. — A licensed physician, registered nurse, or trained medical technician, acting at the request and direction of the law enforcement officer, shall withdraw blood for the purpose of determining the alcohol content of the blood, unless such medical personnel, in his or her good faith medical judgment, believes such procedure would endanger the life or health of the person in custody. Blood may be withdrawn only by such medical personnel, but such restriction shall not apply to the taking of a breath test, a saliva specimen, or a urine specimen. In withdrawing blood for the purpose of determining the alcohol content thereof, only a previously unused and sterile needle and sterile vessel shall be utilized and the withdrawal shall otherwise be in strict accord with accepted medical practices. Upon the request of

the person who is tested, full information concerning the test taken at the direction of the law enforcement officer shall be made available to him or her.

578.022. LAW ENFORCEMENT DOGS, EXEMPT FROM CERTAIN LAWS, WHEN. — Any dog that is owned, or the service of which is employed, by a law enforcement agency and that bites another animal or human in the course of their official duties is exempt from the provisions of sections 273.033 and 273.036, RSMo, and section 578.024.

578.024. SUBSEQUENT DOG BITES, LIABILITY OF OWNER, PENALTY — EXCEPTIONS. — 1. If a dog that has previously bitten a person or a domestic animal without provocation bites any person on a subsequent occasion, the owner or possessor is guilty of a class B misdemeanor unless such attack:

(1) Results in serious injury to any person, in which case, the owner or possessor is guilty of a class A misdemeanor; or

(2) Results in serious injury to any person and any previous attack also resulted in serious injury to any person, in which case, the owner or possessor is guilty of a class D felony; or

(3) Results in the death of any person, in which case, the owner or possessor shall be guilty of a class C felony.

2. In addition to the penalty included in subsection 1 of this section, if any dog that has previously bitten a person or a domestic animal without provocation bites any person on a subsequent occasion or if a dog that has not previously bitten a person attacks and causes serious injury to or the death of any human, the dog shall be seized immediately by an animal control authority or by the county sheriff. The dog shall be impounded and held for ten business days after the owner or possessor is given written notification and thereafter destroyed.

3. The owner or possessor of the dog that has been impounded may file a written appeal to the circuit court to contest the impoundment and destruction of such dog. The owner or possessor shall provide notice of the filing of the appeal to the animal control authority or county sheriff who seized the dog. If the owner or possessor files such an appeal and provides proper notice, the dog shall remain impounded and shall not be destroyed while such appeal is pending and until the court issues an order for the destruction of the dog. The court shall hold a disposition hearing within thirty days of the filing of the appeal to determine whether such dog shall be humanely destroyed. The court may order the owner or possessor of the dog to pay the costs associated with the animal's keeping and care during the pending appeal.

4. Notwithstanding any provision of sections 273.033 and 273.036, RSMo, section 578.022 and this section to the contrary, if a dog attacks or bites a person who is engaged in or attempting to engage in a criminal activity at the time of the attack, the owner or possessor is not guilty of any crime specified under this section or section 273.036, RSMo, and is not civilly liable under this section or section 273.036, RSMo, nor shall such dog be destroyed as provided in subsection 2 of this section, nor shall such person engaged in or attempting to engage in a criminal activity at the time of the attack be entitled to the defenses set forth in section 273.033, RSMo. For purposes of this section "criminal activity" shall not include the act of trespass upon private property under section 569.150, RSMo, as long as the trespasser does not otherwise engage in, attempt to engage in, or have intent to engage in other criminal activity nor shall it include any trespass upon private property by a person under the age of twelve under section 569.140, RSMo.

578.028. REMOVAL OF CERTAIN COLLARS FROM DOGS WITH INTENT TO PREVENT OR HINDER LOCATING THE DOG, RESTITUTION REQUIRED. — Any person who removes an electronic or radio transmitting collar from a dog without the permission of the owner of

the dog with the intent to prevent or hinder the owner from locating the dog, is guilty of a class A misdemeanor. Upon a plea or finding of guilt, the court shall order that the defendant pay as restitution the actual value of any dog lost or killed as a result of such removal. The court may also order restitution to the owner for any lost breeding revenues.

578.250. INHALATION OR INDUCING OTHERS TO INHALE SOLVENT FUMES TO CAUSE CERTAIN REACTIONS, PROHIBITED — EXCEPTIONS. — No person shall intentionally smell or inhale the fumes of any solvent, particularly toluol, **amyl nitrite, butyl nitrite, cyclohexyl nitrite, ethyl nitrite, pentyl nitrite, and propyl nitrite and their iso-analogues** or induce any other person to do so, for the purpose of causing a condition of, or inducing symptoms of, intoxication, elation, euphoria, dizziness, excitement, irrational behavior, exhilaration, paralysis, stupefaction, or dulling of senses or nervous system, or for the purpose of, in any manner, changing, distorting, or disturbing the audio, visual, or mental processes; except that this section shall not apply to the inhalation of any anesthesia for medical or dental purposes.

578.255. INDUCING, OR POSSESSION WITH INTENT TO INDUCE, SYMPTOMS BY USE OF CERTAIN SOLVENTS AND OTHER SUBSTANCES, PROHIBITED. — 1. **As used in this section "alcohol beverage vaporizer" means any device which, by means of heat, a vibrating element, or any method, is capable of producing a breathable mixture containing one or more alcoholic beverages to be dispensed for inhalation into the lungs via the nose or mouth or both.**

2. No person shall intentionally or willfully induce the symptoms of intoxication, elation, euphoria, dizziness, excitement, irrational behavior, exhilaration, paralysis, stupefaction, or dulling of the senses or nervous system, distortion of audio, visual or mental processes by the use **or abuse** of any **[**solvent, particularly toluol.**] of the following substances:**

(1) Solvents, particularly toluol;

(2) Ethyl alcohol;

(3) Amyl nitrite and its iso-analogues;

(4) Butyl nitrite and its iso-analogues;

(5) Cyclohexyl nitrite and its iso-analogues;

(6) Ethyl nitrite and its iso-analogues;

(7) Pentyl nitrite and its iso-analogues; and

(8) Propyl nitrite and its iso-analogues.

3. This section shall not apply to substances that have been approved by the United States Food and Drug Administration as therapeutic drug products or are contained in approved over-the-counter drug products or administered lawfully pursuant to the order of an authorized medical practitioner.

[2.**] 4.** No person shall intentionally possess any solvent, particularly toluol, **amyl nitrite, butyl nitrite, cyclohexyl nitrite, ethyl nitrite, pentyl nitrite, and propyl nitrite and their iso-analogues** for the purpose of using it in the manner prohibited by section 578.250 and this section.

5. No person shall possess or use an alcoholic beverage vaporizer.

6. Nothing in this section shall be construed to prohibit the legal consumption of intoxicating liquor, as defined by section 311.020, RSMo, or nonintoxicating beer, as defined by section 312.010, RSMo.

578.260. POSSESSION OR PURCHASE OF SOLVENTS TO AID OTHERS IN VIOLATIONS, PROHIBITED — VIOLATIONS OF SECTIONS 578.250 TO 578.260 — PENALTY. — 1. No person shall intentionally possess or buy any solvent, particularly toluol, **amyl nitrite, butyl nitrite, cyclohexyl nitrite, ethyl nitrite, pentyl nitrite, and propyl nitrite and their iso-analogues** for

the purpose of inducing or aiding any other person to violate the provisions of sections 578.250 and 578.255.

2. Any person who violates any provision of sections 578.250 to 578.260 is guilty of a class B misdemeanor **for the first violation and a class D felony for any subsequent violations**.

578.265. SELLING OR TRANSFERRING SOLVENTS TO CAUSE CERTAIN SYMPTOMS, PENALTY — CERTAIN ALCOHOLIC BEVERAGE SELLERS PROHIBITED FROM SELLING, PENALTY. — 1. No person shall knowingly and intentionally sell or otherwise transfer possession of any solvent, particularly toluol, **amyl nitrite, butyl nitrite, cyclohexyl nitrite, ethyl nitrite, pentyl nitrite, and propyl nitrite and their iso-analogues** to any person for the purpose of causing a condition of, or inducing symptoms of, intoxication, elation, euphoria, dizziness, excitement, irrational behavior, exhilaration, paralysis, stupefaction, or dulling of senses or nervous system, or for the purpose of, in any manner, changing, distorting, or disturbing the audio, visual, or mental processes.

2. No person who owns or operates any business which receives over fifty percent of its gross annual income from the sale of alcoholic beverages or beer shall sell or offer for sale toluol**, amyl nitrite, butyl nitrite, cyclohexyl nitrite, ethyl nitrite, pentyl nitrite, and propyl nitrite and their iso-analogues,** or any toxic glue.

3. **No person who owns or operates any business which operates as a venue for live entertainment performance or receives over fifty percent of its gross annual income from the sale of recorded video entertainment shall sell or offer for sale toluol, amyl nitrite, butyl nitrite, cyclohexyl nitrite, ethyl nitrite, pentyl nitrite, propyl nitrite or their iso-analogues.**

4. Any person who violates the provisions of subsection 1 or 2 of this section is guilty of a class C felony.

589.400. REGISTRATION OF CERTAIN OFFENDERS WITH CHIEF LAW OFFICERS OF COUNTY OF RESIDENCE — TIME LIMITATION — CITIES MAY REQUEST COPY OF REGISTRATION — FEES — AUTOMATIC REMOVAL FROM REGISTRY — PETITIONS FOR REMOVAL — PROCEDURE, NOTICE, DENIAL OF PETITION — HIGHER EDUCATION STUDENTS AND WORKERS — PERSONS REMOVED. — 1. Sections 589.400 to 589.425 shall apply to:

(1) Any person who, since July 1, 1979, has been or is hereafter convicted of, been found guilty of, or pled guilty or nolo contendere to committing, attempting to commit, or conspiring to commit a felony offense of chapter 566, RSMo, including sexual trafficking of a child and sexual trafficking of a child under the age of twelve, or any offense of chapter 566, RSMo, where the victim is a minor**, unless such person is exempted from registering under subsection 8 of this section**; or

(2) Any person who, since July 1, 1979, has been or is hereafter convicted of, been found guilty of, or pled guilty or nolo contendere to committing, attempting to commit, or conspiring to commit one or more of the following offenses: kidnapping when the victim was a child and the defendant was not a parent or guardian of the child; abuse of a child under section 568.060, RSMo, when such abuse is sexual in nature; felonious restraint when the victim was a child and the defendant is not a parent or guardian of the child; sexual contact or sexual intercourse with a resident of a nursing home, under section 565.200, RSMo; endangering the welfare of a child under section 568.045, RSMo, when the endangerment is sexual in nature; genital mutilation of a female child, under section 568.065, RSMo; promoting prostitution in the first degree; promoting prostitution in the second degree; promoting prostitution in the third degree; sexual exploitation of a minor; promoting child pornography in the first degree; promoting child pornography in the second degree; possession of child pornography; furnishing pornographic material to minors; public display of explicit sexual material; coercing acceptance of obscene material; promoting obscenity in the first degree; promoting pornography for minors or obscenity in the second degree; incest; use of a child in a sexual performance; or promoting sexual performance by a child; **[**and committed or attempted to commit the offense against a victim

who is a minor, defined for the purposes of sections 589.400 to 589.425 as a person under eighteen years of age;**]** or

(3) Any person who, since July 1, 1979, has been committed to the department of mental health as a criminal sexual psychopath; or

(4) Any person who, since July 1, 1979, has been found not guilty as a result of mental disease or defect of any offense listed in subdivision (1) or (2) of this subsection; or

(5) Any juvenile certified as an adult and transferred to a court of general jurisdiction who has been convicted of, found guilty of, or has pleaded guilty or nolo contendere to committing, attempting to commit, or conspiring to commit a felony under chapter 566, RSMo, which is equal to or more severe than aggravated sexual abuse under 18 U.S.C. Section 2241, which shall include any attempt or conspiracy to commit such offense;

(6) Any juvenile fourteen years of age or older at the time of the offense who has been adjudicated for an offense which is equal to or more severe than aggravated sexual abuse under 18 U.S.C. Section 2241, which shall include any attempt or conspiracy to commit such offense;

(7) Any person who is a resident of this state who has, since July 1, 1979, or is hereafter convicted of, been found guilty of, or pled guilty to or nolo contendere in any other state, or foreign country, or under federal, tribal, or military jurisdiction to committing, attempting to commit, or conspiring to commit an offense which, if committed in this state, would be a violation of chapter 566, RSMo, or a felony violation of any offense listed in subdivision (2) of this subsection or has been or is required to register in another state or has been or is required to register under tribal, federal, or military law; or

(8) Any person who has been or is required to register in another state or has been or is required to register under tribal, federal, or military law and who works or attends an educational institution, whether public or private in nature, including any secondary school, trade school, professional school, or institution of higher education on a full-time or on a part-time basis or has a temporary residence in Missouri. "Part-time" in this subdivision means for more than seven days in any twelve-month period.

2. Any person to whom sections 589.400 to 589.425 apply shall, within three days of conviction, release from incarceration, or placement upon probation, register with the chief law enforcement official of the county or city not within a county in which such person resides unless such person has already registered in that county for the same offense. Any person to whom sections 589.400 to 589.425 apply if not currently registered in their county of residence shall register with the chief law enforcement official of such county or city not within a county within three days. The chief law enforcement official shall forward a copy of the registration form required by section 589.407 to a city, town, village, or campus law enforcement agency located within the county of the chief law enforcement official, if so requested. Such request may ask the chief law enforcement official to forward copies of all registration forms filed with such official. The chief law enforcement official may forward a copy of such registration form to any city, town, village, or campus law enforcement agency, if so requested.

3. The registration requirements of sections 589.400 through 589.425 are lifetime registration requirements unless:

(1) All offenses requiring registration are reversed, vacated or set aside;

(2) The registrant is pardoned of the offenses requiring registration;

(3) The registrant is no longer required to register and his or her name shall be removed from the registry under the provisions of subsection 6 of this section; or

(4) The registrant may petition the court for removal **or exemption** from the registry under subsection 7 or 8 of this section and the court orders the removal **or exemption** of such person from the registry.

4. For processing an initial sex offender registration the chief law enforcement officer of the county or city not within a county may charge the offender registering a fee of up to ten dollars.

5. For processing any change in registration required pursuant to section 589.414 the chief law enforcement official of the county or city not within a county may charge the person changing their registration a fee of five dollars for each change made after the initial registration.

6. Any person currently on the sexual offender registry for being convicted of, found guilty of, or pleading guilty or nolo contendere to committing, attempting to commit, or conspiring to commit, felonious restraint when the victim was a child and he or she was the parent or guardian of the child, nonsexual child abuse that was committed under section 568.060, RSMo, or kidnapping when the victim was a child and he or she was the parent or guardian of the child shall be removed from the registry. However, such person shall remain on the sexual offender registry for any other offense for which he or she is required to register under sections 589.400 to 589.425.

7. Any person currently on the sexual offender registry for having been convicted of, found guilty of, or having pleaded guilty or nolo contendere to committing, attempting to commit, or conspiring to commit promoting prostitution in the second degree, promoting prostitution in the third degree, public display of explicit sexual material, statutory rape in the second degree, and no physical force or threat of physical force was used in the commission of the crime may file a petition in the civil division of the circuit court in the county in which the offender was convicted or found guilty of or pled guilty or nolo contendere to committing, attempting to commit, or conspiring to commit the offense or offenses for the removal of his or her name from the sexual offender registry after ten years have passed from the date he or she was required to register.

8. Effective August 28, **[**2006**]** **2009**, any person on the sexual offender registry for having been convicted of, found guilty of, or having pled guilty or nolo contendere to an offense included under subsection 1 of this section may file a petition after two years have passed from the date the offender was convicted or found guilty of or pled guilty or nolo contendere to the offense or offenses in the civil division of the circuit court in the county in which the offender was convicted or found guilty of or pled guilty or nolo contendere to the offense or offenses for removal of his or her name from the registry if such person was nineteen years of age or younger and the victim was thirteen years of age or older at the time of the offense and no physical force or threat of physical force was used in the commission of the offense**, unless such person meets the qualifications of this subsection, and such person was eighteen years of age or younger at the time of the offense, and is convicted or found guilty of or pleads guilty or nolo contendere to a violation of sections 566.068, 566.090, 566.093, or 566.095, RSMo, when such offense is a misdemeanor, in which case, such person may immediately file a petition to remove or exempt his or her name from the registry upon his or her conviction or finding or pleading of guilty or nolo contendere to such offense**.

9. (1) The court may grant such relief under subsection 7 or 8 of this section if such person demonstrates to the court that he or she has complied with the provisions of this section and is not a current or potential threat to public safety. The prosecuting attorney in the circuit court in which the petition is filed must be given notice, by the person seeking removal **or exemption** from the registry, of the petition to present evidence in opposition to the requested relief or may otherwise demonstrate the reasons why the petition should be denied. Failure of the person seeking removal **or exemption** from the registry to notify the prosecuting attorney of the petition shall result in an automatic denial of such person's petition. If the prosecuting attorney is notified of the petition he or she shall make reasonable efforts to notify the victim of the crime for which the person was required to register of the petition and the dates and times of any hearings or other proceedings in connection with that petition.

(2) If the petition is denied, such person shall wait at least twelve months before petitioning the court again. If the court finds that the petitioner is entitled to relief, which removes **or exempts** such person's name from the registry, a certified copy of the written findings or order shall be forwarded by the court to the chief law enforcement official having jurisdiction over the

offender and to the Missouri state highway patrol in order to have such person's name removed **or exempted** from the registry.

10. Any nonresident worker or nonresident student shall register for the duration of such person's employment or attendance at any school of higher education and is not entitled to relief under the provisions of subsection 9 of this section. Any registered offender from another state who has a temporary residence in this state and resides more than seven days in a twelve-month period shall register for the duration of such person's temporary residency and is not entitled to the provisions of subsection 9 of this section.

11. Any person whose name is removed **or exempted** from the sexual offender registry under subsection 7 or 8 of this section shall no longer be required to fulfill the registration requirements of sections 589.400 to 589.425, unless such person is required to register for committing another offense after being removed from the registry.

589.425. FAILURE TO REGISTER, PENALTY — SUBSEQUENT VIOLATIONS, PENALTY. — 1. A person commits the crime of failing to register as a sex offender when the person is required to register under sections 589.400 to 589.425 and fails to comply with any requirement of sections 589.400 to 589.425. Failing to register as a sex offender is a class D felony unless the person is required to register based on having committed an offense in chapter 566, RSMo, which was an unclassified felony, a class A or B felony, or a felony involving a child under the age of fourteen, in which case it is a class C felony.

2. A person commits the crime of failing to register as a sex offender as a second offense by failing to comply with any requirement of sections 589.400 to 589.425 and he or she has previously pled guilty to or has previously been found guilty of failing to register as a sex offender. Failing to register as a sex offender as a second offense is a class D felony unless the person is required to register based on having committed an offense in chapter 566, RSMo, **or an offense in any other state or foreign country, or under federal, tribal, or military jurisdiction, which if committed in this state would be an offense under chapter 566, RSMo,** which was an unclassified felony, a class A or B felony, or a felony involving a child under the age of fourteen, in which case it is a class C felony.

3. **(1)** A person commits the crime of failing to register as a sex offender as a third offense by failing to meet the requirements of sections 589.400 to 589.425 and he or she has, on two or more occasions, previously pled guilty to or has previously been found guilty of failing to register as a sex offender. Failing to register as a sex offender as a third offense is a felony which shall be punished by a term of imprisonment of not less than ten years and not more than thirty years.

[(1)**]** **(2)** No court may suspend the imposition or execution of sentence of a person who pleads guilty to or is found guilty of failing to register as a sex offender as a third offense. No court may sentence such person to pay a fine in lieu of a term of imprisonment.

[(2)**]** **(3)** A person sentenced under this subsection shall not be eligible for conditional release or parole until he or she has served at least two years of imprisonment.

[(3)**]** **(4)** Upon release, an offender who has committed failing to register as a sex offender as a third offense shall be electronically monitored as a mandatory condition of supervision. Electronic monitoring may be based on a global positioning system or any other technology which identifies and records the offender's location at all times.

590.701. DEFINITIONS — RECORDING REQUIRED FOR CERTAIN CRIMES — MAY BE RECORDED, WHEN — WRITTEN POLICY REQUIRED — VIOLATION, PENALTY. — 1. As used in this section, the following terms shall mean:

(1) "Custodial interrogation", the questioning of a person under arrest, who is no longer at the scene of the crime, by a member of a law enforcement agency along with the answers and other statements of the person questioned. "Custodial interrogation" shall not include:

(a) A situation in which a person voluntarily agrees to meet with a member of a law enforcement agency;

(b) A detention by a law enforcement agency that has not risen to the level of an arrest;

(c) Questioning that is routinely asked during the processing of the arrest of the suspect;

(d) Questioning pursuant to an alcohol influence report;

(e) Questioning during the transportation of a suspect;

(2) "Recorded" and "recording", any form of audiotape, videotape, motion picture, or digital recording.

2. All custodial interrogations of persons suspected of committing or attempting to commit murder in the first degree, murder in the second degree, assault in the first degree, assault of a law enforcement officer in the first degree, domestic assault in the first degree, elder abuse in the first degree, robbery in the first degree, arson in the first degree, forcible rape, forcible sodomy, kidnapping, statutory rape in the first degree, statutory sodomy in the first degree, child abuse, or child kidnapping shall be recorded when feasible.

3. Law enforcement agencies may record an interrogation in any circumstance with or without the knowledge or consent of a suspect, but they shall not be required to record an interrogation under subsection 2 of this section:

(1) If the suspect requests that the interrogation not be recorded;

(2) If the interrogation occurs outside the state of Missouri;

(3) If exigent public safety circumstances prevent recording;

(4) To the extent the suspect makes spontaneous statements;

(5) If the recording equipment fails; or

(6) If recording equipment is not available at the location where the interrogation takes place.

4. Each law enforcement agency shall adopt a written policy to record custodial interrogations of persons suspected of committing or attempting to commit the felony crimes described in subsection 2 of this section.

5. If a law enforcement agency fails to comply with the provisions of this section, the governor may withhold any state funds appropriated to the noncompliant law enforcement agency if the governor finds that the agency did not act in good faith in attempting to comply with the provisions of this section.

6. Nothing in this section shall be construed as a ground to exclude evidence, and a violation of this section shall not have impact other than that provided for in subsection 5 of this section. Compliance or noncompliance with this section shall not be admitted as evidence, argued, referenced, considered or questioned during a criminal trial.

7. Nothing contained in this section shall be construed to authorize, create, or imply a private cause of action.

595.027. MEDICAL PROVIDERS TO SUBMIT INFORMATION, WHEN, PENALTY — MEDICAL PROVIDERS, DEFINED. — 1. Upon request by the **[**division**]** **department** for verification of injuries of victims, medical providers shall submit the information requested by the **[**division**]** **department** within twenty working days of the request at no cost to the fund.

2. For purposes of this section, "medical providers" means physicians, dentists, clinical psychologists, optometrists, podiatrists, registered nurses, physician's assistants, chiropractors, physical therapists, hospitals, ambulatory surgical centers, and nursing homes.

3. Failure to submit the information as required by this section shall be an infraction.

650.052. CONSULTATION WITH CRIME LABORATORIES — DNA SYSTEM, POWERS AND DUTIES — EXPERT TESTIMONY — RULEMAKING AUTHORITY. — 1. The state's DNA profiling system shall:

(1) Assist federal, state and local criminal justice and law enforcement agencies in the identification, detection or exclusion of individuals who are subjects of the investigation or prosecution of criminal offenses in which biological evidence is recovered or obtained; and

(2) If personally identifiable information is removed, support development of forensic validation studies, forensic protocols, and the establishment and maintenance of a population statistics database for federal, state, or local crime laboratories of law enforcement agencies; and

(3) Assist in the recovery or identification of human remains from mass disasters, or for other humanitarian purposes, including identification of missing persons.

2. The Missouri state highway patrol shall act as the central repository for the DNA profiling system and shall collaborate with the Federal Bureau of Investigation and other criminal justice agencies relating to the state's participation in CODIS and the National DNA Index System or in any DNA database.

3. The Missouri state highway patrol may promulgate rules and regulations to implement the provisions of sections 650.050 to 650.100 in accordance with Federal Bureau of Investigation recommendations for the form and manner of collection of blood or other scientifically accepted biological samples and other procedures for the operation of sections 650.050 to 650.100. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

4. The Missouri state highway patrol shall provide the necessary components for collection of the **[**convicted offender's**]** biological samples **from qualified individuals as defined in section 650.055 for the DNA profiling system**.

(1) For qualified offenders as defined by section 650.055 who are under custody and control of the department of corrections, the **fingerprint and** DNA sample collection shall be performed by the department of corrections and the division of probation and parole, or their authorized designee or contracted third party.

(2) For qualified offenders as defined by section 650.055 who are under custody and control of a **city or** county jail, the **fingerprint and** DNA sample collections shall be performed by the **city or** county jail or its authorized designee or contracted third party.

(3) For qualified offenders as defined by section 650.055 who are under the custody and control of companies contracted by the county or court to perform supervision and/or treatment of the offender, the sheriff's department of the **[**county assigned to the offender**] sentencing court** shall perform the DNA sample collection **and obtain a fingerprint**.

(4) For a person who is required to register as a sexual offender under sections 589.400 to 589.425, RSMo, the registering agency shall obtain the DNA sample and fingerprint.

5. The specimens shall thereafter be forwarded to the Missouri state highway patrol crime laboratory. Any DNA profiling analysis or collection of DNA samples by the state or any county performed pursuant to sections 650.050 to 650.100 shall be subject to appropriations.

[5.**] 6.** The state's participating forensic DNA laboratories shall meet quality assurance standards specified by the Missouri state highway patrol crime laboratory and the Federal Bureau of Investigation to ensure quality DNA identification records submitted to the central repository.

[6.**] 7.** The state's participating forensic DNA laboratories may provide the system for identification purposes to criminal justice, law enforcement officials and prosecutors in the preparation and utilization of DNA evidence for presentation in court and provide expert testimony in court on DNA evidentiary issues.

[7.**] 8.** The department of public safety shall have the authority to promulgate rules and regulations to carry out the provisions of sections 650.050 to 650.100. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove

and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

650.055. FELONY CONVICTIONS FOR CERTAIN OFFENSES TO HAVE BIOLOGICAL SAMPLES COLLECTED, WHEN — USE OF SAMPLE — HIGHWAY PATROL AND DEPARTMENT OF CORRECTIONS, DUTY — DNA RECORDS AND BIOLOGICAL MATERIALS TO BE CLOSED RECORD, DISCLOSURE, WHEN — EXPUNGEMENT OF RECORD, WHEN. — 1. Every individual, in a Missouri circuit court, who pleads guilty to or is found guilty of a felony or any offense under chapter 566, RSMo, or has been determined **[**beyond a reasonable doubt**]** to be a sexually violent predator pursuant to sections 632.480 to 632.513, RSMo, **or is an individual required to register as a sexual offender under sections 589.400 to 589.425, RSMo,** shall have a **fingerprint and** blood or scientifically accepted biological sample collected for purposes of DNA profiling analysis:

(1) Upon entering or before release from the department of corrections reception and diagnostic centers; or

(2) Upon entering or before release from a county jail or detention facility, state correctional facility, or any other detention facility or institution, whether operated by private, local, or state agency, or any mental health facility if committed as a sexually violent predator pursuant to sections 632.480 to 632.513, RSMo; or

(3) When the state accepts a person from another state under any interstate compact, or under any other reciprocal agreement with any county, state, or federal agency, or any other provision of law, whether or not the person is confined or released, the acceptance is conditional on the person providing a DNA sample if the person was convicted of, pleaded guilty to, or pleaded nolo contendere to an offense in any other jurisdiction which would be considered a qualifying offense as defined in this section if committed in this state, or if the person was convicted of, pleaded guilty to, or pleaded nolo contendere to any equivalent offense in any other jurisdiction; or

(4) If such individual is under the jurisdiction of the department of corrections. Such jurisdiction includes persons currently incarcerated, persons on probation, as defined in section 217.650, RSMo, and on parole, as also defined in section 217.650, RSMo.

2. The Missouri state highway patrol and department of corrections shall be responsible for ensuring adherence to the law. Any person required to provide a DNA sample pursuant to this section shall be required to provide such sample, without the right of refusal, at a collection site designated by the Missouri state highway patrol and the department of corrections. Authorized personnel collecting or assisting in the collection of samples shall not be liable in any civil or criminal action when the act is performed in a reasonable manner. Such force may be used as necessary to the effectual carrying out and application of such processes and operations. The enforcement of these provisions by the authorities in charge of state correctional institutions and others having custody or jurisdiction over those who have been convicted of, pleaded guilty to, or pleaded nolo contendere to felony offenses which shall not be set aside or reversed is hereby made mandatory. The board of probation or parole shall recommend that an individual who refuses to provide a DNA sample have his or her probation or parole revoked. In the event that a person's DNA sample is not adequate for any reason, the person shall provide another sample for analysis.

3. The procedure and rules for the collection, analysis, storage, expungement, use of DNA database records and privacy concerns shall not conflict with procedures and rules applicable to the Missouri DNA profiling system and the Federal Bureau of Investigation's DNA databank system.

4. Unauthorized uses or dissemination of individually identifiable DNA information in a database for purposes other than criminal justice or law enforcement is a class A misdemeanor.

5. Implementation of sections 650.050 to 650.100 shall be subject to future appropriations to keep Missouri's DNA system compatible with the Federal Bureau of Investigation's DNA databank system.

6. All DNA records and biological materials retained in the DNA profiling system are considered closed records pursuant to chapter 610, RSMo. All records containing any information held or maintained by any person or by any agency, department, or political subdivision of the state concerning an individual's DNA profile shall be strictly confidential and shall not be disclosed, except to:

(1) Peace officers, as defined in section 590.010, RSMo, and other employees of law enforcement agencies who need to obtain such records to perform their public duties;

(2) The attorney general or any assistant attorneys general acting on his or her behalf, as defined in chapter 27, RSMo;

(3) Prosecuting attorneys or circuit attorneys as defined in chapter 56, RSMo, and their employees who need to obtain such records to perform their public duties; or

(4) Associate circuit judges, circuit judges, judges of the courts of appeals, supreme court judges, and their employees who need to obtain such records to perform their public duties.

7. Any person who obtains records pursuant to the provisions of this section shall use such records only for investigative and prosecutorial purposes, including but not limited to use at any criminal trial, hearing, or proceeding; or for law enforcement identification purposes, including identification of human remains. Such records shall be considered strictly confidential and shall only be released as authorized by this section.

8. An individual may request expungement of his or her DNA sample and DNA profile through the court issuing the reversal or dismissal. A certified copy of the court order establishing that such conviction has been reversed or guilty plea or plea of nolo contendere has been set aside shall be sent to the Missouri state highway patrol crime laboratory. Upon receipt of the court order, the laboratory will determine that the requesting individual has no other qualifying offense as a result of any separate plea or conviction prior to expungement.

(1) A person whose DNA record or DNA profile has been included in the state DNA database in accordance with this section, section 488.5050, RSMo, and sections 650.050, 650.052, and 650.100 may request expungement on the grounds that the conviction has been reversed, or the guilty plea or plea of nolo contendere on which the authority for including that person's DNA record or DNA profile was based has been set aside.

(2) Upon receipt of a written request for expungement, a certified copy of the final court order reversing the conviction or setting aside the plea and any other information necessary to ascertain the validity of the request, the Missouri state highway patrol crime laboratory shall expunge all DNA records and identifiable information in the database pertaining to the person and destroy the DNA sample of the person, unless the Missouri state highway patrol determines that the person is otherwise obligated to submit a DNA sample. Within thirty days after the receipt of the court order, the Missouri state highway patrol shall notify the individual that it has expunged his or her DNA sample and DNA profile, or the basis for its determination that the person is otherwise obligated to submit a DNA sample.

(3) The Missouri state highway patrol is not required to destroy any item of physical evidence obtained from a DNA sample if evidence relating to another person would thereby be destroyed.

(4) Any identification, warrant, arrest, or evidentiary use of a DNA match derived from the database shall not be excluded or suppressed from evidence, nor shall any conviction be invalidated or reversed or plea set aside due to the failure to expunge or a delay in expunging DNA records.

650.059. CRIME LABORATORY REVIEW COMMISSION ESTABLISHED, PURPOSE, MEMBERS, VACANCIES, POWERS AND DUTIES. — 1. There is hereby established within the department of public safety a "Crime Laboratory Review Commission" to provide

independent review of any state or local Missouri crime laboratory receiving state-administered funding.

2. The commission shall consist of five members who shall be citizens of this state, including one senior manager from a crime laboratory within the state that is accredited by a body approved by the department of public safety, one licensed law enforcement officer employed by a county or municipality in a management position, one prosecuting attorney, one criminal defense attorney, and the director of the department of public safety or his or her designee.

3. Except for the director of the department of public safety or his or her designee, the members shall be appointed by the governor with the advice and consent of the senate. For the initial term, the prosecuting attorney and criminal defense attorney shall serve a term of two years. The law enforcement officer and the crime laboratory senior manager shall serve an initial term of four years. Thereafter, all appointments shall be for terms of four years. Except for the director of the department of public safety or his or her designee, the governor shall fill any vacancy by appointment for the unexpired term and each member of the board shall hold office until such member's successor is appointed and qualified.

4. If a member no longer meets the qualifications for which he or she was appointed, the member's seat shall be deemed vacant.

5. The members of the commission shall not receive compensation for their services other than to receive reimbursement costs directly associated with the execution of their commission duties.

6. The director of the department of public safety or his or her designee shall serve as chairman of the commission. The commission shall meet at least annually to review the current status of crime laboratories in this state. Three members of the commission shall constitute a quorum.

7. For the purposes of this section, the term "crime laboratory" shall mean any forensic science laboratory operated or supported financially by the state or any unit of city, county, or other local Missouri government receiving state-administered funding, and employs at least one scientist who examines physical evidence in criminal matters and provides expert or opinion testimony with respect to such physical evidence in a state court of law.

8. The commission shall have the power to:

(1) Assess the capabilities and needs of Missouri crime laboratories, as well as their ability to deliver quality forensic services in a timely manner to law enforcement agencies in the state of Missouri;

(2) Authorize independent external investigations into allegations of serious negligence or misconduct committed by employees or contractors of a crime laboratory substantially affecting the integrity of forensic results. The commission shall solicit input and guidance from any appropriate expert as it deems necessary in the investigation process;

(3) Appoint members to inspection or investigative teams to assist in carrying out the duties described in subdivisions (1) and (2) of this subsection;

(4) Issue reprimands to crime laboratories and to employees or contractors of crime laboratories found to be negligent or engaging in misconduct in the execution of their responsibilities;

(5) Make recommendations for changes in procedure of crime laboratories found to be negligent in the execution of their responsibilities; and

(6) Issue reports to the director of the department of public safety summarizing any findings of negligence or misconduct of a crime laboratory or an employee or contractor of a crime laboratory and making recommendations regarding revocation or suspension of grant funding that the commission deems warranted.

9. The commission shall submit an annual report to the governor summarizing its activities and any suggestions to improve the quality management systems within the crime laboratories in the state, but shall not make recommendations related to relocation or consolidation of these crime laboratories.

10. The department of public safety shall have the authority to revoke any grant money from a crime laboratory if the laboratory does not cooperate with the commission or if allegations of serious misconduct or negligence are substantiated by the commission.

11. In the event the commission takes a vote concerning only a particular crime laboratory, the appointee serving as a senior manager of a crime laboratory or licensed law enforcement officer shall recuse himself or herself from such vote if it involves the crime laboratory employing such senior manager or a crime laboratory operated by the municipality employing such officer.

SECTION 1. INSPECTION OF RECORDS OF CERTAIN LICENSEES BY LAW ENFORCEMENT — HOLD ORDER, CONTENTS — VIOLATION, PENALTY — CONFIDENTIALITY OF INFORMATION. — 1. Notwithstanding any provision of law to the contrary, upon request of a law enforcement officer to inspect any record open to inspection by the state veterinarian under section 277.120, RSMo, or any record open to inspection by the department of agriculture, of any livestock sales or market licensee to determine the origin and destination of any livestock handled by the licensee, the law enforcement officer shall be entitled to inspect such records of the licensee without prior notice or the necessity of obtaining a search warrant during regular business hours in a manner so as to minimize interference with or delay to the licensee's business operation. When a law enforcement officer has probable cause to believe that livestock in the possession of a licensee is misappropriated, the officer may place a hold order on the livestock. The hold order shall contain the following information:

(1) The name of the licensee;

(2) The name and mailing address of the licensee where the livestock is held;

(3) The name, title, and identification number of the law enforcement officer placing the hold order;

(4) The name and address of the agency to which the law enforcement officer is attached and the claim or case number, if any, assigned by the agency to the claim regarding the livestock;

(5) A description of the livestock; and

(6) The time of expiration of the holding period.

The hold order shall be signed and dated by the issuing officer and signed and dated by the licensee or the licensee's designee as evidence of the hold order's issuance by the officer, receipt by the licensee and the beginning time of the holding period. The officer issuing the hold order shall provide an executed copy of the hold order to the licensee for the licensee's record-keeping purposes at no cost to the licensee.

2. For the purposes of this section, the term "hold order" shall mean a written legal instrument issued to a licensee by a law enforcement officer ordering the licensee to retain physical possession of livestock in the possession of a licensee or livestock purchased by and in the possession of a licensee and not to return, sell or otherwise dispose of such livestock that is believed to be misappropriated for up to twenty-four hours.

3. Upon receiving the hold order, the licensee shall retain physical possession of the livestock subject to the order in a secured area.

4. A violation of, or noncompliance with, this section shall be a class A misdemeanor. Gross negligence or willful noncompliance with the provisions of this section by a licensee shall be cause for the licensing authority to suspend or revoke the licensee's license. Any imposed suspensions or revocation provided for by this subsection may be appealed by the licensee to the licensing authority or to a court of competent jurisdiction.

5. All records and information that relate to a licensee's purchases or transactions and that are delivered to or otherwise obtained by an appropriate law enforcement officer under this section are confidential and may be used only by such appropriate law enforcement officer and only for the following official law enforcement purposes:

(1) The investigation of a crime specifically involving the livestock delivered to the licensee in a purchase or transaction; or

(2) The notification of property crime victims of where livestock that has been reported misappropriated can be located.

SECTION 2. REVISOR TO MAKE CERTAIN STATUTORY REFERENCE CHANGES. — The revisor of statutes shall change all references in statute from "criminal records and identification division" or "criminal records division" to "central repository".

SECTION 3. CRIME OF PROMOTING ON-LINE SEXUAL SOLICITATION, VIOLATION, PENALTY. — 1. A person or entity commits the offense of promoting online sexual solicitation if such person or entity knowingly permits a web-based classified service owned or operated by such person or entity to be used by individuals to post advertisements promoting prostitution, enticing a child to engage in sexual conduct, or promoting sexual trafficking of a child after receiving notice under this section.

2. As used in this section, the term "web-based classified service" means a person or entity in whose name a specific URL or internet domain name is registered which has advertisements for goods and services or personal advertisements.

3. An advertisement may be deemed to promote prostitution, entice a child to engage in sexual conduct, or promote sexual trafficking of a child, if the content of such advertisement would be interpreted by a reasonable person as offering to exchange sexual conduct for goods or services in violation of chapter 567, RSMo, as seeking a child for the purpose of sexual conduct or commercial sex act, or as offering a child as a participant in sexual conduct or commercial sex act in violation of section 566.151, RSMo or sections 566.212 or 566.213, RSMo.

4. It shall be prima facie evidence that a person or entity acts knowingly if an advertisement is not removed from the web-based classified service within seventy-two hours of that person or entity being notified that an advertisement has been posted on that service which is prohibited under this section.

5. Notice under this section may be provided by certified mail or facsimile transmission by the attorney general or any prosecuting attorney or circuit attorney.

6. A violation of this section shall be a felony, punishable by a fine in the amount of five thousand dollars per day that the advertisement remains posted on the web-based classified service after seventy-two hours of when notice has been provided pursuant to this section.

7. Original jurisdiction for prosecution of a violation of this section shall be with the local prosecuting attorney or circuit attorney.

[229.110. HEDGE FENCES, REGULATIONS — PENALTY — DUTIES AND LIABILITIES OF PROSECUTING ATTORNEY. — 1. Every person owning a hedge fence situated along or near the right-of-way of any public road shall between the first days of May and August of each year cut the same down to a height of not more than five feet, and any owner of such fence failing to comply with this section shall forfeit and pay to the capital school fund of the county wherein such fence is situated not less than fifty nor more than five hundred dollars, to be recovered in a civil action in the name of the county upon the relation of the prosecuting attorney, and any judgment of forfeiture obtained shall be a lien upon the real estate of the owner of such fence upon which same is situated, and a special execution shall issue against said real estate and no exemption shall be allowed.

2. Any prosecuting attorney who shall fail or refuse to institute suit as herein provided within thirty days after being notified by any road overseer, county or state highway engineer, that any hedge fence has not been cut down to the height herein required within the time required, shall be removed from office by the governor and some other person appointed to fill the vacancy thus created. The cutting of any such fence after the time herein required shall not be a defense to the action herein provided for.**]**

[550.050. PROSECUTOR TO PAY COSTS UPON ACQUITTAL — EXCEPTION FOR PUBLIC OFFICERS. — 1. Every person who shall institute any prosecution to recover a fine, penalty or forfeiture shall be adjudged to pay all costs if the defendant is acquitted although he may not be entitled to any part of the same.

2. When such prosecutions are commenced by a public officer whose duty it is to institute the same, and the defendant is acquitted, the county shall pay the costs; if he is convicted, and unable to pay the costs, the county shall pay all the costs, except such as were incurred on the part of the defendant.**]**

[550.070. PROSECUTOR TO PAY COSTS IF ACCUSED DISCHARGED UPON EXAMINATION. — If a person, charged with a felony, shall be discharged by the officer taking his examination, the costs shall be paid by the prosecutor or person on whose oath the prosecution was instituted, and the officer taking such examination shall enter judgment against such person for the same, and issue execution therefor immediately; and in no such case shall the state or county pay the costs.**]**

[550.080. JUDGMENT RENDERED AGAINST PROSECUTOR, WHEN. — If, upon the trial of any indictment or information, the defendant shall be acquitted or discharged, and the prosecutor or prosecuting witness shall be liable to pay the costs according to law, judgment shall be rendered against such prosecutor for the costs in the case, and in no such case shall the same be paid by either the county or state.**]**

[550.090. PROSECUTOR TO PAY COSTS, WHEN. — When the proceedings are prosecuted before any associate circuit judge, at the instance of the injured party, for the disturbance of the peace of a person, or for libel or slander, or for any trespass against the person or property of another, not amounting to a felony, except for petit larceny, the name of such injured party shall be entered by the associate circuit judge on his record as a prosecutor; and if the defendant shall be discharged or acquitted, such prosecutor shall be adjudged to pay the costs not otherwise adjudged; and in every other case of acquittal, if the associate circuit judge or jury trying the case shall state in the finding that the prosecution was malicious or without probable cause, the associate circuit judge shall enter judgment for costs against the prosecution or party at whose instance the information was filed, and shall issue execution therefor; but in no case shall the prosecuting attorney be liable for costs. In other cases of discharge or acquittal the costs shall be paid by the county, except when the prosecution is commenced by complaint and the prosecuting attorney declines to file information thereon, in which case the proceedings shall be dismissed at the cost of the party filing the complaint.**]**

[577.029. BLOOD ALCOHOL CONTENT TESTS, HOW MADE, BY WHOM, WHEN — PERSON TESTED TO RECEIVE CERTAIN INFORMATION, WHEN. — A licensed physician, registered nurse, or trained medical technician at the place of his employment, acting at the request and direction of the law enforcement officer, shall withdraw blood for the purpose of determining the alcohol content of the blood, unless such medical personnel, in his good faith medical judgment, believes such procedure would endanger the life or health of the person in custody. Blood may be withdrawn only by such medical personnel, but such restriction shall not apply to the taking of a breath test, a saliva specimen, or a urine specimen. In withdrawing blood for the purpose of

determining the alcohol content thereof, only a previously unused and sterile needle and sterile vessel shall be utilized and the withdrawal shall otherwise be in strict accord with accepted medical practices. Upon the request of the person who is tested, full information concerning the test taken at the direction of the law enforcement officer shall be made available to him.**]**

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to ensure for the safe operation of motor vehicles on Missouri's highways, the repeal and reenactment of sections 577.023 and 577.029 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 the repeal and reenactment of sections 577.023 and 577.029 of this act shall be in full force and effect upon its passage and approval.

Approved July 9, 2009

HB 82 [SCS HCS HB 82]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding income tax exemptions for certain retirement benefits

AN ACT to repeal section 143.124, RSMo, and to enact in lieu thereof one new section relating to an income tax exemption for certain retirement benefits.

SECTION

A. Enacting clause.

143.124. Annuities, pensions, retirement benefits, or retirement allowances provided by state, United States, political subdivisions or any other state, Keogh plans, annuities from defined pension plans and IRAs, amounts subtracted from Missouri adjusted gross income.

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

SECTION A. ENACTING CLAUSE. — Section 143.124, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 143.124, to read as follows:

143.124. ANNUITIES, PENSIONS, RETIREMENT BENEFITS, OR RETIREMENT ALLOWANCES PROVIDED BY STATE, UNITED STATES, POLITICAL SUBDIVISIONS OR ANY OTHER STATE, KEOGH PLANS, ANNUITIES FROM DEFINED PENSION PLANS AND IRAS, AMOUNTS SUBTRACTED FROM MISSOURI ADJUSTED GROSS INCOME. — 1. Other provisions of law to the contrary notwithstanding, for tax years ending on or before December 31, 2006, the total amount of all annuities, pensions, or retirement allowances above the amount of six thousand dollars annually provided by any law of this state, the United States, or any other state to any person except as provided in subsection 4 of this section, shall be subject to tax pursuant to the provisions of this chapter, in the same manner, to the same extent and under the same conditions as any other taxable income received by the person receiving it. For purposes of this section, annuity, pension, **retirement benefit,** or retirement allowance shall be defined as an annuity, pension or retirement allowance provided by the United States, this state, any other state or any political subdivision or agency or institution of this or any other state. For all tax years beginning on or after January 1, 1998, for purposes of this section, annuity, pension or retirement allowance shall be defined to include 401(k) plans, deferred compensation plans, self-employed retirement plans, also known as Keogh plans, annuities from a defined pension plan and individual retirement arrangements, also known as IRAs, as described in the Internal Revenue

Code, but not including Roth IRAs, as well as an annuity, pension or retirement allowance provided by the United States, this state, any other state or any political subdivision or agency or institution of this or any other state. An individual taxpayer shall only be allowed a maximum deduction equal to the amounts provided under this section for each taxpayer on the combined return.

2. For the period beginning July 1, 1989, and ending December 31, 1989, there shall be subtracted from Missouri adjusted gross income for that period, determined pursuant to section 143.121, the first three thousand dollars of retirement benefits received by each taxpayer:

(1) If the taxpayer's filing status is single, head of household or qualifying widow(er) and the taxpayer's Missouri adjusted gross income is less than twelve thousand five hundred dollars; or

(2) If the taxpayer's filing status is married filing combined and their combined Missouri adjusted gross income is less than sixteen thousand dollars; or

(3) If the taxpayer's filing status is married filing separately and the taxpayer's Missouri adjusted gross income is less than eight thousand dollars.

3. For the tax years beginning on or after January 1, 1990, but ending on or before December 31, 2006, there shall be subtracted from Missouri adjusted gross income, determined pursuant to section 143.121, a maximum of the first six thousand dollars of retirement benefits received by each taxpayer from sources other than privately funded sources, and for tax years beginning on or after January 1, 1998, there shall be subtracted from Missouri adjusted gross income, determined pursuant to section 143.121, a maximum of the first one thousand dollars of any retirement allowance received from any privately funded source for tax years beginning on or after January 1, 1998, but before January 1, 1999, and a maximum of the first three thousand dollars of any retirement allowance received from any privately funded source for tax years beginning on or after January 1, 1999, but before January 1, 2000, and a maximum of the first four thousand dollars of any retirement allowance received from any privately funded source for tax years beginning on or after January 1, 2000, but before January 1, 2001, and a maximum of the first five thousand dollars of any retirement allowance received from any privately funded source for tax years beginning on or after January 1, 2001, but before January 1, 2002, and a maximum of the first six thousand dollars of any retirement allowance received from any privately funded sources for tax years beginning on or after January 1, 2002. A taxpayer shall be entitled to the maximum exemption provided by this subsection:

(1) If the taxpayer's filing status is single, head of household or qualifying widow(er) and the taxpayer's Missouri adjusted gross income is less than twenty-five thousand dollars; or

(2) If the taxpayer's filing status is married filing combined and their combined Missouri adjusted gross income is less than thirty-two thousand dollars; or

(3) If the taxpayer's filing status is married filing separately and the taxpayer's Missouri adjusted gross income is less than sixteen thousand dollars.

4. If a taxpayer's adjusted gross income exceeds the adjusted gross income ceiling for such taxpayer's filing status, as provided in subdivisions (1), (2) and (3) of subsection 3 of this section, such taxpayer shall be entitled to an exemption equal to the greater of zero or the maximum exemption provided in subsection 3 of this section reduced by one dollar for every dollar such taxpayer's income exceeds the ceiling for his or her filing status.

5. **For purposes of this subsection, the term "maximum Social Security benefit available" shall mean thirty-two thousand five hundred dollars for the tax year beginning on or after January 1, 2007, and for each subsequent tax year such amount shall be increased by the percentage increase in the Consumer Price Index for All Urban Consumers, or its successor index, as such index is defined and officially reported by the United States Department of Labor, or its successor agency.** For the tax year beginning on or after January 1, 2007, but ending on or before December 31, 2007, **[**for taxpayers sixty-two years of age and older**]** there shall be subtracted from Missouri adjusted gross income, determined pursuant to section 143.121, a maximum of an amount equal to the greater of: six

thousand dollars in retirement benefits received from sources other than privately funded sources, to the extent such benefits are included in the taxpayer's federal adjusted gross income; or twenty percent of the retirement benefits received from sources other than privately funded sources in the tax year, but not to exceed the maximum Social Security benefit available for such tax year. For the tax year beginning on or after January 1, 2008, but ending on or before December 31, 2008, **[**for taxpayers sixty-two years of age and older**]** there shall be subtracted from Missouri adjusted gross income, determined pursuant to section 143.121, a maximum of an amount equal to the greater of: six thousand dollars in retirement benefits received from sources other than privately funded sources, to the extent such benefits are included in the taxpayer's federal adjusted gross income; or thirty-five percent of the retirement benefits received from sources other than privately funded sources in the tax year, but not to exceed the maximum Social Security benefit available for such tax year. For the tax year beginning on or after January 1, 2009, but ending on or before December 31, 2009, **[**for taxpayers sixty-two years of age and older**]** there shall be subtracted from Missouri adjusted gross income, determined pursuant to section 143.121, a maximum of an amount equal to the greater of: six thousand dollars in retirement benefits received from sources other than privately funded sources, to the extent such benefits are included in the taxpayer's federal adjusted gross income; or fifty percent of the retirement benefits received from sources other than privately funded sources in the tax year, but not to exceed the maximum Social Security benefit available for such tax year. For the tax year beginning on or after January 1, 2010, but ending on or before December 31, 2010, **[**for taxpayers sixty-two years of age and older**]** there shall be subtracted from Missouri adjusted gross income, determined pursuant to section 143.121, a maximum of an amount equal to the greater of: six thousand dollars in retirement benefits received from sources other than privately funded sources, to the extent such benefits are included in the taxpayer's federal adjusted gross income; or sixty-five percent of the retirement benefits received from sources other than privately funded sources in the tax year, but not to exceed the maximum Social Security benefit available for such tax year. For the tax year beginning on or after January 1, 2011, but ending on or before December 31, 2011, **[**for taxpayers sixty-two years of age and older**]** there shall be subtracted from Missouri adjusted gross income, determined pursuant to section 143.121, a maximum of an amount equal to the greater of: six thousand dollars in retirement benefits received from sources other than privately funded sources, to the extent such benefits are included in the taxpayer's federal adjusted gross income; or eighty percent of the retirement benefits received from sources other than privately funded sources in the tax year, but not to exceed the maximum Social Security benefit available for such tax year. For all tax years beginning on or after January 1, 2012, **[**for taxpayers sixty-two years of age and older**]** there shall be subtracted from Missouri adjusted gross income, determined pursuant to section 143.121, a maximum of an amount equal to one hundred percent of the retirement benefits received from sources other than privately funded sources in the tax year, but not to exceed the maximum Social Security benefit available for such tax year. A taxpayer shall be entitled to the maximum exemption provided by this subsection:

(1) If the taxpayer's filing status is married filing combined, and their combined Missouri adjusted gross income is equal to or less than one hundred thousand dollars; or

(2) If the taxpayer's filing status is single, head of household, qualifying widow(er), or married filing separately, and the taxpayer's Missouri adjusted gross income is equal to or less than eighty-five thousand dollars.

6. If a taxpayer's adjusted gross income exceeds the adjusted gross income ceiling for such taxpayer's filing status, as provided in subdivisions (1) and (2) of subsection 5 of this section, such taxpayer shall be entitled to an exemption, less any applicable reduction provided under subsection 7 of this section, equal to the greater of zero or the maximum exemption provided in subsection 5 of this section reduced by one dollar for every dollar such taxpayer's income exceeds the ceiling for his or her filing status.

7. For purposes of calculating the subtraction provided in subsection 5 of this section, such subtraction shall be decreased by an amount equal to any Social Security **[**benefits received by the taxpayer which are not included in such taxpayer's Missouri adjusted gross income**] benefit exemption provided under section 143.125**.

8. For purposes of this section, any Social Security benefits otherwise included in Missouri adjusted gross income shall be subtracted; but Social Security benefits shall not be subtracted for purposes of other computations pursuant to this chapter, and are not to be considered as retirement benefits for purposes of this section.

9. The provisions of subdivisions (1) and (2) of subsection 3 of this section shall apply during all tax years in which the federal Internal Revenue Code provides exemption levels for calculation of the taxability of Social Security benefits that are the same as the levels in subdivisions (1) and (2) of subsection 3 of this section. If the exemption levels for the calculation of the taxability of Social Security benefits are adjusted by applicable federal law or regulation, the exemption levels in subdivisions (1) and (2) of subsection 3 of this section shall be accordingly adjusted to the same exemption levels.

10. The portion of a taxpayer's lump sum distribution from an annuity or other retirement plan not otherwise included in Missouri adjusted gross income as calculated pursuant to this chapter but subject to taxation under Internal Revenue Code Section 402 shall be taxed in an amount equal to ten percent of the taxpayer's federal liability on such distribution for the same tax year.

11. For purposes of this section, retirement benefits received shall not include any withdrawals from qualified retirement plans which are subsequently rolled over into another retirement plan.

12. The exemptions provided for in this section shall not affect the calculation of the income to be used to determine the property tax credit provided in sections 135.010 to 135.035, RSMo.

13. The exemptions provided for in this section shall apply to any annuity, pension, or retirement allowance as defined in subsection 1 of this section to the extent that such amounts are included in the taxpayer's federal adjusted gross income and not otherwise deducted from the taxpayer's federal adjusted gross income in the calculation of Missouri taxable income. This subsection shall not apply to any individual who qualifies under federal guidelines to be one hundred percent disabled.

14. In addition to all other subtractions authorized in this section, for all tax years beginning on or after January 1, 2010, there shall be subtracted from Missouri adjusted gross income, determined under section 143.121, any retirement benefits received by any taxpayer as a result of the taxpayer's service in the armed forces of the United States, including reserve components and the national guard of this state, as defined in Sections 101(3) and 109 of Title 32, United States Code, and any other military force organized under the laws of this state, to the extent such benefits are included in the taxpayer's federal adjusted gross income and not otherwise deducted from the taxpayer's federal adjusted gross income in the calculation of Missouri taxable income. Such retirement benefits shall be subtracted as provided in the following schedule:

(1) For the tax year beginning on January 1, 2010, fifteen percent of such retirement benefits;

(2) For the tax year beginning on January 1, 2011, thirty percent of such retirement benefits;

(3) For the tax year beginning on January 1, 2012, forty-five percent of such retirement benefits;

(4) For the tax year beginning on January 1, 2013, sixty percent of such retirement benefits;

(5) For the tax year beginning on January 1, 2014, seventy-five percent of such retirement benefits;

(6) For the tax year beginning on January 1, 2015, ninety percent of such retirement benefits;

(7) For tax years beginning on or after January 1, 2016, one hundred percent of such retirement benefits.

Approved July 2, 2009

HB 83 [SCS HB 83]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding travel club membership contracts

AN ACT to repeal sections 407.1240, 407.1243, and 407.1249, RSMo, and to enact in lieu thereof three new sections relating to travel clubs.

SECTION
A. Enacting clause.
407.1240. Definitions.
407.1243. Registration statement required, content — approval by attorney general, procedure — grandfather clause.
407.1249. Right to rescind and cancel, time period allowed.

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

SECTION A. ENACTING CLAUSE. — Sections 407.1240, 407.1243, and 407.1249, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 407.1240, 407.1243, and 407.1249, to read as follows:

407.1240. DEFINITIONS. — As used in sections 407.1240 to 407.1252, the following terms shall mean:

(1) "Business day", every day except Sundays and holidays;

(2) "Holiday", any day that the United States Post Office is closed;

(3) "Membership fee", the initial or reoccurring fee that is unrelated to actual pass-through costs associated with the use and enjoyment of travel benefits;

(4) "Rescission statement", a statement that shall be printed on all contracts pertaining to the purchase of travel club memberships from a travel club that shall provide in at least fourteen-point bold type the following statement:

"Assuming you have **[**not accessed any travel benefits and have**]** returned to the travel club all materials delivered to the purchaser at closing, you have the right to rescind this transaction for a period of three business days after the date of this agreement. To exercise the right of rescission, you must deliver to the travel club**,** either in person or by first class mail postmarked within the three-business-day period, at the address referenced in this contract, a written statement of your desire to rescind this transaction, and all materials **of value** that were provided and given to you at the time of the purchase of your travel club membership.";

(5) "Surety bond", any surety bond, corporate guaranty, letter of credit, certificate of deposit, or other bond or financial assurance in the sum of fifty thousand dollars that is required to be delivered by travel clubs which have been adjudged to have violated subsection 4 or 5 of section 407.1252 and in the event that such surety bond is accessed subsequent to posting as a result of the need to reimburse purchasers, the amount of the surety bond shall be increased by ten thousand dollars per reimbursement. All surety bonds shall:

(a) Serve as a source of funds to reimburse purchasers of travel club memberships who validly exercise their rights under the rescission statement in their contract but who are not, after judgment, provided a refund equal to the purchase price of their unused travel club memberships or, after settlement, equal to the terms of the settlement;

(b) Serve as a source of funds to reimburse purchasers of travel club memberships who have been proven to be the subject of fraud;

(c) Remain in full force and effect during the period of time the travel club conducts its business activities; and

(d) Be deemed acceptable to the attorney general if:

a. It is issued by an insurance company that possesses at least a "B+" rating, or its equivalent by A.M. Best or its successors or by any other nationally recognized entity that rates the creditworthiness of insurance companies;

b. It is in the form of a letter of credit that is issued by a banking institution with assets of at least seventy-five million dollars;

c. It is in the form of a certificate of deposit; or

d. It is in a form that otherwise is acceptable to the attorney general;

(6) "Travel benefits", benefits that are offered to travel club purchasers and customers that include all forms of overnight resort, condominium, time-share, hotel, motel, and other rental housing of every nature; all forms of air travel and rental car access; all forms of cruise line access; and all other forms of discounted travel benefits of every nature;

(7) "Travel club", any business enterprise that either directly, indirectly, or through the use of a fulfillment company or other third party offers to sell to the public the reoccurring right to purchase travel benefits at prices that are represented as being discounted from prices otherwise not generally available to the public and charges members or customers a membership fee that collectively equals no less than seven hundred fifty dollars.

407.1243. REGISTRATION STATEMENT REQUIRED, CONTENT — APPROVAL BY ATTORNEY GENERAL, PROCEDURE — GRANDFATHER CLAUSE. — 1. No travel club may offer vacation benefits for sale unless the travel club maintains an effective registration statement with the Missouri attorney general that discloses the following information:

(1) The name of the travel club, including the name under which the travel club is doing or intends to do business, if it is different from the name of the travel club;

(2) The name of any parent or affiliated organization that will engage in business transactions with the purchasers of travel benefits or accept responsibility for statements made by, or acts of, the travel club that relate to sales solicited by the travel club;

(3) The travel club's business type and place of organization;

(4) If the travel club is an entity, the travel club's formation and governing documents, including articles of organization, bylaws, operating agreements, and partnership agreements;

(5) If operating under a fictitious business name, the location where the fictitious name has been registered and the same information for any parent or affiliated organization disclosed under subdivision (2) of this subsection;

(6) The names and addresses of the principal owners, officers, and directors of the travel club;

(7) The addresses where the travel club shall offer travel club memberships for sale;

(8) The name and address of the registered agent in the state of Missouri for service of process for the travel club; **[**and**]**

(9) A brief description of the travel club memberships the travel club is offering for sale**; and**

(10) The travel club has demonstrated that it possesses liquid assets of at least two hundred fifty thousand dollars in the form of one or more certificates of deposit or a letter of credit that is issued by a banking institution with assets of at least seventy-five million dollars. This provision shall also apply to renewals under section 407.1246. These liquid

assets shall be available to the attorney general in the event that the travel club is adjudged to have failed to satisfy legal obligations to its members. Interest on any instrument provided shall accrue to the travel club.

2. The attorney general shall evidence his or her receipt, approval, or disapproval, as the case may be, of a travel club's registration statement or registration renewal statement within thirty days from and after the submission. Upon compliance with the foregoing requirements, the attorney general shall approve the registration statement. Should any registration fail to address any of the registration conditions as set forth above, the attorney general shall advise in writing the registration deficiencies and the manner in which said deficiencies shall be cured. Such advice shall be provided by the attorney general within fifteen working days from the initial filing of the documents.

3. Travel clubs that are operational prior to August 28, 2005, may continue their business activities during the pendency of the attorney general's processing of their registration statements; provided that such registration statement is filed with the attorney general within ninety calendar days of August 28, 2005. Registration of a travel club shall not be transferable.

4. The registration statement shall additionally have appended thereto:

(1) The form of contract under which the travel club proposes to sell travel club memberships which contains the rescission statement;

(2) A check made to the order of the Missouri attorney general in the amount of fifty dollars.

407.1249. RIGHT TO RESCIND AND CANCEL, TIME PERIOD ALLOWED. — Assuming a purchaser **[**has not otherwise accessed any travel benefits and**]** returns to the travel club all materials of value delivered to the purchaser at closing, all purchasers of travel club memberships from a travel club that is registered shall have the nonwaivable right for a period of three business days after the date of their purchase to rescind and cancel their travel club purchase and receive a full refund of all sums otherwise paid to the travel club within fifteen business days of such rescission, minus the actual and reasonable cost of processing the refund, including credit card fees if applicable. **Use of travel club benefits during such rescission period shall not waive the right afforded by this section.** Individuals who purchase travel club memberships from a travel club that is not registered under sections 407.1240 to 407.1252 shall have a nonwaivable right for a period of three years from the date of purchase to rescind and cancel their travel club membership and shall receive a full refund within fifteen business days of such rescission.

Approved July 8, 2009

HB 91 [CCS SCS HB 91]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Establishes David's Law and the Heroes Way Interstate Interchange Designation Program and designates certain memorial highways and bridges

AN ACT to amend chapter 227, RSMo, by adding thereto seven new sections relating to the designation of state highways and bridges.

SECTION

A. Enacting clause.
227.295. Drunk driving risk reduction awareness program established — placement of signage — rulemaking authority — sponsorship of signage, contents.

227.297. Heroes Way interstate interchange designation program established — signage — application procedure — joint committee to review applications.
227.310. Veterans Memorial Highway designated for a portion of highway 100 in Franklin County.
227.320. Franklin Street designated for portion of highway 47 in the city of Washington.
227.368. Specialist James M. Finley Memorial Bridge designated for bridge crossing Interstate 44 in Laclede County.
227.402. WWII Okinawa Veterans Memorial Bridge designated for highway 17 bridge crossing the Gasconade River in Pulaski County.
227.407. Lamar Hunt Memorial Highway designated for portion of Interstate 435.

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

SECTION A. ENACTING CLAUSE. — Chapter 227, RSMo, is amended by adding thereto seven new sections, to be known as sections 227.295, 227.297, 227.310, 227.320, 227.368, 227.402, and 227.407, to read as follows:

227.295. DRUNK DRIVING RISK REDUCTION AWARENESS PROGRAM ESTABLISHED — PLACEMENT OF SIGNAGE — RULEMAKING AUTHORITY — SPONSORSHIP OF SIGNAGE, CONTENTS. — 1. The department of transportation shall establish and administer a drunk driving risk reduction awareness program. The provisions of this section shall be known as "David's Law". The signs shall be placed upon the state highways in accordance with this section, placement guidelines adopted by the department, and any applicable federal limitations or conditions on highway signage, including location and spacing.

2. The department shall adopt, by rules and regulations, program guidelines for the application for and placement of signs authorized by this section, including, but not limited to, the sign application and qualification process, the procedure for the dedication of signs, and procedures for the replacement or restoration of any signs that are damaged or stolen. The department shall also establish by rule, application procedures and methods for proving eligibility for the program.

3. Any person may apply to the department of transportation to sponsor a drunk driving victim memorial sign in memory of an immediate family member who died as a result of a motor vehicle accident caused by a person who was shown to have been operating a motor vehicle in violation of section 577.010 or 577.012, RSMo, or was committing an intoxication-related traffic offense at the time of the accident. Upon the request of an immediate family member of the deceased victim involved in a drunk driving accident, the department shall place a sign in accordance with this section. A person who is not a member of the immediate family may also submit a request to have a sign placed under this section if that person also submits the written consent of an immediate family member. The department shall charge the sponsoring party a fee to cover the department's cost in designing, constructing, placing, and maintaining that sign, and the department's costs in administering this section. Signs erected under this section shall remain in place for a period of ten years. After the expiration of the ten-year period, the department shall remove the sign unless the sponsoring party remits to the department of transportation a ten-year renewable fee to cover maintenance costs associated with the sign.

4. The signs shall feature the words "Drunk Driving Victim!", the initials of the victim, the month and year in which the victim of the drunk driving accident was killed, and the phrase "Think About It!". The overall design of the sign, including size, color, and lettering, shall conform to the guidelines and regulations established by the department. The signs shall be placed near the scene of the accident.

5. No person, other than a department of transportation employee or the department's designee, may erect a drunk driving victim memorial sign.

6. As used in this section, the term "immediate family member" shall mean spouse, child, stepchild, brother, stepbrother, sister, stepsister, mother, stepmother, father, or stepfather.

7. The department shall adopt rules and regulations to implement and administer the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

227.297. HEROES WAY INTERSTATE INTERCHANGE DESIGNATION PROGRAM ESTABLISHED — SIGNAGE — APPLICATION PROCEDURE — JOINT COMMITTEE TO REVIEW APPLICATIONS. — 1. This section establishes an interstate interchange designation program, to be known as the "Heroes Way Interstate Interchange Designation Program", to honor the fallen Missouri heroes who have been killed in action while performing active military duty with the armed forces in Afghanistan or Iraq on or after September 11, 2001. The signs shall be placed upon the interstate interchanges in accordance with this section, and any applicable federal limitations or conditions on highway signage, including location and spacing.

2. Any person who is related by marriage, adoption, or consanguinity within the second degree to a member of the United States armed forces who was killed in action while performing active military duty with the armed forces in Afghanistan or Iraq on or after September 11, 2001, and who was a resident of this state at the time he or she was killed in action, may apply for an interstate interchange designation under the provisions of this section.

3. Any person described under subsection 2 of this section who desires to have an interstate interchange designated after his or her family member shall petition the department of transportation by submitting the following:

(1) An application in a form prescribed by the director, describing the interstate interchange for which the designation is sought and the proposed name of the interstate interchange. The application shall include the name of at least one current member of the general assembly who will sponsor the interstate interchange designation. The application may contain written testimony for support of the interstate interchange designation;

(2) Proof that the family member killed in action was a member of the United States armed forces and proof that such family member was in fact killed in action while performing active military duty with the United States armed forces in Afghanistan or Iraq on or after September 11, 2001;

(3) By signing a form provided by the Missouri transportation department, the applicant shall certify that the applicant is related by marriage, adoption, or consanguinity within the second degree to the member of the United States armed forces who was killed in action; and

(4) A fee to be determined by the commission to cover the costs of constructing and maintaining the proposed interstate interchange signs. The fee shall not exceed the cost of constructing and maintaining each sign.

4. All moneys received by the department of transportation for the construction and maintenance of an interstate interchange signs shall be deposited in the state treasury to the credit of the state road fund.

5. The documents and fees required under this section shall be submitted to the department of transportation.

6. The department of transportation shall submit for approval or disapproval all applications for interstate interchange designations to the joint committee on transportation oversight. The joint committee on transportation oversight may review

such applications at any scheduled meeting convened pursuant to section 21.795, RSMo. If satisfied with the application and all its contents, the committee shall approve the application. The committee shall notify the department of transportation upon the approval or denial of an application for an interstate interchange designation.

7. The department of transportation shall give notice of any proposed interstate interchange designation under this section in a manner reasonably calculated to advise the public of such proposal. Reasonable notice shall include posting the proposal for the designation on the department's official public web site and making available copies of the sign designation application to any representative of the news media or public upon request and posting the application on a bulletin board or other prominent public place which is easily accessible to the public and clearly designated for that purpose at the principal office.

8. If the memorial interstate interchange designation request is not approved by the joint committee on transportation oversight, ninety-seven percent of the application fee shall be refunded to the applicant.

9. Two signs shall be erected for each interstate interchange designation processed under this section.

10. No interstate interchange may be named or designated after more than one member of the United States armed forces killed in action. Such person shall only be eligible for one interstate interchange designation under the provisions of this section.

11. Any highway signs erected for any interstate interchange designation under the provisions of this section shall be erected and maintained for a twenty-year period. After such period, the signs shall be subject to removal by the department of transportation and the interstate interchange may be designated to honor persons other than the current designee. An existing interstate interchange designation processed under the provisions of this section may be retained for additional twenty-year increments if, at least one year before the designation's expiration, an application to the department of transportation is made to retain the designation along with the required documents and all applicable fees required under this section.

227.310. VETERANS MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF HIGHWAY 100 IN FRANKLIN COUNTY. — The portion of Missouri highway 100 located in Franklin County, from its intersection with Missouri highway 47, to the highway's connection with Interstate 44, shall be designated as the "Veterans Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway, with the costs for such designation to be paid for by the city of Washington.

227.320. FRANKLIN STREET DESIGNATED FOR PORTION OF HIGHWAY 47 IN THE CITY OF WASHINGTON. — The portion of the state highway system which was designated as Highway 47 as of January 1, 2009, within the limits of the city of Washington shall be designated and known as "Franklin Street" and shall not be designated as a numbered state highway.

227.368. SPECIALIST JAMES M. FINLEY MEMORIAL BRIDGE DESIGNATED FOR BRIDGE CROSSING INTERSTATE 44 IN LACLEDE COUNTY. — The bridge crossing over Interstate 44 on Business Loop 44 at exit 127 in Laclede County shall be designated the "Specialist James M. Finley Memorial Bridge". The department of transportation shall erect and maintain appropriate signs designating such highway. The costs of such designation shall be paid for by private donations.

227.402. WWII OKINAWA VETERANS MEMORIAL BRIDGE DESIGNATED FOR HIGHWAY 17 BRIDGE CROSSING THE GASCONADE RIVER IN PULASKI COUNTY. — The Highway 17

bridge crossing over the Gasconade River in Pulaski County shall be designated the "WWII Okinawa Veterans Memorial Bridge". The department of transportation shall erect and maintain appropriate signs designating such highway, with the costs to be paid for by private donations.

227.407. LAMAR HUNT MEMORIAL HIGHWAY DESIGNATED FOR PORTION OF INTERSTATE 435. — Interstate 435 from mile marker 63.4 to mile marker 54.2 shall be designated the "Lamar Hunt Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway, with the costs to be paid for by private donations.

Approved July 2, 2009

HB 93 [SCS HCS HB 93 & 216]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Exempts tractors from certain width, height, length, and registration regulations when the tractors are participating in tractor parades for fund-raising activities and other special events

AN ACT to repeal sections 304.170 and 304.260, RSMo, and to enact in lieu thereof two new sections relating to tractor parades, with an emergency clause.

SECTION
A. Enacting clause.
304.170. Regulations as to width, height and length of vehicles — tractor parades permitted.
304.260. Tractors exempt — designation of truck routes by commission.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 304.170 and 304.260, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 304.170 and 304.260, to read as follows:

304.170. REGULATIONS AS TO WIDTH, HEIGHT AND LENGTH OF VEHICLES — TRACTOR PARADES PERMITTED. — 1. No vehicle operated upon the highways of this state shall have a width, including load, in excess of one hundred two inches, except clearance lights, rearview mirrors or other accessories required by federal, state or city law or regulation. Provided however, a recreational vehicle as defined in section 700.010, RSMo, may exceed the foregoing width limits if the appurtenances on such recreational vehicle extend no further than the rearview mirrors. Such mirrors may only extend the distance necessary to provide the required field of view before the appurtenances were attached.

2. No vehicle operated upon the interstate highway system or upon any route designated by the chief engineer of the state transportation department shall have a height, including load, in excess of fourteen feet. On all other highways, no vehicle shall have a height, including load, in excess of thirteen and one-half feet, except that any vehicle or combination of vehicles transporting automobiles or other motor vehicles may have a height, including load, of not more than fourteen feet.

3. No single motor vehicle operated upon the highways of this state shall have a length, including load, in excess of forty-five feet, except as otherwise provided in this section.

4. No bus, recreational motor vehicle or trackless trolley coach operated upon the highways of this state shall have a length in excess of forty-five feet, except that such vehicles may exceed the forty-five feet length when such excess length is caused by the projection of a front safety bumper or a rear safety bumper or both. Such safety bumper shall not cause the length of the bus or recreational motor vehicle to exceed the forty-five feet length limit by more than one foot in the front and one foot in the rear. The term "safety bumper" means any device which may be fitted on an existing bumper or which replaces the bumper and is so constructed, treated, or manufactured that it absorbs energy upon impact.

5. No combination of truck-tractor and semitrailer or truck-tractor equipped with dromedary and semitrailer operated upon the highways of this state shall have a length, including load, in excess of sixty feet; except that in order to comply with the provisions of Title 23 of the United States Code (Public Law 97-424), no combination of truck-tractor and semitrailer or truck-tractor equipped with dromedary and semitrailer operated upon the interstate highway system of this state shall have an overall length, including load, in excess of the length of the truck-tractor plus the semitrailer or truck-tractor equipped with dromedary and semitrailer. The length of such semitrailer shall not exceed fifty-three feet.

6. In order to comply with the provisions of Title 23 of the United States Code (Public Law 97-424), no combination of truck-tractor, semitrailer and trailer operated upon the interstate highway system of this state shall have an overall length, including load, in excess of the length of the truck-tractor plus the semitrailer and trailer, neither of which semitrailer or trailer shall exceed twenty-eight feet in length, except that any existing semitrailer or trailer up to twenty-eight and one-half feet in length actually and lawfully operated on December 1, 1982, within a sixty-five foot overall length limit in any state, may continue to be operated upon the interstate highways of this state. On those primary highways not designated by the state highways and transportation commission as provided in subsection 10 of this section, no combination of truck-tractor, semitrailer and trailer shall have an overall length, including load, in excess of sixty-five feet; provided, however, the state highways and transportation commission may designate additional routes for such sixty-five foot combinations.

7. Automobile transporters, boat transporters, truck-trailer boat transporter combinations, stinger-steered combination automobile transporters and stinger-steered combination boat transporters having a length not in excess of seventy-five feet may be operated on the interstate highways of this state and such other highways as may be designated by the highways and transportation commission for the operation of such vehicles plus a distance not to exceed ten miles from such interstate or designated highway. All length provisions regarding automobile or boat transporters, truck-trailer boat transporter combinations and stinger-steered combinations shall include a semitrailer length not to exceed fifty-three feet and are exclusive of front and rear overhang, which shall be no greater than a three-foot front overhang and no greater than a four-foot rear overhang.

8. Driveaway saddlemount combinations having a length not in excess of ninety-seven feet may be operated on the interstate highways of this state and such other highways as may be designated by the highways and transportation commission for the operation of such vehicles plus a distance not to exceed ten miles from such interstate or designated highway. Saddlemount combinations must comply with the safety requirements of Section 393.71 of Title 49 of the Code of Federal Regulations and may contain no more than three saddlemounted vehicles and one fullmount.

9. No truck-tractor semitrailer-semitrailer combination vehicles operated upon the interstate and designated primary highway system of this state shall have a semitrailer length in excess of twenty-eight feet or twenty-eight and one-half feet if the semitrailer was in actual and lawful operation in any state on December 1, 1982, operating in a truck-tractor semitrailer-semitrailer combination. The B-train assembly is excluded from the measurement of semitrailer length

when used between the first and second semitrailer of a truck-tractor semitrailer-semitrailer combination, except that when there is no semitrailer mounted to the B-train assembly, it shall be included in the length measurement of the semitrailer.

10. The highways and transportation commission is authorized to designate routes on the state highway system other than the interstate system over which those combinations of vehicles of the lengths specified in subsections 5, 6, 7, 8 and 9 of this section may be operated. Combinations of vehicles operated under the provisions of subsections 5, 6, 7, 8 and 9 of this section may be operated at a distance not to exceed ten miles from the interstate system and such routes as designated under the provisions of this subsection.

11. Except as provided in subsections 5, 6, 7, 8, 9 and 10 of this section, no other combination of vehicles operated upon the primary or interstate highways of this state plus a distance of ten miles from a primary or interstate highway shall have an overall length, unladen or with load, in excess of sixty-five feet or in excess of fifty-five feet on any other highway, except the state highways and transportation commission may designate additional routes for use by sixty-five foot combinations, seventy-five foot stinger-steered combinations or seventy-five foot saddlemount combinations. Any vehicle or combination of vehicles transporting automobiles, boats or other motor vehicles may carry a load which extends no more than three feet beyond the front and four feet beyond the rear of the transporting vehicle or combination of vehicles.

12. (1) Except as hereinafter provided, these restrictions shall not apply to agricultural implements operating occasionally on the highways for short distances**[**,**]** **including tractor parades for fund-raising activities or special events, provided the tractors are driven by licensed drivers during daylight hours only and with the approval of the superintendent of the Missouri state highway patrol;** or to self-propelled hay-hauling equipment or to implements of husbandry, or to the movement of farm products as defined in section **[**400.9-109**]** **400.9-102**, RSMo, or to vehicles temporarily transporting agricultural implements or implements of husbandry or roadmaking machinery, or road materials or towing for repair purposes vehicles that have become disabled upon the highways; or to implement dealers delivering or moving farm machinery for repairs on any state highway other than the interstate system.

(2) Implements of husbandry and vehicles transporting such machinery or equipment and the movement of farm products as defined in section **[**400.9.109**]** **400.9-102**, RSMo, may be operated occasionally for short distances on state highways when operated between the hours of sunrise and sunset by a driver licensed as an operator or chauffeur.

13. As used in this chapter the term "implements of husbandry" means all self-propelled machinery operated at speeds of less than thirty miles per hour, specifically designed for, or especially adapted to be capable of, incidental over-the-road and primary offroad usage and used exclusively for the application of commercial plant food materials or agricultural chemicals, and not specifically designed or intended for transportation of such chemicals and materials.

14. Sludge disposal units may be operated on all state highways other than the interstate system. Such units shall not exceed one hundred thirty-eight inches in width and may be equipped with over-width tires. Such units shall observe all axle weight limits. The chief engineer of the state transportation department shall issue special permits for the movement of such disposal units and may by such permits restrict the movements to specified routes, days and hours.

304.260. TRACTORS EXEMPT — DESIGNATION OF TRUCK ROUTES BY COMMISSION. — Farm tractors when using the highways in traveling from one field or farm to another, or to or from places of delivery or repair**, or when participating in activities or events permitted under subsection 12 of section 304.170** are exempt from the provisions of the law relating to registration and display of number plates, but shall comply with all the other provisions hereof. The state highways and transportation commission shall have the power and authority to prescribe the type of road upon which such tractors may be used and may exclude the use of

such tractors or the use of trucks of any particular weight from the use of certain designated roads or types of roads, by the posting of signs along or upon such roads or any part thereof.

SECTION B. EMERGENCY CLAUSE. — Because of the need to ensure safe interaction of tractors and other motor vehicles on Missouri highways, section A 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 A of this act shall be in full force and effect upon its passage and approval.

Approved May 29, 2009

HB 103 [SS#2 SCS HB 103]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding public safety

AN ACT to repeal sections 44.090, 174.700, 190.092, 306.903, and 701.355, RSMo, and to enact in lieu thereof six new sections relating to public safety, with an expiration date for a certain section.

SECTION

A. Enacting clause.
44.090. Mutual-aid agreements — participation in statewide mutual aid system — reimbursement for services provided, benefits.
67.281. Installation of fire sprinklers to be offered to purchaser by builder of certain dwellings — purchaser may decline — expiration date.
174.700. Board of regents and board of governors may appoint necessary police officers.
190.092. Defibrillators, use authorized when, conditions, notice — good faith immunity from civil liability, when.
306.903. Abandonment of boat dock, penalty — retrieval and disposal — identifying information on dock required, when, penalty.
701.355. Powers of the board.

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

SECTION A. ENACTING CLAUSE. — Sections 44.090, 174.700, 190.092, 306.903, and 701.355, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 44.090, 67.281, 174.700, 190.092, 306.903, and 701.355, to read as follows:

44.090. MUTUAL-AID AGREEMENTS — PARTICIPATION IN STATEWIDE MUTUAL AID SYSTEM — REIMBURSEMENT FOR SERVICES PROVIDED, BENEFITS. — 1. The executive officer of any political subdivision **or public safety agency** may enter into mutual-aid arrangements or agreements with other public and private agencies within and without the state for reciprocal emergency aid. Such arrangements or agreements shall be consistent with the state disaster plan and program and the provisions of section 70.837, RSMo, and section 320.090, RSMo. In time of emergency it shall be the duty of each local organization for emergency management to render assistance in accordance with the provisions of such mutual-aid arrangements or agreements.

2. Any contracts that are agreed upon may provide for compensation from the parties and other terms that are agreeable to the parties and may be for an indefinite period as long as they include a sixty-day cancellation notice provision by either party. The contracts agreed upon may not be entered into for the purpose of reduction of staffing by either party.

3. At the time of significant emergency such as fire, earthquake, flood, tornado, hazardous material incident, terrorist incident, or other such manmade or natural emergency disaster **or**

public safety need anywhere within the state or bordering states, the highest ranking official of **[**a**] any** political subdivision **[**available**] or public safety agency or their designee** may render aid to **or request aid from** any **[**requesting political**]** jurisdiction, **agency, or organization** even without written agreement, as long as he or she is in accordance with the policies and procedures set forth by the governing **[**board**] boards** of **[**that jurisdiction**] those jurisdictions, agencies, or organizations. A public safety need, as used in this section, shall include any event or incident necessitating mutual-aid assistance from another public safety agency**.

4. When responding to mutual aid or emergency aid requests, political subdivisions **or public safety agencies** shall be subject to all provisions of law as if it were providing service within its own jurisdiction.

5. All political subdivisions **and public safety agencies** within the state are, upon enactment of this legislation or execution of an agreement, automatically a part of the Missouri statewide mutual aid system. A political subdivision within the state may elect not to participate in the statewide mutual aid system upon enacting an appropriate resolution by its governing body declaring that it elects not to participate in the statewide mutual aid system and by providing a copy of the resolution to the **[**state fire marshal and state emergency management agency**] director of the department of public safety or his or her designee**.

6. **[**Emergency response**] The Missouri mutual aid system shall be administered by the department of public safety, which may authorize any organization to assist in the administration of the mutual aid system. The department of public safety may promulgate rules for this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly under chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.**

7. For the purpose of this section, public safety agencies shall include, but shall not be limited to, fire service organizations, law enforcement agencies, emergency medical service organizations, public health and medical personnel, emergency management officials, infrastructure departments, public works agencies, and those other agencies, organizations, **[**and**]** departments**, and specialized emergency response teams** that have personnel with special skills or training that are needed to provide services during an emergency**, public safety need,** or disaster**, declared or undeclared**.

[7.**] 8.** It shall be the responsibility of each political subdivision **and public safety agency** to adopt and put into practice the National Incident Management System promulgated by the United States Department of Homeland Security.

[8.**] 9.** In the event of a disaster **or other public safety need** that is beyond the capability of local political subdivisions, the local governing authority **or public safety agency having jurisdiction** may request assistance under this section.

[9.**] 10.** Any entity or individual that holds a license, certificate, or other permit issued by a participating political subdivision**, public safety agency,** or state shall be deemed licensed, certified, or permitted in the requesting political subdivision **or public safety agency's jurisdiction** for the duration of the **[**declared**]** emergency or authorized drill.

[10.**] 11.** Reimbursement for services rendered under this section shall be in accordance with **any local,** state and federal guidelines. Any political subdivision **or public safety agency** providing assistance shall receive appropriate reimbursement according to those guidelines.

[11.**] 12.** Applicable benefits normally available to personnel while performing duties for their jurisdiction are also available to such persons when an injury or death occurs when rendering assistance to another political subdivision **or public safety agency** under this section. Responders shall be eligible for the same state and federal benefits that may be available to them

for line-of-duty deaths **or injuries,** if such services are otherwise provided for within their jurisdiction.

[12. All activities performed under this section are deemed to be governmental functions.**]** **13.** For the purposes of liability, all **[**participating**]** **members of any** political **[**subdivisions**]** **subdivision or public safety agency** responding under operational control of the requesting political subdivision **or a public safety agency** are deemed employees of such **[**participating**]** **responding** political subdivision **or public safety agency and are subject to the liability and workers' compensation provisions provided to them as employees of their respective political subdivision or public safety agency**.

67.281. INSTALLATION OF FIRE SPRINKLERS TO BE OFFERED TO PURCHASER BY BUILDER OF CERTAIN DWELLINGS — PURCHASER MAY DECLINE — EXPIRATION DATE. — A builder of single family dwellings or residences or multi-unit dwellings of four or fewer units shall offer to any purchaser on or before the time of entering into the purchase contract the option, at the purchaser's cost, to install or equip fire sprinklers in the dwelling, residence, or unit. Notwithstanding any other provision of law to the contrary, no purchaser of such a single family dwelling, residence, or multi-unit dwelling shall be denied the right to choose or decline to install a fire sprinkler system in such dwelling or residence being purchased by any code, ordinance, rule, regulation, order, or resolution by any county or other political subdivision. Any county or other political subdivision shall provide in any such code, ordinance, rule, regulation, order, or resolution the mandatory option for purchasers to have the right to choose and the requirement that builders offer to purchasers the option to purchase fire sprinklers in connection with the purchase of any single family dwelling, residence, or multi-unit dwelling of four or fewer units. The provisions of this section shall expire on December 31, 2011.

174.700. BOARD OF REGENTS AND BOARD OF GOVERNORS MAY APPOINT NECESSARY POLICE OFFICERS. — The board of regents or board of governors of any state college or university may appoint and employ as many college or university police officers as it may deem necessary to protect persons, property, and to preserve peace and good order only in the public buildings, properties, grounds, and other facilities and locations over which it has charge or control **and to respond to emergencies or natural disasters outside of the boundaries of university property and provide services if requested by the law enforcement agency with jurisdiction**.

190.092. DEFIBRILLATORS, USE AUTHORIZED WHEN, CONDITIONS, NOTICE — GOOD FAITH IMMUNITY FROM CIVIL LIABILITY, WHEN. — 1. **This section shall be known and may be cited as the "Public Access to Automated External Defibrillator Act".**

2. A person or entity who acquires an automated external defibrillator shall ensure that:

(1) Expected defibrillator users receive training by the American Red Cross or American Heart Association in cardiopulmonary resuscitation and the use of automated external defibrillators, or an equivalent nationally recognized course in defibrillator use and cardiopulmonary resuscitation;

(2) The defibrillator is maintained and tested according to the manufacturer's operational guidelines;

(3) Any person who renders emergency care or treatment on a person in cardiac arrest by using an automated external defibrillator activates the emergency medical services system as soon as possible; and

(4) Any person or entity that owns an automated external defibrillator that is for use outside of a health care facility shall have a physician review and approve the clinical protocol for the use of the defibrillator, review and advise regarding the training and skill maintenance of the

intended users of the defibrillator and assure proper review of all situations when the defibrillator is used to render emergency care.

[2.**]** **3.** Any person or entity who acquires an automated external defibrillator shall notify the emergency communications district or the ambulance dispatch center of the primary provider of emergency medical services where the automated external defibrillator is to be located.

[3.**]** **4.** Any person who **[**has had appropriate training, including a course in cardiopulmonary resuscitation, has demonstrated a proficiency in the use of an automated external defibrillator, and who**]** gratuitously and in good faith renders emergency care **[**when medically appropriate**]** by use of or provision of an automated external defibrillator**[**, without objection of the injured victim or victims thereof,**]** shall not be held liable for any civil damages as a result of such care or treatment, **[**where the person acts as an ordinarily reasonable, prudent person would have acted under the same or similar circumstances**]** **unless the person acts in a willful and wanton or reckless manner in providing the care, advice, or assistance**. The person or entity who provides appropriate training to the person using an automated external defibrillator, the person or entity responsible for the site where the automated external defibrillator is located, **the person or entity that owns the automated external defibrillator, the person or entity that provided clinical protocol for automated external defibrillator sites or programs,** and the licensed physician who reviews and approves the clinical protocol shall likewise not be held liable for civil damages resulting from the use of an automated external defibrillator**[**, provided that all other requirements of this section have been met**]**. Nothing in this section shall affect any claims brought pursuant to chapter 537 or 538, RSMo.

[4.**]** **5.** The provisions of this section shall apply in all counties within the state and any city not within a county.

306.903. ABANDONMENT OF BOAT DOCK, PENALTY — RETRIEVAL AND DISPOSAL — IDENTIFYING INFORMATION ON DOCK REQUIRED, WHEN, PENALTY. — 1. Any person who abandons a boat dock and permits it to float freely without being moored upon lakes having at least nine hundred fifty miles of aggregate shoreline is guilty of an infraction, the penalty for which shall be a fine of not less than twenty-five dollars or more than one hundred dollars.

2. Any person who abandons a boat dock shall be responsible for the retrieval and disposal of such boat dock. Any person who violates subsection 1 of this section and who does not properly retrieve and dispose of such abandoned boat dock shall, upon a plea of guilty or a finding of guilt for such an offense, be ordered to reimburse the appropriate law enforcement agency, including the state water patrol, for the costs associated with the retrieval and disposal of the abandoned boat dock. The law enforcement agency may establish a schedule of such costs. However, the court may reduce the costs if it determines that the costs are excessive.

3. The state water patrol may accept gifts, grants, in-kind services and appropriations, and may enter into contracts with private or public entities for the enforcement and administration of this section.

4. Beginning January 1, **[**1996**]** **2010**, any person owning a boat dock on lakes having at least nine hundred fifty miles of shoreline **and lakes constructed or maintained by the United States Army Corps of Engineers except bodies of water owned by a person, corporation, association, partnership, municipality or other political subdivision, public water supply impoundments, and except drainage ditches construction by a drainage district, but not to include any body of water which has been leased to or owned by the state department of conservation** shall display identifying information on the dock, including but not limited to, a permit number issued to the owner by an entity having authority to issue such identification or permit number **and the appropriate "911" address or in the absence of a "911" system, the physical address nearest to the dock by land**. Any person owning a boat dock on lakes having at least nine hundred fifty miles of aggregate shoreline who violates this subsection may be guilty of an infraction, the penalty for which shall not exceed twenty-five dollars.

701.355. POWERS OF THE BOARD. — The board shall have the following powers:

(1) To consult with engineering authorities and organizations who are studying and developing elevator safety codes;

(2) To adopt a code of rules and regulations governing **licenses of elevator mechanics and elevator contractors,** construction, maintenance, testing**,** and inspection of both new and existing installations. The board shall have the power to adopt a safety code only for those types of equipment defined in the rule. In promulgating the elevator safety code the board may consider any existing or future American National Standards Institute safety code affecting elevators as defined in sections 701.350 to 701.380, or any other nationally acceptable standard;

(3) To certify state, municipal inspectors and political subdivision inspectors, and special inspectors, who shall enforce the provisions of a safety code adopted pursuant to sections 701.350 to 701.380;

(4) To appoint a chief safety inspector together with a staff for the purpose of ensuring compliance with any safety code established pursuant to sections 701.350 to 701.380.

Approved July 13, 2009

HB 111 [SCS HCS HB 111]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Allows unclaimed cremated remains of veterans to be collected by a veterans' service organization for the purpose of interment under certain circumstances

AN ACT to amend chapter 194, RSMo, by adding thereto one new section relating to the disposal of unclaimed veterans' remains.

SECTION

A. Enacting clause.

194.360. Veterans, cremated remains — definitions — funeral establishment not liable for negligence, when, notice required.

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

SECTION A. ENACTING CLAUSE. — Chapter 194, RSMo, is amended by adding thereto one new section, to be known as section 194.360, to read as follows:

194.360. VETERANS, CREMATED REMAINS — DEFINITIONS — FUNERAL ESTABLISHMENT NOT LIABLE FOR NEGLIGENCE, WHEN, NOTICE REQUIRED. — 1. As used in this section the following terms shall mean:

(1) "Funeral establishment", as defined in section 333.011, RSMo, a funeral home, a funeral director, an embalmer, or an employee of any of the individuals or entities;

(2) "Veterans' service organization", an association or other entity organized for the benefit of veterans that has been recognized or chartered by the United States congress, including the disabled American veterans, veterans of foreign wars, the American legion, the legion of honor, the missing in America project, and the Vietnam veterans of America. The term includes a member or employee of any of those associations or entities.

2. A funeral establishment is not liable for simple negligence in the disposition of the cremated remains of a veteran to a veterans' service organization for the purposes of internment by that organization if:

(1) The remains have been in the possession of the funeral establishment for a period of at least one year, all or any part of which period may occur or may have occurred before or after August 28, 2009;

(2) The funeral establishment has given notice, as provided in subdivision (1) or (2) of subsection 3 of this section, to the person entitled to the remains under section 194.350 of the matters provided in subsection 4 of this section; and

(3) The remains have not been claimed by the person entitled to the remains under section 194.350 within the period of time provided for in subsection 4 of this section following notice to the person entitled to the remains under section 194.350.

3. In order for the immunity provided in subsection 2 of this section to apply, a funeral establishment shall take the following action, alone or in conjunction with a veterans' service organization, to provide notice to the person entitled to the remains under section 194.350:

(1) Give written notice by mail to the person entitled to the remains under section 194.350 for whom the address of the person entitled to the remains under section 194.350 is known or can reasonably be ascertained by the funeral establishment giving the notice; or

(2) If the address of the person entitled to the remains under section 194.350 is not known or cannot reasonably be ascertained, give notice to the person entitled to the remains under section 194.350 by publication in a newspaper of general circulation:

(a) In the county of the veterans' residence; or

(b) If the residence of the veteran is unknown, in the county in which the veteran died; or

(c) If the county in which the veteran died is unknown, in the county in which the funeral establishment giving notice is located.

4. The notice required by subsection 3 of this section must include a statement to the effect that the remains of the veteran must be claimed by the person entitled to the remains under section 194.350 within thirty days after the date of mailing of the written notice provided for in subdivision (1) of subsection 3 of this section or within four months of the date of the first publication of the notice provided for in subdivision (2) of subsection 3 of this section, as applicable, and that if the remains are not claimed, the remains may be given to a veterans' service organization for internment.

5. A veterans' service organization receiving cremated remains of a veteran from a funeral establishment for the purposes of internment is not liable for simple negligence in the custody or internment of the remains if the veterans' service organization inters and does not scatter the remains and does not know and has no reason to know that the remains do not satisfy the requirements of subdivision (1) or (2) of subsection 3 of this section, as applicable.

6. A veterans' service organization accepting remains under this section shall take all reasonable steps to inter the remains in a veterans' cemetery.

Approved July 2, 2009

HB 124 [HCS HB 124]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Requires the Joint Committee on Terrorism, Bioterrorism, and Homeland Security to include the feasibility of compiling information relevant to immigration enforcement issues in their studies

AN ACT to repeal section 21.800, RSMo, and to enact in lieu thereof one new section relating to the joint committee on terrorism, bioterrorism, and homeland security.

SECTION

A. Enacting clause.
21.800. Joint committee on terrorism, bioterrorism, and homeland security established, members, duties, meetings, expenses, report — expires, when.

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

SECTION A. ENACTING CLAUSE. — Section 21.800, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 21.800, to read as follows:

21.800. JOINT COMMITTEE ON TERRORISM, BIOTERRORISM, AND HOMELAND SECURITY ESTABLISHED, MEMBERS, DUTIES, MEETINGS, EXPENSES, REPORT — EXPIRES, WHEN. — 1. There is established a joint committee of the general assembly to be known as the "Joint Committee on Terrorism, Bioterrorism, and Homeland Security" to be composed of seven members of the senate and seven members of the house of representatives. The senate members of the joint committee shall be appointed by the president pro tem and minority floor leader of the senate and the house members shall be appointed by the speaker and minority floor leader of the house of representatives. The appointment of each member shall continue during the member's term of office as a member of the general assembly or until a successor has been appointed to fill the member's place when his or her term of office as a member of the general assembly has expired. No party shall be represented by more than four members from the house of representatives nor more than four members from the senate. A majority of the committee shall constitute a quorum, but the concurrence of a majority of the members shall be required for the determination of any matter within the committee's duties.

2. The joint committee shall:

(1) Make a continuing study and analysis of all state government terrorism, bioterrorism, and homeland security efforts**, including the feasibility of compiling information relevant to immigration enforcement issues**;

(2) Devise a standard reporting system to obtain data on each state government agency that will provide information on each agency's terrorism and bioterrorism preparedness, and homeland security status at least biennially;

(3) Determine from its study and analysis the need for changes in statutory law; and

(4) Make any other recommendation to the general assembly necessary to provide adequate terrorism and bioterrorism protections, and homeland security to the citizens of the state of Missouri.

3. The joint committee shall meet within thirty days after its creation and organize by selecting a chairperson and a vice chairperson, one of whom shall be a member of the senate and the other a member of the house of representatives. The chairperson shall alternate between members of the house and senate every two years after the committee's organization.

4. The committee shall meet at least quarterly. The committee may meet at locations other than Jefferson City when the committee deems it necessary.

5. The committee shall be staffed by legislative personnel as is deemed necessary to assist the committee in the performance of its duties.

6. The members of the committee shall serve without compensation but shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of their official duties.

7. It shall be the duty of the committee to compile a full report of its activities for submission to the general assembly. The report shall be submitted not later than the fifteenth of January of each year in which the general assembly convenes in regular session and shall include any recommendations which the committee may have for legislative action as well as any

recommendations for administrative or procedural changes in the internal management or organization of state or local government agencies and departments. Copies of the report containing such recommendations shall be sent to the appropriate directors of state or local government agencies or departments included in the report.

8. The provisions of this section shall expire on December 31, **[**2009**]** **2011**.

Approved June 24, 2009

HB 132 [SS HB 132]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding the sale of liquor

AN ACT to repeal sections 92.047, 311.020, 311.055, 311.060, 311.070, 311.090, 311.181, 311.182, 311.195, 311.200, 311.211, 311.212, 311.218, 311.260, 311.265, 311.280, 311.290, 311.300, 311.332, 311.333, 311.334, 311.335, 311.336, 311.338, 311.360, 311.480, 311.482, 311.485, 311.486, 311.487, 311.490, 311.520, 311.610, 311.630, 311.665, 311.680, 311.685, 311.722, 312.010, 312.020, 312.030, 312.040, 312.050, 312.060, 312.070, 312.080, 312.090, 312.100, 312.110, 312.120, 312.130, 312.140, 312.150, 312.160, 312.170, 312.180, 312.190, 312.200, 312.210, 312.220, 312.230, 312.233, 312.235, 312.237, 312.270, 312.280, 312.290, 312.300, 312.310, 312.320, 312.330, 312.340, 312.350, 312.360, 312.370, 312.380, 312.390, 312.400, 312.405, 312.407, 312.410, 312.420, 312.430, 312.440, 312.450, 312.460, 312.470, 312.480, 312.484, 312.490, 312.500, 312.510, 313.075, 313.340, 313.665, 313.840, 571.107, and 650.005, RSMo, and to enact in lieu thereof forty-five new sections relating to liquor control, with penalty provisions.

SECTION

A. Enacting clause.
92.047. Inconsistent laws repealed — certain laws declared not inconsistent (St. Louis City).
311.020. Definition of intoxicating liquor.
311.055. License to manufacture not required, personal or family use — limitation.
311.060. Qualifications for licenses — resident corporation and financial interest defined.
311.070. Financial interest in retail businesses by certain licensees prohibited, exceptions — penalties — definitions — activities permitted between wholesalers and licensees — certain contracts unenforceable — contributions to certain organizations permitted, when — sale of Missouri wines only, license issued, when.
311.090. Sale of liquor by the drink, cities, requirements — Sunday sales authorized for certain organizations.
311.181. Wholesaler's license to sell malt liquor, geographical area limitation — exception — requirements.
311.182. Exclusive areas for wholesales — violation of area limitations by wholesalers or brewers, penalties.
311.192. Wine manufacturer defined.
311.195. Microbrewery, defined — license, fee — retail license allowed, procedure — sale to wholesalers allowed, when — certain exemptions, when.
311.196. Consumption off the premises, sale of beer permitted for restaurant bar without an on-site brewery, when.
311.200. Licenses — retail liquor dealers — fees — applications.
311.211. Fishing skills contest, ticket sales to participants on premises not ground to deny license.
311.212. Licenses, suspension or revocation of, violations occurring more than three years prior, not valid grounds.
311.218. Fourth of July celebrations, temporary permits for wine and malt liquor for certain organizations, fee.
311.260. More than five licenses by any one person prohibited, exception.
311.265. Retailer going out of business in debt to wholesaler, procedure — new license prohibited.
311.280. Unlawful for licensed retailer to purchase from other than licensed wholesaler — prohibited acts.
311.290. Time fixed for opening and closing premises — closed place defined — penalty.
311.300. Persons eighteen years of age or older may sell or handle intoxicating liquor, when.
311.332. Wholesale price regulation, discrimination prohibited — delivery to certain organizations for nonresale purposes, allowed when — donation permitted, when.

311.333. Wholesalers, returns of alcoholic beverages to, supervisor to regulate — wholesaler pricing to be made available to retailers, when.
311.335. Liquor sales by wholesalers, delivery price — delayed shipment — sale of close-out merchandise permitted, when.
311.338. Violation of wholesale price regulations, misdemeanor — suspension of license.
311.360. Misrepresentation of brand of liquor unlawful, penalty — exceptions.
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Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 92.047, 311.020, 311.055, 311.060, 311.070, 311.090, 311.181, 311.182, 311.195, 311.200, 311.211, 311.212, 311.218, 311.260, 311.265, 311.280, 311.290, 311.300, 311.332, 311.333, 311.334, 311.335, 311.336, 311.338, 311.360, 311.480, 311.482, 311.485, 311.486, 311.487, 311.490, 311.520, 311.610, 311.630, 311.665, 311.680, 311.685, 311.722, 312.010, 312.020, 312.030, 312.040, 312.050, 312.060, 312.070, 312.080, 312.090, 312.100, 312.110, 312.120, 312.130, 312.140, 312.150, 312.160, 312.170, 312.180, 312.190, 312.200, 312.210, 312.220, 312.230, 312.233, 312.235, 312.237, 312.270, 312.280, 312.290, 312.300, 312.310, 312.320, 312.330, 312.340, 312.350, 312.360, 312.370, 312.380, 312.390, 312.400, 312.405, 312.407, 312.410, 312.420, 312.430, 312.440, 312.450, 312.460, 312.470, 312.480, 312.484, 312.490, 312.500, 312.510, 313.075, 313.340, 313.665, 313.840, 571.107, and 650.005, RSMo, are repealed and forty-five new sections enacted in lieu thereof, to be known as sections 92.047, 311.020, 311.055, 311.060, 311.070, 311.090, 311.181, 311.182, 311.192, 311.195, 311.196, 311.200, 311.211, 311.212, 311.218, 311.260, 311.265, 311.280, 311.290, 311.300, 311.332, 311.333, 311.335, 311.338, 311.360, 311.480, 311.482, 311.485, 311.486, 311.487, 311.489, 311.490, 311.520, 311.610, 311.630, 311.665, 311.680, 311.685, 311.722, 313.075, 313.340, 313.665, 313.840, 571.107, and 650.005, to read as follows:

92.047. INCONSISTENT LAWS REPEALED — CERTAIN LAWS DECLARED NOT INCONSISTENT (ST. LOUIS CITY). — 1. All laws inconsistent with or repugnant to the foregoing shall be deemed to have been repealed to the extent of such inconsistency or repugnancy. The provisions of this statute shall in no way be construed to prohibit any city which has a population in excess of seven hundred thousand inhabitants from assessing, levying and collecting a tax pursuant to the provisions of sections 92.110 through 92.200.

2. For the purposes of sections 92.041 to 92.047, **[**chapters 311 and 312, RSMo 1959**] and chapter 311, RSMo**, as amended, or any section thereof, as amended, shall not be construed to

be inconsistent with or repugnant to the provisions of sections 92.041 to 92.047, and shall not be deemed to have been repealed by sections 92.041 to 92.047, but shall continue in full force and effect. For the purpose of sections 92.041 to 92.047, no such city included within the scope of sections 92.041 to 92.047 shall charge or exact an occupational license tax on manufacturers, wholesalers, or retailers of alcoholic beverages **[**or nonintoxicating beer**]** in excess of that permitted by **[**chapters 311 and 312**]** **chapter 311**, RSMo for cities.

311.020. DEFINITION OF INTOXICATING LIQUOR. — The term "intoxicating liquor" as used in this chapter, shall mean and include alcohol for beverage purposes, alcoholic, spirituous, vinous, fermented, malt, or other liquors, or combination of liquors, a part of which is spirituous, vinous, or fermented, and all preparations or mixtures for beverage purposes, containing in excess of one-half of one percent by volume **[**except for nonintoxicating beer as defined in section 312.010, RSMo**]**. All beverages having an alcoholic content of less than one-half of one percent by volume shall be exempt from the provisions of this chapter, but subject to inspection as provided by sections 196.365 to 196.445, RSMo.

311.055. LICENSE TO MANUFACTURE NOT REQUIRED, PERSONAL OR FAMILY USE — LIMITATION. — No person at least twenty-one years of age shall be required to obtain a license to manufacture **[**nonintoxicating beer, as defined in section 312.010, RSMo, or**]** intoxicating liquor, as defined in section 311.020, for personal or family use. The aggregate amount of **[**nonintoxicating beer or**]** intoxicating liquor manufactured per household shall not exceed two hundred gallons per calendar year if there are two or more persons over the age of twenty-one years in such household, or one hundred gallons per calendar year if there is only one person over the age of twenty-one years in such household.

311.060. QUALIFICATIONS FOR LICENSES — RESIDENT CORPORATION AND FINANCIAL INTEREST DEFINED. — 1. No person shall be granted a license hereunder unless such person is of good moral character and a qualified legal voter and a taxpaying citizen of the county, town, city or village, nor shall any corporation be granted a license hereunder unless the managing officer of such corporation is of good moral character and a qualified legal voter and taxpaying citizen of the county, town, city or village; and no person shall be granted a license or permit hereunder whose license as such dealer has been revoked, or who has been convicted, since the ratification of the twenty-first amendment to the Constitution of the United States, of a violation of the provisions of any law applicable to the manufacture or sale of intoxicating liquor, or who employs in his **or her** business as such dealer, any person whose license has been revoked or who has been convicted of violating such law since the date aforesaid; provided, that nothing in this section contained shall prevent the issuance of licenses to nonresidents of Missouri or foreign corporations for the privilege of selling to duly licensed wholesalers and soliciting orders for the sale of intoxicating liquors to, by or through a duly licensed wholesaler, within this state.

2. (1) No person, partnership or corporation shall be qualified for a license under this law if such person, any member of such partnership, or such corporation, or any officer, director, or any stockholder owning, legally or beneficially, directly or indirectly, ten percent or more of the stock of such corporation, or other financial interest therein, or ten percent or more of the interest in the business for which the person, partnership or corporation is licensed, or any person employed in the business licensed under this law shall have had a license revoked under this law or shall have been convicted of violating the provisions of any law applicable to the manufacture or sale of intoxicating liquor since the ratification of the twenty-first amendment to the Constitution of the United States, or shall not be a person of good moral character.

(2) No license issued under this chapter **[**or chapter 312, RSMo,**]** shall be denied, suspended, revoked or otherwise affected based solely on the fact that an employee of the licensee has been convicted of a felony unrelated to the manufacture or sale of intoxicating liquor **[**so long as any such employee does not directly participate in retail sales of intoxicating liquor**]**.

Each employer shall report the identity of any employee convicted of a felony to the division of liquor control. The division of liquor control shall promulgate rules to enforce the provisions of this subdivision.

(3) No wholesaler license shall be issued to a corporation for the sale of intoxicating liquor containing alcohol in excess of five percent by weight, except to a resident corporation as defined in this section.

3. A "resident corporation" is defined to be a corporation incorporated under the laws of this state, all the officers and directors of which, and all the stockholders, who legally and beneficially own or control sixty percent or more of the stock in amount and in voting rights, shall be qualified legal voters and taxpaying citizens of the county and municipality in which they reside and who shall have been bona fide residents of the state for a period of three years continuously immediately prior to the date of filing of application for a license, provided that a stockholder need not be a voter or a taxpayer, and all the resident stockholders of which shall own, legally and beneficially, at least sixty percent of all the financial interest in the business to be licensed under this law; provided, that no corporation, licensed under the provisions of this law on January 1, 1947, nor any corporation succeeding to the business of a corporation licensed on January 1, 1947, as a result of a tax-free reorganization coming within the provisions of Section 112, United States Internal Revenue Code, shall be disqualified by reason of the new requirements herein, except corporations engaged in the manufacture of alcoholic beverages containing alcohol in excess of five percent by weight, or owned or controlled, directly or indirectly, by nonresident persons, partnerships or corporations engaged in the manufacture of alcoholic beverages containing alcohol in excess of five percent by weight.

4. The term "financial interest" as used in this chapter is defined to mean all interest, legal or beneficial, direct or indirect, in the capital devoted to the licensed enterprise and all such interest in the net profits of the enterprise, after the payment of reasonable and necessary operating business expenses and taxes, including interest in dividends, preferred dividends, interest and profits, directly or indirectly paid as compensation for, or in consideration of interest in, or for use of, the capital devoted to the enterprise, or for property or money advanced, loaned or otherwise made available to the enterprise, except by way of ordinary commercial credit or bona fide bank credit not in excess of credit customarily granted by banking institutions, whether paid as dividends, interest or profits, or in the guise of royalties, commissions, salaries, or any other form whatsoever.

5. The supervisor shall by regulation require all applicants for licenses to file written statements, under oath, containing the information reasonably required to administer this section. Statements by applicants for licenses as wholesalers and retailers shall set out, with other information required, full information concerning the residence of all persons financially interested in the business to be licensed as required by regulation. All material changes in the information filed shall be promptly reported to the supervisor.

311.070. FINANCIAL INTEREST IN RETAIL BUSINESSES BY CERTAIN LICENSEES PROHIBITED, EXCEPTIONS — PENALTIES — DEFINITIONS — ACTIVITIES PERMITTED BETWEEN WHOLESALERS AND LICENSEES — CERTAIN CONTRACTS UNENFORCEABLE — CONTRIBUTIONS TO CERTAIN ORGANIZATIONS PERMITTED, WHEN — SALE OF MISSOURI WINES ONLY, LICENSE ISSUED, WHEN. — 1. Distillers, wholesalers, winemakers, brewers or their employees, officers or agents shall not, except as provided in this section, directly or indirectly, have any financial interest in the retail business for sale of intoxicating liquors, and shall not, except as provided in this section, directly or indirectly, loan, give away or furnish equipment, money, credit or property of any kind, except ordinary commercial credit for liquors sold to such retail dealers. However, notwithstanding any other provision of this chapter to the contrary, for the purpose of the promotion of tourism, a distiller whose manufacturing establishment is located within this state may apply for and the supervisor of liquor control may issue a license to sell intoxicating liquor, as in this chapter defined, by the drink at retail for

consumption on the premises where sold; and provided further that the premises so licensed shall be in close proximity to the distillery and may remain open between the hours of 6:00 a.m. and midnight, Monday through Saturday and between the hours of 11:00 a.m. and 9:00 p.m., Sunday. The authority for the collection of fees by cities and counties as provided in section 311.220, and all other laws and regulations relating to the sale of liquor by the drink for consumption on the premises where sold, shall apply to the holder of a license issued under the provisions of this section in the same manner as they apply to establishments licensed under the provisions of section 311.085, 311.090, or 311.095.

2. Any distiller, wholesaler, winemaker or brewer who shall violate the provisions of subsection 1 of this section, or permit his employees, officers or agents to do so, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as follows:

(1) For the first offense, by a fine of one thousand dollars;

(2) For a second offense, by a fine of five thousand dollars; and

(3) For a third or subsequent offense, by a fine of ten thousand dollars or the license of such person shall be revoked.

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

(1) "Consumer advertising specialties", advertising items that are designed to be carried away by the consumer, such items include, but are not limited to: trading stamps, nonalcoholic mixers, pouring racks, ash trays, bottle or can openers, cork screws, shopping bags, matches, printed recipes, pamphlets, cards, leaflets, blotters, postcards, pencils, shirts, caps and visors;

(2) "Equipment and supplies", glassware (or similar containers made of other material), dispensing accessories, carbon dioxide (and other gasses used in dispensing equipment) or ice. "Dispensing accessories" include standards, faucets, cold plates, rods, vents, taps, tap standards, hoses, washers, couplings, gas gauges, vent tongues, shanks, and check valves;

(3) "Permanent point-of-sale advertising materials", advertising items designed to be used within a retail business establishment for an extended period of time to attract consumer attention to the products of a distiller, wholesaler, winemaker or brewer. Such materials shall only include inside signs (electric, mechanical or otherwise), mirrors, and sweepstakes/contest prizes displayed on the licensed premises;

(4) "Product display", wine racks, bins, barrels, casks, shelving or similar items the primary function of which is to hold and display consumer products;

(5) "Promotion", an advertising and publicity campaign to further the acceptance and sale of the merchandise or products of a distiller, wholesaler, winemaker or brewer;

(6) "Temporary point-of-sale advertising materials", advertising items designed to be used for short periods of time. Such materials include, but are not limited to: banners, decorations reflecting a particular season or a limited-time promotion, or paper napkins, coasters, cups, or menus.

4. Notwithstanding other provisions contained herein, the distiller, wholesaler, winemaker or brewer, or their employees, officers or agents may engage in the following activities with a retail licensee licensed pursuant to this chapter **[**or chapter 312, RSMo**]**:

(1) The distiller, wholesaler, winemaker or brewer may give or sell product displays to a retail business if all of the following requirements are met:

(a) The total value of all product displays given or sold to a retail business shall not exceed three hundred dollars per brand at any one time in any one retail outlet. There shall be no combining or pooling of the three hundred dollar limits to provide a retail business a product display in excess of three hundred dollars per brand. The value of a product display is the actual cost to the distiller, wholesaler, winemaker or brewer who initially purchased such product display. Transportation and installation costs shall be excluded;

(b) All product displays shall bear in a conspicuous manner substantial advertising matter on the product or the name of the distiller, wholesaler, winemaker or brewer. The name and address of the retail business may appear on the product displays; and

(c) The giving or selling of product displays may be conditioned on the purchase of intoxicating beverages advertised on the displays by the retail business in a quantity necessary for the initial completion of the product display. No other condition shall be imposed by the distiller, wholesaler, winemaker or brewer on the retail business in order for such retail business to obtain the product display;

(2) Notwithstanding any provision of law to the contrary, the distiller, wholesaler, winemaker or brewer may provide, give or sell any permanent point-of-sale advertising materials, temporary point-of-sale advertising materials, and consumer advertising specialties to a retail business if all the following requirements are met:

(a) The total value of all permanent point-of-sale advertising materials provided to a retail business by a distiller, wholesaler, winemaker, or brewer shall not exceed five hundred dollars per calendar year, per brand, per retail outlet. The value of permanent point-of-sale advertising materials is the actual cost to the distiller, wholesaler, winemaker or brewer who initially purchased such item. Transportation and installation costs shall be excluded. All permanent point-of-sale advertising materials provided to a retailer shall be recorded, and records shall be maintained for a period of three years;

(b) The provider of permanent point-of-sale advertising materials shall own and otherwise control the use of permanent point-of-sale advertising materials that are provided by any distiller, wholesaler, winemaker, or brewer;

(c) All permanent point-of-sale advertising materials, temporary point-of-sale advertising materials, and consumer advertising specialties shall bear in a conspicuous manner substantial advertising matter about the product or the name of the distiller, wholesaler, winemaker or brewer. The name, address and logos of the retail business may appear on the permanent point-of-sale advertising materials, temporary point-of-sale advertising materials, or the consumer advertising specialties; and

(d) The distiller, wholesaler, winemaker or brewer shall not directly or indirectly pay or credit the retail business for using or distributing the permanent point-of-sale advertising materials, temporary point-of-sale advertising materials, or consumer advertising specialties or for any incidental expenses arising from their use or distribution;

(3) A distiller, wholesaler, winemaker, or brewer may give a gift not to exceed a value of one thousand dollars per year to a holder of a temporary permit as defined in section 311.482;

(4) The distiller, wholesaler, winemaker or brewer may sell equipment or supplies to a retail business if all the following requirements are met:

(a) The equipment and supplies shall be sold at a price not less than the cost to the distiller, wholesaler, winemaker or brewer who initially purchased such equipment and supplies; and

(b) The price charged for the equipment and supplies shall be collected in accordance with credit regulations as established in the code of state regulations;

(5) The distiller, wholesaler, winemaker or brewer may install dispensing accessories at the retail business establishment, which shall include for the purposes of **[**intoxicating and nonintoxicating**]** beer equipment to properly preserve and serve draught beer only and to facilitate the delivery to the retailer the brewers and wholesalers may lend, give, rent or sell and they may install or repair any of the following items or render to retail licensees any of the following services: beer coils and coil cleaning, sleeves and wrappings, box couplings and draft arms, beer faucets and tap markers, beer and air hose, taps, vents and washers, gauges and regulators, beer and air distributors, beer line insulation, coil flush hose, couplings and bucket pumps; portable coil boxes, air pumps, blankets or other coverings for temporary wrappings of barrels, coil box overflow pipes, tilting platforms, bumper boards, skids, cellar ladders and ramps, angle irons, ice box grates, floor runways; and damage caused by any beer delivery excluding normal wear and tear and a complete record of equipment furnished and installed and repairs and service made or rendered must be kept by the brewer or wholesalers furnishing, making or rendering same for a period of not less than one year;

(6) The distiller, wholesaler, winemaker or brewer may furnish, give or sell coil cleaning service to a retailer of distilled spirits, wine or malt beverages;

(7) A wholesaler of intoxicating liquor may furnish or give and a retailer may accept a sample of distilled spirits or wine as long as the retailer has not previously purchased the brand from that wholesaler, if all the following requirements are met:

(a) The wholesaler may furnish or give not more than seven hundred fifty milliliters of any brand of distilled spirits and not more than seven hundred fifty milliliters of any brand of wine; if a particular product is not available in a size within the quantity limitations of this subsection, a wholesaler may furnish or give to a retailer the next larger size;

(b) The wholesaler shall keep a record of the name of the retailer and the quantity of each brand furnished or given to such retailer;

(c) For the purposes of this subsection, no samples of intoxicating liquor provided to retailers shall be consumed on the premises nor shall any sample of intoxicating liquor be opened on the premises of the retailer except as provided by the retail license;

(d) For the purpose of this subsection, the word "brand" refers to differences in brand name of product or differences in nature of product; examples of different brands would be products having a difference in: brand name; class, type or kind designation; appellation of origin (wine); viticulture area (wine); vintage date (wine); age (distilled spirits); or proof (distilled spirits); differences in packaging such a different style, type, size of container, or differences in color or design of a label are not considered different brands;

(8) The distiller, wholesaler, winemaker or brewer may package and distribute intoxicating beverages in combination with other nonalcoholic items as originally packaged by the supplier for sale ultimately to consumers; notwithstanding any provision of law to the contrary, for the purpose of this subsection, intoxicating liquor and wine wholesalers are not required to charge for nonalcoholic items any more than the actual cost of purchasing such nonalcoholic items from the supplier;

(9) The distiller, wholesaler, winemaker or brewer may sell or give the retail business newspaper cuts, mats or engraved blocks for use in the advertisements of the retail business;

(10) The distiller, wholesaler, winemaker or brewer may in an advertisement list the names and addresses of two or more unaffiliated retail businesses selling its product if all of the following requirements are met:

(a) The advertisement shall not contain the retail price of the product;

(b) The listing of the retail businesses shall be the only reference to such retail businesses in the advertisement;

(c) The listing of the retail businesses shall be relatively inconspicuous in relation to the advertisement as a whole; and

(d) The advertisement shall not refer only to one retail business or only to a retail business controlled directly or indirectly by the same retail business;

(11) Distillers, winemakers, wholesalers, brewers or retailers may conduct a local or national sweepstakes/contest upon a licensed retail premise. The sweepstakes/contest prize dollar amount shall not be limited and can be displayed in a photo, banner, or other temporary point-of-sale advertising materials on a licensed premises, if the following requirements are met:

(a) No money or something of value is given to the retailer for the privilege or opportunity of conducting the sweepstakes or contest; and

(b) The actual sweepstakes/contest prize is not displayed on the licensed premises if the prize value exceeds the permanent point-of-sale advertising materials dollar limit provided in this section;

(12) The distiller, wholesaler, winemaker or brewer may stock, rotate, rearrange or reset the products sold by such distiller, wholesaler, winemaker or brewer at the establishment of the retail business so long as the products of any other distiller, wholesaler, winemaker or brewer are not altered or disturbed;

(13) The distiller, wholesaler, winemaker or brewer may provide a recommended shelf plan or shelf schematic for distilled spirits, wine or malt beverages;

(14) The distiller, wholesaler, winemaker or brewer participating in the activities of a retail business association may do any of the following:

(a) Display, serve, or donate its products at or to a convention or trade show;

(b) Rent display booth space if the rental fee is the same paid by all others renting similar space at the association activity;

(c) Provide its own hospitality which is independent from the association activity;

(d) Purchase tickets to functions and pay registration or sponsorship fees if such purchase or payment is the same as that paid by all attendees, participants or exhibitors at the association activity;

(e) Make payments for advertisements in programs or brochures issued by retail business associations if the total payments made for all such advertisements are fair and reasonable;

(f) Pay dues to the retail business association if such dues or payments are fair and reasonable;

(g) Make payments or donations for retail employee training on preventive sales to minors and intoxicated persons, checking identifications, age verification devices, and the liquor control laws;

(h) Make contributions not to exceed one thousand dollars per calendar year for transportation services that shall be used to assist patrons from retail establishments to his or her residence or overnight accommodations;

(i) Donate or serve up to five hundred dollars per event of alcoholic products at retail business association activities; and

(j) Any retail business association that receives payments or donations shall, upon written request, provide the division of alcohol and tobacco control with copies of relevant financial records and documents to ensure compliance with this subsection;

(15) The distiller, wholesaler, winemaker or brewer may sell or give a permanent outside sign to a retail business if the following requirements are met:

(a) The sign, which shall be constructed of metal, glass, wood, plastic, or other durable, rigid material, with or without illumination, or painted or otherwise printed onto a rigid material or structure, shall bear in a conspicuous manner substantial advertising matter about the product or the name of the distiller, wholesaler, winemaker or brewer;

(b) The retail business shall not be compensated, directly or indirectly, for displaying the permanent sign or a temporary banner;

(c) The cost of the permanent sign shall not exceed five hundred dollars; and

(d) Temporary banners of a seasonal nature or promoting a specific event shall not be constructed to be permanent outdoor signs and may be provided to retailers. The total cost of temporary outdoor banners provided to a retailer in use at any one time shall not exceed five hundred dollars per brand;

(16) A wholesaler may, but shall not be required to, exchange for an equal quantity of identical product or allow credit against outstanding indebtedness for intoxicating liquor with alcohol content of less than five percent by weight **[**or nonintoxicating beer**]** that was delivered in a damaged condition or damaged while in the possession of the retailer;

(17) To assure and control product quality, wholesalers at the time of a regular delivery may, but shall not be required to, withdraw, with the permission of the retailer, a quantity of intoxicating liquor with alcohol content of less than five percent by weight **[**or nonintoxicating beer**]** in its undamaged original carton from the retailer's stock, if the wholesaler replaces the product with an equal quantity of identical product;

(18) In addition to withdrawals authorized pursuant to subdivision (17) of this subsection, to assure and control product quality, wholesalers at the time of a regular delivery may, but shall not be required to, withdraw, with the permission of the retailer, a quantity of intoxicating liquor with alcohol content of less than five percent by weight **[**and nonintoxicating beer**]** in its

undamaged original carton from the retailer's stock and give the retailer credit against outstanding indebtedness for the product if:

(a) The product is withdrawn at least thirty days after initial delivery and within twenty-one days of the date considered by the manufacturer of the product to be the date the product becomes inappropriate for sale to a consumer; and

(b) The quantity of product withdrawn does not exceed the equivalent of twenty-five cases of twenty-four twelve-ounce containers; and

(c) To assure and control product quality, a wholesaler may, but not be required to, give a retailer credit for intoxicating liquor with an alcohol content of less than five percent by weight **[**or nonintoxicating beer**]**, in a container with a capacity of four gallons or more, delivered but not used, if the wholesaler removes the product within seven days of the initial delivery; and

(19) Nothing in this section authorizes consignment sales.

5. (1) A distiller, wholesaler, winemaker, or brewer that is also in business as a bona fide producer or vendor of nonalcoholic beverages shall not condition the sale of its alcoholic beverages on the sale of its nonalcoholic beverages nor combine the sale of its alcoholic beverages with the sale of its nonalcoholic beverages, except as provided in subdivision (8) of subsection 4 of this section. The distiller, wholesaler, winemaker, or brewer that is also in business as a bona fide producer or vendor of nonalcoholic beverages may sell, credit, market, and promote nonalcoholic beverages in the same manner in which the nonalcoholic products are sold, credited, marketed, or promoted by a manufacturer or wholesaler not licensed by the supervisor of alcohol and tobacco control;

(2) Any fixtures, equipment, or furnishings provided by any distiller, wholesaler, winemaker, or brewer in furtherance of the sale of nonalcoholic products shall not be used by the retail licensee to store, service, display, advertise, furnish, or sell, or aid in the sale of alcoholic products regulated by the supervisor of alcohol and tobacco control. All such fixtures, equipment, or furnishings shall be identified by the retail licensee as being furnished by a licensed distiller, wholesaler, winemaker, or brewer.

6. Distillers, wholesalers, brewers and winemakers, or their officers or directors shall not require, by agreement or otherwise, that any retailer purchase any intoxicating liquor from such distillers, wholesalers, brewers or winemakers to the exclusion in whole or in part of intoxicating liquor sold or offered for sale by other distillers, wholesalers, brewers, or winemakers.

7. Notwithstanding any other provisions of this chapter to the contrary, a distiller or wholesaler may install dispensing accessories at the retail business establishment, which shall include for the purposes of distilled spirits, equipment to properly preserve and serve premixed distilled spirit beverages only. To facilitate delivery to the retailer, the distiller or wholesaler may lend, give, rent or sell and the distiller or wholesaler may install or repair any of the following items or render to retail licensees any of the following services: coils and coil cleaning, draft arms, faucets and tap markers, taps, tap standards, tapping heads, hoses, valves and other minor tapping equipment components, and damage caused by any delivery excluding normal wear and tear. A complete record of equipment furnished and installed and repairs or service made or rendered shall be kept by the distiller or wholesaler furnishing, making or rendering the same for a period of not less than one year.

8. Distillers, wholesalers, winemakers, brewers or their employees or officers shall be permitted to make contributions of money or merchandise to a licensed retail liquor dealer that is a charitable, fraternal, civic, service, veterans', or religious organization as defined in section 313.005, RSMo, or an educational institution if such contributions are unrelated to such organization's retail operations.

9. Distillers, brewers, wholesalers, and winemakers may make payments for advertisements in programs or brochures of tax-exempt organizations licensed under section 311.090 if the total payments made for all such advertisements are the same as those paid by other vendors.

10. **[**Notwithstanding any other provision of this chapter or chapter 312, RSMo, to the contrary,**]** A brewer or manufacturer, its employees, officers or agents may have a financial

interest in the retail business for sale of intoxicating liquors **[**and nonintoxicating beer**]** at entertainment facilities owned, in whole or in part, by the brewer or manufacturer, its subsidiaries or affiliates including, but not limited to, arenas and stadiums used primarily for concerts, shows and sporting events of all kinds.

11. **[**Notwithstanding any other provision of this chapter or chapter 312, RSMo, to the contrary,**]** For the purpose of the promotion of tourism, a wine manufacturer, its employees, officers or agents located within this state may apply for and the supervisor of liquor control may issue a license to sell intoxicating liquor, as defined in this chapter, by the drink at retail for consumption on the premises where sold, if the premises so licensed is in close proximity to the winery. Such premises shall be closed during the hours specified under section 311.290 and may remain open between the hours of 9:00 a.m. and midnight on Sunday.

12. **[**Notwithstanding any other provision of this chapter or chapter 312, RSMo, to the contrary,**]** For the purpose of the promotion of tourism, a person may apply for and the supervisor of liquor control may issue a license to sell intoxicating liquor by the drink at retail for consumption on the premises where sold, but seventy-five percent or more of the intoxicating liquor sold by such licensed person shall be Missouri-produced wines received from manufacturers licensed under section 311.190. Such premises may remain open between the hours of 6:00 a.m. and midnight, Monday through Saturday, and between the hours of 11:00 a.m. and 9:00 p.m. on Sundays.

311.090. SALE OF LIQUOR BY THE DRINK, CITIES, REQUIREMENTS — SUNDAY SALES AUTHORIZED FOR CERTAIN ORGANIZATIONS. — 1. Any person who possesses the qualifications required by this chapter, and who meets the requirements of and complies with the provisions of this chapter, and the ordinances, rules and regulations of the incorporated city in which such licensee proposes to operate his business, may apply for, and the supervisor of liquor control may issue, a license to sell intoxicating liquor, as defined in this chapter, by the drink at retail for consumption on the premises described in the application; provided, that no license shall be issued for the sale of intoxicating liquor, other than malt liquor containing alcohol not in excess of five percent by weight, and light wines containing not in excess of fourteen percent of alcohol by weight made exclusively from grapes, berries and other fruits and vegetables, by the drink at retail for consumption on the premises where sold to any person other than a charitable, fraternal, religious, service or veterans' organization which has obtained an exemption from the payment of federal income taxes as provided in section 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(7), 501(c)(8), 501(c)(10), 501(c)(19), or 501(d) of the United States Internal Revenue Code of 1954, as amended, in any incorporated city having a population of less than nineteen thousand five hundred inhabitants, until the sale of such intoxicating liquor, by the drink at retail for consumption on the premises where sold, shall have been authorized by a vote of the majority of the qualified voters of the city. Such authority shall be determined by an election to be held in those cities having a population of less than nineteen thousand five hundred inhabitants as determined by the last preceding federal decennial census, under the provisions and methods set out in this chapter. Once such licenses are issued in a city with a population of at least nineteen thousand five hundred inhabitants, any subsequent loss of population shall not require the qualified voters of such a city to approve the sale of such intoxicating liquor prior to the issuance or renewal of such licenses. No license shall be issued for the sale of intoxicating liquor, other than malt liquor containing alcohol not in excess of five percent by weight, and light wines containing not in excess of fourteen percent of alcohol by weight made exclusively from grapes, berries and other fruits and vegetables, by the drink at retail for consumption on the premises where sold, outside the limits of such incorporated cities unless the licensee is a charitable, fraternal, religious, service or veterans' organization which has obtained an exemption from the payment of federal income taxes as provided in section 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(7), 501(c)(8), 501(c)(10), 501(c)(19), or 501(d) of the United States Internal Revenue Code of 1954, as amended.

2. Notwithstanding any other provisions of this chapter to the contrary, any charitable, fraternal, religious, service or veterans' organization which has obtained an exemption from the payment of federal income taxes as provided in section 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(7), 501(c)(8), 501(c)(10), 501(c)(19), or 501(d) of the United States Internal Revenue Code of 1954, as amended, may apply for, and the supervisor of liquor control may issue, a license to sell intoxicating liquor, as defined in this chapter, between the hours of **[**11:00**]** **9:00** a.m. on Sunday and midnight on Sunday by the drink at retail for consumption on the premises described in the application. The authority for the collection of fees by cities and counties as provided in section 311.220, and all other laws and regulations of the state relating to the sale of liquor by the drink for consumption on the premises where sold, shall apply to organizations licensed under this subsection in the same manner as they apply to establishments licensed under subsection 1 of this section and sections 311.085 and 311.095. In addition to all other fees required by law, an organization licensed under this section shall pay an additional fee of two hundred dollars a year payable at the same time and in the same manner as its other license fees.

3. If any charitable, fraternal, religious, service, or veterans' organization has a license to sell intoxicating liquor on its premises pursuant to this section and such premises includes two or more buildings in close proximity, such permit shall be valid for the sale of intoxicating liquor at any such building.

311.181. WHOLESALER'S LICENSE TO SELL MALT LIQUOR, GEOGRAPHICAL AREA LIMITATION — EXCEPTION — REQUIREMENTS. — 1. In addition to any other information or documents required by law, an applicant for a license which grants alone or with other privileges, the privilege of selling intoxicating liquor containing not in excess of five percent of alcohol by weight **[**or the privilege of selling nonintoxicating beer as defined in chapter 312, RSMo,**]** by a wholesaler to a person duly licensed to sell such malt liquor **[**or nonintoxicating beer**]** at retail shall submit to the supervisor of liquor control a statement under oath designating clearly the geographical area within which the applicant has been authorized by the brewer to sell such malt liquor **[**or nonintoxicating beer**]**, the brand or brands he proposes to sell, and the brewer or brewers who manufacture the brands, and affirming that the applicant will maintain a warehouse and delivery facilities within the designated geographical area. Each such wholesaler applicant shall enter into a written agreement with the brewer of the brand or brands which the applicant proposes to sell, which agreement must specifically designate a geographic area within which such wholesaler applicant is authorized to sell such brand or brands. A copy of such written agreement shall be filed with the supervisor of liquor control as a part of such application. It shall be unlawful for any such wholesaler applicant, who is granted a license hereunder, to sell any brand or brands of malt liquor **[**or nonintoxicating beer**]** in the state of Missouri except in the designated geographic area described in said agreement. Provided, however, that when such an applicant is prevented from servicing the designated geographic area due to fire, flood, or other causes beyond his reasonable control, another licensed wholesaler not within the designated geographic area may sell the specified brands of malt liquor **[**or nonintoxicating beer**]** in that designated geographic area, if the applicant wholesaler who is prevented from servicing the area consents thereto and approval is obtained from the applicable brewer and the supervisor of liquor control.

2. A specified geographic area designation in any agreement required by this section shall be changed only upon a written agreement between the wholesaler and the brewer, and shall be filed pursuant to this section and the supervisor shall require the brewer and wholesaler to verify that the level of service within the designated geographic area will not be affected by such change.

3. No provision of any written agreement required by this section shall expressly or by implication or in its operation establish or maintain the resale price of any brand or brands of beer by the licensed wholesaler.

4. The provisions of section 311.720 **[**and section 312.510, RSMo,**]** shall not apply to this section.

311.182. EXCLUSIVE AREAS FOR WHOLESALES — VIOLATION OF AREA LIMITATIONS BY WHOLESALERS OR BREWERS, PENALTIES. — 1. No brewer or manufacturer of malt liquor **[**or nonintoxicating beer**]**, who designates a specific geographic area for which a wholesaler shall be responsible, shall enter into any agreement with any other person for the purpose of establishing an additional wholesaler for the same brands of malt liquor **[**or nonintoxicating beer**]** in such designated area. Provided, however, that section 311.181 and this section shall not prevent a brewer, manufacturer or wholesaler of malt liquor **[**or nonintoxicating beer**]** from exercising or enforcing any rights or obligations established by or contained within any written agreement required by section 311.181.

2. Any wholesaler or brewer who shall violate the provisions of section 311.181 or this section, or permit his employees, officers or agents to do so, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished only as follows:

(1) For the first offense, by a fine of one thousand dollars;

(2) For a second offense, by a fine of five thousand dollars; and

(3) For a third offense, by a fine of twenty-five thousand dollars.

3. The provisions of section 311.720 **[**and section 312.510, RSMo,**]** shall not apply to this section.

311.192. WINE MANUFACTURER DEFINED. — **The term "wine manufacturer" as used in this chapter, shall mean any person, partnership, association of persons, or corporation, who has procured a license under subdivision (2) of subsection 1 of section 311.180 or section 311.190, and who manufactures in excess of two hundred gallons of wine per calendar year.**

311.195. MICROBREWERY, DEFINED — LICENSE, FEE — RETAIL LICENSE ALLOWED, PROCEDURE — SALE TO WHOLESALERS ALLOWED, WHEN — CERTAIN EXEMPTIONS, WHEN. — 1. As used in this section, the term "microbrewery" means a business whose primary activity is the brewing and selling of beer, with an annual production of ten thousand barrels or less.

2. A microbrewer's license shall authorize the licensee to manufacture beer and malt liquor in quantities not to exceed ten thousand barrels per annum. In lieu of the charges provided in section 311.180, a license fee of five dollars for each one hundred barrels or fraction thereof, up to a maximum license fee of two hundred fifty dollars, shall be paid to and collected by the director of revenue.

3. Notwithstanding any other provision of this chapter **[**or chapter 312, RSMo,**]** to the contrary, the holder of a microbrewer's license may apply for, and the supervisor of alcohol and tobacco control may issue, a license to sell intoxicating liquor by the drink at retail for consumption on the premises. No holder of a microbrewer's license, or any employee, officer, agent, subsidiary, or affiliate thereof, shall have more than ten licenses to sell intoxicating liquor by the drink at retail for consumption on the premises. The authority for the collection of fees by cities and counties as provided in section 311.220, and all other laws and regulations relating to the sale of liquor by the drink for consumption on the premises where sold, shall apply to the holder of a license issued under the provisions of this section in the same manner as they apply to establishments licensed under the provisions of section 311.085, 311.090, 311.095, or 311.097.

4. The holder of a microbrewer's license may also sell beer and malt liquor produced on the brewery premises to duly licensed wholesalers. However, holders of a microbrewer's license shall not, under any circumstances, directly or indirectly, have any financial interest in any wholesaler's business, and all such sales to wholesalers shall be subject to the restrictions of sections 311.181 and 311.182.

5. A microbrewer who is a holder of a license to sell intoxicating liquor by the drink at retail for consumption on the premises shall be exempt from the provisions of section 311.280, for such intoxicating liquor that is produced on the premises in accordance with the provisions of this chapter. For all other intoxicating liquor sold by the drink at retail for consumption on the premises that the microbrewer possesses a license for must be obtained in accordance with section 311.280.

311.196. CONSUMPTION OFF THE PREMISES, SALE OF BEER PERMITTED FOR RESTAURANT BAR WITHOUT AN ON-SITE BREWERY, WHEN. — Notwithstanding any other provision of law to the contrary, any restaurant bar without an onsite brewery that serves forty-five or more different types of draft beer may sell thirty-two fluid ounces or more of such beer to customers for consumption off the premises of such bar or tavern. As used in this section, the term "restaurant bar" means any establishment having a restaurant or similar facility on the premises at least fifty percent of the gross income of which is derived from the sale of prepared meals or food consumed on such premises.

311.200. LICENSES — RETAIL LIQUOR DEALERS — FEES — APPLICATIONS. — 1. No license shall be issued for the sale of intoxicating liquor in the original package, not to be consumed upon the premises where sold, except to a person engaged in, and to be used in connection with, the operation of one or more of the following businesses: a drug store, a cigar and tobacco store, a grocery store, a general merchandise store, a confectionery or delicatessen store, nor to any such person who does not have and keep in his store a stock of goods having a value according to invoices of at least one thousand dollars, exclusive of fixtures and intoxicating liquors. Under such license, no intoxicating liquor shall be consumed on the premises where sold nor shall any original package be opened on the premises of the vendor except as otherwise provided in this law. For every license for sale at retail in the original package, the licensee shall pay to the director of revenue the sum of one hundred dollars per year.

2. For a permit authorizing the sale of malt liquor **[**containing alcohol in excess of three and two-tenths percent by weight and**]** not in excess of five percent by weight by grocers and other merchants and dealers in the original package direct to consumers but not for resale, a fee of fifty dollars per year payable to the director of the department of revenue shall be required. The phrase "original package" shall be construed and held to refer to any package containing three or more standard bottles of beer. **[**This license shall also permit the holders thereof to sell nonintoxicating beer in the original package direct to consumers, but not for resale.**]** Notwithstanding the provisions of section 311.290, any person licensed pursuant to this subsection may also sell malt liquor at retail between the hours of 9:00 a.m. and midnight on Sunday.

3. For every license issued for the sale of malt liquor at retail by drink for consumption on the premises where sold, the licensee shall pay to the director of revenue the sum of fifty dollars per year**[**, which license shall also permit the holder thereof to sell nonintoxicating beer as defined in chapter 312, RSMo**]**. Notwithstanding the provisions of section 311.290, any person licensed pursuant to this subsection may also sell malt liquor at retail between the hours of 9:00 a.m. and midnight on Sunday.

4. For every license issued for the sale of malt liquor and light wines containing not in excess of fourteen percent of alcohol by weight made exclusively from grapes, berries and other fruits and vegetables, at retail by the drink for consumption on the premises where sold, the licensee shall pay to the director of revenue the sum of fifty dollars per year**[**, which license shall also permit the holder thereof to sell nonintoxicating beer as defined in chapter 312, RSMo**]**.

5. For every license issued for the sale of all kinds of intoxicating liquor, at retail by the drink for consumption on premises of the licensee, the licensee shall pay to the director of revenue the sum of three hundred dollars per year, which shall include the sale of intoxicating liquor in the original package.

6. For every license issued to any railroad company, railway sleeping car company operated in this state, for sale of all kinds of intoxicating liquor, as defined in this chapter, at retail for consumption on its dining cars, buffet cars and observation cars, the sum of one hundred dollars per year; except that such license shall not permit sales at retail to be made while such cars are stopped at any station. A duplicate of such license shall be posted in every car where such beverage is sold or served, for which the licensee shall pay a fee of one dollar for each duplicate license.

7. All applications for licenses shall be made upon such forms and in such manner as the supervisor of alcohol and tobacco control shall prescribe. No license shall be issued until the sum prescribed by this section for such license shall be paid to the director of revenue.

311.211. FISHING SKILLS CONTEST, TICKET SALES TO PARTICIPANTS ON PREMISES NOT GROUND TO DENY LICENSE. — Sales of tickets for participation in fishing contests wherein the skill of the participant is an element shall not be construed as gambling or participation in gambling activities for the purpose of administering the provisions of **[**chapters 311 and 312, RSMo,**]** **this chapter** or rules and regulations made pursuant thereto. The division of liquor control shall not deny, suspend or revoke any license issued under those chapters because of the sale of such tickets on the licensed premises.

311.212. LICENSES, SUSPENSION OR REVOCATION OF, VIOLATIONS OCCURRING MORE THAN THREE YEARS PRIOR, NOT VALID GROUNDS. — The division of liquor control shall not suspend, revoke, refuse to renew or refuse to grant a license issued under the provisions of this chapter **[**or chapter 312, RSMo,**]** based on a violation of any provision of this chapter **[**or chapter 312, RSMo,**]** or of any rule or regulation promulgated by the supervisor of liquor control, when such violation occurred more than three years prior to the division's decision to suspend, revoke, refuse to renew or refuse to grant such license.

311.218. FOURTH OF JULY CELEBRATIONS, TEMPORARY PERMITS FOR WINE AND MALT LIQUOR FOR CERTAIN ORGANIZATIONS, FEE. — 1. Other provisions of this chapter to the contrary notwithstanding, a permit for the sale of wine and malt liquor **[**containing alcohol in excess of three and two-tenths percent by weight**]**, for consumption on the premises where sold may be issued to any church, school, civic, service, fraternal, veteran, political, or charitable club or organization for sale of such wine and malt liquor at any picnic, bazaar, fair, festival or similar gathering or event held to commemorate the annual anniversary of the signing of the Declaration of Independence of the United States. Such permit shall be issued only during the period from June fifteenth to July fifteenth annually and only for the day or days named therein and it shall not authorize the sale of wine and malt liquor except between the hours of 10:00 a.m. and midnight and for not more than seven days by any such organization. The permit may be issued to cover more than one place of sale within the general confines of the place where the gathering or event is held; provided, however, no permit shall be issued to any organization which selects or restricts the membership thereof on the basis of race, religion, color, creed, or place of national origin. For the permit, the holder thereof shall pay to the director of revenue the sum of one hundred dollars. No provision of law or rule or regulation of the supervisor shall prevent any wholesaler or distributor from providing customary storage, cooling or dispensing equipment for use by the holder of the permit at such gathering or event.

2. As used in this section the term "wine" means a beverage containing not in excess of fourteen percent of alcohol by weight.

311.260. MORE THAN FIVE LICENSES BY ANY ONE PERSON PROHIBITED, EXCEPTION. — 1. No person, corporation, employee, officer, agent, subsidiary, or affiliate thereof, shall:

(1) Have more than **[**three**]** **five** licenses; or

(2) Be directly or indirectly interested in any business of any other person, corporation, or employee, officer, agent, subsidiary, or affiliate thereof, who sells intoxicating liquor at retail by the drink for consumption on the premises described in any license; or

(3) Sell intoxicating liquor at retail by the drink for consumption at the place of sale at more than **[**three**]** **five** places in this state.

2. Notwithstanding any other provision of this chapter or municipal ordinance to the contrary, for the purpose of determining whether a person, corporation, employee, officer, agent, subsidiary, or affiliate thereof has a disqualifying interest in more than **[**three**]** **five** licenses pursuant to subsection 1 of this section, there shall not be counted any license to sell intoxicating liquor at retail by the drink for consumption on the following premises:

(1) Restaurants where at least fifty percent of the gross income of which is derived from the sale of prepared meals or food consumed on the premises where sold; or

(2) Establishments which have an annual gross income of at least two hundred thousand dollars from the sale of prepared meals or food consumed on the premises where sold; or

(3) Facilities designed for the performance of live entertainment and where the receipts for admission to such performances exceed one hundred thousand dollars per calendar year; or

(4) Any establishment having at least forty rooms for the overnight accommodation of transient guests.

311.265. RETAILER GOING OUT OF BUSINESS IN DEBT TO WHOLESALER, PROCEDURE — NEW LICENSE PROHIBITED. — When a retailer licensed under **[**chapter 311 or chapter 312, RSMo,**]** **this chapter** is delinquent beyond the permissible ordinary commercial credit period, the wholesaler shall notify the supervisor of liquor control in writing of the debt and no new or renewal license shall be issued to the retailer until the reported debt is satisfied. The wholesaler shall immediately notify the supervisor of liquor control in writing when the debt is satisfied. As used in this section, the term "retailer" shall include an individual, corporation, partnership or limited liability company, all officers and directors of such person or entity and all stockholders owning, legally or beneficially, directly or indirectly, ten percent or more of the stock of such person or entity.

311.280. UNLAWFUL FOR LICENSED RETAILER TO PURCHASE FROM OTHER THAN LICENSED WHOLESALER — PROHIBITED ACTS. — 1. It shall be unlawful for any person in this state holding a retail liquor license to purchase any intoxicating liquor except from, by or through a duly licensed wholesale liquor dealer in this state. It shall be unlawful for such retail liquor dealer to sell or offer for sale any intoxicating liquor purchased in violation of the provisions of this section. Any person violating any provision of this section shall be deemed guilty of a misdemeanor.

2. Any retailer licensed pursuant to this chapter shall not:

(1) Sell intoxicating liquor **[**or nonintoxicating beer**]** with an alcohol content of less than five percent by weight to the consumer in an original carton received from the wholesaler that has been mutilated, torn apart, or cut apart; or

(2) Repackage intoxicating liquor **[**or nonintoxicating beer**]** with an alcohol content of less than five percent by weight in a manner misleading to the consumer or that results in required labeling being omitted or obscured.

311.290. TIME FIXED FOR OPENING AND CLOSING PREMISES — CLOSED PLACE DEFINED — PENALTY. — No person having a license issued pursuant to this chapter **[**or chapter 312, RSMo**]**, nor any employee of such person, shall sell, give away, or permit the consumption of any intoxicating liquor in any quantity between the hours of 1:30 a.m. and 6:00 a.m. on weekdays and between the hours of 1:30 a.m. Sunday and 6:00 a.m. Monday, upon or about his or her premises. If the person has a license to sell intoxicating liquor by the drink, his premises shall be and remain a closed place as defined in this section between the hours of 1:30 a.m. and

6:00 a.m. on weekdays and between the hours of 1:30 a.m. Sunday and 6:00 a.m. Monday. Where such licenses authorizing the sale of intoxicating liquor by the drink are held by clubs or hotels, this section shall apply only to the room or rooms in which intoxicating liquor is dispensed; and where such licenses are held by restaurants whose business is conducted in one room only and substantial quantities of food and merchandise other than intoxicating liquors are dispensed, then the licensee shall keep securely locked during the hours and on the days specified in this section all refrigerators, cabinets, cases, boxes, and taps from which intoxicating liquor is dispensed. A "closed place" is defined to mean a place where all doors are locked and where no patrons are in the place or about the premises. Any person violating any provision of this section shall be deemed guilty of a class A misdemeanor. Nothing in this section shall be construed to prohibit the sale or delivery of any intoxicating liquor during any of the hours or on any of the days specified in this section by a wholesaler licensed under the provisions of section 311.180 to a person licensed to sell the intoxicating liquor at retail.

311.300. PERSONS EIGHTEEN YEARS OF AGE OR OLDER MAY SELL OR HANDLE INTOXICATING LIQUOR, WHEN. — 1. Except as provided in subsections 2, 3 and 4 of this section, no person under the age of twenty-one years shall sell or assist in the sale or dispensing of intoxicating liquor **[**or nonintoxicating beer**]**.

2. In any place of business licensed in accordance with section 311.200, **[**or section 312.040, RSMo,**]** persons at least eighteen years of age may stock, arrange displays, operate the cash register or scanner connected to a cash register and accept payment for, and sack for carryout, intoxicating liquor **[**or nonintoxicating beer**]**. Delivery of intoxicating liquor **[**or nonintoxicating beer**]** away from the licensed business premises cannot be performed by anyone under the age of twenty-one years. Any licensee who employs any person under the age of twenty-one years, as authorized by this subsection, shall, when at least fifty percent of the licensee's gross sales does not consist of nonalcoholic sales, have an employee twenty-one years of age or older on the licensed premises during all hours of operation.

3. In any distillery, warehouse, wholesale distributorship, or similar place of business which stores or distributes intoxicating liquor **[**or nonintoxicating beer**]** but which does not sell intoxicating liquor **[**or nonintoxicating beer**]** at retail, persons at least eighteen years of age may be employed and their duties may include the handling of intoxicating liquor **[**or nonintoxicating beer**]** for all purposes except consumption, sale at retail, or dispensing for consumption or sale at retail. Any wholesaler licensed pursuant to this chapter **[**or chapter 312, RSMo,**]** may employ persons of at least eighteen years of age to rotate, stock and arrange displays at retail establishments licensed to sell intoxicating liquor **[**or nonintoxicating beer**]**.

4. Persons eighteen years of age or older may, when acting in the capacity of a waiter or waitress, accept payment for or serve intoxicating liquor **[**or nonintoxicating beer**]** in places of business which sell food for consumption on the premises if at least fifty percent of all sales in those places consists of food; provided that nothing in this section shall authorize persons under twenty-one years of age to mix or serve across the bar intoxicating beverages **[**or nonintoxicating beer**]**.

311.332. WHOLESALE PRICE REGULATION, DISCRIMINATION PROHIBITED — DELIVERY TO CERTAIN ORGANIZATIONS FOR NONRESALE PURPOSES, ALLOWED WHEN — DONATION PERMITTED, WHEN. — 1. **[**Except as provided in subsections 2 and 3 of this section,**]** It shall be unlawful for any wholesaler licensed to sell intoxicating liquor and wine containing alcohol in excess of five percent by weight to persons duly licensed to sell such intoxicating liquor and wine at retail, to discriminate between retailers or in favor of or against any retailer or group of retailers, directly or indirectly, in price, in discounts for time of payment, or in discounts on quantity of merchandise sold, or to grant directly or indirectly any discount, rebate, free goods, allowance or other inducement, excepting a discount not in excess of one percent for quantity of liquor and wine, and a discount not in excess of one percent for payment on or before a

certain date. The delivery of manufacturer rebate coupons by wholesalers to retailers shall not be a violation of this subsection.

2. [Except as provided in subsection 3 of this section, any wholesaler licensed to sell intoxicating liquor and wine containing alcohol in excess of five percent by weight to persons duly licensed to sell such intoxicating liquor and wine at retail may offer a price reduction of not more than four percent of the wholesaler's price schedule for any brand, age, proof, and size bottle or package. Such price reduction shall apply for a thirty-day period, shall not be offered by any wholesaler more than three times in any calendar year, and shall not be offered during successive months.

3. Any wholesaler licensed to sell intoxicating liquor and wine containing alcohol in excess of five percent by weight to persons duly licensed to sell such intoxicating liquor and wine at retail may offer a price reduction of more than four percent of the scheduled price on close-out merchandise. "Close-out merchandise" is any item which has been in the wholesaler's inventory for more than six months. The price of close-out merchandise may be decreased, but shall not be increased, monthly for up to and including twelve consecutive months. A wholesaler shall not purchase any item of intoxicating liquor or wine of the same year and vintage the wholesaler has classified as close-out merchandise during the period of such classification. A wholesaler shall not purchase, sell, or offer to sell any item of intoxicating liquor or wine of the same year and vintage the wholesaler has classified as close-out merchandise until twenty-four months have elapsed since the wholesaler's last offer to sell the item as close-out merchandise.

4.] Manufacturers or wholesalers shall be permitted to donate or deliver or cause to be delivered beer, wine, **or** brandy[, or nonintoxicating beer] for nonresale purposes to any unlicensed person or any licensed retail dealer who is a charitable or religious organization as defined in section 313.005, RSMo, or educational institution, at any location or licensed premises, provided, such beer, wine, **or** brandy[, or nonintoxicating beer] is unrelated to the organization's or institution's licensed retail operation. A charge for admission to an event or activity at which beer, wine, **or** brandy[, or nonintoxicating beer] is available without separate charge shall not constitute resale for the purposes of this subsection. Wine used in religious ceremonies may be sold by wholesalers to a religious organization as defined in section 313.005, RSMo. Any manufacturer or wholesaler providing nonresale items shall keep a record of any deliveries made pursuant to this subsection.

[5.] **3.** Manufacturers, wholesalers, retailers and unlicensed persons may donate wine in the original package to a charitable or religious organization as defined in section 313.005, RSMo, or educational institution for the sole purpose of being auctioned by the organization or institution for fund-raising purposes, provided the auction takes place on a retail-licensed premises and all proceeds from the sale go into a fund of an organization or institution that is unrelated to any licensed retail operation.

311.333. WHOLESALERS, RETURNS OF ALCOHOLIC BEVERAGES TO, SUPERVISOR TO REGULATE — WHOLESALER PRICING TO BE MADE AVAILABLE TO RETAILERS, WHEN. — 1. Any wholesaler licensed under this chapter to sell intoxicating liquors and wines may accept the return of any intoxicating liquor containing alcohol in excess of five percent by weight and wines as provided by rules and regulations promulgated by the supervisor of liquor control, pursuant to chapter 536, RSMo.

2. Any wholesaler licensed to sell intoxicating liquor or wine containing alcohol in excess of five percent by weight to persons duly licensed to sell such intoxicating liquor and wine at retail shall make available to all such retailers, not later than five days prior to the first day of the month in which the pricing is to be effective, information regarding all products which shall be available for sale in the next month. Such information shall include the brand or trade name, capacity of individual packages, nature of contents, age and proof, the per bottle and per case price which shall be offered equally to all retailers, the number of bottles contained in each case, and the size thereof. The price provided to

retailers under this section shall become effective on the first day of the next month and remain in effect until the last day of that month. Supplemental pricing information may be provided to retailers by wholesalers for items that were unintentionally left off a regular monthly item information listing or for new items after approval for sale in Missouri by the Missouri division of alcohol and tobacco control. A wholesaler shall be allowed to sell such items to retailers immediately upon production of such supplemental information.

311.335. LIQUOR SALES BY WHOLESALERS, DELIVERY PRICE — DELAYED SHIPMENT — SALE OF CLOSE-OUT MERCHANDISE PERMITTED, WHEN. — 1. Any wholesaler licensed to sell intoxicating liquor and wine containing alcohol in excess of five percent by weight **[**pursuant to chapter 311**]** shall **[**ship and**]** deliver **such** intoxicating liquor and wine to a retailer **[**in the amount for which the scheduled price set forth on the invoice is in effect**] at the price in effect for that calendar month in which the delivery occurs**.

2. Such wholesaler licensed to sell intoxicating liquor and wine containing alcohol in excess of five percent by weight shall not take an order for delivery in a month subsequent to the month in which the order is taken, provided that **[**on and after the date on which amended price schedules are filed with the supervisor of liquor control**] during the last five business days of each month**, orders may be taken for delivery in the following month at the price in effect for that following month and provided, further, that for any order received within the last **[**three**] five** business days of a month, the wholesaler may, with the consent of the retailer placing such order **[**or upon the request of the retailer placing such order**]**, deliver such order to the retailer within the first **[**three**] five** business days of the month following the month in which the order was received by such wholesaler at the price in effect for the month in which the order was placed. Such order received within the last **[**three**] five** business days of a month and delivered within the first **[**three**] five** business days of the subsequent month shall be known as a "delayed shipment". A delayed shipment shall be deemed delivered on the last business day of the month in which the order was received for purposes of implementing and enforcing rules and regulations of the supervisor of **[**liquor**] alcohol and tobacco** control relating to invoicing, discounts and ordinary commercial credit terms.

3. Any wholesaler licensed to sell intoxicating **[**liquor or wine**] liquors and wines** containing alcohol in excess of five percent by weight **[**violating any provision of this section shall be subject to, and punished pursuant to, the penalties and provisions of section 311.680**] shall be allowed to offer for sale intoxicating liquors or wines containing alcohol in excess of five percent by weight to persons duly licensed to sell intoxicating liquors and wines at retail at prices which are below the wholesaler's cost only if such intoxicating liquors and wines are designated to be close-out merchandise. Wholesalers shall designate intoxicating liquors and wines containing alcohol in excess of five percent by weight to be close-out merchandise by identifying them such as close-out items when providing monthly pricing information to retailers as required in section 311.333. A wholesaler shall not purchase any intoxicating liquor or wine containing alcohol in excess of five percent by weight while such intoxicating liquor or wine is designated as close-out merchandise. Intoxicating liquors or wines containing alcohol in excess of five percent by weight that are designated as close-out merchandise shall be designated as close-out merchandise for not less than six consecutive months. After such time, a wholesaler may remove items from close-out designation by no longer identifying them as close-out items when providing monthly pricing information to retailers as required in section 311.333**.

311.338. VIOLATION OF WHOLESALE PRICE REGULATIONS, MISDEMEANOR — SUSPENSION OF LICENSE. — Alleged violations of sections 311.332, 311.333, and 311.335 shall be reported to the supervisor of alcohol and tobacco control. Any person violating any provisions of sections 311.332 **[**to 311.336**] , 311.333, and 311.335** shall be deemed guilty of a misdemeanor, and it shall be the duty of the supervisor of **[**liquor**] alcohol and tobacco** control

to suspend or revoke the license of any wholesaler violating any of the provisions of sections 311.332 [to 311.336] **, 311.333, and 311.335**.

311.360. MISREPRESENTATION OF BRAND OF LIQUOR UNLAWFUL, PENALTY — EXCEPTIONS. — 1. No person holding a license or permit shall sell malt liquor, or any other intoxicating liquor in this state, or shall offer for sale any such malt liquor, or other intoxicating liquor, whatsoever, brewed, manufactured or distilled by one manufacturer, in substitution for, or with the representation that any such malt liquor or other intoxicating liquor, is the product of any other brewer, manufacturer or distiller. Whosoever shall violate the provisions of this section shall be deemed guilty of a misdemeanor.

2. Notwithstanding the provisions of subsection 1 of this section, no person holding a license or permit shall be deemed guilty of a misdemeanor for offering for sale, or for the sale of, wine or brandy so long as the manufacturer of the brandy or the wine manufacturer has provided the supervisor of alcohol and tobacco control with a copy of the certificate of label approval issued by the Alcohol and Tobacco Tax and Trade Bureau, and if necessary, has properly registered such label or name with the appropriate state agency.

311.480. EATING PLACES, DRINKING OF INTOXICATING LIQUOR ON PREMISES, LICENSE REQUIRED, WHEN, HOURS — REGULATIONS — PENALTIES — EXCEPTIONS. — 1. It shall be unlawful for any person operating any premises where food, beverages or entertainment are sold or provided for compensation, who does not possess a license for the sale of intoxicating liquor [or nonintoxicating beer], to permit the drinking or consumption of intoxicating liquor [or nonintoxicating beer] in the premises, without having a license as in this section provided.

2. Application for such license shall be made to the supervisor of alcohol and tobacco control on forms to be prescribed by him, describing the premises to be licensed and giving all other reasonable information required by the form. The license shall be issued upon the payment of the fee required in this section. A license shall be required for each separate premises and shall expire on the thirtieth day of June next succeeding the date of such license. The license fee shall be sixty dollars per year and the applicant shall pay five dollars for each month or part thereof remaining from the date of the license to the next succeeding first of July. Applications for renewals of licenses shall be filed on or before the first of May of each year.

3. The drinking or consumption of intoxicating liquor [or nonintoxicating beer] shall not be permitted in or upon the licensed premises by any person under twenty-one years of age, or by any other person between the hours of 1:30 a.m. and 6:00 a.m. on any weekday, and between the hours of 1:30 a.m. Sunday and 6:00 a.m. Monday. Licenses issued hereunder shall be conditioned upon the observance of the provisions of this section and the regulations promulgated thereunder governing the conduct of premises licensed for the sale of intoxicating liquor [or nonintoxicating beer] by the drink. The provision of this section regulating the drinking or consumption of intoxicating liquor [or nonintoxicating beer] between certain hours and on Sunday shall apply also to premises licensed under this chapter to sell intoxicating liquor [or nonintoxicating beer] by the drink. In any incorporated city having a population of more than twenty thousand inhabitants, the board of aldermen, city council, or other proper authorities of incorporated cities may, in addition to the license fee required in this section, require a license fee not exceeding three hundred dollars per annum, payable to the incorporated cities, and provide for the collection thereof; make and enforce ordinances regulating the hours of consumption of intoxicating liquors [or nonintoxicating beer] on premises licensed hereunder, not inconsistent with the other provisions of this law, and provide penalties for the violation thereof. No person shall be granted a license hereunder unless such person is of good moral character and a qualified legal voter and a taxpaying citizen of the county, town, city or village, nor shall any corporation be granted a license hereunder unless the managing officer of such

corporation is of good moral character and a qualified legal voter and taxpaying citizen of the county, town, city or village.

4. Any premises operated in violation of the provisions of this section, or where intoxicating liquor **[**or nonintoxicating beer**]** is consumed in violation of this section, is hereby declared to be a public and common nuisance, and it shall be the duty of the supervisor of alcohol and tobacco control and of the prosecuting or circuit attorney of the city of St. Louis, and the prosecuting attorney of the county in which the premises are located, to enjoin such nuisance.

5. Any person operating any premises, or any employee, agent, representative, partner, or associate of such person, who shall knowingly violate any of the provisions of this section, or any of the laws or regulations herein made applicable to the conduct of such premises, is guilty of a class A misdemeanor.

6. The supervisor of alcohol and tobacco control is hereby empowered to promulgate regulations necessary or reasonably designed to enforce or construe the provisions of this section, and is empowered to revoke or suspend any license issued hereunder, as provided in this chapter, for violation of this section or any of the laws or regulations herein made applicable to the conduct of premises licensed hereunder.

7. Nothing in this section shall be construed to prohibit the sale or delivery of any intoxicating liquor **[**or nonintoxicating beer**]** during any of the hours or on any of the days specified in this section by a wholesaler licensed under the provisions of section 311.180 to a person licensed to sell the intoxicating liquor **[**or nonintoxicating beer**]** at retail.

8. No intoxicating liquor **[**or nonintoxicating beer**]** may be served or sold on any premises used as a polling place on election day.

311.482. TEMPORARY PERMIT FOR SALE BY DRINK MAY BE ISSUED TO CERTAIN ORGANIZATIONS, WHEN, DURATION — COLLECTION OF SALES TAXES, NOTICE TO DIRECTOR OF REVENUE. — 1. Notwithstanding any other provision of this chapter **[**or chapter 312, RSMo**]**, a permit for the sale of intoxicating liquor as defined in section 311.020, **[**and nonintoxicating beer as defined in section 312.010, RSMo,**]** for consumption on premises where sold may be issued to any church, school, civic, service, fraternal, veteran, political or charitable club or organization for the sale of such intoxicating liquor at a picnic, bazaar, fair, or similar gathering. The permit shall be issued only for the day or days named therein and it shall not authorize the sale of intoxicating liquor for more than seven days by any such club or organization.

2. To secure the permit, the applicant shall complete a form provided by the supervisor, but no applicant shall be required to furnish a personal photograph as part of the application. The applicant shall pay a fee of twenty-five dollars for such permit.

3. If the event will be held on a Sunday, the permit shall authorize the sale of intoxicating liquor **[**and nonintoxicating beer**]** on that day beginning at 11:00 a.m.

4. At the same time that an applicant applies for a permit under the provisions of this section, the applicant shall notify the director of revenue of the holding of the event and by such notification, by certified mail, shall accept responsibility for the collection and payment of any applicable sales tax. Any sales tax due shall be paid to the director of revenue within fifteen days after the close of the event, and failure to do so shall result in a liability of triple the amount of the tax due plus payment of the tax, and denial of any other permit for a period of three years. Under no circumstances shall a bond be required from the applicant.

5. No provision of law or rule or regulation of the supervisor shall be interpreted as preventing any wholesaler or distributor from providing customary storage, cooling or dispensing equipment for use by the permit holder at such picnic, bazaar, fair or similar gathering.

311.485. TEMPORARY LOCATION FOR LIQUOR BY THE DRINK, CATERERS — PERMIT AND FEE REQUIRED — OTHER LAWS APPLICABLE, EXCEPTION. — 1. The supervisor of liquor control may issue a temporary permit to caterers and other persons holding licenses to sell intoxicating liquor by the drink at retail for consumption on the premises pursuant to the

provisions of this chapter who furnish provisions and service for use at a particular function, occasion or event at a particular location other than the licensed premises, but not including a "festival" as defined in chapter 316, RSMo. The temporary permit shall be effective for a period not to exceed one hundred sixty-eight consecutive hours, and shall authorize the service of alcoholic beverages at such function, occasion or event during the hours at which alcoholic beverages may lawfully be sold or served upon premises licensed to sell alcoholic beverages for on-premises consumption. For every permit issued pursuant to the provisions of this section, the permittee shall pay to the director of revenue the sum of ten dollars for each calendar day, or fraction thereof, for which the permit is issued.

2. Except as provided in subsection 3 of this section, all provisions of the liquor control law and the ordinances, rules and regulations of the incorporated city, or the unincorporated area of any county, in which is located the premises in which such function, occasion or event is held shall extend to such premises and shall be in force and enforceable during all the time that the permittee, its agents, servants, employees, or stock are in such premises. Except for Missouri-produced wines in the original package, the provisions of this section shall not include the sale of packaged goods covered by this temporary permit.

3. Notwithstanding any other law to the contrary, any caterer who possesses a valid state and valid local liquor license may deliver alcoholic beverages in the course of his or her catering business. A caterer who possesses a valid state and valid local liquor license need not obtain a separate license for each city the caterer delivers in, so long as such city permits any caterer to deliver alcoholic beverages within the city.

4. To assure and control product quality, wholesalers may, but shall not be required to, give a retailer credit for intoxicating liquor with an alcohol content of less than five percent by weight **[**or nonintoxicating beer**]** delivered and invoiced under the catering permit number, but not used, if the wholesaler removes the product within seventy-two hours of the expiration of the catering permit issued pursuant to this section.

311.486. SPECIAL LICENSE, DRINK AT RETAIL FOR CONSUMPTION ON THE PREMISES, WHEN — DURATION OF LICENSE — FEES. — 1. The supervisor of alcohol and tobacco control may issue a special license to caterers and other persons holding licenses to sell intoxicating liquor by the drink at retail for consumption on the premises pursuant to the provisions of this chapter who furnish provisions and service for use at a particular function, occasion, or event at a particular location other than the licensed premises, but not including a "festival" as defined in chapter 316, RSMo. The special license shall be effective for a maximum of fifty days during any year, and shall authorize the service of alcoholic beverages at such function, occasion, or event during the hours at which alcoholic beverages may lawfully be sold or served upon premises licensed to sell alcoholic beverages for on-premises consumption. For every special license issued pursuant to the provisions of this subsection, the licensee shall pay to the director of revenue the sum of five hundred dollars a year payable at the same time and in the same manner as its other license fees.

2. The supervisor of alcohol and tobacco control may issue a special license to caterers and other persons holding licenses to sell intoxicating liquor by the drink at retail for consumption on the premises pursuant to the provisions of this chapter who furnish provisions and service for use at a particular function, occasion, or event at a particular location other than the licensed premises, but not including a "festival" as defined in chapter 316, RSMo. The special license shall be effective for an unlimited number of functions during the year, and shall authorize the service of alcoholic beverages at such function, occasion, or event during the hours at which alcoholic beverages may lawfully be sold or served upon premises licensed to sell alcoholic beverages for on-premises consumption. For every special license issued pursuant to the provisions of this subsection, the licensee shall pay to the director of revenue the sum of one thousand dollars a year payable at the same time and in the same manner as its other license fees.

3. Caterers issued a special license pursuant to subsections 1 and 2 of this section shall report to the supervisor of alcohol and tobacco control the location of each function three business days in advance. The report of each function shall include permission from the property owner and city, description of the premises, and the date or dates the function will be held.

4. Except as provided in subsection 5 of this section, all provisions of the liquor control law and the ordinances, rules and regulations of the incorporated city, or the unincorporated area of any county, in which is located the premises in which such function, occasion, or event is held shall extend to such premises and shall be in force and enforceable during all the time that the licensee, its agents, servants, employees, or stock are in such premises. Except for wines in the original package, the provisions of this section shall not include the sale of packaged goods covered by this special license.

5. Notwithstanding any other law to the contrary, any caterer who possesses a valid state and valid local liquor license may deliver alcoholic beverages, in the course of his or her catering business. A caterer who possesses a valid state and valid local liquor license need not obtain a separate license for each city the caterer delivers in, so long as such city permits any caterer to deliver alcoholic beverages within the city.

6. To assure and control product quality, wholesalers may, but shall not be required to, give a retailer credit for intoxicating liquor with an alcohol content of less than five percent by weight **[**or nonintoxicating beer**]** delivered and invoiced under the catering license number, but not used, if the wholesaler removes the product within seventy-two hours of the expiration of the catering function.

311.487. ANNUAL LICENSE FOR BEER AND WINE SALES AT STATE FAIR, ISSUED WHEN, FEE — SUBJECT TO LAWS OF MUNICIPALITY. — 1. The supervisor of liquor control may issue to any person holding a concessionaire's contract, issued by the Missouri state fair, an annual license effective for the fourteen-day period when the fair is held and for any additional periods of time approved by the director of the fair which shall authorize the sale of malt liquor **[**containing alcohol in excess of three and two-tenths percent by weight**]** and Missouri-produced wines, for consumption on the premises where sold, on the Missouri state fairgrounds and, in the case of Missouri-produced wines, in the original package, on each day of the week within any period which has been approved by the director of the fair and during the hours at which such malt liquor or wine may lawfully be sold or served upon premises licensed to sell malt liquor or wine for on-premises consumption in the incorporated city in which the Missouri state fair is located. For every permit issued pursuant to the provisions of this section, the permittee shall pay to the director of revenue the sum of one hundred dollars for such license, except that for licenses issued to the concessionaire of the premises on the fairgrounds known as the "grandstand" and to the concessionaire of the premises on the fairgrounds known as the "exhibition center", there shall be paid to the director of revenue the sum of three hundred dollars for such licenses.

2. All provisions of the liquor control law and the ordinances, rules and regulations of the incorporated city in which is located the Missouri state fair shall extend to such premises and shall be in force and enforceable during all the time that the permittee, its agents, servants, employees or stock are on such premises.

311.489. PERMIT FOR SALES AT SPECIFIED FESTIVAL EVENTS, ISSUED WHEN — PROMOTIONAL ASSOCIATION DEFINED — PROCEDURE — PERMIT HOLDER RESPONSIBLE FOR ANY ALCOHOL VIOLATIONS, CIVIL FINE — EXPIRES, WHEN (KANSAS CITY). — **1. After obtaining the approvals as described in this section, a permit for the sale of intoxicating liquor as defined in section 311.020, and nonintoxicating beer as defined in section 312.010, RSMo, for consumption on premises where sold, and to conduct specified festival events, shall be issued by the division of alcohol and tobacco control to any festival district, located in a community improvement district in any home rule city with more than four hundred thousand inhabitants and located in more than one county, that includes three or more**

businesses that are licensed bars, nightclubs, restaurants, or other entertainment venues and a common area that is closed to vehicle traffic, provided that the permit is held by a promotional association. A "promotional association" is defined as an entity formed by property owners who own or operate fifty percent or more of the square feet of bars, nightclubs, restaurants, and other entertainment venues located within the proposed festival district.

2. The promotional association shall obtain a permit from the division if the promotional association submits a plan to the governing body of the city and such a plan receives approval from the city governing body. The plan submitted shall include the legal description of the district and the common area within which such festivals shall be held, the name and address and responsible person for each business participating in the promotional association, the specific calendar of events for the district which shall not exceed twenty-four such events annually and shall include the dates and times of any such events, a description of the proposed festival activities, including any proposed public street closures if applicable, proof of adequate insurance, and a detailed description of security for any proposed festivals which shall be provided at the sole expense of the promotional association. Such detailed description of security shall be approved by the city police department and the city department of liquor control prior to the plan being approved by the city. Each event on the calendar shall not exceed forty-eight hours in length. No more than two events shall be held in any calendar month. Such permit shall cost three hundred dollars per year.

3. Prior to approving the plan, the city shall notify all property owners in the proposed district and within five hundred feet of such district's boundaries. The city shall hold a public hearing at least thirty days after providing such notice to obtain public views and comments on the issue. The city shall not approve any plan unless the promotional association has obtained written approval from at least fifty percent of the property owners within the district and within one hundred eighty-five feet of its borders. If the written approvals required under this section are obtained and the city approves the plan, the promotional association may conduct the events described in the plan and may sell liquor for consumption within the district common areas. Such liquor sales may only occur between 9:00 a.m. and 1:00 a.m. In addition, for no more than ten twenty-four hour periods in a year, such promotional association may permit customers to leave an establishment within the district after purchasing an alcoholic beverage and consume the beverage in the district common areas or another licensed establishment within the district. All containers allowed to be removed from an establishment shall be marked with the name or logo of the establishment where it was purchased. No person shall be allowed to take any alcoholic beverage outside the boundaries of the festival district.

4. If participating in a promotional association event, every bar, nightclub, restaurant, promotional association, or other entertainment venue that serves alcoholic beverages within the festival district shall use disposable paper, plastic, or foam cups or other light-weight containers for all alcoholic beverages that the bar, nightclub, restaurant, promotional association, or other entertainment venue sells within the festival district boundaries for consumption in the district common area.

5. Minors shall not be allowed to enter the festival district during a festival event that serves liquor.

6. The holder of the permit is solely responsible for any alcohol violations occurring within the common areas. For any violation of this chapter or of any rule or regulation of the supervisor of alcohol and tobacco control, the promotional association may be assessed a civil fine of not more than five thousand dollars. If a promotional association is found to be responsible for such violations at three separate events, then such promotional association shall not seek approval for subsequent plans without the prior written consent of the supervisor of alcohol and tobacco control. The promotional

association's then current plan shall be deemed terminated, and the businesses participating in the promotional association's events shall not participate in activities permitted by subsection 3 of this section without prior written consent from the supervisor of alcohol and tobacco control.

7. The provisions of this section shall expire two years after the effective date of this section.

311.490. INGREDIENTS OF BEER — INTOXICATING MALT LIQUOR. — No person, partnership or corporation engaged in the brewing, manufacture or sale of beer as defined, in this chapter, or other intoxicating malt liquor, shall use in the manufacture or brewing thereof, or shall sell any such beer or other intoxicating malt liquor which contains ingredients not in compliance with the following standards:

(1) Beer shall be brewed from malt or a malt substitute, which only includes rice, grain of any kind, bean, glucose, sugar, and molasses. Honey, fruit, fruit juices, fruit concentrate, herbs, spices, and other food materials may be used as adjuncts in fermenting beer;

(2) Flavor and other nonbeverage ingredients containing alcohol may be used in producing beer, but may contribute to no more than forty-nine percent of the overall alcohol content of the finished beer. In the case of beer with an alcohol content of more than six percent by volume, no more than one and one-half percent of the volume of the beer may consist of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol; and

(3) Beer, intoxicating malt liquor, and malt beverages, as defined in this section, shall not be subject to the requirements of **[**subsections**]** **subsection** 1**[**, 2, and 3**]** of section 311.332 and sections **[**311.334 to**]** **311.335 and** 311.338.

311.520. FEE FOR INSPECTING AND GAUGING MALT LIQUORS. — As a charge for the inspection and gauging of all malt liquors, **[**containing alcohol in excess of three and two-tenths percent by weight,**]** the director of revenue shall collect the sum of one dollar and eighty-six cents per barrel.

311.610. SUPERVISOR OF LIQUOR CONTROL — APPOINTMENT, BOND, DUTIES, ASSISTANTS — MINIMUM COMPENSATION PROVIDED. — 1. For the purpose of carrying out the provisions of this chapter**[**,**]** **and** the liquor control law**[**, and the provisions of chapter 312, RSMo**]**, the governor, by and with the advice and consent of the senate, shall appoint some suitable person of good moral character over the age of thirty years, who has been a qualified elector in the state of Missouri for at least five years next before the date of his appointment, as supervisor of liquor control. The supervisor of liquor control shall serve at the pleasure and under the supervision and direction of the governor.

2. The supervisor of liquor control shall devote his entire time to the duties of his office and, with the approval of the governor, appoint and employ all agents, assistants, deputies, inspectors and employees necessary for the proper enforcement and administration of the provisions of the liquor control law **[**and the provisions of chapter 312, RSMo,**]** whose salaries shall be fixed by the governor, but no salary shall be greater than that paid to employees in other state departments for similar work, except that no salary of an agent directly engaged in the enforcement of the liquor control law shall be less than eight thousand dollars a year. In addition to his salary, the supervisor of liquor control and each of the agents, assistants, deputies, inspectors and employees shall be reimbursed for all expenses necessarily incurred in the discharge of their duties. No expenses shall be allowed for sustenance to any supervisor, agent, assistant, deputy, inspector or employee while in the city or town of his residence.

3. Before entering upon the discharge of his duties, the supervisor of liquor control shall take and subscribe to an oath to support the Constitution of the United States and of this state, and faithfully demean himself in office, and shall also execute bond to the state of Missouri in the penal sum of ten thousand dollars, conditioned for the faithful performance of the duties of

his office, which bond shall be approved by the governor and deposited with the secretary of state and kept in his office; the premiums of the bond shall be paid by the state out of funds appropriated for that purpose.

4. The supervisor of liquor control shall issue licenses for the manufacture and sale of ardent spirits, malt, vinous, fermented and every class of liquors used as beverages **[**and having an alcoholic content in excess of three and two-tenths percent by weight as in this chapter provided**]**. The supervisor of liquor control shall keep a record of all intoxicating liquor manufactured, brewed or sold in this state by every brewery, distiller, manufacturer, distributor or wholesaler, and make a complete report of the same to the governor at the end of each calendar year, or as soon thereafter as possible.

311.630. PEACE OFFICERS — AUTHORIZED TO MAKE ARRESTS FOR CERTAIN VIOLATIONS — METHOD OF SELECTION — DUTY OF SUPERVISOR. — 1. The supervisor of alcohol and tobacco control and employees to be selected and designated as peace officers by the supervisor of alcohol and tobacco control are hereby declared to be peace officers of the state of Missouri, with full power and authority to make arrests and searches and seizures only for violations of the provisions of **[**chapters 311 and 312, RSMo,**]** **this chapter** relating to intoxicating liquors **[**and nonintoxicating beer**]**, and sections 407.924 to 407.934, RSMo, relating to tobacco products, and to serve any process connected with the enforcement of such laws. The peace officers so designated shall have been previously appointed and qualified under the provisions of section 311.620 and shall be required to hold a valid peace officer license pursuant to chapter 590, RSMo.

2. The supervisor of alcohol and tobacco control shall furnish such peace officers with credentials showing their authority and a special badge, which they shall carry on their person at all times while on duty. The names of the peace officers so designated shall be made a matter of public record in the office of the supervisor of alcohol and tobacco control.

3. All fees for the arrest and transportation of persons arrested and for the service of writs and process shall be the same as provided by law in criminal proceedings and shall be taxed as costs.

311.665. SALES AND USE TAX MUST BE PAID TO OBTAIN LICENSE — STATEMENT REQUIRED. — Before any license is issued or renewed under the provisions of chapter 311 **[**or 312, RSMo**]**, the supervisor of liquor control shall require a statement from the director of revenue that the applicant has paid all sales and use taxes due, including all penalties and interest or does not owe any sales or use tax.

311.680. DISORDERLY PLACE, WARNING, PROBATION, SUSPENSION OR REVOCATION OF LICENSE, WHEN, NOTICE — CIVIL PENALTIES — MEET AND CONFER OPPORTUNITY, WHEN. — 1. Whenever it shall be shown, or whenever the supervisor of liquor control has knowledge, that a person licensed hereunder has not at all times kept an orderly place or house, or has violated any of the provisions of this chapter, the supervisor of liquor control may, warn, place on probation on such terms and conditions as the supervisor of liquor control deems appropriate for a period not to exceed twelve months, suspend or revoke the license of that person, but the person shall have ten days' notice of the application to warn, place on probation, suspend or revoke the person's license prior to the order of warning, probation, revocation or suspension issuing.

2. Any wholesaler licensed pursuant to this chapter **[**or chapter 312, RSMo,**]** in lieu of, or in addition to, the warning, probation, suspension or revocation authorized in subsection 1 of this section, may be assessed a civil penalty by the supervisor of liquor control of not less than one hundred dollars or more than twenty-five hundred dollars for each violation.

3. Any solicitor licensed pursuant to this chapter **[**or chapter 312, RSMo,**]** in lieu of the suspension or revocation authorized in subsection 1 of this section, may be assessed a civil

penalty or fine by the supervisor of liquor control of not less than one hundred dollars nor more than five thousand dollars for each violation.

4. Any retailer with less than five thousand occupant capacity licensed pursuant to this chapter [or chapter 312, RSMo,] in lieu of the suspension or revocation authorized by subsection 1 of this section may be assessed a civil penalty or fine by the supervisor of liquor control of not less than fifty dollars nor more than one thousand dollars for each violation.

5. Any retailer with five thousand or more occupant capacity licensed pursuant to this chapter [or chapter 312, RSMo,] in lieu of the suspension or revocation authorized by subsection 1 of this section, may be assessed a civil penalty or fine by the supervisor of liquor control of not less than fifty dollars nor more than five thousand dollars for each violation.

6. Any aggrieved person may appeal to the administrative hearing commission in accordance with section 311.691.

7. In order to encourage the early resolution of disputes between the supervisor of liquor control and licensees, the supervisor of liquor control, prior to issuing an order of warning, probation, revocation, suspension, or fine, shall provide the licensee with the opportunity to meet or to confer with the supervisor of liquor control, or his or her designee, concerning the alleged violations. At least ten days prior to such meeting or conference, the supervisor shall provide the licensee with notice of the time and place of such meeting or conference, and the supervisor of liquor control shall also provide the licensee with a written description of the specific conduct for which discipline is sought, a citation of the law or rules allegedly violated, and, upon request, copies of any violation report or any other documents which are the basis for such action. Any order of warning, probation, revocation, suspension, or fine shall be effective no sooner than thirty days from the date of such order.

311.685. CIVIL ACTIONS PERMITTED, WHEN. — 1. Any retail licensee selling intoxicating liquor [or nonintoxicating beer] under this chapter [or chapter 312, RSMo,] and aggrieved by official action of the supervisor affecting the licensee, may bring a civil action against any person who is the proximate cause of such official action by the supervisor, if the violation occurred on or about the premises of the retail licensee. If a judgment is entered in favor of the licensee, the court shall award the retail licensee civil damages up to an amount of five thousand dollars and shall award reasonable court costs and attorney fees.

2. No civil action shall be brought under this section against any employee of the supervisor of alcohol and tobacco control or any law enforcement officer.

311.722. ALCOHOL AND TOBACCO CONTROL, MINORS NOT TO BE USED IN ENFORCEMENT, EXCEPTIONS — STANDARDS — MINORS IMMUNE FROM LIABILITY, WHEN. — 1. The supervisor of alcohol and tobacco control shall not use minors to enforce the laws of this chapter [or chapter 312, RSMo,] unless the supervisor promulgates rules and regulations that establish standards for the use of minors. The standards shall include those in subsection 2 of this section.

2. The supervisor shall establish, by July 1, 2006, permissive standards for the use of minors in investigations by any state, county, municipal or other local law enforcement authority, and which shall, at a minimum, provide for the following:

(1) The minor shall be eighteen or nineteen years of age;

(2) The minor shall have a youthful appearance and the minor, if a male, shall not have facial hair or a receding hairline;

(3) The minor shall carry his or her own identification showing the minor's correct date of birth and shall, upon request, produce such identification to the seller of the intoxicating liquor [or nonintoxicating beer] at the licensed establishment;

(4) The minor shall answer truthfully any questions about his or her age and shall not remain silent when asked questions regarding his or her age, nor misrepresent anything in order to induce a sale of intoxicating liquor [or nonintoxicating beer].

3. The supervisor of alcohol and tobacco control shall not participate with any state, county, municipal, or other local law enforcement agency, nor discipline any licensed establishment when any state, county, municipal, or other law enforcement agency chooses not to follow the supervisor's permissive standards.

4. Any minors used in investigations under this section shall be exempt from any violations under this chapter **[**and chapter 312, RSMo,**]** during the time they are under direct control of the state, county, municipal, or other law enforcement authorities.

313.075. BINGO NOT DEEMED GAMBLING — LICENSED SALES OR CONSUMPTION OF BEER AND ALCOHOLIC BEVERAGES NOT PROHIBITED. — The conduct or playing games of bingo under the provisions of sections 313.005 to 313.080 does not constitute gambling or gambling activities and the power of the division of liquor control to prohibit the licensing of any premises on which gambling or gambling activities are conducted or played, or to prohibit the sale or consumption of beer or alcoholic beverage on any premises on which gambling or gambling activities are conducted or played, shall not apply where the only activity is the conduct or playing of games of bingo under the provisions of sections 313.005 to 313.080. Any licensee under sections 313.005 to 313.080 may, if such licensee meets all other requirements of the liquor licensing laws of this state, be licensed by the division of liquor control as provided in **[**chapters 311 and 312**]** **chapter 311**, RSMo, and the conduct or playing of games of bingo under the provisions of sections 313.005 to 313.080 shall not, by itself, be a reason for refusal to license or for suspension or revocation of a license under the provisions of chapter 311 **[**or 312**]**, RSMo.

313.340. CONSTITUTIONAL PROHIBITION CONSTRUED — NO DENIAL OF LIQUOR LICENSE. — 1. Notwithstanding any other provision of law to the contrary, participation by a person, firm, corporation or organization in any aspect of the state lottery in accordance with sections 313.200 to 313.350 shall not be construed to be a lottery or gift enterprise in violation of article III, section 39 of the Constitution of Missouri.

2. The sale of lottery tickets or shares in accordance with sections 313.200 to 313.350 shall not constitute a valid reason to refuse to issue or renew or to revoke or suspend any license or permit issued under the provisions of chapter 311 **[**or 312**]**, RSMo.

313.665. PARI-MUTUEL WAGERING OR PRIZES GIVEN BY CHARITIES NOT DEEMED GAMBLING, WHEN — NOT GROUNDS FOR DENIAL OF LIQUOR OR BEER LICENSES. — 1. Notwithstanding any other provision of law to the contrary, pari-mutuel wagering on horses at licensed tracks shall not be considered to be "gambling" as that term is used in any law or regulation.

2. Pari-mutuel wagering conducted in accordance with the provisions of sections 313.500 to 313.710 shall not constitute a valid reason to refuse to issue or renew or to revoke or suspend any license or permit issued under the provisions of chapter 311, RSMo**[**, or chapter 312, RSMo**]**.

3. The giving of door prizes or other gifts by lot or chance after payment of a price by members or guests of a charitable organization which has obtained an exemption from payment of federal income taxes as provided in section 501(c)(3) of the Internal Revenue Code of 1954, as amended, shall not constitute a valid reason to refuse to issue or renew or to revoke or suspend any license or permit issued under the provisions of chapter 311, RSMo**[**, or chapter 312, RSMo**]**.

313.840. LIQUOR LICENSES ON BOATS AND PREMISES, COMMISSION TO AUTHORIZE — MICROBREWER'S LICENSE ISSUED, WHEN — JUDICIAL REVIEW OF ALL COMMISSION DECISIONS, APPEAL. — 1. The conduct of or playing of any games on any licensed excursion gambling boat does not constitute gambling or gambling activities and the power of the division

of liquor control to prohibit the licensing of any premises on which gambling or gambling activities are conducted or played, or to prohibit the consumption or sale of beer or alcoholic beverage on any premises, shall not apply where the premises is duly licensed by the commission. Notwithstanding the provisions of chapter 311 [or 312], RSMo, the commission shall be the sole liquor licensing authority for liquor service aboard any excursion gambling boat and any facility neighboring an excursion gambling boat which is owned and operated by an excursion gambling boat licensee. The division of liquor control may issue a microbrewer's license pursuant to section 311.195, RSMo, for manufacturing on the premises of such boat or neighboring facility. The commission shall establish rules and regulations for the service of liquor on any premises licensed for the service of liquor by the commission, except that no rule or regulation adopted by the commission shall allow any person under the age of twenty-one to consume alcoholic beverages on any premises licensed for the service of liquor by the commission. All criminal provisions of chapter 311 [or 312], RSMo, shall be applicable to liquor service aboard any premises licensed for the service of liquor by the commission.

2. Judicial review of all commission decisions relating to excursion gambling boat operations shall be directly to the state court of appeals for the western district of Missouri and shall not be subject to the provisions of chapter 621, RSMo.

571.107. ENDORSEMENT DOES NOT AUTHORIZE CONCEALED FIREARMS, WHERE — PENALTY FOR VIOLATION. — 1. A concealed carry endorsement issued pursuant to sections 571.101 to 571.121 or a concealed carry endorsement or permit issued by another state or political subdivision of another state shall authorize the person in whose name the permit or endorsement is issued to carry concealed firearms on or about his or her person or vehicle throughout the state. No driver's license or nondriver's license containing a concealed carry endorsement issued pursuant to sections 571.101 to 571.121 or a concealed carry endorsement or permit issued by another state or political subdivision of another state shall authorize any person to carry concealed firearms into:

(1) Any police, sheriff, or highway patrol office or station without the consent of the chief law enforcement officer in charge of that office or station. Possession of a firearm in a vehicle on the premises of the office or station shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(2) Within twenty-five feet of any polling place on any election day. Possession of a firearm in a vehicle on the premises of the polling place shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(3) The facility of any adult or juvenile detention or correctional institution, prison or jail. Possession of a firearm in a vehicle on the premises of any adult, juvenile detention, or correctional institution, prison or jail shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(4) Any courthouse solely occupied by the circuit, appellate or supreme court, or any courtrooms, administrative offices, libraries or other rooms of any such court whether or not such court solely occupies the building in question. This subdivision shall also include, but not be limited to, any juvenile, family, drug, or other court offices, any room or office wherein any of the courts or offices listed in this subdivision are temporarily conducting any business within the jurisdiction of such courts or offices, and such other locations in such manner as may be specified by supreme court rule pursuant to subdivision (6) of this subsection. Nothing in this subdivision shall preclude those persons listed in subdivision (1) of subsection 2 of section 571.030 while within their jurisdiction and on duty, those persons listed in subdivisions (2) and (4) of subsection 2 of section 571.030, or such other persons who serve in a law enforcement capacity for a court as may be specified by supreme court rule pursuant to subdivision (6) of this subsection from carrying a concealed firearm within any of the areas described in this subdivision. Possession of a firearm in a vehicle on the premises of any of the areas listed in this

subdivision shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(5) Any meeting of the governing body of a unit of local government; or any meeting of the general assembly or a committee of the general assembly, except that nothing in this subdivision shall preclude a member of the body holding a valid concealed carry endorsement from carrying a concealed firearm at a meeting of the body which he or she is a member. Possession of a firearm in a vehicle on the premises shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(6) The general assembly, supreme court, county or municipality may by rule, administrative regulation, or ordinance prohibit or limit the carrying of concealed firearms by endorsement holders in that portion of a building owned, leased or controlled by that unit of government. Any portion of a building in which the carrying of concealed firearms is prohibited or limited shall be clearly identified by signs posted at the entrance to the restricted area. The statute, rule or ordinance shall exempt any building used for public housing by private persons, highways or rest areas, firing ranges, and private dwellings owned, leased, or controlled by that unit of government from any restriction on the carrying or possession of a firearm. The statute, rule or ordinance shall not specify any criminal penalty for its violation but may specify that persons violating the statute, rule or ordinance may be denied entrance to the building, ordered to leave the building and if employees of the unit of government, be subjected to disciplinary measures for violation of the provisions of the statute, rule or ordinance. The provisions of this subdivision shall not apply to any other unit of government;

(7) Any establishment licensed to dispense intoxicating liquor **[**or nonintoxicating beer**]** for consumption on the premises, which portion is primarily devoted to that purpose, without the consent of the owner or manager. The provisions of this subdivision shall not apply to the licensee of said establishment. The provisions of this subdivision shall not apply to any bona fide restaurant open to the general public having dining facilities for not less than fifty persons and that receives at least fifty-one percent of its gross annual income from the dining facilities by the sale of food. This subdivision does not prohibit the possession of a firearm in a vehicle on the premises of the establishment and shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises. Nothing in this subdivision authorizes any individual who has been issued a concealed carry endorsement to possess any firearm while intoxicated;

(8) Any area of an airport to which access is controlled by the inspection of persons and property. Possession of a firearm in a vehicle on the premises of the airport shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(9) Any place where the carrying of a firearm is prohibited by federal law;

(10) Any higher education institution or elementary or secondary school facility without the consent of the governing body of the higher education institution or a school official or the district school board. Possession of a firearm in a vehicle on the premises of any higher education institution or elementary or secondary school facility shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(11) Any portion of a building used as a child-care facility without the consent of the manager. Nothing in this subdivision shall prevent the operator of a child-care facility in a family home from owning or possessing a firearm or a driver's license or nondriver's license containing a concealed carry endorsement;

(12) Any riverboat gambling operation accessible by the public without the consent of the owner or manager pursuant to rules promulgated by the gaming commission. Possession of a firearm in a vehicle on the premises of a riverboat gambling operation shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(13) Any gated area of an amusement park. Possession of a firearm in a vehicle on the premises of the amusement park shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(14) Any church or other place of religious worship without the consent of the minister or person or persons representing the religious organization that exercises control over the place of religious worship. Possession of a firearm in a vehicle on the premises shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(15) Any private property whose owner has posted the premises as being off-limits to concealed firearms by means of one or more signs displayed in a conspicuous place of a minimum size of eleven inches by fourteen inches with the writing thereon in letters of not less than one inch. The owner, business or commercial lessee, manager of a private business enterprise, or any other organization, entity, or person may prohibit persons holding a concealed carry endorsement from carrying concealed firearms on the premises and may prohibit employees, not authorized by the employer, holding a concealed carry endorsement from carrying concealed firearms on the property of the employer. If the building or the premises are open to the public, the employer of the business enterprise shall post signs on or about the premises if carrying a concealed firearm is prohibited. Possession of a firearm in a vehicle on the premises shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises. An employer may prohibit employees or other persons holding a concealed carry endorsement from carrying a concealed firearm in vehicles owned by the employer;

(16) Any sports arena or stadium with a seating capacity of five thousand or more. Possession of a firearm in a vehicle on the premises shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(17) Any hospital accessible by the public. Possession of a firearm in a vehicle on the premises of a hospital shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises.

2. Carrying of a concealed firearm in a location specified in subdivisions (1) to (17) of subsection 1 of this section by any individual who holds a concealed carry endorsement issued pursuant to sections 571.101 to 571.121 shall not be a criminal act but may subject the person to denial to the premises or removal from the premises. If such person refuses to leave the premises and a peace officer is summoned, such person may be issued a citation for an amount not to exceed one hundred dollars for the first offense. If a second citation for a similar violation occurs within a six-month period, such person shall be fined an amount not to exceed two hundred dollars and his or her endorsement to carry concealed firearms shall be suspended for a period of one year. If a third citation for a similar violation is issued within one year of the first citation, such person shall be fined an amount not to exceed five hundred dollars and shall have his or her concealed carry endorsement revoked and such person shall not be eligible for a concealed carry endorsement for a period of three years. Upon conviction of charges arising from a citation issued pursuant to this subsection, the court shall notify the sheriff of the county which issued the certificate of qualification for a concealed carry endorsement and the department of revenue. The sheriff shall suspend or revoke the certificate of qualification for a concealed carry endorsement and the department of revenue shall issue a notice of such suspension or revocation of the concealed carry endorsement and take action to remove the concealed carry endorsement from the individual's driving record. The director of revenue shall notify the licensee that he or she must apply for a new license pursuant to chapter 302, RSMo, which does not contain such endorsement. A concealed carry endorsement suspension pursuant to sections 571.101 to 571.121 shall be reinstated at the time of the renewal of his or her driver's license. The notice issued by the department of revenue shall be mailed to the last known address shown on the individual's driving record. The notice is deemed received three days after mailing.

650.005. DEPARTMENT OF PUBLIC SAFETY CREATED — DIRECTOR — APPOINTMENT — DEPARTMENT'S DUTIES — RULES, PROCEDURE. — 1. There is hereby created a "Department of Public Safety" in charge of a director appointed by the governor with the advice and consent of the senate. The department's role will be to provide overall coordination in the state's public safety and law enforcement program, to provide channels of coordination with local and federal agencies in regard to public safety, law enforcement and with all correctional and judicial agencies in regard to matters pertaining to its responsibilities as they may interrelate with the other agencies or offices of state, local or federal governments.

2. All the powers, duties and functions of the state highway patrol, chapter 43, RSMo, and others, are transferred by type II transfer to the department of public safety. The governor by and with the advice and consent of the senate shall appoint the superintendent of the patrol. With the exception of sections 43.100 to 43.120, RSMo, relating to financial procedures, the director of public safety shall succeed the state highways and transportation commission in approving actions of the superintendent and related matters as provided in chapter 43, RSMo. Uniformed members of the patrol shall be selected in the manner provided by law and shall receive the compensation provided by law. Nothing in the Reorganization Act of 1974, however, shall be interpreted to affect the funding of appropriations or the operation of chapter 104, RSMo, relating to retirement system coverage or section 226.160, RSMo, relating to workers' compensation for members of the patrol.

3. All the powers, duties and functions of the supervisor of liquor control, **[**chapters 311 and 312**] chapter 311**, RSMo, and others, are transferred by type II transfer to the department of public safety. The supervisor shall be nominated by the department director and appointed by the governor with the advice and consent of the senate. The supervisor shall appoint such agents, assistants, deputies and inspectors as limited by appropriations. All employees shall have the qualifications provided by law and may be removed by the supervisor or director of the department as provided in section 311.670, RSMo.

4. The director of public safety, superintendent of the highway patrol and transportation division of the department of economic development are to examine the motor carrier inspection laws and practices in Missouri to determine how best to enforce the laws with a minimum of duplication, harassment of carriers and to improve the effectiveness of supervision of weight and safety requirements and to report to the governor and general assembly by January 1, 1975, on their findings and on any actions taken.

5. The Missouri division of highway safety is transferred by type I transfer to the department of public safety. The division shall be in charge of a director who shall be appointed by the director of the department.

6. All the powers, duties and functions of the safety and fire prevention bureau of the department of public health and welfare are transferred by type I transfer to the director of public safety.

7. All the powers, duties and functions of the state fire marshal, chapter 320, RSMo, and others, are transferred to the department of public safety by a type I transfer.

8. All the powers, duties and functions of the law enforcement assistance council administering federal grants, planning and the like relating to Public Laws 90-351, 90-445 and related acts of Congress are transferred by type I transfer to the director of public safety. The director of public safety shall appoint such advisory bodies as are required by federal laws or regulations. The council is abolished.

9. The director of public safety shall promulgate motor vehicle regulations and be ex officio a member of the safety compact commission in place of the director of revenue and all powers, duties and functions relating to chapter 307, RSMo, are transferred by type I transfer to the director of public safety.

10. The office of adjutant general and the state militia are assigned to the department of public safety; provided, however, nothing herein shall be construed to interfere with the powers

and duties of the governor as provided in article IV, section 6 of the Constitution of the state of Missouri or chapter 41, RSMo.

11. All the powers, duties and functions of the Missouri boat commission, chapter 306, RSMo, and others, are transferred by type I transfer to the "Missouri State Water Patrol", which is hereby created, in the department of public safety. The Missouri boat commission and the office of secretary to the commission are abolished. The Missouri state water patrol shall be headed by a boat commissioner who shall be appointed by the governor, with the advice and consent of the senate. All deputy boat commissioners and all other employees of the commission who were employed on February 1, 1974, shall be transferred to the water patrol without further qualification.

12. The division of veterans affairs, chapter 42, RSMo, is assigned to the office of adjutant general. The adjutant general, with the advice of the veterans' board, shall appoint the director of the division of veterans affairs who shall serve at the pleasure of the adjutant general.

13. **[**Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated under the authority of this chapter, shall become effective only if the agency has fully complied with all of the requirements of chapter 536, RSMo, including but not limited to, section 536.028, RSMo, if applicable, after August 28, 1999. If the provisions of section 536.028, RSMo, apply, the provisions of this section are nonseverable and if any of the powers vested with the general assembly pursuant to section 536.028, RSMo, to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule are held unconstitutional or invalid, the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void, except that nothing in this section shall affect the validity of any rule adopted and promulgated prior to August 28, 1999**] Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void**.

[311.334. WHOLESALER TO FILE SCHEDULE OF PRICES, CONTENTS. — No intoxicating liquor and wine of any kind shall be sold by a wholesaler to a retailer duly licensed to sell intoxicating liquor and wine at retail, or purchased by a wholesaler for a retailer or by a retailer through a wholesaler, unless a schedule as provided by this section shall be filed by the wholesaler with the supervisor of liquor control and is then in effect. The schedule shall be in writing, duly verified and filed in the number of copies and in such form as required by the supervisor, and shall contain with respect to each item thereon the exact brand or trade name, capacity of package, nature of contents, age and proof, the per bottle and per case price to retailers, the number of bottles contained in each case, and the size thereof, which prices shall be individual for each item, and not in "combination" with any other item or items, the discounts for quantity, if any, and the discounts for time of payment, if any.**]**

[311.336. SCHEDULES, FILED WHEN — OTHER WHOLESALERS MAY MEET PRICES, HOW — SALES AT PRICES IN SCHEDULE REQUIRED — PUBLIC INSPECTION. — Each such schedule shall be filed on or before the tenth day of each month, and the prices and discounts therein set forth shall become effective on the first day of the calendar month following the filing thereof, and shall be in effect for and during such calendar month. Within ten days after the filing of such schedule the supervisor shall make all of such schedules or a composite thereof available for inspection by all wholesale licensees. Within three days, excluding Sundays, after such inspection is provided for, a wholesaler may amend his filed schedule for sales to a retailer, or

purchase for a retailer or by a retailer through a wholesaler in order to meet lower competing prices and discounts for liquor or wine of the same brand and trade name and of like age and quality, filed pursuant to this section or section 311.334 by any licensee selling such brand; provided, however, such amended prices may not be lower and discounts not greater than those to be met. Any amended schedule so filed shall become effective on the first day of the calendar month following the filing thereof, and shall be in effect for and during such calendar month. No brand of liquor or wine shall be sold or purchased for a retailer by a wholesaler or by a retailer through a wholesaler except at the price or prices then in effect according to the wholesaler's filed schedule, and no discount shall be granted except as set forth in the schedule then in effect. All schedules filed shall be subject to public inspection from the time that they are required to be made available for inspection by licensees and shall not be in any manner considered confidential. Each wholesaler shall retain in his licensed premises for inspection by licensees a copy of his filed schedules then in effect. The supervisor of liquor control may make such rules and regulations as shall be appropriate to carry out the purpose of this section and sections 311.332 and 311.334.**]**

[312.010. DEFINITIONS. — 1. "Commissioner or supervisor" as used in this chapter shall be deemed to refer to the supervisor of liquor control of the state of Missouri, and (or) where not otherwise indicated by the context, his deputy, and (or) any of his duly appointed inspectors.

2. The phrase "nonintoxicating beer" as used in this chapter shall be construed to refer to and to mean any beer manufactured from pure hops or pure extract of hops, and pure barley malt or other wholesome grains or cereals, and wholesome yeast, and pure water, and free from all harmful substances, preservatives and adulterants, and having an alcoholic content of more than one-half of one percent by volume and not exceeding three and two-tenths percent by weight.

3. The phrase "original package" as used in this chapter shall be construed and held to refer to any package containing three, six, twelve, or twenty-four small standard beer bottles, and any package containing three, six or twelve large standard beer bottles, when such bottles contain nonintoxicating beer as defined by this chapter.

4. The word "person" as used in this chapter shall, as the case may require, be deemed to refer to, include, and apply to, any person, firm, company, association, or corporation, to whom or to which any provision of this chapter applies or may apply.

5. The phrase "transportation company" as used in this chapter shall be deemed to refer to and include any individual or individuals, or incorporated or unincorporated company, engaged in the business of transportation, for hire, of goods and merchandise, by use or means of any vessel, railroad car, motor vehicle, airplane, or other means of conveyance, whatsoever, to whom or to which any provision in this chapter applies or may apply.**]**

[312.020. NONINTOXICATING BEER — ALCOHOLIC CONTENT — PROVISIONS FOR MANUFACTURE, SALE AND TRANSPORTATION. — 1. Beer having an alcoholic content of not less than one-half of one percent by volume nor exceeding three and two-tenths percent by weight, is hereby declared to be "nonintoxicating beer", and may be lawfully manufactured and sold, or sold, in this state by any holder of a permit issued by the supervisor of liquor control of this state, authorizing such manufacture and sale, or sale, and may be lawfully transported, sold and consumed, in this state, and may be lawfully shipped into, or out of, this state subject to such inspection fees, and/or taxes, and under such regulations as may be provided by law.

2. All beverages having an alcoholic content of less than one-half of one percent by volume shall be exempt from the provisions of this chapter but subject to inspection as provided by sections 196.365 to 196.445, RSMo.**]**

[312.030. PERMIT NECESSARY. — It shall be unlawful for any person in this state to manufacture, or brew, or sell, any nonintoxicating beer without first having applied for, and secured, a permit from the supervisor of liquor control authorizing such brewing, manufacture

and sale, or sale, thereof, and it shall be unlawful for any person or any railroad company, express company, motor bus company, or other transportation company to transport within this state, into this state or out of this state, any nonintoxicating beer without first having ascertained by examination of the packages and containers thereof, that such nonintoxicating beer, if manufactured or brewed in this state, was so manufactured or brewed under a permit of the supervisor of liquor control, authorizing such manufacture or brewing, or if manufactured outside this state, is consigned to a dealer, distributor, or wholesaler in this state holding a permit from the supervisor of liquor control authorizing the sale thereof in this state under the provisions of this chapter.**]**

[312.040. QUALIFICATIONS FOR PERMITS AND LICENSES — NONRESIDENTS MAY SELL TO WHOLESALERS. — No person shall be granted a permit or license hereunder unless such person is of good moral character and a qualified legal voter and a taxpaying citizen of the county, town, city or village nor shall any corporation be granted a permit or license hereunder unless the managing officer of such corporation is of good moral character and a qualified legal voter and taxpaying citizen of the county, town, city or village; and no person shall be granted a permit or license hereunder whose permit or license as such dealer has been revoked, or who has been convicted, since the ratification of the twenty-first amendment to the Constitution of the United States, of a violation of the provisions of any law applicable to the manufacture or sale of intoxicating liquor or nonintoxicating beer, or who employs in his business as such dealer, any person whose permit or license has been revoked or who has been convicted of violating such law since the date aforesaid; provided, that nothing in this section contained shall prevent the issuance of permits or licenses to nonresidents of Missouri or foreign corporations for the privilege of selling to duly licensed wholesalers and soliciting orders for the sale of nonintoxicating beer, to, by or through a duly licensed wholesaler, within this state.**]**

[312.050. NONINTOXICATING BEER LICENSEE NOT TO SELL INTOXICATING LIQUOR OR MALT LIQUOR — PENALTY. — 1. No person having a license under the provisions of this chapter to sell nonintoxicating beer at retail shall be granted or permitted to hold a license to sell malt liquor containing alcohol in excess of three and two-tenths percent by weight or any other kind of intoxicating liquor; nor shall any person be granted or permitted to hold a license to sell nonintoxicating beer in, upon or about the premises of any person who is the holder of a license to sell intoxicating liquor.

2. Any person holding a license to sell nonintoxicating beer only who shall sell, give away or otherwise dispose of, or suffer the same to be done in, upon or about his premises any malt liquor containing alcohol in excess of three and two-tenths percent by weight, or any other intoxicating liquor of any kind or character, shall be deemed guilty of a felony and upon conviction shall be punished by imprisonment in the penitentiary for a term of not less than two years nor more than five years, or by imprisonment in the county jail for a term of not less than three months nor more than one year or by a fine of not less than one hundred dollars nor more than one thousand dollars or by both such fine and jail sentence.**]**

[312.060. BREWERS — MANUFACTURERS NOT TO HAVE INTEREST IN RETAIL BUSINESS — CONTRACTS VOID, WHEN. — 1. Neither brewers or manufacturers of nonintoxicating beer, or their employees, officers, agents, subsidiaries or affiliates shall, under any circumstances, directly or indirectly, have any financial interest in the retail business for the sale of such nonintoxicating beer, nor shall they, directly or indirectly, loan, give away or furnish equipment, money, credit or property of any kind, except ordinary commercial credit for such beer sold to such retail dealers.

2. All contracts entered into between such brewers or manufacturers, or their officers, employees, directors or agents, in any way concerning any of their products, obligating such retail dealers to buy or sell only the products of any such brewer or manufacturer or obligating

such retail dealers to buy or sell the major part of such products, required by such retail vendors from any such brewer or manufacturer, shall be void and unenforceable in any court in this state, and proof of the execution of such contract shall forfeit the license of both the vendor and the vendee.**]**

[312.070. OATH OF APPLICANT. — Before any permit authorized by this chapter, other than a manufacturer's or a wholesaler's permit, may be issued to any applicant therefor, such applicant shall take and subscribe to an oath that he will not, upon or about the premises for which such license is sought, possess, keep, store, secrete, consume, sell, give away or otherwise dispose of, or, upon or about said premises, suffer or permit to be possessed, kept, stored, secreted, consumed, sold, given away or otherwise disposed of, by any person whomsoever; any beer having an alcohol content in excess of three and two-tenths percent by weight, or any other intoxicating liquor whatsoever; and that he will not violate, or, upon said premises, suffer or permit any other person to violate any law of this state, or knowingly allow any other person to violate any law of this state while in or upon such premises.**]**

[312.080. APPLICATION FOR LICENSE TO MANUFACTURE OR SELL MADE TO SUPERVISOR. — Application for license to manufacture or sell nonintoxicating beer, under the provisions of this chapter, shall be made to the supervisor of liquor control.**]**

[312.090. PERMIT FORM — WHEN EFFECTIVE — POSSESSION BY HOLDER OF FEDERAL LIQUOR LICENSE, PENALTIES — EVIDENCE. — 1. Every application for any permit or license authorized by this chapter and every permit or license issued under authority of this chapter, shall be in such form as may be prescribed by the supervisor of liquor control of the state of Missouri. No such permit or license shall be effective, and no right granted thereby shall be exercised by the permittee or licensee, unless and until he shall have obtained and securely affixed to the permit or license in the space provided therefor an original stamp or other form of receipt, issued by the federal government evidencing the payment by the permittee or licensee to the federal government, for a term to expire with the expiration of the permit or license, of whatever special or occupational tax is, by any law of the United States then in effect, required to be paid by a dealer in fermented malt liquors. Within ten days from the issuance of said federal stamp or receipt, the permittee or licensee shall file with the supervisor of liquor control a photostat copy thereof, or such numbered duplicate thereof or indented stub therefrom as the federal government may have issued to the taxpayer with the original.

2. Any licensee or permittee under this chapter, having in his possession or upon the premises mentioned in such license or permit a federal excise or occupational tax stamp or receipt evidencing the payment to the federal government of a special tax for being a dealer in liquor other than malt liquor, shall be guilty of a misdemeanor.

3. No license or permit authorized by this chapter shall be issued to any person having in his possession or on the premises to be licensed a federal excise or occupational tax stamp or receipt, designating such person or premises as a person or place for dealing in intoxicating liquors other than malt liquors, or evidencing the payment of a tax for being a dealer in liquor other than malt liquors. The license of any person licensed under this chapter, who shall have in his possession or on the licensed premises, a federal excise or occupational tax stamp or special tax receipt, designating such person and premises as the person and place for dealing in intoxicating liquors, or evidencing the payment of a tax for being a dealer in liquor other than malt liquors, shall be revoked by the supervisor.

4. In any prosecution for violation of this section, evidence that the defendant has in his possession or on said premises a federal excise or occupational tax stamp or receipt, designating such person or such licensed place as the person or place for dealing in intoxicating liquors other than malt liquors, or evidencing, the payment of a tax for being a dealer in liquors other than malt liquors, shall be deemed prima facie evidence that such person has kept or secreted in or about

the licensed premises intoxicating liquor containing alcohol in excess of three and two-tenths percent by weight.**]**

[312.100. ANNUAL PERMIT FEES, AMOUNTS — WHOLESALERS, SALE TO GAMING COMMISSION LICENSEES, ALLOWED. — 1. Before any permit required by this chapter shall be issued, the annual fee required therefor shall be paid into the state treasury, or to the director of revenue if provided by law, and the receipt for such payment filed in the office of the supervisor of liquor control. Annual fees required for permits authorized by this chapter shall be as follows:

(1) For a permit authorizing the manufacture, and the sale by the manufacturer, of nonintoxicating beer brewed or manufactured in this state, two hundred and fifty dollars;

(2) For a permit authorizing the sale in this state by any distributor or wholesaler, other than the manufacturer or brewer thereof, of nonintoxicating beer, fifty dollars;

(3) For a permit authorizing the sale of nonintoxicating beer for consumption on premises where sold, twenty-five dollars;

(4) For a permit authorizing the sale of nonintoxicating beer by grocers and other merchants and dealers, for sale in the original package direct to consumers, but not for resale, fifteen dollars;

(5) For the privilege of selling to duly licensed wholesalers and soliciting orders for the sale of nonintoxicating beer, fifty dollars.

2. The provisions of this section are subject to and limited by the provisions of sections 311.181 and 311.182, RSMo.

3. The licenses prescribed in this section for the privilege of selling nonintoxicating beer by a wholesaler shall allow such wholesaler to sell nonintoxicating beer to licensees licensed by the gaming commission to sell beer or alcoholic beverages pursuant to section 313.840, RSMo.**]**

[312.110. SEPARATE PERMIT REQUIRED — EXPIRATION DATE — RENEWALS — FEES PRORATED. — A separate permit or license shall be required for each place of business. Every permit or license issued shall expire with the thirtieth day of June next succeeding the date of such permit or license. Applications for renewal of permits or licenses must be filed with the supervisor of liquor control on or before the first day of May of each calendar year. Of the annual license tax required in this chapter to be paid for any permit or license, the applicant shall pay as many twelfths as there are months (part of a month counted as one month) remaining from the date of the permit or license, to, but not including, the next succeeding first day of July.**]**

[312.120. SUPERVISOR EMPOWERED TO APPROVE OR DISAPPROVE APPLICATIONS — ISSUE PERMITS. — All applications for all licenses mentioned in this chapter shall be made to the supervisor of liquor control and shall be accompanied by a proper remittance made payable to the director of revenue. The supervisor of liquor control shall have the power and duty to determine whether each application for such license shall be approved or disapproved. Upon disapproval of any application for a license, the supervisor of liquor control shall so notify the applicant in writing, setting forth therein the grounds and reasons for disapproval, and shall return therewith the applicant's remittance. Upon approval of any application for a license, the supervisor of liquor control shall issue to the applicant the appropriate license and contemporaneously with such issuance shall file a notice of the issuance of such license together with the applicant's remittance in payment of the same with the director of revenue. The director of revenue shall immediately issue a receipt in duplicate for such payment, one copy of which shall be filed with the supervisor of liquor control and one copy retained by the director of revenue.**]**

[312.130. LICENSE MAY NOT BE TRANSFERRED OR ASSIGNED. — No license issued under this chapter shall be transferable or assignable.**]**

[312.140. PERMITTEES MAY BE LICENSED AND REGULATED BY COUNTIES AND CITIES. — The county commission in each county of this state or the corresponding authority in the city of St. Louis is hereby authorized to make a charge for licenses issued to retail dealers in nonintoxicating beer, the charge in each instance to be determined by the county commission or the corresponding authority in the city of St. Louis by order of record, but said charge shall in no event exceed the amount provided for in section 312.100 for state purposes. The board of aldermen, city council or other proper authorities of incorporated cities, towns and villages including the city of St. Louis may charge for licenses issued to manufacturers, brewers, wholesalers, and retailers of nonintoxicating beer within their limits, which charge for licenses shall not exceed one and one-half times the amount charged for a state license, and provide for the collection thereof, make and enforce ordinances for the regulation and control of the sale of nonintoxicating beer within their limits not inconsistent with the provisions of this chapter, and provide penalties for the violation thereof. No municipal corporation shall increase any occupation tax which it now levies upon any holder of any permit required by this chapter in excess of the amount of such tax imposed upon merchants and dealers in the same or similar lines of business and not holding any such permit.**]**

[312.150. MEANING OF PERMIT. — A permit to brew or manufacture and sell nonintoxicating beer in this state shall be construed to authorize the sale, by the holder of such permit, of nonintoxicating beer to distributors or wholesalers for resale to retailers only, and/or the sale of nonintoxicating beer by the holders of such permits, direct to retailers. A permit authorizing any distributor or wholesaler to sell nonintoxicating beer in this state shall be construed to authorize the sale thereof only to holders of permits authorizing the sale of nonintoxicating beer to consumers, not for resale, but shall not be construed to authorize the sale by any such distributor or wholesaler of nonintoxicating beer direct to consumers.**]**

[312.160. POSSESSION OF NONINTOXICATING BEER NOT ACQUIRED FROM DEALER UNLAWFUL. — No person, except a duly licensed manufacturer or wholesaler, shall possess nonintoxicating beer within the state of Missouri unless the same has been acquired from some person holding a duly authorized license to sell the same under this chapter, or unless the nonintoxicating beer is had or kept with the written or printed permission of the supervisor of liquor control.**]**

[312.170. SWORN STATEMENT TO SUPERVISOR, WHEN — CONTENTS — BY WHOM. — It shall be the duty of each holder of a permit authorizing the manufacture and sale, or the sale, of nonintoxicating beer, on or before the fifth day of each calendar month, to file in the office of the supervisor of liquor control, a sworn statement showing the amount of nonintoxicating beer manufactured and sold, or sold, and to whom sold, during the next preceding calendar month, and it shall be the duty of each holder of a permit authorizing the sale of nonintoxicating beer for consumption and not for resale, on or before the fifth day of each month, to file in the office of the supervisor of liquor control, a sworn statement showing the amount of nonintoxicating beer purchased and from whom purchased, and the amount of nonintoxicating beer sold, during the next preceding calendar month. Every such statement shall be signed and sworn to by the holder of such permit if an individual, or by some authorized officer of the holder if a corporation.**]**

[312.180. TRANSPORTATION COMPANIES TO FURNISH BILLS OF LADING OR RECEIPT UPON REQUEST — PENALTY FOR FAILURE TO COMPLY. — 1. Every railroad company, express company, airplane company, motor transportation company, steamboat company, or other transportation company who shall transport into, out of, or within this state any nonintoxicating beer, whether brewed or manufactured within this state or outside this state, shall, when requested by the supervisor of liquor control furnish such supervisor a duplicate of the bill

of lading covering or receipt for such nonintoxicating beer, showing the name of the brewer or manufacturer, and the name and address of the consignor and consignee, and the date and place received, and the destination and quantity of nonintoxicating beer received from such manufacturer, or brewer, or other consignor, for shipment from any point within or without this state, to any point within this state.

2. Any such railroad company, express company, airplane company, motor transportation company, steamboat company, or other transportation company failing to comply with the requirements of this chapter, shall forfeit and pay to the state of Missouri, the sum of fifty dollars for each and every such failure, to be recovered in any court of competent jurisdiction, and the supervisor of liquor control and the director of revenue are each hereby authorized and empowered to call upon the prosecuting attorneys of the respective counties or the circuit attorneys or the attorney general to bring any proceeding hereunder at the relation of the supervisor of liquor control or the director of revenue, as the case may be, to the use of the state of Missouri, for such recovery.**]**

[312.190. SUPERVISOR OF LIQUOR CONTROL TO KEEP RECORDS. — The supervisor of liquor control shall keep a record of the names and places of business of all persons engaged in the brewing or manufacturing and (or) in the sale of nonintoxicating beer. He shall also keep a record of all nonintoxicating beer brewed or manufactured and sold, and the amount thereof, by each brewer or manufacturer, or sold by each dealer other than a brewer or manufacturer, and a record of all inspection fees, permit fees and forfeitures collected, and of all expenses incurred in the collection thereof and shall make a full, true and complete report of the same to the governor, and the general assembly on or before the fifteenth day of January of each odd numbered year.**]**

[312.200. INGREDIENTS OF NONINTOXICATING BEER. — It shall be unlawful for any person in this state, engaged in the brewing or manufacture of nonintoxicating beer, to use any ingredients not in compliance with the following standards:

(1) Nonintoxicating beer shall be brewed from malt or a malt substitute, which only includes rice, grain of any kind, bean, glucose, sugar, and molasses. Honey, fruit, fruit juice, fruit concentrate, herbs, spices, and other food materials may be used as adjuncts in fermenting nonintoxicating beer; and

(2) Flavors and nonbeverage ingredients containing alcohol may be used in producing nonintoxicating beer, but may contribute to no more than forty-nine percent of the overall alcohol content of the finished nonintoxicating beer.**]**

[312.210. INSPECTION. — 1. It shall be the duty of the supervisor of liquor control to inspect, or to cause to be inspected, all nonintoxicating beer brewed or manufactured and sold, or sold, in this state, and he shall determine whether such nonintoxicating beer has been made from pure hops or pure extract of hops and pure barley malt, or other wholesome grains or cereals, and wholesome yeast and pure water, and whether the package or packages containing such nonintoxicating beer have been correctly stamped to show that the same has been made from pure hops or pure extract of hops and pure barley malt, or other wholesome grains or cereals, and wholesome yeast and pure water.

2. Notwithstanding the provisions of subsection 1 of this section, the supervisor of liquor control shall not require product samples and shall not require the testing of product samples to determine alcohol content prior to granting approval for the sale of any such nonintoxicating beer product in the state of Missouri if the supervisor of liquor control is provided with a copy of a certificate of label approval issued by the Federal Bureau of Alcohol, Tobacco and Firearms which verifies the alcohol content of the product.**]**

[312.220. MANNER OF INSPECTION — PENALTY FOR VIOLATION OF CHAPTER. — 1. Inspection of nonintoxicating beer may be made by samples of quantities in the original vats before such nonintoxicating beer is placed in bottles, barrels or kegs, or, in the case of nonintoxicating beer manufactured or brewed in another state and shipped into this state, from samples taken from each shipment thereof.

2. Any manufacturer or brewer who, after the inspection of any nonintoxicating beer in bulk, shall change the ingredients thereof, or increase the alcoholic content thereof, or any distributor or wholesaler who shall substitute, in any shipment of nonintoxicating beer, any beer or other liquid for sale as nonintoxicating beer, having any other ingredients therein than those contained in the samples submitted for inspection, or having an alcoholic content in excess of three and two-tenths percent by weight, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the county jail for a term of not more than one year or by a fine of not less than fifty dollars nor more than one thousand dollars or by both such fine and jail sentence.**]**

[312.230. INSPECTION CHARGE. — As a charge for the inspection of nonintoxicating beer, the director of revenue shall collect one dollar and eighty-six cents per barrel of nonintoxicating beer manufactured or brewed in this state for sale in this state, or manufactured or brewed in another state and shipped or transported into this state for sale subject to the provisions of this chapter.**]**

[312.233. MONTHLY RETURNS AND PAYMENT CHARGES REQUIRED, FAILURE TO PAY, PENALTY. — 1. Payment of the charges provided by section 312.230 shall be made by the manufacturer (including one who bottles nonintoxicating beer) as to all nonintoxicating beer produced or imported by the manufacturer for sale or use for beverage purposes within this state, by the out-state solicitor who imports into this state nonintoxicating beer manufactured or produced outside of this state for sale or use for beverage purposes within this state and by the wholesale dealer who imports or receives nonintoxicating beer manufactured or produced without the United States for sale or use for beverage purposes within this state. Each manufacturer, out-state solicitor and wholesale dealer on or before the fifteenth day of each calendar month shall file with the supervisor of liquor control, on forms prescribed and furnished by the supervisor, a written report in duplicate, under oath, in such form as is required by the supervisor to enable him to compute, and assure the accuracy of, the charges due on all sales and importations of nonintoxicating beer occurring during the preceding month. Payment of the charges in the amount disclosed by the report by bank draft, money order, certified check or cashier's check payable to the department of revenue shall accompany the report to the supervisor of liquor control.

2. If the supervisor of liquor control deems it necessary in order to ensure the payment of the charges imposed by this law, he may require returns to be made more frequently than and covering periods of less than a month. The return shall contain such further information as the supervisor of liquor control may reasonably require. Each such manufacturer, out-state solicitor or wholesale dealer shall pay to the director of revenue, with the filing of such return, the tax imposed by this law, as so reported during the period covered by such return.

3. In case of failure to pay any charges as required under section 312.230 on or before the date prescribed therefor, there shall be added to the amount of charge an amount equal to one percent per business day of the deficiency, not to exceed twenty-five percent of the deficiency, and in addition interest on the deficient charge and penalty at the rate of one percent a month or fraction of a month from the date the deficient charge became due until paid.**]**

[312.235. BOND — FAILURE TO FILE — FORFEITURE. — Every manufacturer, including one who bottles nonintoxicating beer, as to all nonintoxicating beer produced or imported by the manufacturer for sale or use for beverage purposes within this state, and the out-state solicitor

who imports into this state nonintoxicating beer manufactured or produced outside this state for sale or use for beverage purposes within this state, and the wholesale dealer who imports or receives nonintoxicating beer manufactured or produced without the United States for sale or use for beverage purposes within this state and who, therefore, shall be liable for payment of charges as provided by section 312.233, shall also file with the supervisor of liquor control a bond in an amount not less than one thousand dollars and not to exceed one hundred thousand dollars on a form to be approved by, and with a surety satisfactory to, the supervisor of liquor control. Such bond shall be conditioned upon the manufacturer, out-state solicitor or wholesale dealer paying to the director of revenue all moneys becoming due from such manufacturer, out-state solicitor or wholesale dealer under this law. The supervisor of liquor control shall fix the penalty of the bond in each case, taking into consideration the amount of nonintoxicating beer expected to be sold and used by such manufacturer, out-state solicitor or wholesale dealer, and the penalty fixed by the supervisor shall be sufficient in the supervisor's opinion, to protect the state of Missouri against failure to pay any amount due under this law, but the amount of the penalty fixed by the supervisor shall not exceed twice the amount of tax liability of a monthly return. In no event shall the amount of such penalty be less than one thousand dollars. Failure by any licensed manufacturer, out-state solicitor or wholesale dealer to keep a satisfactory bond in effect with the supervisor or to furnish additional bond to the supervisor when required hereunder by the supervisor to do so shall be grounds for the revocation or suspension of such manufacturer's, out-state solicitor's or wholesale dealer's license by the supervisor. If a manufacturer, out-state solicitor or wholesale dealer fails to pay any amount due under this law, his bond with the supervisor shall be deemed forfeited, and the department of revenue may institute a suit in its own name on such bond.**]**

[312.237. LICENSE, REVOCATION. — After notice and opportunity for a hearing, the supervisor may revoke or suspend the license of any manufacturer, out-state solicitor or wholesale dealer who fails to comply with the provisions of sections 312.233 and 312.235. No new or renewal license shall be granted to a person who fails to comply with sections 312.233 and 312.235.**]**

[312.270. SALE OF UNINSPECTED OR UNLABELED NONINTOXICATING BEER A MISDEMEANOR — PENALTY. — Any person who sells, or offers for sale, any nonintoxicating beer within this state, which has not first been inspected and labeled as required by the provisions of this chapter is guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the county jail for a term of not more than one year, or by a fine of not less than fifty dollars nor more than one thousand dollars or by both the fine and jail sentence.**]**

[312.280. NONINTOXICATING BEER FOR SALE OUT OF STATE EXEMPT FROM INSPECTION FEE. — Nonintoxicating beer brewed or manufactured in this state for shipment and sale outside of this state shall be exempt from the inspection fees by this chapter required to be collected for the inspection of nonintoxicating beer brewed or manufactured for sale in this state, but shall be inspected by the supervisor of liquor control as required by this chapter.**]**

[312.290. AUTHORITY TO INSPECT PREMISES — ENFORCE LAW. — The supervisor of liquor control, his assistants, deputies, special agents, agents and inspectors, shall have the authority to inspect all premises covered by permit or license issued under this chapter to see that provisions of this chapter are being obeyed.**]**

[312.300. PROVISIONS FOR SALE OF NONINTOXICATING BEER. — It shall be unlawful for any person to sell, or offer for sale, in this state, any nonintoxicating beer except the same shall be sold or offered for sale in the original bottle, or in the original package containing bottles, bearing the original label and full name of the brewer or manufacturer thereof, both upon the

label on the bottle, and upon the cap or cork of such bottle, or in the case of the sale of nonintoxicating beer on draught, except the same be drawn from the original keg or barrel having stamped on the ends thereof the full name of the manufacturer or brewer of the nonintoxicating beer therein contained.**]**

[312.310. CONTAINERS TO BEAR LABEL SHOWING ALCOHOLIC CONTENT — UNLABELED BEER SUBJECT TO PENALTIES. — 1. It shall be the duty of every manufacturer or brewer manufacturing or brewing any nonintoxicating beer in this state, and of every manufacturer or brewer, distributor or wholesaler, outside of this state shipping any nonintoxicating beer into this state for sale in this state at wholesale or retail, to cause every bottle, barrel, keg, and other container of such nonintoxicating beer to have on the label thereon in plain letters and figures "alcoholic content not in excess of 3.2% by weight", or "alcoholic content not in excess of 4% of volume"; provided, however, that any container of nonintoxicating beer which has an alcoholic content not in excess of 2.5% of volume shall be labeled as follows: "alcoholic content not in excess of 2.0% by weight", or "alcoholic content not in excess of 2.5% of volume"; or "alcohol content less than 2% by weight".

2. Any beer not so labeled shall be deemed to have an alcoholic content in excess of three and two-tenths percent by weight, and the sale thereof in this state shall be subject to all the regulations and penalties provided by law for the sale of beer having an alcoholic content in excess of three and two-tenths percent by weight. Any person who shall sell any beer, regardless of the alcoholic content thereof, as nonintoxicating beer in, or out of, any bottle, barrel, keg or other container, not so labeled as required by this section shall be deemed guilty of a misdemeanor.**]**

[312.320. VIOLATION, HOW INVESTIGATED AND PROSECUTED. — 1. For the purpose of enforcing the provisions of this chapter and acts amendatory thereto, the prosecuting attorneys of the respective counties and the circuit attorneys, or at the request of the governor the attorney general, shall investigate and prosecute all violations of any provision of this chapter; and shall represent the supervisor of liquor control in any and all legal matters arising under this chapter. When requested by the governor, the attorney general, or his assistants, shall in the enforcement of this chapter, have the power to sign indictments or information and conduct prosecutions in any county or city within this state.

2. Whenever any tax, fee or other charge, as authorized by this chapter shall be due, suit may be instituted in any court of competent jurisdiction by the prosecuting attorney of the county, or at the request of the director of revenue, by the attorney general, in the name of the state at the relation of the director of revenue, to recover such tax, fee or other charge, and in any such suit all persons, associations or corporations interested may be made parties and service may be had on both residents and nonresidents in the same manner as provided by law in civil actions.**]**

[312.330. FEES, TAXES, AND FORFEITURES TO REVENUE FUND. — The fees, taxes, and forfeitures collected by the director of revenue under the provisions of this chapter, shall be paid into the state treasury and become a part of the ordinary revenue fund.**]**

[312.340. ATTORNEY GENERAL MAY DIRECT OFFICIALS TO CONDUCT PROSECUTIONS — DUTIES OF SUPERVISOR OF LIQUOR CONTROL. — 1. Whenever requested to carry out any of the duties as required by the laws relating to the manufacturing, transportation, sale and inspection of nonintoxicating beer the attorney general may, in his discretion, direct the circuit attorney of the city of St. Louis or the prosecuting attorney of any county in which any violation of the laws relating to the manufacturing, transportation, sale and inspection of nonintoxicating beer shall have been violated to conduct prosecutions and institute suits as required by the laws pertaining thereto.

2. The supervisor of liquor control shall, at least once each month, transmit a list of all complaints made to or by him against licensees for alleged violations of the laws of this state relating to the manufacturing, transportation, sale and inspection of nonintoxicating beer, to the circuit attorney of the city of St. Louis and to the prosecuting attorney of every county in which said violations are alleged to have occurred, together with a list showing all revocations and suspensions of licenses within such county ordered by the supervisor of liquor control, together with a brief statement of the facts pertaining to each case, and it shall be the duty of the supervisor of liquor control at the time of transmitting each such list and statement to transmit to the attorney general a duplicate thereof for the information of the attorney general in carrying out and enforcing the provisions of the laws relating to the manufacturing, transportation, sale and inspection of nonintoxicating beer.

3. It shall be the duty of the circuit attorney of the city of St. Louis and the prosecuting attorney of every county to transmit to the supervisor of liquor control, at least once in every three months, a written report of the action, if any, taken by such circuit or prosecuting attorney on each complaint contained on the list so transmitted to him.**]**

[312.350. FAILURE TO PERFORM DUTY — PENALTY. — If the supervisor of liquor control, his deputy, or any inspector appointed by him and assigned thereto, shall fail to perform any of the duties required of him by this chapter, or shall in any manner violate any of the provisions of this chapter, for which no other punishment is prescribed he shall be deemed guilty of a misdemeanor, and in addition to such punishment, shall forfeit his office or position and shall not thereafter for a period of four years, be eligible to reappointment or to appointment to any other office in this state.**]**

[312.360. SUPERVISOR OF LIQUOR CONTROL TO MAKE RULES AND REGULATIONS RELATIVE TO SALES. — The supervisor of liquor control shall have the authority to suspend or revoke for cause all such licenses and to make the following regulations, without limiting the generality of provisions empowering the supervisor of liquor control as in this chapter set forth, as to the following matters, acts, and things:

(1) Fix and determine the nature, form, and capacity of all packages used for containing nonintoxicating beer of any kind to be kept or sold under this chapter;

(2) Prescribe an official seal and label and determine the manner in which such seal or label shall be attached to every package of nonintoxicating beer so sold under this chapter (this includes prescribing different official seals or different labels for the different classes, varieties or brands of nonintoxicating beer);

(3) Prescribe all forms, applications, and licenses and such other forms as are necessary to carry out the provisions of this chapter;

(4) Prescribe the terms and conditions of the licenses issued and granted under this chapter;

(5) Prescribe the nature of the proof to be furnished and conditions to be observed in the issuance of duplicate licenses in lieu of those lost or destroyed;

(6) Establish rules and regulations for the conduct of the business carried on by each specific licensee under the license, and such rules and regulations if not obeyed by every licensee shall be grounds for the revocation or suspension of the license;

(7) The right to examine books, records, and papers of each licensee, and to hear and determine complaints against any licensee;

(8) To issue subpoenas and all necessary processes and require the production of papers, to administer oaths, and to take testimony;

(9) Prescribe all forms of labels to be affixed to all packages containing nonintoxicating beer of any kind; and

(10) To make such other rules and regulations as are necessary and feasible for carrying out the provisions of this chapter as are not inconsistent with this chapter.**]**

[312.370. SUPERVISOR MAY SUSPEND OR REVOKE LICENSES, WHEN. — Whenever it shall be shown, or whenever the supervisor of liquor control has knowledge that a dealer licensed hereunder, has not at all times kept an orderly place or house, or has violated any of the provisions of this chapter, said supervisor of liquor control shall revoke or suspend the license of said dealer, but the dealer must have ten days' notice of the application to revoke or suspend his license prior to the order of revocation or suspension issuing, with full right to have counsel to produce witnesses in his behalf in such hearing and to be advised in writing of the grounds upon which his license is sought to be revoked or suspended.**]**

[312.380. ADDITIONAL PROCEEDINGS MAY BE BROUGHT, BY WHOM — MANNER. — 1. In addition to the penalties and proceedings for revocation of licenses provided for in nonintoxicating beer law, and without limiting them, proceedings for the suspension or revocation of any license authorizing the sale of nonintoxicating beer at retail may be brought in the circuit court of any county in this state or in the city of St. Louis, in which the licensed premises are located and such proceedings may be brought by the sheriff or any peace officer of that county or by any eight or more persons who are taxpaying resident citizens of the county or city, for any of the following offenses:

(1) Knowingly selling, giving or otherwise supplying nonintoxicating beer to any person while such person is in an intoxicated condition;

(2) Knowingly permitting any prostitute, degenerate or dissolute person to frequent the licensed premises;

(3) Permitting on the licensed premises any disorderly conduct, breach of the peace, or any lewd, immoral or improper entertainment, conduct or practices;

(4) Selling, offering for sale, possessing or permitting the consumption on the licensed premises of any kind of alcoholic liquors, the sale, possession or consumption of which is not authorized under his license; provided, that said taxpaying citizens shall submit in writing, under oath, by registered United States mail to the supervisor of liquor control a joint complaint, stating the name of the licensee, the name under which the licensee's business is conducted and the address of the licensed premises, setting out in general the character and nature of the offense or offenses charged, together with the names and addresses of the witnesses by whom proof thereof is expected to be made; and provided, that after a period of thirty days after the mailing of such complaint to the supervisor of liquor control the person therein complained of shall not have been cited by the supervisor to appear and show cause why his license should not be suspended or revoked then they shall file with the circuit clerk of the county or city in which the premises are located a copy of the complaint on file with the supervisor of liquor control.

2. If, pursuant to the receipt of such complaint by the supervisor of liquor control, the licensee appears and shows cause why his license should not be suspended or revoked at a hearing held for that purpose by the supervisor and either the complainants or the licensee consider themselves aggrieved with the order of the supervisor then, after a request in writing by either the complainants or the licensee, the supervisor shall certify to the circuit clerk of the county or city in which the licensed premises are located a copy of the original complaint filed with him, together with a copy of the transcript of the evidence adduced at the hearing held by him. Such certification by the supervisor shall not act as a supersedeas of any order made by him. Upon receipt of such complaint, whether from the complainant directly or from the supervisor of liquor control, the court shall set a date for an early hearing thereon and it shall be the duty of the circuit clerk to cause to be delivered by registered United States mail to the prosecuting attorney of the county or to the circuit attorney of the city of St. Louis and to the licensee copies of the complaint and he shall, at the same time, give notice of the time and place of the hearing. Such notice shall be delivered to the prosecuting attorney or to the circuit attorney and to the licensee at least fifteen days prior to the date of the hearing.

3. The complaint shall be heard by the court without a jury and if there has been a prior hearing thereon by the supervisor of liquor control then the case shall be heard de novo and both

the complainant and the licensee may produce new and additional evidence material to the issues. If the court shall find upon the hearing that the offense or offenses charged in the complaint have been established by the evidence, the court shall order the suspension or revocation of the license but, in so doing, shall take into consideration whatever order, if any, may have been made in the premises by the supervisor of liquor control. If the court finds that to revoke the license would be unduly severe, then the court may suspend the license for such period of time as the court deems proper.

4. The judgment of the court in no event shall be superseded or stayed during pendency of any appeal therefrom.

5. It shall be the duty of the prosecuting attorney or circuit attorney to prosecute diligently and without delay any such complaints coming to him by virtue of this section.

6. The jurisdiction herein conferred upon the circuit courts to hear and determine complaints for the suspension or revocation of licenses in the manner provided in this section shall not be exclusive and any authority conferred upon the supervisor of liquor control to revoke or suspend licenses shall remain in full force and effect, and the suspension or revocation of a license as herein provided shall be in addition to and not in lieu of any other revocation or suspension provided by this chapter.

7. Costs accruing because of such hearings in the circuit court shall be taxed in the same manner as criminal costs.**]**

[312.390. ORIGINAL PACKAGE SHALL NOT BE BROKEN. — It shall be unlawful for any person holding a permit authorizing the sale of nonintoxicating beer in the original package to allow such original package to be broken, or to allow any of such nonintoxicating beer to be consumed, in or upon the premises described in such permit.**]**

[312.400. SALE OF NONINTOXICATING BEER TO CERTAIN PERSONS PROHIBITED — EXCEPTIONS. — No person or his employee shall sell or supply nonintoxicating beer or permit same to be sold or supplied to a habitual drunkard or to any person who is under or apparently under the influence of alcoholic beverages. Nonintoxicating beer shall not be given, sold or otherwise supplied to any person under the age of twenty-one years, but this shall not apply to the supplying of nonintoxicating beer to a person under said age for medicinal purposes only, or by the parent or guardian of such person or to the administering of said nonintoxicating beer to said person by a physician.**]**

[312.405. MISREPRESENTATION OF AGE BY MINOR TO OBTAIN BEER A MISDEMEANOR — HOW DEALT WITH. — 1. Any person of the age of seventeen years and under the age of twenty-one years who represents that he has attained the age of twenty-one for the purpose of purchasing, asking for or in any way receiving nonintoxicating beer, shall, upon conviction be deemed guilty of a misdemeanor.

2. Any person under the age of seventeen years who represents that he has attained the age of twenty-one years for the purpose of purchasing, asking for or in any way receiving nonintoxicating beer, shall be dealt with in accordance with the provisions of chapter 211, RSMo.**]**

[312.407. PURCHASE OR POSSESSION BY MINOR, A MISDEMEANOR — SEALED CONTAINERS NEED NOT BE OPENED, WHEN. — 1. Any person under the age of twenty-one years who purchases or attempts to purchase, or has in his possession, any nonintoxicating beer as defined in section 312.010, is guilty of a misdemeanor. For purposes of prosecution under this section or any other provision of this chapter involving an alleged illegal sale or transfer of nonintoxicating beer to a person under twenty-one years of age, a manufacturer-sealed container describing that there is nonintoxicating beer therein need not be opened or the contents therein tested to verify that there is nonintoxicating beer in such container. The alleged violator may

allege that there was not nonintoxicating beer in such container, but the burden of proof of such allegation is on such person, as it shall be presumed that such a sealed container describing that there is nonintoxicating beer therein contains nonintoxicating beer.

2. For purposes of determining violations of any provisions of this chapter or of any rule or regulation of the supervisor of alcohol and tobacco control, a manufacturer-sealed container describing that there is nonintoxicating beer therein need not be opened or the contents therein tested to verify that there is nonintoxicating beer in such container. The alleged violator may allege that there was not nonintoxicating beer in such container, but the burden of proof of such allegation is on such person, as it shall be presumed that such a sealed container describing that there is nonintoxicating beer therein contains nonintoxicating beer.**]**

[312.410. SALES PROHIBITED BETWEEN CERTAIN HOURS. — No person having a license under the provisions of this chapter shall sell, give away or permit the consumption of any nonintoxicating beer in any quantity between the hours of 1:30 a.m. and 6:00 a.m., upon or about his or her premises, and any person violating any provision of this section shall be deemed guilty of a misdemeanor and shall be punished by imprisonment in the county jail for a term of not more than one year, or by a fine of not less than fifty dollars nor more than one thousand dollars or by both such fine and jail sentence.**]**

[312.420. CONSUMPTION ON PREMISES — HOW SOLD. — Any permit issued under the provisions of this chapter authorizing the sale of nonintoxicating beer for consumption on the premises described in such permit, shall be construed to authorize the sale of such nonintoxicating beer by the bottle, by the glass, on draught, and in the original package.**]**

[312.430. UNLAWFUL TO KEEP OR SECRETE INTOXICATING LIQUOR ON PREMISES — UNLAWFUL SALE — PENALTIES. — Any person holding a permit under this chapter to sell nonintoxicating beer at retail, who shall have or keep or secrete in or about the premises described in and covered by his permit any intoxicating liquor of any kind or character, or any manufacturer or wholesale distributor who shall sell intoxicating liquor containing alcohol in excess of three and two-tenths percent by weight to any retail distributor holding a license or permit for the sale of nonintoxicating beer only, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the county jail for a term of not more than one year or by a fine of not less than fifty dollars nor more than one thousand dollars or by both such fine and jail sentence.**]**

[312.440. LICENSEE'S DUTY TO PREVENT INCREASE OF ALCOHOLIC CONTENT — PENALTY. — It shall be the duty of every holder of a permit to manufacture and sell, or to sell, nonintoxicating beer, to use every precaution to prevent any person on the premises described in such permit, from pouring into, mixing with, or adding to, such nonintoxicating beer, any alcohol or other liquid, or any alcohol cube or cubes, or other ingredient or ingredients, that will increase, or tend to increase, the alcoholic content of such nonintoxicating beer. And any such permit holder who shall knowingly permit any person on the premises described in such permit, to pour into, mix with, or add to, such nonintoxicating beer, any alcohol, or other liquid, or any alcohol cube or cubes, or other ingredient or ingredients, that will increase, or tend to increase, the alcoholic content of such nonintoxicating beer, shall be deemed guilty of a misdemeanor, and in addition thereto, shall forfeit such permit and shall not thereafter, for a period of one year, be entitled to hold a permit authorizing the manufacture and sale, or the sale, of nonintoxicating beer in this state.**]**

[312.450. PENALTY FOR FAILURE TO SECURE PERMIT. — Any person who shall, in this state, brew or manufacture, or who shall sell, any nonintoxicating beer as defined in this chapter, without first having obtained a permit or license from the supervisor of liquor control authorizing

the brewing or manufacturing and sale, or the sale, of nonintoxicating beer; or who, having obtained such permit or license, shall fail or refuse to promptly thereafter obtain and securely affix to such permit or license the federal excise or special tax stamp or receipt, as in this chapter required, shall upon conviction thereof, be adjudged guilty of a misdemeanor, and punished by a fine of not less than fifty dollars, nor more than one thousand dollars, or by imprisonment in the county jail for a term not exceeding one year, or by both such fine and jail sentence.**]**

[312.460. PENALTY FOR INCREASING ALCOHOLIC CONTENT. — Any person in this state holding a license under the provisions of this chapter who shall pour into, mix with, or add to, any nonintoxicating beer, as in this chapter defined, any alcohol or other liquid, or any alcohol cube or cubes, or any other ingredient or ingredients, that will increase, or tend to increase, the alcoholic content of such nonintoxicating beer on the licensed premises where his business is conducted or suffer the same to be done or who shall possess any such mixture on said premises, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the county jail for a term of not more than one year or by a fine of not less than fifty dollars nor more than one thousand dollars or by both such fine and jail sentence.**]**

[312.470. SALE OF NONINTOXICATING BEER IN ORIGINAL PACKAGE — CERTAIN VIOLATIONS — PENALTIES. — Any person in this state who shall sell or offer for sale any nonintoxicating beer in the original package without a permit as authorized by this chapter; or who shall open any original package containing nonintoxicating beer on the premises where purchased; or who shall drink any nonintoxicating beer purchased in the original package on the premises where purchased; or who shall in any place of business in this state where goods, wares and merchandise, including articles of food and drink served for consumption at the place of sale, are kept or offered for sale, drink any nonintoxicating beer purchased in the original package, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the county jail for a term of not more than one year or by a fine of not less than fifty dollars nor more than one thousand dollars or by both such fine and jail sentence.**]**

[312.480. PENALTY FOR EVADING PERMIT OR INSPECTION FEE. — Any person who shall evade, or attempt to evade, the payment of any permit or inspection fee, required by this chapter, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the county jail for a term of not more than one year or by a fine of not less than fifty dollars nor more than one thousand dollars or by both such fine and jail sentence.**]**

[312.484. FINES FOR VIOLATIONS BY MANUFACTURERS TO SUPERSEDE OTHER PENALTIES. — 1. Notwithstanding the provisions of section 312.060, 312.480, 312.500, or 312.510, or any other provision within this chapter containing a penalty provision of law, any person paying the fee imposed by section 312.230 shall be subject to the penalty provision of subsection 2 of this section with regard only to its manufacturer's license rather than the general or specific penalty provisions of the other provisions within this chapter, or any rule or regulation promulgated pursuant thereto. Such manufacturer shall not be subject to any other form of punishment with regard to its manufacturer's license.

2. Any person as defined by subsection 1 of this section violating a provision of law contained in this chapter, or any rule or regulation promulgated pursuant thereto, shall be fined for the first offense, ten thousand dollars; for the second offense, twenty-five thousand dollars; and for the third and subsequent offenses, fifty thousand dollars.**]**

[312.490. VIOLATION BY AGENT OF CORPORATION — PENALTY. — It shall be unlawful for any officer, agent, or employee of any incorporated company, or association, acting for such corporation or association, to authorize or permit such corporation to violate any of the provisions of this chapter, and any such officer, agent, or employee so offending shall be deemed guilty of

a misdemeanor and upon conviction thereof shall be punished by imprisonment in the county jail for a term of not more than one year or by a fine of not less than fifty dollars nor more than one thousand dollars or by both such fine and jail sentence.**]**

[312.500. PENALTIES FOR VIOLATION OF CHAPTER. — Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, except where the punishment is specifically prescribed by this chapter, and shall be punished by imprisonment in the county jail for a term of not more than one year, or by a fine of not less than fifty dollars nor more than one thousand dollars or by both such fine and jail sentence.**]**

[312.510. VIOLATIONS NOT OTHERWISE DEFINED — PENALTIES. — 1. Any violation of any of the provisions of this chapter not otherwise defined, shall be a misdemeanor, and any person guilty of violating any of said provisions, and for which violation no other penalty is by this chapter imposed, shall, upon conviction thereof be adjudged guilty of a misdemeanor and punished by a fine of not less than fifty dollars, nor more than one thousand dollars, or by imprisonment in the county jail for a term not exceeding one year, or by both such fine and jail sentence.

2. If the person so convicted shall be the holder of any permit or license issued pursuant to the provisions of this chapter, such conviction by any court of competent jurisdiction shall, without further proceeding, action or order by any court or by the supervisor of liquor control, operate to revoke and forfeit as of the date of such conviction such permit and all rights and privileges granted thereby, and the holder of such permit shall not thereafter, for a period of one year after the date of such conviction, be entitled to any permit for any person authorized in this chapter.

3. If the permittee or licensee charged in such proceeding with such violation, be, by final judgment therein, acquitted of said charge, he may apply for and receive a license pursuant to this chapter upon paying therefor the license fee in this chapter required, and by otherwise conforming to all requirements as to such applicants, and with the same right as though he had never held a license under the provisions of this chapter.**]**

Approved July 2, 2009

HB 152 [SS HCS HB 152]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Expands the DNA profiling system by requiring any person seventeen years of age or older who is arrested for certain crimes to provide a biological sample for the purpose of DNA profiling analysis

AN ACT to repeal sections 650.050, 650.052, and 650.055, RSMo, and to enact in lieu thereof three new sections relating to the DNA profiling system, with penalty provisions.

SECTION

A. Enacting clause.
650.050. DNA profiling system to be established in department of public safety, purpose.
650.052. Consultation with crime laboratories — DNA system, powers and duties — expert testimony — rulemaking authority.
650.055. Felony convictions for certain offenses to have biological samples collected, when — use of sample — highway patrol and department of corrections, duty — DNA records and biological materials to be closed record, disclosure, when — expungement of record, when.

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

SECTION A. ENACTING CLAUSE. — Sections 650.050, 650.052, and 650.055, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 650.050, 650.052, and 650.055, to read as follows:

650.050. DNA PROFILING SYSTEM TO BE ESTABLISHED IN DEPARTMENT OF PUBLIC SAFETY, PURPOSE. — 1. The Missouri department of public safety shall develop and establish a "DNA Profiling System", referred to in sections 650.050 to 650.100 as the system to assist federal, state, and local criminal justice and law enforcement agencies in the identification, investigation, and prosecution of individuals as well as the identification of missing or unidentified persons.

2. This DNA profiling system shall consist of qualified Missouri forensic laboratories approved by the Federal Bureau of Investigation.

3. The Missouri state highway patrol crime laboratory shall be the administrator of the state's DNA index system.

4. The DNA profiling system as established in this section shall be compatible with that used by the Federal Bureau of Investigation to ensure that DNA records are fully exchangeable between DNA laboratories and that quality assurance standards issued by the director of the Federal Bureau of Investigation are applied and performed.

5. DNA samples obtained under sections 650.050 to 650.100 shall only be analyzed consistent with sections 650.050 to 650.100 and applicable federal laws and regulations.

650.052. CONSULTATION WITH CRIME LABORATORIES — DNA SYSTEM, POWERS AND DUTIES — EXPERT TESTIMONY — RULEMAKING AUTHORITY. — 1. The state's DNA profiling system shall:

(1) Assist federal, state and local criminal justice and law enforcement agencies in the identification, detection or exclusion of individuals who are subjects of the investigation or prosecution of criminal offenses in which biological evidence is recovered or obtained; and

(2) If personally identifiable information is removed, support development of forensic validation studies, forensic protocols, and the establishment and maintenance of a population statistics database for federal, state, or local crime laboratories of law enforcement agencies; and

(3) Assist in the recovery or identification of human remains from mass disasters, or for other humanitarian purposes, including identification of missing persons.

2. The Missouri state highway patrol shall act as the central repository for the DNA profiling system and shall collaborate with the Federal Bureau of Investigation and other criminal justice agencies relating to the state's participation in CODIS and the National DNA Index System or in any DNA database.

3. The Missouri state highway patrol may promulgate rules and regulations to implement the provisions of sections 650.050 to 650.100 in accordance with Federal Bureau of Investigation recommendations for the form and manner of collection of blood or other scientifically accepted biological samples and other procedures for the operation of sections 650.050 to 650.100. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

4. The Missouri state highway patrol shall provide the necessary components for collection of the **[**convicted**]** offender's biological samples. For qualified offenders as defined by section 650.055 who are under custody and control of the department of corrections, the DNA sample collection shall be performed by the department of corrections and the division of probation and parole, or their authorized designee or contracted third party. For qualified offenders as defined by section 650.055 who are under custody and control of a county jail, the DNA sample collections shall be performed by the county jail or its authorized designee or contracted third party. For qualified offenders as defined by section 650.055 who are under the custody and control of companies contracted by the county or court to perform supervision and/or treatment of the offender, the sheriff's department of the county assigned to the offender shall perform the

DNA sample collection. The specimens shall thereafter be forwarded to the Missouri state highway patrol crime laboratory. Any DNA profiling analysis or collection of DNA samples by the state or any county performed pursuant to sections 650.050 to 650.100 shall be subject to appropriations.

5. The state's participating forensic DNA laboratories shall meet quality assurance standards specified by the Missouri state highway patrol crime laboratory and the Federal Bureau of Investigation to ensure quality DNA identification records submitted to the central repository.

6. The state's participating forensic DNA laboratories may provide the system for identification purposes to criminal justice, law enforcement officials and prosecutors in the preparation and utilization of DNA evidence for presentation in court and provide expert testimony in court on DNA evidentiary issues.

7. The department of public safety shall have the authority to promulgate rules and regulations to carry out the provisions of sections 650.050 to 650.100. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

650.055. FELONY CONVICTIONS FOR CERTAIN OFFENSES TO HAVE BIOLOGICAL SAMPLES COLLECTED, WHEN — USE OF SAMPLE — HIGHWAY PATROL AND DEPARTMENT OF CORRECTIONS, DUTY — DNA RECORDS AND BIOLOGICAL MATERIALS TO BE CLOSED RECORD, DISCLOSURE, WHEN — EXPUNGEMENT OF RECORD, WHEN. — 1. Every individual, in a Missouri circuit court, who pleads guilty to**,** or is found guilty of a felony or any offense under chapter 566, RSMo, **or who is seventeen years of age or older and who is arrested for burglary in the first degree under section 569.160, RSMo, or burglary in the second degree under section 569.170, RSMo, or a felony offense under chapters 565, 566, 567, 568, or 573, RSMo,** or has been determined beyond a reasonable doubt to be a sexually violent predator pursuant to sections 632.480 to 632.513, RSMo, shall have a blood or scientifically accepted biological sample collected for purposes of DNA profiling analysis:

(1) **Upon booking at a county jail or detention facility; or**

(2) Upon entering or before release from the department of corrections reception and diagnostic centers; or

[(2)**] (3)** Upon entering or before release from a county jail or detention facility, state correctional facility, or any other detention facility or institution, whether operated by private, local, or state agency, or any mental health facility if committed as a sexually violent predator pursuant to sections 632.480 to 632.513, RSMo; or

[(3)**] (4)** When the state accepts a person from another state under any interstate compact, or under any other reciprocal agreement with any county, state, or federal agency, or any other provision of law, whether or not the person is confined or released, the acceptance is conditional on the person providing a DNA sample if the person was convicted of, pleaded guilty to, or pleaded nolo contendere to an offense in any other jurisdiction which would be considered a qualifying offense as defined in this section if committed in this state, or if the person was convicted of, pleaded guilty to, or pleaded nolo contendere to any equivalent offense in any other jurisdiction; or

[(4)**] (5)** If such individual is under the jurisdiction of the department of corrections. Such jurisdiction includes persons currently incarcerated, persons on probation, as defined in section 217.650, RSMo, and on parole, as also defined in section 217.650, RSMo.

2. The Missouri state highway patrol and department of corrections shall be responsible for ensuring adherence to the law. Any person required to provide a DNA sample pursuant to this

section shall be required to provide such sample, without the right of refusal, at a collection site designated by the Missouri state highway patrol and the department of corrections. Authorized personnel collecting or assisting in the collection of samples shall not be liable in any civil or criminal action when the act is performed in a reasonable manner. Such force may be used as necessary to the effectual carrying out and application of such processes and operations. The enforcement of these provisions by the authorities in charge of state correctional institutions and others having custody or jurisdiction over those who have been **arrested for,** convicted of, pleaded guilty to, or pleaded nolo contendere to felony offenses which shall not be set aside or reversed is hereby made mandatory. The board of probation or parole shall recommend that an individual who refuses to provide a DNA sample have his or her probation or parole revoked. In the event that a person's DNA sample is not adequate for any reason, the person shall provide another sample for analysis.

3. The procedure and rules for the collection, analysis, storage, expungement, use of DNA database records and privacy concerns shall not conflict with procedures and rules applicable to the Missouri DNA profiling system and the Federal Bureau of Investigation's DNA databank system.

4. Unauthorized uses or dissemination of individually identifiable DNA information in a database for purposes other than criminal justice or law enforcement is a class A misdemeanor.

5. Implementation of sections 650.050 to 650.100 shall be subject to future appropriations to keep Missouri's DNA system compatible with the Federal Bureau of Investigation's DNA databank system.

6. All DNA records and biological materials retained in the DNA profiling system are considered closed records pursuant to chapter 610, RSMo. All records containing any information held or maintained by any person or by any agency, department, or political subdivision of the state concerning an individual's DNA profile shall be strictly confidential and shall not be disclosed, except to:

(1) Peace officers, as defined in section 590.010, RSMo, and other employees of law enforcement agencies who need to obtain such records to perform their public duties;

(2) The attorney general or any assistant attorneys general acting on his or her behalf, as defined in chapter 27, RSMo;

(3) Prosecuting attorneys or circuit attorneys as defined in chapter 56, RSMo, and their employees who need to obtain such records to perform their public duties; **[**or**]**

(4) **The individual whose DNA sample has been collected, or his or her attorney; or**

(5) Associate circuit judges, circuit judges, judges of the courts of appeals, supreme court judges, and their employees who need to obtain such records to perform their public duties.

7. Any person who obtains records pursuant to the provisions of this section shall use such records only for investigative and prosecutorial purposes, including but not limited to use at any criminal trial, hearing, or proceeding; or for law enforcement identification purposes, including identification of human remains. Such records shall be considered strictly confidential and shall only be released as authorized by this section.

8. **Within ninety days of warrant refusal, the arresting agency shall notify the Missouri state highway patrol crime laboratory which shall expunge all DNA records taken at the arrest for which the warrant was refused in the database pertaining to the person and destroy the DNA sample of the person, unless the Missouri state highway patrol determines that the person is otherwise obligated to submit a DNA sample.** An individual may request expungement of his or her DNA sample and DNA profile through the court issuing the reversal or dismissal. A certified copy of the court order establishing that such conviction has been reversed or guilty plea or plea of nolo contendere has been set aside shall be sent to the Missouri state highway patrol crime laboratory. Upon receipt of the court order, the laboratory will determine that the requesting individual has no other qualifying offense as a result of any separate plea or conviction prior to expungement.

(1) A person whose DNA record or DNA profile has been included in the state DNA database in accordance with this section, section 488.5050, RSMo, and sections 650.050, 650.052, and 650.100 may request expungement on the grounds that the conviction has been reversed, or the guilty plea or plea of nolo contendere on which the authority for including that person's DNA record or DNA profile was based has been set aside.

(2) Upon receipt of a written request for expungement, a certified copy of the final court order reversing the conviction or setting aside the plea and any other information necessary to ascertain the validity of the request, the Missouri state highway patrol crime laboratory shall expunge all DNA records and identifiable information in the database pertaining to the person and destroy the DNA sample of the person, unless the Missouri state highway patrol determines that the person is otherwise obligated to submit a DNA sample. Within thirty days after the receipt of the court order, the Missouri state highway patrol shall notify the individual that it has expunged his or her DNA sample and DNA profile, or the basis for its determination that the person is otherwise obligated to submit a DNA sample.

(3) The Missouri state highway patrol is not required to destroy any item of physical evidence obtained from a DNA sample if evidence relating to another person would thereby be destroyed.

(4) Any identification, warrant, arrest, or evidentiary use of a DNA match derived from the database shall not be excluded or suppressed from evidence, nor shall any conviction be invalidated or reversed or plea set aside due to the failure to expunge or a delay in expunging DNA records.

9. When a DNA sample is taken of an arrestee for any offense listed under subsection 1 of this section and charges are filed:

(1) If the charges are later withdrawn, the prosecutor shall notify the state highway patrol crime laboratory that such charges have been withdrawn;

(2) If the case is dismissed, the court shall notify the state highway patrol crime laboratory of such dismissal;

(3) If the court finds at the preliminary hearing that there is no probable cause that the defendant committed the offense, the court shall notify the state highway patrol crime laboratory of such finding;

(4) If the defendant is found not guilty, the court shall notify the state highway patrol crime laboratory of such verdict.

If the state highway patrol crime laboratory receives notice under this subsection that the charges have been withdrawn, the case has been dismissed, there is a finding that the necessary probable cause does not exist, or the defendant is found not guilty, such crime laboratory shall expunge the DNA sample and DNA profile of the arrestee within thirty days. Prior to such expungement, the state highway patrol crime laboratory shall determine whether the individual has any other qualifying offenses or arrests that would require a DNA sample to be taken and retained prior to expungement under this subsection.

Approved July 9, 2009

HB 154 [CCS#2 SS HCS HB 154]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Establishes the Foster Care Education Bill of Rights and changes the laws regarding the placement of children, foster care, and standby guardians

AN ACT to repeal sections 210.565, 453.030, 475.010, 475.045, and 475.105, RSMo, and to enact in lieu thereof ten new sections relating to placement of children.

SECTION
A. Enacting clause.
167.018. Foster care education bill of rights — school district liaisons to be designated, duties.
167.019. Placement decisions, agencies to consider foster child's school attendance area — right to remain in certain districts — course work to be accepted — graduation requirements — rulemaking authority.
210.305. Grandparent placement preferred in emergency placements — definitions — diligent efforts required, when.
210.565. Relatives of child shall be given foster home placement, when — relative, defined — death or dissolution not to affect grandparents' status — specific findings required, when — age of relative not a factor, when — federal requirements to be followed for placement of Native American children — waiver of certain standards, when — GAL to ascertain child's wishes, when.
210.1050. Full school day defined — foster child entitled to full school day of education — commissioner of education to be ombudsman.
453.030. Approval of court required — how obtained, consent of child and parent required, when — validity of consent — withdrawal of consent — forms, developed by department, contents — court appointment of attorney, when.
475.010. Definitions.
475.045. Who may be appointed guardian of minor.
475.046. Standby guardian permitted, when — appointment procedure — authority effective, when.
475.105. Letters of guardianship or conservatorship — form.

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

SECTION A. ENACTING CLAUSE. — Sections 210.565, 453.030, 475.010, 475.045, and 475.105, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as sections 167.018, 167.019, 210.305, 210.565, 210.1050, 453.030, 475.010, 475.045, 475.046, and 475.105, to read as follows:

167.018. FOSTER CARE EDUCATION BILL OF RIGHTS — SCHOOL DISTRICT LIAISONS TO BE DESIGNATED, DUTIES. — 1. Sections 167.018 and 167.019 shall be known and may be cited as the "Foster Care Education Bill of Rights".

2. Each school district shall designate a staff person as the educational liaison for foster care children. The liaison shall do all of the following in an advisory capacity:

(1) Ensure and facilitate the proper educational placement, enrollment in school, and checkout from school of foster children;

(2) Assist foster care pupils when transferring from one school to another or from one school district to another, by ensuring proper transfer of credits, records, and grades;

(3) Request school records, as provided in section 167.022, within two business days of placement of a foster care pupil in a school; and

(4) Submit school records of foster care pupils within three business days of receiving a request for school records, under subdivision (3) of this subsection.

167.019. PLACEMENT DECISIONS, AGENCIES TO CONSIDER FOSTER CHILD'S SCHOOL ATTENDANCE AREA — RIGHT TO REMAIN IN CERTAIN DISTRICTS — COURSE WORK TO BE ACCEPTED — GRADUATION REQUIREMENTS — RULEMAKING AUTHORITY. — 1. A child placing agency, as defined under section 210.481, RSMo, shall promote educational stability for foster care children by considering the child's school attendance area when making placement decisions. The foster care pupil shall have the right to remain enrolled in and attend his or her school of origin pending resolution of school placement disputes.

2. Each school district shall accept for credit full or partial course work satisfactorily completed by a pupil while attending a public school, nonpublic school, or nonsectarian school in accordance with district policies or regulations.

3. If a pupil completes the graduation requirements of his or her school district of residence while under the jurisdiction of the juvenile court as described in chapter 211, RSMo, the school district of residence shall issue a diploma to the pupil.

4. School districts shall ensure that if a pupil in foster care is absent from school due to a decision to change the placement of a pupil made by a court or child placing agency, or due to a verified court appearance or related court-ordered activity, the grades and credits of the pupil shall be calculated as of the date the pupil left school, and no lowering of his or her grades shall occur as a result of the absence of the pupil under these circumstances.

5. School districts, subject to federal law, shall be authorized to permit access of pupil school records to any child placing agency for the purpose of fulfilling educational case management responsibilities required by the juvenile officer or by law and to assist with the school transfer or placement of a pupil.

6. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

210.305. GRANDPARENT PLACEMENT PREFERRED IN EMERGENCY PLACEMENTS — DEFINITIONS — DILIGENT EFFORTS REQUIRED, WHEN. — 1. When an initial emergency placement of a child is deemed necessary, the children's division shall immediately begin diligent efforts to locate, contact, and place the child with a grandparent or grandparents of the child, except when the children's division determines that placement with a grandparent or grandparents is not in the best interest of the child and subject to the provisions of section 210.482 regarding background checks for emergency placements. If emergency placement of a child with a grandparent is deemed not to be in the best interest of the child, the children's division shall document in writing the reason the grandparent has been denied emergency placement and shall have just cause to deny the emergency placement. Prior to placement of the child in any emergency placement, the division shall assure that the child's physical needs are met.

2. For purposes of this section, the following terms shall mean:

(1) "Diligent efforts", a good faith attempt documented in writing by the children's division, which exercises reasonable efforts and care to utilize all available services and resources related to meeting the ongoing health and safety needs of the child, to locate a grandparent or grandparents of the child after all of the child's physical needs have been attended to by the children's division;

(2) "Emergency placement", those limited instances when the children's division is placing for an initial placement a child in the home of private individuals, including neighbors, friends, or relatives, as a result of a sudden unavailability of the child's primary caretaker.

3. Diligent efforts shall be made to contact the grandparent or grandparents of the child within three hours from the time the emergency placement is deemed necessary for the child. During such three-hour time period, the child may be placed in an emergency placement. If a grandparent or grandparents of the child cannot be located within the three-hour period, the child may be temporarily placed in emergency placement; except that, after the emergency placement is deemed necessary, the children's division shall continue to make diligent efforts to contact, locate, and place the child with a grandparent or grandparents, or another relative, with first consideration given to a grandparent for placement.

4. Nothing in this section shall be construed or interpreted to interfere with or supercede laws related to parental rights or judicial authority.

210.565. RELATIVES OF CHILD SHALL BE GIVEN FOSTER HOME PLACEMENT, WHEN — RELATIVE, DEFINED — DEATH OR DISSOLUTION NOT TO AFFECT GRANDPARENTS' STATUS — SPECIFIC FINDINGS REQUIRED, WHEN — AGE OF RELATIVE NOT A FACTOR, WHEN — FEDERAL REQUIREMENTS TO BE FOLLOWED FOR PLACEMENT OF NATIVE AMERICAN CHILDREN — WAIVER OF CERTAIN STANDARDS, WHEN — GAL TO ASCERTAIN CHILD'S WISHES, WHEN. — 1. Whenever a child is placed in a foster home and the court has determined pursuant to subsection 3 of this section that foster home placement with relatives is not contrary to the best interest of the child, the children's division shall give foster home placement to relatives of the child. Notwithstanding any rule of the division to the contrary, **the children's division shall make diligent efforts to locate the grandparents of the child and determine whether they wish to be considered for placement of the child.** Grandparents who request consideration shall be given preference and first consideration for foster home placement **of the child. If more than one grandparent requests consideration, the family support team shall make recommendations to the juvenile or family court about which grandparent should be considered for placement**.

2. As used in this section, the term "relative" means a **grandparent or any other** person related to another by blood or affinity within the third degree. The status of a grandparent shall not be affected by the death or the dissolution of the marriage of a son or daughter.

3. The **preference for placement and first consideration for grandparents or** preference for placement with **other** relatives created by this section shall only apply where the court finds that placement with such **grandparents or other** relatives is not contrary to the best interest of the child considering all circumstances. If the court finds that it is contrary to the best interest of a child to be placed with **grandparents or other** relatives, the court shall make specific findings on the record detailing the reasons why the best interests of the child necessitate placement of the child with persons other than **grandparents or other** relatives.

4. The age of the child's **grandparent or other** relative shall not be the only factor that the children's division takes into consideration when it makes placement decisions and recommendations to the court about placing the child with such **grandparent or other** relative.

5. For any Native American child placed in protective custody, the children's division shall comply with the placement requirements set forth in 25 U.S.C. Section 1915.

6. A grandparent or other relative may, on a case-by-case basis, have standards for licensure not related to safety waived for specific children in care that would otherwise impede licensing of the grandparent's or relative's home.

7. The guardian ad litem shall ascertain the child's wishes and feelings about his or her placement by conducting an interview or interviews with the child, if appropriate based on the child's age and maturity level, which shall be considered as a factor in placement decisions and recommendations, but shall not supersede the preference for relative placement created by this section or be contrary to the child's best interests.

210.1050. FULL SCHOOL DAY DEFINED — FOSTER CHILD ENTITLED TO FULL SCHOOL DAY OF EDUCATION — COMMISSIONER OF EDUCATION TO BE OMBUDSMAN. — 1. For purposes of this section, for pupils in foster care or children placed for treatment in a licensed residential care facility by the department of social services, "full school day" shall mean six hours in which the child is under the guidance and direction of teachers in the educational process.

2. Each pupil in foster care or child placed for treatment in a licensed residential care facility by the department of social services shall be entitled to a full school day of education unless the school district determines that fewer hours are warranted.

3. The commissioner of education, or his or her designee, shall be an ombudsman to assist the family support team and the school district as they work together to meet the needs of children placed for treatment in a licensed residential care facility by the department of social services. The ombudsman shall have the final decision over discrepancies regarding school day length. A full school day of education shall be provided pending the ombudsman's final decision.

4. Nothing in this section shall be construed to infringe upon the rights or due process provisions of the federal Individuals with Disabilities Education Act. The provisions of the Individuals with Disabilities Education Act shall apply and control in decisions regarding school day. Nothing in this section shall be construed to deny any child domiciled in Missouri appropriate and necessary free public education services.

453.030. APPROVAL OF COURT REQUIRED — HOW OBTAINED, CONSENT OF CHILD AND PARENT REQUIRED, WHEN — VALIDITY OF CONSENT — WITHDRAWAL OF CONSENT — FORMS, DEVELOPED BY DEPARTMENT, CONTENTS — COURT APPOINTMENT OF ATTORNEY, WHEN. — 1. In all cases the approval of the court of the adoption shall be required and such approval shall be given or withheld as the welfare of the person sought to be adopted may, in the opinion of the court, demand.

2. The written consent of the person to be adopted shall be required in all cases where the person sought to be adopted is fourteen years of age or older, except where the court finds that such child has not sufficient mental capacity to give the same. **In a case involving a child under fourteen years of age, the guardian ad litem shall ascertain the child's wishes and feelings about his or her adoption by conducting an interview or interviews with the child, if appropriate based on the child's age and maturity level, which shall be considered by the court as a factor in determining if the adoption is in the child's best interests.**

3. With the exceptions specifically enumerated in section 453.040, when the person sought to be adopted is under the age of eighteen years, the written consent of the following persons shall be required and filed in and made a part of the files and record of the proceeding:

(1) The mother of the child; and

(2) Only the man who:

(a) Is presumed to be the father pursuant to the subdivision (1), (2), or (3) of subsection 1 of section 210.822, RSMo; or

(b) Has filed an action to establish his paternity in a court of competent jurisdiction no later than fifteen days after the birth of the child and has served a copy of the petition on the mother in accordance with section 506.100, RSMo; or

(c) Filed with the putative father registry pursuant to section 192.016, RSMo, a notice of intent to claim paternity or an acknowledgment of paternity either prior to or within fifteen days after the child's birth, and has filed an action to establish his paternity in a court of competent jurisdiction no later than fifteen days after the birth of the child; or

(3) The child's current adoptive parents or other legally recognized mother and father.

Upon request by the petitioner and within one business day of such request, the clerk of the local court shall verify whether such written consents have been filed with the court.

4. The written consent required in subdivisions (2) and (3) of subsection 3 of this section may be executed before or after the commencement of the adoption proceedings, and shall be acknowledged before a notary public. In lieu of such acknowledgment, the signature of the person giving such written consent shall be witnessed by the signatures of at least two adult persons whose signatures and addresses shall be plainly written thereon. The two adult witnesses shall not be the prospective adoptive parents or any attorney representing a party to the adoption proceeding. The notary public or witnesses shall verify the identity of the party signing the consent.

5. The written consent required in subdivision (1) of subsection 3 of this section by the birth parent shall not be executed anytime before the child is forty-eight hours old. Such written consent shall be executed in front of a judge or a notary public. In lieu of such acknowledgment, the signature of the person giving such written consent shall be witnessed by the signatures of at least two adult persons who are present at the execution whose signatures and addresses shall be plainly written thereon and who determine and certify that the consent is knowingly and freely given. The two adult witnesses shall not be the prospective adoptive parents or any attorney representing a party to the adoption proceeding. The notary public or witnesses shall verify the identity of the party signing the consent.

6. The written consents shall be reviewed and, if found to be in compliance with this section, approved by the court within three business days of such consents being presented to the court. Upon review, in lieu of approving the consent within three business days, the court may set a date for a prompt evidentiary hearing upon notice to the parties. Failure to review and approve the written consent within three business days shall not void the consent, but a party may seek a writ of mandamus from the appropriate court, unless an evidentiary hearing has been set by the court pursuant to this subsection.

7. The written consent required in subsection 3 of this section may be withdrawn anytime until it has been reviewed and accepted by a judge.

8. A consent form shall be developed through rules and regulations promulgated by the department of social services. No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo. If a written consent is obtained after August 28, 1997, but prior to the development of a consent form by the department and the written consent complies with the provisions of subsection 9 of this section, such written consent shall be deemed valid.

9. However, the consent form must specify that:

(1) The birth parent understands the importance of identifying all possible fathers of the child and may provide the names of all such persons; and

(2) The birth parent understands that if he denies paternity, but consents to the adoption, he waives any future interest in the child.

10. The written consent to adoption required by subsection 3 and executed through procedures set forth in subsection 5 of this section shall be valid and effective even though the parent consenting was under eighteen years of age, if such parent was represented by a guardian ad litem, at the time of the execution thereof.

11. Where the person sought to be adopted is eighteen years of age or older, his written consent alone to his adoption shall be sufficient.

12. A birth parent, including a birth parent less than eighteen years of age, shall have the right to legal representation and payment of any reasonable legal fees incurred throughout the adoption process. In addition, the court may appoint an attorney to represent a birth parent if:

(1) A birth parent requests representation;

(2) The court finds that hiring an attorney to represent such birth parent would cause a financial hardship for the birth parent; and

(3) The birth parent is not already represented by counsel.

13. Except in cases where the court determines that the adoptive parents are unable to pay reasonable attorney fees and appoints pro bono counsel for the birth parents, the court shall order the costs of the attorney fees incurred pursuant to subsection 12 of this section to be paid by the prospective adoptive parents or the child-placing agency.

475.010. DEFINITIONS. — When used in this chapter, unless otherwise apparent from the context, the following terms mean:

(1) "Adult", a person who has reached the age of eighteen years;

(2) "Claims", liabilities of the protectee arising in contract, in tort or otherwise, before or after the appointment of a conservator, and liabilities of the estate which arise at or after the

adjudication of disability or after the appointment of a conservator of the estate, including expenses of the adjudication and of administration. The term does not include demands or disputes regarding title of the protectee to specific assets alleged to be included in the estate;

(3) "Conservator", one appointed by a court to have the care and custody of the estate of a minor or a disabled person. A "limited conservator" is one whose duties or powers are limited. The term "conservator", as used in this chapter, includes "limited conservator" unless otherwise specified or apparent from the context;

(4) **"Custodial parent", the parent of a minor who has been awarded sole or joint physical custody of such minor, or the parent of an incapacitated person who has been appointed as guardian of such person, by an order or judgment of a court of this state or of another state or territory of the United States, or if there is no such order or judgment, the parent with whom the minor or incapacitated person primarily resides;**

(5) "Disabled" or "disabled person", one who is:

(a) Unable by reason of any physical or mental condition to receive and evaluate information or to communicate decisions to such an extent that the person lacks ability to manage his financial resources**[**,**]** **;** or

(b) The term "disabled" or "disabled person", as used in this chapter includes the terms "partially disabled" or "partially disabled person" unless otherwise specified or apparent from the context;

[(5)**] (6)** "Eligible person" or "qualified person", a natural person, social service agency, corporation or national or state banking organization qualified to act as guardian of the person or conservator of the estate pursuant to the provisions of section 475.055;

[(6)**] (7)** "Guardian", one appointed by a court to have the care and custody of the person of a minor or of an incapacitated person. A "limited guardian" is one whose duties or powers are limited. **A "standby guardian" is one approved by the court to temporarily assume the duties of guardian of a minor or of an incapacitated person under section 475.046.** The term "guardian", as used in this chapter, includes "limited guardian" **and "standby guardian"** unless otherwise specified or apparent from the context;

[(7)**] (8)** "Guardian ad litem", one appointed by a court, in which particular litigation is pending, to represent a minor, an incapacitated person, a disabled person, or an unborn person in that particular proceeding or as otherwise specified in this code;

[(8)**] (9)** "Habilitation", instruction, training, guidance or treatment designed to enable and encourage a mentally retarded or developmentally disabled person as defined in chapter 630, RSMo, to acquire and maintain those life skills needed to cope more effectively with the demands of his **or her** own person and of his **or her** environment;

[(9)**] (10)** "Incapacitated person", one who is unable by reason of any physical or mental condition to receive and evaluate information or to communicate decisions to such an extent that he **or she** lacks capacity to meet essential requirements for food, clothing, shelter, safety or other care such that serious physical injury, illness, or disease is likely to occur. The term "incapacitated person" as used in this chapter includes the term "partially incapacitated person" unless otherwise specified or apparent from the context;

[(10)**] (11)** "Least restrictive environment", that there shall be imposed on the personal liberty of the ward only such restraint as is necessary to prevent **[**him**] the ward** from injuring himself **or herself** and others and to provide **[**him**] the ward** with such care, habilitation and treatment as are appropriate for **[**him**] the ward** considering his **or her** physical and mental condition and financial means;

[(11)**] (12)** "Manage financial resources", either those actions necessary to obtain, administer, and dispose of real and personal property, intangible property, business property, benefits, income or any assets, or those actions necessary to prevent waste, loss or dissipation of property, or those actions necessary to provide for the care and support of such person or anyone legally dependent upon **[**him**] such person** by a person of ordinary skills and intelligence commensurate with his **or her** training and education;

[(12)**]** **(13)** "Minor", any person who is under the age of eighteen years;

(14) "Parent", the biological or adoptive mother or father of a child whose parental rights have not been terminated under chapter 211, RSMo, including:

(a) A person registered as the father of the child by reason of an unrevoked notice of intent to claim paternity under section 192.016, RSMo;

(b) A person who has acknowledged paternity of the child and has not rescinded that acknowledgment under section 193.215, RSMo; and

(c) A person presumed to be the natural father of the child under section 210.822, RSMo;

[(13)**]** **(15)** "Partially disabled person", one who is unable by reason of any physical or mental condition to receive and evaluate information or to communicate decisions to such an extent that **[**he**]** **such person** lacks capacity to manage, in part, his **or her** financial resources;

[(14)**]** **(16)** "Partially incapacitated person", one who is unable by reason of any physical or mental condition to receive and evaluate information or to communicate decisions to the extent that **[**he**]** **such person** lacks capacity to meet, in part, essential requirements for food, clothing, shelter, safety, or other care without court-ordered assistance;

[(15)**]** **(17)** "Protectee", a person for whose estate a conservator or limited conservator has been appointed or with respect to whose estate a transaction has been authorized by the court under section 475.092 without appointment of a conservator or limited conservator;

(18) "Seriously ill", a significant likelihood that a person will become incapacitated or die within twelve months;

[(16)**]** **(19)** "Social service agency", a charitable organization organized and incorporated as a not-for-profit corporation under the laws of this state and which qualifies as an exempt organization within the meaning of section 501(c)(3), or any successor provision thereto of the federal Internal Revenue Code;

(20) "Standby guardian", one who is authorized to have the temporary care and custody of the person of a minor or of an incapacitated person under the provisions of section 475.046;

[(17)**]** **(21)** "Treatment", the prevention, amelioration or cure of a person's physical and mental illnesses or incapacities;

[(18)**]** **(22)** "Ward" **[**is**] ,** a minor or an incapacitated person for whom a guardian **[**or**] ,** limited guardian**, or standby guardian** has been appointed.

475.045. WHO MAY BE APPOINTED GUARDIAN OF MINOR. — 1. Except in cases where they fail or refuse to give required security or are adjudged unfit for the duties of guardianship or conservatorship, or waive their rights to be appointed, the following persons, if otherwise qualified, shall be appointed as guardians or conservators of minors:

(1) The parent or parents of the minor, except as provided in section 475.030;

(2) If any minor over the age of fourteen years has no qualified parent living, a person nominated by the minor, unless the court finds appointment contrary to the best interests of the minor;

(3) Where both parents of a minor are dead, any person appointed **under this section or section 475.046** by the will of the last surviving parent, who has not been adjudged unfit or incompetent for the duties of guardian or conservator.

2. Unfitness of any of the persons mentioned in subsection 1 for the duties of guardianship or conservatorship may be adjudged by the court after due notice and hearing.

3. If no appointment is made under subsection 1 **of this section**, the court shall appoint as guardian or conservator of a minor the most suitable person who is willing to serve **and whose appointment serves the best interests of the child to a stable and permanent placement**.

475.046. STANDBY GUARDIAN PERMITTED, WHEN — APPOINTMENT PROCEDURE — AUTHORITY EFFECTIVE, WHEN. — 1. A custodial parent may designate a person to act as

standby guardian of a minor or incapacitated person by a will that complies with the requirements of section 474.320, RSMo, or by a separate written instrument which is dated and is either duly executed and acknowledged by the custodial parent or is signed by the custodial parent in the presence of at least two disinterested witnesses and subscribed by the witnesses. If the custodial parent executes more than one document designating a standby guardian and there is a conflict between the documents as to the person designated, the document bearing the latest date shall control.

2. If a custodial parent who has designated a standby guardian is or becomes seriously ill, the custodial parent or the person designated as standby guardian may file a petition in the probate division of the circuit court of the county which would be of proper venue for the appointment of a guardian of the minor or incapacitated person seeking appointment of the designated person as standby guardian. A copy of the will or separate written instrument designating the standby guardian and a consent to act as standby guardian signed by the person designated shall be filed with the petition, which petition shall state:

(1) The name, age, domicile, actual place of residence, and mailing address of the minor or incapacitated person;

(2) The name and address of the custodial parent and of the designated standby guardian;

(3) The name and address of each parent of the minor or incapacitated person and whether that parent is living or dead;

(4) The name and address of the spouse, if applicable, and the names, ages, and addresses of all living children of the minor or incapacitated person;

(5) If the person for whom appointment of a standby guardian is sought has been adjudicated incapacitated, the date of adjudication and the name and address of the court which entered the judgment; and

(6) The reasons why the appointment of a standby guardian is sought.

Proceedings on the petition shall be conducted in the same manner as would be applicable in a case for appointment of a successor guardian under section 475.115.

3. The court shall determine appointment of a standby guardian in accordance with the best interests of the minor or incapacitated person after considering all relevant factors, including:

(1) Whether there is a parent other than the custodial parent and, if so, whether the other parent is willing, able, and fit to assume the duties of a parent;

(2) The suitability of a person nominated by the minor or incapacitated person if he or she is, at the time of hearing, able to communicate a reasonable choice; and

(3) The desirability of providing arrangements for the care, custody, and control of the minor or incapacitated person which shall minimize stress and disruption and avoid his or her placement in foster or similar care pending appointment of a guardian if the custodial parent is adjudicated incapacitated or dies.

4. If it appears to the court that a standby guardian should be appointed for a minor or incapacitated person, the court may appoint a standby guardian.

5. The authority of a person to act as standby guardian for a minor or incapacitated person shall only take effect as follows:

(1) If the person has previously been appointed by the court as standby guardian, upon the granting of letters of standby guardianship to the person previously appointed as provided in the order appointing the standby guardian; or

(2) If the person has not previously been appointed by the court as standby guardian, either because a petition for appointment has not been filed or because a petition has been filed but the proceedings are still pending, upon the first to occur of the following:

(a) The consent of the custodial parent in a writing duly executed and acknowledged by the custodial parent;

(b) Entry of an order adjudicating the custodial parent to be incapacitated; or

(c) The death of the custodial parent.

The person shall, within ten days after he or she begins to act as standby guardian, notify the court in writing of that fact and of the reasons therefor. The court may grant letters of standby guardianship to the person or, if the court deems it advisable, conduct a hearing to determine the propriety of the person having begun, and continuing, to act as standby guardian and the propriety of issuing letters of standby guardianship to the person.

6. A person acting as standby guardian of a minor or incapacitated person shall, within sixty days after he or she begins to act, petition the court for appointment of the standby guardian or some other qualified person as guardian of the minor or incapacitated person. Proceedings on the petition shall be conducted in the same manner as would be applicable in a case for appointment of a successor guardian under section 475.115.

7. Nothing in this section shall be construed to:

(1) Deprive a parent of his or her legal rights with respect to a minor or incapacitated person who is a child of that parent, including court ordered visitation with the child, nor to authorize a grant of authority to a standby guardian which would supersede any such rights; or

(2) Relieve a parent of his or her legal obligations or duties to a minor or incapacitated person who is a child of that parent, including a duty to support the child in accordance with a court or administrative order.

8. Except to the extent determined by the court to be inconsistent with the provisions of this section or as expressly provided in this section, the laws applicable to guardianship proceedings shall apply to all proceedings under this section.

475.105. LETTERS OF GUARDIANSHIP OR CONSERVATORSHIP — FORM. — 1. When a duly appointed guardian or conservator has given bond, as required by law, and the bond has been approved, letters under the seal of the court shall be issued to **[**him**]** **the person appointed**. Such letters shall specify whether they are of guardianship **[**or**]** **,** limited guardianship**, or standby guardianship** of the person, or conservatorship or limited conservatorship of the estate, or both, and the original or duly certified copies thereof shall be prima facie evidence of the facts therein stated.

2. Letters of guardianship and conservatorship for minors may be in the following form:

IN THE PROBATE DIVISION OF THE CIRCUIT COURT
OF . . . . COUNTY, MISSOURI
LETTERS OF **(STANDBY)** GUARDIANSHIP (AND CONSERVATORSHIP) OF MINOR
Estate No. . . . . .

On . . . . . , ... was appointed and has qualified as **(standby)** guardian of the person (and conservator of the estate) for the following minor(s):

. . . . . Born . . . . . , 20. . . . .
. . . . . Born . . . . . , 20. . . . .
. . . . . Born . . . . . , 20. . . . .
. . . . . Born . . . . . , 20. . . . .

By reason thereof, the above-named **(standby)** guardian (and conservator) is authorized and empowered to perform the duties of such **(standby)** guardian (and conservator) as provided by law under the supervision of the court having care and custody of the person (and of the estate) of the above-named minor(s).

IN TESTIMONY WHEREOF, the undersigned Clerk has signed these letters and affixed the seal of this court on . . . . . .

. . . . . .
Clerk

Recorded on . . . . . ., in Book . . . . . at Page . . . .

. . . . . .
Clerk

3. Letters of guardianship and conservatorship for incapacitated and disabled persons may be in the following form:

IN THE PROBATE DIVISION OF THE CIRCUIT COURT
OF . . . . . COUNTY, MISSOURI
LETTERS OF **(STANDBY)** GUARDIANSHIP OF INCAPACITATED PERSON (AND CONSERVATORSHIP OF DISABLED PERSON)
Estate No. . . . . .

On . . . . . , ... was appointed and has qualified as **(standby)** guardian of the person (and conservator of the estate) for . . . . . ., an incapacitated (and disabled) person.

By reason thereof, the above-named **(standby)** guardian (and conservator) is authorized and empowered to perform the duties of such **(standby)** guardian (and conservator) as provided by law under the supervision of the court having care and custody of the person (and estate) of the above-named incapacitated (and disabled) person.

IN TESTIMONY WHEREOF, the undersigned Clerk has signed these letters and affixed the seal of this court on . . . . . ., 20 . . . . . .

. . . . . .
Clerk

Approved July 8, 2009

HB 177 [SCS HCS HB 177 & HCS HB 622]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Gives the judge presiding over certain sexual offense cases discretion to publicly disclose identifying information regarding the defendant which could be used to identify or locate the victim

AN ACT to repeal section 566.226, RSMo, and to enact in lieu thereof one new section relating to court records for sexual offenses.

SECTION
A. Enacting clause.
566.226. Identifiable information in court records to be redacted, when — access to information permitted, when — disclosure of identifying information regarding defendant, when.

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

SECTION A. ENACTING CLAUSE. — Section 566.226, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 566.226, to read as follows:

566.226. IDENTIFIABLE INFORMATION IN COURT RECORDS TO BE REDACTED, WHEN — ACCESS TO INFORMATION PERMITTED, WHEN — DISCLOSURE OF IDENTIFYING

INFORMATION REGARDING DEFENDANT, WHEN. — 1. After August 28, 2007, any information contained in any court record, whether written or published on the Internet, that could be used to identify or locate any victim of sexual assault, domestic assault, stalking, or forcible rape shall be closed and redacted from such record prior to disclosure to the public. Identifying information shall include the name, home or temporary address, telephone number, Social Security number or physical characteristics.

2. If the court determines that a person or entity who is requesting identifying information of a victim has a legitimate interest in obtaining such information, the court may allow access to the information, but only if the court determines that disclosure to the person or entity would not compromise the welfare or safety of such victim.

3. Notwithstanding the provisions of subsection 1 of this section, the judge presiding over a sexual assault, domestic assault, stalking, or forcible rape case shall have the discretion to publicly disclose identifying information regarding the defendant which could be used to identify or locate the victim of the crime. The victim may provide a statement to the court regarding whether he or she desires such information to remain closed. When making the decision to disclose such information, the judge shall consider the welfare and safety of the victim and any statement to the court received from the victim regarding the disclosure.

Approved July 7, 2009

HB 191 [SS#2 SCS HCS HB 191]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding taxation

AN ACT to repeal sections 32.105, 99.865, 99.1205, 100.286, 100.760, 100.770, 100.850, 105.145, 135.155, 135.352, 135.680, 135.766, 135.800, 135.802, 135.805, 147.010, 208.770, 238.207, 238.212, 238.235, 253.545, 253.550, 253.559, 338.337, 447.708, 610.021, 620.014, 620.017, 620.472, 620.1878, and 620.1881, RSMo, and to enact in lieu thereof thirty-six new sections relating to taxation, with penalty provisions and an emergency clause for certain sections.

SECTION

A. Enacting clause.
32.105. Definitions.
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Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 32.105, 99.865, 99.1205, 100.286, 100.760, 100.770, 100.850, 105.145, 135.155, 135.352, 135.680, 135.766, 135.800, 135.802, 135.805, 147.010, 208.770, 238.207, 238.212, 238.235, 253.545, 253.550, 253.559, 338.337, 447.708, 610.021, 620.014, 620.017, 620.472, 620.1878, and 620.1881, RSMo, are repealed and thirty-six new sections enacted in lieu thereof, to be known as sections 32.105, 37.850, 99.865, 99.1205, 100.286, 100.760, 100.770, 100.850, 105.145, 108.1000, 108.1010, 108.1020, 135.155, 135.352, 135.680, 135.766, 135.800, 135.802, 135.805, 147.010, 208.770, 238.207, 238.212, 238.235, 253.545, 253.550, 253.559, 338.337, 447.708, 610.021, 620.014, 620.017, 620.472, 620.1878, 620.1881, and 1, to read as follows:

32.105. DEFINITIONS. — As used in sections 32.100 to 32.125, the following terms mean:

(1) "Affordable housing assistance activities", money, real or personal property, or professional services expended or devoted to the construction, or rehabilitation of affordable housing units;

(2) "Affordable housing unit", a residential unit generally occupied by persons and families with incomes at or below the levels described in this subdivision and bearing a cost to the occupant no greater than thirty percent of the maximum eligible household income for the affordable housing unit. In the case of owner-occupied units, the cost to the occupant shall be considered the amount of the gross monthly mortgage payment, including casualty insurance, mortgage insurance, and taxes. In the case of rental units, the cost to the occupant shall be

considered the amount of the gross rent. The cost to the occupant shall include the cost of any utilities, other than telephone. If any utilities are paid directly by the occupant, the maximum cost that may be paid by the occupant is to be reduced by a utility allowance prescribed by the commission. **For rental units,** 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 for the geographic area in which the residential unit is located, or the median family income for the state of Missouri, whichever is larger; ("geographic area"**, as used in this subdivision,** 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):

Size of Household	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%

For owner-occupied units, 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 for the geographic area in which the residential unit is located, or the median family income for the state of Missouri, whichever is larger:

Size of Household	**Percent of State or Geographic Area Family Median Income**
One Person	**70%**
Two Persons	**80%**
Three Persons	**90%**
Four Persons	**100%**
Five Persons	**108%**
Six Persons	**116%**
Seven Persons	**124%**
Eight Persons	**132%**

(3) "Business firm", person, firm, a partner in a firm, corporation or a shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed by the provisions of chapter 143, RSMo, including any charitable organization that is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under such chapter, 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 pursuant to 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 medical care furnished to individuals or groups in the state of Missouri or transportation services at below-cost rates as provided in sections 208.250 to 208.275, RSMo;

(6) "Crime prevention", any activity which aids in the reduction of crime in the state of Missouri;

(7) "Defense industry contractor", a person, corporation or other entity which will be or has been negatively impacted as a result of its status as a prime contractor of the Department of Defense or as a second or third tier contractor. A "second tier contractor" means a person, corporation or other entity which contracts to perform manufacturing, maintenance or repair services for a prime contractor of the Department of Defense, and a "third tier contractor" means a person, corporation or other entity which contracts with a person, corporation or other entity which contracts with a prime contractor of the Department of Defense;

(8) "Doing business", among other methods of doing business in the state of Missouri, a partner in a firm or a shareholder in an S corporation shall be deemed to be doing business in the state of Missouri if such firm or S corporation, as the case may be, is doing business in the state of Missouri;

(9) "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 business development projects will result in the creation or retention of jobs within the state**[**; or, until June 30, 1996, a defense conversion pilot project located in a standard metropolitan statistical area which contains a city with a population of at least three hundred fifty thousand inhabitants, which will assist Missouri-based defense industry contractors in their conversion from predominately defense-related contracting to nondefense-oriented manufacturing**]**. Only neighborhood organizations, as defined in subdivision (13) of this section, may apply to conduct economic development projects. Prior to the approval of an economic development project, the neighborhood organization shall enter into a contractual agreement with the department of economic development. Credits approved for economic development projects may not exceed six million dollars from within any one fiscal year's allocation. Neighborhood assistance program tax credits for economic development projects and affordable housing assistance as defined in section 32.111 may be transferred, sold or assigned by a notarized endorsement thereof naming the transferee;

(10) "Education", any type of scholastic instruction or scholarship assistance to an individual who resides in the state of Missouri that enables the individual to prepare himself or herself for better opportunities or community awareness activities rendered by a statewide organization established for the purpose of archeological education and preservation;

(11) "Homeless assistance pilot project", the program established pursuant to section 32.117;

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

(13) "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 pursuant to the provisions of the Internal Revenue Code; or

(b) Incorporated in the state of Missouri as a not-for-profit corporation pursuant to the provisions of chapter 355, RSMo; or

(c) Designated as a community development corporation by the United States government pursuant to the provisions of Title VII of the Economic Opportunity Act of 1964;

(14) "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;

(15) "S corporation", a corporation described in Section 1361(a)(1) of the United States Internal Revenue Code and not subject to the taxes imposed by section 143.071, RSMo, by reason of section 143.471, RSMo;

(16) "Workfare renovation project", any project initiated pursuant to sections 215.340 to 215.355, RSMo.

37.850. PORTAL TO BE MAINTAINED — DATABASE, CONTENTS, UPDATING — DAILY REPORT BY GOVERNOR. — 1. The commissioner of administration shall maintain the Missouri accountability portal established in executive order 07-24 as a free, Internet-based tool allowing citizens to demand fiscal discipline and responsibility.

2. The Missouri accountability portal shall consist of an easy-to-search database of financial transactions related to the purchase of goods and services and the distribution of funds for state programs.

3. The Missouri accountability portal shall be updated each state business day and maintained as the primary source of information about the activity of Missouri's government.

99.865. REPORT BY MUNICIPALITIES, CONTENTS, PUBLICATION — SATISFACTORY PROGRESS OF PROJECT, PROCEDURE TO DETERMINE — REPORTS BY DEPARTMENT OF ECONOMIC DEVELOPMENT REQUIRED, WHEN, CONTENTS — RULEMAKING AUTHORITY — DEPARTMENT TO PROVIDE MANUAL, CONTENTS — PENALTY FOR FAILURE TO COMPLY. — 1. Each year the governing body of the municipality, or its designee, shall prepare a report concerning the status of each redevelopment plan and redevelopment project, and shall submit a copy of such report to the director of the department of economic development. The report shall include the following:

(1) The amount and source of revenue in the special allocation fund;

(2) The amount and purpose of expenditures from the special allocation fund;

(3) The amount of any pledge of revenues, including principal and interest on any outstanding bonded indebtedness;

(4) The original assessed value of the redevelopment project;

(5) The assessed valuation added to the redevelopment project;

(6) Payments made in lieu of taxes received and expended;

(7) The economic activity taxes generated within the redevelopment area in the calendar year prior to the approval of the redevelopment plan, to include a separate entry for the state sales tax revenue base for the redevelopment area or the state income tax withheld by employers on behalf of existing employees in the redevelopment area prior to the redevelopment plan;

(8) The economic activity taxes generated within the redevelopment area after the approval of the redevelopment plan, to include a separate entry for the increase in state sales tax revenues for the redevelopment area or the increase in state income tax withheld by employers on behalf of new employees who fill new jobs created in the redevelopment area;

(9) Reports on contracts made incident to the implementation and furtherance of a redevelopment plan or project;

(10) A copy of any redevelopment plan, which shall include the required findings and cost-benefit analysis pursuant to subdivisions (1) to (6) of section 99.810;

(11) The cost of any property acquired, disposed of, rehabilitated, reconstructed, repaired or remodeled;

(12) The number of parcels acquired by or through initiation of eminent domain proceedings; and

(13) Any additional information the municipality deems necessary.

2. Data contained in the report mandated pursuant to the provisions of subsection 1 of this section and any information regarding amounts disbursed to municipalities pursuant to the provisions of section 99.845 shall be deemed a public record, as defined in section 610.010, RSMo. An annual statement showing the payments made in lieu of taxes received and expended in that year, the status of the redevelopment plan and projects therein, amount of outstanding bonded indebtedness and any additional information the municipality deems necessary shall be published in a newspaper of general circulation in the municipality.

3. Five years after the establishment of a redevelopment plan and every five years thereafter the governing body shall hold a public hearing regarding those redevelopment plans and projects created pursuant to sections 99.800 to 99.865. The purpose of the hearing shall be to determine if the redevelopment project is making satisfactory progress under the proposed time schedule contained within the approved plans for completion of such projects. Notice of such public hearing shall be given in a newspaper of general circulation in the area served by the commission once each week for four weeks immediately prior to the hearing.

4. The director of the department of economic development shall submit a report to the **state auditor, the** speaker of the house of representatives**,** and the president pro tem of the senate no later than February first of each year. The report shall contain a summary of all information received by the director pursuant to this section.

5. For the purpose of coordinating all tax increment financing projects using new state revenues, the director of the department of economic development may promulgate rules and regulations to ensure compliance with this section. Such rules and regulations may include methods for enumerating all of the municipalities which have established commissions pursuant to section 99.820. No rule or portion of a rule promulgated under the authority of sections 99.800 to 99.865 shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo. All rulemaking authority delegated prior to June 27, 1997, is of no force and effect and repealed; however, nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to June 27, 1997, if such rule complied with the provisions of chapter 536, RSMo. The provisions of this section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, including the ability to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule, are subsequently held unconstitutional, then the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void.

6. The department of economic development shall provide information and technical assistance, as requested by any municipality, on the requirements of sections 99.800 to 99.865. Such information and technical assistance shall be provided in the form of a manual, written in an easy-to-follow manner, and through consultations with departmental staff.

7. Any municipality which fails to comply with the reporting requirements provided in this section shall be prohibited from implementing any new tax increment finance project for a period of no less than five years from such municipality's failure to comply.

8. Based upon the information provided in the reports required under the provisions of this section, the state auditor shall make available for public inspection on the auditor's web site, a searchable electronic database of such municipal tax increment finance reports. All information contained within such database shall be maintained for a period of no less than ten years from initial posting.

99.1205. CITATION OF LAW — DEFINITIONS — TAX CREDIT ALLOWED, AMOUNT — PROCEDURE TO CLAIM — CAP ON AGGREGATE TAX CREDIT AMOUNT — REPORT REQUIRED — RULEMAKING AUTHORITY. — 1. This section shall be known and may be cited as the "Distressed Areas Land Assemblage Tax Credit Act".

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

(1) "Acquisition costs", the purchase price for the eligible parcel, costs of environmental assessments, closing costs, real estate brokerage fees, reasonable demolition costs of vacant structures, and reasonable maintenance costs incurred to maintain an acquired eligible parcel for a period of five years after the acquisition of such eligible parcel. Acquisition costs shall not include costs for title insurance and survey, attorney's fees, relocation costs, fines, or bills from a municipality;

(2) "Applicant", any person, firm, partnership, trust, limited liability company, or corporation which has:

(a) Incurred, within an eligible project area, acquisition costs for the acquisition of land sufficient to satisfy the requirements under subdivision (8) of this subsection; and

(b) Been appointed or selected, pursuant to a redevelopment agreement by a municipal authority, as a redeveloper or similar designation, under an economic incentive law, to redevelop an urban renewal area or a redevelopment area that includes all of an eligible project area or whose redevelopment plan or redevelopment area, which encompasses all of an eligible project area, has been approved or adopted under an economic incentive law. In addition to being designated the redeveloper, the applicant shall have been designated to receive economic incentives only after the municipal authority has considered the amount of the tax credits in adopting such economic incentives as provided in subsection 8 of this section. The redevelopment agreement shall provide that:

a. The funds generated through the use or sale of the tax credits issued under this section shall be used to redevelop the eligible project area;

b. No more than seventy-five percent of the urban renewal area identified in the urban renewal plan or the redevelopment area identified in the redevelopment plan may be redeveloped by the applicant; and

c. The remainder of the urban renewal area or the redevelopment area shall be redeveloped by co-redevelopers or redevelopers to whom the applicant has assigned its redevelopment rights and obligations under the urban renewal plan or the redevelopment plan;

(3) "Certificate", a tax credit certificate issued under this section;

(4) "Condemnation proceedings", any action taken by, or on behalf of, an applicant to initiate an action in a court of competent jurisdiction to use the power of eminent domain to acquire a parcel within the eligible project area. Condemnation proceedings shall include any and all actions taken after the submission of a notice of intended acquisition to an owner of a parcel within the eligible project area by a municipal authority or any other person or entity under section 523.250, RSMo;

(5) "Department", the Missouri department of economic development;

(6) "Economic incentive laws", any provision of Missouri law pursuant to which economic incentives are provided to redevelopers of a parcel or parcels to redevelop the land, such as tax abatement or payments in lieu of taxes, or redevelopment plans or redevelopment projects approved or adopted which include the use of economic incentives to redevelop the land. Economic incentive laws include, but are not limited to, the land clearance for redevelopment authority law under sections 99.300 to 99.660, the real property tax increment allocation redevelopment act under sections 99.800 to 99.865, the Missouri downtown and rural economic stimulus act under sections 99.915 to 99.1060, and the downtown revitalization preservation program under sections 99.1080 to 99.1092;

(7) "Eligible parcel", a parcel:

(a) Which is located within an eligible project area;

(b) Which is to be redeveloped;

(c) On which the applicant has not commenced construction prior to November 28, 2007;

(d) Which has been acquired without the commencement of any condemnation proceedings with respect to such parcel brought by or on behalf of the applicant. Any parcel acquired by the applicant from a municipal authority shall not constitute an eligible parcel; and

(e) On which all outstanding taxes, fines, and bills levied by municipal governments that were levied by the municipality during the time period that the applicant held title to the eligible parcel have been paid in full;

(8) "Eligible project area", an area which shall have satisfied the following requirements:

(a) The eligible project area shall consist of at least seventy-five acres and may include parcels within its boundaries that do not constitute an eligible parcel;

(b) At least eighty percent of the eligible project area shall be located within a Missouri qualified census tract area, as designated by the United States Department of Housing and Urban Development under 26 U.S.C. Section 42, or within a distressed community as that term is defined in section 135.530, RSMo;

(c) The eligible parcels acquired by the applicant within the eligible project area shall total at least fifty acres, which may consist of contiguous and noncontiguous parcels;

(d) The average number of parcels per acre in an eligible project area shall be four or more;

(e) Less than five percent of the acreage within the boundaries of the eligible project area shall consist of owner-occupied residences which the applicant has identified for acquisition under the urban renewal plan or the redevelopment plan pursuant to which the applicant was appointed or selected as the redeveloper or by which the person or entity was qualified as an applicant under this section on the date of the approval or adoption of such plan;

(9) "Interest costs", interest, loan fees, and closing costs. Interest costs shall not include attorney's fees;

(10) "Maintenance costs", costs of boarding up and securing vacant structures, costs of removing trash, and costs of cutting grass and weeds;

(11) "Municipal authority", any city, town, village, county, public body corporate and politic, political subdivision, or land trust of this state established and authorized to own land within the state;

(12) "Municipality", any city, town, village, or county;

(13) "Parcel", a single lot or tract of land, and the improvements thereon, owned by, or recorded as the property of, one or more persons or entities;

(14) "Redeveloped", the process of undertaking and carrying out a redevelopment plan or urban renewal plan pursuant to which the conditions which provided the basis for an eligible project area to be included in a redevelopment plan or urban renewal plan are to be reduced or eliminated by redevelopment or rehabilitation; and

(15) "Redevelopment agreement", the redevelopment agreement or similar agreement into which the applicant entered with a municipal authority and which is the agreement for the implementation of the urban renewal plan or redevelopment plan pursuant to which the applicant was appointed or selected as the redeveloper or by which the person or entity was qualified as an applicant under this section; and such appointment or selection shall have been approved by an ordinance of the governing body of the municipality, or municipalities, or in the case of any city not within a county, the board of aldermen, in which the eligible project area is located. The redevelopment agreement shall include a time line for redevelopment of the eligible project area. The redevelopment agreement shall state that the named developer shall be subject to the provisions of chapter 290, RSMo.

3. Any applicant shall be entitled to a tax credit against the taxes imposed under chapters 143, 147, and 148, RSMo, except for sections 143.191 to 143.265, RSMo, in an amount equal to fifty percent of the acquisition costs, and one hundred percent of the interest costs incurred for a period of five years after the acquisition of an eligible parcel. No tax credits shall be issued under this section until after January 1, 2008.

4. If the amount of such tax credit exceeds the total tax liability for the year in which the applicant is entitled to receive a tax credit, the amount that exceeds the state tax liability may be carried forward for credit against the taxes imposed under chapters 143, 147, and 148, RSMo, for the succeeding six years, or until the full credit is used, whichever occurs first. The applicant shall not be entitled to a tax credit for taxes imposed under sections 143.191 to 143.265, RSMo.

Applicants entitled to receive such tax credits may transfer, sell, or assign the tax credits. Tax credits granted to a partnership, a limited liability company taxed as a partnership, or multiple owners of property shall be passed through to the partners, members, or owners respectively pro rata or pursuant to an executed agreement among the partners, members, or owners documenting an alternate distribution method.

5. A purchaser, transferee, or assignee of the tax credits authorized under this section may use acquired tax credits to offset up to one hundred percent of the tax liabilities otherwise imposed under chapters 143, 147, and 148, RSMo, except for sections 143.191 to 143.265, RSMo. A seller, transferor, or assignor shall perfect such transfer by notifying the department in writing within thirty calendar days following the effective date of the transfer and shall provide any information as may be required by the department to administer and carry out the provisions of this section.

6. To claim tax credits authorized under this section, an applicant shall submit to the department an application for a certificate. An applicant shall identify the boundaries of the eligible project area in the application. The department shall verify that the applicant has submitted a valid application in the form and format required by the department. The department shall verify that the municipal authority held the requisite hearings and gave the requisite notices for such hearings in accordance with the applicable economic incentive act, and municipal ordinances. On an annual basis, an applicant may file for the tax credit for the acquisition costs, and for the tax credit for the interest costs, subject to the limitations of this section. If an applicant applying for the tax credit meets the criteria required under this section, the department shall issue a certificate in the appropriate amount. If an applicant receives a tax credit for maintenance costs as a part of the applicant's acquisition costs, the department shall post on its Internet web site the amount and type of maintenance costs and a description of the redevelopment project for which the applicant received a tax credit within thirty days after the department issues the certificate to the applicant.

7. The total aggregate amount of tax credits authorized under this section shall not exceed ninety-five million dollars. At no time shall the annual amount of the tax credits issued under this section exceed **[**ten**]** **twenty** million dollars. If the tax credits that are to be issued under this section exceed, in any year, the **[**ten**]** **twenty** million dollar limitation, the department shall either:

(1) Issue tax credits to the applicant in the amount of **[**ten**]** **twenty** million dollars, if there is only one applicant entitled to receive tax credits in that year; or

(2) Issue the tax credits on a pro rata basis to all applicants entitled to receive tax credits in that year. Any amount of tax credits, which an applicant is, or applicants are, entitled to receive on an annual basis and are not issued due to the **[**ten**]** **twenty** million dollar limitation, shall be carried forward for the benefit of the applicant or applicants to subsequent years. No tax credits provided under this section shall be authorized after August 28, 2013. Any tax credits which have been authorized on or before August 28, 2013, but not issued, may be issued, subject to the limitations provided under this subsection, until all such authorized tax credits have been issued.

8. Upon issuance of any tax credits pursuant to this section, the department shall report to the municipal authority the applicant's name and address, the parcel numbers of the eligible parcels for which the tax credits were issued, the itemized acquisition costs and interest costs for which tax credits were issued, and the total value of the tax credits issued. The municipal authority and the state shall not consider the amount of the tax credits as an applicant's cost, but shall include the tax credits in any sources and uses and cost benefit analysis reviewed or created for the purpose of awarding other economic incentives. The amount of the tax credits shall not be considered an applicant's cost in the evaluation of the amount of any award of any other economic incentives, but shall be considered in measuring the reasonableness of the rate of return to the applicant with respect to such award of other economic incentives. The municipal authority shall provide the report to any relevant commission, board, or entity responsible for the evaluation and recommendation or approval of other economic incentives to assist in the redevelopment of the eligible project area. Tax credits authorized under this section shall

constitute redevelopment tax credits, as such term is defined under section 135.800 RSMo, and shall be subject to all provisions applicable to redevelopment tax credits provided under sections 135.800 to 135.830 RSMo.

9. The department may promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

100.286. LOANS SECURED BY CERTAIN FUNDS — STANDARDS — INFORMATION REQUIRED — REVIEW AND CERTIFICATION BY PARTICIPATING LENDER — BOARD APPROVAL — FEE, TAX CREDIT, LIMITATION. — 1. Within the discretion of the board, the development and reserve fund, the infrastructure development fund or the export finance fund may be pledged to secure the payment of any bonds or notes issued by the board, or to secure the payment of any loan made by the board or a participating lender which loan:

(1) Is requested to finance any project or export trade activity;

(2) Is requested by a borrower who is demonstrated to be financially responsible;

(3) Can reasonably be expected to provide a benefit to the economy of this state;

(4) Is otherwise secured by a mortgage or deed of trust on real or personal property or other security satisfactory to the board; provided that loans to finance export trade activities may be secured by export accounts receivable or inventories of exportable goods satisfactory to the board;

(5) Does not exceed five million dollars;

(6) Does not have a term longer than five years if such loan is made to finance export trade activities; and

(7) Is, when used to finance export trade activities, made to small or medium size businesses or agricultural businesses, as may be defined by the board.

2. The board shall prescribe standards for the evaluation of the financial condition, business history, and qualifications of each borrower and the terms and conditions of loans which may be secured, and may require each application to include a financial report and evaluation by an independent certified public accounting firm, in addition to such examination and evaluation as may be conducted by any participating lender.

3. Each application for a loan secured by the development and reserve fund, the infrastructure development fund or the export finance fund shall be reviewed in the first instance by any participating lender to whom the application was submitted. If satisfied that the standards prescribed by the board are met and that the loan is otherwise eligible to be secured by the development and reserve fund, the infrastructure development fund or the export finance fund, the participating lender shall certify the same and forward the application for final approval to the board.

4. The securing of any loans by the development and reserve fund, the infrastructure development fund or the export finance fund shall be conditioned upon approval of the application by the board, and receipt of an annual reserve participation fee, as prescribed by the board, submitted by or on behalf of the borrower.

5. The securing of any loan by the export finance fund for export trade activities shall be conditioned upon the board's compliance with any applicable treaties and international agreements, such as the general agreement on tariffs and trade and the subsidies code, to which the United States is then a party.

6. Any taxpayer, including any charitable organization that is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state

income tax imposed under chapter 143, RSMo, **[**shall be entitled to**]** **may, subject to the limitations provided under subsection 8 of this section, receive** a tax credit against any tax otherwise due under the provisions of chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.261, RSMo, chapter 147, RSMo, or chapter 148, RSMo, in the amount of fifty percent of any amount contributed in money or property by the taxpayer to the development and reserve fund, the infrastructure development fund or the export finance fund during the taxpayer's tax year, provided, however, the total tax credits awarded in any calendar year beginning after January 1, 1994, shall not be the greater of ten million dollars or five percent of the average growth in general revenue receipts in the preceding three fiscal years. This limit may be exceeded only upon joint agreement by the commissioner of administration, the director of the department of economic development, and the director of the department of revenue that such action is essential to ensure retention or attraction of investment in Missouri. If the board receives, as a contribution, real property, the contributor at such contributor's own expense shall have two independent appraisals conducted by appraisers certified by the Master Appraisal Institute. Both appraisals shall be submitted to the board, and the tax credit certified by the board to the contributor shall be based upon the value of the lower of the two appraisals. The board shall not certify the tax credit until the property is deeded to the board. Such credit shall not apply to reserve participation fees paid by borrowers under sections 100.250 to 100.297. The portion of earned tax credits which exceeds the taxpayer's tax liability may be carried forward for up to five years.

7. Notwithstanding any provision of law to the contrary, any taxpayer may sell, assign, exchange, convey or otherwise transfer tax credits allowed in subsection 6 of this section under the terms and conditions prescribed in subdivisions (1) and (2) of this subsection. Such taxpayer, hereinafter the assignor for the purpose of this subsection, may sell, assign, exchange or otherwise transfer earned tax credits:

(1) For no less than seventy-five percent of the par value of such credits; and

(2) In an amount not to exceed one hundred percent of annual earned credits. The taxpayer acquiring earned credits, hereinafter the assignee for the purpose of this subsection, may use the acquired credits to offset up to one hundred percent of the tax liabilities otherwise imposed by chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.261, RSMo, chapter 147, RSMo, or chapter 148, RSMo. Unused credits in the hands of the assignee may be carried forward for up to five years, provided all such credits shall be claimed within ten years following the tax years in which the contribution was made. The assignor shall enter into a written agreement with the assignee establishing the terms and conditions of the agreement and shall perfect such transfer by notifying the board in writing within thirty calendar days following the effective day of the transfer and shall provide any information as may be required by the board to administer and carry out the provisions of this section. Notwithstanding any other provision of law to the contrary, the amount received by the assignor of such tax credit shall be taxable as income of the assignor, and the excess of the par value of such credit over the amount paid by the assignee for such credit shall be taxable as income of the assignee.

8. Provisions of subsections 1 to 7 of this section to the contrary notwithstanding, no more than ten million dollars in tax credits provided under this section, may be authorized or approved annually. The limitation on tax credit authorization and approval provided under this subsection may be exceeded only upon mutual agreement, evidenced by a signed and properly notarized letter, by the commissioner of the office of administration, the director of the department of economic development, and the director of the department of revenue that such action is essential to ensure retention or attraction of investment in Missouri provided, however, that in no case shall more than twenty-five million dollars in tax credits be authorized or approved during such year. Taxpayers shall file, with the board, an application for tax credits authorized under this section on a form provided by the board. The provisions of this subsection shall not be construed to limit or in any way impair the ability of the board to authorize tax credits for issuance for

projects authorized or approved, by a vote of the board, on or before the thirtieth day following the effective date of this act, or a taxpayer's ability to redeem such tax credits.

100.760. CREDIT AGREEMENT, CONDITIONS. — After receipt of an application, the board may, with the approval of the department, enter into an agreement with an eligible industry for a credit pursuant to sections 100.700 to 100.850 if the board determines that all of the following conditions exist:

(1) The applicant's project will create new jobs that were not jobs previously performed by employees of the applicant in Missouri;

(2) The applicant's project is economically sound and will benefit the people of Missouri by increasing opportunities for employment and strengthening the economy of Missouri;

(3) Significant local incentives with respect to the project or eligible industry have been committed, which incentives may consist of:

(a) Cash or in-kind incentives derived from any nonstate source, including incentives provided by the affected political subdivisions, private industry and/or local chambers of commerce or similar such organizations; and/or

(b) Relief from local taxes, in either case as acceptable to the board;

(4) Receiving the credit is a major factor in the applicant's decision to go forward with the project and not receiving the credit will result in the applicant not creating new jobs in Missouri; **and**

(5) Awarding the credit will result in an overall positive fiscal impact to the state**[**;

(6) There is at least one other state that the applicant verifies is being considered for the project; and

(7) A significant disparity is identified, using best available data in the projected costs for the applicant's project compared to the costs in the competing state, including the impact of the competing state's incentive programs. The competing state's incentive program shall include state, local, private and federal funds**]**.

100.770. FACTORS CONSIDERED IN AWARDING CREDIT. — In determining the credit that should be awarded, the board shall take into consideration the following factors:

(1) The economy of the county where the projected investment is to occur;

(2) The potential impact on the economy of Missouri;

(3) The payroll attributable to the project;

(4) The capital investment attributable to the project;

(5) The amount the average wage paid by the applicant exceeds the average wage paid within the county in which the project will be located;

(6) The costs to Missouri and the affected political subdivisions with respect to the project; **and**

(7) The financial assistance that is otherwise provided by Missouri and the affected political subdivisions**[**; and

(8) The magnitude of the cost differential between Missouri and the competing state**]**.

100.850. ASSESSMENTS REMITTAL, JOB DEVELOPMENT ASSESSMENT FEE — COMPANY RECORDS AVAILABLE TO BOARD, WHEN — WHEN REMITTED ASSESSMENT CEASES — TAX CREDIT AMOUNT, CAP, CLAIMING CREDIT — REFUNDS. — 1. The approved company shall remit to the board a job development assessment fee, not to exceed five percent of the gross wages of each eligible employee whose job was created as a result of the economic development project, or not to exceed ten percent if the economic development project is located within a distressed community as defined in section 135.530, RSMo, for the purpose of retiring bonds which fund the economic development project.

2. Any approved company remitting an assessment as provided in subsection 1 of this section shall make its payroll books and records available to the board at such reasonable times

as the board shall request and shall file with the board documentation respecting the assessment as the board may require.

3. Any assessment remitted pursuant to subsection 1 of this section shall cease on the date the bonds are retired.

4. Any approved company which has paid an assessment for debt reduction shall be allowed a tax credit equal to the amount of the assessment. The tax credit may be claimed against taxes otherwise imposed by chapters 143 and 148, RSMo, except withholding taxes imposed under the provisions of sections 143.191 to 143.265, RSMo, which were incurred during the tax period in which the assessment was made.

5. In no event shall the aggregate amount of tax credits authorized by subsection 4 of this section exceed **[**fifteen**]** **twenty-five** million dollars annually. Of such amount, nine hundred fifty thousand dollars shall be reserved for an approved project for a world headquarters of a business whose primary function is tax return preparation that is located in any home rule city with more than four hundred thousand inhabitants and located in more than one county, which amount reserved shall end in the year of the final maturity of the certificates issued for such approved project.

6. The director of revenue shall issue a refund to the approved company to the extent that the amount of credits allowed in subsection 4 of this section exceeds the amount of the approved company's income tax.

105.145. POLITICAL SUBDIVISIONS TO MAKE ANNUAL REPORT OF FINANCIAL TRANSACTIONS TO STATE AUDITOR. — 1. The following definitions shall be applied to the terms used in this section:

(1) "Governing body", the board, body, or persons in which the powers of a political subdivision as a body corporate, or otherwise, are vested;

(2) "Political subdivision", any agency or unit of this state, except counties and school districts, which now is, or hereafter shall be, authorized to levy taxes or empowered to cause taxes to be levied.

2. The governing body of each political subdivision in the state shall cause to be prepared an annual report of the financial transactions of the political subdivision in such summary form as the state auditor shall prescribe by rule, except that the annual report of political subdivisions whose cash receipts for the reporting period are ten thousand dollars or less shall only be required to contain the cash balance at the beginning of the reporting period, a summary of cash receipts, a summary of cash disbursements and the cash balance at the end of the reporting period.

3. Within such time following the end of the fiscal year as the state auditor shall prescribe by rule, the governing body of each political subdivision shall cause a copy of the annual financial report to be remitted to the state auditor.

4. The state auditor shall immediately on receipt of each financial report acknowledge the receipt of the report.

5. In any fiscal year no member of the governing body of any political subdivision of the state shall receive any compensation or payment of expenses after the end of the time within which the financial statement of the political subdivision is required to be filed with the state auditor and until such time as the notice from the state auditor of the filing of the annual financial report for the fiscal year has been received.

6. The state auditor shall prepare sample forms for financial reports and shall mail the same to the political subdivisions of the state. Failure of the auditor to supply such forms shall not in any way excuse any person from the performance of any duty imposed by this section.

7. All reports or financial statements hereinabove mentioned shall be considered to be public records.

8. The provisions of this section apply to the board of directors of every transportation development district organized under sections 238.200 to 238.275, RSMo. Any transportation development district that fails to timely submit a copy of the annual

financial statement to the state auditor shall be subject to a fine not to exceed five hundred dollars per day.

108.1000. DEFINITIONS — ISSUANCE OF BONDS, WHEN — FEDERAL TAX CREDITS. — 1. As used in sections 108.1000 to 108.1020, the following terms mean:

(1) "Board", the Missouri development finance board;

(2) "Build America bonds", any bonds designated build America bonds pursuant to Section 54AA of the Internal Revenue Code of 1986, as amended;

(3) "Department", the department of economic development;

(4) "Eligible issuer", any development agency as defined in section 100.255, RSMo, or any board, commission, or body corporate and politic of the state that is authorized to issue bonds under the constitution and laws of this state;

(5) "Recovery zone bonds", any recovery zone economic development bonds or recovery zone facility bonds that are allocated pursuant to Section 1400U-1 of the Internal Revenue Code of 1986, as amended.

2. The board may, at any time, issue build America bonds and recovery zone bonds for the purpose of paying any part of the cost of financing any qualifying project or projects, or part thereof, and for the purpose of purchasing any debt related to such project. All bonds issued pursuant to this subsection shall be subject to section 100.275. The board shall have all necessary power to carry out the provisions of sections 108.1000 to 108.1020.

3. Any eligible issuer shall have the power to designate bonds as build America bonds and recovery zone bonds subject to the provisions of law governing the issuance of bonds by such issuer. The use of the proceeds of such bonds and the sources of repayment of such bonds shall be subject to all provisions of state and federal law governing such bonds. Prior to issuance of any bonds by a state board or commission, all certifications and assurances, under the provisions of Section 1511 of Part A of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115 (2009), shall be made.

4. The issuance of build America bonds or recovery zone bonds may be combined with any other economic development program offered by the state.

5. The board may buy, sell, and broker federal tax credits issued in connection with build America bonds or recovery zone bonds.

108.1010. ALLOCATION OF RECOVERY ZONE BONDS, TO WHOM — APPLICATION — RULEMAKING AUTHORITY. — 1. The department shall allocate recovery zone bonds to counties and large municipalities in accordance with Section 1400U-1 of the Internal Revenue Code of 1986, as amended, and shall provide notice of such allocation to each county and large municipality. A county or large municipality may, at any time, waive any allocation of recovery zone bonds by providing written notice to the department. Each allocation shall be deemed waived by the county or large municipality on the sixtieth day following notice of allocation, except to the extent the county or large municipality provided the department with written notice of intent to issue recovery zone bonds stating the amount and type to be issued. Each county or large municipality shall notify the department in writing of the issuance of recovery zone bonds. Any recovery zone bonds allocated to a county or large municipality which remain unissued as of the first day of July of each year, shall be recaptured by the department for reallocation.

2. Any county or large municipality may apply to the department for the allocation of additional recovery zone bonds to the extent such bonds are available due to the waiver of recovery zone bond allocations by other counties or large municipalities or the recapture of recovery zone bonds by the department as provided under subsection 1 of this section. The department may reallocate such recovery zone bonds to any eligible issuer of recovery zone bonds as provided by rule.

3. The department shall promulgate rules to implement the provisions of sections 108.1000 to 108.1020. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

108.1020. BONDS EXEMPT FROM TAXATION. — Build America bonds and any recovery zone bonds issued by the state of Missouri or an entity described in subsection 4 of section 108.1000 and the interest thereon shall be exempt from all taxation by the state of Missouri and its political subdivisions.

135.155. PROHIBITION ON CERTAIN ENTERPRISES RECEIVING CERTAIN INCENTIVES — EXPANSION DEEMED NEW BUSINESS FACILITY — CERTAIN PROPERTIES CONSIDERED ONE FACILITY, WHEN. — 1. Notwithstanding any provision of the law to the contrary, no revenue-producing enterprise **other than headquarters as defined in subsection 10 of section 135.110** shall receive the incentives set forth in sections 135.100 to 135.150 for facilities commencing operations on or after January 1, 2005. **No headquarters shall receive the incentives set forth in subsections 9 to 14 of section 135.110 for facilities commencing or expanding operations on or after January 1, 2020.**

2. Notwithstanding subsection 9 of section 135.110 to the contrary, expansions at headquarters facilities shall each be considered a separate new business facility and each be entitled to the credits as set forth in subsections 9 to 14 of section 135.110 if the number of new business facility employees attributed to each such expansion is at least twenty-five and the amount of new business facility investment attributed to each such expansion is at least one million dollars. In any year in which a new business facility is not created, the jobs and investment for that year shall be included in calculating the credits for the most recent new business facility and not an earlier created new business facility.

3. Notwithstanding any provision of law to the contrary, for headquarters, buildings on multiple noncontiguous real properties shall be considered one facility if the buildings are located within the same county or within the same municipality.

135.352. TAXPAYER OWNING INTEREST IN QUALIFIED PROJECT SHALL BE ALLOWED A STATE TAX CREDIT, HOW DETERMINED, CAP — CARRY-BACK AND CARRY-FORWARD OF CREDIT AUTHORIZED — RULES PROMULGATION AND PROCEDURE. — 1. A taxpayer owning an interest in a qualified Missouri project shall**, subject to the limitations provided under the provisions of subsection 3 of this section,** be allowed a state tax credit, whether or not allowed a federal tax credit, to be termed the Missouri low-income housing tax credit, if the commission issues an eligibility statement for that project.

2. For qualified Missouri projects placed in service after January 1, 1997, the Missouri low-income housing tax credit available to a project shall be such amount as the commission shall determine is necessary to ensure the feasibility of the project, up to an amount equal to the federal low-income housing tax credit for a qualified Missouri project, for a federal tax period, and such amount shall be subtracted from the amount of state tax otherwise due for the same tax period.

3. **No more than six million dollars in tax credits shall be authorized each fiscal year for projects financed through tax-exempt bond issuance.**

4. The Missouri low-income housing tax credit shall be taken against the taxes and in the order specified pursuant to section 32.115, RSMo. The credit authorized by this section shall

not be refundable. Any amount of credit that exceeds the tax due for a taxpayer's taxable year may be carried back to any of the taxpayer's three prior taxable years or carried forward to any of the taxpayer's five subsequent taxable years.

[4.**]** **5.** All or any portion of Missouri tax credits issued in accordance with the provisions of sections 135.350 to 135.362 may be allocated to parties who are eligible pursuant to the provisions of subsection 1 of this section. Beginning January 1, 1995, for qualified projects which began on or after January 1, 1994, an owner of a qualified Missouri project shall certify to the director the amount of credit allocated to each taxpayer. The owner of the project shall provide to the director appropriate information so that the low-income housing tax credit can be properly allocated.

[5.**]** **6.** In the event that recapture of Missouri low-income housing tax credits is required pursuant to subsection 2 of section 135.355, any statement submitted to the director as provided in this section shall include the proportion of the state credit required to be recaptured, the identity of each taxpayer subject to the recapture and the amount of credit previously allocated to such taxpayer.

[6.**]** **7.** The director of the department may promulgate rules and regulations necessary to administer the provisions of this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

135.680. DEFINITIONS — TAX CREDIT, AMOUNT — RECAPTURE, WHEN — RULEMAKING AUTHORITY — REAUTHORIZATION PROCEDURE — SUNSET PROVISION. — 1. As used in this section, the following terms shall mean:

(1) "Adjusted purchase price", the product of:

(a) The amount paid to the issuer of a qualified equity investment for such qualified equity investment; and

(b) The following fraction:

a. The numerator shall be the dollar amount of qualified low-income community investments held by the issuer in this state as of the credit allowance date during the applicable tax year; and

b. The denominator shall be the total dollar amount of qualified low-income community investments held by the issuer in all states as of the credit allowance date during the applicable tax year;

c. For purposes of calculating the amount of qualified low-income community investments held by an issuer, an investment shall be considered held by an issuer even if the investment has been sold or repaid; provided that the issuer reinvests an amount equal to the capital returned to or recovered by the issuer from the original investment, exclusive of any profits realized, in another qualified low-income community investment within twelve months of the receipt of such capital. An issuer shall not be required to reinvest capital returned from qualified low-income community investments after the sixth anniversary of the issuance of the qualified equity investment, the proceeds of which were used to make the qualified low-income community investment, and the qualified low-income community investment shall be considered held by the issuer through the seventh anniversary of the qualified equity investment's issuance;

(2) "Applicable percentage", zero percent for each of the first two credit allowance dates, seven percent for the third credit allowance date, and eight percent for the next four credit allowance dates;

(3) "Credit allowance date", with respect to any qualified equity investment:

(a) The date on which such investment is initially made; and

(b) Each of the six anniversary dates of such date thereafter;

(4) "Long-term debt security", any debt instrument issued by a qualified community development entity, at par value or a premium, with an original maturity date of at least seven years from the date of its issuance, with no acceleration of repayment, amortization, or

prepayment features prior to its original maturity date, and with no distribution, payment, or interest features related to the profitability of the qualified community development entity or the performance of the qualified community development entity's investment portfolio. The foregoing shall in no way limit the holder's ability to accelerate payments on the debt instrument in situations where the issuer has defaulted on covenants designed to ensure compliance with this section or Section 45D of the Internal Revenue Code of 1986, as amended;

(5) "Qualified active low-income community business", the meaning given such term in Section 45D of the Internal Revenue Code of 1986, as amended; provided that any business that derives or projects to derive fifteen percent or more of its annual revenue from the rental or sale of real estate shall not be considered to be a qualified active low-income community business;

(6) "Qualified community development entity", the meaning given such term in Section 45D of the Internal Revenue Code of 1986, as amended; provided that such entity has entered into an allocation agreement with the Community Development Financial Institutions Fund of the U.S. Treasury Department with respect to credits authorized by Section 45D of the Internal Revenue Code of 1986, as amended, which includes the state of Missouri within the service area set forth in such allocation agreement;

(7) "Qualified equity investment", any equity investment in, or long-term debt security issued by, a qualified community development entity that:

(a) Is acquired after September 4, 2007, at its original issuance solely in exchange for cash;

(b) Has at least eighty-five percent of its cash purchase price used by the issuer to make qualified low-income community investments; and

(c) Is designated by the issuer as a qualified equity investment under this subdivision and is certified by the department of economic development as not exceeding the limitation contained in subsection 2 of this section. This term shall include any qualified equity investment that does not meet the provisions of paragraph (a) of this subdivision if such investment was a qualified equity investment in the hands of a prior holder;

(8) "Qualified low-income community investment", any capital or equity investment in, or loan to, any qualified active low-income community business. With respect to any one qualified active low-income community business, the maximum amount of qualified low-income community investments made in such business, on a collective basis with all of its affiliates, that may be used from the calculation of any numerator described in subparagraph a. of paragraph (b) of subdivision (1) of this subsection shall be ten million dollars whether issued to one or several qualified community development entities;

(9) "Tax credit", a credit against the tax otherwise due under chapter 143, RSMo, excluding withholding tax imposed in sections 143.191 to 143.265, RSMo, or otherwise due under section 375.916, RSMo, or chapter 147, 148, or 153, RSMo;

(10) "Taxpayer", any individual or entity subject to the tax imposed in chapter 143, RSMo, excluding withholding tax imposed in sections 143.191 to 143.265, RSMo, or the tax imposed in section 375.916, RSMo, or chapter 147, 148, or 153, RSMo.

2. A taxpayer that makes a qualified equity investment earns a vested right to tax credits under this section. On each credit allowance date of such qualified equity investment the taxpayer, or subsequent holder of the qualified equity investment, shall be entitled to a tax credit during the taxable year including such credit allowance date. The tax credit amount shall be equal to the applicable percentage of the adjusted purchase price paid to the issuer of such qualified equity investment. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's state tax liability for the tax year for which the tax credit is claimed. No tax credit claimed under this section shall be refundable or transferable. Tax credits earned by a partnership, limited liability company, S-corporation, or other pass-through entity may be allocated to the partners, members, or shareholders of such entity for their direct use in accordance with the provisions of any agreement among such partners, members, or shareholders. Any amount of tax credit that the taxpayer is prohibited by this section from claiming in a taxable year may be carried forward to any of the taxpayer's five subsequent

taxable years. The department of economic development shall limit the monetary amount of qualified equity investments permitted under this section to a level necessary to limit tax credit utilization at no more than **[**fifteen**]** **twenty-five** million dollars of tax credits in any fiscal year. Such limitation on qualified equity investments shall be based on the anticipated utilization of credits without regard to the potential for taxpayers to carry forward tax credits to later tax years.

3. The issuer of the qualified equity investment shall certify to the department of economic development the anticipated dollar amount of such investments to be made in this state during the first twelve-month period following the initial credit allowance date. If on the second credit allowance date, the actual dollar amount of such investments is different than the amount estimated, the department of economic development shall adjust the credits arising on the second allowance date to account for such difference.

4. The department of economic development shall recapture the tax credit allowed under this section with respect to such qualified equity investment under this section if:

(1) Any amount of the federal tax credit available with respect to a qualified equity investment that is eligible for a tax credit under this section is recaptured under Section 45D of the Internal Revenue Code of 1986, as amended; or

(2) The issuer redeems or makes principal repayment with respect to a qualified equity investment prior to the seventh anniversary of the issuance of such qualified equity investment. Any tax credit that is subject to recapture shall be recaptured from the taxpayer that claimed the tax credit on a return.

5. The department of economic development shall promulgate rules to implement the provisions of this section, including recapture provisions on a scaled proportional basis, and to administer the allocation of tax credits issued for qualified equity investments, which shall be conducted on a first-come, first-serve basis. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after September 4, 2007, shall be invalid and void.

6. For fiscal years following fiscal year 2010, qualified equity investments shall not be made under this section unless reauthorization is made pursuant to this subsection. For all fiscal years following fiscal year 2010, unless the general assembly adopts a concurrent resolution granting authority to the department of economic development to approve qualified equity investments for the Missouri new markets development program and clearly describing the amount of tax credits available for the next fiscal year, or otherwise complies with the provisions of this subsection, no qualified equity investments may be permitted to be made under this section. The amount of available tax credits contained in such a resolution shall not exceed the limitation provided under subsection 2 of this section. In any year in which the provisions of this section shall sunset pursuant to subsection 7 of this section, reauthorization shall be made by general law and not by concurrent resolution. Nothing in this subsection shall preclude a taxpayer who makes a qualified equity investment prior to the expiration of authority to make qualified equity investments from claiming tax credits relating to such qualified equity investment for each applicable credit allowance date.

7. Under section 23.253, RSMo, of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset six years after September 4, 2007, unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset. However, nothing in this subsection shall preclude a taxpayer who makes a qualified equity investment prior to sunset of this section under the provisions of section 23.253, RSMo, from claiming tax credits relating to such qualified equity investment for each credit allowance date.

135.766. TAX CREDIT FOR GUARANTY FEE PAID BY SMALL BUSINESSES, WHEN. — An eligible small business, as defined in Section 44 of the Internal Revenue Code, shall be allowed a credit against the tax otherwise due pursuant to chapter 143, RSMo, not including sections 143.191 to 143.265, RSMo, in an amount equal to any amount paid by the eligible small business to the United States Small Business Administration as a guaranty fee pursuant to obtaining Small Business Administration guaranteed financing and to programs administered by the United States Department of Agriculture for rural development or farm service agencies. **No tax credits provided under this section shall be authorized on or after the thirtieth day following the effective date of this act. The provisions of this subsection shall not be construed to limit or in any way impair the department's ability to issue tax credits authorized prior to the thirtieth day following the effective date of this act, or a taxpayer's ability to redeem such tax credits.**

135.800. CITATION — DEFINITIONS. — 1. The provisions of sections 135.800 to 135.830 shall be known and may be cited as the "Tax Credit Accountability Act of 2004".

2. As used in sections 135.800 to 135.830, the following terms mean:

(1) "Administering agency", the state agency or department charged with administering a particular tax credit program, as set forth by the program's enacting statute; where no department or agency is set forth, the department of revenue;

(2) "Agricultural tax credits", the agricultural product utilization contributor tax credit created pursuant to section 348.430, RSMo, the new generation cooperative incentive tax credit created pursuant to section 348.432, RSMo, the family farm breeding livestock loan tax credit created under section 348.505, RSMo, the qualified beef tax credit created under section 135.679, and the wine and grape production tax credit created pursuant to section 135.700;

(3) "All tax credit programs", **or "Any tax credit program",** the tax credit programs included in the definitions of agricultural tax credits, business recruitment tax credits, community development tax credits, domestic and social tax credits, entrepreneurial tax credits, environmental tax credits, **financial and insurance tax credits,** housing tax credits, redevelopment tax credits, and training and educational tax credits;

(4) "Business recruitment tax credits", the business facility tax credit created pursuant to sections 135.110 to 135.150 and section 135.258, the enterprise zone tax benefits created pursuant to sections 135.200 to 135.270, the business use incentives for large-scale development programs created pursuant to sections 100.700 to 100.850, RSMo, the development tax credits created pursuant to sections 32.100 to 32.125, RSMo, the rebuilding communities tax credit created pursuant to section 135.535, **[**and**]** the film production tax credit created pursuant to section 135.750**, the enhanced enterprise zone created pursuant to sections 135.950 to 135.975, and the Missouri quality jobs program created pursuant to sections 620.1875 to 620.1900, RSMo**;

(5) "Community development tax credits", the neighborhood assistance tax credit created pursuant to sections 32.100 to 32.125, RSMo, the family development account tax credit created pursuant to sections 208.750 to 208.775, RSMo, the dry fire hydrant tax credit created pursuant to section 320.093, RSMo, and the transportation development tax credit created pursuant to section 135.545;

(6) "Domestic and social tax credits", the youth opportunities tax credit created pursuant to section 135.460 and sections 620.1100 to 620.1103, RSMo, the shelter for victims of domestic violence created pursuant to section 135.550, the senior citizen or disabled person property tax

credit created pursuant to sections 135.010 to 135.035, the special needs adoption tax credit **and children in crisis tax credit** created pursuant to sections 135.325 to 135.339, the maternity home tax credit created pursuant to section 135.600**, the surviving spouse tax credit created pursuant to section 135.090, the residential treatment agency tax credit created pursuant to section 135.1150, the pregnancy resource center tax credit created pursuant to section 135.630, the food pantry tax credit created pursuant to section 135.647, the health care access fund tax credit created pursuant to section 135.575, the residential dwelling access tax credit created pursuant to section 135.562**, and the shared care tax credit created pursuant to section 660.055, RSMo;

(7) "Entrepreneurial tax credits", the capital tax credit created pursuant to sections 135.400 to 135.429, the certified capital company tax credit created pursuant to sections 135.500 to 135.529, the seed capital tax credit created pursuant to sections 348.300 to 348.318, RSMo, the new enterprise creation tax credit created pursuant to sections 620.635 to 620.653, RSMo, the research tax credit created pursuant to section 620.1039, RSMo, the small business incubator tax credit created pursuant to section 620.495, RSMo, the guarantee fee tax credit created pursuant to section 135.766, and the new generation cooperative tax credit created pursuant to sections 32.105 to 32.125, RSMo;

(8) "Environmental tax credits", the charcoal producer tax credit created pursuant to section 135.313, the wood energy tax credit created pursuant to sections 135.300 to 135.311, **and the alternative fuel stations tax credit created pursuant to section 135.710**;

(9) **"Financial and Insurance tax credits", the bank franchise tax credit created pursuant to section 148.030, RSMo, the bank tax credit for S corporations created pursuant to section 143.471, RSMo, the exam fee tax credit created pursuant to section 148.400, RSMo, the health insurance pool tax credit created pursuant to section 376.975, RSMo, the life and health insurance guaranty tax credit created pursuant to section 376.745, RSMo, the property and casualty guaranty tax credit created pursuant to section 375.774, RSMo, and the self-employed health insurance tax credit created pursuant to section 143.119, RSMo;**

(10) "Housing tax credits", the neighborhood preservation tax credit created pursuant to sections 135.475 to 135.487, the low-income housing tax credit created pursuant to sections 135.350 to 135.363, and the affordable housing tax credit created pursuant to sections 32.105 to 32.125, RSMo;

[(10)**] (11)** "Recipient", the individual or entity who is the original applicant for and who receives proceeds from a tax credit program directly from the administering agency, the person or entity responsible for the reporting requirements established in section 135.805;

[(11)**] (12)** "Redevelopment tax credits", the historic preservation tax credit created pursuant to sections 253.545 to 253.561, RSMo, the brownfield redevelopment program tax credit created pursuant to sections 447.700 to 447.718, RSMo, the community development corporations tax credit created pursuant to sections 135.400 to 135.430, the infrastructure tax credit created pursuant to subsection 6 of section 100.286, RSMo, the bond guarantee tax credit created pursuant to section 100.297, RSMo, **[**and**]** the disabled access tax credit created pursuant to section 135.490**, the new markets tax credit created pursuant to section 135.680, and the distressed areas land assemblage tax credit created pursuant to section 99.1205, RSMo**;

[(12)**] (13)** "Training and educational tax credits", the community college new jobs tax credit created pursuant to sections 178.892 to 178.896, RSMo.

135.802. INFORMATION REQUIRED TO BE SUBMITTED WITH TAX CREDIT APPLICATIONS — CERTAIN INFORMATION REQUIRED FOR SPECIFIC TAX CREDITS — RULEMAKING AUTHORITY — REQUIREMENTS TO APPLY TO CERTAIN RECIPIENTS, WHEN — DUTIES OF AGENCIES. — 1. Beginning January 1, 2005, all applications for all tax credit programs shall include, in addition to any requirements provided by the enacting statutes of a particular credit

program, the following information to be submitted to the department administering the tax credit:

(1) Name, address, and phone number of the applicant or applicants, and the name, address, and phone number of a contact person or agent for the applicant or applicants;

(2) Taxpayer type, whether individual, corporation, nonprofit or other, and taxpayer identification number, if applicable;

(3) Standard industry code, if applicable; **[**and**]**

(4) Program name and type of tax credit, including the identity of any other state or federal program being utilized for the same activity or project**; and**

(5) Number of estimated jobs to be created, as a result of the tax credits, if applicable, separated by construction, part-time permanent, and full-time permanent.

2. In addition to the information required by subsection 1 of this section, an applicant for a community development tax credit shall also provide information detailing the title and location of the corresponding project, the estimated time period for completion of the project, and all geographic areas impacted by the project.

3. In addition to the information required by subsection 1 of this section, an applicant for a redevelopment tax credit shall also provide information detailing the location and legal description of the property, age of the structure, if applicable, whether the property is residential, commercial, or governmental, and the projected project cost, labor cost, and projected date of completion. Where a redevelopment tax credit applicant is required to submit contemporaneously a federal application for a similar credit on the same underlying project, the submission of a copy of the federal application shall be sufficient to meet the requirements of this subsection.

4. In addition to the information required by subsection 1 of this section, an applicant for a business recruitment tax credit shall also provide information detailing the category of business by size, the address of the business headquarters and all offices located within this state, the number of employees at the time of the application, the number of employees projected to increase as a result of the completion of the project, and the estimated project cost.

5. In addition to the information required by subsection 1 of this section, an applicant for a training and educational tax credit shall also provide information detailing the name and address of the educational institution to be used, the average salary of workers to be served, the estimated project cost, and the number of employees and number of students to be served.

6. In addition to the information required by subsection 1 of this section, an applicant for a housing tax credit also shall provide information detailing the address, legal description, and fair market value of the property, and the projected labor cost and projected completion date of the project. Where a housing tax credit applicant is required to submit contemporaneously a federal application for a similar credit on the same underlying project, the submission of a copy of the federal application shall be sufficient to meet the requirements of this subsection. For the purposes of this subsection, "fair market value" means the value as of the purchase of the property or the most recent assessment, whichever is more recent.

7. In addition to the information required by subsection 1 of this section, an applicant for an entrepreneurial tax credit shall also provide information detailing the amount of investment and the names of the project, fund, and research project.

8. In addition to the information required by subsection 1 of this section, an applicant for an agricultural tax credit shall also provide information detailing the type of agricultural commodity, the amount of contribution, the type of equipment purchased, and the name and description of the facility.

9. In addition to the information required by subsection 1 of this section, an applicant for an environmental tax credit shall also include information detailing the type of equipment, if applicable, purchased and any environmental impact statement, if required by state or federal law.

10. An administering agency may, by rule, require additional information to be submitted by an applicant. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created pursuant to the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be void.

11. Where the sole requirement for receiving a tax credit in the enabling legislation of any tax credit is an obligatory assessment upon a taxpayer or a monetary contribution to a particular group or entity, the application requirements provided in this section shall apply to the recipient of such assessment or contribution and shall not apply to the assessed nor the contributor.

12. It shall be the duty of each administering agency to provide information to every applicant, at some time prior to authorization of an applicant's tax credit application, wherein the requirements of this section, the annual reporting requirements of section 135.805, and the penalty provisions of section 135.810 are described in detail.

135.805. CERTAIN INFORMATION TO BE SUBMITTED ANNUALLY, WHO, TIME PERIOD — DUE DATE OF REPORTING REQUIREMENTS — REQUIREMENTS TO APPLY TO CERTAIN RECIPIENTS, WHEN — APPLICANT IN COMPLIANCE, WHEN, WRITTEN NOTIFICATION, WHEN, RECORDS AVAILABLE FOR REVIEW — EFFECTIVE DATE — NAMES OF RECIPIENTS TO BE MADE PUBLIC. — 1. **A recipient of any tax credit program, except domestic and social tax credits, environmental tax credits, or financial and insurance tax credits, shall annually, for a period of three years following the issuance of the tax credits, provide to the administering agency the actual number of jobs created as a result of the tax credits, at the location on the last day of the annual reporting period, separated by part-time permanent and full-time permanent for each month of the preceding twelve month period.**

2. A recipient of a community development tax credit shall annually, for a period of three years following issuance of tax credits, provide to the administering agency information confirming the title and location of the corresponding project, the estimated or actual time period for completion of the project, and all geographic areas impacted by the project.

[2.**]** **3.** A recipient of a redevelopment tax credit shall annually, for a period of three years following issuance of tax credits, provide to the administering agency information confirming whether the property is used for residential, commercial, or governmental purposes, and the projected or actual project cost, labor cost, and date of completion.

[3.**]** **4.** A recipient of a business recruitment tax credit shall annually, for a period of three years following issuance of tax credits, provide to the administering agency information confirming the category of business by size, the address of the business headquarters and all offices located within this state, the number of employees at the time of the annual update, an updated estimate of the number of employees projected to increase as a result of the completion of the project, and the estimated or actual project cost.

[4.**]** **5.** A recipient of a training and educational tax credit shall annually, for a period of three years following issuance of tax credits, provide to the administering agency information confirming the name and address of the educational institution used, the average salary of workers served as of such annual update, the estimated or actual project cost, and the number of employees and number of students served as of such annual update.

[5.**]** **6.** A recipient of a housing tax credit shall annually, for a period of three years following issuance of tax credits, provide to the administering agency information confirming the address of the property, the fair market value of the property, as defined in subsection 6 of section 135.802, and the projected or actual labor cost and completion date of the project.

[6.**]** **7.** A recipient of an entrepreneurial tax credit shall annually, for a period of three years following issuance of tax credits, provide to the administering agency information confirming the amount of investment and the names of the project, fund, and research project.

[7.**]** **8.** A recipient of an agricultural tax credit shall annually, for a period of three years following issuance of tax credits, provide to the administering agency information confirming the type of agricultural commodity, the amount of contribution, the type of equipment purchased, and the name and description of the facility, except that if the agricultural credit is issued as a result of a producer member investing in a new generation processing entity or new generation cooperative then the new generation processing entity or new generation cooperative, and not the recipient, shall annually, for a period of three years following issuance of tax credits, provide to the administering agency information confirming the type of agricultural commodity, the amount of contribution, the type of equipment purchased, and the name and description of the facility.

[8.**]** **9.** A recipient of an environmental tax credit shall annually, for a period of three years following issuance of tax credits, provide to the administering agency information detailing any change to the type of equipment purchased, if applicable, and any change to any environmental impact statement, if such statement is required by state or federal law.

[9.**]** **10.** The reporting requirements established in this section shall be due annually on June thirtieth of each year. No person or entity shall be required to make an annual report until at least one year after the credit issuance date.

[10.**]** **11.** Where the sole requirement for receiving a tax credit in the enabling legislation of any tax credit is an obligatory assessment upon a taxpayer or a monetary contribution to a particular group or entity, the reporting requirements provided in this section shall apply to the recipient of such assessment or contribution and shall not apply to the assessed nor the contributor.

[11.**]** **12.** Where the enacting statutes of a particular tax credit program or the rules of a particular administering agency require reporting of information that includes the information required in sections 135.802 to 135.810, upon reporting of the required information, the applicant shall be deemed to be in compliance with the requirements of sections 135.802 to 135.810. The administering agency shall notify in writing the department of economic development of the administering agency's status as custodian of any particular tax credit program and that all records pertaining to the program are available at the administering agency's office for review by the department of economic development.

[12.**]** **13.** The provisions of subsections 1 to 10 of this section shall apply beginning on June 30, 2005.

[13.**]** **14.** Notwithstanding provisions of law to the contrary, every agency of this state charged with administering a tax credit program authorized under the laws of this state shall make available for public inspection the name of each tax credit recipient and the amount of tax credits issued to each such recipient.

15. The department of economic development shall make all information provided under the provisions of this section available for public inspection on the department's website and the Missouri Accountability Portal.

16. The administering agency of any tax credit program for which reporting requirements are required under the provisions of subsection 1 of this section shall publish guidelines and may promulgate rules to implement the provisions of such subsection. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held

unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

147.010. ANNUAL FRANCHISE TAX, RATE — EXCEPTIONS. — 1. For the transitional year defined in subsection 4 of this section and each taxable year beginning on or after January 1, 1980, but before January 1, 2000, every corporation organized pursuant to or subject to chapter 351, RSMo, or pursuant to any other law of this state shall, in addition to all other fees and taxes now required or paid, pay an annual franchise tax to the state of Missouri equal to one-twentieth of one percent of the par value of its outstanding shares and surplus if its outstanding shares and surplus exceed two hundred thousand dollars, or if the outstanding shares of such corporation or any part thereof consist of shares without par value, then, in that event, for the purpose contained in this section, such shares shall be considered as having a value of five dollars per share unless the actual value of such shares exceeds five dollars per share, in which case the tax shall be levied and collected on the actual value and the surplus if the actual value and the surplus exceed two hundred thousand dollars. If such corporation employs a part of its outstanding shares in business in another state or country, then such corporation shall pay an annual franchise tax equal to one-twentieth of one percent of its outstanding shares and surplus employed in this state if its outstanding shares and surplus employed in this state two hundred thousand dollars, and for the purposes of sections 147.010 to 147.120, such corporation shall be deemed to have employed in this state that proportion of its entire outstanding shares and surplus that its property and assets employed in this state bears to all its property and assets wherever located. A foreign corporation engaged in business in this state, whether pursuant to a certificate of authority issued pursuant to chapter 351, RSMo, or not, shall be subject to this section. Any corporation whose outstanding shares and surplus as calculated in this subsection does not exceed two hundred thousand dollars shall state that fact on the annual report form prescribed by the secretary of state. For all taxable years beginning on or after January 1, 2000, **but ending before December 31, 2009,** the annual franchise tax shall be equal to one-thirtieth of one percent of the corporation's outstanding shares and surplus if the outstanding shares and surplus exceed one million dollars. Any corporation whose outstanding shares and surplus do not exceed one million dollars shall state that fact on the annual report form prescribed by the director of revenue. **For taxable years beginning on or after January 1, 2010, the annual franchise tax shall be equal to one-thirtieth of one percent of the corporation's outstanding shares and surplus if the outstanding shares and surplus exceed ten million dollars, and any corporation whose outstanding shares and surplus do not exceed ten million dollars shall state that fact on the annual report form prescribed by the director of revenue.**

2. Sections 147.010 to 147.120 shall not apply to corporations not organized for profit, nor to corporations organized pursuant to the provisions of chapter 349, RSMo, nor to express companies, which now pay an annual tax on their gross receipts in this state, nor to insurance companies, which pay an annual tax on their premium receipts in this state, nor to state, district, county, town and farmers' mutual companies now organized or that may be hereafter organized pursuant to any of the laws of this state, organized for the sole purpose of writing fire, lightning, windstorm, tornado, cyclone, hail and plate glass and mutual automobile insurance and for the purpose of paying any loss incurred by any member by assessment, nor to any mutual insurance corporation not having shares, nor to a company or association organized to transact business of life or accident insurance on the assessment plan for the purpose of mutual protection and benefit to its members and the payment of stipulated sums of moneys to the family, heirs, executors, administrators or assigns of the deceased member, nor to foreign life, fire, accident, surety, liability, steam boiler, tornado, health, or other kind of insurance company of whatever nature coming within the provisions of section 147.050 and doing business in this state, nor to savings and loan associations and domestic and foreign regulated investment companies as defined by Section 170 of the Act of Congress commonly known as the "Revenue Act of 1942", nor to electric and telephone corporations organized pursuant to chapter 351, RSMo, and chapter 392,

RSMo, prior to January 1, 1980, which have been declared tax exempt organizations pursuant to Section 501(c) of the Internal Revenue Code of 1986, nor for taxable years beginning after December 31, 1986, to banking institutions subject to the annual franchise tax imposed by sections 148.010 to 148.110, RSMo; but bank deposits shall be considered as funds of the individual depositor left for safekeeping and shall not be considered in computing the amount of tax collectible pursuant to the provisions of sections 147.010 to 147.120.

3. A corporation's "taxable year" for purposes of sections 147.010 to 147.120 shall be its taxable year as provided in section 143.271, RSMo.

4. A corporation's "transitional year" for the purposes of sections 147.010 to 147.120 shall be its taxable year which includes parts of each of the years 1979 and 1980.

5. The franchise tax payable for a corporation's transitional year shall be computed by multiplying the amount otherwise due for that year by a fraction, the numerator of which is the number of months between January 1, 1980, and the end of the taxable year and the denominator of which is twelve. The franchise tax payable, if a corporation's taxable year is changed as provided in section 143.271, RSMo, shall be similarly computed pursuant to regulations prescribed by the director of revenue.

6. All franchise reports and franchise taxes shall be returned to the director of revenue. All checks and drafts remitted for payment of franchise taxes shall be made payable to the director of revenue.

7. Pursuant to section 32.057, RSMo, the director of revenue shall maintain the confidentiality of all franchise tax reports returned to the director.

8. The director of the department of revenue shall honor all existing agreements between taxpayers and the director of the department of revenue.

208.770. TAX EXEMPTION, CREDIT, WHEN. — 1. Moneys deposited in or withdrawn pursuant to subsection 1 of section 208.760 from a family development account by an account holder are exempted from taxation pursuant to chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, and chapter 147, 148 or 153, RSMo, provided, however, that any money withdrawn for an unapproved use should be subject to tax as required by law.

2. Interest earned by a family development account is exempted from taxation pursuant to chapter 143, RSMo.

3. Any funds in a family development account, including accrued interest, shall be disregarded when determining eligibility to receive, or the amount of, any public assistance or benefits.

4. A program contributor shall be allowed a credit against the tax imposed by chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, and chapter 147, 148 or 153, RSMo, pursuant to sections 208.750 to 208.775. Contributions up to fifty thousand dollars per program contributor are eligible for the tax credit which shall not exceed fifty percent of the contribution amount.

5. The department of economic development shall verify all tax credit claims by contributors. The administrator of the community-based organization, with the cooperation of the participating financial institutions, shall submit the names of contributors and the total amount each contributor contributes to a family development account reserve fund for the calendar year. The director shall determine the date by which such information shall be submitted to the department by the local administrator. The department shall submit verification of qualified tax credits pursuant to sections 208.750 to 208.775 to the department of revenue.

6. **For all fiscal years ending on or before June 30, 2010,** the total tax credits authorized pursuant to sections 208.750 to 208.775 shall not exceed four million dollars in any fiscal year. **For all fiscal years beginning on or after July 1, 2010, the total tax credits authorized under sections 208.750 to 208.775 shall not exceed three hundred thousand dollars in any fiscal year.**

238.207. CREATION OF DISTRICT, PROCEDURES — DISTRICT TO BE CONTIGUOUS, SIZE REQUIREMENTS — PETITION, CONTENTS — ALTERNATIVE METHOD. — 1. Whenever the creation of a district is desired, not less than fifty registered voters from each county partially or totally within the proposed district may file a petition requesting the creation of a district. However, if no persons eligible to be registered voters reside within the district, the owners of record of all of the real property, except public streets, located within the proposed district may file a petition requesting the creation of a district. The petition shall be filed in the circuit court of any county partially or totally within the proposed district.

2. Alternatively, the governing body of any local transportation authority within any county in which a proposed project may be located may file a petition in the circuit court of that county, requesting the creation of a district.

3. The proposed district area shall be contiguous and may contain all or any portion of one or more municipalities and counties; provided:

(1) Property separated only by public streets, easements or rights-of-way shall be considered contiguous;

(2) In the case of a district formed pursuant to a petition filed by the owners of record of all of the real property located within the proposed district, the proposed district area need not contain contiguous properties if:

(a) The petition provides that the only funding method for project costs will be a sales tax;

(b) The court finds that all of the real property located within the proposed district will benefit by the projects to be undertaken by the district; and

(c) Each parcel within the district is within five miles of every other parcel; and

(3) In the case of a district created pursuant to subsection 5 of this section, property separated only by public streets, easements, or rights-of-way or connected by a single public street, easement, or right-of-way shall be considered contiguous.

4. The petition shall set forth:

(1) The name, voting residence and county of residence of each individual petitioner, or, if no persons eligible to be registered voters reside within the proposed district, the name and address of each owner of record of real property located within the proposed district, or shall recite that the petitioner is the governing body of a local transportation authority acting in its official capacity;

(2) The name and address of each respondent. Respondents must include the commission and each affected local transportation authority within the proposed district, except a petitioning local transportation authority;

(3) A specific description of the proposed district boundaries including a map illustrating such boundaries;

(4) A general description of each project proposed to be undertaken by that district, including a description of the approximate location of each project;

(5) The estimated project costs and the anticipated revenues to be collected from the project;

(6) The name of the proposed district;

(7) The number of members of the board of directors of the proposed district, which shall be not less than five or more than fifteen;

(8) A statement that the terms of office of initial board members shall be staggered in approximately equal numbers to expire in one, two or three years;

(9) If the petition was filed by registered voters or by a governing body, a request that the question be submitted to the qualified voters within the limits of the proposed district whether they will establish a transportation development district to develop a specified project or projects;

(10) A proposal for funding the district initially, pursuant to the authority granted in sections 238.200 to 238.275, together with a request that the funding proposal be submitted to the qualified voters within the limits of the proposed district; provided, however, the funding method

of special assessments may also be approved as provided in subsection 1 of section 238.230; **[**and**]**

(11) A statement that the proposed district shall not be an undue burden on any owner of property within the district and is not unjust or unreasonable**; and**

(12) Details of the budgeted expenditures, including estimated expenditures for real physical improvements, estimated land acquisition expenses, estimated expenses for professional services and estimated interest charges.

5. (1) As an alternative to the methods described in subsections 1 and 2 of this section, if two or more local transportation authorities have adopted resolutions calling for the joint establishment of a district, the governing body of any one such local transportation authority may file a petition in the circuit court of any county in which the proposed project is located requesting the creation of a district; or, if not less than fifty registered voters from each of two or more counties sign a petition calling for the joint establishment of a district for the purpose of developing a project that lies in whole or in part within those same counties, the petition may be filed in the circuit court of any of those counties in which not less than fifty registered voters have signed the petition.

(2) The proposed district area shall be contiguous and may contain all or any portion of one or more municipalities and counties. Property separated only by public streets, easements, or rights-of-way or connected by a single public street, easement, or right-of-way shall be considered contiguous.

(3) The petition shall set forth:

(a) That the petitioner is the governing body of a local transportation authority acting in its official capacity; or, if the petition was filed by obtaining the signatures of not less than fifty registered voters in each of two or more counties, it shall set forth the name, voting residence, and county of residence of each individual petitioner;

(b) The name of each local transportation authority within the proposed district. The resolution of the governing body of each local transportation authority calling for the joint establishment of the district shall be attached to the petition;

(c) The name and address of each respondent. Respondents must include the commission and each affected local transportation authority within the proposed district, except a petitioning local transportation authority;

(d) A specific description of the proposed district boundaries including a map illustrating such boundaries;

(e) A general description of each project proposed to be undertaken by the district, including a description of the approximate location of each project;

(f) The name of the proposed district;

(g) The number of members of the board of directors of the proposed district;

(h) A request that the question be submitted to the qualified voters within the limits of the proposed district whether they will establish a transportation development district to develop the projects described in the petition;

(i) A proposal for funding the district initially, pursuant to the authority granted in sections 238.200 to 238.275, together with a request that the imposition of the funding proposal be submitted to the qualified voters residing within the limits of the proposed district; provided, however, the funding method of special assessments may also be approved as provided in subsection 1 of section 238.230; and

(j) A statement that the proposed district shall not be an undue burden on any owner of property within the district and is not unjust or unreasonable.

238.212. NOTICE TO PUBLIC, HOW. — 1. If the petition was filed by registered voters or by a governing body, the circuit clerk in whose office the petition was filed shall give notice to the public by causing one or more newspapers of general circulation serving the counties or

portions thereof contained in the proposed district to publish once a week for four consecutive weeks a notice substantially in the following form:

NOTICE OF PETITION TO SUBMIT TO A POPULAR VOTE THE CREATION AND FUNDING OF A TRANSPORTATION DEVELOPMENT DISTRICT

Notice is hereby given to all persons residing or owning property in (here specifically describe the proposed district boundaries), within the state of Missouri, that a petition has been filed asking that upon voter approval, a transportation development district by the name of "..... Transportation Development District" be formed for the purpose of developing the following transportation project: (here summarize the proposed transportation project or projects). The petition also requests voter approval of the following method(s) of funding the district, which (may) (shall not) increase the total taxes imposed within the proposed district: (describe the proposed funding methods). A copy of this petition is on file and available at the office of the clerk of the circuit court of ..... County, located at ....., Missouri. You are notified to join in or file your own petition supporting or answer opposing the creation of the transportation development district and requesting a declaratory judgment, as required by law, no later than the ..... day of ....., 20.. . You may show cause, if any there be, why such petition is defective or proposed transportation development district or its funding method, as set forth in the petition, is illegal or unconstitutional and should not be submitted for voter approval at a general, primary or special election as directed by this court. .... Clerk of the Circuit Court of ..... County

2. The circuit court may also order a public hearing on the question of the creation and funding of the proposed district, if it deems such appropriate, under such terms and conditions as it deems appropriate. **The circuit court shall order at least one public hearing on the creation and funding of the proposed district, if the petition for creating such district was filed by the owners of record of all real property within the proposed district.** If a public hearing is ordered, notice of the time, date and place of the hearing shall also be given in the notice specified in subsection 1 of this section.

238.235. SALES TAX, CERTAIN DISTRICTS, EXEMPTIONS FROM TAX — ELECTION, BALLOT FORM — PROCEDURES FOR COLLECTION, DISTRIBUTION, USE — REPEAL OF TAX. — 1. (1) Any transportation development district may by resolution impose a transportation development district sales tax on all retail sales made in such transportation development district which are subject to taxation pursuant to the provisions of sections 144.010 to 144.525, RSMo, except such transportation development district sales tax shall not apply to the sale or use of motor vehicles, trailers, boats or outboard motors nor to all sales of electricity or electrical current, water and gas, natural or artificial, nor to sales of service to telephone subscribers, either local or long distance. Such transportation development district sales tax may be imposed for any transportation development purpose designated by the transportation development district in its ballot of submission to its qualified voters, except that no resolution enacted pursuant to the authority granted by this section shall be effective unless:

(a) The board of directors of the transportation development district submits to the qualified voters of the transportation development district a proposal to authorize the board of directors of the transportation development district to impose or increase the levy of an existing tax pursuant to the provisions of this section; or

(b) The voters approved the question certified by the petition filed pursuant to subsection 5 of section 238.207.

(2) If the transportation district submits to the qualified voters of the transportation development district a proposal to authorize the board of directors of the transportation development district to impose or increase the levy of an existing tax pursuant to the provisions

of paragraph (a) of subdivision (1) of this subsection, the ballot of submission shall contain, but need not be limited to, the following language:

Shall the transportation development district of ..... (transportation development district's name) impose a transportation development district-wide sales tax at the rate of ..... (insert amount) for a period of ..... (insert number) years from the date on which such tax is first imposed for the purpose of ..... (insert transportation development purpose)?

[ ] YES [ ] NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the resolution and any amendments thereto shall be in effect. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the board of directors of the transportation development district shall have no power to impose the sales tax authorized by this section unless and until the board of directors of the transportation development district shall again have submitted another proposal to authorize it to impose the sales tax pursuant to the provisions of this section and such proposal is approved by a majority of the qualified voters voting thereon.

(3) The sales tax authorized by this section shall become **[**effective on the first day of the month following adoption of the tax by the qualified voters**]** **effective on the first day of the second calendar quarter after the department of revenue receives notification of the tax**.

(4) In each transportation development district in which a sales tax has been imposed in the manner provided by this section, every retailer shall add the tax imposed by the transportation development district pursuant to this section to the retailer's sale price, and when so added such tax shall constitute a part of the price, shall be a debt of the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as the purchase price.

(5) In order to permit sellers required to collect and report the sales tax authorized by this section to collect the amount required to be reported and remitted, but not to change the requirements of reporting or remitting tax or to serve as a levy of the tax, and in order to avoid fractions of pennies, the transportation development district may establish appropriate brackets which shall be used in the district imposing a tax pursuant to this section in lieu of those brackets provided in section 144.285, RSMo.

(6) All revenue received by a transportation development district from the tax authorized by this section which has been designated for a certain transportation development purpose shall be deposited in a special trust fund and shall be used solely for such designated purpose. Upon the expiration of the period of years approved by the qualified voters pursuant to subdivision (2) of this subsection or if the tax authorized by this section is repealed pursuant to subsection 6 of this section, all funds remaining in the special trust fund shall continue to be used solely for such designated transportation development purpose. Any funds in such special trust fund which are not needed for current expenditures may be invested by the board of directors in accordance with applicable laws relating to the investment of other transportation development district funds.

(7) The sales tax may be imposed in increments of one-eighth of one percent, up to a maximum of one percent on the receipts from the sale at retail of all tangible personal property or taxable services at retail within the transportation development district adopting such tax, if such property and services are subject to taxation by the state of Missouri pursuant to the provisions of sections 144.010 to 144.525, RSMo, except such transportation development district sales tax shall not apply to the sale or use of motor vehicles, trailers, boats or outboard motors nor to public utilities. Any transportation development district sales tax imposed pursuant to this section shall be imposed at a rate that shall be uniform throughout the district.

2. The resolution imposing the sales tax pursuant to this section shall impose upon all sellers a tax for the privilege of engaging in the business of selling tangible personal property or rendering taxable services at retail to the extent and in the manner provided in sections 144.010

to 144.525, RSMo, and the rules and regulations of the director of revenue issued pursuant thereto; except that the rate of the tax shall be the rate imposed by the resolution as the sales tax and the tax shall be reported and returned to and collected by the transportation development district.

3. On and after the effective date of any tax imposed pursuant to this section, the **[**transportation development district**]** **director of revenue** shall perform all functions incident to the administration, collection, enforcement, and operation of the tax**, and the director of revenue shall collect, in addition to all other sales taxes imposed by law, the additional tax authorized pursuant to this section**. The tax imposed pursuant to this section **and the taxes imposed pursuant to all other laws of the state of Missouri** shall be collected **together** and reported upon such forms and **[**under**]** **pursuant to** such administrative rules and regulations as may be prescribed by the **[**transportation development district**]** **director of revenue**.

4. (1) All applicable provisions contained in sections 144.010 to 144.525, RSMo, governing the state sales tax, sections 32.085 and 32.087, RSMo, and section 32.057, RSMo, the uniform confidentiality provision, shall apply to the collection of the tax imposed by this section, except as modified in this section.

(2) All exemptions granted to agencies of government, organizations, persons and to the sale of certain articles and items of tangible personal property and taxable services pursuant to the provisions of sections 144.010 to 144.525, RSMo, are hereby made applicable to the imposition and collection of the tax imposed by this section.

(3) The same sales tax permit, exemption certificate and retail certificate required by sections 144.010 to 144.525, RSMo, for the administration and collection of the state sales tax shall satisfy the requirements of this section, and no additional permit or exemption certificate or retail certificate shall be required; except that the transportation development district may prescribe a form of exemption certificate for an exemption from the tax imposed by this section.

(4) All discounts allowed the retailer pursuant to the provisions of the state sales tax laws for the collection of and for payment of taxes pursuant to such laws are hereby allowed and made applicable to any taxes collected pursuant to the provisions of this section.

(5) The penalties provided in section 32.057, RSMo, and sections 144.010 to 144.525, RSMo, for violation of those sections are hereby made applicable to violations of this section.

(6) For the purpose of a sales tax imposed by a resolution pursuant to this section, all retail sales except retail sales of motor vehicles shall be deemed to be consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or the retailer's agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. In the event a retailer has more than one place of business in this state which participates in the sale, the sale shall be deemed to be consummated at the place of business of the retailer where the initial order for the tangible personal property is taken, even though the order must be forwarded elsewhere for acceptance, approval of credit, shipment or billing. A sale by a retailer's employee shall be deemed to be consummated at the place of business from which the employee works.

5. All sales taxes **[**collected**]** **received** by the transportation development district shall be deposited by the **[**transportation development district**]** **director of revenue** in a special fund to be expended for the purposes authorized in this section. The **[**transportation development district**]** **director of revenue** shall keep accurate records of the amount of money which was collected pursuant to this section, and the records shall be open to the inspection of officers of each transportation development district and the general public.

6. (1) No transportation development district imposing a sales tax pursuant to this section may repeal or amend such sales tax unless such repeal or amendment will not impair the district's ability to repay any liabilities which it has incurred, money which it has borrowed or revenue bonds, notes or other obligations which it has issued or which have been issued by the commission or any local transportation authority to finance any project or projects.

(2) Whenever the board of directors of any transportation development district in which a transportation development sales tax has been imposed in the manner provided by this section receives a petition, signed by ten percent of the qualified voters calling for an election to repeal such transportation development sales tax, the board of directors shall, if such repeal will not impair the district's ability to repay any liabilities which it has incurred, money which it has borrowed or revenue bonds, notes or other obligations which it has issued or which have been issued by the commission or any local transportation authority to finance any project or projects, submit to the qualified voters of such transportation development district a proposal to repeal the transportation development sales tax imposed pursuant to the provisions of this section. If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal to repeal the transportation development sales tax, then the resolution imposing the transportation development sales tax, along with any amendments thereto, is repealed. If a majority of the votes cast by the qualified voters voting thereon are opposed to the proposal to repeal the transportation development sales tax, then the ordinance or resolution imposing the transportation development sales tax, along with any amendments thereto, shall remain in effect.

253.545. DEFINITIONS. — As used in sections 253.545 to 253.559, the following terms mean, unless the context requires otherwise:

(1) "Certified historic structure", a property located in Missouri and listed individually on the National Register of Historic Places;

(2) **"Deed in lieu of foreclosure or voluntary conveyance", a transfer of title from a borrower to the lender to satisfy the mortgage debt and avoid foreclosure;**

(3) "Eligible property", property located in Missouri and offered or used for residential or business purposes;

(4) Leasehold interest", a lease in an eligible property for a term of not less than thirty years;

(5) "Principal", a managing partner, general partner, or president of a taxpayer;

[(3)**]** **(6)** "Structure in a certified historic district", a structure located in Missouri which is certified by the department of natural resources as contributing to the historic significance of a certified historic district listed on the National Register of Historic Places, or a local district that has been certified by the United States Department of the Interior**;**

(7) "Taxpayer", any person, firm, partnership, trust, estate, limited liability company, or corporation.

253.550. TAX CREDITS, QUALIFIED PERSONS OR ENTITIES, MAXIMUM AMOUNT, LIMITATIONS — EXCEPTIONS. — 1. Any **[**person, firm, partnership, trust, estate, or corporation**]** **taxpayer** incurring costs and expenses for the rehabilitation of eligible property, which is a certified historic structure or structure in a certified historic district, **[**shall be entitled to**]** **may, subject to the provisions of this section and section 253.559, receive** a credit against the taxes imposed pursuant to chapters 143 and 148, RSMo, except for sections 143.191 to 143.265, RSMo, on **[**that person or entity**]** **such taxpayer** in an amount equal to twenty-five percent of the total costs and expenses of rehabilitation incurred after January 1, 1998, which shall include, but not be limited to, qualified rehabilitation expenditures as defined under section 47(c)(2)(A) of the Internal Revenue Code of 1986, as amended, and the related regulations thereunder, provided the rehabilitation costs associated with rehabilitation and the expenses exceed fifty percent of the total basis in the property and the rehabilitation meets standards consistent with the standards of the Secretary of the United States Department of the Interior for rehabilitation as determined by the state historic preservation officer of the Missouri department of natural resources.

2. During the period beginning on January 1, 2010, but ending on or after June 30, 2010, the department of economic development shall not approve applications for tax credits under the provisions of subsections 3 and 8 of section 253.559 which, in the

aggregate, exceed seventy million dollars, increased by any amount of tax credits for which approval shall be rescinded under the provisions of section 253.559. For each fiscal year beginning on or after July 1, 2010, the department of economic development shall not approve applications for tax credits under the provisions of subsections 3 and 8 of section 253.559 which, in the aggregate, exceed one hundred forty million dollars, increased by any amount of tax credits for which approval shall be rescinded under the provisions of section 253.559. The limitations provided under this subsection shall not apply to applications approved under the provisions of subsection 3 of section 253.559 for projects to receive less than two hundred seventy-five thousand dollars in tax credits.

3. For all applications for tax credits approved on or after January 1, 2010, no more than two hundred fifty thousand dollars in tax credits may be issued for eligible costs and expenses incurred in the rehabilitation of an eligible property which is a non-income producing single-family, owner-occupied residential property and is either a certified historic structure or a structure in a certified historic district.

4. The limitations on tax credit authorization provided under the provisions of subsections 2 and 3 of this section shall not apply to:

(1) Any application submitted by a taxpayer, which has received approval from the department prior to January 1, 2010; or

(2) Any taxpayer applying for tax credits, provided under this section, which, on or before January 1, 2010, has filed an application with the department evidencing that such taxpayer:

(a) Has incurred costs and expenses for an eligible property which exceed the lesser of five percent of the total project costs or one million dollars and received an approved Part I from the Secretary of the United States Department of Interior; or

(b) Has received certification, by the state historic preservation officer, that the rehabilitation plan meets the standards consistent with the standards of the Secretary of the United States Department of the Interior, and the rehabilitation costs and expenses associated with such rehabilitation shall exceed fifty percent of the total basis in the property.

253.559. PROCEDURE TO CLAIM TAX CREDIT — ELIGIBILITY, HOW DETERMINED — CERTIFICATE REQUIRED. — 1. **[**To claim the credit authorized pursuant to sections 253.550 to 253.561 of senate bill no. 1 of the second extraordinary session of the eighty-ninth general assembly and section 253.557 of this act, the**] To obtain approval for tax credits allowed under sections 253.545 to 253.559, a** taxpayer shall **[**apply**] submit a application for tax credits** to the department of economic development **[**which, in consultation with the department of natural resources, shall**]. Each application for approval, including any applications received for supplemental allocations of tax credits as provided under subsection 8 of section 253.559, shall be prioritized for review and approval, in the order of the date on which the application was postmarked, with the oldest postmarked date receiving priority. Applications postmarked on the same day shall go through a lottery process to determine the order in which such applications shall be reviewed.**

2. Each application shall be reviewed by the department of economic development for approval. In order to receive approval, an application, other than applications submitted under the provisions of subsection 8 of this section, shall include:

(1) Proof of ownership or site control. Proof of ownership shall include evidence that the taxpayer is the fee simple owner of the eligible property, such as a warranty deed or a closing statement. Proof of site control may be evidenced by a leasehold interest or an option to acquire such an interest. If the taxpayer is in the process of acquiring fee simple ownership, proof of site control shall include an executed sales contract or an executed option to purchase the eligible property;

(2) Floor plans of the existing structure, architectural plans, and, where applicable, plans of the proposed alterations to the structure, as well as proposed additions;

(3) The estimated cost of rehabilitation, the anticipated total costs of the project, the actual basis of the property, as shown by proof of actual acquisition costs, the anticipated total labor costs, the estimated project start date, and the estimated project completion date;

(4) Proof that the property is an eligible property and a certified historic structure or a structure in a certified historic district; and

(5) Any other information which the department of economic development may reasonably require to review the project for approval.

Only the property for which a property address is provided in the application shall be reviewed for approval. Once selected for review, a taxpayer shall not be permitted to request the review of another property for approval in the place of the property contained in such application. Any disapproved application shall be removed from the review process. If an application is removed from the review process, the department of economic development shall notify the taxpayer in writing of the decision to remove such application. Disapproved applications shall lose priority in the review process. A disapproved application, which is removed from the review process, may be resubmitted, but shall be deemed to be a new submission for purposes of the priority procedures described in this section.

3. If the department of economic development deems the application sufficient, the taxpayer shall be notified in writing of the approval for an amount of tax credits equal to the amount provided under section 253.550 less any amount of tax credits previously approved. Such approvals shall be granted to applications in the order of priority established under this section and shall require full compliance thereafter with all other requirements of law as a condition to any claim for such credits.

4. Following approval of an application, the identity of the taxpayer contained in such application shall not be modified except:

(1) The taxpayer may add partners, members, or shareholders as part of the ownership structure, so long as the principal remains the same, provided however, that subsequent to the commencement of renovation and the expenditure of at least ten percent of the proposed rehabilitation budget, removal of the principal for failure to perform duties and the appointment of a new principal thereafter shall not constitute a change of the principal; or

(2) Where the ownership of the project is changed due to a foreclosure, deed in lieu of a foreclosure or voluntary conveyance, or a transfer in bankruptcy.

5. In the event that the department of economic development grants approval for tax credits equal to the total amount available under subsection 2 of section 253.550, or sufficient that when totaled with all other approvals, the amount available under subsection 2 of section 253.550 is exhausted, all taxpayers with applications then awaiting approval or thereafter submitted for approval shall be notified by the department of economic development that no additional approvals shall be granted during the fiscal year and shall be notified of the priority given to such taxpayer's application then awaiting approval. Such applications shall be kept on file by the department of economic development and shall be considered for approval for tax credits in the order established in this section in the event that additional credits become available due to the rescission of approvals or when a new fiscal year's allocation of credits becomes available for approval.

6. All taxpayers with applications receiving approval on or after the effective date of this act shall commence rehabilitation within two years of the date of issuance of the letter from the department of economic development granting the approval for tax credits. Commencement of rehabilitation shall mean that as of the date in which actual physical

work, contemplated by the architectural plans submitted with the application, has begun, the taxpayer has incurred no less than ten percent of the estimated costs of rehabilitation provided in the application. Taxpayers with approval of a project shall submit evidence of compliance with the provisions of this subsection. If the department of economic development determines that a taxpayer has failed to comply with the requirements provided under this section, the approval for the amount of tax credits for such taxpayer shall be rescinded and such amount of tax credits shall then be included in the total amount of tax credits, provided under subsection 2 of section 253.550, from which approvals may be granted. Any taxpayer whose approval shall be subject to rescission shall be notified of such from the department of economic development and, upon receipt of such notice, may submit a new application for the project.

7. To claim the credit authorized under sections 253.550 to 253.559, a taxpayer with approval shall apply for final approval and issuance of tax credits from the department of economic development which, in consultation with the department of natural resources, shall determine the **final** amount of eligible rehabilitation costs and expenses and whether the **completed** rehabilitation meets the standards of the Secretary of the United States Department of the Interior for rehabilitation as determined by the state historic preservation officer of the Missouri department of natural resources. For financial institutions credits authorized pursuant to sections 253.550 to 253.561 shall be deemed to be "economic development credits" for purposes of section 148.064, RSMo. The **approval of all applications and the** issuing of certificates of eligible credits to taxpayers shall be performed by the department of economic development. **The department of economic development shall inform a taxpayer of final approval by letter and shall issue, to the taxpayer, tax credit certificates.** The taxpayer shall attach the certificate to all Missouri income tax returns on which the credit is claimed.

[2.**] 8. Except as expressly provided in this subsection, tax credit certificates shall be issued in the final year that costs and expenses of rehabilitation of the project are incurred, or within the twelve month period immediately following the conclusion of such rehabilitation. In the event the amount of eligible rehabilitation costs and expenses incurred by a taxpayer would result in the issuance of an amount of tax credits in excess of the amount provided under such taxpayer's approval granted under subsection 3 of this section, such taxpayer may apply to the department for issuance of tax credits in an amount equal to such excess. Applications for issuance of tax credits in excess of the amount provided under a taxpayer's application shall be made on a form prescribed by the department. Such applications shall be subject to all provisions regarding priority provided under subsection 1 of this section.**

9. The department of economic development shall determine, on an annual basis, the overall economic impact to the state from the rehabilitation of eligible property.

338.337. OUT-OF-STATE DISTRIBUTORS, LICENSES REQUIRED, EXCEPTION. — It shall be unlawful for any out-of-state wholesale drug distributor or out-of-state pharmacy acting as a distributor to do business in this state without first obtaining a license to do so from the board of pharmacy and paying the required fee. Application for an out-of-state wholesale drug distributor's license under this section shall be made on a form furnished by the board. The issuance of a license under sections 338.330 to 338.370 shall not change or affect tax liability imposed by the Missouri department of revenue on any out-of-state wholesale drug distributor or out-of-state pharmacy. Any out-of-state wholesale drug distributor that is a drug manufacturer and which produces and distributes from a facility which has been inspected and approved by the Food and Drug Administration **[**within the last two years**] , maintains current approval by the federal Food and Drug Administration, and has provided a copy of the most recent Food and Drug Administration Establishment Inspection Report to the board** and which is licensed by the state in which the distribution facility is located**, or, if located within a foreign jurisdiction, is authorized and in good standing to operate as a drug manufacturer within**

such jurisdiction, need not be licensed as provided in this section but such out-of-state distributor shall register its business name and address with the board of pharmacy and pay a filing fee of ten dollars.

447.708. TAX CREDITS, CRITERIA, CONDITIONS — DEFINITIONS. — 1. For eligible projects, the director of the department of economic development, with notice to the directors of the departments of natural resources and revenue, and subject to the other provisions of sections 447.700 to 447.718, may not create a new enterprise zone but may decide that a prospective operator of a facility being remedied and renovated pursuant to sections 447.700 to 447.718 may receive the tax credits and exemptions pursuant to sections 135.100 to 135.150, RSMo, and sections 135.200 to 135.257, RSMo. The tax credits allowed pursuant to this subsection shall be used to offset the tax imposed by chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, or the tax otherwise imposed by chapter 147, RSMo, or the tax otherwise imposed by chapter 148, RSMo. For purposes of this subsection:

(1) For receipt of the ad valorem tax abatement pursuant to section 135.215, RSMo, the eligible project must create at least ten new jobs or retain businesses which supply at least twenty-five existing jobs. The city, or county if the eligible project is not located in a city, must provide ad valorem tax abatement of at least fifty percent for a period not less than ten years and not more than twenty-five years;

(2) For receipt of the income tax exemption pursuant to section 135.220, RSMo, and tax credit for new or expanded business facilities pursuant to sections 135.100 to 135.150, and 135.225, RSMo, the eligible project must create at least ten new jobs or retain businesses which supply at least twenty-five existing jobs, or combination thereof. For purposes of sections 447.700 to 447.718, the tax credits described in section 135.225, RSMo, are modified as follows: the tax credit shall be four hundred dollars per employee per year, an additional four hundred dollars per year for each employee exceeding the minimum employment thresholds of ten and twenty-five jobs for new and existing businesses, respectively, an additional four hundred dollars per year for each person who is a person difficult to employ as defined by section 135.240, RSMo, and investment tax credits at the same amounts and levels as provided in subdivision (4) of subsection 1 of section 135.225, RSMo;

(3) For eligibility to receive the income tax refund pursuant to section 135.245, RSMo, the eligible project must create at least ten new jobs or retain businesses which supply at least twenty-five existing jobs, or combination thereof, and otherwise comply with the provisions of section 135.245, RSMo, for application and use of the refund and the eligibility requirements of this section;

(4) The eligible project operates in compliance with applicable environmental laws and regulations, including permitting and registration requirements, of this state as well as the federal and local requirements;

(5) The eligible project operator shall file such reports as may be required by the director of economic development or the director's designee;

(6) The taxpayer may claim the state tax credits authorized by this subsection and the state income exemption for a period not in excess of ten consecutive tax years. For the purpose of this section, "taxpayer" means an individual proprietorship, partnership or corporation described in section 143.441 or 143.471, RSMo, who operates an eligible project. The director shall determine the number of years the taxpayer may claim the state tax credits and the state income exemption based on the projected net state economic benefits attributed to the eligible project;

(7) For the purpose of meeting the new job requirement prescribed in subdivisions (1), (2) and (3) of this subsection, it shall be required that at least ten new jobs be created and maintained during the taxpayer's tax period for which the credits are earned, in the case of an eligible project that does not replace a similar facility in Missouri. "New job" means a person who was not previously employed by the taxpayer or related taxpayer within the twelve-month period immediately preceding the time the person was employed by that taxpayer to work at, or in

connection with, the eligible project on a full-time basis. "Full-time basis" means the employee works an average of at least thirty-five hours per week during the taxpayer's tax period for which the tax credits are earned. For the purposes of this section, "related taxpayer" has the same meaning as defined in subdivision (9) of section 135.100, RSMo;

(8) For the purpose of meeting the existing job retention requirement, if the eligible project replaces a similar facility that closed elsewhere in Missouri prior to the end of the taxpayer's tax period in which the tax credits are earned, it shall be required that at least twenty-five existing jobs be retained at, and in connection with the eligible project, on a full-time basis during the taxpayer's tax period for which the credits are earned. "Retained job" means a person who was previously employed by the taxpayer or related taxpayer, at a facility similar to the eligible project that closed elsewhere in Missouri prior to the end of the taxpayer's tax period in which the tax credits are earned, within the tax period immediately preceding the time the person was employed by the taxpayer to work at, or in connection with, the eligible project on a full-time basis. "Full-time basis" means the employee works an average of at least thirty-five hours per week during the taxpayer's tax period for which the tax credits are earned;

(9) In the case where an eligible project replaces a similar facility that closed elsewhere in Missouri prior to the end of the taxpayer's tax period in which the tax credits are earned, the owner and operator of the eligible project shall provide the director with a written statement explaining the reason for discontinuing operations at the closed facility. The statement shall include a comparison of the activities performed at the closed facility prior to the date the facility ceased operating, to the activities performed at the eligible project, and a detailed account describing the need and rationale for relocating to the eligible project. If the director finds the relocation to the eligible project significantly impaired the economic stability of the area in which the closed facility was located, and that such move was detrimental to the overall economic development efforts of the state, the director may deny the taxpayer's request to claim tax benefits;

(10) Notwithstanding any provision of law to the contrary, for the purpose of this section, the number of new jobs created and maintained, the number of existing jobs retained, and the value of new qualified investment used at the eligible project during any tax year shall be determined by dividing by twelve, in the case of jobs, the sum of the number of individuals employed at the eligible project, or in the case of new qualified investment, the value of new qualified investment used at the eligible project, on the last business day of each full calendar month of the tax year. If the eligible project is in operation for less than the entire tax year, the number of new jobs created and maintained, the number of existing jobs retained, and the value of new qualified investment created at the eligible project during any tax year shall be determined by dividing the sum of the number of individuals employed at the eligible project, or in the case of new qualified investment, the value of new qualified investment used at the eligible project, on the last business day of each full calendar month during the portion of the tax year during which the eligible project was in operation, by the number of full calendar months during such period;

(11) For the purpose of this section, "new qualified investment" means new business facility investment as defined and as determined in subdivision (7) of section 135.100, RSMo, which is used at and in connection with the eligible project. "New qualified investment" shall not include small tools, supplies and inventory. "Small tools" means tools that are portable and can be hand held.

2. The determination of the director of economic development pursuant to subsection 1 of this section shall not affect requirements for the prospective purchaser to obtain the approval of the granting of real property tax abatement by the municipal or county government where the eligible project is located.

3. (1) The director of the department of economic development, with the approval of the director of the department of natural resources, may, in addition to the tax credits allowed in subsection 1 of this section, grant a remediation tax credit to the applicant for up to one hundred

percent of the costs of materials, supplies, equipment, labor, professional engineering, consulting and architectural fees, permitting fees and expenses, demolition, asbestos abatement, and direct utility charges for performing the voluntary remediation activities for the preexisting hazardous substance contamination and releases, including, but not limited to, the costs of performing operation and maintenance of the remediation equipment at the property beyond the year in which the systems and equipment are built and installed at the eligible project and the costs of performing the voluntary remediation activities over a period not in excess of four tax years following the taxpayer's tax year in which the system and equipment were first put into use at the eligible project, provided the remediation activities are the subject of a plan submitted to, and approved by, the director of natural resources pursuant to sections 260.565 to 260.575, RSMo. The tax credit may also include up to one hundred percent of the costs of demolition that are not directly part of the remediation activities, provided that the demolition is on the property where the voluntary remediation activities are occurring, the demolition is necessary to accomplish the planned use of the facility where the remediation activities are occurring, and the demolition is part of a redevelopment plan approved by the municipal or county government and the department of economic development. The demolition may occur on an adjacent property if the project is located in a municipality which has a population less than twenty thousand and the above conditions are otherwise met. The adjacent property shall independently qualify as abandoned or underutilized. The amount of the credit available for demolition not associated with remediation cannot exceed the total amount of credits approved for remediation including demolition required for remediation.

(2) The amount of remediation tax credits issued shall be limited to the least amount necessary to cause the project to occur, as determined by the director of the department of economic development.

(3) The director may, with the approval of the director of natural resources, extend the tax credits allowed for performing voluntary remediation maintenance activities, in increments of three-year periods, not to exceed five consecutive three-year periods. The tax credits allowed in this subsection shall be used to offset the tax imposed by chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, or the tax otherwise imposed by chapter 147, RSMo, or the tax otherwise imposed by chapter 148, RSMo. The remediation tax credit may be taken in the same tax year in which the tax credits are received or may be taken over a period not to exceed twenty years.

(4) The project facility shall be projected to create at least ten new jobs or at least twenty-five retained jobs, or a combination thereof, as determined by the department of economic development, to be eligible for tax credits pursuant to this section.

(5) No more than seventy-five percent of earned remediation tax credits may be issued when the remediation costs were paid, and the remaining percentage may be issued when the department of natural resources issues a "Letter of Completion" letter or covenant not to sue following completion of the voluntary remediation activities. It shall not include any costs associated with ongoing operational environmental compliance of the facility or remediation costs arising out of spills, leaks, or other releases arising out of the ongoing business operations of the facility. **In the event the department of natural resources issues a letter of completion for a portion of a property, an impacted media such as soil or groundwater, or for a site or a portion of a site improvement, a prorated amount of the remaining percentage may be released based on the percentage of the total site receiving a letter of completion.**

4. In the exercise of the sound discretion of the director of the department of economic development or the director's designee, the tax credits and exemptions described in this section may be terminated, suspended or revoked, if the eligible project fails to continue to meet the conditions set forth in this section. In making such a determination, the director shall consider the severity of the condition violation, actions taken to correct the violation, the frequency of any condition violations and whether the actions exhibit a pattern of conduct by the eligible facility owner and operator. The director shall also consider changes in general economic conditions

and the recommendation of the director of the department of natural resources, or his or her designee, concerning the severity, scope, nature, frequency and extent of any violations of the environmental compliance conditions. The taxpayer or person claiming the tax credits or exemptions may appeal the decision regarding termination, suspension or revocation of any tax credit or exemption in accordance with the procedures outlined in subsections 4 to 6 of section 135.250, RSMo. The director of the department of economic development shall notify the directors of the departments of natural resources and revenue of the termination, suspension or revocation of any tax credits as determined in this section or pursuant to the provisions of section 447.716.

5. Notwithstanding any provision of law to the contrary, no taxpayer shall earn the tax credits, exemptions or refund otherwise allowed in subdivisions (2), (3) and (4) of subsection 1 of this section and the tax credits otherwise allowed in section 135.110, RSMo, or the tax credits, exemptions and refund otherwise allowed in sections 135.215, 135.220, 135.225 and 135.245, RSMo, respectively, for the same facility for the same tax period.

6. The total amount of the tax credits allowed in subsection 1 of this section may not exceed the greater of:

(1) That portion of the taxpayer's income attributed to the eligible project; or

(2) One hundred percent of the total business' income tax if the eligible facility does not replace a similar facility that closed elsewhere in Missouri prior to the end of the taxpayer's tax period in which the tax credits are earned, and further provided the taxpayer does not operate any other facilities besides the eligible project in Missouri; fifty percent of the total business' income tax if the eligible facility replaces a similar facility that closed elsewhere in Missouri prior to the end of the taxpayer's tax period in which the credits are earned, and further provided the taxpayer does not operate any other facilities besides the eligible project in Missouri; or twenty-five percent of the total business income if the taxpayer operates, in addition to the eligible facility, any other facilities in Missouri. In no case shall a taxpayer operating more than one eligible project in Missouri be allowed to offset more than twenty-five percent of the taxpayer's business income in any tax period. That portion of the taxpayer's income attributed to the eligible project as referenced in subdivision (1) of this subsection, for which the credits allowed in sections 135.110 and 135.225, RSMo, and subsection 3 of this section, may apply, shall be determined in the same manner as prescribed in subdivision (6) of section 135.100, RSMo. That portion of the taxpayer's franchise tax attributed to the eligible project for which the remediation tax credit may offset, shall be determined in the same manner as prescribed in paragraph (a) of subdivision (6) of section 135.100, RSMo.

7. Taxpayers claiming the state tax benefits allowed in subdivisions (2) and (3) of subsection 1 of this section shall be required to file all applicable tax credit applications, forms and schedules prescribed by the director during the taxpayer's tax period immediately after the tax period in which the eligible project was first put into use. Otherwise, the taxpayer's right to claim such state tax benefits shall be forfeited. Unused business facility and enterprise zone tax credits shall not be carried forward but shall be initially claimed for the tax period during which the eligible project was first capable of being used, and during any applicable subsequent tax periods.

8. Taxpayers claiming the remediation tax credit allowed in subsection 3 of this section shall be required to file all applicable tax credit applications, forms and schedules prescribed by the director during the taxpayer's tax period immediately after the tax period in which the eligible project was first put into use, or during the taxpayer's tax period immediately after the tax period in which the voluntary remediation activities were performed.

9. The recipient of remediation tax credits, for the purpose of this subsection referred to as assignor, may assign, sell or transfer, in whole or in part, the remediation tax credit allowed in subsection 3 of this section to any other person, for the purpose of this subsection referred to as assignee. To perfect the transfer, the assignor shall provide written notice to the director of the assignor's intent to transfer the tax credits to the assignee, the date the transfer is effective, the

assignee's name, address and the assignee's tax period and the amount of tax credits to be transferred. The number of tax periods during which the assignee may subsequently claim the tax credits shall not exceed twenty tax periods, less the number of tax periods the assignor previously claimed the credits before the transfer occurred.

10. In the case where an operator and assignor of an eligible project has been certified to claim state tax benefits allowed in subdivisions (2) and (3) of subsection 1 of this section, and sells or otherwise transfers title of the eligible project to another taxpayer or assignee who continues the same or substantially similar operations at the eligible project, the director shall allow the assignee to claim the credits for a period of time to be determined by the director; except that, the total number of tax periods the tax credits may be earned by the assignor and the assignee shall not exceed ten. To perfect the transfer, the assignor shall provide written notice to the director of the assignor's intent to transfer the tax credits to the assignee, the date the transfer is effective, the assignee's name, address, and the assignee's tax period, and the amount of tax credits to be transferred.

11. For the purpose of the state tax benefits described in this section, in the case of a corporation described in section 143.471, RSMo, or partnership, in computing Missouri's tax liability, such state benefits shall be allowed to the following:

(1) The shareholders of the corporation described in section 143.471, RSMo;

(2) The partners of the partnership.

The credit provided in this subsection shall be apportioned to the entities described in subdivisions (1) and (2) of this subsection in proportion to their share of ownership on the last day of the taxpayer's tax period.

610.021. CLOSED MEETINGS AND CLOSED RECORDS AUTHORIZED WHEN, EXCEPTIONS, SUNSET DATES FOR CERTAIN EXCEPTIONS. — Except to the extent disclosure is otherwise required by law, a public governmental body is authorized to close meetings, records and votes, to the extent they relate to the following:

(1) Legal actions, causes of action or litigation involving a public governmental body and any confidential or privileged communications between a public governmental body or its representatives and its attorneys. However, any minutes, vote or settlement agreement relating to legal actions, causes of action or litigation involving a public governmental body or any agent or entity representing its interests or acting on its behalf or with its authority, including any insurance company acting on behalf of a public government body as its insured, shall be made public upon final disposition of the matter voted upon or upon the signing by the parties of the settlement agreement, unless, prior to final disposition, the settlement agreement is ordered closed by a court after a written finding that the adverse impact to a plaintiff or plaintiffs to the action clearly outweighs the public policy considerations of section 610.011, however, the amount of any moneys paid by, or on behalf of, the public governmental body shall be disclosed; provided, however, in matters involving the exercise of the power of eminent domain, the vote shall be announced or become public immediately following the action on the motion to authorize institution of such a legal action. Legal work product shall be considered a closed record;

(2) Leasing, purchase or sale of real estate by a public governmental body where public knowledge of the transaction might adversely affect the legal consideration therefor. However, any minutes, vote or public record approving a contract relating to the leasing, purchase or sale of real estate by a public governmental body shall be made public upon execution of the lease, purchase or sale of the real estate;

(3) Hiring, firing, disciplining or promoting of particular employees by a public governmental body when personal information about the employee is discussed or recorded. However, any vote on a final decision, when taken by a public governmental body, to hire, fire, promote or discipline an employee of a public governmental body shall be made available with a record of how each member voted to the public within seventy-two hours of the close of the

meeting where such action occurs; provided, however, that any employee so affected shall be entitled to prompt notice of such decision during the seventy-two-hour period before such decision is made available to the public. As used in this subdivision, the term "personal information" means information relating to the performance or merit of individual employees;

(4) The state militia or national guard or any part thereof;

(5) Nonjudicial mental or physical health proceedings involving identifiable persons, including medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment;

(6) Scholastic probation, expulsion, or graduation of identifiable individuals, including records of individual test or examination scores; however, personally identifiable student records maintained by public educational institutions shall be open for inspection by the parents, guardian or other custodian of students under the age of eighteen years and by the parents, guardian or other custodian and the student if the student is over the age of eighteen years;

(7) Testing and examination materials, before the test or examination is given or, if it is to be given again, before so given again;

(8) Welfare cases of identifiable individuals;

(9) Preparation, including any discussions or work product, on behalf of a public governmental body or its representatives for negotiations with employee groups;

(10) Software codes for electronic data processing and documentation thereof;

(11) Specifications for competitive bidding, until either the specifications are officially approved by the public governmental body or the specifications are published for bid;

(12) Sealed bids and related documents, until the bids are opened; and sealed proposals and related documents or any documents related to a negotiated contract until a contract is executed, or all proposals are rejected;

(13) Individually identifiable personnel records, performance ratings or records pertaining to employees or applicants for employment, except that this exemption shall not apply to the names, positions, salaries and lengths of service of officers and employees of public agencies once they are employed as such, and the names of private sources donating or contributing money to the salary of a chancellor or president at all public colleges and universities in the state of Missouri and the amount of money contributed by the source;

(14) Records which are protected from disclosure by law;

(15) Meetings and public records relating to scientific and technological innovations in which the owner has a proprietary interest;

(16) Records relating to municipal hotlines established for the reporting of abuse and wrongdoing;

(17) Confidential or privileged communications between a public governmental body and its auditor, including all auditor work product; however, all final audit reports issued by the auditor are to be considered open records pursuant to this chapter;

(18) Operational guidelines and policies developed, adopted, or maintained by any public agency responsible for law enforcement, public safety, first response, or public health for use in responding to or preventing any critical incident which is or appears to be terrorist in nature and which has the potential to endanger individual or public safety or health. Nothing in this exception shall be deemed to close information regarding expenditures, purchases, or contracts made by an agency in implementing these guidelines or policies. When seeking to close information pursuant to this exception, the agency shall affirmatively state in writing that disclosure would impair its ability to protect the safety or health of persons, and shall in the same writing state that the public interest in nondisclosure outweighs the public interest in disclosure of the records. This exception shall sunset on December 31, 2012;

(19) Existing or proposed security systems and structural plans of real property owned or leased by a public governmental body, and information that is voluntarily submitted by a nonpublic entity owning or operating an infrastructure to any public governmental body for use

by that body to devise plans for protection of that infrastructure, the public disclosure of which would threaten public safety:

(a) Records related to the procurement of or expenditures relating to security systems purchased with public funds shall be open;

(b) When seeking to close information pursuant to this exception, the public governmental body shall affirmatively state in writing that disclosure would impair the public governmental body's ability to protect the security or safety of persons or real property, and shall in the same writing state that the public interest in nondisclosure outweighs the public interest in disclosure of the records;

(c) Records that are voluntarily submitted by a nonpublic entity shall be reviewed by the receiving agency within ninety days of submission to determine if retention of the document is necessary in furtherance of a state security interest. If retention is not necessary, the documents shall be returned to the nonpublic governmental body or destroyed;

(d) This exception shall sunset on December 31, 2012;

(20) Records that identify the configuration of components or the operation of a computer, computer system, computer network, or telecommunications network, and would allow unauthorized access to or unlawful disruption of a computer, computer system, computer network, or telecommunications network of a public governmental body. This exception shall not be used to limit or deny access to otherwise public records in a file, document, data file or database containing public records. Records related to the procurement of or expenditures relating to such computer, computer system, computer network, or telecommunications network, including the amount of moneys paid by, or on behalf of, a public governmental body for such computer, computer system, computer network, or telecommunications network shall be open; **[**and**]**

(21) Credit card numbers, personal identification numbers, digital certificates, physical and virtual keys, access codes or authorization codes that are used to protect the security of electronic transactions between a public governmental body and a person or entity doing business with a public governmental body. Nothing in this section shall be deemed to close the record of a person or entity using a credit card held in the name of a public governmental body or any record of a transaction made by a person using a credit card or other method of payment for which reimbursement is made by a public governmental body**; and**

(22) Records submitted by an individual, corporation, or other business entity to a public institution of higher education in connection with a proposal to license intellectual property or perform sponsored research and which contains sales projections or other business plan information the disclosure of which may endanger the competitiveness of a business.

620.014. RECORDS ON FINANCIAL INVESTMENTS, SALES OR BUSINESS PLANS TO BE DEEMED CLOSED RECORDS, WHEN. — Records and documents submitted to the department of economic development, to the Missouri economic development, export and infrastructure board, or to a regional planning commission formed pursuant to chapter 251, RSMo, relating to financial investments in a business, or sales projections or other business plan information which may endanger the competitiveness of a business**, or records pertaining to a business prospect with which the department, board, or commission is currently negotiating,** may be deemed a "closed record" as such term is defined in section 610.010, RSMo.

620.017. GRANTS, LOANS OR OTHER FINANCIAL ASSISTANCE OR SERVICES PROGRAMS, FUNDS TO BE USED SOLELY FOR REQUIRED PURPOSE, CERTAIN INFORMATION REQUIRED — FAILURE TO COMPLY, FUNDS MUST BE REPAID TO DEPARTMENT, CONTRACT LAW GOVERNS — ANNUAL REPORT REQUIRED, ELEMENTS. — 1. The department of economic development shall require that any contract or agreement with any party which provides grants, loans, tax

credits, other financial assistance or services, to which a monetary value can be assigned, to such party through a program administered by the department of economic development shall:

(1) Specify that such party shall use the proceeds of any such grant, loan, other financial assistance or the benefits of any services solely as required by that program through which the loan, grant, financial assistance or service is provided;

(2) Describe the economic incentive, including the amount and type of economic incentive;

(3) State why the economic incentive is needed;

(4) State the public purpose or purposes for the economic incentive;

(5) State the goals for the economic incentive and the time periods by which these goals will be met;

(6) Describe the financial obligation of the party if the requirements of the contract or agreement are not met;

(7) State the name and address of the parent corporation of the recipient, if any; **[**and**]**

(8) State all other financial assistance known by the department that was received by the recipient for the same project**; and**

(9) Require a summary of jobs created to be reported annually as required under the provisions of subsection 1 of section 135.805, RSMo.

2. In addition, such a contract or agreement shall require that any recipient which uses the proceeds or services for any other purpose or fails to comply with any requirement established by the program through which the loan, grant, tax credit, financial assistance or service is provided shall return any remaining proceeds to the department and shall also require that any proceeds expended or the value of any incentives or services to which a monetary value can be assigned received by the party shall be repaid to the department as required by the contract.

3. The contracts or agreements required by this section shall be governed by and enforceable through the applicable provisions of contract law.

4. The department of economic development shall prepare an annual report regarding all economic incentives administered in the previous calendar year and submit such report to the governor, the president pro tem of the senate, and the speaker of the house of representatives by July first of each year. The annual report shall be made available to the public and shall include, but not be limited to, the following elements:

(1) The total amount of economic incentives awarded by industry;

(2) The distribution of economic incentives by type and public purpose;

(3) The distribution of economic incentives by the size of all business recipients; **[**and**]**

(4) A reporting of any legal action taken by the department or the state with any parties which have failed to comply with a contract or agreement pursuant to this section**;**

(5) A summary of jobs created as reported annually under the provisions of subsection 1 of section 135.805, RSMo; and

(6) The annual report required under the provisions of this subsection shall be made available to the public on the Missouri Accountability Portal.

620.472. NEW OR EXPANDING INDUSTRY TRAINING PROGRAM, PURPOSE, FUNDING — QUALIFIED INDUSTRIES — RULES AND REGULATIONS, FACTORS TO BE CONSIDERED. — 1. The department shall establish a new or expanding industry training program, the purpose of which is to provide assistance for new or expanding industries for the training, retraining or upgrading of the skills of potential employees. **Training may include preemployment training, and services may include analysis of the specified training needs for such company, development of training plans, and provision of training through qualified training staff. Such program may fund in-plant training analysis, curriculum development, assessment and preselection tools, publicity for the program, instructional services, rental of instructional facilities with necessary utilities, access to equipment and supplies, other necessary services, overall program direction, and an adequate staff to carry out an effective training program. In addition, the program may fund a**

coordinated transportation program for trainings if the training can be more effectively provided outside the community where the jobs are to be located. In-plant training analysis shall include fees for professionals and necessary travel and expenses. Such program may also provide assistance in the locating of skilled employees and in the locating of additional sources of job training funds. Such program shall be operated with appropriations made by the general assembly from the fund.

2. Assistance under the new or expanding industry training program may be available only for industries **[**whose**]** **who certify to the department that their** investments relate directly to a projected increase in employment which will result in the need for training of newly hired employees or the retraining or upgrading of the skills of existing employees for new jobs created by the new or expanding industry's investment.

3. The department shall issue rules and regulations governing the awarding of funds administered through the new or expanding industry training program. When promulgating these rules and regulations, the department shall consider such factors as the potential number of new permanent jobs to be created, the amount of private sector investment in new facilities and equipment, the significance of state funding to the industry's decision to locate or expand in Missouri, the economic need of the affected community, and the importance of the industry to the economic development of Missouri.

620.1878. DEFINITIONS. — For the purposes of sections 620.1875 to 620.1890, the following terms shall mean:

(1) "Approval", a document submitted by the department to the qualified company that states the benefits that may be provided by this program;

(2) "Average wage", the new payroll divided by the number of new jobs;

(3) "Commencement of operations", the starting date for the qualified company's first new employee, which must be no later than twelve months from the date of the approval;

(4) "County average wage", the average wages in each county as determined by the department for the most recently completed full calendar year. However, if the computed county average wage is above the statewide average wage, the statewide average wage shall be deemed the county average wage for such county for the purpose of determining eligibility. The department shall publish the county average wage for each county at least annually. Notwithstanding the provisions of this subdivision to the contrary, for any qualified company that in conjunction with their project is relocating employees from a Missouri county with a higher county average wage, the company shall obtain the endorsement of the governing body of the community from which jobs are being relocated or the county average wage for their project shall be the county average wage for the county from which the employees are being relocated;

(5) "Department", the Missouri department of economic development;

(6) "Director", the director of the department of economic development;

(7) "Employee", a person employed by a qualified company;

(8) "Full-time employee", an employee of the qualified company that is scheduled to work an average of at least thirty-five hours per week for a twelve-month period, and one for which the qualified company offers health insurance and pays at least fifty percent of such insurance premiums;

(9) "High-impact project", a qualified company that, within two years from commencement of operations, creates one hundred or more new jobs;

(10) "Local incentives", the present value of the dollar amount of direct benefit received by a qualified company for a project facility from one or more local political subdivisions, but shall not include loans or other funds provided to the qualified company that must be repaid by the qualified company to the political subdivision;

(11) "NAICS", the 1997 edition of the North American Industry Classification System as prepared by the Executive Office of the President, Office of Management and Budget. Any

NAICS sector, subsector, industry group or industry identified in this section shall include its corresponding classification in subsequent federal industry classification systems;

(12) "New direct local revenue", the present value of the dollar amount of direct net new tax revenues of the local political subdivisions likely to be produced by the project over a ten-year period as calculated by the department, excluding local earnings tax, and net new utility revenues, provided the local incentives include a discount or other direct incentives from utilities owned or operated by the political subdivision;

(13) "New investment", the purchase or leasing of new tangible assets to be placed in operation at the project facility, which will be directly related to the new jobs;

(14) "New job", the number of full-time employees located at the project facility that exceeds the project facility base employment less any decrease in the number of full-time employees at related facilities below the related facility base employment. No job that was created prior to the date of the notice of intent shall be deemed a new job. An employee that spends less than fifty percent of the employee's work time at the facility is still considered to be located at a facility if the employee receives his or her directions and control from that facility, is on the facility's payroll, one hundred percent of the employee's income from such employment is Missouri income, and the employee is paid at or above the state average wage;

(15) "New payroll", the amount of taxable wages of full-time employees, excluding owners, located at the project facility that exceeds the project facility base payroll. If full-time employment at related facilities is below the related facility base employment, any decrease in payroll for full-time employees at the related facilities below that related facility base payroll shall also be subtracted to determine new payroll;

(16) "Notice of intent", a form developed by the department, completed by the qualified company and submitted to the department which states the qualified company's intent to hire new jobs and request benefits under this program;

(17) "Percent of local incentives", the amount of local incentives divided by the amount of new direct local revenue;

(18) "Program", the Missouri quality jobs program provided in sections 620.1875 to 620.1890;

(19) "Project facility", the building used by a qualified company at which the new jobs and new investment will be located. A project facility may include separate buildings that are located within **[**one mile**]** **fifteen miles** of each other or within the same county such that their purpose and operations are interrelated;

(20) "Project facility base employment", the greater of the number of full-time employees located at the project facility on the date of the notice of intent or for the twelve-month period prior to the date of the notice of intent, the average number of full-time employees located at the project facility. In the event the project facility has not been in operation for a full twelve-month period, the average number of full-time employees for the number of months the project facility has been in operation prior to the date of the notice of intent;

(21) "Project facility base payroll", the total amount of taxable wages paid by the qualified company to full-time employees of the qualified company located at the project facility in the twelve months prior to the notice of intent, not including the payroll of the owners of the qualified company unless the qualified company is participating in an employee stock ownership plan. For purposes of calculating the benefits under this program, the amount of base payroll shall increase each year based on an appropriate measure, as determined by the department;

(22) "Project period", the time period that the benefits are provided to a qualified company;

(23) "Qualified company", a firm, partnership, joint venture, association, private or public corporation whether organized for profit or not, or headquarters of such entity registered to do business in Missouri that is the owner or operator of a project facility, offers health insurance to all full-time employees of all facilities located in this state, and pays at least fifty percent of such insurance premiums. For the purposes of sections 620.1875 to 620.1890, the term "qualified company" shall not include:

(a) Gambling establishments (NAICS industry group 7132);

(b) Retail trade establishments (NAICS sectors 44 and 45);

(c) Food and drinking places (NAICS subsector 722);

(d) Public utilities (NAICS 221 including water and sewer services);

(e) Any company that is delinquent in the payment of any nonprotested taxes or any other amounts due the state or federal government or any other political subdivision of this state;

(f) Any company that has filed for or has publicly announced its intention to file for bankruptcy protection**. However, a company that has filed for or has publicly announced its intention to file for bankruptcy between January 1, 2009, and December 31, 2009, may be a qualified company provided that such company:**

a. Certifies to the department that it plans to reorganize and not to liquidate; and

b. After its bankruptcy petition has been filed, it produces proof, in a form and at times satisfactory to the department, that it is not delinquent in filing any tax returns or making any payment due to the state of Missouri, including but not limited to all tax payments due after the filing of the bankruptcy petition and under the terms of the plan of reorganization.

Any taxpayer who is awarded benefits under this subsection and who files for bankruptcy under Chapter 7 of the United States Bankruptcy Code, Title 11 U.S.C., shall immediately notify the department and shall forfeit such benefits and shall repay the state an amount equal to any state tax credits already redeemed and any withholding taxes already retained;

(g) Educational services (NAICS sector 61);

(h) Religious organizations (NAICS industry group 8131);

(i) Public administration (NAICS sector 92);

(j) Ethanol distillation or production; or

(k) Biodiesel production. Notwithstanding any provision of this section to the contrary, the headquarters or administrative offices of an otherwise excluded business may qualify for benefits if the offices serve a multistate territory. In the event a national, state, or regional headquarters operation is not the predominant activity of a project facility, the new jobs and investment of such headquarters operation is considered eligible for benefits under this section if the other requirements are satisfied;

(24) "Qualified renewable energy sources" shall not be construed to include ethanol distillation or production or biodiesel production; however, it shall include:

(a) Open-looped biomass;

(b) Close-looped biomass;

(c) Solar;

(d) Wind;

(e) Geothermal; and

(f) Hydropower;

(25) "Related company" means:

(a) A corporation, partnership, trust, or association controlled by the qualified company;

(b) An individual, corporation, partnership, trust, or association in control of the qualified company; or

(c) Corporations, partnerships, trusts or associations controlled by an individual, corporation, partnership, trust or association in control of the qualified company. As used in this subdivision, "control of a corporation" shall mean ownership, directly or indirectly, of stock possessing at least fifty percent of the total combined voting power of all classes of stock entitled to vote, "control of a partnership or association" shall mean ownership of at least fifty percent of the capital or profits interest in such partnership or association, "control of a trust" shall mean ownership, directly or indirectly, of at least fifty percent of the beneficial interest in the principal

or income of such trust, and ownership shall be determined as provided in Section 318 of the Internal Revenue Code of 1986, as amended;

(26) "Related facility", a facility operated by the qualified company or a related company located in this state that is directly related to the operations of the project facility;

(27) "Related facility base employment", the greater of the number of full-time employees located at all related facilities on the date of the notice of intent or for the twelve-month period prior to the date of the notice of intent, the average number of full-time employees located at all related facilities of the qualified company or a related company located in this state;

(28) "Related facility base payroll", the total amount of taxable wages paid by the qualified company to full-time employees of the qualified company located at a related facility in the twelve months prior to the filing of the notice of intent, not including the payroll of the owners of the qualified company unless the qualified company is participating in an employee stock ownership plan. For purposes of calculating the benefits under this program, the amount of related facility base payroll shall increase each year based on an appropriate measure, as determined by the department;

(29) "Rural area", a county in Missouri with a population less than seventy-five thousand or that does not contain an individual city with a population greater than fifty thousand according to the most recent federal decennial census;

(30) "Small and expanding business project", a qualified company that within two years of the date of the approval creates a minimum of twenty new jobs if the project facility is located in a rural area or a minimum of forty new jobs if the project facility is not located in a rural area and creates fewer than one hundred new jobs regardless of the location of the project facility;

(31) "Tax credits", tax credits issued by the department to offset the state income taxes imposed by chapters 143 and 148, RSMo, or which may be sold or refunded as provided for in this program;

(32) "Technology business project", a qualified company that within two years of the date of the approval creates a minimum of ten new jobs involved in the operations of a company:

(a) Which is a technology company, as determined by a regulation promulgated by the department under the provisions of section 620.1884 or classified by NAICS codes;

(b) Which owns or leases a facility which produces electricity derived from qualified renewable energy sources, or produces fuel for the generation of electricity from qualified renewable energy sources, but does not include any company that has received the alcohol mixture credit, alcohol credit, or small ethanol producer credit pursuant to 26 U.S.C. Section 40 of the tax code in the previous tax year; **[**or**]**

(c) Which researches, develops, or manufactures power system technology for: aerospace; space; defense; hybrid vehicles; or implantable or wearable medical devices; **or**

(d) Which is a clinical molecular diagnostic laboratory focused on detecting and monitoring infections in immunocompromised patient populations;

(33) "Withholding tax", the state tax imposed by sections 143.191 to 143.265, RSMo. For purposes of this program, the withholding tax shall be computed using a schedule as determined by the department based on average wages.

620.1881. PROJECT NOTICE OF INTENT, DEPARTMENT TO RESPOND WITH A PROPOSAL OR A REJECTION — BENEFITS AVAILABLE — EFFECT ON WITHHOLDING TAX — PROJECTS ELIGIBLE FOR BENEFITS — ANNUAL REPORT — CAP ON TAX CREDITS — ALLOCATION OF TAX CREDITS. — 1. The department of economic development shall respond within thirty days to a company who provides a notice of intent with either an approval or a rejection of the notice of intent. The department shall give preference to qualified companies and projects targeted at an area of the state which has recently been classified as a disaster area by the federal government. Failure to respond on behalf of the department of economic development shall result in the notice of intent being deemed an approval for the purposes of this section. A qualified company who is provided an approval for a project shall be allowed a benefit as

provided in this program in the amount and duration provided in this section. A qualified company may receive additional periods for subsequent new jobs at the same facility after the full initial period if the minimum thresholds are met as set forth in sections 620.1875 to 620.1890. There is no limit on the number of periods a qualified company may participate in the program, as long as the minimum thresholds are achieved and the qualified company provides the department with the required reporting and is in proper compliance for this program or other state programs. A qualified company may elect to file a notice of intent to start a new project period concurrent with an existing project period if the minimum thresholds are achieved and the qualified company provides the department with the required reporting and is in proper compliance for this program and other state programs; however, the qualified company may not receive any further benefit under the original approval for jobs created after the date of the new notice of intent, and any jobs created before the new notice of intent may not be included as new jobs for the purpose of benefit calculation in relation to the new approval. **When a qualified company has filed and received approval of a notice of intent and subsequently files another notice of intent, the department shall apply the definition of project facility under subdivision (19) of section 620.1878 to the new notice of intent as well as all previously approved notices of intent and shall determine the application of the definitions of new job, new payroll, project facility base employment, and project facility base payroll accordingly.**

2. Notwithstanding any provision of law to the contrary, any qualified company that is awarded benefits under this program may not simultaneously receive tax credits or exemptions under sections 135.100 to 135.150, sections 135.200 to 135.286, section 135.535, or sections 135.900 to 135.906, RSMo, at the same project facility. The benefits available to the company under any other state programs for which the company is eligible and which utilize withholding tax from the new jobs of the company must first be credited to the other state program before the withholding retention level applicable under the Missouri quality jobs act will begin to accrue. These other state programs include, but are not limited to, the new jobs training program under sections 178.892 to 178.896, RSMo, the job retention program under sections 178.760 to 178.764, RSMo, the real property tax increment allocation redevelopment act, sections 99.800 to 99.865, RSMo, or the Missouri downtown and rural economic stimulus act under sections 99.915 to 99.980, RSMo. If any qualified company also participates in the new jobs training program in sections 178.892 to 178.896, RSMo, the company shall retain no withholding tax, but the department shall issue a refundable tax credit for the full amount of benefit allowed under this subdivision. The calendar year annual maximum amount of tax credits which may be issued to a qualifying company that also participates in the new job training program shall be increased by an amount equivalent to the withholding tax retained by that company under the new jobs training program. However, if the combined benefits of the quality jobs program and the new jobs training program exceed the projected state benefit of the project, as determined by the department of economic development through a cost-benefit analysis, the increase in the maximum tax credits shall be limited to the amount that would not cause the combined benefits to exceed the projected state benefit. Any taxpayer who is awarded benefits under this program who knowingly hires individuals who are not allowed to work legally in the United States shall immediately forfeit such benefits and shall repay the state an amount equal to any state tax credits already redeemed and any withholding taxes already retained.

3. The types of projects and the amount of benefits to be provided are:

(1) Small and expanding business projects: in exchange for the consideration provided by the new tax revenues and other economic stimuli that will be generated by the new jobs created by the program, a qualified company may retain an amount equal to the withholding tax as calculated under subdivision (33) of section 620.1878 from the new jobs that would otherwise be withheld and remitted by the qualified company under the provisions of sections 143.191 to 143.265, RSMo, for a period of three years from the date the required number of new jobs were created if the average wage of the new payroll equals or exceeds the county average wage or for

a period of five years from the date the required number of new jobs were created if the average wage of the new payroll equals or exceeds one hundred twenty percent of the county average wage;

(2) Technology business projects: in exchange for the consideration provided by the new tax revenues and other economic stimuli that will be generated by the new jobs created by the program, a qualified company may retain an amount equal to a maximum of five percent of new payroll for a period of five years from the date the required number of jobs were created from the withholding tax of the new jobs that would otherwise be withheld and remitted by the qualified company under the provisions of sections 143.191 to 143.265, RSMo, if the average wage of the new payroll equals or exceeds the county average wage. An additional one-half percent of new payroll may be added to the five percent maximum if the average wage of the new payroll in any year exceeds one hundred twenty percent of the county average wage in the county in which the project facility is located, plus an additional one-half percent of new payroll may be added if the average wage of the new payroll in any year exceeds one hundred forty percent of the average wage in the county in which the project facility is located. The department shall issue a refundable tax credit for any difference between the amount of benefit allowed under this subdivision and the amount of withholding tax retained by the company, in the event the withholding tax is not sufficient to provide the entire amount of benefit due to the qualified company under this subdivision**[**. The calendar year annual maximum amount of tax credits that may be issued to any qualified company for a project or combination of projects is five hundred thousand dollars**]**;

(3) High impact projects: in exchange for the consideration provided by the new tax revenues and other economic stimuli that will be generated by the new jobs created by the program, a qualified company may retain an amount from the withholding tax of the new jobs that would otherwise be withheld and remitted by the qualified company under the provisions of sections 143.191 to 143.265, RSMo, equal to three percent of new payroll for a period of five years from the date the required number of jobs were created if the average wage of the new payroll equals or exceeds the county average wage of the county in which the project facility is located. **For high-impact projects in a facility located within two adjacent counties, the new payroll shall equal or exceed the higher county average wage of the adjacent counties.** The percentage of payroll allowed under this subdivision shall be three and one-half percent of new payroll if the average wage of the new payroll in any year exceeds one hundred twenty percent of the county average wage in the county in which the project facility is located. The percentage of payroll allowed under this subdivision shall be four percent of new payroll if the average wage of the new payroll in any year exceeds one hundred forty percent of the county average wage in the county in which the project facility is located. An additional one percent of new payroll may be added to these percentages if local incentives equal between ten percent and twenty-four percent of the new direct local revenue; an additional two percent of new payroll is added to these percentages if the local incentives equal between twenty-five percent and forty-nine percent of the new direct local revenue; or an additional three percent of payroll is added to these percentages if the local incentives equal fifty percent or more of the new direct local revenue. The department shall issue a refundable tax credit for any difference between the amount of benefit allowed under this subdivision and the amount of withholding tax retained by the company, in the event the withholding tax is not sufficient to provide the entire amount of benefit due to the qualified company under this subdivision**[**. The calendar year annual maximum amount of tax credits that may be issued to any qualified company for a project or combination of projects is seven hundred fifty thousand dollars. The calendar year annual maximum amount of tax credit that may be issued to any qualified company for a project or combination of projects may be increased up to one million dollars if the number of new jobs will exceed five hundred and if such action is proposed by the department and approved by the quality jobs advisory task force established in section 620.1887; provided, however, until such time as the initial at-large members of the quality jobs advisory task force are appointed, this

determination shall be made by the director of the department of economic development. In considering such a request, the task force shall rely on economic modeling and other information supplied by the department when requesting the increased limit on behalf of the project**]**;

(4) Job retention projects: a qualified company may receive a tax credit for the retention of jobs in this state, provided the qualified company and the project meets all of the following conditions:

(a) For each of the twenty-four months preceding the year in which application for the program is made the qualified company must have maintained at least one thousand full-time employees at the employer's site in the state at which the jobs are based, and the average wage of such employees must meet or exceed the county average wage;

(b) The qualified company retained at the project facility the level of full-time employees that existed in the taxable year immediately preceding the year in which application for the program is made;

(c) The qualified company is considered to have a significant statewide effect on the economy, and has been determined to represent a substantial risk of relocation from the state by the quality jobs advisory task force established in section 620.1887; provided, however, until such time as the initial at-large members of the quality jobs advisory task force are appointed, this determination shall be made by the director of the department of economic development;

(d) The qualified company in the project facility will cause to be invested a minimum of seventy million dollars in new investment prior to the end of two years or will cause to be invested a minimum of thirty million dollars in new investment prior to the end of two years and maintain an annual payroll of at least seventy million dollars during each of the years for which a credit is claimed; and

(e) The local taxing entities shall provide local incentives of at least fifty percent of the new direct local revenues created by the project over a ten-year period. The quality jobs advisory task force may recommend to the department of economic development that appropriate penalties be applied to the company for violating the agreement. The amount of the job retention credit granted may be equal to up to fifty percent of the amount of withholding tax generated by the full-time jobs at the project facility for a period of five years. The calendar year annual maximum amount of tax credit that may be issued to any qualified company for a job retention project or combination of job retention projects shall be seven hundred fifty thousand dollars per year, but the maximum amount may be increased up to one million dollars if such action is proposed by the department and approved by the quality jobs advisory task force established in section 620.1887; provided, however, until such time as the initial at-large members of the quality jobs advisory task force are appointed, this determination shall be made by the director of the department of economic development. In considering such a request, the task force shall rely on economic modeling and other information supplied by the department when requesting the increased limit on behalf of the job retention project. In no event shall the total amount of all tax credits issued for the entire job retention program under this subdivision exceed three million dollars annually. Notwithstanding the above, no tax credits shall be issued for job retention projects approved by the department after August 30, 2013;

(5) Small business job retention and flood survivor relief: a qualified company may receive a tax credit under sections 620.1875 to 620.1890 for the retention of jobs and flood survivor relief in this state for each job retained over a three-year period, provided that:

(a) The qualified company did not receive any state or federal benefits, incentives, or tax relief or abatement in locating its facility in a flood plain;

(b) The qualified company and related companies have fewer than one hundred employees at the time application for the program is made;

(c) The average wage of the qualified company's and related companies' employees must meet or exceed the county average wage;

(d) All of the qualified company's and related companies' facilities are located in this state;

(e) The facilities at the primary business site in this state have been directly damaged by floodwater rising above the level of a five hundred year flood at least two years, but fewer than eight years, prior to the time application is made;

(f) The qualified company made significant efforts to protect the facilities prior to any impending danger from rising floodwaters;

(g) For each year it receives tax credits under sections 620.1875 to 620.1890, the qualified company and related companies retained, at the company's facilities in this state, at least the level of full-time, year-round employees that existed in the taxable year immediately preceding the year in which application for the program is made; and

(h) In the years it receives tax credits under sections 620.1875 to 620.1890, the company cumulatively invests at least two million dollars in capital improvements in facilities and equipment located at such facilities that are not located within a five hundred year flood plain as designated by the Federal Emergency Management Agency, and amended from time to time. The amount of the small business job retention and flood survivor relief credit granted may be equal to up to one hundred percent of the amount of withholding tax generated by the full-time jobs at the project facility for a period of three years. The calendar year annual maximum amount of tax credit that may be issued to any qualified company for a small business job retention and survivor relief project shall be two hundred fifty thousand dollars per year, but the maximum amount may be increased up to five hundred thousand dollars if such action is proposed by the department and approved by the quality jobs advisory task force established in section 620.1887. In considering such a request, the task force shall rely on economic modeling and other information supplied by the department when requesting an increase in the limit on behalf of the small business job retention and flood survivor relief project. In no event shall the total amount of all tax credits issued for the entire small business job retention and flood survivor relief program under this subdivision exceed five hundred thousand dollars annually. Notwithstanding the provisions of this subdivision to the contrary, no tax credits shall be issued for small business job retention and flood survivor relief projects approved by the department after August 30, 2010.

4. The qualified company shall provide an annual report of the number of jobs and such other information as may be required by the department to document the basis for the benefits of this program. The department may withhold the approval of any benefits until it is satisfied that proper documentation has been provided, and shall reduce the benefits to reflect any reduction in full-time employees or new payroll. Upon approval by the department, the qualified company may begin the retention of the withholding taxes when it reaches the minimum number of new jobs and the average wage exceeds the county average wage. Tax credits, if any, may be issued upon satisfaction by the department that the qualified company has exceeded the county average wage and the minimum number of new jobs. In such annual report, if the average wage is below the county average wage, the qualified company has not maintained the employee insurance as required, or if the number of new jobs is below the minimum, the qualified company shall not receive tax credits or retain the withholding tax for the balance of the benefit period. In the case of a qualified company that initially filed a notice of intent and received an approval from the department for high impact benefits and the minimum number of new jobs in an annual report is below the minimum for high impact projects, the company shall not receive tax credits for the balance of the benefit period but may continue to retain the withholding taxes if it otherwise meets the requirements of a small and expanding business under this program.

5. The maximum calendar year annual tax credits issued for the entire program shall not exceed **[**sixty**]** **eighty** million dollars. Notwithstanding any provision of law to the contrary, the maximum annual tax credits authorized under section 135.535, RSMo, are hereby reduced from ten million dollars to eight million dollars, with the balance of two million dollars transferred to this program. There shall be no limit on the amount of withholding taxes that may be retained by approved companies under this program.

6. The department shall allocate the annual tax credits based on the date of the approval, reserving such tax credits based on the department's best estimate of new jobs and new payroll of the project, and the other factors in the determination of benefits of this program. However, the annual issuance of tax credits is subject to the annual verification of the actual new payroll. The allocation of tax credits for the period assigned to a project shall expire if, within two years from the date of commencement of operations, or approval if applicable, the minimum thresholds have not been achieved. The qualified company may retain authorized amounts from the withholding tax under this section once the minimum new jobs thresholds are met for the duration of the project period. No benefits shall be provided under this program until the qualified company meets the minimum new jobs thresholds. In the event the qualified company does not meet the minimum new job threshold, the qualified company may submit a new notice of intent or the department may provide a new approval for a new project of the qualified company at the project facility or other facilities.

7. For a qualified company with flow-through tax treatment to its members, partners, or shareholders, the tax credit shall be allowed to members, partners, or shareholders in proportion to their share of ownership on the last day of the qualified company's tax period.

8. Tax credits may be claimed against taxes otherwise imposed by chapters 143 and 148, RSMo, and may not be carried forward but shall be claimed within one year of the close of the taxable year for which they were issued, except as provided under subdivision (4) of subsection 3 of this section.

9. Tax credits authorized by this section may be transferred, sold, or assigned by filing a notarized endorsement thereof with the department that names the transferee, the amount of tax credit transferred, and the value received for the credit, as well as any other information reasonably requested by the department.

10. Prior to the issuance of tax credits, the department shall verify through the department of revenue, or any other state department, that the tax credit applicant does not owe any delinquent income, sales, or use tax or interest or penalties on such taxes, or any delinquent fees or assessments levied by any state department and through the department of insurance, financial institutions and professional registration that the applicant does not owe any delinquent insurance taxes. Such delinquency shall not affect the authorization of the application for such tax credits, except that at issuance credits shall be first applied to the delinquency and any amount issued shall be reduced by the applicant's tax delinquency. If the department of revenue or the department of insurance, financial institutions and professional registration, or any other state department, concludes that a taxpayer is delinquent after June fifteenth but before July first of any year and the application of tax credits to such delinquency causes a tax deficiency on behalf of the taxpayer to arise, then the taxpayer shall be granted thirty days to satisfy the deficiency in which interest, penalties, and additions to tax shall be tolled. After applying all available credits toward a tax delinquency, the administering agency shall notify the appropriate department and that department shall update the amount of outstanding delinquent tax owed by the applicant. If any credits remain after satisfying all insurance, income, sales, and use tax delinquencies, the remaining credits shall be issued to the applicant, subject to the restrictions of other provisions of law.

11. Except as provided under subdivision (4) of subsection 3 of this section, the director of revenue shall issue a refund to the qualified company to the extent that the amount of credits allowed in this section exceeds the amount of the qualified company's income tax.

12. An employee of a qualified company will receive full credit for the amount of tax withheld as provided in section 143.211, RSMo.

13. If any provision of sections 620.1875 to 620.1890 or application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or application of these sections which can be given effect without the invalid provisions or application, and to this end, the provisions of sections 620.1875 to 620.1890 are hereby declared severable.

SECTION 1. BIG GOVERNMENT GET OFF MY BACK ACT — NO USER FEES TO BE INCREASED FOR FOUR-YEAR PERIOD. — 1. This section shall be known and may be cited as the "Big Government Get Off My Back Act".

2. No user fees imposed by the state of Missouri shall increase for the four-year period beginning on the effective date of this section, unless such fee increase is to implement a federal program administered by the state or is a result of an act of the general assembly. For purposes of this section, "user fee" does not include, employer taxes or contributions, assessments to offset the cost of examining insurance or financial institutions, any health-related taxes approved by Center for Medicare and Medicaid Services, or any professional or occupational licensing fees set by a board of members of that profession or occupation and required by statute to be set at a level not to exceed the cost of administration.

3. For the four-year period beginning on the effective date of this section, any state agency proposing a rule as that term is defined in subdivision (6) of section 536.010, RSMo, other than any rule promulgated as a result of a federal mandate, or to implement a federal program administered by the state or an act of the general assembly, shall either:

(1) Certify that the rule does not have an adverse impact on small businesses consisting of fewer than twenty-five full or part-time employees; or

(2) Certify that the rule is necessary to protect the life, health or safety of the public; or

(3) Exempt any small business consisting of fewer than twenty-five full or part-time employees from coverage.

4. The provisions of this section shall not be construed to prevent or otherwise restrict an agency from promulgating emergency rules pursuant to section 536.025, RSMo, or from rescinding any existing rule pursuant to section 536.021, RSMo.

SECTION B. EMERGENCY CLAUSE. — Because of the need to spark economic growth to end the state's recession, the repeal and reenactment of sections 100.286, 100.760, 100.770, 100.850, 135.680, 253.545, 253.550, 253.559, 620.1878, and 620.1881 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 the repeal and reenactment of sections 100.286, 100.760, 100.770, 100.850, 135.680, 253.545, 253.550, 253.559, 620.1878, and 620.1881 of this act shall be in full force and effect upon its passage and approval.

Approved June 4, 2009

HB 205 [SS SCS HCS HB 205]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Establishes the Fire Safety Standard and Firefighter Protection Act which prohibits the sale of any cigarette that has not been tested, certified, and marked that it has met certain performance standards

AN ACT to amend chapter 320, RSMo, by adding thereto nine new sections relating to reduced ignition propensity cigarettes, with penalty provisions and an effective date.

SECTION

A. Enacting clause.
320.350. Title of law — definitions.

320.353. Cigarettes, testing requirements, standards — manufacturers to maintain copies of testing reports — state fire marshal may adopt subsequent standards, report required.
320.356. Testing verification reports, content — state fire marshal certification — fee — retesting required, when.
320.359. Compliance marking required, method of marking permitted — copy of certification to be provided to wholesalers, when.
320.362. Violations, penalties.
320.365. Rulemaking authority — department of revenue may inspect cigarettes for markings.
320.368. Enforcement procedures — authorization to examine records.
320.371. Fund created, use of moneys.
320.374. Sale of cigarettes outside state or United States, requirements not to apply— termination of requirements, when — state preemption.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Chapter 320, RSMo, is amended by adding thereto nine new sections, to be known as sections 320.350, 320.353, 320.356, 320.359, 320.362, 320.365, 320.368, 320.371, and 320.374, to read as follows:

320.350. TITLE OF LAW — DEFINITIONS. — 1. Sections 320.350 to 320.374 shall be known and may be cited as the "Fire Safety Standard and Firefighter Protection Act".

2. As used in sections 320.350 to 320.374, the following terms shall mean:

(1) "Cigarette", an item manufactured of tobacco or any substitute therefor, wrapped in paper or any substitute therefor, weighing not to exceed three pounds per one thousand cigarettes and which is commonly classified, labeled or advertised as a cigarette;

(2) "Department", the department of revenue;

(3) "Manufacturer", any person engaged in the manufacture or production of cigarettes;

(4) "Quality control and quality assurance program", the laboratory procedures implemented to ensure that operator bias, systematic and nonsystematic methodological errors, and equipment-related problems do not affect the results of the testing. Such a program shall ensure that the testing repeatability remains within the required repeatability values stated in subdivision (6) of subsection 1 of section 320.353 for all test trials used to certify cigarettes in accordance with sections 320.350 to 320.374;

(5) "Repeatability", the range of values within which the repeat results of cigarette test trials from a single laboratory will fall ninety-five percent of the time;

(6) "Retailer", any person who sells to a consumer or to any person for any purpose other than resale;

(7) "Sale", in this instance is defined to be and declared to include sales, barters, exchanges and every other manner, method and form of transferring the ownership of personal property from one person to another;

(8) "Sell", to sell, or offer or agree to do the same;

(9) "Wholesaler", any person, firm, or corporation organized and existing, or doing business, primarily to sell cigarettes or tobacco products to, and render service to, retailers in the territory the person, firm, or corporation chooses to serve; that purchases cigarettes or tobacco products directly from the manufacturer; that carries at all times at his or its principal place of business a representative stock of cigarettes or tobacco products for sale; and that comes into the possession of cigarettes or tobacco products for the purpose of selling them to retailers or to persons outside or within the state who might resell or retail the cigarettes or tobacco products to consumers. This shall include any manufacturer, jobber, broker, agent, or other person, whether or not enumerated in this chapter, who so sells or so distributes cigarettes or tobacco products.

320.353. CIGARETTES, TESTING REQUIREMENTS, STANDARDS — MANUFACTURERS TO MAINTAIN COPIES OF TESTING REPORTS — STATE FIRE MARSHAL MAY ADOPT SUBSEQUENT

STANDARDS, REPORT REQUIRED. — 1. Except as provided in subsection 7 of this section, no cigarettes shall be sold or offered for sale in this state or offered for sale or sold to persons located in this state unless the cigarettes have been tested in accordance with the test method and meet the performance standard specified in this section, a written certification has been filed by the manufacturer with the state fire marshal in accordance with section 320.356, and the cigarettes have been marked in accordance with section 320.359. The following shall apply to such testing:

(1) Testing of cigarettes shall be conducted in accordance with the American Society of Testing and Materials (ASTM) standard E2187-04, "Standard Test Method for Measuring the Ignition Strength of Cigarettes";

(2) Testing shall be conducted on ten layers of filter paper;

(3) No more than twenty-five percent of the cigarettes tested in a test trial in accordance with this section shall exhibit full-length burns. Forty replicate tests shall comprise a complete test trial for each cigarette tested;

(4) The performance standard required by this section shall only be applied to a complete test trial;

(5) Written certifications shall be based upon testing conducted by a laboratory that has been accredited under standard ISO/IEC 17025 of the International Organization for Standardization (ISO), or other comparable accreditation standard required by the state fire marshal;

(6) Laboratories conducting testing in accordance with this section shall implement a quality control and quality assurance program that includes a procedure that will determine the repeatability of the testing results. The repeatability value shall be no greater than nineteen one-hundredths;

(7) Nothing in this section shall be construed as requiring additional testing if cigarettes are tested consistent with sections 320.350 to 320.374 for any other purpose;

(8) Testing performed or sponsored by the state fire marshal to determine a cigarette's compliance with the performance standard required shall be conducted in accordance with this section.

2. Each cigarette listed in a certification submitted under section 320.356 that uses lowered permeability bands in the cigarette paper to achieve compliance with the performance standard set forth in this section shall have at least two nominally identical bands on the paper surrounding the tobacco column. At least one complete band shall be located at least fifteen millimeters from the lighting end of the cigarette. For cigarettes on which the bands are positioned by design, there shall be at least two bands fully located at least fifteen millimeters from the lighting end and ten millimeters from the filter end of the tobacco column, or ten millimeters from the labeled end of the tobacco column for nonfiltered cigarettes.

3. A manufacturer of a cigarette that the state fire marshal determines cannot be tested in accordance with the test method described in subdivision (1) of subsection 1 of this section shall propose a test method and performance standard for the cigarette to the state fire marshal. Upon approval of the proposed test method and a determination by the state fire marshal that the performance standard proposed by the manufacturer is equivalent to the performance standard prescribed in subdivision (3) of subsection 1 of this section, the manufacturer may employ such test method and performance standard to certify such cigarette under section 320.356. If the state fire marshal determines that another state has enacted reduced cigarette ignition propensity standards that include a test method and performance standard that are the same as those contained in sections 320.350 to 320.374, and the state fire marshal finds that the officials responsible for implementing such requirements have approved the proposed alternative test method and performance standard for a particular cigarette proposed by a manufacturer as meeting the fire safety standards of that state's law or regulation under a legal provision

comparable to this section, the state fire marshal shall authorize such manufacturer to employ the alternative test method and performance standard to certify that cigarette for sale in this state, unless the state fire marshal demonstrates a reasonable basis why the alternative test should not be accepted under sections 320.350 to 320.374. All other applicable requirements of this section shall apply to the manufacturer.

4. Each manufacturer shall maintain copies of the reports of all tests conducted on all cigarettes offered for sale for a period of three years, and shall make copies of such reports available to the state fire marshal and the state attorney general upon written request. Any manufacturer who fails to make copies of such reports available within sixty days of receiving a written request shall be subject to a civil penalty not to exceed ten thousand dollars for each day after the sixtieth day that the manufacturer does not make such copies available.

5. The state fire marshal may adopt a subsequent ASTM Standard Test Method for Measuring the Ignition Strength of Cigarettes upon a finding that such subsequent method does not result in a change in the percentage of full-length burns exhibited by any tested cigarette when compared to the percentage of full-length burns the same cigarette would exhibit when tested in accordance with ASTM Standard E2187-04 and the performance standard in subdivision (3) of subsection 1 of this section.

6. The state fire marshal shall review the effectiveness of this section and report every three years to the general assembly the state fire marshal's findings and, if appropriate, recommendations for legislation to improve the effectiveness of sections 320.350 to 320.374. The report and legislative recommendations shall be submitted by June thirtieth following the conclusion of each three-year period.

7. The requirements of this section shall not prohibit:

(1) Wholesalers or retailers from selling their existing inventory of cigarettes on or after the effective date of sections 320.350 to 320.374 if the wholesaler or retailer can establish that state tax stamps were affixed to the cigarettes prior to such effective date and the wholesaler or retailer can establish that the inventory was purchased prior to such effective date; or

(2) The sale of cigarettes solely for the purpose of consumer testing. For purposes of this subdivision, "consumer testing" means an assessment of cigarettes that is conducted by a manufacturer, or under the control and direction of a manufacturer, for the purpose of evaluating consumer acceptance of such cigarettes, utilizing only the quantity of cigarettes that is reasonably necessary for such assessment.

8. The cigarette testing, performance standard, and packaging provisions in sections 320.350 to 320.374 shall be implemented in a manner to obtain uniformity with the laws of those states that have enacted reduced cigarette ignition propensity standards as of January 1, 2011.

320.356. TESTING VERIFICATION REPORTS, CONTENT — STATE FIRE MARSHAL CERTIFICATION — FEE — RETESTING REQUIRED, WHEN. — 1. Each manufacturer shall submit to the state fire marshal a written certification attesting that each cigarette listed in the certification has been tested in accordance with and meets the performance standard set forth in section 320.353.

2. Each cigarette listed in the certification shall be described with the following information:

(1) Brand or trade name on the package;

(2) Style, such as light or ultra light;

(3) Length in millimeters;

(4) Circumference in millimeters;

(5) Flavor, such as menthol or chocolate, if applicable;

(6) Filter or nonfilter;

(7) Package description, such as soft pack or box;

(8) Marking under section 320.359;

(9) The name, address, and telephone number of the laboratory, if different than the manufacturer that conducted the test; and

(10) The date that the testing occurred.

3. The state fire marshal shall make the certifications available to the state attorney general and the department for purposes consistent with sections 320.350 to 320.374. Not later than January 31, 2011, the department shall develop, maintain, and update in a timely manner a directory listing all cigarette manufacturers and brand styles for which a certificate required under section 320.356 has been filed with the state fire marshal. The directory shall be for informational purposes only and shall be continuously and conspicuously posted on the department's web site for public inspection. Wholesalers and retailers may lawfully purchase and sell any and all brand styles listed on the directory, including inventory of said brand styles. Notwithstanding the other provisions of this subsection, unless enjoined by a court of competent jurisdiction under subsection 6 of section 320.362 or subject to sequestration under subsection 5 of section 320.362, any and all brand styles that satisfy the requirements of section 320.353 may be lawfully sold in the state.

4. Each cigarette certified under this section shall be recertified every three years.

5. For each brand family of cigarettes listed for certification, a manufacturer shall pay a fee of one thousand dollars to the state fire marshal. The fee paid shall apply to all cigarettes within the brand family certified and shall include any new cigarette certified within the brand family during the three year certification period.

6. If a manufacturer has certified a cigarette under this section and thereafter makes any change to such cigarette that is likely to alter its compliance with the reduced cigarette ignition propensity standards required by sections 320.350 to 320.374, such cigarette shall not be sold or offered for sale in this state until the manufacturer retests the cigarette in accordance with the testing standards and maintains records of such retesting as required by section 320.353. Any altered cigarette which does not meet the performance standard set forth in section 320.353 shall not be sold in this state.

320.359. COMPLIANCE MARKING REQUIRED, METHOD OF MARKING PERMITTED — COPY OF CERTIFICATION TO BE PROVIDED TO WHOLESALERS, WHEN. — 1. Cigarettes that are certified by a manufacturer in accordance with section 320.356 shall be marked to indicate compliance with the requirements of section 320.353. The marking shall be in eight-point type or larger and consist of the letters FSC, which signifies fire standard compliant, permanently printed, stamped, engraved, or embossed on the package at or near the UPC Code.

2. A manufacturer shall use only one marking and shall apply such marking uniformly for all packages, including but not limited to packs, cartons, and cases, and brands marketed by such manufacturer.

3. Manufacturers certifying cigarettes in accordance with section 320.356 shall provide a copy of the certifications to all wholesalers to which they sell cigarettes. Wholesalers and retailers shall permit the department and the state attorney general, and their employees, to inspect markings of cigarette packaging marked in accordance with this section.

320.362. VIOLATIONS, PENALTIES. — 1. A manufacturer, wholesaler, or other person or entity who knowingly sells or offers for sale cigarettes, other than through retail sale, in violation of section 320.353 shall be subject to a civil penalty not to exceed one hundred dollars for each pack of such cigarettes sold or offered for sale; provided that, in no case

shall the penalty against any such person or entity exceed one hundred thousand dollars during any thirty-day period.

2. A retailer who knowingly sells or offers for sale cigarettes in violation of section 320.353 shall be subject to a civil penalty not to exceed one hundred dollars for each pack of such cigarettes sold or offered for sale; provided that, in no case shall the penalty against any retailer exceed twenty-five thousand dollars for sales or offers for sale during any thirty-day period.

3. In addition to any other penalty prescribed by law, any corporation, partnership, sole proprietorship, limited partnership, or association engaged in the manufacture of cigarettes that knowingly makes a false certification under section 320.356 shall be subject to a civil penalty of at least seventy-five thousand dollars and not to exceed two hundred fifty thousand dollars for each such false certification.

4. Any person who violates any other provision of sections 320.350 to 320.374 shall be subject to a civil penalty for a first offense not to exceed one thousand dollars and for any subsequent offense a civil penalty not to exceed five thousand dollars for each such violation.

5. Whenever the state attorney general or the department discovers any cigarettes for which no certification has been filed as required by section 320.356 or that have not been marked in the manner required by section 320.359, such cigarettes shall be sequestered by the owner and not sold or transferred for fourteen days, wherein the state attorney general may file an action in a court of competent jurisdiction petitioning for injunctive relief to enjoin the sale or offer for sale of such cigarettes. If the state attorney general does not file an action within fourteen days, the owner may lawfully sell the sequestered cigarettes.

6. In addition to any other remedy provided by law, the state attorney general may file an action in a court of competent jurisdiction for a violation of sections 320.350 to 320.374, including petitioning:

(1) For injunctive relief against any manufacturer, importer, wholesaler, retailer, or any other person or entity to enjoin such entity from selling, offering for sale, or affixing tax stamps to any cigarette that does not comply with the requirements of sections 320.350 to 320.374; or

(2) To recover any costs or damages incurred by the state as a result of such violation, including enforcement costs relating to the specific violation and attorney's fees.

Each violation of sections 320.350 to 320.374 or rules promulgated thereto shall constitute a separate civil violation for which the state attorney general may obtain relief. Upon obtaining judgment for injunctive relief under this section, the state attorney general shall provide a copy of the judgment to all wholesalers to which the cigarettes have been sold.

320.365. RULEMAKING AUTHORITY — DEPARTMENT OF REVENUE MAY INSPECT CIGARETTES FOR MARKINGS. — 1. The department of revenue may promulgate rules to implement the provisions of sections 320.350 to 320.374. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in sections 320.350 to 320.374 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. Sections 320.350 to 320.374 and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after the effective date of this section shall be invalid and void.

2. The department, in the regular course of conducting inspections of wholesalers and retailers as authorized under section 149.041, RSMo, may inspect such cigarettes to determine if the cigarettes are marked as required by section 320.359. If the cigarettes are not marked as required, the department shall notify the state attorney general.

320.368. ENFORCEMENT PROCEDURES — AUTHORIZATION TO EXAMINE RECORDS. — To enforce the provisions of sections 320.350 to 320.374, the state attorney general and the department are authorized to examine only the books, papers, invoices, and other business records pertaining to the sale and receipt of any type of cigarettes suspected of failing to conform to the fire safety requirements of sections 320.350 to 320.374 of any person in possession or control of any premises where such cigarettes are placed, stored, sold, or offered for sale, as well as the stock of such cigarettes on the premises. Every person in the possession or control of any premises where cigarettes are placed, sold, or offered for sale is directed and required to give the state attorney general and the department the opportunity for the examinations authorized by this section.

320.371. FUND CREATED, USE OF MONEYS. — 1. There is hereby created in the state treasury the "Cigarette Fire Safety Standard and Firefighter Protection Act Fund" which shall consist of moneys collected under sections 320.350 to 320.374. The fund shall be administered by the state fire marshal. Upon appropriation, moneys in the fund shall be made available to the state fire marshal to support fire safety and prevention programs.

2. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund.

3. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

320.374. SALE OF CIGARETTES OUTSIDE STATE OR UNITED STATES, REQUIREMENTS NOT TO APPLY — TERMINATION OF REQUIREMENTS NOT TO APPLY — TERMINATION OF REQUIREMENTS, WHEN — STATE PREEMPTION. — 1. Nothing in sections 320.350 to 320.374 shall be construed to prohibit any person or entity from manufacturing or selling cigarettes that do not meet the requirements of section 320.353 if the cigarettes are or will be stamped for sale in another state or are packaged for sale outside the United States and such person or entity has taken reasonable steps to ensure that such cigarettes will not be sold or offered for sale to persons located in this state.

2. Sections 320.350 to 320.374 shall terminate if a federal cigarette ignition propensity standard is enacted.

3. Sections 320.350 to 320.374 preempt any local law, ordinance, or regulation that conflicts with any provision of sections 320.350 to 320.374 or any policy of the state implemented in accordance with sections 320.350 to 320.374. Notwithstanding any other provision of law, the local governmental units of this state may neither enact nor enforce any ordinance or other local law or regulation conflicting with, or preempted by, any provision of sections 320.350 to 320.374 or with any policy of this state expressed by sections 320.350 to 320.374 whether that policy is expressed by inclusion of a provision in such sections or by exclusion of that subject from such sections.

SECTION B. EMERGENCY CLAUSE. — Section A of this act shall become effective January 1, 2011.

Approved July 10, 2009

HB 210 [HB 210]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Allows a retired state employee to request in writing to have contributions to the Missouri State Employees Charitable Campaign deducted from his or her monthly retirement benefit payment

AN ACT to repeal sections 104.540 and 104.1054, RSMo, and to enact in lieu thereof two new sections relating to state retirement.

SECTION
A. Enacting clause.
104.540. Law creates vested rights — certain contributions may be withheld from benefits and paid over.
104.1054. Benefits are obligations of the state — benefits not subject to execution, garnishment, attachment, writ of sequestration — benefits unassignable — reversion of benefits, when — refund received, when.

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

SECTION A. ENACTING CLAUSE. — Sections 104.540 and 104.1054, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 104.540 and 104.1054, to read as follows:

104.540. LAW CREATES VESTED RIGHTS — CERTAIN CONTRIBUTIONS MAY BE WITHHELD FROM BENEFITS AND PAID OVER. — 1. All premium payments and deferred compensation provided for under sections 104.320 to 104.540 are hereby made obligations of the state of Missouri. No alteration, amendment, or repeal of sections 104.320 to 104.540 shall affect the then existing rights of members and beneficiaries, but shall be effective only as to rights which would otherwise accrue hereunder as a result of services rendered by an employee after such alteration, amendment, or repeal.

2. Any annuity, benefits, funds, property, or rights created by, or accruing or paid to, any person under the provisions of sections 104.320 to 104.540 shall not be subject to execution, garnishment, attachment, writ of sequestration, or any other process or claim whatsoever, and shall be unassignable, except with regard to the collection of child support or maintenance, and except that a beneficiary may assign life insurance proceeds. Any retired member of the system may request the executive director of the system, in writing, to withhold and pay on his behalf to the proper person, from each of his monthly retirement benefit payments, if the payment is large enough, the contribution due from the retired member to any group providing **[**prepaid hospital care and any group providing prepaid medical and surgical care and any group providing life insurance when such group is composed entirely of members of the system**] state-sponsored life or medical insurance and to the Missouri state employees charitable campaign**.

3. The executive director of the system shall, when requested in writing by a retired member, withhold and pay over the funds authorized in subsection 2 of this section until such time as the request to do so is revoked by the death or written revocation of the retired member.

104.1054. BENEFITS ARE OBLIGATIONS OF THE STATE — BENEFITS NOT SUBJECT TO EXECUTION, GARNISHMENT, ATTACHMENT, WRIT OF SEQUESTRATION — BENEFITS UNASSIGNABLE — REVERSION OF BENEFITS, WHEN — REFUND RECEIVED, WHEN. — 1. The benefits provided to each member and each member's spouse, beneficiary, or former spouse under the year 2000 plan are hereby made obligations of the state of Missouri and are an incident of every member's continued employment with the state. No alteration, amendment, or repeal

of the year 2000 plan shall affect the then existing rights of members, or their spouses, beneficiaries or former spouses, but shall be effective only as to rights which would otherwise accrue hereunder as a result of services rendered by a member after such alteration, amendment, or repeal.

2. Except as otherwise provided in section 104.1051, any annuity, benefit, funds, property, or rights created by, or accruing or paid to, any person covered under the year 2000 plan shall not be subject to execution, garnishment, attachment, writ of sequestration, or any other process or claim whatsoever, and shall be unassignable, except with regard to the collection of child support and maintenance, and except that a beneficiary may assign life insurance proceeds. Any retiree may request the executive director, in writing, to withhold and pay on his behalf to the proper person, from each of his monthly annuity payments, if the payment is large enough, the contribution due from the retiree to any group providing state-sponsored life or medical insurance **and to the Missouri state employees charitable campaign**.

3. The executive director shall, when requested in writing by a retiree, withhold and pay over the funds authorized in subsection 2 of this section until such time as the request to do so is revoked by the death or written revocation of the retiree.

4. In the event any amount is due a deceased member, survivor, or beneficiary who dies after September 1, 2002, such amount shall be paid to the person or entity designated in writing as beneficiary to receive such amount by such member, survivor, or beneficiary. The member, survivor, or beneficiary may designate in writing a beneficiary to receive any final payment due after the death of a member, survivor, or beneficiary pursuant to this chapter. If no living person or entity so designated as beneficiary exists at the time of death, such amount shall be paid to the surviving spouse married to the deceased member, survivor, or beneficiary at the time of death. If no surviving spouse exists, such amount shall be paid to the surviving children or their descendants of such member, survivor, or beneficiary in equal parts. If no surviving children or any of their descendants exist, such amount shall be paid to the surviving parents of such member, survivor, or beneficiary in equal parts. If no surviving parents exist, such amount shall be paid to the surviving brothers, sisters, or their descendants of such member, survivor, or beneficiary in equal parts. If no surviving brothers, sisters, or their descendants exist, payment may be made as otherwise permitted by law. Notwithstanding this subsection, any amount due to a deceased member as payment of all or part of a lump sum pursuant to subsection 6 of section 104.1024 shall be paid to the member's surviving spouse married to the member at the time of death, and otherwise payment may be made as provided in this subsection. In the event any amount that is due to a person from either system remains unclaimed by such member for a period of four years or more, such amount shall automatically revert to the credit of the fund of the member's system. If an application is made for such amount after such reversion, the board shall pay such amount to the person from the board's fund, except that no interest shall be paid on such amounts after the date of the reversion to the fund.

5. All annuities payable pursuant to the year 2000 plan shall be determined based upon the law in effect on the last date of termination of employment.

6. The beneficiary of any member who purchased creditable service in the Missouri state employees' retirement system shall receive a refund upon the member's death equal to the amount of any purchase less any retirement benefits received by the member unless an annuity is payable to a survivor or beneficiary as a result of the member's death. In such event, the beneficiary of the survivor or beneficiary who received the annuity shall receive a refund upon the survivor's or beneficiary's death equal to the amount of the member's purchase of services less any annuity amounts received by the member and the survivor or beneficiary.

Approved June 24, 2009

HB 218 [HB 218]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding eligibility for coverage under the Missouri Health Insurance Pool

AN ACT to repeal section 376.966, RSMo, and to enact in lieu thereof one new section relating to Missouri high risk insurance pool.

SECTION

A. Enacting clause.
376.966. No employee to lose coverage by enrolling in pool — eligibility for pool coverage, ineligibility — medical underwriting considerations, notification required, when.

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

SECTION A. ENACTING CLAUSE. — Section 376.966, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 376.966, to read as follows:

376.966. NO EMPLOYEE TO LOSE COVERAGE BY ENROLLING IN POOL — ELIGIBILITY FOR POOL COVERAGE, INELIGIBILITY — MEDICAL UNDERWRITING CONSIDERATIONS, NOTIFICATION REQUIRED, WHEN. — 1. No employee shall involuntarily lose his or her group coverage by decision of his or her employer on the grounds that such employee may subsequently enroll in the pool. The department shall have authority to promulgate rules and regulations to enforce this subsection.

2. The following individual persons shall be eligible for coverage under the pool if they are and continue to be residents of this state:

(1) An individual person who provides evidence of the following:

(a) A notice of rejection or refusal to issue substantially similar health insurance for health reasons by at least two insurers; or

(b) A refusal by an insurer to issue health insurance except at a rate exceeding the plan rate for substantially similar health insurance;

(2) A federally defined eligible individual who has not experienced a significant break in coverage;

(3) A trade act eligible individual;

(4) Each resident dependent of a person who is eligible for plan coverage;

(5) Any person, regardless of age, that can be claimed as a dependent of a trade act eligible individual on such trade act eligible individual's tax filing;

(6) Any person whose health insurance coverage is involuntarily terminated for any reason other than nonpayment of premium or fraud, and who is not otherwise ineligible under subdivision (4) of subsection 3 of this section. If application for pool coverage is made not later than sixty-three days after the involuntary termination, the effective date of the coverage shall be the date of termination of the previous coverage;

(7) Any person whose premiums for health insurance coverage have increased above the rate established by the board under paragraph (a) of subdivision (1) of subsection 3 of this section;

(8) Any person currently insured who would have qualified as a federally defined eligible individual or a trade act eligible individual between the effective date of the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 and the effective date of this act.

3. The following individual persons shall not be eligible for coverage under the pool:

(1) Persons who have, on the date of issue of coverage by the pool, or obtain coverage under health insurance or an insurance arrangement substantially similar to or more comprehensive than a plan policy, or would be eligible to have coverage if the person elected to obtain it, except that:

(a) This exclusion shall not apply to a person who has such coverage but whose premiums have increased to one hundred fifty percent to two hundred percent of rates established by the board as applicable for individual standard risks**[**. After December 31, 2009, this exclusion shall not apply to a person who has such coverage but whose premiums have increased to three hundred percent or more of rates established by the board as applicable for individual standard risks**]**;

(b) A person may maintain other coverage for the period of time the person is satisfying any preexisting condition waiting period under a pool policy; and

(c) A person may maintain plan coverage for the period of time the person is satisfying a preexisting condition waiting period under another health insurance policy intended to replace the pool policy;

(2) Any person who is at the time of pool application receiving health care benefits under section 208.151, RSMo;

(3) Any person having terminated coverage in the pool unless twelve months have elapsed since such termination, unless such person is a federally defined eligible individual;

(4) Any person on whose behalf the pool has paid out one million dollars in benefits;

(5) Inmates or residents of public institutions, unless such person is a federally defined eligible individual, and persons eligible for public programs;

(6) Any person whose medical condition which precludes other insurance coverage is directly due to alcohol or drug abuse or self-inflicted injury, unless such person is a federally defined eligible individual or a trade act eligible individual;

(7) Any person who is eligible for Medicare coverage.

4. Any person who ceases to meet the eligibility requirements of this section may be terminated at the end of such person's policy period.

5. If an insurer issues one or more of the following or takes any other action based wholly or partially on medical underwriting considerations which is likely to render any person eligible for pool coverage, the insurer shall notify all persons affected of the existence of the pool, as well as the eligibility requirements and methods of applying for pool coverage:

(1) A notice of rejection or cancellation of coverage;

(2) A notice of reduction or limitation of coverage, including restrictive riders, if the effect of the reduction or limitation is to substantially reduce coverage compared to the coverage available to a person considered a standard risk for the type of coverage provided by the plan .

Approved July 7, 2009

HB 231 [HCS HB 231]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Requires group policies by a health carrier or plan to employers not covered by federal COBRA to provide the continuation coverage to a terminated employee in the same manner as by COBRA law

AN ACT to repeal section 376.428, RSMo, and to enact in lieu thereof one new section relating to continuation of group health insurance after termination of employment, with an emergency clause.

SECTION
A. Enacting clause.
376.428. Federal COBRA provisions to apply to group health insurance policies.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Section 376.428, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 376.428, to read as follows:

376.428. FEDERAL COBRA PROVISIONS TO APPLY TO GROUP HEALTH INSURANCE POLICIES. — 1. A group policy delivered or issued for delivery in this state **[**on or after one hundred twenty days following September 28, 1985, by an insurance company, health service corporation or health maintenance organization**] by a health carrier or health benefit plan, as defined in section 376.1350**, which insures employees or members and their eligible dependents for hospital, surgical or major medical insurance on an expense-incurred or service basis, other than for specific diseases or for accidental injuries only, shall provide that employees or members whose coverage under the group policy, which includes coverage for their eligible dependents, would otherwise terminate because of termination of employment or membership shall be entitled to continue their hospital, surgical or major medical coverage, including coverage for their eligible dependents, under that group policy **[**subject to the following terms and conditions:

(1) Continuation shall only be available to an employee or member who has been continuously insured under the group policy, and for similar benefits under any group policy which it replaced, during the entire three-month period ending with such termination. If employment is reinstated during the continuation period, then coverage under the group policy will be reinstated for the employee and any dependents who were covered under continuation;

(2) Continuation shall not be available for any person covered under the group policy who is or could be covered by Medicare, nor any person who is or could be covered by any other insured or uninsured arrangement which provides hospital, surgical or major medical coverage for individuals in a group and under which the person was not covered immediately prior to such termination;

(3) Continuation need not include dental, vision care or prescription drug benefits or any other benefits provided under the group policy in addition to its hospital, surgical or major medical benefits, but continuation must include maternity benefits if those benefits are provided under the group policy;

(4) The employee or member must request such continuation in writing within thirty-one days of the date coverage would otherwise terminate and must pay to the group policyholder, on a monthly basis, the amount of contribution required to continue the coverage. Such premium contribution shall not be more than the group rate of the insurance being continued on the due date of each payment; but, if any benefits are omitted as provided by subdivision (3) of this subsection, such premium contribution shall be reduced accordingly. The employee's or member's written request for continuation, together with the first required premium contribution, must be given to the group policyholder within thirty-one days of the date the coverage would otherwise terminate. Employers must notify their employees and members, in writing, of the duties of such employees and members under this subdivision no later than the date on which coverage would otherwise terminate;

(5) Continuation of coverage under the group policy for any covered person shall terminate upon failure to satisfy subdivision (2) of this subsection or, if earlier, at the first to occur of the following:

(a) The date nine months after the date the employee's or member's coverage under the group would have terminated because of termination of employment or membership;

(b) If the employee or member fails to make timely payment of a required premium contribution, the end of the period for which contributions were made;

(c) The date on which the group policy is terminated or, in the case of an employee, the date the employer terminates participation under a group policy. However, if this condition applies and the coverage ceasing by reason of termination is replaced by similar coverage under another group policy, then:

a. The employee or member shall have the right to become covered under that other group policy for the balance of the period that he would have remained covered under the prior group policy in accordance with the conditions of this section;

b. The minimum level of benefits to be provided by the other group policy shall be the applicable level of benefits of the prior group policy reduced by any benefits payable under that prior policy; and

c. The prior group policy shall continue to provide benefits to the extent of its accrued liabilities and extensions of benefits as if the replacement had not occurred**] in the same manner as continuation of coverage is required under the continuation of coverage provisions set forth in the federal Consolidated Omnibus Budget Reconciliation Act (COBRA), as amended**.

2. The spouse of an employee or member whose coverage under the group policy would otherwise terminate due to dissolution of marriage or death of the employee or member shall have the same continuation privilege accorded under sections 376.421 to 376.442, 376.694 to 376.696, and 376.779 to the employee or member upon termination of employment or membership.

3. The right to a converted policy pursuant to sections 376.395 to 376.404 for an employee or member entitled to continuation of coverage under sections 376.421 to 376.442, 376.694 to 376.696, and 376.779 shall commence upon termination of the continued coverage provided for in sections 376.421 to 376.442, 376.694 to 376.696, and 376.779.

4. This section shall only apply to those persons who are not subject to the continuation and conversion provisions set forth in Title I, Subtitle B, Part 6 of the Employment Retirement Income Security Act of 1974 or Title XXII of the Public Health Service Act, as said acts were in effect on January 1, 1987.

SECTION B. EMERGENCY CLAUSE. — Because of the need to ensure that employees or members in this state may continue health care coverage upon termination of employment or membership to the same extent as similarly situated employees or members in other states, section A 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 A of this act shall be in full force and effect upon its passage and approval.

Approved June 26, 2009

HB 236 [SCS HCS HB 236]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Establishes Kaitlyn's Law which requires school districts to allow certain students with disabilities to participate in graduation ceremonies after four years of high school attendance

AN ACT to amend chapter 162, RSMo, by adding thereto one new section relating to students with disabilities, with an emergency clause.

SECTION
A. Enacting clause.
162.1380. Kaitlyn's law — certain IDEA students may participate in graduation ceremonies and related activities.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Chapter 162, RSMo, is amended by adding thereto one new section, to be known as section 162.1380, to read as follows:

162.1380. KAITLYN'S LAW — CERTAIN IDEA STUDENTS MAY PARTICIPATE IN GRADUATION CEREMONIES AND RELATED ACTIVITIES. — 1. The provisions of this section shall be known and referred to as "Kaitlyn's Law".

2. Each school district that operates a high school shall establish a policy and adopt procedures that allow a student eligible under the Individuals with Disabilities Education Act who will have completed four years of high school at the end of a school year to participate in the graduation ceremony of the student's high school graduating class and all related activities if the student's individualized education program prescribes special education, transition planning, transition services, or related services beyond the student's four years of high school, and the student's individualized education program team determines the student is making satisfactory progress toward the completion of the individual education program and participation in the graduation ceremony is determined appropriate. The policy and procedures shall require timely and meaningful written notice to children with disabilities and their parents or guardians about the school district's policy and procedures adopted in accordance with this section.

SECTION B. EMERGENCY CLAUSE. — Because of the importance of allowing students with a disability the opportunity to participate in a graduation ceremony with their fellow students, section A 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 A of this act shall be in full force and effect upon its passage and approval.

Approved May 14, 2009

HB 237 [SCS HCS HB 237 & HB 238 & HB 482]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding courts and court procedures

AN ACT to repeal sections 477.600, 479.260, 488.429, and 517.041, RSMo, and to enact in lieu thereof four new sections relating to courts.

SECTION
A. Enacting clause.
477.600. Judicial finance commission members, terms, vacancies, compensation — powers, duties, staff.
479.260. Court costs and fees, judicial education fund, purpose, administration.
488.429. Fund paid to treasurer may be designated by circuit judge — use of fund for law library, and courtroom renovation and technology enhancement in certain counties.
517.041. Summons, how served.

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

SECTION A. ENACTING CLAUSE. — Sections 477.600, 479.260, 488.429, and 517.041, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 477.600, 479.260, 488.429, and 517.041, to read as follows:

477.600. JUDICIAL FINANCE COMMISSION MEMBERS, TERMS, VACANCIES, COMPENSATION — POWERS, DUTIES, STAFF. — 1. There is hereby created within the judicial department a "Judicial Finance Commission". The commission shall be composed of seven members appointed by the supreme court. At least one member of the commission shall be a member of a county governing body from a county of the third class, one member of the commission shall be a member of the county governing body of a county of the first class, and one member of the commission shall be a member of a county governing body from any class of county. The supreme court shall designate one member to serve as chairman and one member as vice chairman. The vice chairman shall preside in the absence of the chairman.

2. The members of the commission shall serve for terms of three years and until their successors are appointed and qualified; except that of the initial members appointed, three shall serve for terms of one year, two shall serve for terms of two years and two shall serve for terms of three years, as designated by the court.

3. If a vacancy occurs the court shall appoint a replacement. The replacement shall serve the unexpired portion of the term and may be appointed to successive terms.

4. The commission shall promulgate rules of procedure which shall become effective upon approval by the supreme court. The supreme court may adopt such other rules as it deems appropriate to govern the procedures of the commission.

5. The commission shall:

(1) Examine the budget request of the circuit court upon the petition by the county governing body as provided in section 50.640, RSMo, or any budget or item in the budget estimated by the court including, but not limited to, compensation of deputy sheriffs and assistants, as set forth in section 57.250, RSMo;

(2) Issue a written opinion addressed to the presiding circuit judge and the presiding officer of the county. The opinion shall state the conclusions of the commission as to the reasonableness of the circuit court budget request. The opinion of the commission shall state clearly the reasons for its decision. Any member of the commission who disagrees with the commission's findings may file a minority report;

(3) Maintain accurate records of the cost and expenses of the judicial and law enforcement agencies for each county;

(4) Submit an annual report to the governor, general assembly, and supreme court on the finances of the judicial department. The report shall examine both the revenues of the department and the expenses of the department. The report shall include the information from all divisions of the circuit court of each county including the circuit, associate circuit, probate, juvenile and municipal divisions. The information shall be reported separately except where the divisions are combined or consolidated. **In lieu of separate publication, the supreme court may direct the annual report described in this subdivision to be consolidated with any annual report prepared by the supreme court or the office of state courts administrator, provided that such report is distributed to the parties described in this subdivision.**

6. In discharging its responsibilities, the commission may:

(1) Conduct public hearings, take testimony, summon witnesses, and subpoena records and documents;

(2) Conduct surveys and collect data from county governments and the circuit courts on the operations of the judicial and law enforcement agencies in each county. The commission and its staff shall be granted access at any reasonable time to all books, records, and data the commission deems necessary for the administration of its duties;

(3) Within the limits of appropriations made for the purpose, appoint special committees, accept and expend grant funds, and employ consultants and others to assist the commission in its work.

7. Upon receipt of the written opinion of the commission or upon refusal of the commission to accept a petition for review, the circuit court or the county governing body may seek a review by the supreme court by filing a petition for review in the supreme court within thirty days of the receipt of the commission's opinion. If a petition for review is not filed in the supreme court, then the recommendation of the commission shall take effect notwithstanding the provisions of section 50.600, RSMo. If the commission refused to review a petition and no petition is filed in the supreme court, the circuit court budget is approved as submitted to the county governing body. The supreme court shall consider the petition for review de novo.

8. The commission shall meet as necessary at the call of the chairman or on written request of four members. Four members constitute a quorum for the transaction of business. Upon request of the chairman, the supreme court may appoint a temporary replacement for any commissioner who is unable to hear a case or who is disqualified from any case. No member of the commission shall participate in any proceeding involving the county or circuit where the member resides.

9. Members of the commission shall receive no compensation for their services but shall be reimbursed out of funds appropriated for this purpose for their actual and necessary expenses incurred in the performance of their duties.

10. The clerk of the supreme court shall provide suitable staff for the commission out of any funds appropriated for this purpose. The commission may also employ court reporters as necessary to take testimony at hearings held pursuant to section 50.640, RSMo. The reporters shall be compensated at a rate established by the commission out of any funds appropriated for this purpose.

479.260. COURT COSTS AND FEES, JUDICIAL EDUCATION FUND, PURPOSE, ADMINISTRATION. — 1. Municipalities by ordinance may provide for fees in an amount per case to be set pursuant to sections 488.010 to 488.020, RSMo, for each municipal ordinance violation case filed before a municipal judge, and in the event a defendant pleads guilty or is found guilty, the judge may assess costs against the defendant except in those cases where the defendant is found by the judge to be indigent and unable to pay the costs. The fees authorized in this subsection are in addition to service charges, witness fees and jail costs that may otherwise be authorized to be assessed, but are in lieu of other court costs. The fees provided by this subsection shall be collected by the municipal division clerk in municipalities electing or required to have violations of municipal ordinances tried before a municipal judge pursuant to section 479.020, or to employ judicial personnel pursuant to section 479.060, and disbursed as provided in subsection 1 of section 479.080. Any other court costs required in connection with such cases shall be collected and disbursed as provided in sections 488.010 to 488.020, RSMo; provided that, each municipal court may establish a judicial education fund **[**in an account**] and an appointed counsel fund, each in separate accounts** under the control of the municipal court to retain one dollar of the fees collected on each case **[**and to use the fund**]. The fees collected shall be allocated between the two funds as determined by the court. The judicial education fund shall be used** only to pay for:

(1) The continuing education and certification required of the municipal judges by law or supreme court rule; and

(2) Judicial education and training for the court administrator and clerks of the municipal court.

The appointed counsel fund shall be used only to pay the reasonable fees approved by the court for the appointment of an attorney to represent any defendant found by the judge to be indigent and unable to pay for legal representation, and where the supreme court rules or the law prescribes such appointment. Provided further, that no municipal court shall

retain more than one thousand five hundred dollars in the **judicial education** fund for each judge, administrator or clerk of the municipal court **and no more than five thousand dollars in the appointed counsel fund**. Any excess funds shall be transmitted quarterly to the general revenue fund of the county or municipal treasury.

2. In municipal ordinance violation cases which are filed in the associate circuit division of the circuit court, fees shall be assessed in each case in an amount to be set pursuant to sections 488.010 to 488.020, RSMo. In the event a defendant pleads guilty or is found guilty, the judge shall assess costs against the defendant except in those cases where the defendant is found by the judge to be indigent and unable to pay the costs. In the event a defendant is acquitted or the case is dismissed, the judge shall not assess costs against the municipality. The costs authorized in this subsection are in addition to service charges, witness fees and jail costs that may otherwise be authorized to be assessed, but are in lieu of other court costs. The costs provided by this subsection shall be collected by the municipal division clerk in municipalities electing or required to have violations of municipal ordinances tried before a municipal judge pursuant to section 479.020, or to employ judicial personnel pursuant to section 479.060, and disbursed as provided in subsection 2 of section 479.080. Any other court costs required in connection with such cases shall be collected and disbursed as provided in sections 488.010 to 488.020, RSMo.

3. A municipality, when filing cases before an associate circuit judge, shall not be required to pay fees.

4. No fees for a judge, city attorney or prosecutor shall be assessed as costs in a municipal ordinance violation case.

5. In municipal ordinance violation cases, when there is an application for a trial de novo, there shall be an additional fee in an amount to be set pursuant to sections 488.010 to 488.020, RSMo, which shall be assessed in the same manner as provided in subsection 2 of this section.

6. Municipalities by ordinance may provide for a schedule of costs to be paid in connection with pleas of guilty which are processed in a traffic violations bureau. If a municipality files its municipal ordinance violation cases before a municipal judge, such costs shall not exceed the court costs authorized by subsection 1 of this section. If a municipality files its municipal ordinance violations cases in the associate circuit division of the circuit court, such costs shall not exceed the court costs authorized by subsection 2 of this section.

488.429. FUND PAID TO TREASURER MAY BE DESIGNATED BY CIRCUIT JUDGE — USE OF FUND FOR LAW LIBRARY, AND COURTROOM RENOVATION AND TECHNOLOGY ENHANCEMENT IN CERTAIN COUNTIES. — 1. Moneys collected pursuant to section 488.426 shall be payable to the judges of the circuit court, en banc, of the county from which such surcharges were collected, or to such person as is designated by local circuit court rule as treasurer of said fund, and said fund **[**shall**]** **may** be applied and expended under the direction and order of the judges of the circuit court, en banc, of any such county for the maintenance and upkeep of the law library maintained by the bar association in any such county, or such other law library in any such county as may be designated by the judges of the circuit court, en banc, of any such county; provided, that the judges of the circuit court, en banc, of any such county, and the officers of all courts of record of any such county, shall be entitled at all reasonable times to use the library to the support of which said funds are applied.

2. In addition, such fund may also be applied and expended for that county's or circuit's family services and justice fund.

3. In any county, other than a county on the nonpartisan court plan, such fund may also be applied and expended for courtroom renovation and technology enhancement, or for debt service on county bonds for such renovation or enhancement projects.

517.041. SUMMONS, HOW SERVED. — 1. The process in all cases shall be a summons with a copy of the petition of the plaintiff attached, directed to the sheriff or other proper person for service on the defendant. The summons shall command the defendant to appear before the court

on a date and time, not less than ten days nor more than **[**thirty**]** **sixty** days from the date of service of the summons.

2. If process is not timely served, the plaintiff may request further process be issued to any defendant not timely served with the case being continued, or the plaintiff may dismiss as to any such defendant and proceed with the case.

3. A petition filed which states a claim or claims that in the aggregate exceeds the jurisdictional limit of the division shall be certified to presiding judge for assignment.

Approved June 26, 2009

HB 239 [SCS HB 239]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding the management of trusts and funds

AN ACT to repeal sections 172.290, 402.010, 402.015, 402.025, 402.030, 402.035, 402.040, 402.045, 402.055, 402.060, 456.5-505, 469.411, 472.335, 473.333, 475.130, and 475.190, RSMo, and to enact in lieu thereof twenty new sections relating to the management of funds.

SECTION

A. Enacting clause.
172.290. Grants not to be diverted — reasonable portion may be used for administration.
362.333. Irrevocable life insurance trusts, banks and trust companies may transfer fiduciary obligations to the Missouri trust office or out-of-state bank or company.
369.162. Irrevocable life insurance trusts — savings and loan associations may transfer fiduciary duty, when.
402.130. Definitions.
402.132. Charitable purposes of the institution and fund to be considered — good faith required — authority of the institution.
402.134. Appropriation for expenditure or accumulation of endowment fund, amount permitted — factors to consider.
402.136. Delegation of management and investment, when — requirements of the institution.
402.138. Release or modification of restrictions permitted, when.
402.140. Applicability.
402.142. Federal acts, effect of.
402.144. Compliance, determined when.
402.146. Uniformity of law to be considered in application of law.
402.148. Governing boards and directors, law not to amend duties and liabilities of.
456.4-418. Distribution of trust income or principal to qualified remainder beneficiary, when — applicability to irrevocable trust, when.
456.5-505. Creditor's claim against settlor.
469.411. Determination of unitrust amount — definitions — exclusions to net fair market value of assets — applicability of section to certain trusts.
472.335. Power of court to confirm and validate acts — acts included.
473.333. Investment of liquid assets.
475.130. General duties and powers of conservator of estate.
475.190. Investment of liquid assets of estate of protectee — reports.
402.010. Definitions.
402.015. Accumulation of income, restrictions — appropriation for expenditure.
402.025. Investment authority.
402.030. Delegation of investment management.
402.035. Standard of conduct.
402.040. Release of restrictions on use or investment.
402.045. Severability.
402.055. Act to apply retroactively and prospectively.
402.060. Not to affect other applicable law — conflict of law, rule of supersession.

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

SECTION A. ENACTING CLAUSE. — Sections 172.290, 402.010, 402.015, 402.025, 402.030, 402.035, 402.040, 402.045, 402.055, 402.060, 456.5-505, 469.411, 472.335, 473.333, 475.130, and 475.190, RSMo, are repealed and twenty new sections enacted in lieu thereof, to be known as sections 172.290, 362.333, 369.162, 402.130, 402.132, 402.134, 402.136, 402.138, 402.140, 402.142, 402.144, 402.146, 402.148, 456.4-418, 456.5-505, 469.411, 472.335, 473.333, 475.130, and 475.190, to read as follows:

172.290. GRANTS NOT TO BE DIVERTED — REASONABLE PORTION MAY BE USED FOR ADMINISTRATION. — Notwithstanding any other provision of law to the contrary, grants made to the curators for specified purposes and uses shall not be applied, either wholly or in part, to any other uses**; provided, however, that in carrying out its duties as trustee, the curators may use a reasonable portion of its endowment to support internal endowment administration and development functions. For purposes of this section, "reasonable portion" shall mean no more than two percent of the total market value of the endowment for the applicable year**.

362.333. IRREVOCABLE LIFE INSURANCE TRUSTS, BANKS AND TRUST COMPANIES MAY TRANSFER FIDUCIARY OBLIGATIONS TO THE MISSOURI TRUST OFFICE OR OUT-OF-STATE BANK OR COMPANY. — In addition to the powers authorized in section 362.332, a bank or trust company with authorized trust authority and created under the laws of this state may transfer by assignment, for consideration or no consideration, some or all of its fiduciary obligations that consist only of irrevocable life insurance trusts to the Missouri trust office of an out-of-state bank with trust powers or an out-of-state trust company. The transfer of such irrevocable life insurance trusts shall be subject to the provisions of this section and to all regulatory procedures described in subsections 2 to 7 of section 362.332. On the effective date of the transfer of fiduciary obligations under this section, the transferring bank or trust company shall be released from all transferred fiduciary obligations and shall cease to act as a fiduciary, except that such transferring bank or trust company shall not be relieved of any obligations arising out of a breach of fiduciary duty occurring prior to such effective date.

369.162. IRREVOCABLE LIFE INSURANCE TRUSTS — SAVINGS AND LOAN ASSOCIATIONS MAY TRANSFER FIDUCIARY DUTY, WHEN. — In addition to any other banking authority, a savings and loan association or a savings bank with authorized trust authority and created under the laws of this state may transfer by assignment, for consideration or no consideration, some or all of its fiduciary obligations that consist only of irrevocable life insurance trusts in the same way as permitted a Missouri bank or trust company under section 362.333, RSMo.

402.130. DEFINITIONS. — As used in sections 402.130 to 402.148, the following terms shall mean:

(1) "Charitable purpose", the relief of poverty, the advancement of education or religion, the promotion of health, the promotion of a governmental purpose, or any other purpose the achievement of which is beneficial to the community;

(2) "Endowment fund", an institutional fund or part thereof that, under the terms of a gift instrument, is not wholly expendable by the institution on a current basis. The term shall not include assets that an institution designates as an endowment fund for its own use;

(3) "Gift instrument", a record or records, including an institutional solicitation under which property is granted to, transferred to, or held by an institution as an institutional fund;

(4) "Institution":

(a) A person, other than an individual, organized and operated exclusively for charitable purposes;

(b) A government or governmental subdivision, agency, or instrumentality to the extent that it holds funds exclusively for a charitable purpose; or

(c) A trust that had both charitable and noncharitable interests after all noncharitable interests have terminated;

(5) "Institutional fund", a fund held by an institution exclusively for charitable purposes. It shall not include:

(a) Program-related assets;

(b) A fund held for an institution by a trustee that is not an institution; or

(c) A fund in which a beneficiary that is not an institution has an interest other than an interest that could arise upon violation or failure of the purposes of the fund;

(6) "Person", an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity;

(7) "Program-related asset", an asset held by an institution primarily to accomplish a charitable purpose of the institution and not primarily for investment;

(8) "Record", information that is inscribed on tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

402.132. CHARITABLE PURPOSES OF THE INSTITUTION AND FUND TO BE CONSIDERED — GOOD FAITH REQUIRED — AUTHORITY OF THE INSTITUTION. — 1. Subject to the intent of a donor expressed in a gift, an institution, in managing and investing an institutional fund, shall consider the charitable purposes of the institution and the purposes of the institutional fund.

2. In addition to complying with the duty of loyalty imposed by law other than in sections 402.130 to 402.148, each person responsible for managing and investing an institutional fund shall manage and invest the fund in good faith and with the care an ordinary prudent person in a like position would exercise under similar circumstances.

3. In managing and investing an institutional fund, an institution:

(1) May incur only costs that are appropriate and reasonable in relation to the assets, the purpose of the institution, and the skills available to the institution; and

(2) Shall make a reasonable effort to verify facts relevant to the management and investment of the fund.

4. An institution may pool two or more institutional funds for the purposes of management and investment.

5. Except as otherwise provided by a gift instrument, the following rules apply:

(1) In managing and investing an institutional fund, the following factors, if relevant, shall be considered:

(a) General economic conditions;

(b) The possible effect of inflation or deflation;

(c) The expected tax consequences, if any, of investment decisions or strategies;

(d) The role that each investment or course of action plays within the overall investment portfolio of the fund;

(e) The expected total return from the income and the appreciation of investments;

(f) Other resources of the institution;

(g) The needs of the institution and the fund to make the distributions and to preserve capital; and

(h) An asset's special relationship or special value, if any, to the charitable purposes of the institution;

(2) Management and investment decisions about an individual asset shall not be made in isolation but in the context of the institutional fund's portfolio of investments as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the fund and to the institution;

(3) Except as otherwise provided by law other than in sections 402.130 to 402.148, an institution may invest in any kind of property or type of investment consistent with this section;

(4) An institution shall diversify the investments of an institutional fund unless the institution reasonably determines that because of special circumstances the purposes of the fund are better served without diversification;

(5) Within a reasonable time after receiving property, an institution shall make and carry out decisions concerning the retention or disposition of the property or to rebalance a portfolio in order to bring the institutional fund into compliance with the purposes, terms, and distribution requirements of the institution as necessary to meet other circumstances of the institution and the requirements of sections 402.130 to 402.148;

(6) A person that has or represents to have special skills or expertise and in reliance thereupon is selected and assigned institutional funds management and investment functions has a duty to use those skills or that expertise in managing and investing institutional funds.

402.134. APPROPRIATION FOR EXPENDITURE OR ACCUMULATION OF ENDOWMENT FUND, AMOUNT PERMITTED — FACTORS TO CONSIDER. — 1. Subject to the intent of the donor expressed in the gift instrument, an institution may appropriate for expenditure or accumulate so much of an endowment fund as the institution determines is prudent for the uses, benefits, purposes, and duration for which the endowment fund is established. Unless otherwise stated in the gift instrument, the assets in an endowment fund are donor-restricted assets until appropriated for expenditure by the institution. In making a determination to appropriate or accumulate, the institution shall act in good faith with the care that an ordinary prudent person in a like position would exercise under similar circumstances and shall consider, if relevant, the following factors:

(1) The duration and preservation of the endowment fund;

(2) The purposes of the institution and the endowment fund;

(3) General economic conditions;

(4) The possible effect of inflation or deflation;

(5) The expected total return from income and the appreciation of investments;

(6) Other resources of the institution; and

(7) The investment policy of the institution.

2. To limit the authority to appropriate for expenditure or accumulate under subsection 1 of this section, a gift instrument shall specifically state the limitation.

3. Terms in a gift instrument designating a gift as an endowment, or a direction or authorization in the gift instrument to use only "income", "interest", "dividends", or "rents, issues or profits", or to preserve the principal intact, or words of that import that:

(1) Create an endowment fund of permanent duration unless other language in the gift instrument limits the duration or purpose of the fund; and

(2) Do not otherwise limit the authority to appropriate for expenditure or accumulate under subsection 1 of this section.

402.136. DELEGATION OF MANAGEMENT AND INVESTMENT, WHEN — REQUIREMENTS OF THE INSTITUTION. — 1. Subject to any specific limitation set forth in a gift instrument or law not within sections 402.130 to 402.148, an institution may delegate to an external agent the management and investment of an institutional fund to the extent that an institution could prudently delegate under the circumstances. An institution shall act in good faith with the care that an ordinarily prudent person in a like position would exercise under similar circumstances in:

(1) Selecting an agent;

(2) Establishing the scope and terms of the delegation consistent with the purposes of the institution and the institutional fund; and

(3) Periodically reviewing the agent's actions in order to monitor the agent's performance and compliance with the scope and terms of the delegation.

2. In performing a delegated function, an agent owes a duty to the institution to exercise reasonable care to comply with the scope and terms of the delegation.

3. An institution that complies with subsection 1 of this section is not liable for the decisions or actions of an agent to which the function was delegated.

4. By accepting delegation of a management or investment function from an institution that is subject to the laws of this state, an agent submits to the jurisdiction of the courts of this state in all proceedings arising from or related to the delegation or the performance of the delegated function.

5. An institution may delegate management and investment functions to its committees, officers, or employees as authorized by law other than provided for in sections 402.130 to 402.148.

402.138. RELEASE OR MODIFICATION OF RESTRICTIONS PERMITTED, WHEN. — 1. If the donor consents in a record, an institution may release or modify, in whole or in part, a restriction contained in a gift instrument on the management, investment, or purpose of an institutional fund. A release or modification may not allow a fund to be used for a purpose other than a charitable purpose of the institution.

2. The court, upon application of an institution, may modify a restriction contained in a gift instrument regarding the management or investment of an institutional fund if the restriction has become impracticable or wasteful, if it impairs the management or investment of the fund, or if, because of circumstances not anticipated by the donor, a modification of a restriction will further the purposes of the fund. The institution shall notify the attorney general of the application, and the attorney general shall be given an opportunity to be heard. To the extent practicable, any modification shall be made in accordance with the donor's probable intention.

3. If a particular charitable purpose or restriction contained in a gift instrument on the use of an institutional fund becomes unlawful, impracticable, impossible to achieve, or wasteful, the court, upon application of an institution, may modify the purpose of the fund or the restriction on the use of the fund in a manner consistent with the charitable purposes expressed in the gift instrument. The institution shall notify the attorney general of the application, and the attorney general shall be given an opportunity to be heard.

4. If an institution determines that a restriction contained in a gift instrument on the management, investment, or purpose of an institutional fund is unlawful, impracticable, impossible to achieve, or wasteful, the institution, sixty days after notification to the attorney general, may release or modify the restrictions in whole or in part if:

(1) The institutional fund subject to the restriction has a total value of less than fifty thousand dollars;

(2) More than ten years have lapsed since the fund was established; and

(3) The institution uses the property in a manner consistent with the charitable purposes expressed in the gift instrument.

402.140. APPLICABILITY. — Sections 402.130 to 402.148 shall apply to institutional funds existing on or established after August 28, 2009.

402.142. FEDERAL ACTS, EFFECT OF. — As authorized in 15 U.S.C. 7002, as amended, sections 402.130 to 402.148 modifies, limits, or supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001, et seq., but do not modify, limit, or supersede 15 U.S.C. Section 7001(a), or authorize electronic delivery of any of the notices described in 15 U.S.C. Section 7003(b).

402.144. COMPLIANCE, DETERMINED WHEN. — Compliance with sections 402.130 to 402.148 is determined in light of the facts and circumstances existing at the time a decision is made or action is taken and not by hindsight.

402.146. UNIFORMITY OF LAW TO BE CONSIDERED IN APPLICATION OF LAW. — In applying and construing sections 402.130 to 402.148, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

402.148. GOVERNING BOARDS AND DIRECTORS, LAW NOT TO AMEND DUTIES AND LIABILITIES OF. — Nothing in sections 402.130 to 402.148 shall act to amend the status of governing boards or the duties and liabilities of directors under other applicable law.

456.4-418. DISTRIBUTION OF TRUST INCOME OR PRINCIPAL TO QUALIFIED REMAINDER BENEFICIARY, WHEN — APPLICABILITY TO IRREVOCABLE TRUST, WHEN. — 1. During any period of time that this section applies to an irrevocable trust, the trustee shall have the authority in its discretion to distribute trust income or principal to a qualified remainder beneficiary of the trust. For purposes of this section, a "qualified remainder beneficiary" is a descendant of a permissible distributee who will be eligible to receive distributions of trust income or principal, whether mandatory or discretionary, upon the termination of the interest of such permissible distributee or upon the termination of the trust.

2. This section shall apply to an irrevocable trust that is administered in this state if:

(1) The trustee may distribute trust income or principal to one or more permissible distributees;

(2) No distributions of trust income or principal have been made to any permissible distributee during the ten-year period preceding the notice required by subsection 5 of this section;

(3) The trustee determines that there will be sufficient assets in the trust for the trustee to meet its obligations to the permissible distributees after any distributions authorized by this section;

(4) The trustee determines that the application of this section to the trust is not inconsistent with a material purpose of the trust;

(5) The trustee determines that the application of this section to a trust that is exempt from the federal generation-skipping transfer tax will not cause the trust to become subject to such tax; and

(6) The trust became irrevocable on or before September 25, 1985.

3. After the trustee determines that this section applies to a trust, this section shall continue to apply to the trust until the first to occur of the following:

(1) The termination of the interests of all the beneficiaries who were permissible distributees on the date of the notice required by subsection 5 of this section;

(2) The termination of the trust; or

(3) The trustee determines that additional distributions under this section will impair the ability of the trustee to meet its obligation to the permissible distributees.

4. A spendthrift provision in the terms of a trust is not presumed inconsistent with the application of this section to the trust.

5. The trustee shall notify the qualified beneficiaries of the trust that the trustee has determined that this section applies to a trust not less than sixty days before distributing trust income or principal to any qualified remainder beneficiary.

6. A trustee acting in good faith shall not be liable to any beneficiary for acting or failing to act under this section.

456.5-505. CREDITOR'S CLAIM AGAINST SETTLOR. — 1. Whether or not the terms of a trust contain a spendthrift provision, during the lifetime of the settlor, the property of a revocable trust is subject to claims of the settlor's creditors.

2. With respect to an irrevocable trust without a spendthrift provision, a creditor or assignee of the settlor may reach the maximum amount that can be distributed to or for the settlor's benefit. If a trust has more than one settlor, the amount the creditor or assignee of a particular settlor may reach may not exceed the settlor's interest in the portion of the trust attributable to that settlor's contribution.

3. With respect to an irrevocable trust with a spendthrift provision, a spendthrift provision will prevent the settlor's creditors from satisfying claims from the trust assets except:

(1) Where the conveyance of assets to the trust was fraudulent as to creditors pursuant to the provisions of chapter 428, RSMo; or

(2) To the extent of the settlor's beneficial interest in the trust assets, if at the time the trust became irrevocable:

(a) The settlor was the sole beneficiary of either the income or principal of the trust or retained the power to amend the trust; or

(b) The settlor was one of a class of beneficiaries and retained a right to receive a specific portion of the income or principal of the trust that was determinable solely from the provisions of the trust instrument.

4. Any trustee who has a duty or power to pay the debts of a deceased settlor may publish a notice in **[**some**] a** newspaper published in the county **designated in subdivision (3) of this subsection** once a week for four consecutive weeks in substantially the following form:

To all persons interested in the estate of ....., decedent. The undersigned ..... is acting as Trustee under a trust the terms of which provide that the debts of the decedent may be paid by the Trustee(s) upon receipt of proper proof thereof. The address of the Trustee is .....

All creditors of the decedent are noticed to present their claims to the undersigned within six (6) months from the date of the first publication of this notice or be forever barred. ..... Trustee

(1) If such publication is duly made by the trustee, any debts not presented to the trustee within six months from the date of the first publication of the preceding notice shall be forever barred as against the trustee and the trust property.

(2) A trustee shall not be liable to account to the decedent's personal representative under the provisions of section 461.300, RSMo, by reason of any debt barred under the provisions of this subsection.

(3) Such publication shall be in a newspaper published in:

(a) The county in which the domicile of the settlor at the time of his or her death is situated;

(b) If the settlor had no domicile in this state at the time of his or her death, any county wherein trust assets are located; except that, when the major part of the trust assets in this state consist of real estate, the notice shall be published in the county in which the real estate or the major part thereof is located; or

(c) If the settlor had no domicile in this state at the time of his or her death and no trust assets are located therein, the county wherein the principal place of administration of the trust is located.

(4) For purposes of this subsection, the term "domicile" means the place in which the settlor voluntarily fixed his or her abode, not for a mere special or temporary purpose, but with a present intention of remaining there permanently or for an indefinite term.

5. For purposes of this section:

(1) During the period the power may be exercised, the holder of a power of withdrawal is treated in the same manner as the settlor of a revocable trust to the extent of the property subject to the power; and

(2) Upon the lapse, release, or waiver of the power, the holder is treated as the settlor of the trust only to the extent the value of the property affected by the lapse, release, or waiver exceeds the greater of the amount specified in Sections 2041(b)(2), 2514(e) or 2503(b) of the Internal Revenue Code.

6. This section shall not apply to a spendthrift trust described, defined, or established in section 456.014.

469.411. DETERMINATION OF UNITRUST AMOUNT — DEFINITIONS — EXCLUSIONS TO NET FAIR MARKET VALUE OF ASSETS — APPLICABILITY OF SECTION TO CERTAIN TRUSTS. — 1. If the provisions of this section apply to a trust, the unitrust amount shall be determined as follows:

(1) For the first three accounting periods of the trust, the unitrust amount for a current valuation year of the trust shall be a percentage between three and five percent that is specified by the terms of the governing instrument or by the election made in accordance with subdivision (2) of subsection 5 of this section, of the net fair market values of the assets held in the trust on the first business day of the current valuation year;

(2) Beginning with the fourth accounting period of the trust, the unitrust amount for a current valuation year of the trust shall be a percentage between three and five percent that is specified by the terms of the governing instrument or by the election made in accordance with subdivision (2) of subsection 5 of this section, of the average of the net fair market values of the assets held in the trust on the first business day of the current valuation year and the net fair market values of the assets held in the trust on the first business day of each prior valuation year, regardless of whether this section applied to the ascertainment of net income for all valuation years;

(3) The unitrust amount for the current valuation year computed pursuant to subdivision (1) or (2) of this subsection shall be proportionately reduced for any distributions, in whole or in part, other than distributions of the unitrust amount, and for any payments of expenses, including debts, disbursements and taxes, from the trust within a current valuation year that the trustee determines to be material and substantial, and shall be proportionately increased for the receipt, other than a receipt that represents a return on investment, of any additional property into the trust within a current valuation year;

(4) For purposes of subdivision (2) of this subsection, the net fair market values of the assets held in the trust on the first business day of a prior valuation year shall be adjusted to reflect any reduction, in the case of a distribution or payment, or increase, in the case of a receipt, for the prior valuation year pursuant to subdivision (3) of this subsection, as if the distribution, payment or receipt had occurred on the first day of the prior valuation year;

(5) In the case of a short accounting period, the trustee shall prorate the unitrust amount on a daily basis;

(6) In the case where the net fair market value of an asset held in the trust has been incorrectly determined either in a current valuation year or in a prior valuation year, the unitrust amount shall be increased in the case of an undervaluation, or be decreased in the case of an overvaluation, by an amount equal to the difference between the unitrust amount determined based on the correct valuation of the asset and the unitrust amount originally determined.

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

(1) "Current valuation year", the accounting period of the trust for which the unitrust amount is being determined;

(2) "Prior valuation year", each of the two accounting periods of the trust immediately preceding the current valuation year.

3. In determining the sum of the net fair market values of the assets held in the trust for purposes of subdivisions (1) and (2) of subsection 1 of this section, there shall not be included the value of:

(1) Any residential property or any tangible personal property that, as of the first business day of the current valuation year, one or more income beneficiaries of the trust have or had the right to occupy, or have or had the right to possess or control, other than in a capacity as trustee, and instead the right of occupancy or the right to possession or control shall be deemed to be the unitrust amount with respect to the residential property or the tangible personal property; or

(2) Any asset specifically given to a beneficiary under the terms of the trust and the return on investment on that asset, which return on investment shall be distributable to the beneficiary.

4. In determining the net fair market value of each asset held in the trust pursuant to subdivisions (1) and (2) of subsection 1 of this section, the trustee shall, not less often than annually, determine the fair market value of each asset of the trust that consists primarily of real property or other property that is not traded on a regular basis in an active market by appraisal or other reasonable method or estimate, and that determination, if made reasonably and in good faith, shall be conclusive as to all persons interested in the trust. Any claim based on a determination made pursuant to this subsection shall be barred if not asserted in a judicial proceeding brought by any beneficiary with any interest whatsoever in the trust within two years after the trustee has sent a report to all qualified beneficiaries that adequately discloses the facts constituting the claim. The rules set forth in subsection 2 of section 469.409 shall apply to the barring of claims pursuant to this subsection.

5. This section shall apply to the following trusts:

(1) Any trust created after August 28, 2001, with respect to which the terms of the trust clearly manifest an intent that this section apply;

(2) Any trust created under an instrument that became irrevocable on, before, or after August 28, 2001, if the trustee, in the trustee's discretion, elects to have this section apply unless the instrument creating the trust specifically prohibits an election under this subdivision. The trustee shall deliver notice to all qualified beneficiaries and the settlor of the trust, if he or she is then living, of the trustee's intent to make such an election at least sixty days before making that election. The trustee shall have sole authority to make the election. Section 469.402 shall apply for all purposes of this subdivision. An action or order by any court shall not be required. The election shall be made by a signed writing delivered to the settlor of the trust, if he or she is then living, and to all qualified beneficiaries. The election is irrevocable, unless revoked by order of the court having jurisdiction of the trust. The election may specify the percentage used to determine the unitrust amount pursuant to this section, provided that such percentage is between three and five percent, or if no percentage is specified, then that percentage shall be three percent. In making an election pursuant to this subsection, the trustee shall be subject to the same limitations and conditions as apply to an adjustment between income and principal pursuant to subsections 3 and 4 of section 469.405;

(3) No action of any kind based on an election made by a trustee pursuant to subdivision (2) of this subsection shall be brought against the trustee by any beneficiary of that trust three years from the effective date of that election;

(4) If this section is made applicable under this subdivision to an institutional endowment fund, as defined in section **[**402.010**]** **402.130**, RSMo, the restrictions contained in section **[**402.015**]** **402.134**, RSMo, shall not apply to the extent payment of a unitrust amount would otherwise be prohibited.

472.335. POWER OF COURT TO CONFIRM AND VALIDATE ACTS — ACTS INCLUDED. — The power of the court to approve, ratify, confirm and validate acts or transactions entered into by a personal representative of the estate without court authorization includes, without limitation, retention of real or personal property, compromises of claims by and against the estate, **[**investments,**]** purchases, sales, mortgages, exchanges, abandonment, leases of any duration, improvements, contracts to improve, contracts to sell, contracts to purchase, and contracts to exchange and grants of options, easements, profits or other rights with respect to land or other property. It also includes, without limitation, payment of a mortgage indebtedness on the real estate of the decedent out of the personal estate and purchase of real estate at a sale made under a mortgage, deed of trust, vendor's lien or other lien held by the decedent.

473.333. INVESTMENT OF LIQUID ASSETS. — [If it appears that there is a surplus of money in the hands of the personal representative that will not shortly be required for the expenses of administration, or payment of claims, taxes or other required disbursements, the personal representative shall make such investment of the money on or after August 28, 1998, in accordance with the provisions of the Missouri prudent investor act, sections 469.900 to 469.913, RSMo. The personal representative may also, without an order of court, invest in (1) direct obligations of, or obligations unconditionally guaranteed as to principal and interest, by the United States, or (2) accounts of savings and loan associations to the extent the accounts are insured by the Federal Savings and Loan Insurance Corporation, without inquiry as to whether the investment is reasonable and prudent. An order of court authorizing investments pursuant to this section does not relieve a personal representative or his sureties of responsibility and liability if the investment made is not in fact in accordance with the Missouri prudent investor act, sections 469.900 to 469.913, RSMo.**] Except as restricted or otherwise provided by the will of the decedent, on or after August 28, 2009, the personal representative shall, without authorization or approval of the court, invest liquid assets of the estate, including funds received from the sale of other assets, other than funds needed to meet debts and expenses currently payable, in accordance with the provisions of the Missouri prudent investor act, sections 469.900 to 469.913, RSMo, subject to the following exceptions:**

(1) Investment of any part or all of the liquid assets:

(a) In direct obligation of or obligations unconditionally guaranteed as to principal and interest by the United States; or

(b) In interest bearing accounts and time deposits, including time certificates of deposit, in financial institutions to the extent the account or deposits are insured by the Federal Deposit Insurance Corporation, shall constitute prudent investments;

(2) If the personal representative determines it appropriate to delegate investment and management functions to an agent as provided in section 469.909, RSMo, the agent to whom the delegation is made shall acknowledge in a writing delivered to the personal representative that the agent is acting as an investment fiduciary on the account.

475.130. GENERAL DUTIES AND POWERS OF CONSERVATOR OF ESTATE. — 1. **The** conservator of the estate of a minor or disabled person shall, under supervision of the court, protect, preserve and manage the estate, **[**invest it, on or after August 28, 1998, in accordance with the provisions of the Missouri prudent investor act, sections 469.900 to 469.913, RSMo,**]** apply it as provided in this code, account for it faithfully, perform all other duties required of **[**him**] the conservator** by law, and at the termination of the conservatorship deliver the assets of the protectee to the persons entitled thereto. In protecting, preserving and managing the estate, the conservator of the estate is under a duty to use the degree of care, skill and prudence which an ordinarily prudent **[**man**] person** uses in managing the property of, and conducting transactions on behalf of, others. If a conservator of the estate has special skills or is appointed on the basis of representations of special skills or expertise, **[**he**] the conservator** is under a duty to use those skills in the conduct of the protectee's affairs. A conservator of the estate is under

a duty to act in the interest of the protectee and to avoid conflicts of interest which impair **[**his**]** **the conservator's** ability so to act.

2. The conservator of the estate shall take possession of all of the protectee's real and personal property, and of rents, income, issue and profits therefrom, whether accruing before or after **[**his**]** **the conservator's** appointment, and of the proceeds arising from the sale, mortgage, lease or exchange thereof. Subject to such possession, the title to all such estate, and to the increment and proceeds thereof, is in the protectee and not in the conservator. Upon a showing that funds available or payable for the benefit of the protectee by any federal agency are being applied for the benefit of the protectee, or that such federal agency has refused to recognize the authority of the conservator to administer such funds, the court may waive, by order, the duty of the conservator to account therefor.

3. The court has full authority under the rules of civil procedure to enjoin any person from interfering with the right of the conservator to possession of the assets of the protectee, including benefits payable from any source.

4. The conservator of the estate shall prosecute and defend all actions instituted in behalf of or against the protectee; collect all debts due or becoming due to the protectee, and give acquittances and discharges therefor, and adjust, settle and pay all claims due or becoming due from the protectee so far as his **or her** estate and effects will extend, except as provided in sections 507.150 and 507.188, RSMo.

5. A conservator of the estate has power, without authorization or approval of the court, to:

(1) Settle or compromise a claim against the protectee or the estate agreeing to pay or paying not more than one thousand dollars;

(2) Settle, abandon or compromise a claim in favor of the estate which does not exceed one thousand dollars;

(3) Sell, or agree to sell, chattels**[**,**]** **and** choses in action **[**and investment securities**]** reasonably worth not more than one thousand dollars for cash or upon terms involving a reasonable extension of credit;

(4) Exchange, or agree to exchange, chattels**[**,**]** **and** choses in action **[**and investment securities**]** for other such property of equivalent value, not in excess of one thousand dollars;

(5) Insure or contract for insurance of property of the estate against fire, theft and other hazards;

(6) Insure or contract for insurance protecting the protectee against any liability likely to be incurred, including medical and hospital expenses, and protecting the conservator against liability to third parties arising from acts or omissions connected with possession or management of the estate;

(7) Contract for needed repairs and maintenance of property of the estate;

(8) Lease land and buildings for terms not exceeding one year, reserving reasonable rent, and renew any such lease for a like term;

(9) Vote corporate stock in person or by general or limited proxy;

(10) Contract for the provision of board, lodging, education, medical care, or necessaries of the protectee for periods not exceeding one year, and renew any such contract for a like period**;**

(11) On or after August 28, 2009, invest the estate in accordance with the provisions of section 475.190.

6. If, in exercising any power conferred by subsection 5 of this section, a conservator breaches any of the duties enumerated in subsection 1 **of this section**, **[**he**]** **the conservator** may be surcharged for losses to the estate caused by the breach but persons who dealt with the conservator in good faith, without knowledge of or reason to suspect the breach of duty, may enforce and retain the benefits of any transaction with the conservator which **[**he**]** **the conservator** has power under subsection 5 of this section to conduct.

475.190. INVESTMENT OF LIQUID ASSETS OF ESTATE OF PROTECTEE — REPORTS. — 1. **[**The conservator shall invest the money of the protectee, from whatever source derived, unless it is required for other lawful purposes.

2. No investment, other than an investment (a) in the direct obligations of or obligations unconditionally guaranteed as to principal and interest by the United States or (b) in savings accounts and time deposits, including time certificates of deposit, in banking institutions to the extent such accounts or deposits are insured by the Federal Deposit Insurance Corporation or (c) in accounts of savings and loan associations to the extent such accounts are insured by the Federal Savings and Loan Insurance Corporation, shall be made without prior order of the court.

3. The conservator may invest in any other property, real or personal, which the court finds is a reasonable and prudent investment in the circumstances. An order of court authorizing investment under this subsection does not relieve a conservator or his sureties of responsibility and liability if the investment made is not in fact in accordance with the Missouri prudent investor act, sections 469.900 to 469.913, RSMo.

4.**] On or after August 28, 2009, the conservator shall invest liquid assets of the estate of the protectee, other than funds needed to meet debts and expenses currently payable, in accordance with the provisions of the Missouri prudent investor act, sections 469.900 to 469.913, RSMo, subject to the following exceptions:**

(1) Investment of any part or all of the liquid assets:

(a) In direct obligation of or obligations unconditionally guaranteed as to principal and interest by the United States; or

(b) In interest bearing accounts and time deposits, including time certificates of deposit, in financial institutions to the extent the account or deposits are insured by the Federal Deposit Insurance Corporation, shall constitute prudent investments;

(2) If the conservator determines it appropriate to delegate investment and management functions to an agent as provided in section 469.909, RSMo, the agent to whom the delegation is made shall acknowledge in a writing delivered to the conservator that the agent is acting as an investment fiduciary on the account.

2. Every conservator shall make a report at every annual settlement of the disposition made by the conservator of the money belonging to the protectee entrusted to **[**him**] the conservator**. If it appears that the money is invested in securities, then the conservator shall report a detailed description of the securities and shall describe any real estate security and state where it is situated, and its value, which report shall be filed in the court. The court shall carefully examine into the report as soon as made, and, if in the opinion of the court the security is insufficient, the court shall make such orders as are necessary to protect the interest of the protectee. The conservator and **[**his**] the conservator's** sureties are liable on their bond for any omission to comply with the orders of the court. If the money has not been invested as authorized by law the conservator shall state that fact and the reasons, and shall state that the conservator has been unable to make an investment after diligent effort to do so.

[5.**] 3.** If any conservator refuses or neglects to make the report at the time aforesaid, or makes a false report thereof, **[**he and his**] the conservator and the conservator's** sureties are liable on their bond for all loss or damage to the protectee occasioned by reason of **[**his**] the conservator's** neglect or refusal so to report, or by making a false report, and the conservator may, on account thereof, be removed from **[**his**] the conservator's** trust in the discretion of the court.

[402.010. DEFINITIONS. — In sections 402.010 to 402.060:

(1) "Gift instrument" means:

(a) A will, deed, grant, conveyance, agreement, memorandum, writing, or other governing document (including the terms of any institutional solicitations from which an institutional fund resulted) under which property is transferred by a donor to an institution as an institutional endowment fund; or

(b) An oral statement or condition expressed by the donor at the time of transfer of property, which oral statement or condition is memorialized in writing by the institution at the time of the gift, to an institution that the institution is to hold the gift as an institutional endowment fund;

(2) "Governing board" means the body responsible for the management of an institution or of an institutional fund;

(3) "Historic dollar value" means the aggregate fair value in dollars of:

(a) An institutional endowment fund at the time it became an endowment fund;

(b) Each subsequent donation to the fund at the time it is made; and

(c) Each accumulation made pursuant to a direction in the applicable gift instrument or the governing board at the time the accumulation is added to the fund. The determination of historic dollar value made in good faith by the governing board of the institution or the institutional trustee is conclusive;

(4) "Institution" means an incorporated or unincorporated organization which is recognized under section 501(c)(3) of the Internal Revenue Code of 1986 as being operated exclusively for educational, religious, charitable, or other eleemosynary purposes. The term does not include:

(a) Any public common school or public institution of higher education, or a foundation chartered for the benefit of such public common school or public institution of higher education, or for the benefit of a component of such school or institution of higher education;

(b) Any governmental entity or a foundation chartered for the benefit of a governmental entity or for the benefit of a component of such governmental entity;

(c) A private foundation as defined by section 509(a)k of the Internal Revenue Code of 1986;

(5) "Institutional endowment fund" means either:

(a) A fund held by an institution for its exclusive use, benefit, or purposes, and which is not wholly expendable by the institution on a current basis under the terms of the applicable gift instrument; or

(b) A fund which is held in trust by an institution as trustee for another institution under the terms of the applicable gift instrument, but not including

a. A fund held for an institution by a trustee that is not an institution; or

b. A fund in which a beneficiary that is not an institution has an interest, other than possible rights that could arise upon violation or failure of the purpose of the fund;

(6) "Institutional trustee" means an institution acting as trustee of an institutional endowment fund which under the terms of the applicable gift instrument is held in trust for the benefit of one or more institutions.**]**

[402.015. ACCUMULATION OF INCOME, RESTRICTIONS — APPROPRIATION FOR EXPENDITURE. — 1. Unless otherwise limited by the applicable gift instrument, the governing board of the institution or institutional trustee may accumulate so much of the annual net income of an institutional endowment fund as is prudent under the standard established by section 402.035 and may hold any or all of such accumulated income in an income reserve for subsequent expenditure for the uses and purposes for which such institutional endowment fund is established or may add any or all of such accumulated income to the principal of such institutional endowment fund as is prudent under such standard.

2. Unless otherwise limited by the applicable instrument, the governing board of the institution or institutional trustee may appropriate for expenditure for the uses and purposes for which an institutional endowment fund is established so much of the net appreciation, realized and unrealized, in the fair value of the assets of an endowment fund over the historic dollar value of the fund as is prudent under the standard established by section 402.035.

3. This section does not limit the authority of the governing board to accumulate income or to add the same to principal of an institutional endowment fund or to expend funds as permitted under other law or the terms of the applicable gift instrument.

4. Subsection 3 of this section shall not apply if the applicable gift instrument indicates the donor's intention that net appreciation shall not be expended. A restriction upon the expenditure of net appreciation may not be implied from a designation of a gift as an endowment, or from a direction or authorization in the applicable gift instrument which does not clearly evidence an intention that net appreciation not be expended.**]**

[402.025. INVESTMENT AUTHORITY. — In addition to an investment otherwise authorized by law or by the applicable gift instrument, the governing board, subject to any specific limitations set forth in the applicable gift instrument or in the applicable law may:

(1) Invest and reinvest an institutional endowment fund in any real or personal property deemed advisable by the governing board, whether or not it produces a current return, including mortgages, stocks, bonds, debentures, and other securities of profit or nonprofit corporations, shares in or obligations of associations, partnerships, or individuals, and obligations of any government or subdivision or instrumentality thereof;

(2) Retain property contributed by a donor to an institutional endowment fund for as long as the governing board deems advisable;

(3) Include all or any part of an institutional endowment fund in any pooled or common fund maintained by the institution or institutional trustee; and

(4) Invest all or any part of an institutional endowment fund in any other pooled or common fund available for investment, including shares or interests in regulated investment companies, mutual funds, common trust funds, investment partnerships, real estate investment trusts, or similar organizations in which funds are commingled and investment determinations are made by persons other than the governing board.**]**

[402.030. DELEGATION OF INVESTMENT MANAGEMENT. — Except as otherwise provided by the applicable gift instrument, the governing board may:

(1) Delegate to its committees, officers or employees of the institution or the fund, or agents, including investment counsel, the authority to act in place of the board in investment and reinvestment of institutional endowment funds;

(2) Contract with independent investment advisors, investment counsel or managers, banks, or trust companies, to act for the governing board in investment of institutional endowment funds; and

(3) Authorize the payment of compensation for investment advisory or management services.**]**

[402.035. STANDARD OF CONDUCT. — Except as otherwise set forth in the gift instrument, when investing, reinvesting, purchasing, acquiring, exchanging, selling, managing property, appropriating appreciation, developing and applying investment and spending policies, accumulating income, and delegating investment management for the benefit of an institution, the members of the governing board shall act with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in like capacity and familiar with these matters would use in the conduct of an enterprise of like character and with like aims to accomplish the purposes of the institution receiving the benefit of the institutional endowment fund. In the course of administering the fund pursuant to this standard, individual investments shall be considered as part of an overall investment strategy. In exercising judgment pursuant to this section, the governing board shall consider long and short term needs of the institution or the institution which is the beneficiary in carrying out its educational, religious, charitable, or other eleemosynary purposes, its present and anticipated financial requirements, expected total return on its investments, price level trends, and general economic conditions.**]**

[402.040. RELEASE OF RESTRICTIONS ON USE OR INVESTMENT. — 1. With the written consent of the donor, the governing board may release, in whole or in part, a restriction imposed by the applicable gift instrument on the use or investment of an institutional endowment fund.

2. If written consent of the donor cannot be obtained by reason of his death, disability, incapacity, unavailability, or impossibility of identification, or if the gift instrument does not give the institutional trustee the right to exercise the power of cy-pres, the governing board may apply in the name of the institution or institutional trustee to the circuit court for release of a restriction imposed by the applicable gift instrument on the use or investment of an institutional endowment fund. The attorney general shall be notified of the application and shall be given an opportunity to be heard. If the court finds that the restriction is obsolete, inappropriate, or impracticable, it may, by order, release the restriction in whole or in part. A release under this subsection may not change an institutional endowment fund to a fund that is not an institutional endowment fund.

3. A release under this section may not allow an institutional endowment fund to be used for purposes other than the educational, religious, charitable, or other eleemosynary purposes of the institution affected.

4. This section does not limit the application of the doctrine of cy-pres.**]**

[402.045. SEVERABILITY. — If any provision of sections 402.010 to 402.060 or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of sections 402.010 to 402.060 which can be given effect without the invalid provision or application, and to this end the provisions of sections 402.010 to 402.060 are declared severable.**]**

[402.055. ACT TO APPLY RETROACTIVELY AND PROSPECTIVELY. — All of the provisions of sections 402.010 to 402.055 apply to gift instruments executed or in effect before or after August 13, 1976.**]**

[402.060. NOT TO AFFECT OTHER APPLICABLE LAW — CONFLICT OF LAW, RULE OF SUPERSESSION. — 1. Nothing in sections 402.010 to 402.060 shall act to amend the status of governing boards, or the duties and liabilities of directors pursuant to other applicable law.

2. Notwithstanding any provision of section 456.012, RSMo, or section 456.013, RSMo, sections 402.010 to 402.060 shall supersede and control in any case of conflict between sections 402.010 to 402.060 and section 456.012, RSMo, or section 456.013, RSMo.**]**

Approved July 10, 2009

HB 246 [CCS HCS HB 246]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding surface mining and gravel excavation

AN ACT to repeal sections 444.765, 444.766, 444.770, and 444.774, RSMo, and to enact in lieu thereof four new sections relating to surface mining and gravel excavation.

SECTION

A. Enacting clause.
444.765. Definitions.
444.766. Exceptions to land reclamation act provisions.
444.770. Permit required, when — release of certain bonds — complaints, requirements.

444.774. Reclamation requirements and conditions.

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

SECTION A. ENACTING CLAUSE. — Sections 444.765, 444.766, 444.770, and 444.774, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 444.765, 444.766, 444.770, and 444.774, to read as follows:

444.765. DEFINITIONS. — Wherever used or referred to in sections 444.760 to 444.790, unless a different meaning clearly appears from the context, the following terms mean:

(1) "Affected land", the pit area or area from which overburden shall have been removed, or upon which overburden has been deposited after September 28, 1971. When mining is conducted underground, affected land means any excavation or removal of overburden required to create access to mine openings, except that areas of disturbance encompassed by the actual underground openings for air shafts, portals, adits and haul roads in addition to disturbances within fifty feet of any openings for haul roads, portals or adits shall not be considered affected land. Sites which exceed the excluded areas by more than one acre for underground mining operations shall obtain a permit for the total extent of affected lands with no exclusions as required under sections 444.760 to 444.790;

(2) "Beneficiation", the dressing or processing of minerals for the purpose of regulating the size of the desired product, removing unwanted constituents, and improving the quality or purity of a desired product;

(3) "Commercial purpose", the purpose of extracting minerals for their value in sales to other persons or for incorporation into a product;

(4) "Commission", the land reclamation commission in the department of natural resources;

(5) "Construction", construction, erection, alteration, maintenance, or repair of any facility including but not limited to any building, structure, highway, road, bridge, viaduct, water or sewer line, pipeline or utility line, and demolition, excavation, land clearance, and moving of minerals or fill dirt in connection therewith;

(6) "Director", the staff director of the land reclamation commission;

(7) **"Department", the department of natural resources;**

(8) "Excavation", any operation in which earth, minerals, or other material in or on the ground is moved, removed, or otherwise displaced for purposes of construction at the site of excavation, by means of any tools, equipment, or explosives and includes, but is not limited to, backfilling, grading, trenching, digging, ditching, drilling, well-drilling, auguring, boring, tunneling, scraping, cable or pipe plowing, plowing-in, pulling-in, ripping, driving, demolition of structures, and the use of high-velocity air to disintegrate and suction to remove earth and other materials. For purposes of this section, excavation or removal of overburden for purposes of mining for a commercial purpose or for purposes of reclamation of land subjected to surface mining is not included in this definition. Neither shall excavations of sand and gravel by political subdivisions using their own personnel and equipment or private individuals for personal use be included in this definition;

[(8)**] (9)** "Fill dirt", material removed from its natural location through mining or construction activity, which is a mixture of unconsolidated earthy material, which may include some minerals, and which is used to fill, raise, or level the surface of the ground at the site of disposition, which may be at the site it was removed or on other property, and which is not processed to extract mineral components of the mixture. Backfill material for use in completing reclamation is not included in this definition;

[(9)**] (10)** "Land improvement", work performed by or for a public or private owner or lessor of real property for purposes of improving the suitability of the property for construction at an undetermined future date, where specific plans for construction do not currently exist;

[(10)**]** **(11)** "Mineral", a constituent of the earth in a solid state which, when extracted from the earth, is usable in its natural form or is capable of conversion into a usable form as a chemical, an energy source, or raw material for manufacturing or construction material. For the purposes of this section, this definition includes barite, tar sands, and oil shales, but does not include iron, lead, zinc, gold, silver, coal, surface or subsurface water, fill dirt, natural oil or gas together with other chemicals recovered therewith;

[(11)**]** **(12)** "Mining", the removal of overburden and extraction of underlying minerals or the extraction of minerals from exposed natural deposits for a commercial purpose, as defined by this section;

[(12)**]** **(13)** "Operator", any person, firm or corporation engaged in and controlling a surface mining operation;

[(13)**]** **(14)** "Overburden", all of the earth and other materials which lie above natural deposits of minerals; and also means such earth and other materials disturbed from their natural state in the process of surface mining other than what is defined in subdivision (10) of this section;

[(14)**]** **(15)** "Peak", a projecting point of overburden created in the surface mining process;

[(15)**]** **(16)** "Pit", the place where minerals are being or have been mined by surface mining;

[(16)**]** **(17)** "Public entity", the state or any officer, official, authority, board, or commission of the state and any county, city, or other political subdivision of the state, or any institution supported in whole or in part by public funds;

[(17)**]** **(18)** "Refuse", all waste material directly connected with the cleaning and preparation of substance mined by surface mining;

[(18)**]** **(19)** "Ridge", a lengthened elevation of overburden created in the surface mining process;

[(19)**]** **(20)** "Site" or "mining site", any location or group of associated locations **separated by a natural barrier** where minerals are being surface mined by the same operator;

[(20)**]** **(21)** "Surface mining", the mining of minerals for commercial purposes by removing the overburden lying above natural deposits thereof, and mining directly from the natural deposits thereby exposed, and shall include mining of exposed natural deposits of such minerals over which no overburden lies and, after August 28, 1990, the surface effects of underground mining operations for such minerals. For purposes of the provisions of sections 444.760 to 444.790, surface mining shall not include excavations to move minerals or fill dirt within the confines of the real property where excavation occurs or to remove minerals or fill dirt from the real property in preparation for construction at the site of excavation. No excavation of fill dirt shall be deemed surface mining regardless of the site of disposition or whether construction occurs at the site of excavation.

444.766. EXCEPTIONS TO LAND RECLAMATION ACT PROVISIONS. — 1. No provision of sections 444.760 to 444.790 shall apply to the excavation of minerals or fill dirt for the purposes of construction or land improvement as unrelated to the mining of minerals for a commercial purpose or reclamation of land subsequent to the surface mining of minerals.

2. No permit is required under sections 444.760 to 444.790 for the purpose of moving minerals or fill dirt within the confines of real property where excavation occurs, or for purposes of removing minerals or fill dirt from the real property as provided in this section.

(1) Excavations for construction pursuant to engineering plans and specifications prepared by an architect, professional engineer, or landscape architect licensed pursuant to chapter 327, RSMo, or any excavation for construction performed under a written contract that requires excavation of minerals or fill dirt and establishes dates for completion of work and specifies the terms of payment for work, shall be presumed to be for the purposes of construction and shall not require a permit for surface mining.

(2) Excavations for purposes of land improvement where minerals removed from the site are excess minerals that cannot be used on-site for any practical purpose and at no time are

subjected to crushing, screening, or other means of beneficiation with the exception of removal of **dead trees, decaying vegetation,** tree limbs**,** and stumps shall be presumed to be for the purposes of land improvement and shall not require a permit for surface mining, provided that:

(a) The site has not been designated as a surface mine by the federal Mine Safety and Health Administration;

(b) Minerals from the property are not used for commercial purposes on a frequent or ongoing basis; and

(c) A pit, peak, or ridge does not persist at the site as inconsistent with the purposes of land improvement.

(3) Permits shall not be required for the excavation of fill dirt, regardless of the site of disposition or whether construction occurs at the site of excavation.

3. (1) If the director or his or her designee determines that a surface mining permit is required for real property which is purported to be for purposes of construction or land improvement not requiring a surface mining permit under this section, such determination shall be sent in writing to the owner of the property by certified mail stating the reasons for such determination. Upon request of the person receiving the letter, an informal conference shall be scheduled with the director within fifteen calendar days to discuss the determination. Following the informal conference, the director shall issue a written determination regarding his or her findings of fact no later than thirty calendar days after the date of the conference. If the director agrees that a surface mining permit is required and the person disagrees with that decision, the person may make a written request for a hearing before the commission at its next regular meeting. Such written request shall be filed within thirty calendar days after receipt of the director's written determination, except when the thirtieth day would be later than the date of the next regularly scheduled commission meeting, the written request shall be filed at least seven days prior to the commission meeting unless the director and the person filing the request mutually agree to place the matter on the commission's agenda for a later meeting. The commission shall issue a written determination as to whether a surface mining permit is required under this state's law within thirty calendar days after the hearing. The written determination may be appealed as provided under this chapter.

(2) Until a final written determination has been issued under the process established under subdivision (1) of this subsection, the person receiving a letter stating the reasons a mining permit is required may continue activity at the site in dispute. The commission may stay the director's determination. If the final written determination is that a permit is required, all fees otherwise provided by statute or rules of the commission shall apply. If the determination is that no permit is required, no permit fees shall be required by the director or the commission.

(3) The process set out in this subsection for determining whether a mining permit is required shall not be subject to the hearing requirements of section 444.789.

444.770. PERMIT REQUIRED, WHEN — RELEASE OF CERTAIN BONDS — COMPLAINTS, REQUIREMENTS. — 1. It shall be unlawful for any operator to engage in surface mining without first obtaining from the commission a permit to do so, in such form as is hereinafter provided, including any operator involved in any gravel mining operation where the annual tonnage of gravel mined by such operator is less than five thousand tons**, except as provided in subsection 2 of this section**.

2. **(1) A property owner or operator conducting gravel removal at the request of a property owner for the primary purpose of managing seasonal gravel accretion on property not used primarily for gravel mining, or a political subdivision who contracts with an operator for excavation to obtain sand and gravel material solely for the use of such political subdivision shall be exempt from obtaining a permit as required in subsection 1 of this section. Such gravel removal shall be conducted solely on the property owner's or political subdivision's property and shall be in accordance with department guidelines, rules, and regulations. The property owner shall notify the**

department before any person or operator conducts gravel removal from the property owner's property if the gravel is sold. Notification shall include the nature of the activity, name of the county and stream in which the site is located and the property owner's name. The property owner shall not be required to notify the department regarding any gravel removal at each site location for up to one year from the original notification regarding that site. The property owner shall renotify the department before any person or operator conducts gravel removal at any site after the expiration of one year from the previous notification regarding that site. At the time of each notification to the department, the department shall provide the property owner with a copy of the department's guidelines, rules, and regulations relevant to the activity reported. Said guidelines, rules and regulations may be transmitted either by mail or via the Internet.

(2) The annual tonnage of gravel mined by such property owner or operator conducting gravel removal at the request of a property owner shall be less than two thousand tons, with a site limitation of one thousand tons annually. Any operator conducting gravel removal at the request of a property owner that has removed two thousand tons of sand and gravel material within one calendar year shall have a watershed management practice plan approved by the commission in order to remove any future sand or gravel material the remainder of the calendar year. The application for approval shall be accompanied by an application fee equivalent to the fee paid under section 444.772 and shall contain the name of the watershed from which the operator will be conducting sand and gravel removal, the location within the watershed district that the sand and gravel will be removed, and the description of the vehicles and equipment used for removal. Upon approval of the watershed management practice plan, the department shall provide a copy of the relevant commission regulations to the operator.

(3) No property owner or operator conducting gravel removal at the request of a property owner for the primary purpose of managing seasonal gravel accretion on property not used primarily for gravel mining shall conduct gravel removal from any site located within a distance, to be determined by the commission and included in the guidelines, rules, and regulations given to the property owner at the time of notification, of any building, structure, highway, road, bridge, viaduct, water or sewer line, and pipeline or utility line.

3. Sections 444.760 to 444.790 shall apply only to those areas which are opened on or after January 1, 1972, or to the extended portion of affected areas extended after that date. The effective date of this section for minerals not previously covered under the provisions of sections 444.760 to 444.790 shall be August 28, 1990.

[3.**]** **4.** All surface mining operations where land is affected after September 28, 1971, which are under the control of any government agency whose regulations are equal to or greater than those imposed by section 444.774, are not subject to the further provisions of sections 444.760 to 444.790, except that such operations shall be registered with the land reclamation commission.

[4.**]** **5.** Any portion of a surface mining operation which is subject to the provisions of sections 260.200 to 260.245, RSMo, and the regulations promulgated thereunder, shall not be subject to the provisions of sections 444.760 to 444.790, and any bonds or portions thereof applicable to such operations shall be promptly released by the commission, and the associated permits canceled by the commission upon presentation to it of satisfactory evidence that the operator has received a permit pursuant to section 260.205, RSMo, and the regulations promulgated thereunder. Any land reclamation bond associated with such released permits shall be retained by the commission until presentation to the commission of satisfactory evidence that:

(1) The operator has complied with sections 260.226 and 260.227, RSMo, and the regulations promulgated thereunder, pertaining to closure and postclosure plans and financial assurance instruments; and

(2) The operator has commenced operation of the solid waste disposal area or sanitary landfill as those terms are defined in chapter 260, RSMo.

[5.**]** **6.** Notwithstanding the provisions of subsection 1 of this section, any political subdivision which uses its own personnel and equipment or any private individual for personal use may conduct in-stream gravel operations without obtaining from the commission a permit to conduct such an activity.

7. Any person filing a complaint of an alleged violation of this section, with the department, shall identify themself by name and telephone number, provide the date and location of the violation, and provide adequate information, as determined by the department, that there has been a violation. Any records, statements, or communications submitted by any person to the department relevant to the complaint shall remain confidential and used solely by the department to investigate such alleged violation.

444.774. RECLAMATION REQUIREMENTS AND CONDITIONS. — 1. Every operator to whom a permit is issued pursuant to the provisions of sections 444.760 to 444.790 may engage in surface mining upon the lands described in the permit upon the performance of and subject to the following requirements with respect to such lands:

(1) All ridges and peaks of overburden created by surface mining, except areas meeting the qualifications of subdivision (4) of this subsection, or where washing, cleaning or retaining ponds and reservoirs may be formed under subdivision (2) of this subsection, shall be graded to a rolling topography traversable by farm machinery, but such slopes need not be reduced to less than the original grade of that area prior to mining, and the slope of the ridge of overburden resulting from a box cut need not be reduced to less than twenty-five degrees from horizontal whenever the same cannot be practically incorporated into the land reclaimed for wildlife purposes pursuant to subdivision (4) of this subsection. In surface mining the operator shall remove all debris and materials not allowed by the reclamation plan before the bond or any portion thereof may be released;

(2) As a means of controlling damaging erosion, the director may require the operator to construct terraces or use such other measures and techniques as are necessary to control soil erosion and siltation on reclaimed land. Such erosion control measures and techniques may also be required on overburden stockpiles if the erosion is causing environmental damage outside the permit area. In determining the grading requirements to restore barite pit areas, the sidewalls of the excavation shall be graded to a point where it blends with the surrounding countryside, but in no case should the contour be such that erosion and siltation be increased;

(3) In the surface mining of tar sands, the operator shall recover and collect all spent sands and other refuse yielded from the processing of tar sands, whether such spent sands and refuse are produced at the surface mine or elsewhere, in the manner prescribed by the commission as conditions of the permit, and shall finally dispose of such spent sands and refuse in the manner prescribed by the commission as conditions of the permit and in accordance with the provisions of sections 444.760 to 444.790;

(4) Up to and including twenty-five percent of the total acreage to be reclaimed each year need not be graded to a rolling topography if the land is reclaimed for wildlife purposes as required by the commission, except that all peaks and ridges shall be leveled off to a minimum width of thirty feet or one-half the diameter of the base of the pile at the original ground surface whichever is less;

(5) Surface mining operations that remove and do not replace the lateral support shall not, unless mutually agreed upon by the operator and the adjacent property owner, remove the lateral support in the vicinity of any established right-of-way line of any public road, street or highway closer than a distance equal to twenty-five feet plus one and one-half times the depth of the unconsolidated material from such right-of-way line to the beginning of the excavation; except that, unless granted a variance by the commission, the minimum distance is fifty feet. The

provisions of this subdivision shall apply to all existing surface mining operations beginning August 28, 1990, except as provided in subsection **[**2**]** **3** of section 444.770;

(6) If surface mining is or has been conducted up to the minimum distance as defined in subdivision (5) of this subsection along an established right-of-way line of any public road, street or highway, a barrier or berm of adequate height shall be placed or constructed along the perimeter of the excavation. Adequate height shall mean a height of no less than three feet. Such barriers or berms shall not be required if barriers, berms or guardrails already exist on the adjoining right-of-way. Barriers or berms of adequate height may also be required by the commission when surface mining is or has been conducted up to the minimum distance as defined in subdivision (5) of this subsection along other property lines, but only as necessary to mitigate serious and obvious threats to public safety;

(7) The operator may construct earth dams to form lakes in pits resulting from the final cut in a mining area; except that, the formation of the lakes shall not interfere with underground or other mining operations or damage adjoining property and shall comply with the requirements of subdivision (8) of this subsection;

(8) The operator shall cover the exposed face of a mineral seam where acid-forming materials are present, to a depth of not less than two feet with earth that will support plant life or with a permanent water impoundment, terraced or otherwise so constructed as to prevent a constant inflow of water from any stream and to prevent surface water from flowing into such impoundment in such amounts as will cause runoff or spillage from said impoundment in a volume which will cause kills of fish or animals downstream. The operator shall cover an exposed deposit of tar sands, including an exposed face thereof, to a depth of not less than two feet with earth that will support plant life, and in addition may cover such deposit or face with a permanent water impoundment as provided above; however, no water impoundment shall be so constructed as to allow a permanent layer of oil or other hydrocarbon to collect on the surface of such impoundment in an amount which will adversely affect fish, wildfowl and other wildlife in or upon such impoundment;

(9) The operator shall reclaim all affected lands except as otherwise provided in sections 444.760 to 444.790. The operator shall determine on company-owned land, and with the landowners on leased land for leases that are entered into after August 28, 1990, which parts of the affected land shall be reclaimed for forest, pasture, crop, horticultural, homesite, recreational, industrial or other use including food, shelter, and ground cover for wildlife;

(10) The operator, with the approval of the commission, shall sow, set out or plant upon the affected land, seeds, plants, cuttings of trees, shrubs, grasses or legumes. The plantings or seedings shall be appropriate to the type of reclamation designated by the operator on company-owned land and with the owner on leased land for leases entered into after August 28, 1990, and shall be based upon sound agronomic and forestry principles;

(11) Surface mining operations conducted in the flood plains of streams and rivers, and subject to periodic flooding, may be exempt from the grading requirements contained in this section if it can be demonstrated to the commission that such operations will be unsafe to pursue or ineffective in achieving reclamation required in this section because of the periodic flooding;

(12) Such other requirements as the commission may prescribe by rule or regulation to conform with the purposes and requirements of sections 444.760 to 444.790.

2. An operator shall commence the reclamation of the area of land affected by its operation as soon as possible after the completion of surface mining of viable mineral reserves in any portion of the permit area in accordance with the plan of reclamation required by subsection 9 of section 444.772, the rules and regulations of the commission, and the conditions of the permit. Grading shall be completed within twelve months after mining of viable mineral reserves is complete in that portion of the permit area based on the operator's prior mining practices at that site. Mining shall not be deemed complete if the operator can provide credible evidence to the director that viable mineral reserves are present. The seeding and planting of supporting vegetation, as provided in the reclamation plan, shall be completed within twenty-four months

after with mining has been completed survival of such supporting vegetation by the second growing season.

3. With the approval of the director, the operator may substitute for all or any part of the affected land to be reclaimed, an equal number of acres of land previously mined and not reclaimed. If any area is so substituted the operator shall submit a map and reclamation plan of the substituted area, and this map and reclamation plan shall conform to all requirements with respect to other maps and reclamation plan required by section 444.772. The operator shall be relieved of all obligations pursuant to sections 444.760 to 444.790 with respect to the land for which substitution has been permitted. On leased land, the landowner shall grant written approval to the operator for substitutions made pursuant to this subsection.

4. The operator shall file a report with the commission within sixty days after the date of expiration of a permit stating the exact number of acres of land affected by the operation, the extent of the reclamation already accomplished, and such other information as may be required by the commission.

5. The operator shall ensure that all affected land where vegetation is to be reestablished is covered with enough topsoil or other approved material in order to provide a proper rooting medium. No topsoil or other approved material is required to be placed on areas described in subdivision (4) of subsection 1 of this section or on any areas to be reclaimed for industrial uses as specified in the reclamation plan.

6. The commission may grant such additional time for meeting with the completion dates required by sections 444.760 to 444.790 as are necessary due to an act of God, war, strike, riot, catastrophe, or other good cause shown.

Approved July 8, 2009

HB 247 [SS SCS HCS HB 247]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the requirements for collaborative practice arrangements between physicians and certain nurses and revises the definition of "eligible student" for the Nursing Student Loan Program

AN ACT to repeal sections 334.104 and 335.212, RSMo, and to enact in lieu thereof two new sections relating to nursing.

SECTION

A. Enacting clause.

334.104. Collaborative practice arrangements, form, contents, delegation of authority — rules, approval, restrictions — disciplinary actions — notice of collaborative practice or physician assistant agreements to board, when — certain nurses may provide anesthesia services, when — contract limitations.

335.212. Definitions.

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

SECTION A. ENACTING CLAUSE. — Sections 334.104 and 335.212, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 334.104 and 335.212, to read as follows:

334.104. COLLABORATIVE PRACTICE ARRANGEMENTS, FORM, CONTENTS, DELEGATION OF AUTHORITY — RULES, APPROVAL, RESTRICTIONS — DISCIPLINARY ACTIONS — NOTICE OF COLLABORATIVE PRACTICE OR PHYSICIAN ASSISTANT AGREEMENTS TO BOARD, WHEN

— CERTAIN NURSES MAY PROVIDE ANESTHESIA SERVICES, WHEN — CONTRACT LIMITATIONS. — 1. A physician may enter into collaborative practice arrangements with registered professional nurses. Collaborative practice arrangements shall be in the form of written agreements, jointly agreed-upon protocols, or standing orders for the delivery of health care services. Collaborative practice arrangements, which shall be in writing, may delegate to a registered professional nurse the authority to administer or dispense drugs and provide treatment as long as the delivery of such health care services is within the scope of practice of the registered professional nurse and is consistent with that nurse's skill, training and competence.

2. Collaborative practice arrangements, which shall be in writing, may delegate to a registered professional nurse the authority to administer, dispense or prescribe drugs and provide treatment if the registered professional nurse is an advanced practice nurse as defined in subdivision (2) of section 335.016, RSMo. Collaborative practice arrangements may delegate to an advanced practice registered nurse, as defined in section 335.016, RSMo, the authority to administer, dispense, or prescribe controlled substances listed in Schedules III, IV, and V of section 195.017, RSMo; except that, the collaborative practice arrangement shall not delegate the authority to administer any controlled substances listed in schedules III, IV, and V of section 195.017, RSMo, for the purpose of inducing sedation or general anesthesia for therapeutic, diagnostic, or surgical procedures. Schedule III narcotic controlled substance prescriptions shall be limited to a one hundred twenty-hour supply without refill. Such collaborative practice arrangements shall be in the form of written agreements, jointly agreed-upon protocols or standing orders for the delivery of health care services.

3. The written collaborative practice arrangement shall contain at least the following provisions:

(1) Complete names, home and business addresses, zip codes, and telephone numbers of the collaborating physician and the advanced practice registered nurse;

(2) A list of all other offices or locations besides those listed in subdivision (1) of this subsection where the collaborating physician authorized the advanced practice registered nurse to prescribe;

(3) A requirement that there shall be posted at every office where the advanced practice registered nurse is authorized to prescribe, in collaboration with a physician, a prominently displayed disclosure statement informing patients that they may be seen by an advanced practice registered nurse and have the right to see the collaborating physician;

(4) All specialty or board certifications of the collaborating physician and all certifications of the advanced practice registered nurse;

(5) The manner of collaboration between the collaborating physician and the advanced practice registered nurse, including how the collaborating physician and the advanced practice registered nurse will:

(a) Engage in collaborative practice consistent with each professional's skill, training, education, and competence;

(b) Maintain geographic proximity; and

(c) Provide coverage during absence, incapacity, infirmity, or emergency by the collaborating physician;

(6) A description of the advanced practice registered nurse's controlled substance prescriptive authority in collaboration with the physician, including a list of the controlled substances the physician authorizes the nurse to prescribe and documentation that it is consistent with each professional's education, knowledge, skill, and competence;

(7) A list of all other written practice agreements of the collaborating physician and the advanced practice registered nurse;

(8) The duration of the written practice agreement between the collaborating physician and the advanced practice registered nurse; **[**and**]**

(9) A description of the time and manner of the collaborating physician's review of the advanced practice registered nurse's **[**prescribing practices**]** **delivery of health care services**.

The description shall include provisions that the advanced practice registered nurse shall submit **[**documentation of**]** **a minimum of ten percent of the charts documenting** the advanced practice registered nurse's **[**prescribing practices**]** **delivery of health care services** to the collaborating physician **[**within**]** **for review every** fourteen days**[**. The documentation shall include, but not be limited to, a random sample review by the collaborating physician of at least twenty percent of the charts and medications prescribed.**] ; and**

(10) The collaborating physician shall review every fourteen days a minimum of twenty percent of the charts in which the advanced practice registered nurse prescribes controlled substances. The charts reviewed under this subdivision may be counted in the number of charts required to be reviewed under subdivision (9) of this subsection.

4. The state board of registration for the healing arts pursuant to section 334.125 and the board of nursing pursuant to section 335.036, RSMo, may jointly promulgate rules regulating the use of collaborative practice arrangements. Such rules shall be limited to specifying geographic areas to be covered, the methods of treatment that may be covered by collaborative practice arrangements and the requirements for review of services provided pursuant to collaborative practice arrangements including delegating authority to prescribe controlled substances. Any rules relating to dispensing or distribution of medications or devices by prescription or prescription drug orders under this section shall be subject to the approval of the state board of pharmacy. Any rules relating to dispensing or distribution of controlled substances by prescription or prescription drug orders under this section shall be subject to the approval of the department of health and senior services and the state board of pharmacy. In order to take effect, such rules shall be approved by a majority vote of a quorum of each board. Neither the state board of registration for the healing arts nor the board of nursing may separately promulgate rules relating to collaborative practice arrangements. Such jointly promulgated rules shall be consistent with guidelines for federally funded clinics. The rulemaking authority granted in this subsection shall not extend to collaborative practice arrangements of hospital employees providing inpatient care within hospitals as defined pursuant to chapter 197, RSMo**, or population-based public health services as defined by 20 CSR 2150-5.100 as of April 30, 2008**.

5. The state board of registration for the healing arts shall not deny, revoke, suspend or otherwise take disciplinary action against a physician for health care services delegated to a registered professional nurse provided the provisions of this section and the rules promulgated thereunder are satisfied. Upon the written request of a physician subject to a disciplinary action imposed as a result of an agreement between a physician and a registered professional nurse or registered physician assistant, whether written or not, prior to August 28, 1993, all records of such disciplinary licensure action and all records pertaining to the filing, investigation or review of an alleged violation of this chapter incurred as a result of such an agreement shall be removed from the records of the state board of registration for the healing arts and the division of professional registration and shall not be disclosed to any public or private entity seeking such information from the board or the division. The state board of registration for the healing arts shall take action to correct reports of alleged violations and disciplinary actions as described in this section which have been submitted to the National Practitioner Data Bank. In subsequent applications or representations relating to his medical practice, a physician completing forms or documents shall not be required to report any actions of the state board of registration for the healing arts for which the records are subject to removal under this section.

6. Within thirty days of any change and on each renewal, the state board of registration for the healing arts shall require every physician to identify whether the physician is engaged in any collaborative practice agreement, including collaborative practice agreements delegating the authority to prescribe controlled substances, or physician assistant agreement and also report to the board the name of each licensed professional with whom the physician has entered into such agreement. The board may make this information available to the public. The board shall track

the reported information and may routinely conduct random reviews of such agreements to ensure that agreements are carried out for compliance under this chapter.

7. Notwithstanding any law to the contrary, a certified registered nurse anesthetist as defined in subdivision (8) of section 335.016, RSMo, shall be permitted to provide anesthesia services without a collaborative practice arrangement provided that he or she is under the supervision of an anesthesiologist or other physician, dentist, or podiatrist who is immediately available if needed. Nothing in this subsection shall be construed to prohibit or prevent a certified registered nurse anesthetist as defined in subdivision (8) of section 335.016, RSMo, from entering into a collaborative practice arrangement under this section, except that the collaborative practice arrangement may not delegate the authority to prescribe any controlled substances listed in Schedules III, IV, and V of section 195.017, RSMo.

8. A collaborating physician shall not enter into a collaborative practice arrangement with more than three full-time equivalent advanced practice registered nurses. This limitation shall not apply to collaborative arrangements of hospital employees providing inpatient care service in hospitals as defined in chapter 197, RSMo, or population-based public health services as defined by 20 CSR 2150-5.100 as of April 30, 2008.

9. It is the responsibility of the collaborating physician to determine and document the completion of at least a one-month period of time during which the advanced practice registered nurse shall practice with the collaborating physician continuously present before practicing in a setting where the collaborating physician is not continuously present. This limitation shall not apply to collaborative arrangements of providers of population-based public health services as defined by 20 CSR 2150-5.100 as of April 30, 2008.

10. No agreement made under this section shall supersede current hospital licensing regulations governing hospital medication orders under protocols or standing orders for the purpose of delivering inpatient or emergency care within a hospital as defined in section 197.020, RSMo, if such protocols or standing orders have been approved by the hospital's medical staff and pharmaceutical therapeutics committee.

11. No contract or other agreement shall require a physician to act as a collaborating physician for an advanced practice registered nurse against the physician's will. A physician shall have the right to refuse to act as a collaborating physician, without penalty, for a particular advanced practice registered nurse. No contract or other agreement shall limit the collaborating physician's ultimate authority over any protocols or standing orders or in the delegation of the physician's authority to any advanced practice registered nurse, but this requirement shall not authorize a physician in implementing such protocols, standing orders, or delegation to violate applicable standards for safe medical practice established by hospital's medical staff.

12. No contract or other agreement shall require any advanced practice registered nurse to serve as a collaborating advanced practice registered nurse for any collaborating physician against the advanced practice registered nurse's will. An advanced practice registered nurse shall have the right to refuse to collaborate, without penalty, with a particular physician.

335.212. DEFINITIONS. — As used in sections 335.212 to 335.242, the following terms mean:

(1) "Board", the Missouri state board of nursing;

(2) "Department", the Missouri department of health and senior services;

(3) "Director", director of the Missouri department of health and senior services;

(4) "Eligible student", a resident who has been accepted as a full-time student in a formal course of instruction leading to an associate degree, a diploma, a bachelor of science, **[**or**]** a master of science in nursing **[**or leading to the completion of educational requirements for a licensed practical nurse**]** **(M.S.N.), a doctorate in nursing (Ph.D. or D.N.P.), or a student with a master of science in nursing seeking a doctorate in education (Ed.D.), or leading to the completion of educational requirements for a licensed practical nurse. The doctoral applicant may be a part-time student**;

(5) "Participating school", an institution within this state which is approved by the board for participation in the professional and practical nursing student loan program established by sections 335.212 to 335.242, having a nursing department and offering a course of instruction based on nursing theory and clinical nursing experience;

(6) "Qualified applicant", an eligible student approved by the board for participation in the professional and practical nursing student loan program established by sections 335.212 to 335.242;

(7) "Qualified employment", employment on a full-time basis in Missouri in a position requiring licensure as a licensed practical nurse or registered professional nurse in any hospital as defined in section 197.020, RSMo, or in any agency, institution, or organization located in an area of need as determined by the department of health and senior services. Any forgiveness of such principal and interest for any qualified applicant engaged in qualified employment on a less than full-time basis may be prorated to reflect the amounts provided in this section;

(8) "Resident", any person who has lived in this state for one or more years for any purpose other than the attending of an educational institution located within this state.

Approved July 9, 2009

HB 250 [SCS HCS HB 250]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding the use of land

AN ACT to repeal section 278.070, RSMo, and to enact in lieu thereof two new sections relating to use of land, with an emergency clause for a certain section.

SECTION
A. Enacting clause.
8.890. Access to public land for horse and mule use, no denial on certain trails and roads, exception.
278.070. Definitions.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Section 278.070, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 8.890 and 278.070, to read as follows:

8.890. ACCESS TO PUBLIC LAND FOR HORSE AND MULE USE, NO DENIAL ON CERTAIN TRAILS AND ROADS, EXCEPTION. — Access to public land owned, managed, or funded by the state of Missouri for horse and mule use shall not be denied on trails and roads that are currently designated by the state as land upon which horses or mules can be ridden, except that access can be denied where conditions are not suitable because of public safety concerns, necessary maintenance, or for reasons related to the mission of the agency that owns or manages the land so long as a written statement is posted at the trailhead stating the cause and estimated duration of the closure. Nothing in this section shall cause horses or mules to be excluded from inclusion in the development of new trails on Missouri public lands.

278.070. DEFINITIONS. — As used in sections 278.060 to 278.300, the following words and terms mean:

(1) "Board of soil and water district supervisors" or "soil and water supervisors", the local governing body of a soil and water district, elected or appointed in accordance with the provisions of this law;

(2) "Land representative", the owner or representative authorized by power of attorney of any farm lying within any area proposed to be established, and subsequently established, as a soil and water district under the provisions of this law, and for the purposes of **[**this law**]** **sections 278.060 to 278.155** each such farm shall be entitled to representation by a land representative; provided, however, that any land representative must be a taxpayer of the county within which the soil and water district is located;

(3) "Landowner", any person, firm or corporation who holds title to any lands lying within a district organized or to be organized under the provisions of this chapter. Any landowner may be represented by notarized proxy not more than one year old;

(4) "Soil and water conservation cost-share program", a state-funded incentive program designed for the purpose of saving the soil **and protecting the water resources** of the state **[**through erosion control and abatement**]** **to preserve the productive power of Missouri agricultural land**;

(5) "Soil and water conservation district" or "soil and water district", a county or one or more of its townships wherein a project for saving the soil and water has been established with the authority and duty and subject to the restrictions herein set forth; and in establishing a soil and water district, if the proposed area is less than the area of the county which contains it, but greater than the area of one township, the additional township or townships to be included in such soil and water district need not be contiguous with the first township or with one another, but there shall be only one soil and water district within the boundaries of the same county; and any farm intersected by a soil and water district boundary shall be considered as lying within that district for purposes of soil and water conservation by that district, except that the soil and water conservation of a farm which lies partly within one soil and water district and partly within another shall be considered the duty of the soil and water district in which the home buildings of such farm are located;

(6) "State soil and water districts commission" or "soil and water commission", the agency created by section 278.080 for the administration of the soil and water conservation districts provided for by **[**this law**]** **sections 278.060 to 278.155**;

(7) "Subdistrict", "watershed", or "watershed district", as used in sections 278.160 to 278.300, a watershed district, with the exception of section 278.160, whereby subdistrict is specifically used to describe the relationship to an established soil and water conservation district or districts that may be established as a watershed district;

(8) "Township", municipal township and not congressional or survey township.

SECTION B. EMERGENCY CLAUSE. — Because of the need to preserve the productive power of Missouri agricultural land, the repeal and reenactment of section 278.070 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 the repeal and reenactment of section 278.070 of this act shall be in full force and effect upon its passage and approval.

Approved June 26, 2009

HB 253 [HB 253]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Allows motorcycle headlamps to be wired to modulate either the upper beam or lower beam from its maximum intensity to lesser intensity and establishes modulation standards

AN ACT to amend chapter 307, RSMo, by adding thereto one new section relating to motorcycle headlight modulators.

SECTION
A. Enacting clause.
307.128. Motorcycle headlamp modulation permitted, when — labeling requirements.

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

SECTION A. ENACTING CLAUSE. — Chapter 307, RSMo, is amended by adding thereto one new section, to be known as section 307.128, to read as follows:

307.128. MOTORCYCLE HEADLAMP MODULATION PERMITTED, WHEN — LABELING REQUIREMENTS. — 1. A headlamp on a motorcycle may be wired to modulate either the upper beam or the lower beam from its maximum intensity to a lesser intensity provided that:

(1) The rate of modulation shall be two hundred forty plus or minus forty cycles per minute;

(2) The headlamp shall be operated at a maximum power for fifty to seventy percent of each cycle;

(3) The lowest intensity at any test point shall not be less than seventeen percent of the maximum intensity measured at the same point;

(4) The modulator switch shall be wired in the power lead of the beam filament being modulated and not in the ground side of the circuit;

(5) Means shall be provided so that both the lower beam and the upper beam remain operable in the event of a modulation failure;

(6) The system shall include a sensor mounted with the axis of its sensing element perpendicular to a horizontal plane. Headlamp modulation shall cease whenever the level of light emitted by a tungsten filament operating at three thousand degrees kelvin is either less than two hundred seventy lux of direct light for upward pointing sensors or less than sixty lux of reflected light for downward pointing sensors. The light is measured by a silicon cell type light meter that is located at the sensor and pointing in the same direction as the sensor. A photo gray card is placed at ground level to simulate the road surface in testing downward pointing sensors;

(7) Means shall be provided so that both the lower and upper beam function at design voltage when the headlamp control switch is in either the lower or upper beam position when the modulator is off.

2. Each motorcycle headlamp modulator not intended as original equipment, or its container, shall be labeled with the maximum wattage, and the minimum wattage appropriate for its use. Additionally, each such modulator shall comply with the provisions of subdivisions (1) to (7) of subsection 1 of this section when connected to a headlamp of the maximum rated power and headlamp of the minimum rated power, and shall provide means so that the modulated beam functions at design voltage when the modulator is off. Instructions, with a diagram, shall be provided for mounting the light sensor including location on the motorcycle, distance above the road surface, and orientation with respect to the light.

Approved July 7, 2009

HB 257 [SCS HB 257]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Allows Lincoln County to become a second classification county upon reaching the required assessed valuation and approval from the governing body

AN ACT to repeal section 48.030, RSMo, and to enact in lieu thereof one new section relating to counties changing classification.

SECTION
A. Enacting clause.
48.030. Change in classification, how, when effective.

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

SECTION A. ENACTING CLAUSE. — Section 48.030, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 48.030, to read as follows:

48.030. CHANGE IN CLASSIFICATION, HOW, WHEN EFFECTIVE. — 1. Other than as otherwise provided for in this section, after September 28, 1979, no county shall move from a lower class to a higher class or from a higher class to a lower class until the assessed valuation of the county is such as to place it in the other class for five successive years.

2. No second class county shall become a third class county until the assessed valuation of the county is such as to place it in the third class for at least five successive years **[**and until the assessed valuations for calendar year 1985 have been entered on the tax rolls of each county in accordance with subsections 6 and 7 of section 137.115, RSMo**]**.

3. Notwithstanding the provisions of subsection 1 of this section, a county may become a first class county at any time after the assessed valuation of the county is such as to be a first class county and the governing body of the county elects to change classifications. The effective date of such change of classification shall be in accordance with the provisions of this section.

4. **Notwithstanding the provisions of subsection 1 of this section, any county of the third classification without a township form of government and with more than thirty-eight thousand nine hundred but fewer than thirty-nine thousand inhabitants may become a second class county at any time after the assessed valuation of the county is such as to be a second class county and the governing body of the county elects to change classifications. The effective date of such change of classification shall be at the beginning of the county fiscal year following the election by the governing body of the county.**

5. Except as provided in subsection 4 of this section, the change from one classification to another shall become effective at the beginning of the county fiscal year following the next general election after the certification by the state equalizing agency for the required number of successive years that the county possesses an assessed valuation placing it in another class. If a general election is held between the date of the certification and the end of the current fiscal year, the change of classification shall not become effective until the beginning of the county fiscal year following the next succeeding general election.

Approved July 8, 2009

HB 265 [CCS SCS HCS HB 265]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding the Public School Retirement System of Missouri and the Public Employee Retirement System of Missouri

AN ACT to repeal sections 169.020, 169.040, 169.056, 169.070, 169.073, 169.075, 169.090, 169.130, 169.630, 169.650, 169.655, 169.670, and 169.690, RSMo, and to enact in lieu thereof fourteen new sections relating to teacher and school employee retirement systems.

SECTION

A. Enacting clause.
169.020. System created, what districts included — trustees, appointment, terms, qualifications, election, duties — venue — state auditor to review audit, when — interest.
169.040. Funds of retirement system, how invested — delegation of investment authority — investments, manner of making, form — designated depository — electronic funds transfer required — closed meetings authorized, when.
169.056. Private school, defined — membership credit for service in private school, purchase, payment, requirements.
169.070. Retirement allowances, how computed, election allowed, time period — options — effect of federal O.A.S.I. coverage — cost-of-living adjustment authorized — limitation of benefits — employment of special consultant, compensation, minimum benefits.
169.073. Partial lump sum distribution, when — options — calculation for changes in distribution amount — death, effect of.
169.075. Survivors' benefits, options — purchase of prior service credits for previous service in another Missouri public school retirement system, cost — monthly retirement allowance — special consultant qualification, compensation, duties — death prior to receipt of total accumulated benefits, effect of.
169.090. Funds not subject to execution, garnishment, attachment.
169.130. Teachers at state institutions prior to August 13, 1986, to be members — teachers employed by teachers' association to be members — contributions.
169.630. Funds of system, how invested, how accounted for — bank or trust company to serve as depository and intermediary in investment of funds — title to securities, form — electronic funds transfer — closed meetings authorized, when.
169.650. Membership — prior service credit — reinstatement — procedure.
169.655. Purchase of membership credit for service to organization supporting education or research — limitations, requirements — transfer of funds.
169.670. Benefits, how computed — beneficiary benefits, options, election of.
169.690. Funds not subject to execution, garnishment, attachment.
169.750. Indemnification permitted, when — insurance or indemnity policies authorized.

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

SECTION A. ENACTING CLAUSE. — Sections 169.020, 169.040, 169.056, 169.070, 169.073, 169.075, 169.090, 169.130, 169.630, 169.650, 169.655, 169.670, and 169.690, RSMo, are repealed and fourteen new sections enacted in lieu thereof, to be known as sections 169.020, 169.040, 169.056, 169.070, 169.073, 169.075, 169.090, 169.130, 169.630, 169.650, 169.655, 169.670, 169.690, and 169.750, to read as follows:

169.020. SYSTEM CREATED, WHAT DISTRICTS INCLUDED — TRUSTEES, APPOINTMENT, TERMS, QUALIFICATIONS, ELECTION, DUTIES — VENUE — STATE AUDITOR TO REVIEW AUDIT, WHEN — INTEREST. — 1. For the purpose of providing retirement allowances and other benefits for public school teachers, there is hereby created and established a retirement system which shall be a body corporate, shall be under the management of a board of trustees herein described, and shall be known as "The Public School Retirement System of Missouri". Such system shall, by and in such name, sue and be sued, transact all of its business, invest all of its funds, and hold all of its cash, securities, and other property. The system so created shall include all school districts in this state, except those in cities that had populations of four hundred

thousand or more according to the latest United States decennial census, and such others as are or hereafter may be included in a similar system or in similar systems established by law and made operative; provided, that teachers in school districts of more than four hundred thousand inhabitants who are or may become members of a local retirement system may become members of this system with the same legal benefits as accrue to present members of such state system on the terms and under the conditions provided for in section 169.021. The system hereby established shall begin operations on the first day of July next following the date upon which sections 169.010 to 169.130 shall take effect.

2. The general administration and the responsibility for the proper operation of the retirement system and for making effective the provisions of sections 169.010 to 169.141 are hereby vested in a board of trustees of seven persons as follows: four persons to be elected as trustees by the members and retired members of the public school retirement system created by sections 169.010 to 169.141 and the public education employee retirement system created by sections 169.600 to 169.715; and three members appointed by the governor with the advice and consent of the senate. The first member appointed by the governor shall replace the commissioner of education for a term beginning August 28, 1998. The other two members shall be appointed by the governor at the time each member's, who was appointed by the state board of education, term expires.

3. Trustees appointed and elected shall be chosen for terms of four years from the first day of July next following their appointment or election, except that one of the elected trustees shall be a member of the public education employee retirement system and shall be initially elected for a term of three years from July 1, 1991. The initial term of one other elected trustee shall commence on July 1, 1992.

4. Trustees appointed by the governor shall be residents of school districts included in the retirement system, but not employees of such districts or a state employee or a state elected official. At least one trustee so appointed shall be a retired member of the public school retirement system or the public education employee retirement system. Three elected trustees shall be members of the public school retirement system and one elected trustee shall be a member of the public education employee retirement system.

5. The elections of the trustees shall be arranged for, managed and conducted by the board of trustees of the retirement system.

6. If a vacancy occurs in the office of trustee, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled.

7. Trustees of the retirement system shall serve without compensation but they shall be reimbursed for expenses necessarily incurred through service on the board of trustees.

8. Each trustee shall be commissioned by the governor, and before entering upon the duties of the trustee's office, shall take and subscribe to an oath or affirmation to support the Constitution of the United States, and of the state of Missouri and to demean himself or herself faithfully in the trustee's office. Such oath as subscribed to shall be filed in the office of secretary of state of this state.

9. Each trustee shall be entitled to one vote in the board of trustees. Four votes shall be necessary for a decision by the trustees at any meeting of the board of trustees. Unless otherwise expressly provided herein, a meeting need not be called or held to make any decision on a matter before the board. Each member must be sent by the executive director a copy of the matter to be decided with full information from the files of the board of trustees. The unanimous decision of four trustees may decide the issue by signing a document declaring their decision and sending such written instrument to the executive director of the board, provided that no other member of the board of trustees shall send a dissenting decision to the executive director of the board within fifteen days after such document and information was mailed to the trustee. If any member is not in agreement with four members the matter is to be passed on at a regular board meeting or a special meeting called for the purpose.

10. The board of trustees shall elect one of their number as chairman, and shall employ a full-time executive director, not one of their number, who shall be the executive officer of the board. Other employees of the board shall be chosen only upon the recommendation of the executive director.

11. The board of trustees shall employ an actuary who shall be its technical advisor on matters regarding the operation of the retirement system, and shall perform such duties as are essential in connection therewith, including the recommendation for adoption by the board of mortality and other necessary tables, and the recommendation of the level rate of contributions required for operation of the system.

12. As soon as practicable after the establishment of the retirement system, and annually thereafter, the actuary shall make a valuation of the system's assets and liabilities on the basis of such tables as have been adopted.

13. At least once in the three-year period following the establishment of the retirement system, and in each five-year period thereafter, the board of trustees shall cause to be made an actuarial investigation into the mortality, service, and compensation experience of the members and beneficiaries of the system, and shall make any changes in the mortality, service, and other tables then in use which the results of the investigation show to be necessary.

14. Subject to the limitations of sections 169.010 to 169.141 and 169.600 to 169.715, the board of trustees shall formulate and adopt rules and regulations for the government of its own proceedings and for the administration of the retirement system.

15. The board of trustees shall determine and decide all questions of doubt as to what constitutes employment within the meaning of sections 169.010 to 169.141 and 169.600 to 169.715, the amount of benefits to be paid to members, retired members, beneficiaries and survivors and the amount of contributions to be paid by employer and employee. The executive director shall notify by certified mail both employer and member, retired member, beneficiary or survivor interested in such determination. Any member, retired member, beneficiary or survivor, district or employer adversely affected by such determination, at any time within thirty days after being notified of such determination, may appeal to the circuit court of Cole County. Such appeal shall be tried and determined anew in the circuit court and such court shall hear and consider any and all competent testimony relative to the issues in the case, which may be offered by either party thereto. The circuit court shall determine the rights of the parties under sections 169.010 to 169.141 and 169.600 to 169.715 using the same standard provided in section 536.150, RSMo, and the judgment or order of such circuit court shall be binding upon the parties and the board shall carry out such judgment or order unless an appeal is taken from such decision of the circuit court. Appeals may be had from the circuit court by the employer, member, retired member, beneficiary, survivor or the board, in the manner provided by the civil code.

16. The board of trustees shall keep a record of all its proceedings, which shall be open to public inspection. It shall prepare annually a comprehensive annual financial report, the financial section of which shall be prepared in accordance with applicable accounting standards and shall include the independent auditor's opinion letter. The report shall also include information on the actuarial status and the investments of the system. The reports shall be preserved by the executive director and made available for public inspection.

17. The board of trustees shall provide for the maintenance of an individual account with each member, setting forth such data as may be necessary for a ready determination of the member's earnings, contributions, and interest accumulations. It shall also collect and keep in convenient form such data as shall be necessary for the preparation of the required mortality and service tables and for the compilation of such other information as shall be required for the valuation of the system's assets and liabilities. All individually identifiable information pertaining to members, retirees, beneficiaries and survivors shall be confidential.

18. The board of trustees shall meet regularly at least twice each year, with the dates of such meetings to be designated in the rules and regulations adopted by the board. Such other

meetings as are deemed necessary may be called by the chairman of the board or by any four members acting jointly.

19. The headquarters of the retirement system shall be in Jefferson City, where suitable office space, utilities and other services and equipment necessary for the operation of the system shall be provided by the board of trustees and all costs shall be paid from funds of the system. All suits **[**in which**]** **or proceedings directly or indirectly against** the board of trustees, the board's members or employees or the retirement system established by sections 169.010 to 169.141 or 169.600 to 169.715 **[**are parties**]** shall be brought in Cole County.

20. The board may appoint an attorney or firm of attorneys to be the legal advisor to the board and to represent the board in legal proceedings, however, if the board does not make such an appointment, the attorney general shall be the legal advisor of the board of trustees, and shall represent the board in all legal proceedings.

21. The board of trustees shall arrange for adequate surety bonds covering the executive director. When approved by the board, such bonds shall be deposited in the office of the secretary of state of this state.

22. The board shall arrange for annual audits of the records and accounts of the system by a firm of certified public accountants, the state auditor shall review the audit of the records and accounts of the system at least once every three years and shall report the results to the board of trustees and the governor.

23. The board by its rules may establish an interest charge to be paid by the employer on any payments of contributions which are delinquent. The rate charged shall not exceed the actuarially assumed rate of return on invested funds of the pertinent system.

169.040. FUNDS OF RETIREMENT SYSTEM, HOW INVESTED — DELEGATION OF INVESTMENT AUTHORITY — INVESTMENTS, MANNER OF MAKING, FORM — DESIGNATED DEPOSITORY — ELECTRONIC FUNDS TRANSFER REQUIRED — CLOSED MEETINGS AUTHORIZED, WHEN. — 1. All funds arising from the operation of sections 169.010 to 169.141 shall belong to the retirement system herein created and shall be controlled by the board of trustees of that system which board shall provide for the collection of such funds, shall see that they are safely preserved, and shall permit their disbursement only for the purposes herein authorized. Such funds and all other funds received by the retirement system are declared and shall be deemed to be the moneys and funds of the retirement system and not revenue collected or moneys received by the state and shall not be commingled with state funds.

2. The board shall invest all funds under its control which are in excess of a safe operating balance. The funds shall be invested only in those investments which a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims, as provided in section 105.688, RSMo. The board of trustees may delegate to duly appointed investment counselors authority to act in place of the board in the investment and reinvestment of all or part of the moneys of the system, and may also delegate to such counselors the authority to act in place of the board in the holding, purchasing, selling, assigning, transferring or disposing of any or all of the securities and investments in which such moneys shall have been invested, as well as the proceeds of such investments and such moneys. Such investment counselors shall be registered as investment advisors with the United States Securities and Exchange Commission. In exercising or delegating its investment powers and authority, members of the board shall exercise ordinary business care and prudence under the facts and circumstances prevailing at the time of the action or decision. No member of the board shall be liable for any action taken or omitted with respect to the exercise of, or delegation of, these powers and authority if such member shall have discharged the duties of his or her position in good faith and with that degree of diligence, care and skill which a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims.

3. **Notwithstanding the provisions of section 105.662, RSMo, the board may set up and maintain a public school and education employee retirement systems of Missouri investment fund account in which investment and reinvestment of all or part of the moneys of the system may be placed and be available for investment purposes. For the purpose of investing the funds of the retirement system, the funds may be combined with the funds of the public education employee retirement system of Missouri, but the funds of each system shall be accounted for separately and for all other reporting purposes shall be separate. The board of trustees may promulgate such rules and regulations consistent with the provisions of sections 169.040 and 169.630 as deemed necessary for its proper administration, pursuant to the provisions of this section and this chapter. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.**

4. No investment transaction authorized by the board shall be handled by any company or firm in which a member of the board has an interest, nor shall any member of the board profit directly or indirectly from any such investment. All investments shall be made for the account of the retirement system, and any securities or other properties obtained by the board of trustees may be held by a custodian in the name of the retirement system, or in the name of a nominee in order to facilitate the expeditious transfer of such securities or other property. Such securities or other properties which are not available in registered form may be held in bearer form or in book entry form. The retirement system is further authorized to deposit, or have deposited for its account, eligible securities in a central depository system or clearing corporation or in a federal reserve bank under a book entry system as defined in the Uniform Commercial Code, sections 400.8-102 and 400.8-109, RSMo. When such eligible securities of the retirement system are so deposited with a central depository system they may be merged and held in the name of the nominee of such securities depository and title to such securities may be transferred by bookkeeping entry on the books of such securities depository or federal reserve bank without physical delivery of the certificates or documents representing such securities.

[4.**]** **5.** With appropriate safeguards against loss by the system in any contingency, the board may designate a bank or trust company to serve as a depository of system funds and intermediary in the investment of those funds and payment of system obligations.

[5.**]** **6.** All retirement allowances or other periodic payments paid by the board shall be paid to recipients of such payments by electronic funds transfer, unless another method has been determined by the board to be appropriate. Each recipient of retirement allowances or other periodic payments shall designate a financial institution or other authorized payment agent and provide the board information necessary for the recipient to receive electronic funds transfer payments through the institution or agent designated. This subsection shall apply to retirement allowances and other periodic payments first paid on or after January 1, 1998, and shall apply to all retirement allowances and other periodic payments on and after January 1, 1999.

[6.**]** **7.** The board of trustees may deliberate about, or make tentative or final decisions on, investments or other financial matters in a closed meeting under chapter 610, RSMo, if disclosure of the deliberations or decisions would jeopardize the ability to implement a decision or to achieve investment objectives. A record of the retirement system that discloses deliberations about, or a tentative decision on, investments or other financial matters is not a public record under chapter 610, RSMo, to the extent and so long as its disclosure would jeopardize the ability to implement a decision or to achieve investment objectives.

169.056. PRIVATE SCHOOL, DEFINED — MEMBERSHIP CREDIT FOR SERVICE IN PRIVATE SCHOOL, PURCHASE, PAYMENT, REQUIREMENTS. — 1. Members who have accrued at least one year of membership service credit for employment in a position covered by this retirement system and who have covered employment with this retirement system following the service for which credit is being purchased may purchase membership service credit under the circumstances, terms and conditions provided in this section. With respect to each such purchase authorized by this section the following provisions apply:

(1) The purchase shall be effected by the member paying to the retirement system the amount the member would have contributed and the amount the employer would have contributed had such member been an employee for the number of years for which the member is electing to purchase credit, and had the member's compensation during such period been the highest annual salary rate on record with the retirement system on the date of election to purchase credit. For purposes of this section, "annual salary rate" means the annual salary rate for full-time service for the position of employment. The contribution rate used in determining the amount to be paid shall be the contribution rate in effect on the date of election to purchase credit. Notwithstanding the provisions of this subsection, for all elections to purchase credit received by the retirement system on or after January 1, 2006, the member shall receive credit based on the amount paid by the member for such credit and received by the retirement system by the close of business on June thirtieth of each year. In lieu of charging the member interest on such purchase of credit, the amount to be paid by the member for any remaining credit the member has elected to purchase but has not paid for by **[**June**]** **September** thirtieth of each year shall be recalculated on the following **[**July**]** **October** first using the contribution rate in effect on that July first and the highest salary of record for the member as of that July first. For all elections to purchase credit received by the retirement system prior to January 1, 2006, the retirement system shall determine the cost of such purchase using the calculation method in effect for elections to purchase credit received by the retirement system on or after January 1, 2006, provided that the member shall have a one-time, irrevocable option to continue to have the cost of such purchase be determined using the calculation method in effect at the time of such election to purchase such credit. To be effective, such option must be elected by the member on a form approved by the retirement system and such form must be received by the retirement system by the close of business on June 30, 2006. The retirement system **[**reserves the right to**]** **may prohibit a purchase, impose additional requirements for making a purchase, or** limit the amount of credit purchased **[**by the member in any year if the amounts paid by the member in that year would exceed any applicable contribution limits set forth in**]** **if necessary for the retirement system to comply with federal law, including but not limited to, the provisions of** Section 415 of Title 26 of the United States Code**. The board of trustees may promulgate such rules and regulations consistent with the provisions of this section deemed necessary for its proper administration, pursuant to the provisions of this section and this chapter. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void**;

(2) Membership service credit purchased pursuant to this section shall be deemed to be membership service in Missouri for purposes of subsection **[**7**]** **8** of section 169.070;

(3) An election to purchase membership service credit pursuant to this section and payment for the purchase shall be completed prior to termination of membership with the retirement system with interest on the unpaid balance;

(4) Members may purchase membership service credit in increments of one-tenth of a year, and multiple elections to purchase may be made;

(5) Additional terms and conditions applicable to purchase made pursuant to this section including, but not limited to, minimum payments, payment schedules and provisions applicable when a member fails to complete payment may be set by rules of the board.

2. Membership service credit shall not be allowed pursuant to this section or sections 169.570 and 169.577 which exceeds in length the member's membership service credit for employment in a position covered by this system, and in no event may the member receive membership service credit with both this system and another public retirement system for the same service.

3. A member who was employed for at least twenty hours per week on a regular basis by a public school district, public community college, public college, or public university, either inside or outside of this state, may elect to purchase equivalent membership service credit.

4. A member who has served in the armed forces of the United States of America and who was discharged or separated from the armed forces by other than a dishonorable discharge may elect to purchase membership service for the period of active duty service in the armed forces.

5. Any member granted unpaid maternity or paternity leave for a period, from a position covered by the retirement system, who returned to employment in such a position, may elect to purchase membership service credit for the period of leave.

6. Any member who is or was certified as a vocational-technical teacher on the basis of having a college degree or who was required to have a period of work experience of at least two years in the area of the subject being taught in order to qualify for such certification may, upon written application to the board, purchase equivalent membership service credit for such work experience which shall not exceed the two years necessary for certification if the work experience was in the area that the member taught or is teaching and was completed in two years.

7. Any member who had membership service credit with the public education employee retirement system of Missouri governed by sections 169.600 to 169.715 but which membership service credit was forfeited by withdrawal or refund may elect to purchase credit for such service. The public education employee retirement system of Missouri shall transfer to this system an amount equal to the employer contributions for the forfeited service being purchased, plus interest, which shall be applied to reduce the amount the member would otherwise pay for the purchase, provided that the amount transferred shall not exceed one-half of the purchase cost.

8. A member may elect to purchase membership service credit for service rendered while on leave from an employer, as defined in section 169.010, for a not-for-profit corporation or agency whose primary purpose is support of education or education research, if the member was employed by that organization to serve twenty or more hours per week on a regular basis.

9. A member who was employed by a private school, private community college, private college, or private university, either inside or outside of this state, for at least twenty hours per week on a regular basis, may elect to purchase equivalent membership service credit for such service rendered.

10. A member who was employed in nonfederal public employment for at least twenty hours a week on a regular basis shall be permitted to purchase equivalent creditable service in the retirement system for such employment subject to provisions of this section.

11. A member who, while eighteen years of age or older, was employed in a position covered by Social Security for at least twenty hours a week on a regular basis shall be permitted to purchase equivalent creditable service in the retirement system for such employment subject to provisions of this section.

169.070. RETIREMENT ALLOWANCES, HOW COMPUTED, ELECTION ALLOWED, TIME PERIOD — OPTIONS — EFFECT OF FEDERAL O.A.S.I. COVERAGE — COST-OF-LIVING ADJUSTMENT AUTHORIZED — LIMITATION OF BENEFITS — EMPLOYMENT OF SPECIAL

CONSULTANT, COMPENSATION, MINIMUM BENEFITS. — 1. The retirement allowance of a member whose age at retirement is sixty years or more and whose creditable service is five years or more, or whose sum of age and creditable service equals eighty years or more, or who has attained age fifty-five and whose creditable service is twenty-five years or more or whose creditable service is thirty years or more regardless of age, may be the sum of the following items, not to exceed one hundred percent of the member's final average salary:

(1) Two and five-tenths percent of the member's final average salary for each year of membership service;

(2) Six-tenths of the amount payable for a year of membership service for each year of prior service not exceeding thirty years. In lieu of the retirement allowance otherwise provided in subdivisions (1) and (2) of this subsection, a member may elect to receive a retirement allowance of:

(3) Between July 1, 1998, and July 1, 2013, two and four-tenths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-nine years or more but less than thirty years, and the member has not attained age fifty-five;

(4) Between July 1, 1998, and July 1, 2013, two and thirty-five-hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-eight years or more but less than twenty-nine years, and the member has not attained age fifty-five;

(5) Between July 1, 1998, and July 1, 2013, two and three-tenths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-seven years or more but less than twenty-eight years, and the member has not attained age fifty-five;

(6) Between July 1, 1998, and July 1, 2013, two and twenty-five-hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-six years or more but less than twenty-seven years, and the member has not attained age fifty-five;

(7) Between July 1, 1998, and July 1, 2013, two and two-tenths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-five years or more but less than twenty-six years, and the member has not attained age fifty-five;

(8) Between July 1, 2001, and July 1, 2013, two and fifty-five hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is thirty-one years or more regardless of age.

2. In lieu of the retirement allowance provided in subsection 1 of this section, a member whose age is sixty years or more on September 28, 1975, may elect to have the member's retirement allowance calculated as a sum of the following items:

(1) Sixty cents plus one and five-tenths percent of the member's final average salary for each year of membership service;

(2) Six-tenths of the amount payable for a year of membership service for each year of prior service not exceeding thirty years;

(3) Three-fourths of one percent of the sum of subdivisions (1) and (2) of this subsection for each month of attained age in excess of sixty years but not in excess of age sixty-five.

3. (1) In lieu of the retirement allowance provided either in subsection 1 or 2 of this section, collectively called "option 1", a member whose creditable service is twenty-five years or more or who has attained the age of fifty-five with five or more years of creditable service may elect in the member's application for retirement to receive the actuarial equivalent of the member's retirement allowance in reduced monthly payments for life during retirement with the provision that:

Option 2. Upon the member's death the reduced retirement allowance shall be continued throughout the life of and paid to such person as has an insurable interest in the life of the

member as the member shall have nominated in the member's election of the option, and provided further that if the person so nominated dies before the retired member, the retirement allowance will be increased to the amount the retired member would be receiving had the retired member elected option 1;

OR

Option 3. Upon the death of the member three-fourths of the reduced retirement allowance shall be continued throughout the life of and paid to such person as has an insurable interest in the life of the member and as the member shall have nominated in an election of the option, and provided further that if the person so nominated dies before the retired member, the retirement allowance will be increased to the amount the retired member would be receiving had the member elected option 1;

OR

Option 4. Upon the death of the member one-half of the reduced retirement allowance shall be continued throughout the life of, and paid to, such person as has an insurable interest in the life of the member and as the member shall have nominated in an election of the option, and provided further that if the person so nominated dies before the retired member, the retirement allowance shall be increased to the amount the retired member would be receiving had the member elected option 1;

OR

Option 5. Upon the death of the member prior to the member having received one hundred twenty monthly payments of the member's reduced allowance, the remainder of the one hundred twenty monthly payments of the reduced allowance shall be paid to such beneficiary as the member shall have nominated in the member's election of the option or in a subsequent nomination. If there is no beneficiary so nominated who survives the member for the remainder of the one hundred twenty monthly payments, the total of the remainder of such one hundred twenty monthly payments shall be paid to the **surviving spouse, surviving children in equal shares, surviving parents in equal shares, or** estate of the last person**, in that order of precedence,** to receive a monthly allowance **in a lump sum payment**. If the total of the one hundred twenty payments paid to the retired individual and the beneficiary of the retired individual is less than the total of the member's accumulated contributions, the difference shall be paid to the beneficiary in a lump sum;

OR

Option 6. Upon the death of the member prior to the member having received sixty monthly payments of the member's reduced allowance, the remainder of the sixty monthly payments of the reduced allowance shall be paid to such beneficiary as the member shall have nominated in the member's election of the option or in a subsequent nomination. If there is no beneficiary so nominated who survives the member for the remainder of the sixty monthly payments, the total of the remainder of such sixty monthly payments shall be paid to the **surviving spouse, surviving children in equal shares, surviving parents in equal shares, or** estate of the last person**, in that order of precedence,** to receive a monthly allowance **in a lump sum payment**. If the total of the sixty payments paid to the retired individual and the beneficiary of the retired individual is less than the total of the member's accumulated contributions, the difference shall be paid to the beneficiary in a lump sum.

(2) The election of an option may be made only in the application for retirement and such application must be filed prior to the date on which the retirement of the member is to be effective. If either the member or the person nominated to receive the survivorship payments dies before the effective date of retirement, the option shall not be effective, provided that:

(a) If the member or a person retired on disability retirement dies after acquiring twenty-five or more years of creditable service or after attaining the age of fifty-five years and acquiring five or more years of creditable service and before retirement, except retirement with disability benefits, and the person named by the member as the member's beneficiary has an insurable interest in the life of the deceased member, the designated beneficiary may elect to receive either

survivorship benefits under option 2 or a payment of the accumulated contributions of the member. If survivorship benefits under option 2 are elected and the member at the time of death would have been eligible to receive an actuarial equivalent of the member's retirement allowance, the designated beneficiary may further elect to defer the option 2 payments until the date the member would have been eligible to receive the retirement allowance provided in subsection 1 or 2 of this section;

(b) If the member or a person retired on disability retirement dies before attaining age fifty-five but after acquiring five but fewer than twenty-five years of creditable service, and the person named as the member's beneficiary has an insurable interest in the life of the deceased member, the designated beneficiary may elect to receive either a payment of the member's accumulated contributions, or survivorship benefits under option 2 to begin on the date the member would first have been eligible to receive an actuarial equivalent of the member's retirement allowance, or to begin on the date the member would first have been eligible to receive the retirement allowance provided in subsection 1 or 2 of this section.

4. If the total of the retirement or disability allowance paid to an individual before the death of the individual is less than the accumulated contributions at the time of retirement, the difference shall be paid to the beneficiary of the individual, or to the **[**(1)**]** surviving spouse, **[**(2)**]** surviving children in equal shares, **[**(3)**]** surviving parents in equal shares, or **[**(4)**]** estate of the individual in that order of precedence. If an optional benefit as provided in option 2, 3 or 4 in subsection 3 of this section had been elected, and the beneficiary dies after receiving the optional benefit, and if the total retirement allowance paid to the retired individual and the beneficiary of the retired individual is less than the total of the contributions, the difference shall be paid to the **[**(1)**]** surviving spouse, **[**(2)**]** surviving children in equal shares, **[**(3)**]** surviving parents in equal shares, or **[**(4)**]** estate of the beneficiary, in that order of precedence, unless the retired individual designates a different recipient with the board at or after retirement.

5. **If a member dies and their financial institution is unable to accept the final payment or payments due to the member, the final payment or payments shall be paid to the beneficiary of the member or, if there is no beneficiary, to the surviving spouse, surviving children in equal shares, surviving parents in equal shares, or estate of the member, in that order of precedence, unless otherwise stated. If the beneficiary of a deceased member dies and their financial institution is unable to accept the final payment or payments, the final payment or payments shall be paid to the surviving spouse, surviving children in equal shares, surviving parents in equal shares, or estate of the member, in that order of precedence, unless otherwise stated.**

6. If a member dies before receiving a retirement allowance, the member's accumulated contributions at the time of the death of the member shall be paid to the beneficiary of the member or, if there is no beneficiary, to the **[**(1)**]** surviving spouse, **[**(2)**]** surviving children in equal shares, **[**(3)**]** surviving parents in equal shares, or **[**(4)**]** to the estate of the member**,** in that order of precedence; except that, no such payment shall be made if the beneficiary elects option 2 in subsection 3 of this section, unless the beneficiary dies before having received benefits pursuant to that subsection equal to the accumulated contributions of the member, in which case the amount of accumulated contributions in excess of the total benefits paid pursuant to that subsection shall be paid to the **[**(1)**]** surviving spouse, **[**(2)**]** surviving children in equal shares, **[**(3)**]** surviving parents in equal shares, or **[**(4)**]** estate of the beneficiary, in that order of precedence.

[6.**]** **7.** If a member ceases to be a public school employee as herein defined and certifies to the board of trustees that such cessation is permanent, or if the membership of the person is otherwise terminated, the member shall be paid the member's accumulated contributions with interest.

[7.**]** **8.** Notwithstanding any provisions of sections 169.010 to 169.141 to the contrary, if a member ceases to be a public school employee after acquiring five or more years of membership service in Missouri, the member may at the option of the member leave the

member's contributions with the retirement system and claim a retirement allowance any time after reaching the minimum age for voluntary retirement. When the member's claim is presented to the board, the member shall be granted an allowance as provided in sections 169.010 to 169.141 on the basis of the member's age, years of service, and the provisions of the law in effect at the time the member requests the member's retirement to become effective.

[8.**]** **9.** The retirement allowance of a member retired because of disability shall be nine-tenths of the allowance to which the member's creditable service would entitle the member if the member's age were sixty, or fifty percent of one-twelfth of the annual salary rate used in determining the member's contributions during the last school year for which the member received a year of creditable service immediately prior to the member's disability, whichever is greater, except that no such allowance shall exceed the retirement allowance to which the member would have been entitled upon retirement at age sixty if the member had continued to teach from the date of disability until age sixty at the same salary rate.

[9.**]** **10.** Notwithstanding any provisions of sections 169.010 to 169.141 to the contrary, from October 13, 1961, the contribution rate pursuant to sections 169.010 to 169.141 shall be multiplied by the factor of two-thirds for any member of the system for whom federal Old Age and Survivors Insurance tax is paid from state or local tax funds on account of the member's employment entitling the person to membership in the system. The monetary benefits for a member who elected not to exercise an option to pay into the system a retroactive contribution of four percent on that part of the member's annual salary rate which was in excess of four thousand eight hundred dollars but not in excess of eight thousand four hundred dollars for each year of employment in a position covered by this system between July 1, 1957, and July 1, 1961, as provided in subsection 10 of this section as it appears in RSMo, 1969, shall be the sum of:

(1) For years of service prior to July 1, 1946, six-tenths of the full amount payable for years of membership service;

(2) For years of membership service after July 1, 1946, in which the full contribution rate was paid, full benefits under the formula in effect at the time of the member's retirement;

(3) For years of membership service after July 1, 1957, and prior to July 1, 1961, the benefits provided in this section as it appears in RSMo, 1959; except that if the member has at least thirty years of creditable service at retirement the member shall receive the benefit payable pursuant to that section as though the member's age were sixty-five at retirement;

(4) For years of membership service after July 1, 1961, in which the two-thirds contribution rate was paid, two-thirds of the benefits under the formula in effect at the time of the member's retirement.

[10.**]** **11.** The monetary benefits for each other member for whom federal Old Age and Survivors Insurance tax is or was paid at any time from state or local funds on account of the member's employment entitling the member to membership in the system shall be the sum of:

(1) For years of service prior to July 1, 1946, six-tenths of the full amount payable for years of membership service;

(2) For years of membership service after July 1, 1946, in which the full contribution rate was paid, full benefits under the formula in effect at the time of the member's retirement;

(3) For years of membership service after July 1, 1957, in which the two-thirds contribution rate was paid, two-thirds of the benefits under the formula in effect at the time of the member's retirement.

[11.**]** **12.** Any retired member of the system who was retired prior to September 1, 1972, or beneficiary receiving payments under option 1 or option 2 of subsection 3 of this section, as such option existed prior to September 1, 1972, will be eligible to receive an increase in the retirement allowance of the member of two percent for each year, or major fraction of more than one-half of a year, which the retired member has been retired prior to July 1, 1975. This increased amount shall be payable commencing with January, 1976, and shall thereafter be referred to as the member's retirement allowance. The increase provided for in this subsection shall not affect the retired member's eligibility for compensation provided for in section 169.580

or 169.585, nor shall the amount being paid pursuant to these sections be reduced because of any increases provided for in this section.

[12.**]** **13.** If the board of trustees determines that the cost of living, as measured by generally accepted standards, increases two percent or more in the preceding fiscal year, the board shall increase the retirement allowances which the retired members or beneficiaries are receiving by two percent of the amount being received by the retired member or the beneficiary at the time the annual increase is granted by the board with the provision that the increases provided for in this subsection shall not become effective until the fourth January first following the member's retirement or January 1, 1977, whichever later occurs, or in the case of any member retiring on or after July 1, 2000, the increase provided for in this subsection shall not become effective until the third January first following the member's retirement, or in the case of any member retiring on or after July 1, 2001, the increase provided for in this subsection shall not become effective until the second January first following the member's retirement. Commencing with January 1, 1992, if the board of trustees determines that the cost of living has increased five percent or more in the preceding fiscal year, the board shall increase the retirement allowances by five percent. The total of the increases granted to a retired member or the beneficiary after December 31, 1976, may not exceed eighty percent of the retirement allowance established at retirement or as previously adjusted by other subsections. If the cost of living increases less than five percent, the board of trustees may determine the percentage of increase to be made in retirement allowances, but at no time can the increase exceed five percent per year. If the cost of living decreases in a fiscal year, there will be no increase in allowances for retired members on the following January first.

[13.**]** **14.** The board of trustees may reduce the amounts which have been granted as increases to a member pursuant to subsection **[**12**]** **13** of this section if the cost of living, as determined by the board and as measured by generally accepted standards, is less than the cost of living was at the time of the first increase granted to the member; except that, the reductions shall not exceed the amount of increases which have been made to the member's allowance after December 31, 1976.

[14.**]** **15.** Any application for retirement shall include a sworn statement by the member certifying that the spouse of the member at the time the application was completed was aware of the application and the plan of retirement elected in the application.

[15.**]** **16.** Notwithstanding any other provision of law, any person retired prior to September 28, 1983, who is receiving a reduced retirement allowance under option 1 or option 2 of subsection 3 of this section, as such option existed prior to September 28, 1983, and whose beneficiary nominated to receive continued retirement allowance payments under the elected option dies or has died, shall upon application to the board of trustees have his or her retirement allowance increased to the amount he or she would have been receiving had the option not been elected, actuarially adjusted to recognize any excessive benefits which would have been paid to him or her up to the time of application.

[16.**]** **17.** Benefits paid pursuant to the provisions of the public school retirement system of Missouri shall not exceed the limitations of Section 415 of Title 26 of the United States Code except as provided pursuant to this subsection. Notwithstanding any other law to the contrary, the board of trustees may establish a benefit plan pursuant to Section 415(m) of Title 26 of the United States Code. Such plan shall be created solely for the purpose described in Section 415(m)(3)(A) of Title 26 of the United States Code. The board of trustees may promulgate regulations necessary to implement the provisions of this subsection and to create and administer such benefit plan.

[17.**]** **18.** Notwithstanding any other provision of law to the contrary, any person retired before, on, or after May 26, 1994, shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging, and upon request shall give written or oral opinions to the board in response to such requests. As compensation for such duties the person shall receive an amount based on the person's years of service so that

the total amount received pursuant to sections 169.010 to 169.141 shall be at least the minimum amounts specified in subdivisions (1) to (4) of this subsection. In determining the minimum amount to be received, the amounts in subdivisions (3) and (4) of this subsection shall be adjusted in accordance with the actuarial adjustment, if any, that was applied to the person's retirement allowance. In determining the minimum amount to be received, beginning September 1, 1996, the amounts in subdivisions (1) and (2) of this subsection shall be adjusted in accordance with the actuarial adjustment, if any, that was applied to the person's retirement allowance due to election of an optional form of retirement having a continued monthly payment after the person's death. Notwithstanding any other provision of law to the contrary, no person retired before, on, or after May 26, 1994, and no beneficiary of such a person, shall receive a retirement benefit pursuant to sections 169.010 to 169.141 based on the person's years of service less than the following amounts:

(1) Thirty or more years of service, one thousand two hundred dollars;

(2) At least twenty-five years but less than thirty years, one thousand dollars;

(3) At least twenty years but less than twenty-five years, eight hundred dollars;

(4) At least fifteen years but less than twenty years, six hundred dollars.

[18.**]** **19.** Notwithstanding any other provisions of law to the contrary, any person retired prior to May 26, 1994, and any designated beneficiary of such a retired member who was deceased prior to July 1, 1999, shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement or aging and upon request shall give written or oral opinions to the board in response to such requests. Beginning September 1, 1996, as compensation for such service, the member shall have added, pursuant to this subsection, to the member's monthly annuity as provided by this section a dollar amount equal to the lesser of sixty dollars or the product of two dollars multiplied by the member's number of years of creditable service. Beginning September 1, 1999, the designated beneficiary of the deceased member shall as compensation for such service have added, pursuant to this subsection, to the monthly annuity as provided by this section a dollar amount equal to the lesser of sixty dollars or the product of two dollars multiplied by the member's number of years of creditable service. The total compensation provided by this section including the compensation provided by this subsection shall be used in calculating any future cost-of-living adjustments provided by subsection 12 of this section.

[19.**]** **20.** Any member who has retired prior to July 1, 1998, and the designated beneficiary of a deceased retired member shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging, and upon request shall give written or oral opinions to the board in response to such requests. As compensation for such duties the person shall receive a payment equivalent to eight and seven-tenths percent of the previous month's benefit, which shall be added to the member's or beneficiary's monthly annuity and which shall not be subject to the provisions of subsections **[**12 and**]** 13 **and 14** of this section for the purposes of the limit on the total amount of increases which may be received.

[20.**]** **21.** Any member who has retired shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging, and upon request shall give written or oral opinions to the board in response to such request. As compensation for such duties, the beneficiary of the retired member, or, if there is no beneficiary, the **[**(1)**]** surviving spouse, **[**(2)**]** surviving children in equal shares, **[**(3)**]** surviving parents in equal shares, or **[**(4)**]** estate of the retired member, in that order of precedence, shall receive as a part of compensation for these duties a death benefit of five thousand dollars.

[21.**]** **22.** Any member who has retired prior to July 1, 1999, and the designated beneficiary of a retired member who was deceased prior to July 1, 1999, shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging, and upon request shall give written or oral opinions to the board in response to such requests. As compensation for such duties, the person shall have added,

pursuant to this subsection, to the monthly annuity as provided by this section a dollar amount equal to five dollars times the member's number of years of creditable service.

[22.**]** **23.** Any member who has retired prior to July 1, 2000, and the designated beneficiary of a deceased retired member shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging, and upon request shall give written or oral opinions to the board in response to such requests. As compensation for such duties, the person shall receive a payment equivalent to three and five-tenths percent of the previous month's benefit, which shall be added to the member or beneficiary's monthly annuity and which shall not be subject to the provisions of subsections **[**12 and**]** 13 **and 14** of this section for the purposes of the limit on the total amount of increases which may be received.

[23.**]** **24.** Any member who has retired prior to July 1, 2001, and the designated beneficiary of a deceased retired member shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging, and upon request shall give written or oral opinions to the board in response to such requests. As compensation for such duties, the person shall receive a dollar amount equal to three dollars times the member's number of years of creditable service, which shall be added to the member's or beneficiary's monthly annuity and which shall not be subject to the provisions of subsections **[**12 and**]** 13 **and 14** of this section for the purposes of the limit on the total amount of increases which may be received.

169.073. PARTIAL LUMP SUM DISTRIBUTION, WHEN — OPTIONS — CALCULATION FOR CHANGES IN DISTRIBUTION AMOUNT — DEATH, EFFECT OF. — 1. Any member eligible for a retirement allowance pursuant to section 169.070 and who has not previously received a retirement allowance, including an allowance under disability retirement under section 169.070, and whose sum of age and creditable service equals eighty-six years or more or whose creditable service is thirty-three years or more or whose age is sixty-three years or more and who has eight years or more of creditable service may elect a distribution under the partial lump sum option plan provided in this section if the member notifies the retirement system on the application for retirement.

2. A member entitled to make an election pursuant to this section may elect to receive a lump sum distribution in addition to the member's monthly retirement allowance pursuant to section 169.070, as reduced pursuant to this section. Such member may elect the amount of the member's lump sum distribution from one, but not more than one, of the following options:

(1) A lump sum amount equal to twelve times the retirement allowance the member would receive if no election were made pursuant to this section and the member had chosen option 1 pursuant to section 169.070;

(2) A lump sum amount equal to twenty-four times the retirement allowance the member would receive if no election were made pursuant to this section and the member had chosen option 1 pursuant to section 169.070; or

(3) A lump sum amount equal to thirty-six times the retirement allowance the member would receive if no election were made pursuant to this section and the member had chosen option 1 pursuant to section 169.070.

3. When a member makes an election to receive a lump sum distribution pursuant to this section, the retirement allowance that the member would have received in the absence of the election shall be reduced on an actuarially equivalent basis to reflect the payment of the lump sum distribution and the reduced retirement allowance shall be the member's retirement allowance thereafter for all purposes in relation to retirement allowance amounts pursuant to section 169.070. A retirement allowance increased due to the death of a person nominated by the member to receive benefits pursuant to the provisions of option 2, 3, or 4 of subsection 3 of section 169.070 shall be increased pursuant to such provisions to the amount the retired member would be receiving had the retired member elected option 1 as actuarially reduced due to the lump sum distribution made pursuant to this section. Any payment of accumulated contributions

pursuant to the provisions of sections 169.010 to 169.141 shall be reduced by the amount of any lump sum distribution made pursuant to this section in addition to any other reductions required by sections 169.010 to 169.141.

4. If the member dies before receiving a lump sum distribution pursuant to this section, the lump sum distribution shall be paid in accordance with rules adopted by the board of trustees.

5. Benefits paid pursuant to this section, in addition to all other provisions of the public school retirement system of Missouri, shall not exceed the limitations of Section 415 of Title 26 of the United States Code except as provided in subsection **[**16**]** **17** of section 169.070.

169.075. SURVIVORS' BENEFITS, OPTIONS — PURCHASE OF PRIOR SERVICE CREDITS FOR PREVIOUS SERVICE IN ANOTHER MISSOURI PUBLIC SCHOOL RETIREMENT SYSTEM, COST — MONTHLY RETIREMENT ALLOWANCE — SPECIAL CONSULTANT QUALIFICATION, COMPENSATION, DUTIES — DEATH PRIOR TO RECEIPT OF TOTAL ACCUMULATED BENEFITS, EFFECT OF. — 1. Certain survivors specified in this section and meeting the requirements of this section may elect to forfeit any payments payable pursuant to subsection 3 or **[**5**]** **6** of section 169.070 and to receive certain other benefits described in this section upon the death of a member prior to retirement, except retirement with disability benefits, whose period of creditable service in districts included in the retirement system is (1) five years or more, or (2) two years but less than five years and who dies (a) while teaching in a district included in the retirement system, or (b) as a result of an injury or sickness incurred while teaching in such a district and within one year of the commencement of such injury or sickness, or (c) while eligible for a disability retirement allowance hereunder.

2. Upon an election pursuant to subsection 1 of this section, a surviving spouse sixty years of age, or upon attainment of age sixty, or a surviving spouse who has been totally and permanently disabled for not less than five years immediately preceding the death of a member if designated as the sole beneficiary, and if married to the member at least three years, and if living with such member at the time of the member's death, shall be entitled to a monthly payment equal to twenty percent of one-twelfth of the annual salary rate on which the member contributed for the member's last full year of creditable service as a teacher in a district included in the retirement system until death or recovery prior to age sixty from the disability which qualified the spouse for the benefit, whichever first occurs; provided that the monthly payment shall not be less than five hundred seventy-five dollars or more than eight hundred sixty dollars. A surviving spouse, who is eligible for benefits pursuant to this subsection and also pursuant to subsection 3 of this section may receive benefits only pursuant to subsection 3 of this section as long as the surviving spouse remains eligible pursuant to both subsections, but shall not be disqualified for the benefit provided in this subsection because the surviving spouse may have received payments pursuant to subsection 3 of this section. Beginning August 28, 2001, a surviving spouse who otherwise meets the requirements of this subsection but who remarried prior to August 28, 1995, shall be entitled, upon an election pursuant to subsection 1 of this section, to any remaining benefits that would otherwise have been received had the surviving spouse not remarried before the change in law permitting remarried surviving spouses to continue receiving benefits. Such surviving spouses may, upon application, become special consultants whose benefit will be to receive the remaining benefits described in this subsection. No benefit shall be paid to such surviving spouse unless he or she files a valid application for such benefit with the retirement system postmarked on or before June 30, 2002. In no event shall any retroactive benefits be paid.

3. Upon an election pursuant to subsection 1 of this section, a surviving spouse, if designated as the sole beneficiary, who has in the surviving spouse's care a dependent unmarried child, including a stepchild or adopted child, of the deceased member, under eighteen years of age, shall be entitled to a monthly payment equal to twenty percent of one-twelfth of the annual salary rate on which the member contributed for the member's last full year of creditable service as a teacher in a district included in the retirement system until the surviving spouse's death, or

the first date when no such dependent unmarried child under age eighteen, or age twenty-four if the child is enrolled in school on a full-time basis, remains in the surviving spouse's care, whichever first occurs; provided that the monthly payment shall not be less than five hundred seventy-five dollars or more than eight hundred sixty dollars. In addition the surviving spouse shall be entitled to a monthly payment equal to one-half this amount, provided that the monthly payment shall not be less than three hundred dollars, for each such dependent unmarried child under eighteen years of age, or age twenty-four if the child is enrolled in school on a full-time basis, who remains in the surviving spouse's care. Further, in addition to the monthly payment to the surviving spouse as provided for in this subsection, each dependent unmarried child under the age of eighteen years of the deceased member not in the care of such surviving spouse shall be entitled to a monthly payment equal to one-half of the surviving spouse's monthly payment which shall be paid to the child's primary custodial parent or legal guardian; provided that the payment because of an unmarried dependent child shall be made until the child attains age twenty-four if the child is enrolled in school on a full-time basis; provided, however, that the total of all monthly payments to the surviving spouse, primary custodial parent or legal guardian, including payments for such dependent unmarried children, shall in no event exceed two thousand one hundred sixty dollars, the amount of the children's share to be allocated equally as to each dependent unmarried child eligible to receive payments pursuant to this subsection.

4. Upon an election pursuant to subsection 1 of this section if the designated beneficiary is a dependent unmarried child as defined in this section or automatically upon the death of a surviving spouse receiving benefits pursuant to subsection 3 of this section, each surviving dependent unmarried child, including a stepchild or adopted child, of the deceased member, under eighteen years of age, or such a child under age twenty-four if the child is enrolled in school on a full-time basis, shall be entitled to a monthly payment equal to sixteen and two-thirds percent of one-twelfth of the annual salary rate on which the member contributed for the member's last full year of creditable service as a teacher in a district included in the retirement system until death, marriage, adoption, or attainment of age eighteen or age twenty-four if enrolled in school on a full-time basis, whichever first occurs; provided that the monthly payment shall not be less than five hundred dollars or more than seven hundred twenty dollars, and provided further that any child of the deceased member who is disabled before attainment of age eighteen because of a physical or mental impairment which renders the child unable to engage in any substantial gainful activity and which disability continues after the child has attained age eighteen shall be entitled to a like monthly payment, until death, marriage, adoption, or recovery from the disability, whichever first occurs; provided, however, that the total of all monthly payments to the surviving dependent unmarried children shall in no event exceed two thousand one hundred sixty dollars.

5. In lieu of receiving any benefit or lump sum from the retirement system, the designated beneficiary may elect under subsection 1 of this section to direct that each surviving dependent unmarried child, including a stepchild or adopted child, of the deceased member, under eighteen years of age, or such a child under age twenty-four if the child is enrolled in school on a full-time basis, shall be entitled to a monthly payment equal to sixteen and two-thirds percent of one-twelfth of the annual salary rate on which the member contributed for the member's last full year of creditable service as a teacher in a district included in the retirement system until death, marriage, adoption, or attainment of age eighteen or age twenty-four if enrolled in school on a full-time basis, whichever first occurs; provided that the monthly payment shall not be less than five hundred dollars or more than seven hundred twenty dollars, and provided further that any child of the deceased member who is disabled before attainment of age eighteen because of a physical or mental impairment which renders the child unable to engage in any substantial gainful activity and which disability continues after the child has attained age eighteen shall be entitled to a like monthly payment, until death, marriage, adoption, or recovery from the disability, whichever first occurs; provided, however, that the total of all monthly payments to

the surviving dependent unmarried children shall in no event exceed two thousand one hundred sixty dollars.

6. Upon an election pursuant to subsection 1 of this section, a surviving dependent parent of the deceased member, over sixty-five years of age or upon attainment of age sixty-five if designated as the sole beneficiary, provided such dependent parent was receiving at least one-half of the parent's support from such member at the time of the member's death and provided the parent files proof of such support within two years of such death, shall be entitled to a monthly payment equal to sixteen and two-thirds percent of one-twelfth of the annual salary rate on which the member contributed for the member's last full year as a teacher in a district included in the retirement system until death; provided that the monthly payment shall not be less than five hundred dollars or more than seven hundred twenty dollars. If the other parent also is a dependent, as defined in this section, the same amount shall be paid to each until death.

7. All else in this section to the contrary notwithstanding, a survivor may not be eligible to benefit pursuant to this section because of more than one terminated membership, and be it further provided that the board of trustees shall determine and decide all questions of doubt as to what constitutes dependency within the meaning of this section.

8. The provisions added to subsection 3 of this section in 1991 are intended to clarify the scope and meaning of this section as originally enacted and shall be applied in all cases in which such an election has occurred or will occur.

9. After July 1, 2000, all benefits payable pursuant to subsections 1 to 8 of this section shall be payable to eligible current and future survivor beneficiaries in accordance with this section.

10. The system shall pay a monthly retirement allowance for the month in which a retired member, beneficiary or survivor receiving a retirement allowance or survivor benefit dies.

11. If the total of all payments made under this section is less than the total of the member's accumulated contributions, the difference shall be paid to the person making the election under subsection 1 of this section. If such person does not survive until all payments are made under this section, such difference shall be paid in accordance with section 169.076.

169.090. FUNDS NOT SUBJECT TO EXECUTION, GARNISHMENT, ATTACHMENT. — Neither the funds belonging to the retirement system nor any benefit accrued or accruing to any person under the provisions of sections 169.010 to 169.130 shall be subject to execution, garnishment, attachment or any other process whatsoever, nor shall they be assignable, except **in a proceeding instituted for spousal maintenance or child support and** as in sections 169.010 to 169.130 specifically provided.

169.130. TEACHERS AT STATE INSTITUTIONS PRIOR TO AUGUST 13, 1986, TO BE MEMBERS — TEACHERS EMPLOYED BY TEACHERS' ASSOCIATION TO BE MEMBERS — CONTRIBUTIONS. — 1. Any person, duly certified under the law governing the certification of teachers, employed full time as a teacher by the division of youth services prior to August 13, 1986, who did not become a member of the Missouri state employees' retirement system under section 104.342, RSMo, is a member of the public school retirement system of Missouri. Any such person who becomes a member before the end of the school year next following July 18, 1948, may claim and receive credit for prior service. The contributions required to be made by the member's employer shall be paid from appropriations to the institution by which the member is employed.

2. Any person, duly certified under the law governing the certification of teachers, employed full time as a teacher by a division of the state department of social services prior to August 13, 1986, who did not become a member of the Missouri state employees' retirement system under section 104.342, RSMo, who renders services in a school whose standards of education are set and which is supervised by a public school officer of the county in which the school is located, by the department of elementary and secondary education or by the coordinating board for higher education is a member of the public school retirement system of

Missouri. Any such member who becomes a member before the end of the school year next following August 29, 1953, may claim and receive credit for prior service.

3. Any person, duly certified under the law governing the certification of teachers, employed full time as a teacher by the section of inmate education of the department of corrections prior to August 13, 1986, who did not become a member of the Missouri state employees' retirement system under section 104.342, RSMo, is a member of the public school retirement system of Missouri. Any such person who becomes a member before the end of the school year next following August 29, 1959, may claim and receive credit for prior service. For purposes of this subsection "prior service" means service rendered by a member of the retirement system before the system becomes operative with respect to persons employed by the section of inmate education, and may include service rendered by a member of the armed forces during a period of war, if the member was a teacher at the time he was inducted, for which credit has been approved by the board of trustees.

4. Any person, duly certificated under the law governing the certification of teachers, employed full time by any statewide nonprofit educational association or organization serving on an educational professional basis through its membership the active members of the public school retirement system of Missouri or the public school districts maintaining high schools in this state, may be a member of the public school retirement system of Missouri. Any such person who becomes a member before July 1, 1955, may claim and receive credit for prior service. The contributions required to be made by the member's employer shall be paid by the association or organization. **After June 30, 2010, no additional nonprofit educational associations or organizations may have their employees become members of the public school retirement system of Missouri or the public education employee retirement system of Missouri.**

5. Any person, duly certificated under the law governing the certification of teachers, employed full time, and whose duties include participation in the educational program of the department of mental health, in either a teaching or supervisory teaching capacity prior to August 13, 1986, who did not become a member of the Missouri state employees' retirement system under section 104.342, RSMo, shall, after August 7, 1969, be a member of the public school retirement system, but any such person whose employment with the department of mental health commenced prior to August 7, 1969, may elect not to become a member by so notifying the department of mental health in writing within thirty days after August 7, 1969.

169.630. FUNDS OF SYSTEM, HOW INVESTED, HOW ACCOUNTED FOR — BANK OR TRUST COMPANY TO SERVE AS DEPOSITORY AND INTERMEDIARY IN INVESTMENT OF FUNDS — TITLE TO SECURITIES, FORM — ELECTRONIC FUNDS TRANSFER — CLOSED MEETINGS AUTHORIZED, WHEN. — 1. All funds arising from the operation of sections 169.600 to 169.715 shall belong to the retirement system created in sections 169.600 to 169.715 and shall be controlled by the board of trustees and that board shall provide for the collection of these funds, see that they are safely preserved, and shall permit their disbursement only for the purposes authorized in sections 169.600 to 169.715. These funds are declared and shall be deemed to be the moneys and funds of this retirement system and not general funds of the state and shall not be commingled with any state funds or other retirement funds. Solely for the purpose of investing the funds of the retirement system, the funds may be combined with the funds of the public school retirement system of Missouri, but the funds of each system shall be accounted for separately and for all other purposes shall be separate.

2. The board shall invest all funds under its control which are in excess of a safe operating balance. The investment shall be made only in securities authorized and pursuant to the same standards set for investment by section 169.040.

3. **Notwithstanding the provisions of section 105.662, RSMo, the board may set up and maintain a public school and education employee retirement systems of Missouri investment fund account in which investment and reinvestment of all or part of the**

moneys of the system may be placed and be available for investment purposes. For the purpose of investing the funds of the retirement system, the funds may be combined with the funds of the public school retirement system of Missouri, but the funds of each system shall be accounted for separately and for all other reporting purposes shall be separate. The board of trustees may promulgate such rules and regulations consistent with the provisions of sections 169.040 and 169.630 as deemed necessary for its proper administration, pursuant to the provisions of this section and this chapter. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

4. No investment transaction authorized by the board shall be handled by any company or firm in which a member of the board has an interest, nor shall any member of the board profit directly or indirectly from any such investment. All investments shall be made for the account of the retirement system, and any securities or other properties obtained by the board of trustees may be held by a custodian in the name of the retirement system, or in the name of a nominee in order to facilitate the expeditious transfer of such securities or other property. Such securities or other properties which are not available in registered form may be held in bearer form or in book entry form. The retirement system is further authorized to deposit, or have deposited for its account, eligible securities in a central depository system or clearing corporation or in a federal reserve bank under a book entry system as defined in the Uniform Commercial Code, sections 400.8-102 and 400.8-108, RSMo. When such eligible securities of the retirement system are so deposited with a central depository system, the securities may be merged and held in the name of the nominee of such securities depository and title to such securities may be transferred by bookkeeping entry on the books of such securities depository or federal reserve bank without physical delivery of the certificates or documents representing such securities.

[4.**]** **5.** With appropriate safeguards against loss by the system in any contingency, the board may designate a bank or trust company to serve as a depository of system funds and intermediary in the investment of those funds and payment of system obligations.

[5.**]** **6.** All retirement allowances or other periodic payments paid by the board shall be paid to recipients of such payments by electronic funds transfer, unless another method has been determined by the board to be appropriate. Each recipient of retirement allowances or other periodic payments shall designate a financial institution or other authorized payment agent and provide the board information necessary for the recipient to receive electronic funds transfer payments through the institution or agent designated. This subsection shall apply to retirement allowances and other periodic payments first paid on or after January 1, 1998, and shall apply to all retirement allowances and other periodic payments on and after January 1, 1999.

[6.**]** **7.** The board of trustees may deliberate about, or make tentative or final decisions on, investments or other financial matters in a closed meeting under chapter 610, RSMo, if disclosure of the deliberations or decisions would jeopardize the ability to implement a decision or to achieve investment objectives. A record of the retirement system that discloses deliberations about, or a tentative or final decision on, investments or other financial matters is not a public record under chapter 610, RSMo, to the extent and so long as its disclosure would jeopardize the ability to implement a decision or to achieve investment objectives.

169.650. MEMBERSHIP — PRIOR SERVICE CREDIT — REINSTATEMENT — PROCEDURE. — 1. On and after October 13, 1965, all employees as defined in section 169.600 of districts included in this retirement system shall be members of the system by virtue of their employment,

and all persons who had five years of prior service who were employees of districts included in sections 169.600 to 169.710 during the school year next preceding October 13, 1965, but who ceased to be employees prior to October 13, 1965, because of physical disability, shall be members of this system by virtue of that prior service. Individuals who qualify as independent contractors under the common law and are treated as such by their employer shall not be considered employees for purposes of membership in or contributions to the retirement system.

2. Any member who rendered service prior to November 1, 1965, as an employee as defined in section 169.600 in a district or community college district included in the system may claim credit for that service by filing with the board of trustees a complete and detailed record of the service for which the credit is claimed, together with such supporting evidence as the board may require for verification of the record. To the extent that the board finds the record correct, it shall credit the claimant with prior service and shall notify the claimant of its decision.

3. Membership shall be terminated by failure of a member to earn any membership service credit as a public school employee under this system for five consecutive school years, by death, withdrawal of contributions, or retirement.

4. If a member withdraws or is refunded the member's contributions, the member shall thereby forfeit any creditable service the member may have; provided, however, if such person again becomes a member of the system, the member may elect prior to retirement to reinstate any creditable service forfeited at the times of previous withdrawals or refunds. The reinstatement shall be effected by the member paying to the retirement system, with interest, the amount of accumulated contributions withdrawn by the member or refunded to the member with respect to the service being reinstated. A member may reinstate less than the total service previously forfeited, in accordance with rules promulgated by the board of trustees. The payment shall be completed prior to termination of membership with the retirement system with interest on the unpaid balance; provided, however, that if a member is retired on disability before completing such payments, the balance due, with interest, shall be deducted from the member's disability retirement allowance.

5. Any person who is an employee of any statewide nonprofit educational association or organization serving the active membership of the public education employee retirement system of Missouri and who works at least twenty hours per week on a regular basis in a position which is not covered by the public school retirement system of Missouri may be a member of the public education employee retirement system of Missouri. Certificated employees of such statewide nonprofit educational association or organization may not be members of the public school retirement system of Missouri unless such association or organization makes separate application pursuant to subsection 4 of section 169.130. The contributions required to be made by the employee will be deducted from salary and matched by the association or organization. **After June 30, 2010, no additional nonprofit educational associations or organizations may have their employee become members of the public school retirement system of Missouri or the public education employee retirement system of Missouri.**

169.655. PURCHASE OF MEMBERSHIP CREDIT FOR SERVICE TO ORGANIZATION SUPPORTING EDUCATION OR RESEARCH — LIMITATIONS, REQUIREMENTS — TRANSFER OF FUNDS. — 1. Members who have accrued at least one year of membership service credit for employment in a position covered by this retirement system and who have covered employment with this retirement system following the service for which credit is being purchased may purchase membership service credit under the circumstances, terms and conditions provided in this section. With respect to each such purchase authorized by this section the following provisions apply:

(1) The purchase shall be effected by the member paying to the retirement system the amount the member would have contributed and the amount the employer would have contributed had such member been an employee for the number of years for which the member is electing to purchase credit, and had the member's compensation during such period been the

highest annual salary rate on record with the retirement system on the date of election to purchase credit. The contribution rate used in determining the amount to be paid shall be the contribution rate in effect on the date of election to purchase credit. Notwithstanding the provisions of this subsection, for all elections to purchase credit received by the retirement system on or after January 1, 2006, the member shall receive credit based on the amount paid by the member for such credit and received by the retirement system by the close of business on June thirtieth of each year. In lieu of charging the member interest on such purchase of credit, the amount to be paid by the member for any remaining credit the member has elected to purchase but has not paid for by **[**June**]** **September** thirtieth of each year shall be recalculated on the following **[**July**]** **October** first using the contribution rate in effect on that July first and the highest salary of record for the member as of that July first. For all elections to purchase credit received by the retirement system prior to January 1, 2006, the retirement system shall determine the cost of such purchase using the calculation method in effect for elections to purchase credit received by the retirement system on or after January 1, 2006, provided that the member shall have a one-time, irrevocable option to continue to have the cost of such purchase be determined using the calculation method in effect at the time of such election to purchase such credit. To be effective, such option must be elected by the member on a form approved by the retirement system and such form must be received by the retirement system by the close of business on June 30, 2006. The retirement system reserves the right to **prohibit a purchase, impose additional requirements for making a purchase, or** limit the amount of credit purchased **[**by the member in any year if the amounts paid by the member in that year would exceed any applicable contribution limits set forth in**]** **if necessary for the retirement system to comply with federal law, including but not limited to, the provisions of** Section 415 of Title 26 of the United States Code**. The board of trustees may promulgate such rules and regulations consistent with the provisions of this section deemed necessary for its proper administration, pursuant to the provisions of this section and this chapter. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void**;

(2) Membership service credit purchased pursuant to this section shall be deemed to be membership service as defined in subdivision (10) of section 169.600;

(3) An election to purchase membership service credit pursuant to this section and payment for the purchase shall be completed prior to termination of membership with the retirement system with interest on the unpaid balance;

(4) Members may purchase membership service credit in increments of one-tenth of a year, and multiple elections to purchase may be made;

(5) Additional terms and conditions applicable to purchases made pursuant to this section including, but not limited to, minimum payments, payment schedules and provisions applicable when a member fails to complete payment may be set by rules of the board.

2. Membership service credit shall not be allowed pursuant to this section or sections 169.570 and 169.577 which exceeds in length the member's membership service credit for employment in a position covered by this system, and in no event may the member receive membership service credit with both this system and another public retirement system for the same service.

3. A member who was employed for at least twenty hours per week on a regular basis by a public school district, public community college, public college, or public university, either inside or outside of this state, may elect to purchase equivalent membership service credit.

4. A member who has served in the armed forces of the United States of America and who was discharged or separated from the armed forces by other than a dishonorable discharge may elect to purchase membership service credit for the period of active duty service in the armed forces.

5. Any member granted unpaid maternity or paternity leave for a period, from a position covered by the retirement system, who returned to employment in such a position, may elect to purchase membership service credit for the period of leave.

6. Any member who is or was certified as a vocational-technical teacher on the basis of having a college degree or who was required to have a period of work experience of at least two years in the area of the subject being taught in order to qualify for such certification may, upon written application to the board, purchase equivalent membership service credit for such work experience which shall not exceed the two years necessary for certification if the work experience was in the area that the member taught or is teaching and was completed in two years.

7. Any member who had membership service credit with the public school retirement system of Missouri governed by sections 169.010 to 169.141 but which membership service credit was forfeited by withdrawal or refund may elect to purchase credit for such service. The public school retirement system of Missouri shall transfer to this system an amount equal to the employer contributions for the forfeited service being purchased, plus interest, which shall be applied to reduce the amount the member would otherwise pay for the purchase, provided that the amount transferred shall not exceed one-half of the purchase cost.

8. A member may elect to purchase membership service credit for service rendered while on leave from an employer, as defined in section 169.600, for a not-for-profit corporation or agency whose primary purpose is support of education or education research if the member was employed by that organization to serve twenty or more hours per week on a regular basis.

9. A member who was employed by a private school, private community college, private college, or private university, either inside or outside of this state, for at least twenty or more hours per week on a regular basis, may elect to purchase membership service credit for such service rendered.

10. A member who was employed in nonfederal public employment for at least twenty hours a week on a regular basis shall be permitted to purchase equivalent creditable service in the retirement system for such employment subject to provisions of this section.

11. A member who, while eighteen years of age or older, was employed in a position covered by Social Security for at least twenty hours a week on a regular basis shall be permitted to purchase equivalent creditable service in the retirement system for such employment subject to provisions of this section.

169.670. BENEFITS, HOW COMPUTED — BENEFICIARY BENEFITS, OPTIONS, ELECTION OF. — 1. The retirement allowance of a member whose age at retirement is sixty years or more and whose creditable service is five years or more, or whose sum of age and creditable service equals eighty years or more, or whose creditable service is thirty years or more regardless of age, shall be the sum of the following items:

(1) For each year of membership service, one and sixty-one hundredths percent of the member's final average salary;

(2) Six-tenths of the amount payable for a year of membership service for each year of prior service;

(3) Eighty-five one-hundredths of one percent of any amount by which the member's average compensation for services rendered prior to July 1, 1973, exceeds the average monthly compensation on which federal Social Security taxes were paid during the period over which such average compensation was computed, for each year of membership service credit for services rendered prior to July 1, 1973, plus six-tenths of the amount payable for a year of membership service for each year of prior service credit;

(4) In lieu of the retirement allowance otherwise provided by subdivisions (1) to (3) of this subsection, between July 1, 2001, and July 1, 2013, a member may elect to receive a retirement allowance of:

(a) One and fifty-nine hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-nine years or more but less than thirty years and the member has not attained the age of fifty-five;

(b) One and fifty-seven hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-eight years or more but less than twenty-nine years, and the member has not attained the age of fifty-five;

(c) One and fifty-five hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-seven years or more but less than twenty-eight years and the member has not attained the age of fifty-five;

(d) One and fifty-three hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-six years or more but less than twenty-seven years and the member has not attained the age of fifty-five;

(e) One and fifty-one hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-five years or more but less than twenty-six years and the member has not attained the age of fifty-five; and

(5) In addition to the retirement allowance provided in subdivisions (1) to (3) of this subsection, a member retiring on or after July 1, 2001, whose creditable service is thirty years or more or whose sum of age and creditable service is eighty years or more, shall receive a temporary retirement allowance equivalent to eight-tenths of one percent of the member's final average salary multiplied by the member's years of service until such time as the member reaches the minimum age for Social Security retirement benefits.

2. If the board of trustees determines that the cost of living, as measured by generally accepted standards, increases five percent or more in the preceding fiscal year, the board shall increase the retirement allowances which the retired members or beneficiaries are receiving by five percent of the amount being received by the retired member or the beneficiary at the time the annual increase is granted by the board; provided that, the increase provided in this subsection shall not become effective until the fourth January first following a member's retirement or January 1, 1982, whichever occurs later, and the total of the increases granted to a retired member or the beneficiary after December 31, 1981, may not exceed eighty percent of the retirement allowance established at retirement or as previously adjusted by other provisions of law. If the cost of living increases less than five percent, the board of trustees may determine the percentage of increase to be made in retirement allowances, but at no time can the increase exceed five percent per year. If the cost of living decreases in a fiscal year, there will be no increase in allowances for retired members on the following January first.

3. The board of trustees may reduce the amounts which have been granted as increases to a member pursuant to subsection 2 of this section if the cost of living, as determined by the board and as measured by generally accepted standards, is less than the cost of living was at the time of the first increase granted to the member; provided that, the reductions shall not exceed the amount of increases which have been made to the member's allowance after December 31, 1981.

4. (1) In lieu of the retirement allowance provided in subsection 1 of this section, called "option 1", a member whose creditable service is twenty-five years or more or who has attained age fifty-five with five or more years of creditable service may elect, in the application for retirement, to receive the actuarial equivalent of the member's retirement allowance in reduced monthly payments for life during retirement with the provision that:

Option 2. Upon the member's death, the reduced retirement allowance shall be continued throughout the life of and paid to such person as has an insurable interest in the life of the member as the member shall have nominated in the member's election of the option, and provided further that if the person so nominated dies before the retired member, the retirement

allowance will be increased to the amount the retired member would be receiving had the member elected option 1;

OR

Option 3. Upon the death of the member three-fourths of the reduced retirement allowance shall be continued throughout the life of and paid to such person as has an insurable interest in the life of the member and as the member shall have nominated in an election of the option, and provided further that if the person so nominated dies before the retired member, the retirement allowance will be increased to the amount the retired member would be receiving had the member elected option 1;

OR

Option 4. Upon the death of the member one-half of the reduced retirement allowance shall be continued throughout the life of, and paid to, such person as has an insurable interest in the life of the member and as the member shall have nominated in an election of the option, and provided further that if the person so nominated dies before the retired member, the retirement allowance shall be increased to the amount the retired member would be receiving had the member elected option 1;

OR

Option 5. Upon the death of the member prior to the member having received one hundred twenty monthly payments of the member's reduced allowance, the remainder of the one hundred twenty monthly payments of the reduced allowance shall be paid to such beneficiary as the member shall have nominated in the member's election of the option or in a subsequent nomination. If there is no beneficiary so nominated who survives the member for the remainder of the one hundred twenty monthly payments, the reserve for the remainder of such one hundred twenty monthly payments shall be paid to the **surviving spouse, surviving children in equal shares, surviving parents in equal shares, or** estate of the last person**, in that order of precedence,** to receive a monthly allowance **in a lump sum payment**. If the total of the one hundred twenty payments paid to the retired individual and the beneficiary of the retired individual is less than the total of the member's accumulated contributions, the difference shall be paid to the beneficiary in a lump sum;

OR

Option 6. Upon the death of the member prior to the member having received sixty monthly payments of the member's reduced allowance, the remainder of the sixty monthly payments of the reduced allowance shall be paid to such beneficiary as the member shall have nominated in the member's election of the option or in a subsequent nomination. If there is no beneficiary so nominated who survives the member for the remainder of the sixty monthly payments, the reserve for the remainder of such sixty monthly payments shall be paid to the **surviving spouse, surviving children in equal shares, surviving parents in equal shares, or** estate of the last person**, in that order of precedence,** to receive a monthly allowance **in a lump sum payment**. If the total of the sixty payments paid to the retired individual and the beneficiary of the retired individual is less than the total of the member's accumulated contributions, the difference shall be paid to the beneficiary in a lump sum;

OR

Option 7. A plan of variable monthly benefit payments which provides, in conjunction with the member's retirement benefits under the federal Social Security laws, level or near-level retirement benefit payments to the member for life during retirement, and if authorized, to an appropriate beneficiary designated by the member. Such a plan shall be actuarially equivalent to the retirement allowance under option 1 and shall be available for election only if established by the board of trustees under duly adopted rules.

(2) The election of an option may be made only in the application for retirement and such application must be filed prior to the date on which the retirement of the member is to be effective. If either the member or the person nominated dies before the effective date of retirement, the option shall not be effective, provided that:

(a) If the member or a person retired on disability retirement dies after attaining age fifty-five and acquiring five or more years of creditable service or after acquiring twenty-five or more years of creditable service and before retirement, except retirement with disability benefits, and the person named by the member as the member's beneficiary has an insurable interest in the life of the deceased member, the designated beneficiary may elect to receive either survivorship payments under option 2 or a payment of the member's accumulated contributions. If survivorship benefits under option 2 are elected and the member at the time of death would have been eligible to receive an actuarial equivalent of the member's retirement allowance, the designated beneficiary may further elect to defer the option 2 payments until the date the member would have been eligible to receive the retirement allowance provided in subsection 1 of this section.

(b) If the member or a person retired on disability retirement dies before attaining age fifty-five but after acquiring five but fewer than twenty-five years of creditable service, and the person named as the beneficiary has an insurable interest in the life of the deceased member or disability retiree, the designated beneficiary may elect to receive either a payment of the person's accumulated contributions or survivorship benefits under option 2 to begin on the date the member would first have been eligible to receive an actuarial equivalent of the person's retirement allowance, or to begin on the date the member would first have been eligible to receive the retirement allowance provided in subsection 1 of this section.

5. If the total of the retirement or disability allowances paid to an individual before the person's death is less than the person's accumulated contributions at the time of the person's retirement, the difference shall be paid to the person's beneficiary or, if there is no beneficiary, to the **[**(1)**]** surviving spouse, **[**(2)**]** surviving children in equal shares, **[**(3)**]** surviving parents in equal shares, or **[**(4)**]** person's estate**,** in that order of precedence; provided, however, that if an optional benefit, as provided in option 2, 3 or 4 in subsection 4 **of this section**, had been elected and the beneficiary dies after receiving the optional benefit, then, if the total retirement allowances paid to the retired individual and the individual's beneficiary are less than the total of the contributions, the difference shall be paid to the **[**(1)**]** surviving spouse, **[**(2)**]** surviving children in equal shares, **[**(3)**]** surviving parents in equal shares, or **[**(4)**]** estate of the beneficiary, in that order of precedence, unless the retired individual designates a different recipient with the board at or after retirement.

6. **If a member dies and their financial institution is unable to accept the final payment or payments due to the member, the final payment or payments shall be paid to the beneficiary of the member or, if there is no beneficiary, to the surviving spouse, surviving children in equal shares, surviving parents in equal shares, or estate of the member, in that order of precedence, unless otherwise stated. If the beneficiary of a deceased member dies and their financial institution is unable to accept the final payment or payments, the final payment or payments shall be paid to the surviving spouse, surviving children in equal shares, surviving parents in equal shares, or estate of the member, in that order of precedence, unless otherwise stated.**

7. If a member dies before receiving a retirement allowance, the member's accumulated contributions at the time of the member's death shall be paid to the member's beneficiary or, if there is no beneficiary, to the **[**(1)**]** surviving spouse, **[**(2)**]** surviving children in equal shares, **[**(3)**]** surviving parents in equal shares, or **[**(4)**]** to the member's estate; provided, however, that no such payment shall be made if the beneficiary elects option 2 in subsection 4 of this section, unless the beneficiary dies before having received benefits pursuant to that subsection equal to the accumulated contributions of the member, in which case the amount of accumulated contributions in excess of the total benefits paid pursuant to that subsection shall be paid to the **[**(1)**]** surviving spouse, **[**(2)**]** surviving children in equal shares, **[**(3)**]** surviving parents in equal shares, or **[**(4)**]** estate of the beneficiary, in that order of precedence.

[7.**]** **8.** If a member ceases to be an employee as defined in section 169.600 and certifies to the board of trustees that such cessation is permanent or if the person's membership is otherwise terminated, the person shall be paid the person's accumulated contributions with interest.

[8.**]** **9.** Notwithstanding any provisions of sections 169.600 to 169.715 to the contrary, if a member ceases to be an employee as defined in section 169.600 after acquiring five or more years of creditable service, the member may, at the option of the member, leave the member's contributions with the retirement system and claim a retirement allowance any time after the member reaches the minimum age for voluntary retirement. When the member's claim is presented to the board, the member shall be granted an allowance as provided in sections 169.600 to 169.715 on the basis of the member's age and years of service.

[9.**]** **10.** The retirement allowance of a member retired because of disability shall be nine-tenths of the allowance to which the member's creditable service would entitle the member if the member's age were sixty.

[10.**]** **11.** Notwithstanding any provisions of sections 169.600 to 169.715 to the contrary, any member who is a member prior to October 13, 1969, may elect to have the member's retirement allowance computed in accordance with sections 169.600 to 169.715 as they existed prior to October 13, 1969.

[11.**]** **12.** Any application for retirement shall include a sworn statement by the member certifying that the spouse of the member at the time the application was completed was aware of the application and the plan of retirement elected in the application.

[12.**]** **13.** Notwithstanding any other provision of law, any person retired prior to August 14, 1984, who is receiving a reduced retirement allowance under option 1 or 2 of subsection 4 of this section, as the option existed prior to August 14, 1984, and whose beneficiary nominated to receive continued retirement allowance payments under the elected option dies or has died, shall upon application to the board of trustees have the person's retirement allowance increased to the amount the person would have been receiving had the person not elected the option actuarially adjusted to recognize any excessive benefits which would have been paid to the person up to the time of the application.

[13.**]** **14.** Benefits paid pursuant to the provisions of the public education employee retirement system of Missouri shall not exceed the limitations of Section 415 of Title 26 of the United States Code, except as provided under this subsection. Notwithstanding any other law, the board of trustees may establish a benefit plan under Section 415(m) of Title 26 of the United States Code. Such plan shall be credited solely for the purpose described in Section 415(m)(3)(A) of Title 26 of the United States Code. The board of trustees may promulgate regulations necessary to implement the provisions of this subsection and to create and administer such benefit plan.

[14.**]** **15.** Any member who has retired prior to July 1, 1999, and the designated beneficiary of a deceased retired member upon request shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging. As compensation for such duties the person shall receive a payment equivalent to seven and four-tenths percent of the previous month's benefit, which shall be added to the member's or beneficiary's monthly annuity and which shall not be subject to the provisions of subsections 2 and 3 of this section for the purposes of the limit on the total amount of increases which may be received.

[15.**]** **16.** Any member who has retired prior to July 1, 2000, and the designated beneficiary of a deceased retired member upon request shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging. As compensation for such duties the person shall receive a payment equivalent to three and four-tenths percent of the previous month's benefit, which shall be added to the member's or beneficiary's monthly annuity and which shall not be subject to the provisions of subsections 2 and 3 of this section for the purposes of the limit on the total amount of increases which may be received.

[16.**] 17.** Any member who has retired prior to July 1, 2001, and the designated beneficiary of a deceased retired member upon request shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging. As compensation for such duties the person shall receive a payment equivalent to seven and one-tenth percent of the previous month's benefit, which shall be added to the member's or beneficiary's monthly annuity and which shall not be subject to the provisions of subsections 2 and 3 of this section for the purposes of the limit on the total amount of increases which may be received.

169.690. FUNDS NOT SUBJECT TO EXECUTION, GARNISHMENT, ATTACHMENT. — Neither the funds belonging to the retirement system nor any benefit accrued or accruing to any person under the provisions of sections 169.600 to 169.710 shall be subject to execution, garnishment, attachment or any other process whatsoever, nor shall they be assignable, except **in a proceeding instituted for spousal maintenance or child support and** as in sections 169.600 to 169.710 specifically provided.

169.750. INDEMNIFICATION PERMITTED, WHEN — INSURANCE OR INDEMNITY POLICIES AUTHORIZED. — 1. To the extent determined appropriate by the board of trustees, the retirement systems established under sections 169.020 and 169.610 may indemnify and protect any trustee or employee of the retirement system against any or all claims or liabilities, including defense thereof, arising out of his or her responsibilities with respect to the retirement system provided, however, that no trustee or employee shall be indemnified for his or her own gross negligence or willful misconduct. This section shall apply whether the claim is made against the employee or trustee in his or her individual or official capacity.

2. The board of trustees is authorized to obtain and maintain insurance or indemnity policies to insure the trustees and employees of the retirement system against any liability or losses incurred as a result of their responsibilities with respect to the retirement system.

3. No employee or trustee shall be entitled to indemnification under this section unless within fifteen days after receipt of service of process he or she shall give written notice of such proceeding to the board of trustees.

Approved July 13, 2009

HB 269 [CCS SCS HB 269]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding the registration and licensing of motor vehicles and certificates of ownership for manufactured homes

AN ACT to repeal sections 301.190, 301.218, 306.410, 430.082, and 700.320, RSMo, and to enact in lieu thereof five new sections relating to certificates of ownership, with penalty provisions.

SECTION

A. Enacting clause.

301.190. Certificate of ownership — application, contents — special requirements, certain vehicles — fees — failure to obtain within time limit, delinquency penalty — duration of certificate — unlawful to operate without certificate — certain vehicles brought into state in a wrecked or damaged condition or after being towed, inspection — certain vehicles previously registered in other states, designation — reconstructed motor vehicles, procedure.

301.218. Licenses required for certain businesses — buyers at salvage pool or salvage disposal sale, requirements — records to be kept of sales by operator.
306.410. Duties of parties upon creation of lien or encumbrance — failure of owner to perform certain duties, penalty — name change, authorization to director required.
430.082. Motor vehicles, trailers, vessels, outboard motors, aircraft liens for labor, material or storage, when — nonpossessory lien on aircraft, procedure — lien title obtained, when, procedure — sale of chattel, when — distribution of proceeds.
700.320. Certificate of title, application procedure, fees — payment of sales tax before issuance — purchase price, defined — certificates may be transferred, when, procedure — affidavit or affixation required, when, procedure.

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

SECTION A. ENACTING CLAUSE. — Sections 301.190, 301.218, 306.410, 430.082, and 700.320, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 301.190, 301.218, 306.410, 430.082, and 700.320, to read as follows:

301.190. CERTIFICATE OF OWNERSHIP — APPLICATION, CONTENTS — SPECIAL REQUIREMENTS, CERTAIN VEHICLES — FEES — FAILURE TO OBTAIN WITHIN TIME LIMIT, DELINQUENCY PENALTY — DURATION OF CERTIFICATE — UNLAWFUL TO OPERATE WITHOUT CERTIFICATE — CERTAIN VEHICLES BROUGHT INTO STATE IN A WRECKED OR DAMAGED CONDITION OR AFTER BEING TOWED, INSPECTION — CERTAIN VEHICLES PREVIOUSLY REGISTERED IN OTHER STATES, DESIGNATION — RECONSTRUCTED MOTOR VEHICLES, PROCEDURE. — 1. No certificate of registration of any motor vehicle or trailer, or number plate therefor, shall be issued by the director of revenue unless the applicant therefor shall make application for and be granted a certificate of ownership of such motor vehicle or trailer, or shall present satisfactory evidence that such certificate has been previously issued to the applicant for such motor vehicle or trailer. Application shall be made within thirty days after the applicant acquires the motor vehicle or trailer upon a blank form furnished by the director of revenue and shall contain the applicant's identification number, a full description of the motor vehicle or trailer, the vehicle identification number, and the mileage registered on the odometer at the time of transfer of ownership, as required by section 407.536, RSMo, together with a statement of the applicant's source of title and of any liens or encumbrances on the motor vehicle or trailer, provided that for good cause shown the director of revenue may extend the period of time for making such application. **When an owner wants to add or delete a name or names on an application for certificate of ownership of a motor vehicle or trailer that would cause it to be inconsistent with the name or names listed on the notice of lien, the owner shall provide the director with documentation evidencing the lienholder's authorization to add or delete a name or names on an application for certificate of ownership.**

2. The director of revenue shall use reasonable diligence in ascertaining whether the facts stated in such application are true and shall, to the extent possible without substantially delaying processing of the application, review any odometer information pertaining to such motor vehicle that is accessible to the director of revenue. If satisfied that the applicant is the lawful owner of such motor vehicle or trailer, or otherwise entitled to have the same registered in his name, the director shall thereupon issue an appropriate certificate over his signature and sealed with the seal of his office, procured and used for such purpose. The certificate shall contain on its face a complete description, vehicle identification number, and other evidence of identification of the motor vehicle or trailer, as the director of revenue may deem necessary, together with the odometer information required to be put on the face of the certificate pursuant to section 407.536, RSMo, a statement of any liens or encumbrances which the application may show to be thereon, and, if ownership of the vehicle has been transferred, the name of the state issuing the transferor's title and whether the transferor's odometer mileage statement executed pursuant to section 407.536, RSMo, indicated that the true mileage is materially different from the number of miles shown on the odometer, or is unknown.

3. The director of revenue shall appropriately designate on the current and all subsequent issues of the certificate the words "Reconstructed Motor Vehicle", "Motor Change Vehicle", "Specially Constructed Motor Vehicle", or "Non-USA-Std Motor Vehicle", as defined in section 301.010. Effective July 1, 1990, on all original and all subsequent issues of the certificate for motor vehicles as referenced in subsections 2 and 3 of section 301.020, the director shall print on the face thereof the following designation: "Annual odometer updates may be available from the department of revenue.". On any duplicate certificate, the director of revenue shall reprint on the face thereof the most recent of either:

(1) The mileage information included on the face of the immediately prior certificate and the date of purchase or issuance of the immediately prior certificate; or

(2) Any other mileage information provided to the director of revenue, and the date the director obtained or recorded that information.

4. The certificate of ownership issued by the director of revenue shall be manufactured in a manner to prohibit as nearly as possible the ability to alter, counterfeit, duplicate, or forge such certificate without ready detection. In order to carry out the requirements of this subsection, the director of revenue may contract with a nonprofit scientific or educational institution specializing in the analysis of secure documents to determine the most effective methods of rendering Missouri certificates of ownership nonalterable or noncounterfeitable.

5. The fee for each original certificate so issued shall be eight dollars and fifty cents, in addition to the fee for registration of such motor vehicle or trailer. If application for the certificate is not made within thirty days after the vehicle is acquired by the applicant, a delinquency penalty fee of twenty-five dollars for the first thirty days of delinquency and twenty-five dollars for each thirty days of delinquency thereafter, not to exceed a total of two hundred dollars, but such penalty may be waived by the director for a good cause shown. If the director of revenue learns that any person has failed to obtain a certificate within thirty days after acquiring a motor vehicle or trailer or has sold a vehicle without obtaining a certificate, he shall cancel the registration of all vehicles registered in the name of the person, either as sole owner or as a co-owner, and shall notify the person that the cancellation will remain in force until the person pays the delinquency penalty fee provided in this section, together with all fees, charges and payments which the person should have paid in connection with the certificate of ownership and registration of the vehicle. The certificate shall be good for the life of the motor vehicle or trailer so long as the same is owned or held by the original holder of the certificate and shall not have to be renewed annually.

6. Any applicant for a certificate of ownership requesting the department of revenue to process an application for a certificate of ownership in an expeditious manner requiring special handling shall pay a fee of five dollars in addition to the regular certificate of ownership fee.

7. It is unlawful for any person to operate in this state a motor vehicle or trailer required to be registered under the provisions of the law unless a certificate of ownership has been applied for as provided in this section.

8. Before an original Missouri certificate of ownership is issued, an inspection of the vehicle and a verification of vehicle identification numbers shall be made by the Missouri state highway patrol on vehicles for which there is a current title issued by another state if a Missouri salvage certificate of title has been issued for the same vehicle but no prior inspection and verification has been made in this state, except that if such vehicle has been inspected in another state by a law enforcement officer in a manner comparable to the inspection process in this state and the vehicle identification numbers have been so verified, the applicant shall not be liable for the twenty-five dollar inspection fee if such applicant submits proof of inspection and vehicle identification number verification to the director of revenue at the time of the application. The applicant, who has such a title for a vehicle on which no prior inspection and verification have been made, shall pay a fee of twenty-five dollars for such verification and inspection, payable to the director of revenue at the time of the request for the application, which shall be deposited in the state treasury to the credit of the state highways and transportation department fund.

9. Each application for an original Missouri certificate of ownership for a vehicle which is classified as a reconstructed motor vehicle, specially constructed motor vehicle, kit vehicle, motor change vehicle, non-USA-std motor vehicle, or other vehicle as required by the director of revenue shall be accompanied by a vehicle examination certificate issued by the Missouri state highway patrol, or other law enforcement agency as authorized by the director of revenue. The vehicle examination shall include a verification of vehicle identification numbers and a determination of the classification of the vehicle. The owner of a vehicle which requires a vehicle examination certificate shall present the vehicle for examination and obtain a completed vehicle examination certificate prior to submitting an application for a certificate of ownership to the director of revenue. The fee for the vehicle examination application shall be twenty-five dollars and shall be collected by the director of revenue at the time of the request for the application and shall be deposited in the state treasury to the credit of the state highways and transportation department fund. If the vehicle is also to be registered in Missouri, the safety inspection required in chapter 307, RSMo, and the emissions inspection required under chapter 643, RSMo, shall be completed and the fees required by section 307.365, RSMo, and section 643.315, RSMo, shall be charged to the owner.

10. When an application is made for an original Missouri certificate of ownership for a motor vehicle previously registered or titled in a state other than Missouri or as required by section 301.020, it shall be accompanied by a current inspection form certified by a duly authorized official inspection station as described in chapter 307, RSMo. The completed form shall certify that the manufacturer's identification number for the vehicle has been inspected, that it is correctly displayed on the vehicle and shall certify the reading shown on the odometer at the time of inspection. The inspection station shall collect the same fee as authorized in section 307.365, RSMo, for making the inspection, and the fee shall be deposited in the same manner as provided in section 307.365, RSMo. If the vehicle is also to be registered in Missouri, the safety inspection required in chapter 307, RSMo, and the emissions inspection required under chapter 643, RSMo, shall be completed and only the fees required by section 307.365, RSMo, and section 643.315, RSMo, shall be charged to the owner. This section shall not apply to vehicles being transferred on a manufacturer's statement of origin.

11. Motor vehicles brought into this state in a wrecked or damaged condition or after being towed as an abandoned vehicle pursuant to another state's abandoned motor vehicle procedures shall, in lieu of the inspection required by subsection 10 of this section, be inspected by the Missouri state highway patrol in accordance with subsection 9 of this section. If the inspection reveals the vehicle to be in a salvage or junk condition, the director shall so indicate on any Missouri certificate of ownership issued for such vehicle. Any salvage designation shall be carried forward on all subsequently issued certificates of title for the motor vehicle.

12. When an application is made for an original Missouri certificate of ownership for a motor vehicle previously registered or titled in a state other than Missouri, and the certificate of ownership has been appropriately designated by the issuing state as a reconstructed motor vehicle, motor change vehicle, specially constructed motor vehicle, or prior salvage vehicle, the director of revenue shall appropriately designate on the current Missouri and all subsequent issues of the certificate of ownership the name of the issuing state and such prior designation. The absence of any prior designation shall not relieve a transferor of the duty to exercise due diligence with regard to such certificate of ownership prior to the transfer of a certificate. If a transferor exercises any due diligence with regard to a certificate of ownership, the legal transfer of a certificate of ownership without any designation that is subsequently discovered to have or should have had a designation shall be a transfer free and clear of any liabilities of the transferor associated with the missing designation.

13. When an application is made for an original Missouri certificate of ownership for a motor vehicle previously registered or titled in a state other than Missouri, and the certificate of ownership has been appropriately designated by the issuing state as non-USA-std motor vehicle,

the director of revenue shall appropriately designate on the current Missouri and all subsequent issues of the certificate of ownership the words "Non-USA-Std Motor Vehicle".

14. The director of revenue and the superintendent of the Missouri state highway patrol shall make and enforce rules for the administration of the inspections required by this section.

15. Each application for an original Missouri certificate of ownership for a vehicle which is classified as a reconstructed motor vehicle, manufactured forty or more years prior to the current model year, and which has a value of three thousand dollars or less shall be accompanied by:

(1) A proper affidavit submitted by the owner explaining how the motor vehicle or trailer was acquired and, if applicable, the reasons a valid certificate of ownership cannot be furnished;

(2) Photocopies of receipts, bills of sale establishing ownership, or titles, and the source of all major component parts used to rebuild the vehicle;

(3) A fee of one hundred fifty dollars in addition to the fees described in subsection 5 of this section. Such fee shall be deposited in the state treasury to the credit of the state highways and transportation department fund; and

(4) An inspection certificate, other than a motor vehicle examination certificate required under subsection 9 of this section, completed and issued by the Missouri state highway patrol, or other law enforcement agency as authorized by the director of revenue. The inspection performed by the highway patrol or other authorized local law enforcement agency shall include a check for stolen vehicles. The department of revenue shall issue the owner a certificate of ownership designated with the words "Reconstructed Motor Vehicle" and deliver such certificate of ownership in accordance with the provisions of this chapter. Notwithstanding subsection 9 of this section, no owner of a reconstructed motor vehicle described in this subsection shall be required to obtain a vehicle examination certificate issued by the Missouri state highway patrol.

301.218. LICENSES REQUIRED FOR CERTAIN BUSINESSES — BUYERS AT SALVAGE POOL OR SALVAGE DISPOSAL SALE, REQUIREMENTS — RECORDS TO BE KEPT OF SALES BY OPERATOR. — 1. No person shall, except as an incident to the sale, repair, rebuilding or servicing of vehicles by a licensed franchised motor vehicle dealer carry on or conduct the following business unless licensed to do so by the department of revenue under sections 301.217 to 301.229:

(1) Selling used parts of or used accessories for vehicles as a used parts dealer, as defined in section 301.010;

(2) Salvaging, wrecking or dismantling vehicles for resale of the parts thereof as a salvage dealer or dismantler, as defined in section 301.010;

(3) Rebuilding and repairing four or more wrecked or dismantled vehicles in a calendar year as a rebuilder or body shop, as defined in section 301.010;

(4) Processing scrapped vehicles or vehicle parts as a mobile scrap processor, as defined in section 301.010.

2. Sales at a salvage pool or a salvage disposal sale shall be open only to and made to persons actually engaged in and holding a current license under sections 301.217 to 301.221 and 301.550 to 301.573 or any person from another state or jurisdiction who is legally allowed in his or her state of domicile to purchase for resale, rebuild, dismantle, crush, or scrap either motor vehicles or salvage vehicles, and to persons who reside in a foreign country that are purchasing salvage vehicles for export outside of the United States. Operators of salvage pools or salvage disposal sales shall keep a record, for three years, of sales of salvage vehicles with the purchasers' name and address, and the year, make, and vehicle identification number for each vehicle. These records shall be open for inspection as provided in section 301.225. Such records shall be submitted to the department on a quarterly basis.

3. The **[**seller of**]** **operator of a salvage pool or salvage disposal sale, or subsequent purchaser, who sells** a nonrepairable motor vehicle or a salvage motor vehicle to a person who is not a resident of the United States at a salvage pool or a salvage disposal sale shall:

(1) Stamp on the face of the title so as not to obscure any name, date, or mileage statement on the title the words "FOR EXPORT ONLY" in capital letters that are black; and

(2) Stamp in each unused reassignment space on the back of the title the words "FOR EXPORT ONLY" and print the number of the dealer's salvage vehicle license, name of the salvage pool, or the name of the governmental entity, as applicable. The words "FOR EXPORT ONLY" required under subdivisions (1) and (2) of this subsection shall be at least two inches wide and clearly legible. Copies of the stamped titles shall be forwarded to the department.

4. The director of revenue shall issue a separate license for each kind of business described in subsection 1 of this section, to be entitled and designated as either "used parts dealer"; "salvage dealer or dismantler"; "rebuilder or body shop"; or "mobile scrap processor" license.

306.410. DUTIES OF PARTIES UPON CREATION OF LIEN OR ENCUMBRANCE — FAILURE OF OWNER TO PERFORM CERTAIN DUTIES, PENALTY — NAME CHANGE, AUTHORIZATION TO DIRECTOR REQUIRED. — 1. If an owner creates a lien or encumbrance on an outboard motor, motorboat, vessel, or watercraft:

(1) The owner shall immediately execute the application, either in the space provided therefor on the certificate of title or on a separate form the director of revenue prescribes, to name the lienholder on the certificate of title, showing the name and address of the lienholder and the date of his or her security agreement, and shall cause the certificate of title, the application and the required fee to be mailed or delivered to the director of revenue. Failure of the owner to do so is a class A misdemeanor;

(2) The lienholder or an authorized agent licensed pursuant to sections 301.112 to 301.119, RSMo, shall deliver to the director of revenue a notice of lien as prescribed by the director accompanied by all other necessary documentation to perfect a lien pursuant to section 306.400;

(3) To perfect a lien for a subordinate lienholder when a transfer of ownership occurs, the subordinate lienholder shall either mail or deliver, or cause to be mailed or delivered, a completed notice of lien to the department of revenue, accompanied by authorization from the first lienholder. The owner shall ensure the subordinate lienholder is recorded on the application for title at the time the application is made to the department of revenue. To perfect a lien for a subordinate lienholder when there is no transfer of ownership, the owner or lienholder in possession of the certificate shall either mail or deliver, or cause to be mailed or delivered, the owner's application for title, certificate, notice of lien, authorization from the first lienholder and title fee to the department of revenue. The delivery of the certificate and executing a notice of authorization to add a subordinate lien does not affect the rights of the first lienholder under the security agreement;

(4) Upon receipt of the documents and fee required in subdivision (3) of this section, the director of revenue shall issue a new certificate of title containing the name and address of the new lienholder, and mail the certificate of title to the owner named in it or if a lienholder has elected to have the director of revenue retain possession of an electronic certificate of title, the lienholder shall either mail or deliver to the director a notice of authorization for the director to add a subordinate lienholder to the existing certificate as prescribed in section 306.405. Upon receipt of such authorization and a notice of lien from a subordinate lienholder, the director shall add the subordinate lienholder to the certificate of title being electronically retained by the director and provide confirmation of the addition to both lienholders.

2. When an owner wants to add or delete a name or names on an application for certificates of title of an outboard motor, motorboat, vessel, or watercraft that would cause it to be inconsistent with the name or names listed on the notice of lien, the owner shall provide the director with documentation evidencing the lienholder's authorization to add or delete a name or names on an application for certificate of title.

430.082. MOTOR VEHICLES, TRAILERS, VESSELS, OUTBOARD MOTORS, AIRCRAFT LIENS FOR LABOR, MATERIAL OR STORAGE, WHEN — NONPOSSESSORY LIEN ON AIRCRAFT,

PROCEDURE — LIEN TITLE OBTAINED, WHEN, PROCEDURE — SALE OF CHATTEL, WHEN — DISTRIBUTION OF PROCEEDS. — 1. Every person expending labor, services, skill or material upon any motor vehicle or trailer, as defined in chapter 301, RSMo, vessel, as defined in chapter 306, RSMo, outboard motor or aircraft at a written request of its owner, authorized agent of the owner, or person in lawful possession thereof, or who provides storage for a motor vehicle, trailer, outboard motor or vessel, at the written request of its owner, authorized agent of the owner, or person in lawful possession thereof, or at the written request of a peace officer in lieu of the owner or owner's agent, where such owner or agent is not available to request storage thereof, shall, where the maximum amount to be charged for labor, services, skill or material has been stated as part of the written request or the daily charge for storage has been stated as part of the written request, have a lien upon the chattel beginning upon the date of commencement of the expenditure of labor, services, skill, materials or storage for the actual value of all the expenditure of labor, services, skill, materials or storage until the possession of that chattel is voluntarily relinquished to the owner, authorized agent, or one entitled to possession thereof. The person furnishing labor, services, skill or material may retain the lien after surrendering possession of the aircraft or part or equipment thereof by filing a statement in the office of the county recorder of the county where the owner of the aircraft or part or equipment thereof resides, if known to the claimant, and in the office of the county recorder of the county where the claimant performed the services. Such statement shall be filed within thirty days after surrendering possession of the aircraft or part or equipment thereof and shall state the claimant's name and address, the items on account, the name of the owner and a description of the property, and shall not bind a bona fide purchaser unless the lien has also been filed with the Federal Aviation Administration Aircraft Registry.

2. If the chattel is not redeemed within **[**three months**]** **forty-five days** of the completion of the requested labor, services, skill or material, the lienholder may apply to the director of revenue for a certificate of ownership or certificate of title.

3. If the charges are for storage or the service of towing the motor vehicle, trailer, outboard motor or vessel, and the chattel has not been redeemed **[**three months**]** **within forty-five days** after the charges for storage commenced, the lienholder shall notify by certified mail, postage prepaid, the owner and any lienholders of record other than the person making the notification, at the person's last known address that application for a lien title will be made unless the owner or lienholder within **[**forty-five**]** **thirty** days makes satisfactory arrangements with the person holding the chattel for payment of storage or service towing charges, if any, or makes satisfactory arrangements with the lienholder for paying such charges or for continued storage of the chattel if desired. **[**Forty-five**]** **Thirty** days after the notification has been mailed and the chattel is unredeemed**, or the notice has been returned marked "not fowardable" or "addressee unknown",** and no satisfactory arrangement has been made with the lienholder for payment or continued storage, the lienholder may apply to the director of revenue for a certificate of ownership or certificate of title as provided in this section.

4. The application shall be accompanied by:

(1) The original or a conformed or photostatic copy of the written request of the owner or the owner's agent or of a peace officer with the maximum amount to be charged stated therein;

(2) An affidavit **[**of the**]** **from the** lienholder that **written notice was provided to all owners and lienholders of the applicants' intent to apply for a certificate of ownership and** the owner has defaulted on payment of labor, services, skill or material and that payment is **[**three months**]** **forty-five days** past due, or that owner has defaulted on payment or has failed to make satisfactory arrangements for continued storage of the chattel for **[**forty-five**]** **thirty** days since notification of intent to make application for a certificate of ownership or certificate of title**. The affidavit shall be accompanied by a copy of the thirty-day notice given by certified mail to any owner and person holding a valid security interest and a copy of the certified mail receipt indicating that the owner and lienholder of record was sent a notice as required in this section**;

(3) A statement of the actual value of the expenditure of labor, services, skill or material, or the amount of storage due on the date of application for a certificate of ownership or certificate of title, and the amount which is unpaid; and

(4) A fee of ten dollars.

5. If the director is satisfied with the genuineness of the application**, proof of lienholder notification in the form of a certified mail receipt,** and supporting documents, **[**the director shall notify by certified mail, postage prepaid, the owner and any lienholders of record, other than the applicant, at their last known address that application has been made for a lien title on the chattel.

6. Thirty days after notification of the owner and lienholders,**]** **and** if no lienholder or the owner has redeemed the chattel or no satisfactory arrangement has been made concerning payment or continuation of storage **[**and the application has not been withdrawn**]**, and if no owner or lienholder has informed the director that the owner or lienholder demands a hearing **[**and enforcement of the lien**]** as provided in **[**section 430.160**]** **this section**, the director shall issue, in the same manner as a repossessed title is issued, a certificate of ownership or certificate of title to the applicant which shall clearly be captioned "Lien Title".

[7.**]** **6.** Upon receipt of a lien title, the holder shall within ten days begin proceedings to sell the chattel as prescribed in section 430.100.

[8.**]** **7.** The provisions of section 430.110 shall apply to the disposition of proceeds, and the lienholder shall also be entitled to any actual and necessary expenses incurred in obtaining the lien title, including, but not limited to, court costs and reasonable attorney's fees.

700.320. CERTIFICATE OF TITLE, APPLICATION PROCEDURE, FEES — PAYMENT OF SALES TAX BEFORE ISSUANCE — PURCHASE PRICE, DEFINED — CERTIFICATES MAY BE TRANSFERRED, WHEN, PROCEDURE — AFFIDAVIT OR AFFIXATION REQUIRED, WHEN, PROCEDURE. — 1. The owner of any new or used manufactured home, as defined in section 700.010, shall make application to the director of revenue for an official certificate of title to such manufactured home in the manner prescribed by law for the acquisition of certificates of title to motor vehicles, and the rules promulgated pursuant thereto. All fees required by section 301.190, RSMo, for the titling of motor vehicles and all penalties provided by law for the failure to title motor vehicles shall apply to persons required to make application for an official certificate of title by this subsection. In case there is any duplication in serial numbers assigned any manufactured homes, or no serial number has been assigned by the manufacturer, the director shall assign the serial numbers for the manufactured homes involved.

2. At the time the owner of any new manufactured home, as defined in section 700.010, which was acquired in a transaction subject to sales tax under the Missouri sales tax law makes application to the director of revenue for an official certificate of title for such manufactured home, he shall present to the director of revenue evidence satisfactory to the director of revenue showing the purchase price exclusive of any charge incident to the extension of credit paid by or charged to the applicant in the acquisition of the manufactured home, or that no sales tax was incurred in its acquisition, and if sales tax was incurred in its acquisition, the applicant shall pay or cause to be paid to the director of revenue the sales tax provided by the Missouri sales tax law in addition to the registration fees now or hereafter required according to law, and the director of revenue shall not issue a certificate of title for any new manufactured home subject to sales tax as provided in the Missouri sales tax law until the tax levied for the sale of the same under sections 144.010 to 144.510, RSMo, has been paid as provided in this section. As used in this subsection, the term "purchase price" shall mean the total amount of the contract price agreed upon between the seller and the applicant in the acquisition of the new manufactured home regardless of the medium of payment therefor. In the event that the purchase price is unknown or undisclosed, or that the evidence thereof is not satisfactory to the director of revenue, the same shall be fixed by appraisement by the director. The director of the department of revenue shall endorse upon the official certificate of title issued by him upon such application an entry showing

that such sales tax has been paid or that the manufactured home represented by the certificate is exempt from sales tax and state the ground for such exemption.

3. A certificate of title for a manufactured home issued in the names of two or more persons that does not show on the face of the certificate that the persons hold their interest in the manufactured home as tenants in common, on death of one of the named persons, may be transferred to the surviving owner or owners. On proof of death of one of the persons in whose names the certificate was issued, surrender of the outstanding certificate of title, and on application and payment of the fee for an original certificate of title, the director of revenue shall issue a new certificate of title for the manufactured home to the surviving owner or owners; and the current valid certificate of number shall be so transferred.

4. A certificate of title for a manufactured home issued in the names of two or more persons that shows on its face that the persons hold their interest in the manufactured home as tenants in common, on death of one of the named persons, may be transferred by the director of revenue on application by the surviving owners and the personal representative or successors of the deceased owner. Upon being presented proof of death of one of the persons in whose names the certificate of title was issued, surrender of the outstanding certificate of title, and on application and payment of the fee for an original certificate of title, the director of revenue shall issue a new certificate of title for the manufactured home to the surviving owners and personal representative or successors of the deceased owner; and the current valid certificate of number shall be so transferred.

5. When an owner wants to add or delete a name or names on an application for certificate of title to a manufactured home that would cause it to be inconsistent with the name or names listed on the notice of lien, the owner shall provide the director with documentation evidencing the lienholder's authorization to add or delete a name or names on an application for certificate of title.

Approved July 8, 2009

HB 272 [SCS HCS HB 272]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Establishes the Alzheimer's State Plan Task Force within the Department of Health and Senior Services to assess the impact of Alzheimer's disease and related dementia on residents of this state

AN ACT to amend chapter 191, RSMo, by adding thereto one new section relating to the Alzheimer's state plan task force, with an expiration date.

SECTION
A. Enacting clause.
191.115. Alzheimer's State Plan Task Force established, members, duties, meetings, report — expiration date.

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

SECTION A. ENACTING CLAUSE. — Chapter 191, RSMo, is amended by adding thereto one new section, to be known as section 191.115, to read as follows:

191.115. ALZHEIMER'S STATE PLAN TASK FORCE ESTABLISHED, MEMBERS, DUTIES, MEETINGS, REPORT — EXPIRATION DATE. — 1. There is hereby established in the

department of health and senior services an "Alzheimer's State Plan Task Force". The task force shall consist of nineteen members, as follows:

(1) The lieutenant governor or his or her designee, who shall serve as chair of the task force;

(2) The directors of the departments of health and senior services, social services, and mental health or their designees;

(3) One member of the house of representatives appointed by the speaker of the house;

(4) One member of the senate appointed by the president pro tem of the senate;

(5) One member who has early-stage Alzheimer's or a related dementia;

(6) One member who is a family caregiver of a person with Alzheimer's or a related dementia;

(7) One member who is a licensed physician with experience in the diagnosis, treatment, and research of Alzheimer's disease;

(8) One member from the office of the state ombudsman for long-term care facility residents;

(9) One member representing the home care profession;

(10) One member representing residential long-term care;

(11) One member representing the adult day services profession;

(12) One member representing the insurance profession;

(13) One member representing the area agencies on aging;

(14) One member with expertise in minority health;

(15) One member who is a licensed elder law attorney;

(16) Two members from the leading voluntary health organization in Alzheimer's care, support, and research.

2. The members of the task force, other than the lieutenant governor, members from the general assembly, and department directors, shall be appointed by the governor with the advice and consent of the senate. Members shall serve on the task force without compensation.

3. The task force shall:

(1) Assess the current and future impact of Alzheimer's disease and related dementia on residents of the state of Missouri;

(2) Examine the existing services and resources addressing the needs of persons with dementia, their families, and caregivers; and

(3) Develop recommendations to respond to the escalating public health situation regarding Alzheimer's.

4. The task force shall include an examination of the following in its assessment and recommendations required to be completed under subsection 3 of this section:

(1) Trends in state Alzheimer's and related dementia populations and their needs, including but not limited to, the state's role in long-term care, family caregiver support, and assistance to persons with early-stage Alzheimer's, early onset of Alzheimer's, and individuals with Alzheimer's disease as a result of Down's Syndrome;

(2) Existing services, resources, and capacity, including but not limited to:

(a) Type, cost, and availability of services for persons with dementia, including home and community based resources, respite care to assist families, residential long-term care options, and adequacy and appropriateness of geriatric-psychiatric units for persons with behavior disorders associated with Alzheimer's and related dementia;

(b) Dementia-specific training requirements for individuals employed to provide care for persons with dementia;

(c) Quality care measure for services delivered across the continuum of care;

(d) Capacity of public safety and law enforcement to respond to persons with Alzheimer's and related dementia;

(e) State support for Alzheimer's research through institutes of higher learning in Missouri;

(3) Needed state policies or responses, including but not limited to directions for the provision of clear and coordinated services and supports to persons and families living with Alzheimer's and related dementias and strategies to address any identified gaps in services.

5. The task force shall hold a minimum of one meeting at four diverse geographic regions in the state of Missouri during the calendar year to seek public input.

6. The task force shall submit a report of its findings and date-specific recommendations to the general assembly and the governor in the form of a state Alzheimer's plan no later than November 15, 2010, as part of Alzheimer's disease awareness month.

7. The task force shall continue to meet at the request of the chair and at a minimum of one time annually for the purpose of evaluating the implementation and impact of the task force recommendations and provide annual supplemental reports on the findings to the governor and the general assembly.

8. The provisions of this section shall expire on November 1, 2012.

Approved July 13, 2009

HB 273 [HCS HB 273]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Allows an electronic copy of a check or a bank statement to be used as documentation for any expenditure of more than $75 on a personal representative's claim on a decedent's estate

AN ACT to repeal section 473.543, RSMo, and to enact in lieu thereof one new section relating to supportive documentation for disbursements in excess of seventy-five dollars.

SECTION
A. Enacting clause.
473.543. Settlements, contents — vouchers for disbursement — evidence, checks and drafts.

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

SECTION A. ENACTING CLAUSE. — Section 473.543, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 473.543, to read as follows:

473.543. SETTLEMENTS, CONTENTS — VOUCHERS FOR DISBURSEMENT — EVIDENCE, CHECKS AND DRAFTS. — 1. Each settlement filed by a personal representative shall state the period for which it is made and, among other things, shall contain a just and true account of all moneys **[**by him**]** collected **by such personal representative**, the date when collected, from whom collected and on what account collected, whether on claims charged in the inventory or for property sold or otherwise; and it shall show the exact amount of principal and interest collected on each claim, and also the amount and date of each expenditure or distribution, and to whom and for what paid. Such settlement shall also show what interest has been obtained by the personal representative upon any funds in his **or her** hands, and when obtained, on what amounts, for what time and at what rate percent. Each expenditure of more than seventy-five dollars for which a personal representative claims credit in any settlement shall be supported by

vouchers executed by the person to whom the disbursement was made **or other documentation, such as an electronic copy of a check or a bank statement, which establishes to the court's satisfaction that the payment claimed in the settlement was actually made to the payee to whom it is claimed to have been made**. The court has discretion to require **[**vouchers**]** **documentation** for expenditures of less than seventy-five dollars. Every settlement shall be signed by the personal representative.

2. When the law, local probate rule or practice requires the production of original canceled checks or drafts as part of any interim or final settlements of any kind by personal representatives, conservators, or other persons, such information may be retained and reproduced in a form permitted under section 362.413, RSMo; and, provided such information meets the requirements of section 362.413, RSMo, no court may require the production of the original checks and drafts.

Approved June 26, 2009

HB 282 [HB 282]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Authorizes the Governor to convey state property in Jasper County, known as the Joplin Regional Center, to Missouri Southern State University

AN ACT to authorize the conveyance of property owned by the state in Jasper County to Missouri Southern State University.

SECTION
1. Governor authorized to quit claim Joplin Regional Center to Missouri Southern State University.

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

SECTION 1. GOVERNOR AUTHORIZED TO QUIT CLAIM JOPLIN REGIONAL CENTER TO MISSOURI SOUTHERN STATE UNIVERSITY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release, and forever quitclaim all interest of the state of Missouri in real property known as the Joplin Regional Center, located in Jasper County, Joplin, Missouri, to Missouri Southern State University. The property to be conveyed is more particularly described as follows:

A tract of land lying in the Southwest Quarter (1/4) of the Southeast Quarter (1/4) of Section 31, Township 28, Range 32, Jasper County, Missouri, and described by the following metes and bounds: beginning at the Southwest corner of the above described Southwest Quarter (1/4) of the Southeast (1/4) of Section 31; thence North along the West line thereof 670.0 Feet; thence East with an angle of 90 degrees with the said West line 450.0 Feet to a point; thence South parallel to said West line 140.0 Feet; thence South 56 degrees East for a distance of 415.0 Feet to a point; thence South 290.0 Feet to the South line of said Southwest Quarter (1/4) of the Southeast Quarter (1/4); thence West along said South line 800.0 Feet to point of beginning, containing ten and two-tenths (10.2) acres, more or less, except a strip of land fifty feet wide East and West off of the West side thereof, the same being reserved for road purposes.

2. The conveyance of the property described in this section shall not occur until the Joplin Regional Center is relocated from the property described in this section to different property.

3. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the time, place, and terms of the conveyance.

4. The attorney general shall approve the form of the instrument of conveyance.

Approved June 26, 2009

HB 283 [SCS HB 283]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Authorizes nonprofit sewer companies to provide domestic water services in certain areas

AN ACT to repeal section 393.829, RSMo, and to enact in lieu thereof one new section relating to nonprofit sewer districts.

SECTION
A. Enacting clause.
393.829. Powers.

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

SECTION A. ENACTING CLAUSE. — Section 393.829, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 393.829, to read as follows:

393.829. POWERS. — A nonprofit sewer company shall have power:

(1) To sue and be sued, in its corporate name;

(2) To have succession by its corporate name for the period stated in its articles of incorporation or, if no period is stated in its articles of incorporation, to have such succession perpetually;

(3) To adopt a corporate seal and alter the same at pleasure;

(4) To provide wastewater disposal and wastewater treatment services to its members, to governmental agencies and political subdivisions;

(5) To make loans to persons to whom wastewater disposal or wastewater treatment is or will be supplied by the company for the purpose of, and otherwise to assist such persons in, installing therein plumbing fixtures, appliances, apparatus and equipment of any and all kinds and character, and in connection therewith, to purchase, acquire, lease, sell, distribute, install and repair such plumbing fixtures, appliances, apparatus and equipment, and to accept or otherwise acquire, and to sell, assign, transfer, endorse, pledge, hypothecate and otherwise dispose of notes, bonds and other evidences of indebtedness and any and all types of security therefor;

(6) To make loans to persons to whom wastewater disposal or wastewater treatment is or will be supplied by the company for the purpose of, and otherwise to assist such persons in, constructing, maintaining and operating commercial or industrial plants or facilities;

(7) To construct, purchase, take, receive, lease as lessee, or otherwise acquire, and to own, hold, use, equip, maintain, and operate, and to sell, assign, transfer, convey, exchange, lease as lessor, mortgage, pledge, or otherwise dispose of or encumber, wastewater provision or collection or treatment systems, plants, lands, buildings, structures, dams, and equipment, and any and all kinds and classes of real or personal property whatsoever, which shall be deemed necessary, convenient or appropriate to accomplish the purpose for which the company is organized;

(8) To purchase or otherwise acquire, and to own, hold, use and exercise and to sell, assign, transfer, convey, mortgage, pledge, hypothecate, or otherwise dispose of or encumber, franchises, rights, privileges, licenses, rights-of-way and easements;

(9) To borrow money and otherwise contract indebtedness, and to issue notes, bonds, and other evidences of indebtedness therefor, and to secure the payment thereof by mortgage, pledge, deed of trust, or any other encumbrance upon any or all of its then-owned or after-acquired real or personal property, assets, franchises, revenues or income;

(10) To construct, maintain and operate wastewater distribution and collection and treatment plants and lines along, upon, under and across all public thoroughfares, including without limitation, all roads, highways, streets, alleys, bridges and causeways, and upon, under and across all publicly owned lands;

(11) To exercise the power of eminent domain in the manner provided by the laws of this state for the exercise of that power by corporations constructing or operating electric transmission and distribution lines or systems;

(12) To conduct its business and exercise any or all of its powers within or without this state;

(13) To adopt, amend and repeal bylaws; [and]

(14) To do and perform any and all other acts and things, and to have and exercise any and all other powers which may be necessary, convenient or appropriate to accomplish the purpose for which the company is organized**; and**

(15) To provide all services and assume all responsibilities authorized to a nonprofit water company organized under sections 393.900 to 393.954, when approved by its members, provided that no domestic water services may be provided within the boundaries of an existing public water supply district, municipal utility, or within the certificated area of a water corporation as defined in section 386.020, RSMo.

Approved June 25, 2009

HB 289 [HB 289]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Requires the designation of an agent for a binding signature on a placement settlement and makes the five-business-day notice applicable to all special education due process hearings

AN ACT to repeal sections 162.961 and 162.963, RSMo, and to enact in lieu thereof two new sections relating to special education due process hearings.

SECTION

A. Enacting clause.
162.961. Due process hearing before panel, members and chairman chosen, how — written report — expedited hearing — forty-five day placement — hearing requirements — preliminary meeting.
162.963. Rights of parties — record of proceedings, how kept — costs, how paid.

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

SECTION A. ENACTING CLAUSE. — Sections 162.961 and 162.963, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 162.961 and 162.963, to read as follows:

162.961. DUE PROCESS HEARING BEFORE PANEL, MEMBERS AND CHAIRMAN CHOSEN, HOW — WRITTEN REPORT — EXPEDITED HEARING — FORTY-FIVE DAY PLACEMENT — HEARING REQUIREMENTS — PRELIMINARY MEETING. — 1. A parent, guardian or the responsible educational agency may request a due process hearing by the state board of education with respect to any matter relating to identification, evaluation, educational placement, or the provision of a free appropriate public education of the child. Such request shall include the child's name, address, school, issue, and suggested resolution of dispute if known. Except as provided in subsection 4 of this section, the board or its delegated representative shall within fifteen days after receiving notice empower a hearing panel of three persons who are not directly connected with the original decision and who are not employees of the board to which the appeal has been made. All of the panel members shall have some knowledge or training involving children with disabilities, none shall have a personal or professional interest which would conflict with his or her objectivity in the hearing, and all shall meet the department of elementary and secondary education's training and assessment requirements pursuant to state regulations and federal law and regulation requirements of the Individuals With Disabilities Education Act. One person shall be chosen by the local school district board or its delegated representative or the responsible educational agency, and one person shall be chosen at the recommendation of the parent or guardian. If either party has not chosen a panel member ten days after the receipt by the department of elementary and secondary education of the request for a due process hearing, such panel member shall be chosen instead by the department of elementary and secondary education. Each of these two panel members shall be compensated pursuant to a rate set by the department of elementary and secondary education. The third person shall be appointed by the state board of education and shall serve as the chairperson of the panel. The chairperson shall be an attorney licensed to practice law in this state. During the pendency of any three-member panel hearing, or prior to the empowerment of the panel, the parties may, by mutual agreement, submit their dispute to a mediator pursuant to section 162.959.

2. The parent or guardian, school official, and other persons affected by the action in question shall present to the hearing panel all pertinent evidence relative to the matter under appeal. All rights and privileges as described in section 162.963 shall be permitted.

3. After review of all evidence presented and a proper deliberation, the hearing panel, within the time lines required by the Individuals With Disabilities Education Act, 20 U.S.C. Section 1415 and any amendments thereto, shall by majority vote determine its findings, conclusions, and decision in the matter in question and forward the written decision to the parents or guardian of the child and to the president of the appropriate local board of education or responsible educational agency and to the department of elementary and secondary education. A specific extension of the time line may be made by the chairman at the request of either party, except in the case of an expedited hearing as provided in subsection 4 of this section.

4. An expedited due process hearing by the state board of education may be requested by a parent to challenge a disciplinary change of placement or to challenge a manifestation determination in connection with a disciplinary change of placement or by a responsible educational agency to seek a forty-five school day alternative educational placement for a dangerous or violent student. The board or its delegated representative shall appoint a hearing officer to hear the case and render a decision within the time line required by federal law and state regulations implementing federal law. The hearing officer shall be an attorney licensed to practice law in this state. The hearing officer shall have some knowledge or training involving children with disabilities, shall not have a personal or professional interest which would conflict with his or her objectivity in the hearing, and shall meet the department of elementary and secondary education's training and assessment requirements pursuant to state regulations and federal law and regulation requirements of the Individuals With Disabilities Education Act. A specific extension of the time line is only permissible to the extent consistent with federal law and pursuant to state regulations.

5. If the responsible public agency requests a due process hearing to seek a forty-five school day alternative educational placement for a dangerous or violent student, the agency shall show by substantial evidence that there is a substantial likelihood the student will injure himself or others and that the agency made reasonable efforts to minimize that risk, and shall show that the forty-five school day alternative educational placement will provide a free appropriate public education which includes services and modifications to address the behavior so that it does not reoccur, and continue to allow progress in the general education curriculum.

6. Any due process hearing request and responses to the request shall conform to the requirements of the Individuals With Disabilities Education Act (IDEA). Determination of the sufficiency shall be made by the chairperson of the three-member hearing panel, or in the case of an expedited due process hearing, by the hearing officer. The chairperson or hearing officer shall implement the process and procedures, including time lines, required by the IDEA, related to sufficiency of notice, response to notice, determination of sufficiency dispute, and amendments of the notice.

7. A preliminary meeting, known as a resolution session, shall be convened by the responsible public agency, under the requirements of the IDEA. The process and procedures required by the IDEA in connection to the resolution session and any resulting written settlement agreement shall be implemented. **The responsible public agency or its designee shall sign the agreement. The designee identified by the responsible public agency shall have the authority to bind the agency. A local board of education, as a responsible public agency, shall identify a designee with authority to bind the school district.**

162.963. RIGHTS OF PARTIES — RECORD OF PROCEEDINGS, HOW KEPT — COSTS, HOW PAID. — 1. At any hearing held pursuant to the provisions of section 162.961, except as otherwise provided in this section, either party or a representative shall be entitled to:

(1) Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities;

(2) Present evidence and confront, cross-examine, and compel the attendance of witnesses;

(3) Prohibit the introduction of any evidence, including all evaluations and recommendations based on the offering party's evaluation, at the hearing that has not been disclosed to that party at least five business days before the hearing**[**, except this shall not be applicable in the case of an expedited hearing where no discovery shall take place**]**;

(4) Obtain a written or, at the option of the parents, electronic verbatim record of the hearing; and

(5) Obtain written or, at the option of the parents, electronic findings of fact and decision.

2. Parents involved in hearings have the right to have the child who is the subject of the hearing present and the right to open the hearing to the public.

3. Prior to the resolution conference or hearing, the parent or guardian or a representative of the parent or guardian shall have access to any reports, records, clinical evaluations or other materials upon which the action to be reviewed was wholly or partially based which could reasonably have a bearing on the correctness of the determination.

4. A complete record shall be made of all proceedings unless otherwise specified by statute, which records shall include verbatim transcription of all testimony and shall include all documents, writings, or other evidence presented by any party. Costs incurred during these proceedings, except those of the parties for purchasing diagnostic services or legal counsel or other services of a personal nature, shall be the responsibility of the state board of education.

Approved July 9, 2009

HB 299 [HCS HB 299]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Removes the limit on the amount of appropriations per fiscal year to the Missouri Arts Council

AN ACT to repeal section 143.183, RSMo, and to enact in lieu thereof one new section relating to appropriations to the Missouri Arts Council.

SECTION

A. Enacting clause.

143.183. Professional athletes and entertainers, state income tax revenues from nonresidents — transfers to Missouri arts council trust fund, Missouri humanities council trust fund, Missouri state library networking fund, Missouri public television broadcasting corporation special fund and Missouri historic preservation revolving fund.

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

SECTION A. ENACTING CLAUSE. — Section 143.183, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 143.183, to read as follows:

143.183. PROFESSIONAL ATHLETES AND ENTERTAINERS, STATE INCOME TAX REVENUES FROM NONRESIDENTS — TRANSFERS TO MISSOURI ARTS COUNCIL TRUST FUND, MISSOURI HUMANITIES COUNCIL TRUST FUND, MISSOURI STATE LIBRARY NETWORKING FUND, MISSOURI PUBLIC TELEVISION BROADCASTING CORPORATION SPECIAL FUND AND MISSOURI HISTORIC PRESERVATION REVOLVING FUND. — 1. As used in this section, the following terms mean:

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

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

(3) "Personal service income" includes exhibition and regular season salaries and wages, guaranteed payments, strike benefits, deferred payments, severance pay, bonuses, and any other type of compensation paid to the nonresident entertainer or nonresident member of a professional athletic team, but does not include prizes, bonuses or incentive money received from competition in a livestock, equine or rodeo performance, exhibition or show;

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

2. Any person, venue, or entity who pays compensation to a nonresident entertainer shall deduct and withhold from such compensation as a prepayment of tax an amount equal to two percent of the total compensation if the amount of compensation is in excess of three hundred dollars paid to the nonresident entertainer.

3. Any person, venue, or entity required to deduct and withhold tax pursuant to subsection 2 of this section shall, for each calendar quarter, on or before the last day of the month following

the close of such calendar quarter, remit the taxes withheld in such form or return as prescribed by the director of revenue and pay over to the director of revenue or to a depository designated by the director of revenue the taxes so required to be deducted and withheld.

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

5. Notwithstanding other provisions of this chapter to the contrary, the commissioner of administration, for all taxable years beginning on or after January 1, 1999, but none after December 31, 2015, shall annually estimate the amount of state income tax revenues collected pursuant to this chapter which are received from nonresident members of professional athletic teams and nonresident entertainers. For fiscal year 2000, and for each subsequent fiscal year for a period of sixteen years, sixty percent of the annual estimate of taxes generated from the nonresident entertainer and professional athletic team income tax shall be allocated annually to the Missouri arts council trust fund, and shall be transferred from the general revenue fund to the Missouri arts council trust fund established in section 185.100, RSMo, and any amount transferred shall be in addition to such agency's budget base for each fiscal year. **[**Notwithstanding other provisions of this section, the Missouri arts council shall not be appropriated more than ten million dollars in any fiscal year.**]** The director shall by rule establish the method of determining the portion of personal service income of such persons that is allocable to Missouri.

6. Notwithstanding the provisions of sections 186.050 to 186.067, RSMo, to the contrary, the commissioner of administration, for all taxable years beginning on or after January 1, 1999, but for none after December 31, 2015, shall estimate annually the amount of state income tax revenues collected pursuant to this chapter which are received from nonresident members of professional athletic teams and nonresident entertainers. For fiscal year 2000, and for each subsequent fiscal year for a period of sixteen years, ten percent of the annual estimate of taxes generated from the nonresident entertainer and professional athletic team income tax shall be allocated annually to the Missouri humanities council trust fund, and shall be transferred from the general revenue fund to the Missouri humanities council trust fund established in section 186.055, RSMo, and any amount transferred shall be in addition to such agency's budget base for each fiscal year.

7. Notwithstanding other provisions of section 182.812, RSMo, to the contrary, the commissioner of administration, for all taxable years beginning on or after January 1, 1999, but for none after December 31, 2015, shall estimate annually the amount of state income tax revenues collected pursuant to this chapter which are received from nonresident members of professional athletic teams and nonresident entertainers. For fiscal year 2000, and for each subsequent fiscal year for a period of sixteen years, ten percent of the annual estimate of taxes generated from the nonresident entertainer and professional athletic team income tax shall be allocated annually to the Missouri state library networking fund, and shall be transferred from the general revenue fund to the secretary of state for distribution to public libraries for acquisition of library materials as established in section 182.812, RSMo, and any amount transferred shall be in addition to such agency's budget base for each fiscal year.

8. Notwithstanding other provisions of section 185.200, RSMo, to the contrary, the commissioner of administration, for all taxable years beginning on or after January 1, 1999, but for none after December 31, 2015, shall estimate annually the amount of state income tax revenues collected pursuant to this chapter which are received from nonresident members of professional athletic teams and nonresident entertainers. For fiscal year 2000, and for each subsequent fiscal year for a period of sixteen years, ten percent of the annual estimate of taxes generated from the nonresident entertainer and professional athletic team income tax shall be allocated annually to the Missouri public television broadcasting corporation special fund, and shall be transferred from the general revenue fund to the Missouri public television broadcasting corporation special fund **[**established in section 185.200, RSMo**]**, and any amount transferred

shall be in addition to such agency's budget base for each fiscal year; provided, however, that twenty-five percent of such allocation shall be used for grants to public radio stations which were qualified by the corporation for public broadcasting as of November 1, 1996. Such grants shall be distributed to each of such public radio stations in this state after receipt of the station's certification of operating and programming expenses for the prior fiscal year. Certification shall consist of the most recent fiscal year financial statement submitted by a station to the corporation for public broadcasting. The grants shall be divided into two categories, an annual basic service grant and an operating grant. The basic service grant shall be equal to thirty-five percent of the total amount and shall be divided equally among the public radio stations receiving grants. The remaining amount shall be distributed as an operating grant to the stations on the basis of the proportion that the total operating expenses of the individual station in the prior fiscal year bears to the aggregate total of operating expenses for the same fiscal year for all Missouri public radio stations which are receiving grants.

9. Notwithstanding other provisions of section 253.402, RSMo, to the contrary, the commissioner of administration, for all taxable years beginning on or after January 1, 1999, but for none after December 31, 2015, shall estimate annually the amount of state income tax revenues collected pursuant to this chapter which are received from nonresident members of professional athletic teams and nonresident entertainers. For fiscal year 2000, and for each subsequent fiscal year for a period of sixteen years, ten percent of the annual estimate of taxes generated from the nonresident entertainer and professional athletic team income tax shall be allocated annually to the Missouri department of natural resources Missouri historic preservation revolving fund, and shall be transferred from the general revenue fund to the Missouri department of natural resources Missouri historic preservation revolving fund established in section 253.402, RSMo, and any amount transferred shall be in addition to such agency's budget base for each fiscal year. As authorized pursuant to subsection 2 of section 30.953, RSMo, it is the intention and desire of the general assembly that the state treasurer convey, to the Missouri investment trust on January 1, 1999, up to one hundred percent of the balances of the Missouri arts council trust fund established pursuant to section 185.100, RSMo, and the Missouri humanities council trust fund established pursuant to section 186.055, RSMo. The funds shall be reconveyed to the state treasurer by the investment trust as follows: the Missouri arts council trust fund, no earlier than January 2, 2009; and the Missouri humanities council trust fund, no earlier than January 2, 2009.

Approved July 8, 2009

HB 326 [SCS HB 326]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Prohibits entities from using titles or initials to identify employees or volunteers as social workers unless they are licensed and requires coverage for mental health benefits by marital and family therapists

AN ACT to repeal sections 337.600, 337.604, and 376.811, RSMo, and to enact in lieu thereof three new sections relating to licensed mental health professionals.

SECTION
A. Enacting clause.
337.600. Definitions.
337.604. Title of social worker, requirements to use title.

376.811. Coverage required for chemical dependency by all insurance and health service corporations — minimum standards — offer of coverage may be accepted or rejected by policyholders, companies may offer as standard coverage — mental health benefits provided, when — exclusions.

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

SECTION A. ENACTING CLAUSE. — Sections 337.600, 337.604, and 376.811, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 337.600, 337.604, and 376.811, to read as follows:

337.600. DEFINITIONS. — As used in sections 337.600 to 337.689, the following terms mean:

(1) "Advanced macro social worker", the applications of social work theory, knowledge, methods, principles, values, and ethics; and the professional use of self to community and organizational systems, systemic and macrocosm issues, and other indirect nonclinical services; specialized knowledge and advanced practice skills in case management, information and referral, nonclinical assessments, counseling, outcome evaluation, mediation, nonclinical supervision, nonclinical consultation, expert testimony, education, outcome evaluation, research, advocacy, social planning and policy development, community organization, and the development, implementation and administration of policies, programs, and activities. A licensed advanced macro social worker may not treat mental or emotional disorders or provide psychotherapy without the direct supervision of a licensed clinical social worker, or diagnose a mental disorder;

(2) "Clinical social work", the application of social work theory, knowledge, values, methods, principles, and techniques of case work, group work, client-centered advocacy, **community organization,** administration, **planning, evaluation,** consultation, research, psychotherapy and counseling methods and techniques to persons, families and groups in assessment, diagnosis, treatment, prevention and amelioration of mental and emotional conditions;

(3) "Committee", the state committee for social workers established in section 337.622;

(4) "Department", the Missouri department of insurance, financial institutions and professional registration;

(5) "Director", the director of the division of professional registration;

(6) "Division", the division of professional registration;

(7) "Independent practice", any practice of social workers outside of an organized setting such as a social, medical, or governmental agency in which a social worker assumes responsibility and accountability for services required;

(8) "Licensed advanced macro social worker", any person who offers to render services to individuals, groups, families, couples, organizations, institutions, communities, government agencies, corporations, or the general public for a fee, monetary or otherwise, implying that the person is trained, experienced, and licensed as an advanced macro social worker, and who holds a current valid license to practice as an advanced macro social worker;

(9) "Licensed baccalaureate social worker", any person who offers to render services to individuals, groups, organizations, institutions, corporations, government agencies, or the general public for a fee, monetary or otherwise, implying that the person is trained, experienced, and licensed as a baccalaureate social worker, and who holds a current valid license to practice as a baccalaureate social worker;

(10) "Licensed clinical social worker", any person who offers to render services to individuals, groups, organizations, institutions, corporations, government agencies, or the general public for a fee, monetary or otherwise, implying that the person is trained, experienced, and licensed as a clinical social worker, and who holds a current, valid license to practice as a clinical social worker;

(11) "Licensed master social worker", any person who offers to render services to individuals, groups, families, couples, organizations, institutions, communities, government agencies, corporations, or the general public for a fee, monetary or otherwise, implying that the person is trained, experienced, and licensed as a master social worker, and who holds a current valid license to practice as a master social worker. A licensed master social worker may not treat mental or emotional disorders, provide psychotherapy without the direct supervision of a licensed clinical social worker, or diagnose a mental disorder;

(12) "Master social work", the application of social work theory, knowledge, methods, and ethics and the professional use of self to restore or enhance social, psychosocial, or biopsychosocial functioning of individuals, couples, families, groups, organizations, communities, institutions, government agencies, or corporations. The practice includes the applications of specialized knowledge and advanced practice skills in the areas of assessment, treatment planning, implementation and evaluation, case management, mediation, information and referral, counseling, client education, supervision, consultation, education, research, advocacy, community organization and development, planning, evaluation, implementation and administration of policies, programs, and activities. Under supervision as provided in this section, the practice of master social work may include the practices reserved to clinical social workers or advanced macro social workers;

(13) "Practice of advanced macro social work", rendering, offering to render, or supervising those who render to individuals, couples, families, groups, organizations, institutions, corporations, government agencies, communities, or the general public any service involving the application of methods, principles, and techniques of advanced practice macro social work;

(14) "Practice of baccalaureate social work", rendering, offering to render, or supervising those who render to individuals, families, groups, organizations, institutions, corporations, or the general public any service involving the application of methods, principles, and techniques of baccalaureate social work;

(15) "Practice of clinical social work", rendering, offering to render, or supervising those who render to individuals, couples, groups, organizations, institutions, corporations, or the general public any service involving the application of methods, principles, and techniques of clinical social work;

(16) "Practice of master social work", rendering, offering to render, or supervising those who render to individuals, couples, families, groups, organizations, institutions, corporations, government agencies, communities, or the general public any service involving the application of methods, principles, and techniques of master social work;

(17) "Provisional licensed clinical social worker", any person who is a graduate of an accredited school of social work and meets all requirements of a licensed clinical social worker, other than the supervised clinical social work experience prescribed by subdivision (2) of subsection 1 of section 337.615, and who is supervised by a person who is qualified to practice clinical social work, as defined by rule;

(18) "Qualified advanced macro supervisor", any licensed social worker who meets the qualifications of a qualified clinical supervisor or a licensed advanced macro social worker who has:

(a) Practiced in the field for which he or she is supervising the applicant for a minimum uninterrupted period of five years;

(b) Successfully completed a minimum of sixteen hours of supervisory training from the Association of Social Work Boards, the National Association of Social Workers, an accredited university, or a program approved by the state committee for social workers. All organizations providing the supervisory training shall adhere to the basic content and quality standards outlined by the state committee on social work; and

(c) Met all the requirements of sections 337.600 to 337.689, and as defined by rule by the state committee for social workers;

(19) "Qualified baccalaureate supervisor", any licensed social worker who meets the qualifications of a qualified clinical supervisor, qualified master supervisor, qualified advanced macro supervisor, or a licensed baccalaureate social worker who has:

(a) Practiced in the field for which he or she is supervising the applicant for a minimum uninterrupted period of five years;

(b) Successfully completed a minimum of sixteen hours of supervisory training from the Association of Social Work Boards, the National Association of Social Workers, an accredited university, or a program approved by the state committee for social workers. All organizations providing the supervisory training shall adhere to the basic content and quality standards outlined by the state committee on social workers; and

(c) Met all the requirements of sections 337.600 to 337.689, and as defined by rule by the state committee for social workers;

(20) "Qualified clinical supervisor", any licensed clinical social worker who has:

(a) Practiced in the field for which he or she is supervising the applicant uninterrupted since August 28, 2004, or a minimum of five years;

(b) Successfully completed a minimum of sixteen hours of supervisory training from the Association of Social Work Boards, the National Association of Social Workers, an accredited university, or a program approved by the state committee for social workers. All organizations providing the supervisory training shall adhere to the basic content and quality standards outlined by the state committee on social work; and

(c) Met all the requirements of sections 337.600 to 337.689, and as defined by rule by the state committee for social workers;

(21) "Social worker", any individual that has:

(a) Received a baccalaureate or master's degree in social work from an accredited social work program approved by the council on social work education;

(b) Received a doctorate or Ph.D. in social work; or

(c) A current social worker license as set forth in sections 337.600 to 337.689.

337.604. TITLE OF SOCIAL WORKER, REQUIREMENTS TO USE TITLE. — 1. No person shall hold himself or herself out to be a social worker unless such person has:

(1) Received a baccalaureate or master's degree in social work from an accredited social work program approved by the council on social work education;

(2) Received a doctorate or Ph.D. in social work; or

(3) A current social worker license as set forth in sections 337.600 to 337.689.

2. No government entities, public or private agencies or organizations in the state shall use the title "social worker" or any form of the title**, including but not limited to the abbreviations "SW", "BSW", "MSW", "DSW", "LBSW", "LBSW-IP", "LMSW", "PLCSW", "LCSW", "CSW", "LAMSW", and "AMSW",** for volunteer or employment positions or within contracts for services, documents, manuals, or reference material effective January 1, 2004, unless the volunteers or employees in those positions meet the criteria set forth in **[**subdivision (17) of section 337.600 or subsection 1 of this section**]** **this chapter**.

376.811. COVERAGE REQUIRED FOR CHEMICAL DEPENDENCY BY ALL INSURANCE AND HEALTH SERVICE CORPORATIONS — MINIMUM STANDARDS — OFFER OF COVERAGE MAY BE ACCEPTED OR REJECTED BY POLICYHOLDERS, COMPANIES MAY OFFER AS STANDARD COVERAGE — MENTAL HEALTH BENEFITS PROVIDED, WHEN — EXCLUSIONS. — 1. Every insurance company and health services corporation doing business in this state shall offer in all health insurance policies benefits or coverage for chemical dependency meeting the following minimum standards:

(1) Coverage for outpatient treatment through a nonresidential treatment program, or through partial- or full-day program services, of not less than twenty-six days per policy benefit period;

(2) Coverage for residential treatment program of not less than twenty-one days per policy benefit period;

(3) Coverage for medical or social setting detoxification of not less than six days per policy benefit period;

(4) The coverages set forth in this subsection may be subject to a separate lifetime frequency cap of not less than ten episodes of treatment, except that such separate lifetime frequency cap shall not apply to medical detoxification in a life-threatening situation as determined by the treating physician and subsequently documented within forty-eight hours of treatment to the reasonable satisfaction of the insurance company or health services corporation; and

(5) The coverages set forth in this subsection:

(a) Shall be subject to the same coinsurance, co-payment and deductible factors as apply to physical illness;

(b) May be administered pursuant to a managed care program established by the insurance company or health services corporation; and

(c) May deliver covered services through a system of contractual arrangements with one or more providers, hospitals, nonresidential or residential treatment programs, or other mental health service delivery entities certified by the department of mental health, or accredited by a nationally recognized organization, or licensed by the state of Missouri.

2. In addition to the coverages set forth in subsection 1 of this section, every insurance company, health services corporation and health maintenance organization doing business in this state shall offer in all health insurance policies, benefits or coverages for recognized mental illness, excluding chemical dependency, meeting the following minimum standards:

(1) Coverage for outpatient treatment, including treatment through partial- or full-day program services, for mental health services for a recognized mental illness rendered by a licensed professional to the same extent as any other illness;

(2) Coverage for residential treatment programs for the therapeutic care and treatment of a recognized mental illness when prescribed by a licensed professional and rendered in a psychiatric residential treatment center licensed by the department of mental health or accredited by the Joint Commission on Accreditation of Hospitals to the same extent as any other illness;

(3) Coverage for inpatient hospital treatment for a recognized mental illness to the same extent as for any other illness, not to exceed ninety days per year;

(4) The coverages set forth in this subsection shall be subject to the same coinsurance, co-payment, deductible, annual maximum and lifetime maximum factors as apply to physical illness; and

(5) The coverages set forth in this subsection may be administered pursuant to a managed care program established by the insurance company, health services corporation or health maintenance organization, and covered services may be delivered through a system of contractual arrangements with one or more providers, community mental health centers, hospitals, nonresidential or residential treatment programs, or other mental health service delivery entities certified by the department of mental health, or accredited by a nationally recognized organization, or licensed by the state of Missouri.

3. The offer required by sections 376.810 to 376.814 may be accepted or rejected by the group or individual policyholder or contract holder and, if accepted, shall fully and completely satisfy and substitute for the coverage under section 376.779. Nothing in sections 376.810 to 376.814 shall prohibit an insurance company, health services corporation or health maintenance organization from including all or part of the coverages set forth in sections 376.810 to 376.814 as standard coverage in their policies or contracts issued in this state.

4. Every insurance company, health services corporation and health maintenance organization doing business in this state shall offer in all health insurance policies mental health benefits or coverage as part of the policy or as a supplement to the policy. Such mental health benefits or coverage shall include at least two sessions per year to a licensed psychiatrist, licensed

psychologist, licensed professional counselor, **[**or**]** licensed clinical social worker**, or, subject to contractual provisions, a licensed marital and family therapist,** acting within the scope of such license and under the following minimum standards:

(1) Coverage and benefits in this subsection shall be for the purpose of diagnosis or assessment, but not dependent upon findings; and

(2) Coverage and benefits in this subsection shall not be subject to any conditions of preapproval, and shall be deemed reimbursable as long as the provisions of this subsection are satisfied; and

(3) Coverage and benefits in this subsection shall be subject to the same coinsurance, co-payment and deductible factors as apply to regular office visits under coverages and benefits for physical illness.

5. If the group or individual policyholder or contract holder rejects the offer required by this section, then the coverage shall be governed by the mental health and chemical dependency insurance act as provided in sections 376.825 to 376.836.

6. This section shall not apply to a supplemental insurance policy, including a life care contract, accident-only policy, specified disease policy, hospital policy providing a fixed daily benefit only, Medicare supplement policy, long-term care policy, hospitalization-surgical care policy, short-term major medical policy of six months or less duration, or any other supplemental policy as determined by the director of the department of insurance, financial institutions and professional registration.

Approved July 9, 2009

HB 359 [SS SCS HCS HB 359]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Allows the Highways and Transportation Commission to enter into more than three design-build highway project contracts

AN ACT to repeal section 227.107, RSMo, and to enact in lieu thereof one new section relating to state highways and transportation commission design-build highway project contracts, with an emergency clause.

SECTION

A. Enacting clause.
227.107. Design-build project contracts permitted, limitations, exceptions — definitions — written procedures required — submission of detailed disadvantaged business enterprise participation plan — bid process — rulemaking authority — status report to general assembly — cost estimates to be published.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Section 227.107, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 227.107, to read as follows:

227.107. DESIGN-BUILD PROJECT CONTRACTS PERMITTED, LIMITATIONS, EXCEPTIONS — DEFINITIONS — WRITTEN PROCEDURES REQUIRED — SUBMISSION OF DETAILED DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION PLAN — BID PROCESS — RULEMAKING AUTHORITY — STATUS REPORT TO GENERAL ASSEMBLY — COST ESTIMATES TO BE PUBLISHED. — 1. Notwithstanding any provision of section 227.100 to the contrary, as

an alternative to the requirements and procedures specified by sections 227.040 to 227.100, the state highways and transportation commission is authorized to enter into highway design-build project contracts. [The authority granted to the state highways and transportation commission by this section shall be limited to a total of three design-build project contracts. Two design-build projects authorized by this section shall be selected by the highways and transportation commission from 1992 fifteen year plan projects.] **The total number of highway design-build project contracts awarded by the commission in any state fiscal year shall not exceed two percent of the total number of all state highway system projects listed in the commission's approved statewide transportation improvement project for that state fiscal year.** Authority to enter into design-build projects granted by this section shall expire on July 1, 2012, unless extended by statute [or upon completion of three projects, whichever is first].

2. **Notwithstanding provisions of subsection 1 of this section to the contrary, the state highways and transportation commission is authorized to enter into additional design-build contracts for the design, construction, reconstruction, or improvement of Missouri Route 364 as contained in any county with a charter form of government and with more than two hundred fifty thousand but fewer than three hundred fifty thousand inhabitants and in any county with a charter form of government and with more than one million inhabitants, and the State Highway 169 and 96th Street intersection located within a home rule city with more than four hundred thousand inhabitants and located in more than one county. The state highways and transportation commission is authorized to enter into an additional design-build contract for the design, construction, reconstruction, or improvement of State Highway 92, contained in a county of the first classification with more than one hundred eighty-four thousand but fewer than one hundred eighty-eight thousand inhabitants, from its intersection with State Highway 169, east to its intersection with State Highway E. The authority to enter into a design-build highway project under this subsection shall not be subject to the time limitation expressed in subsection 1 of this section.**

3. For the purpose of this section a "design-builder" is defined as an individual, corporation, partnership, joint venture or other entity, including combinations of such entities making a proposal to perform or performing a design-build highway project contract.

[3.] **4.** For the purpose of this section, "design-build highway project contract" is defined as the procurement of all materials and services necessary for the design, construction, reconstruction or improvement of a state highway project in a single contract with a design-builder capable of providing the necessary materials and services.

[4.] **5.** For the purpose of this section, "highway project" is defined as the design, construction, reconstruction or improvement of highways or bridges under contract with the state highways and transportation commission, which is funded by state, federal or local funds or any combination of such funds.

[5.] **6.** In using a design-build highway project contract, the commission shall establish a written procedure by rule for prequalifying design-builders before such design-builders will be allowed to make a proposal on the project.

[6.] **7.** In any design-build highway project contract, whether involving state or federal funds, the commission shall require that each person submitting a request for qualifications provide a detailed disadvantaged business enterprise participation plan. The plan shall provide information describing the experience of the person in meeting disadvantaged business enterprise participation goals, how the person will meet the department of transportation's disadvantaged business enterprise participation goal and such other qualifications that the commission considers to be in the best interest of the state.

[7.] **8.** The commission is authorized to issue a request for proposals to a maximum of five design-builders prequalified in accordance with subsection 5 of this section.

[8.] **9.** The commission may require approval of any person performing subcontract work on the design-build highway project.

[9. The bid bond and performance bond requirements of section 227.100 and the payment bond requirements of section 107.170, RSMo, shall apply to the design-build highway project.

10. The requirements of subsection 9 of this section may be modified by the commission for any design-build highway project contract which is designated by the commission as a "design-build-finance-maintain" project, and for which the contract with the design-builder exceeds twenty-five years. For such projects,] **10. Notwithstanding the provisions of sections 107.170, RSMo, and 227.100, to the contrary,** the commission shall require the design-builder to provide[, or cause to be provided by the construction entity or entities providing construction services under contract] to the [design-builder] **commission** directly, such **bid, performance and payment** bonds, or such [other security] **letters of credit**, in such terms, durations, [and] amounts**, and on such forms** as the commission may determine to be adequate for its protection and provided by a surety[, sureties, or financial institution or institutions satisfactory to the commission] **or sureties authorized to conduct surety business in the state of Missouri or a federally insured financial institution or institutions, satisfactory to the commission**, including but not limited to:

(1) A bid or proposal bond, [or other security authorized under subsection 2 of section 227.100, in an amount of not less than five million dollars] **cash or a certified or cashier's check**;

(2) A performance bond or bonds for the construction period specified in the design-build highway project contract [in an aggregate amount of not less than two hundred million dollars or twenty-five percent of a reasonable estimate of the cost of construction work, whichever amount is lower, except the commission may allow other security in lieu of or in addition to any bond or bonds, including but not limited to letters of credit or other negotiable instruments, such other or additional security to be on such terms, for such durations, and in such amounts as the commission may determine to be adequate for the protection of the commission, and to be provided by sureties or financial institutions satisfactory to the commission] **equal to a reasonable estimate of the total cost of construction work under the terms of the design-build highway project contract. If the commission determines in writing supported by specific findings that the reasonable estimate of the total cost of construction work under the terms of the design-build highway project contract is expected to exceed two-hundred and fifty million dollars and a performance bond or bonds in such amount is impractical, the commission shall set the performance bond or bonds at the largest amount reasonably available, but not less than two-hundred and fifty million dollars, and may require additional security, including but not limited to letters of credit, for the balance of the estimate not covered by the performance bond or bonds**; [and]

(3) A payment bond or bonds that shall be enforceable under section 522.300, RSMo, for the protection of persons supplying labor and material in carrying out the construction work provided for in the design-build highway project contract. The aggregate amount of the payment bond or bonds shall equal a reasonable estimate of the total amount payable for the cost of construction work under the terms of the design-build highway project contract unless the commission determines in writing supported by specific findings that a payment bond or bonds in such amount is impractical, in which case the commission shall establish the amount of the payment bond or bonds; except that the amount of the payment bond or bonds shall not be less than the aggregate amount of the performance bond or bonds and [the] **any** additional security to such performance bond or bonds[, or in the amount of the other security used in lieu of the performance bond or bonds] **; and**

(4) Upon award of the design-build highway project contract, the sum of the performance bond and any required additional security established under subdivisions (2) and (3) of this subsection shall be stated, and shall be a matter of public record.

11. The commission is authorized to prescribe the form of the contracts for the work.

12. The commission is empowered to make all final decisions concerning the performance of the work under the design-build highway project contract, including claims for additional time and compensation.

13. The provisions of sections 8.285 to 8.291, RSMo, shall not apply to the procurement of architectural, engineering or land surveying services for the design-build highway project, except that any person providing architectural, engineering or land surveying services for the design-builder on the design-build highway project must be licensed in Missouri to provide such services.

14. The commission shall pay a reasonable stipend to prequalified responsive design-builders who submit a proposal, but are not awarded the design-build highway project.

15. The commission shall comply with the provisions of any act of congress or any regulations of any federal administrative agency which provides and authorizes the use of federal funds for highway projects using the design-build process.

16. The commission shall promulgate administrative rules to implement this section or to secure federal funds. Such rules shall be published for comment in the Missouri Register and shall include prequalification criteria, the make-up of the prequalification review team, specifications for the design criteria package, the method of advertising, receiving and evaluating proposals from design-builders, the criteria for awarding the design-build highway project based on the design criteria package and a separate proposal stating the cost of construction, and other methods, procedures and criteria necessary to administer this section.

17. The commission shall make a status report to the members of the general assembly and the governor following the award of the design-build project, as an individual component of the annual report submitted by the commission to the joint transportation oversight committee in accordance with the provisions of section 21.795, RSMo. The annual report prior to advertisement of the design-build highway project contracts shall state the goals of the project in reducing costs and/or the time of completion for the project in comparison to the design-bid-build method of construction and objective measurements to be utilized in determining achievement of such goals. Subsequent annual reports shall include: the time estimated for design and construction of different phases or segments of the project and the actual time required to complete such work during the period; the amount of each progress payment to the design-builder during the period and the percentage and a description of the portion of the project completed regarding such payment; the number and a description of design change orders issued during the period and the cost of each such change order; upon substantial and final completion, the total cost of the design-build highway project with a breakdown of costs for design and construction; and such other measurements as specified by rule. The annual report immediately after final completion of the project shall state an assessment of the advantages and disadvantages of the design-build method of contracting for highway and bridge projects in comparison to the design-bid-build method of contracting and an assessment of whether the goals of the project in reducing costs and/or the time of completion of the project were met.

18. The commission shall give public notice of a request for qualifications in at least two public newspapers that are distributed wholly or in part in this state and at least one construction industry trade publication that is distributed nationally.

19. The commission shall publish its cost estimates of the design-build highway project award and the project completion date along with its public notice of a request for qualifications of the design-build project.

20. If the commission fails to receive at least two responsive submissions from design-builders considered qualified, submissions shall not be opened and it shall readvertise the project.

21. For any highway design-build project constructed under this section, the commission shall negotiate and reach agreements with affected railroads. Such agreements shall include clearance, safety, insurance, and indemnification provisions, but are not required to include provisions on right of way acquisitions.

SECTION B. EMERGENCY CLAUSE. — Because Congress is considering enactment of an economic stimulus bill that appropriates additional federal-aid highway funds to all states, including Missouri, which must be committed for additional state highway system projects within the expedited time frame specified in the economic stimulus bill, immediate action is necessary to ensure that the state of Missouri, through the Missouri highways and transportation commission, has design-build authority to meet the highway project construction start date requirements, section A 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 A of this act shall be in full force and effect upon its passage and approval.

Approved July 7, 2009

HB 361 [HCS HB 361]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Protects a driver's license applicant's privacy rights and limits use of an applicant's personal information for other purposes

AN ACT to repeal section 302.171, RSMo, and to enact in lieu thereof two new sections relating to noncompliance with the federal REAL ID Act of 2005.

SECTION

A. Enacting clause.
302.171. Application for license — form — content — educational materials to be provided to applicants under twenty-one — voluntary contribution to organ donation program — information to be included in registry — voluntary contribution to blindness assistance — exemption from requirement to provide proof of residency — one-year renewal, requirements.
302.183. Proof of residency, issuance or renewal of license, privacy rights not to be violated, confidentiality of data.

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

SECTION A. ENACTING CLAUSE. — Section 302.171, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 302.171 and 302.183, to read as follows:

302.171. APPLICATION FOR LICENSE — FORM — CONTENT — EDUCATIONAL MATERIALS TO BE PROVIDED TO APPLICANTS UNDER TWENTY-ONE — VOLUNTARY CONTRIBUTION TO ORGAN DONATION PROGRAM — INFORMATION TO BE INCLUDED IN REGISTRY — VOLUNTARY CONTRIBUTION TO BLINDNESS ASSISTANCE — EXEMPTION FROM REQUIREMENT TO PROVIDE PROOF OF RESIDENCY — ONE-YEAR RENEWAL, REQUIREMENTS. — 1. **[**Beginning July 1, 2005,**]** The director shall verify that an applicant for a driver's license is **[**lawfully present in**]** **a Missouri resident or national of** the United States **or a noncitizen with a lawful immigration status, and a Missouri resident** before accepting the application. The director shall not issue a driver's license for a period that exceeds **the duration of** an applicant's lawful **[**presence**]** **immigration status** in the United States. The director may establish procedures to verify the **[**lawful presence**]** **Missouri residency or United States naturalization or lawful immigration status and Missouri residency** of the applicant and establish the duration of any driver's license issued under this section. An application for a license shall be made upon an approved form furnished by the director. Every application shall state the full name, Social Security number, age, height, weight, color of eyes, sex, residence, mailing address of the applicant, and the classification for which the applicant has been licensed,

and, if so, when and by what state, and whether or not such license has ever been suspended, revoked, or disqualified, and, if revoked, suspended or disqualified, the date and reason for such suspension, revocation or disqualification and whether the applicant is making a one dollar donation to promote an organ donation program as prescribed in subsection 2 of this section. A driver's license, nondriver's license, or instruction permit issued under this chapter shall contain the applicant's legal name as it appears on a birth certificate or as legally changed through marriage or court order. No name change by common usage based on common law shall be permitted. The application shall also contain such information as the director may require to enable the director to determine the applicant's qualification for driving a motor vehicle; and shall state whether or not the applicant has been convicted in this or any other state for violating the laws of this or any other state or any ordinance of any municipality, relating to driving without a license, careless driving, or driving while intoxicated, or failing to stop after an accident and disclosing the applicant's identity, or driving a motor vehicle without the owner's consent. The application shall contain a certification by the applicant as to the truth of the facts stated therein. Every person who applies for a license to operate a motor vehicle who is less than twenty-one years of age shall be provided with educational materials relating to the hazards of driving while intoxicated, including information on penalties imposed by law for violation of the intoxication-related offenses of the state. Beginning January 1, 2001, if the applicant is less than eighteen years of age, the applicant must comply with all requirements for the issuance of an intermediate driver's license pursuant to section 302.178. For persons mobilized and deployed with the United States Armed Forces, an application under this subsection shall be considered satisfactory by the department of revenue if it is signed by a person who holds general power of attorney executed by the person deployed, provided the applicant meets all other requirements set by the director.

2. An applicant for a license may make a donation of one dollar to promote an organ donor program. The director of revenue shall collect the donations and deposit all such donations in the state treasury to the credit of the organ donor program fund established in sections 194.297 to 194.304, RSMo. Moneys in the organ donor program fund shall be used solely for the purposes established in sections 194.297 to 194.304, RSMo, except that the department of revenue shall retain no more than one percent for its administrative costs. The donation prescribed in this subsection is voluntary and may be refused by the applicant for the license at the time of issuance or renewal of the license. The director shall make available an informational booklet or other informational sources on the importance of organ and tissue donations to applicants for licensure as designed by the organ donation advisory committee established in sections 194.297 to 194.304, RSMo. The director shall inquire of each applicant at the time the licensee presents the completed application to the director whether the applicant is interested in making the one dollar donation prescribed in this subsection and whether the applicant is interested in inclusion in the organ donor registry and shall also specifically inform the licensee of the ability to consent to organ donation by completing the form on the reverse of the license that the applicant will receive in the manner prescribed by subdivision (1) of subsection 1 of section 194.225, RSMo. A symbol shall be placed on the front of the document indicating the applicant's desire to be listed in the registry. The director shall notify the department of health and senior services of information obtained from applicants who indicate to the director that they are interested in registry participation, and the department of health and senior services shall enter the complete name, address, date of birth, race, gender and a unique personal identifier in the registry established in subsection 1 of section 194.304, RSMo.

3. An applicant for a license may make a donation of one dollar to promote a blindness education, screening and treatment program. The director of revenue shall collect the donations and deposit all such donations in the state treasury to the credit of the blindness education, screening and treatment program fund established in section 192.935, RSMo. Moneys in the blindness education, screening and treatment program fund shall be used solely for the purposes established in section 192.935, RSMo, except that the department of revenue shall retain no more than one percent for its administrative costs. The donation prescribed in this subsection is

voluntary and may be refused by the applicant for the license at the time of issuance or renewal of the license. The director shall inquire of each applicant at the time the licensee presents the completed application to the director whether the applicant is interested in making the one dollar donation prescribed in this subsection.

4. Beginning July 1, 2005, the director shall deny the driving privilege of any person who commits fraud or deception during the examination process or who makes application for an instruction permit, driver's license, or nondriver's license which contains or is substantiated with false or fraudulent information or documentation, or who knowingly conceals a material fact or otherwise commits a fraud in any such application. The period of denial shall be one year from the effective date of the denial notice sent by the director. The denial shall become effective ten days after the date the denial notice is mailed to the person. The notice shall be mailed to the person at the last known address shown on the person's driving record. The notice shall be deemed received three days after mailing unless returned by the postal authorities. No such individual shall reapply for a driver's examination, instruction permit, driver's license, or nondriver's license until the period of denial is completed. No individual who is denied the driving privilege under this section shall be eligible for a limited driving privilege issued under section 302.309.

5. All appeals of denials under this section shall be made as required by section 302.311.

6. The period of limitation for criminal prosecution under this section shall be extended under subdivision (1) of subsection 3 of section 556.036, RSMo.

7. The director may promulgate rules and regulations necessary to administer and enforce this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

8. Notwithstanding any provisions of this chapter that requires an applicant to provide proof of **[**lawful presence**]** **Missouri residency** for renewal of a noncommercial driver's license, noncommercial instruction permit, or nondriver's license, an applicant who is sixty-five years and older and who was previously issued a Missouri noncommercial driver's license, noncommercial instruction permit, or Missouri nondriver's license is exempt from showing proof of **[**lawful presence**]** **Missouri residency**.

9. **Notwithstanding any provision of this chapter, for the renewal of a noncommercial driver's license, noncommercial instruction permit, or nondriver's license, a photocopy of an applicant's United States birth certificate along with another form of identification approved by the department of revenue, including, but not limited to, United States military identification or United States military discharge papers, shall constitute sufficient proof of Missouri citizenship.**

10. Notwithstanding any other provision of this chapter, if an applicant does not meet the requirements of subsection 8 of this section and does not have the required documents to prove **[**lawful presence**]** **Missouri residency**, **United States naturalization, or lawful immigration status,** the department may issue a one-year driver's license renewal. This one-time renewal shall only be issued to an applicant who previously has held a Missouri noncommercial driver's license, noncommercial instruction permit, or nondriver's license for a period of fifteen years or more and who does not have the required documents to prove **[**lawful presence**]** **Missouri residency, United States naturalization, or lawful immigration status**. After the expiration of the one-year period, no further renewal shall be provided without the applicant producing proof of **[**lawful presence**]** **Missouri residency, United States naturalization, or lawful immigration status**.

302.183. PROOF OF RESIDENCY, ISSUANCE OR RENEWAL OF LICENSE, PRIVACY RIGHTS NOT TO BE VIOLATED, CONFIDENTIALITY OF DATA. — 1. Notwithstanding any provision of this chapter that requires an applicant to provide reasonable proof of residence for issuance or renewal of a noncommercial driver's license, noncommercial instruction permit, or a nondriver's license, an applicant shall not have his or her privacy rights

violated in order to obtain or renew a Missouri noncommercial driver's license, noncommercial instruction permit, or a nondriver's license.

2. Any data derived from a person's application shall not be sold for commercial purposes to any other organization or any other state without the express permission of the applicant without a court order; except such information may be shared with a law enforcement agency, judge, prosecuting attorney, or officer of the court, or with another state for the limited purposes set out in section 302.600 or for conducting driver history checks in compliance with the Motor Carrier Safety Improvement Act, 49 U.S.C. 31309. The state of Missouri shall protect the privacy of its citizens when handling any written, digital, or electronic data, and shall not participate in any standardized identification system using driver's and nondriver's license records.

3. The department of revenue shall not amend procedures for applying for a driver's license or identification card in order to comply with the goals or standards of the federal REAL ID Act of 2005, any rules or regulations promulgated under the authority granted in such act, or any requirements adopted by the American Association of Motor Vehicle Administrators for furtherance of the act.

4. Any biometric data previously collected, obtained, or retained in connection with motor vehicle registration or operation, the issuance or renewal of driver's licenses, or the issuance or renewal of any identification cards by any department or agency of the state charged with those activities shall be retrieved and deleted from all databases. The provisions of this subsection shall not apply to any data collected, obtained, or retained for a purpose other than compliance with the federal REAL ID Act of 2005. For purposes of this section, "biometric data" includes, but is not limited to:

(1) Facial feature pattern characteristics;

(2) Voice data used for comparing live speech with a previously created speech model of a person's voice;

(3) Iris recognition data containing color or texture patterns or codes;

(4) Retinal scans, reading through the pupil to measure blood vessels lining the retina;

(5) Fingerprint, palm prints, hand geometry, measuring of any and all characteristics of biometric information, including shape and length of fingertips or recording ridge pattern or fingertip characteristics;

(6) Eye spacing;

(7) Characteristic gait or walk;

(8) DNA;

(9) Keystroke dynamics, measuring pressure applied to key pads or other digital receiving devices.

5. No citizen of this state shall have his or her privacy compromised by the state or agents of the state. The state shall within reason protect the sovereignty of the citizens the state is entrusted to protect.

Approved July 13, 2009

HB 381 [SS HCS HB 381]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Requires the Department of Revenue to award fee office contracts by a competitive bidding process and give preference to specified tax-exempt entities and to political subdivisions

AN ACT to repeal section 136.055, RSMo, and to enact in lieu thereof one new section relating to fee agent offices.

SECTION
A. Enacting clause.
136.055. Agent to collect motor vehicle taxes and issue licenses — fees — sign required — audit of records, when.

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

SECTION A. ENACTING CLAUSE. — Section 136.055, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 136.055, to read as follows:

136.055. AGENT TO COLLECT MOTOR VEHICLE TAXES AND ISSUE LICENSES — FEES — SIGN REQUIRED — AUDIT OF RECORDS, WHEN. — 1. Any person who is selected or appointed by the state director of revenue to act as an agent of the department of revenue, whose duties shall be the sale of motor vehicle licenses and the collection of motor vehicle sales and use taxes under the provisions of section 144.440, RSMo, and who receives no salary from the department of revenue, shall be authorized to collect from the party requiring such services additional fees as compensation in full and for all services rendered on the following basis:

(1) For each motor vehicle or trailer license sold, renewed or transferred — two dollars and fifty cents beginning January 1, 1998; and four dollars beginning July 1, 2000; and five dollars beginning August 28, 2002, for those licenses biennially renewed pursuant to section 301.147, RSMo. Beginning July 1, 2003, for each motor vehicle or trailer license sold, renewed or transferred — three dollars and fifty cents and seven dollars for those licenses sold or biennially renewed pursuant to section 301.147, RSMo;

(2) For each application or transfer of title — two dollars and fifty cents beginning January 1, 1998;

(3) For each instruction permit, nondriver license, chauffeur's, operator's or driver's license issued for a period of three years or less — two dollars and fifty cents and five dollars for licenses or instruction permits issued or renewed for a period exceeding three years;

(4) For each notice of lien processed — two dollars and fifty cents beginning August 28, 2000;

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

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

3. All fees charged shall not exceed those in this section. Beginning July 1, 2003, the fees imposed by this section shall be collected by all permanent branch offices and all full-time or temporary offices maintained by the department of revenue.

[3.**]** **4.** Any person acting as agent of the department of revenue for the sale and issuance of licenses and other documents related to motor vehicles shall have an insurable interest in all license plates, licenses, tabs, forms and other documents held on behalf of the department.

[4.**]** **5.** The fee increases authorized by this section and approved by the general assembly were requested by the fee agents. All fee agent offices shall display a three foot by four foot sign with black letters of at least three inches in height on a white background which states:

The increased fees approved by the
Missouri Legislature and charged by
this fee office were requested by the
fee agents.

6. Notwithstanding any other provision of law to the contrary, the state auditor may audit all records maintained and established by the fee office in the same manner as the auditor may audit any agency of the state, and the department shall ensure that this audit requirement is a necessary condition for the award of all fee office contracts. No confidential records shall be divulged in such a way to reveal personally identifiable information.

Approved July 1, 2009

HB 382 [HCS HB 382]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Repeals the Residential Mortgage Brokers License Act and establishes in its place the Missouri Secure and Fair Enforcement for Mortgage Licensing and Residential Mortgage Brokers Licensing Act

AN ACT to repeal sections 443.800, 443.803, 443.805, 443.807, 443.809, 443.810, 443.812, 443.816, 443.817, 443.819, 443.821, 443.823, 443.825, 443.827, 443.830, 443.833, 443.835, 443.837, 443.839, 443.841, 443.843, 443.845, 443.847, 443.849, 443.851, 443.853, 443.855, 443.857, 443.859, 443.861, 443.863, 443.865, 443.867, 443.869, 443.879, 443.881, 443.883, 443.885, 443.887, 443.889, 443.891, and 443.893, RSMo, and to enact in lieu thereof fifty-eight new sections relating to the regulation of residential mortgage professionals, with penalty provisions and an emergency clause.

SECTION

A. Enacting clause.
443.701. Citation of law.
443.703. Definitions.
443.706. Licensure required, when — effective date — exemptions.
443.707. Loan processors and underwriters, license required.
443.709. Rulemaking authority — expedited review and licensing procedures permitted, when.
443.711. Application for licensure, form — records and fees — modification of licensure requirements permitted, when — use of NMLSR as an agent, when.
443.713. Findings required for licensure.
443.717. Prelicensing education requirements.
443.719. Written test required, test measures — minimum competency requirements.
443.721. Renewal of licensure, minimum standards.
443.723. Continuing education requirements.
443.725. Duties of director — rule requirements authorized.
443.727. Challenge of information in NMLSR.
443.729. Supervision and enforcement — civil penalty.
443.731. Surety bond requirements.
443.733. Supervisory information sharing — confidentiality requirements.

443.735. Investigations and examinations, authority of director.
443.737. Violations.
443.739. Reports of condition required.
443.741. Violations, director required to report.
443.743. Nonfederally insured credit unions, registration of employed loan originators required.
443.745. Unique identifier to be shown on applications, solicitations or advertisements.
443.747. Severability clause — rulemaking authority.
443.805. License required to broker residential mortgage, exceptions.
443.807. Director, power to request injunction, when.
443.809. Examination, powers of director to inspect records of licensed persons.
443.810. Penalty for violations.
443.812. One license issued to each broker — record required of locations where any business is conducted — supervision requirements — waiver of licensure, when.
443.816. Residential mortgage board created — members, appointment, qualification, terms, vacancies, compensation, duties.
443.817. Board members to file business transactions with ethics commission — rules authorized to avoid conflict of interest.
443.819. Brokerage business to be operated under actual names of persons or corporations, violation, penalties.
443.821. License to be issued on completion of requirements — notice of denial of license to contain reasons — appeal procedure.
443.823. Licenses to be issued in duplicate, effective when.
443.825. Application content, oath and form.
443.827. Applicant for license must agree to maintain certain requirements as to methods of conducting business.
443.830. License refused — grounds.
443.833. Renewal of license, date, procedure, fee — failure to renew, license becomes inactive, reactivation — expires, when.
443.835. Broker ceasing activity and not desiring to be licensed, procedure — director to cancel license.
443.839. Application by broker to open additional full-service offices, fee — certificate to be issued and posted.
443.841. License to be displayed.
443.843. Fees to be established by director — rules authorized for assessment and collection.
443.845. Residential mortgage licensing fund created — purpose — fees to be deposited in interest-bearing account to credit of fund — amount in fund subject to lapse into general revenue.
443.849. Bonding requirements.
443.855. Advertising policies may be established by director — standards required.
443.857. Licensee shall maintain at least one full-service office with staff, duties to handle matters relating to mortgage — waiver, when.
443.861. Transfer or sale of residential mortgage, notice to be given to mortgagor, contents.
443.863. Unlawful discrimination for refusal to loan or vary terms of the loan.
443.865. Escrow accounts, placement by brokers — authority for rules.
443.867. Disclosure statement required of brokers, content — fee — compensation.
443.869. Powers and duties of director — rulemaking authority.
443.879. Reports required, failure to comply, penalty.
443.881. Suspension or revocation of license, grounds — procedure, penalties.
443.883. Director to maintain a staff capable of investigations — licensees to open record for investigators.
443.885. Report to be filed with director annually, contents.
443.887. General rulemaking powers of director.
443.889. Court action to recover compensation for services, proof that services performed by valid licensee required, exception.
443.891. Charge in support of removal or prohibition notice issued on certain findings of conduct.
443.893. Receiver or conservator to be appointed by court, when — attorney general's duty.
443.800. Citation of law.
443.803. Definitions.
443.837. Waiver of license fee for in-state and out-of-state servicers, requirements.
443.847. Rules, procedure.
443.851. Audit required annually of licensee's books and accounts — scope of audit — filed with director, authority for rules — alternative to audit requirements.
443.853. Failure to make an audit — director to select CPA by bid to perform audit — exception, certain federal audit acceptable — workpapers of all audits to be available to director.
443.859. Net worth requirement for licensees.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 443.800, 443.803, 443.805, 443.807, 443.809, 443.810, 443.812, 443.816, 443.817, 443.819, 443.821, 443.823, 443.825, 443.827,

443.830, 443.833, 443.835, 443.837, 443.839, 443.841, 443.843, 443.845, 443.847, 443.849, 443.851, 443.853, 443.855, 443.857, 443.859, 443.861, 443.863, 443.865, 443.867, 443.869, 443.879, 443.881, 443.883, 443.885, 443.887, 443.889, 443.891, and 443.893, RSMo, are repealed and fifty-eight new sections enacted in lieu thereof, to be known as sections 443.701, 443.703, 443.706, 443.707, 443.709, 443.711, 443.713, 443.717, 443.719, 443.721, 443.723, 443.725, 443.727, 443.729, 443.731, 443.733, 443.735, 443.737, 443.739, 443.741, 443.743, 443.745, 443.747, 443.805, 443.807, 443.809, 443.810, 443.812, 443.816, 443.817, 443.819, 443.821, 443.823, 443.825, 443.827, 443.830, 443.833, 443.835, 443.839, 443.841, 443.843, 443.845, 443.849, 443.855, 443.857, 443.861, 443.863, 443.865, 443.867, 443.869, 443.879, 443.881, 443.883, 443.885, 443.887, 443.889, 443.891, and 443.893, to read as follows:

443.701. CITATION OF LAW. — Sections 443.701 to 443.893 shall be known and may be cited as the "Missouri Secure and Fair Enforcement for Mortgage Licensing and Residential Mortgage Brokers Licensing Act".

443.703. DEFINITIONS. — 1. For the purposes of sections 443.701 to 443.893, the following terms mean:

(1) "Advertisement", the attempt by publication, dissemination, or circulation to induce, directly or indirectly, any person to apply for a loan to be secured by residential real estate;

(2) "Affiliate":

(a) Any person who directly controls or is controlled by a residential mortgage loan broker and any other company that is directly affecting activities regulated by sections 443.701 to 443.893 that is controlled by the company that controls the residential mortgage loan broker;

(b) Any person:

a. Who is controlled, directly or indirectly, by a trust or otherwise by or for the benefit of shareholders who beneficially, or otherwise, controls, directly or indirectly, by trust or otherwise, the residential mortgage loan broker or any company that controls the residential mortgage loan broker; or

b. A majority of the directors or trustees of which constitute a majority of the persons holding any such office with the residential mortgage loan broker or any company that controls the residential mortgage loan broker;

(c) Any company, including a real estate investment trust, that is sponsored and advised on a contractual basis by the residential mortgage loan broker or any subsidiary or affiliate of the residential mortgage loan broker;

(3) "Board", the residential mortgage board created in section 443.816;

(4) "Borrower", the person or persons who use the services of a licensee to obtain a residential mortgage loan;

(5) "Depository institution", the same meaning as such term is defined in section 3 of the Federal Deposit Insurance Act, and includes any credit union;

(6) "Director", the director of the division of finance;

(7) "Division", the division of finance within the department of insurance, financial institutions and professional registration;

(8) "Dwelling", the same meaning as such term is defined in the federal Truth In Lending Act;

(9) "Escrow agent", a third party or person charged with the fiduciary obligation for holding escrow funds on a residential mortgage loan pending final payout of such funds in accordance with the terms of the residential mortgage loan;

(10) "Exempt person", the following persons:

(a) Any person that is a depository institution or first-tier subsidiary or service corporation thereof;

(b) Any person engaged solely in commercial mortgage lending or any person making or acquiring commercial construction loans with the person's own funds for the person's own investment;

(c) Any person engaged solely in the business of securing existing loans on the secondary market provided such person does not make decisions about the extension of credit to the borrower;

(d) Any wholesale mortgage lender who purchases existing mortgage loans provided such wholesale lender does not make decisions about the extension of credit to the borrower;

(11) "Federal banking agencies", the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the National Credit Union Administration, and the Federal Deposit Insurance Corporation;

(12) "Full-service office", office and staff in Missouri reasonably adequate to handle efficiently communications, questions, and other matters relating to any application for a new or existing home mortgage loan which the residential mortgage loan broker is brokering, funding, originating, purchasing, or servicing. The management and operation of each full-service office shall include observance of good business practices such as adequate, organized, and accurate books and records, ample phone lines, hours of business, staff training and supervision, and provision for a mechanism to resolve consumer inquiries, complaints, and problems. The director shall promulgate rules with regard to the requirements of this subdivision and shall include an evaluation of compliance with this subdivision in the periodic examination of the residential mortgage loan broker;

(13) "Immediate family member", a spouse, child, sibling, parent, grandparent, or grandchild. Immediate family member includes stepparents, stepchildren, stepsiblings, and adoptive relationships;

(14) "Individual", a natural person;

(15) "Individual mortgage loan servicer", a person who on behalf of a lender or servicer licensed by this state, collects or receives payments including payments of principal, interest, escrow amounts, and other amounts due, on existing obligations due and owing to the licensed lender or servicer for a residential mortgage loan when the borrower is in default, or in reasonably foreseeable likelihood of default, working with the borrower and the licensed lender or servicer, collects data and makes decisions necessary to modify either temporarily or permanently certain terms of those obligations, or otherwise finalizing collection through the foreclosure process;

(16) "Lender", any person who either lends money for or invests money in residential mortgage loans;

(17) "Licensee", any person licensed under sections 443.701 to 443.893;

(18) "Loan brokering", "mortgage brokering", or "mortgage brokerage service", the act of helping to obtain for an investor or from an investor for a borrower a residential mortgage loan secured by real estate situated in Missouri or assisting an investor or a borrower in obtaining a residential mortgage loan secured by real estate situated in Missouri in return for consideration;

(19) "Loan processor or underwriter", an individual who performs clerical or support duties as an employee at the direction of and subject to the supervision and instruction of a person licensed or exempt from licensing under sections 443.701 to 443.893;

(a) For purposes of this definition, clerical or support duties may include activities subsequent to the receipt of a residential mortgage loan application, including:

(i) The receipt, collection, distribution, and analysis or information common for the processing or underwriting of a residential mortgage loan; and

(ii) Communicating with a consumer to obtain the information necessary for the processing or underwriting of a loan, to the extent that such communication does not include offering or negotiating loan rates or terms, or counseling consumers about residential mortgage loan rates or terms;

(b) For an individual to be considered engaged solely in loan processor or underwriter activities, such individual shall not represent to the public through advertising or other means of communicating or providing information, including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items, that such individual can or will perform any of the activities of a mortgage loan originator;

(20) "Mortgage loan originator", an individual who for compensation or gain or in the expectation of compensation or gain takes a residential mortgage loan application, or offers or negotiates terms of a residential mortgage loan. Mortgage loan originator does not include:

(a) An individual engaged solely as a loan processor or underwriter except as otherwise provided in sections 443.701 to 443.893;

(b) A person that only performs real estate brokerage activities and is licensed or registered in accordance with Missouri law, unless the person is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of such lender, mortgage broker, or other mortgage loan originator;

(c) A person solely involved in extensions of credit relating to timeshare plans, as the term "time share plans" is defined in section 101(53D) of Title 11, United States Code;

(d) An individual who is servicing a mortgage loan; and

(e) A person employed by a licensed mortgage broker or loan originator who accepts or receives residential mortgage loan applications;

(21) "Nationwide Mortgage Licensing System and Registry" or "NMLSR", a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of licensed mortgage loan originators or licensed residential mortgage brokers;

(22) "Nontraditional mortgage product", any mortgage product other than a thirty-year fixed rate mortgage;

(23) "Party to a residential mortgage financing transaction", a borrower, lender, or loan broker in a residential mortgage financing transaction;

(24) "Payments", payment of all or any part of the following: principal, interest and escrow reserves for taxes, insurance, and other related reserves and reimbursement for lender advances;

(25) "Person", a natural person, corporation, company, limited liability company, partnership, or association;

(26) "Purchasing", the purchase of conventional or government-insured mortgage loans secured by residential real estate from either the lender or from the secondary market;

(27) "Real estate brokerage activity", any activity that involves offering or providing real estate brokerage services to the public, including:

(a) Acting as a real estate agent or real estate broker for a buyer, seller, lessor, or lessee of real property;

(b) Bringing together parties interested in the sale, purchase, lease, rental, or exchange of real property;

(c) Negotiating on behalf of any buyer, seller or lessor, any portion of a contract relating to the sale, purchase, lease, rental, or exchange of real property, but not activity to obtain a residential mortgage loan for a borrower other than bona fide seller financing;

(d) Engaging in any activity for which a person engaged in the activity is required to be registered or licensed as a real estate agent or real estate broker under any applicable law; and

(e) Offering to engage in any authorized activity or act in any authorized capacity described in paragraph (a), (b), (c), or (d) of this subdivision;

(28) "Residential mortgage board", the residential mortgage board created in section 443.816;

(29) "Residential mortgage financing transaction", the negotiation, acquisition, sale, or arrangement for or the offer to negotiate, acquire, sell, or arrange for a residential mortgage loan or residential mortgage loan commitment;

(30) "Residential mortgage loan", any loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling or residential real estate upon which is constructed or intended to be constructed a dwelling;

(31) "Residential mortgage loan broker", any person, other than an exempt person, engaged in the business of brokering, funding, servicing, or purchasing residential mortgage loans;

(32) "Residential mortgage loan brokerage agreement", a written agreement in which a residential mortgage broker agrees to do either of the following:

(a) Obtain a residential mortgage loan for the borrower or assist the borrower in obtaining a residential mortgage loan; or

(b) Consider making a residential mortgage loan to the borrower;

(33) "Residential mortgage loan commitment", a written conditional agreement to finance a residential mortgage loan;

(34) "Registered mortgage loan originator", any individual who:

(a) Meets the definition of mortgage loan originator and is an employee of:

(i) A depository institution;

(ii) A subsidiary or service corporation that is:

i. Owned and controlled by a depository institution; and

ii. Regulated by a federal banking agency; or

(iii) An institution regulated by the Farm Credit Administration; and

(b) Is registered with and maintains a unique identifier through, the NMLSR;

(35) "Residential real estate", any real property located in Missouri upon which is constructed or intended to be constructed a dwelling;

(36) "Servicing", the collection or remittance for, or the right or obligation to collect or remit for, any lender, noteowner, noteholder or for a residential mortgage loan broker's own account, of payments, interests, principal and trust items such as hazard insurance and taxes on a residential mortgage loan and includes loan payment follow-up, delinquency loan follow-up, loan analysis and any notifications to the borrower that are necessary to enable the borrower to keep the loan current and in good standing;

(37) "Soliciting, processing, placing, or negotiating a residential mortgage loan", for compensation or gain, either directly or indirectly accepting or offering to accept an application for a residential mortgage loan, assisting or offering to assist in the processing of an application for a residential mortgage loan on behalf of a borrower, or negotiating or offering to negotiate the terms or conditions of a residential mortgage loan with a lender on behalf of a borrower, including but not limited to the submission of credit packages for the approval of lenders, the preparation of residential mortgage loan closing documents, and including a closing in the name of a broker;

(38) "Ultimate equitable owner", a person who, directly or indirectly, owns or controls an ownership interest in a corporation, foreign corporation, alien business organization, trust, or any other form of business organization regardless of whether the

person owns or controls the ownership interest through one or more persons or one or more proxies, powers of attorney, nominees, corporations, associations, partnerships, trusts, joint stock companies, or other entities or devices, or any combination thereof;

(39) "Unique identifier", a number or other identifier assigned by protocols established by the NMLSR.

2. The director may define by rule any terms used in sections 443.701 to 443.893 for efficient and clear administration.

443.706. LICENSURE REQUIRED, WHEN — EFFECTIVE DATE — EXEMPTIONS. — 1. No individual, unless exempted under subsection 3 of this section, shall engage in the business of a mortgage loan originator concerning any dwelling located in Missouri without first obtaining and maintaining a license under sections 443.701 to 443.893 and obtaining employment and acting under the supervision of a single Missouri licensed residential mortgage broker. Each licensed mortgage loan originator shall register with and maintain a valid unique identifier issued by the NMLSR.

2. In order to facilitate an orderly transition to licensing and minimize disruption in the mortgage marketplace, the effective date for subsection 1 of this section shall be July 31, 2010, or such later date approved by the Secretary of the U.S. Department of Housing and Urban Development under the authority granted under Public Law 110-289, Section 1508(a).

3. The following are exempt from sections 443.701 to 443.893:

(1) Registered mortgage loan originators when employed and acting under subdivision (34) of subsection 1 of section 443.703;

(2) Any individual who offers or negotiates terms of a residential mortgage loan with or on behalf of an immediate family member of the individual;

(3) Any individual who offers or negotiates terms of a residential mortgage loan secured by a dwelling that served as the individual's residence;

(4) A licensed attorney who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client, unless the attorney is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of such lender, mortgage broker, or other mortgage loan originator.

443.707. LOAN PROCESSORS AND UNDERWRITERS, LICENSE REQUIRED. — A loan processor or underwriter who is an independent contractor shall not engage in the activities of a loan processor or underwriter for a Missouri residential real estate loan unless such independent contractor loan processor or underwriter obtains and maintains a license under section 443.706. Each independent contractor loan processor or underwriter licensed as a mortgage loan originator shall have and maintain a valid unique identifier issued by the NMLSR. Each independent contractor loan processor or underwriter shall certify annually under oath to the director that they shall not engage in the activities of a mortgage loan originator absent full compliance with section 443.706.

443.709. RULEMAKING AUTHORITY — EXPEDITED REVIEW AND LICENSING PROCEDURES PERMITTED, WHEN. — To implement an orderly and efficient licensing process for mortgage loan originators, the director may establish licensing rules and interim procedures for licensing and acceptance of applications. The director may establish expedited review and licensing procedures for individuals previously licensed as a residential mortgage loan broker in Missouri or for individuals who were previously an ultimate equitable owner of a residential mortgage loan broker in Missouri.

443.711. APPLICATION FOR LICENSURE, FORM — RECORDS AND FEES — MODIFICATION OF LICENSURE REQUIREMENTS PERMITTED, WHEN — USE OF NMLSR AS AN AGENT, WHEN. — 1. Applicants for a mortgage loan originator license shall apply in a form as prescribed by the director. Each such form shall contain content as set forth by rule, instruction, or procedure of the director and may be changed or updated as necessary by the director in order to carry out the purposes of sections 443.701 to 443.893.

2. In order to fulfill the purposes of sections 443.701 to 443.893, the director is authorized to establish relationships or contracts with the NMLSR or other entities designated by the NMLSR to collect and maintain records and process transaction fees or other fees related to licensees or other persons subject to sections 443.701 to 443.893.

3. For the purpose of participating in the NMLSR, the director is authorized to modify, in whole or in part, by rule or order, the requirements of sections 443.701 to 443.893 as necessary to participate in the NMLSR.

4. In connection with an application for licensing as a mortgage loan originator, the applicant shall, at a minimum, furnish to the NMLSR information concerning the applicant's identity, including:

(1) Fingerprints for submission to the Federal Bureau of Investigation, and any governmental agency or person authorized to receive such information for a state, national, and international criminal history background check; and

(2) Personal history and experience in a form prescribed by the NMLSR, including the submission of authorization for the NMLSR and the director to obtain:

(a) An independent credit report from a consumer reporting agency described in Section 603(p) of the Fair Credit Reporting Act. No applicant would be denied a license solely on the basis of a credit score; and

(b) Information related to any administrative, civil, or criminal findings by any governmental jurisdiction.

5. For the purposes of this section and in order to reduce the points of contact which the Federal Bureau of Investigation may have to maintain for purposes of subdivision (1) of subsection 4 of this section and paragraph (b) of subdivision (2) of subsection 4 of this section, the director may use the NMLSR as an agent for requesting information from and distributing information to the Department of Justice or any governmental agency.

6. For the purposes of this section and in order to reduce the points of contact which the director may have to maintain for purposes of paragraphs (a) and (b) of subdivision (2) of subsection 4 of this section, the director may use the NMLSR as an agent for requesting and distributing information to and from any source so directed by the director.

443.713. FINDINGS REQUIRED FOR LICENSURE. — The director shall not issue a mortgage loan originator license unless the director makes, at a minimum, the following findings:

(1) The applicant has never had a mortgage loan originator license revoked in any governmental jurisdiction; except that, a subsequent formal vacation of such revocation shall not be deemed a revocation;

(2) The applicant has not been convicted of or pled guilty or nolo contendere to a felony in a domestic, foreign, or military court:

(a) During the seven-year period preceding the date of the application for licensing and registration; or

(b) At any time preceding such date of application, if such felony involved an act of fraud, dishonesty, or a breach of trust, or money laundering; and

(c) Provided that any pardon of a conviction shall not be a conviction for purposes of this subdivision;

(3) The applicant has demonstrated financial responsibility, character, and general fitness such as to command the confidence of the community and to warrant a determination that the mortgage loan originator shall operate honestly, fairly, and efficiently within the purposes of sections 443.701 to 443.893;

(a) For purposes of this subdivision, an individual has shown that he or she is not financially responsible when he or she has shown a disregard in the management of his or her own financial condition. A determination that an individual has not shown financial responsibility may include, but not be limited to:

a. Current outstanding judgments, except judgments solely as a result of medical expenses;

b. Current outstanding tax liens or other government liens and filings;

c. Foreclosures within the past three years;

d. A pattern of seriously delinquent accounts within the past three years;

(4) The applicant has completed the prelicensing education requirement described in sections 443.701 to 443.893;

(5) The applicant has passed a written test that meets the requirements described in sections 443.701 to 443.893;

(6) The applicant or the applicant's employer has met the Missouri surety bond requirement under sections 443.701 to 443.893.

443.717. PRELICENSING EDUCATION REQUIREMENTS. — 1. Mortgage loan originators shall satisfy a prelicensing education requirement through approved education courses of at least twenty hours approved in accordance with subsection 2 of this section, which shall include at least:

(1) Three hours of federal law and regulations;

(2) Three hours of ethics, which shall include instruction on fraud, consumer protection, and fair lending issues; and

(3) Two hours of training related to lending standards for the nontraditional mortgage product marketplace.

2. For purposes of subsection 1 of this section, prelicensing approved education courses include courses reviewed and approved by the NMLSR based upon reasonable standards. Review and approval of a prelicensing education course shall include review and approval of the course provider.

3. Nothing in this section shall preclude any prelicensing education course, as approved by the NMLSR, that is provided by the employer of the applicant or person who is affiliated with the applicant by an agency contract, or any subsidiary or affiliate of such employer or person.

4. Prelicensing education may be offered in a classroom, online, or by any other means approved by the NMLSR.

5. The prelicensing education requirements approved by the NMLSR in subdivisions (1) to (3) of subsection 1 of this section for any state shall be accepted as credit towards completion of prelicensing education requirements in Missouri.

6. A person previously licensed under sections 443.701 to 443.893 applying to be licensed again shall prove that they have completed all of the continuing education requirements, if any, for the year in which the license was last held.

443.719. WRITTEN TEST REQUIRED, TEST MEASURES — MINIMUM COMPETENCY REQUIREMENTS. — 1. In order to meet the written test requirement under sections 443.701 to 443.893, an individual shall pass, in accordance with the standards established under this section, a qualified written test developed by the NMLSR and administered by a test provider approved by the NMLSR based upon reasonable standards.

2. A written test shall not be treated as a qualified written test for purposes of subsection 1 of this section unless the test adequately measures the applicant's knowledge and comprehension in appropriate subject areas, including:

(1) Ethics;

(2) Federal law and regulation pertaining to mortgage origination;

(3) State law and regulation pertaining to mortgage origination;

(4) Federal and state law and regulation on fraud, consumer protection, the nontraditional mortgage marketplace, and fair lending issues.

3. Nothing in this section shall prohibit a test provider approved by the NMLSR from providing a test at the location of the employer of the applicant or the location of any subsidiary or affiliate of the employer of the applicant, or the location of any person with which the applicant holds an exclusive arrangement to conduct the business of a mortgage loan originator.

4. An applicant for licensure as a mortgage loan originator shall demonstrate minimum competence as follows:

(1) An individual shall not be considered to have passed a qualified written test unless the individual achieves a test score of not less than seventy-five percent correct answers to questions;

(2) An individual may retake a test two times with each consecutive taking occurring at least thirty days after the preceding test;

(3) After failing three consecutive tests, an individual shall wait at least six months before taking the test again;

(4) A licensed mortgage loan originator who fails to maintain a valid license for a period of five years or longer shall retake the test, not taking into account any time during which such individual is a registered mortgage loan originator.

443.721. RENEWAL OF LICENSURE, MINIMUM STANDARDS. — 1. Minimum standards for license renewal for mortgage loan originators shall include the following:

(1) The mortgage loan originator continues to meet the minimum standards for license issuance under sections 443.701 to 443.893;

(2) The mortgage loan originator has satisfied the annual continuing education requirements under sections 443.701 to 443.893;

(3) The mortgage loan originator has paid all required fees for renewal of the license and any other outstanding obligations to the division or the NMLSR.

2. The license of a mortgage loan originator failing to satisfy the minimum standards for license renewal shall expire. The director may adopt procedures for the reinstatement of expired licenses consistent with the standards established by the NMLSR.

443.723. CONTINUING EDUCATION REQUIREMENTS. — 1. To meet the annual continuing education requirements referred to in sections 443.701 to 443.893, a licensed mortgage loan originator shall complete at least eight hours of education approved in accordance with subsection 2 of this section, which shall include at least:

(1) Three hours of federal law and regulations;

(2) Two hours of ethics, which shall include instruction on fraud, consumer protection, and fair lending issues; and

(3) Two hours of training related to lending standards for the nontraditional mortgage product marketplace.

2. For purposes of subsection 1 of this section, continuing education courses shall be reviewed, and approved by the NMLSR based upon reasonable standards. Review and approval of a continuing education course shall include review and approval of the course provider.

3. Nothing in this section shall preclude any education course, as approved by the NMLSR, that is provided by the employer of the mortgage loan originator or person who is affiliated with the mortgage loan originator by an agency contract, or any subsidiary or affiliate of such employer or person.

4. Continuing education may be offered either in a classroom, online, or by any other means approved by the NMLSR.

5. A licensed mortgage loan originator:

(1) Shall only receive credit for a continuing education course in the year in which the course is taken except in the case of an expired license and under subsection 9 of this section; and

(2) Shall not take the same approved course in the same or successive years to meet the annual requirements for continuing education.

6. A licensed mortgage loan originator who is an approved instructor of an approved continuing education course may receive credit for the licensed mortgage loan originator's own annual continuing education requirement at the rate of two hours credit for every one hour taught.

7. A person having successfully completed the education requirements approved by the NMLSR in subdivisions (1) to (3) of subsection 1 of this section for any state shall be accepted as credit towards completion of continuing education requirements in Missouri.

8. A licensed mortgage loan originator who subsequently becomes unlicensed shall complete the continuing education requirements for the last year in which the license was held prior to issuance of a new or renewed license.

9. A person meeting the requirements of subdivisions (1) and (3) of subsection 2 of section 443.719 may make up any deficiency in continuing education as established by rule of the director.

443.725. DUTIES OF DIRECTOR — RULE REQUIREMENTS AUTHORIZED. — In addition to any other duties imposed upon the director by law, the director shall require mortgage loan originators to be licensed and registered through the NMLSR. In order to carry out such requirement, the director is authorized to participate in the NMLSR. For this purpose, the director may establish by rule requirements as necessary, including but not limited to:

(1) Background checks for:

(a) Criminal history through fingerprint or other databases;

(b) Civil or administrative records;

(c) Credit history; or

(d) Any other information as deemed necessary by the NMLSR;

(2) The payment of fees to apply for or renew licenses through the NMLSR;

(3) The setting or resetting as necessary of renewal or reporting dates; and

(4) Requirements for amending or surrendering a license or any other such activities as the director deems necessary for participation in the NMLSR.

443.727. CHALLENGE OF INFORMATION IN NMLSR. — The director shall establish a process whereby mortgage loan originators may challenge information entered into the NMLSR by the director.

443.729. SUPERVISION AND ENFORCEMENT — CIVIL PENALTY. — 1. In order to ensure the effective supervision and enforcement of sections 443.701 to 443.893, the director may, under chapter 536, RSMo:

(1) Deny, suspend, revoke, condition, or decline to renew a license for a violation of sections 443.701 to 443.893, rules issued under sections 443.701 to 443.893, or order or directive entered under sections 443.701 to 443.893;

(2) Deny, suspend, revoke, condition, or decline to renew a license if an applicant or licensee fails at any time to meet the requirements of sections 443.701 to 443.893, or withholds information or makes a material misstatement in an application for a license or renewal of a license;

(3) Order restitution against persons subject to sections 443.701 to 443.893 for violations of sections 443.701 to 443.893;

(4) Impose fines on persons subject to sections 443.701 to 443.893 under subsections 2, 3, and 4 of this section;

(5) Issue orders or directives under sections 443.701 to 443.893 as follows:

(a) Order or direct persons subject to sections 443.701 to 443.893 to cease and desist from conducting business, including immediate temporary orders to cease and desist;

(b) Order or direct persons subject to sections 443.701 to 443.893 to cease any harmful activities or violations of sections 443.701 to 443.893, including immediate temporary orders to cease and desist;

(c) Enter immediate temporary orders to cease business under a license or interim license issued under the authority granted under section 443.706 if the director determines that such license was erroneously granted or the licensee is currently in violation of any of the provisions of sections 443.701 to 443.893;

(d) Order or direct such other affirmative action as the director deems necessary.

2. Any letter issued by the director and declaring grounds for denying or declining to renew a license may be appealed to the board under chapter 536, RSMo. All other matters presenting a contested case involving a licensee may be heard by the director under chapter 536, RSMo.

3. The director may impose a civil penalty on a mortgage loan originator or person subject to sections 443.701 to 443.893, if the director finds, on the record after notice and opportunity for hearing, that such mortgage loan originator or person subject to sections 443.701 to 443.893 has violated or failed to comply with any requirement of sections 443.701 to 443.893 or any regulation prescribed by the director under sections 443.701 to 443.893 or order issued under authority of sections 443.701 to 443.893.

4. The maximum amount of penalty for each act or omission described in subsection 3 of this section shall be twenty-five thousand dollars.

5. Each violation or failure to comply with any directive or order of the director is a separate and distinct violation or failure.

443.731. SURETY BOND REQUIREMENTS. — 1. (1) Each mortgage loan originator shall be covered by the surety bond for the Missouri licensed mortgage broker supervising the mortgage loan originator and for whom the mortgage loan originator acts as an employee or exclusive agent.

(2) The surety bond shall be in a form as prescribed by the director and shall provide coverage in an amount as prescribed in subsection 2 of this section.

(3) The director may promulgate rules with respect to the requirements for such surety bonds as are necessary to accomplish the purposes of sections 443.701 to 443.893.

2. The penal sum of the surety bond shall be maintained in an amount that reflects the dollar amount of loans originated as determined by the director but shall in no case be less than fifty thousand dollars or more than one million dollars.

3. When an action is commenced on a licensee's bond, the director may require the filing of a new bond.

4. Immediately upon recovery on the bond, the licensee shall file a new bond.

443.733. SUPERVISORY INFORMATION SHARING — CONFIDENTIALITY REQUIREMENTS. — In order to promote more effective regulation and reduce regulatory burden through supervisory information sharing:

(1) Except as otherwise provided in Public Law 110-289, Section 1512, the requirements under any federal law and sections 361.070 and 361.080, RSMo, regarding the privacy or confidentiality of any information or material provided to the director and to the NMLSR by a licensee or by the director, and any privilege arising under federal or state law, including the rules of any federal or state court with respect to such information or material, shall continue to apply to such information or material after the information or material has been disclosed to the NMLSR. Such information and material may be shared with all state and federal regulatory officials with mortgage industry oversight authority without the loss of privilege or the loss of confidentiality protections provided by federal law or by sections 361.070 and 361.080, RSMo;

(2) The director is authorized to enter agreements or sharing arrangements with other governmental agencies, the Conference of State Bank Supervisors, the American Association of Residential Mortgage Regulators, or other associations representing governmental agencies as established by rule or order of the director;

(3) Information or material that is subject to a privilege or confidentiality under subdivision (1) of this section shall not be subject to:

(a) Disclosure under any federal or state law governing the disclosure to the public of information held by an officer or an agency of the federal government or the respective state; or

(b) Subpoena or discovery, or admission into evidence, in any private civil action or administrative process, unless with respect to any privilege held by the NMLSR with respect to such information or material, the person to whom such information or material pertains waives, in whole or in part, in the discretion of such person, that privilege;

(4) Confidential supervisory information obtained under sections 443.701 to 443.893 shall be regarded as closed records under chapter 610, RSMo;

(5) This section shall not apply to the information or material relating to the employment history of and publicly adjudicated disciplinary and enforcement actions against mortgage loan originators or residential mortgage loan brokers that is included in the NMLSR for access by the public.

443.735. INVESTIGATIONS AND EXAMINATIONS, AUTHORITY OF DIRECTOR. — In addition to any authority allowed under sections 443.701 to 443.893, the director shall have the authority to conduct investigations and examinations as follows:

(1) For purposes of initial licensing, license renewal, license suspension, license conditioning, license revocation or termination, or general or specific inquiry or investigation to determine compliance with sections 443.701 to 443.893, the director shall have the authority to access, receive, and use any books, accounts, records, files, documents, information, or evidence, including but not limited to:

(a) Criminal, civil, and administrative history information, including nonconviction data; and

(b) Personal history and experience information including independent credit reports obtained from a consumer reporting agency described in Section 603(p) of the Fair Credit Reporting Act. No applicant would be denied a license solely on the basis of a credit score; and

(c) Any other documents, information, or evidence the director deems relevant to the inquiry or investigation regardless of the location, possession, control, or custody of such documents, information, or evidence;

(2) For the purposes of investigating violations or complaints arising under sections 443.701 to 443.893, or for the purposes of examination, the director may review, investigate, or examine any licensee, individual, or person subject to sections 443.701 to 443.893 as often as necessary to carry out the purposes of sections 443.701 to 443.893. The director may direct, subpoena, or order the attendance of and examine under oath all

persons whose testimony may be required about the loans or the business or subject matter of any such examination or investigation, and may direct, subpoena, or order such person to produce books, accounts, records, files, and any other documents as the director deems relevant to the inquiry;

(3) Each licensee, individual, or person subject to sections 443.701 to 443.893 shall make available to the director, upon request, the books and records relating to the operations of such licensee, individual, or person subject to sections 443.701 to 443.893. The director shall have access to such books and records and may interview the officers, principals, mortgage loan originators, employees, independent contractors, agents, and customers of the licensee, individual, or person subject to sections 443.701 to 443.893 concerning their business;

(4) Each licensee, individual, or person subject to sections 443.701 to 443.893 shall make or compile reports or prepare other information as directed by the director to carry out the purposes of this section, including but not limited to:

(a) Accounting compilations;

(b) Information lists and data concerning loan transactions in a format prescribed by the director; or

(c) Such other information deemed necessary to carry out the purposes of this section;

(5) In making any examination or investigation authorized by sections 443.701 to 443.893, the director may control access to any documents and records of the licensee or person under examination or investigation. The director may take possession of the documents and records or place a person in exclusive charge of the documents and records in the place where they are usually kept. During the period of control, no individual or person shall remove or attempt to remove any of the documents and records except under a court order or with the consent of the director. Unless the director has reasonable grounds to believe the documents or records of the licensee have been or are at risk of being altered or destroyed for purposes of concealing a violation by the licensee or owner of the documents and records, the licensee or owner shall have access to the documents or records as necessary to conduct its ordinary business affairs;

(6) To carry out the purposes of this section, the director may:

(a) Retain attorneys, accountants, or other professionals and specialists as examiners, auditors, or investigators to conduct or assist in the conduct of examinations or investigations;

(b) Enter into agreements or relationships with other government officials or regulatory associations in order to improve efficiencies and reduce regulatory burden by sharing resources, standardized or uniform methods or procedures, and documents, records, information, or evidence obtained under this section;

(c) Use, hire, contract, or employ public or privately available analytical systems, methods, or software to examine or investigate the licensee, individual, or person subject to sections 443.701 to 443.893;

(d) Accept and rely on examination or investigation reports made by other government officials within or without this state; or

(e) Accept audit reports made by an independent certified public accountant for the licensee, individual, or person subject to sections 443.701 to 443.893 in the course of that part of the examination covering the same general subject matter as the audit and may incorporate the audit report in the report of the examination, report of investigation, or other writing of the director;

(7) The authority of this section shall remain in effect whether such a licensee, individual, or person subject to sections 443.701 to 443.893 acts or claims to act under any licensing or registration law of this state or claims to act without such authority;

(8) No licensee, individual, or person subject to investigation or examination under this section may knowingly withhold, abstract, remove, mutilate, destroy, or secrete any books, records, computer records, or other information.

443.737. VIOLATIONS. — It is a violation of sections 443.701 to 443.893 for a person or individual subject to sections 443.701 to 443.893 to:

(1) Directly or indirectly employ any scheme, device, or artifice to defraud or mislead borrowers or lenders or to defraud any person;

(2) Engage in any unfair or deceptive practice toward any person;

(3) Obtain property by fraud or misrepresentation;

(4) Solicit or enter into a contract with a borrower that provides in substance that the person or individual subject to sections 443.701 to 443.893 may earn a fee or commission through best efforts to obtain a loan even though no loan is actually obtained for the borrower;

(5) Solicit, advertise, or enter into a contract for specific interest rates, points, or other financing terms unless the terms are actually available at the time of soliciting, advertising, or contracting;

(6) Conduct any business covered by sections 443.701 to 443.893 without holding a valid license and employment as required under sections 443.701 to 443.893, or assist or aide and abet any person in the conduct of business under sections 443.701 to 443.893 without a valid license as required under sections 443.701 to 443.893;

(7) Fail to make disclosures as required by sections 443.701 to 443.893 and any other applicable state or federal law;

(8) Fail to comply with sections 443.701 to 443.893 or rules promulgated under sections 443.701 to 443.893, or fail to comply with any other state or federal law, including the rules applicable to any business authorized or conducted under sections 443.701 to 443.893;

(9) Make, in any manner, any false or deceptive statement or representation, including with regard to the rates, points, or other financing terms or conditions for a residential mortgage loan, or engage in bait and switch advertising;

(10) Negligently make any false statement or knowingly and willfully make any omission of material fact in connection with any information or reports filed with a governmental agency or the NMLSR or in connection with any investigation conducted by the director or another governmental agency;

(11) Make any payment, threat, or promise, directly or indirectly, to any person for the purposes of influencing the independent judgment of the person in connection with a residential mortgage loan or make any payment threat or promise, directly or indirectly, to any appraiser of a property for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property;

(12) Collect, charge, attempt to collect or charge, or use or propose any agreement purporting to collect or charge any fee prohibited by sections 443.701 to 443.893;

(13) Cause or require a borrower to obtain property insurance coverage in an amount that exceeds the replacement cost of the improvements as established by the property insurer;

(14) Fail to truthfully account for moneys belonging to a party to a residential mortgage loan transaction.

443.739. REPORTS OF CONDITION REQUIRED. — Each residential mortgage loan broker subject to the requirements of sections 443.701 to 443.893 shall submit to the NMLSR reports of condition, which shall be in such form and shall contain such information as the NMLSR may require.

443.741. VIOLATIONS, DIRECTOR REQUIRED TO REPORT. — The director is required to report violations of sections 443.701 to 443.893, as well as enforcement actions and other relevant information, to the NMLSR subject to the provisions contained in section 443.731.

443.743. NONFEDERALLY INSURED CREDIT UNIONS, REGISTRATION OF EMPLOYED LOAN ORIGINATORS REQUIRED. — Nonfederally-insured credit unions which employ loan originators, as defined in Public Law 110-289, Title V, the S.A.F.E. Act, shall register such employees with the NMLSR by furnishing the information concerning the employees' identity set forth in Section 1507(a)(2) of Public Law 110-289, Title V.

443.745. UNIQUE IDENTIFIER TO BE SHOWN ON APPLICATIONS, SOLICITATIONS OR ADVERTISEMENTS. — The unique identifier of any person originating a residential mortgage loan and in the case of a mortgage loan originator, the residential mortgage loan broker license number or corresponding unique identifier of the mortgage loan broker, shall be clearly shown on all residential mortgage loan application forms, solicitations, or advertisements, including business cards or web sites, and any other documents as established by rule or order of the director.

443.747. SEVERABILITY CLAUSE — RULEMAKING AUTHORITY. — If any provision of sections 443.701 to 443.893 or their application to any person or circumstance is held invalid, the remainder of sections 443.701 to 443.893 or the application of the provision to other persons or circumstances is not affected. If the United States Department of Housing and Urban Development disapprove in writing to the director of any provision of sections 443.701 to 443.893 under authority granted to it under Section 1508 of Public Law 110-289, Title V, the S.A.F.E. Act, the director may, in accordance with the director's rule making authority under sections 443.701 to 443.893 and chapter 536, RSMo, adopt rules as necessary to participate or continue participation in the NMLSR.

443.805. LICENSE REQUIRED TO BROKER RESIDENTIAL MORTGAGE, EXCEPTIONS. — 1. No person shall engage in the business of brokering, funding, **[**originating,**]** servicing or purchasing of residential mortgage loans without first obtaining a license **as a residential mortgage loan broker** from the director, pursuant to sections **[**443.800**]** **443.701** to 443.893 and the regulations promulgated thereunder. The licensing provisions of sections 443.805 to 443.812 shall not apply to any **[**entity**]** **person** engaged solely in commercial mortgage lending or to any person exempt as provided in section **[**443.803**]** **443.703** or pursuant to regulations promulgated as provided in sections **[**443.800**]** **443.701** to 443.893.

2. No person except a licensee or exempt **[**entity**]** **person** shall do any business under any name or title or circulate or use any advertising or make any representation or give any information to any person which indicates or reasonably implies activity within the scope of the provisions of sections **[**443.800**]** **443.701** to 443.893.

443.807. DIRECTOR, POWER TO REQUEST INJUNCTION, WHEN. — The director may, through the attorney general, request the circuit court in the appropriate jurisdiction to issue an injunction to restrain any person from violating, or continuing to violate, any provision of sections **[**443.805 to 443.812**]** **443.701 to 443.893**.

443.809. EXAMINATION, POWERS OF DIRECTOR TO INSPECT RECORDS OF LICENSED PERSONS. — The director shall have the authority, at any time and as often as reasonably necessary, to investigate or examine the books and records of any licensed person to assure compliance with sections **[**443.800**]** **443.701** to 443.893. The director shall have the right to examine under oath all persons whose testimony may be required relative to the business of any

person being examined or investigated under sections [443.800] **443.701** to 443.893. The director shall have free and immediate access to any licensed person's places of business and to all books and records related to the licensed business.

443.810. PENALTY FOR VIOLATIONS. — [Effective May 21, 1998,] Any person who violates any provision of sections 443.805 to 443.812 shall be deemed guilty of a class C felony. In addition, in any contested case proceeding, the director or board may assess a civil penalty of up to [five] **twenty-five** thousand dollars per violation for any violation of any of the provisions of sections [443.800] **443.701** to 443.893.

443.812. ONE LICENSE ISSUED TO EACH BROKER — RECORD REQUIRED OF LOCATIONS WHERE ANY BUSINESS IS CONDUCTED — SUPERVISION REQUIREMENTS — WAIVER OF LICENSURE, WHEN. — 1. Only one license shall be issued to each person conducting **the** activities [regulated by sections 443.800 to 443.893] **of a residential mortgage broker**. A [licensee] **residential mortgage broker** shall register with the director each office, place of business or location **in Missouri** where the [licensee] **residential mortgage loan broker** conducts any part of the [licensee's] **residential mortgage loan broker's** business pursuant to section 443.839.

2. [Licensees] **Residential mortgage loan brokers** may only solicit, broker, fund, originate, serve and purchase residential mortgage loans in conformance with sections [443.800] **443.701** to 443.893 and such rules as may be promulgated by the director [thereunder].

3. No residential mortgage loan broker shall permit an unlicensed individual to engage in the activities of a mortgage loan originator and no residential mortgage loan broker shall permit a mortgage loan originator to engage in the activities of a mortgage loan originator under the supervision of the residential mortgage loan broker until that mortgage loan originator is shown to be employed by the residential mortgage loan broker as provided in this section.

4. Each residential mortgage loan broker shall report and file a listing with the director showing each mortgage loan originator licensed in Missouri and employed under the supervision of the residential mortgage loan broker. The listing shall show the name and unique identifier of each mortgage loan originator. The listing shall be updated with changes and filed no later than the next business day. The director may authorize a system of reporting that shows mortgage loan originators employed by Missouri residential mortgage loan brokers via the NMLSR in substitution for the report and filing requirement under this subsection.

5. The director may grant waivers of residential mortgage loan broker licensing requirements for persons engaged primarily in servicing residential mortgage loans where such waiver shall benefit borrowers including in particular the requirement to maintain a full-service office in Missouri.

443.816. RESIDENTIAL MORTGAGE BOARD CREATED — MEMBERS, APPOINTMENT, QUALIFICATION, TERMS, VACANCIES, COMPENSATION, DUTIES. — There is hereby created in the division of finance a "Residential Mortgage Board" which shall have such powers and duties as are now or hereafter conferred upon it by law. The board shall consist of five members who shall be appointed by the governor. The members of the board shall be residents of this state, and one of the members shall be a member of the Missouri Bar in good standing. Three members of the board shall be experienced in mortgage brokering and the remaining members of the board shall have no financial interest in any mortgage brokering business. Not more than three members of the board shall be members of the same political party. The term of office of each member shall be three years[, except for those first appointed. Two shall be appointed for terms of two years and one shall be appointed for a term of one year]. Members shall serve until their successors are duly appointed and have qualified. Each member shall serve for the

remainder of the term for which the member was appointed. The board shall select one of the members as chairman and one of the members as secretary. Vacancies on the board shall be filled for the unexpired term in the same manner as in the case of an original appointment. The members of the board shall receive as compensation the sum of one hundred dollars per day while discharging their duties, and they shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties. A majority of the members of the board shall constitute a quorum and the decision of a majority of a quorum shall be the decision of the board. The board shall meet upon call of the chairman, or of the director, or of any two members of the board, and may meet at any place in this state. The board shall:

(1) Approve or disapprove each regulation proposed by the director pertaining to mortgage brokering; and

(2) Hear and determine any appeal from a denial **[**or revocation of a mortgage broker license or decision of the director pertaining to mortgage brokering**]** **of an application for or renewal of a license issued under sections 443.701 to 443.893. The board may employ, contract, or appoint hearing officers to hear appeals from applicants who have been denied a license or a license renewal by the director**.

443.817. BOARD MEMBERS TO FILE BUSINESS TRANSACTIONS WITH ETHICS COMMISSION — RULES AUTHORIZED TO AVOID CONFLICT OF INTEREST. — Each member of the residential mortgage board shall file annually, no later than February first, with the Missouri ethics commission a statement of the member's current business transactions or other affiliations with any **[**licensee**]** **residential mortgage loan broker** under the provisions of sections **[**443.800**]** **443.701** to 443.893 **or such report as the Missouri ethics commission otherwise directs**. The board may adopt any rules or regulations regarding the conduct of board members to avoid conflicts of interest on the part of the members of the residential mortgage board in connection with their positions on the board.

443.819. BROKERAGE BUSINESS TO BE OPERATED UNDER ACTUAL NAMES OF PERSONS OR CORPORATIONS, VIOLATION, PENALTIES. — 1. No person engaged in a business regulated by sections **[**443.800**]** **443.701** to 443.893 shall operate **or engage in** such business under a name other than the real names of the persons conducting such business, a corporate name adopted pursuant to **[**chapter 351, RSMo**]** **law**, or a fictitious name registered with the secretary of state's office.

2. Any person who knowingly violates this section shall be deemed guilty of a class A misdemeanor. A person who is convicted of a second or subsequent violation of this section shall be deemed of a class C felony.

443.821. LICENSE TO BE ISSUED ON COMPLETION OF REQUIREMENTS — NOTICE OF DENIAL OF LICENSE TO CONTAIN REASONS — APPEAL PROCEDURE. — The director shall issue a **residential mortgage loan broker** license upon completion of the following:

(1) The filing of an application;

(2) The filing with the director of a listing of judgments entered against, and bankruptcy petitions by, the applicant for the preceding seven years;

(3) The payment of investigation and application fees to be established by administrative rule; and

(4) An investigation of the averments required by section 443.827, which investigation must allow the director to issue positive findings stating that the financial responsibility, experience, character and general fitness of the applicant, and of the members thereof, if the applicant is a partnership or association, and of the officers and directors thereof if the applicant is a corporation, are such as to command the confidence of the community and to warrant belief that the business will be operated honestly, fairly and efficiently within the scope of sections **[**443.800**]** **443.701** to 443.893. If the director does not find the applicant's business and personal

conduct warrants the issuance of a license, the director shall notify the applicant of the denial with the reasons stated for such denial. An applicant may appeal such denial to the board.

443.823. LICENSES TO BE ISSUED IN DUPLICATE, EFFECTIVE WHEN. — All **residential mortgage loan broker** licenses shall be issued in duplicate with one copy being transmitted to the license applicant and the second **[**being**]** retained **[**with**] by** the director. Upon receipt of such license, a residential mortgage **[**licensee**] loan broker** may engage in a business regulated by sections **[**443.800**] 443.701** to 443.893. Such license shall remain in full force and effect until it expires without renewal, is surrendered by the **[**licensee**] residential mortgage loan broker** or is revoked or suspended as provided in sections **[**443.800**] 443.701** to 443.893.

443.825. APPLICATION CONTENT, OATH AND FORM. — 1. Application for a **residential mortgage loan broker** license shall be made as provided in sections 443.833 and 443.835. The application shall be in writing, made under oath, and on a form provided by the director.

2. **The director may, by rule, revise and conform the residential mortgage loan broker license application and renewal process, and the licensing dates and periods under sections 443.701 to 443.893 to a system of licensing residential mortgage loan brokers administered in cooperation with the NMLSR.**

3. The application shall contain the name and complete business and residential address or addresses of the applicant. If the applicant is a **[**partnership, association, corporation or other**]** form of business organization, the application shall contain the names and complete business and residential addresses of each member, director and principal officer of such **[**entity**] person**. Such application shall also include a description of the activities of the applicant, in such detail and for such periods as the director may require, including all of the following:

(1) An affirmation of financial solvency noting such capitalization requirements as may be required by the director, and access to such credit as may be required by the director;

(2) An affirmation that the applicant or the applicant's members, directors or principals, as may be appropriate, are at least eighteen years of age;

(3) Information **that would support findings under subdivision (4) of section 443.821** as to the character, fitness, financial and business responsibility, background, experience and criminal records of any:

(a) Person**[**, entity**]** or ultimate equitable owner that owns or controls, directly or indirectly, ten percent or more of any class of stock of the applicant;

(b) Person**[**, entity**]** or ultimate equitable owner that is not a depository institution that lends, provides or infuses, directly or indirectly, in any way, funds to or into an applicant, in an amount equal to, or more than, ten percent of the applicant's net worth;

(c) Person**[**, entity**]** or ultimate equitable owner that controls, directly or indirectly, the election of twenty-five percent or more of the members of the board of directors of the applicant; and

(d) Person**[**, entity**]** or ultimate equitable owner that the director finds influences management of the applicant.

443.827. APPLICANT FOR LICENSE MUST AGREE TO MAINTAIN CERTAIN REQUIREMENTS AS TO METHODS OF CONDUCTING BUSINESS. — Each application **for a residential mortgage loan broker license** shall be accompanied by an averment that the applicant:

(1) Will maintain at least one full-service office within the state of Missouri as provided in section 443.857;

(2) Will maintain staff reasonably adequate to meet the requirements of section 443.857;

(3) Will keep **[**and maintain**]** for thirty-six months the same written records as required by the federal Equal Credit Opportunity Act, 15 U.S.C. 1691, et seq., and any other information required by rules of the director;

(4) Will timely file any report required pursuant to sections **[**443.800**] 443.701** to 443.893;

(5) Will not engage, whether as principal or agent, in the practice of rejecting residential mortgage applications or varying terms or application procedures without reasonable cause, on real estate within any specific geographic area from the terms or procedures generally provided by the **[**licensee**]** **residential mortgage loan broker** within other geographic areas of the state;

(6) Will not engage in fraudulent home mortgage underwriting practices;

(7) Will not make payments**[**, whether directly or indirectly, of any kind to any in-house or fee appraiser of any government or private money lending agency with which an application for a home mortgage has been filed**]** for the purpose of **improperly** influencing the independent judgment of **[**the**]** **an** appraiser **[**with respect to the value of any real estate which is to be covered by such home mortgage**]**;

(8) Has filed **state and federal** tax returns**[**, both state and federal,**]** for the past three years or filed **a statement** with the director **[**a personal, an accountant's or attorney's statement**]** as to why no return was filed;

(9) Will not engage in any activities prohibited by section 443.863;

(10) Will not knowingly misrepresent, circumvent or conceal any material particulars regarding a transaction to which the applicant is a party;

(11) Will disburse funds in accordance with the applicant's agreements through a licensed and bonded disbursing agent or licensed real estate broker;

(12) Has not committed any crime against the laws of this state, or any other state or of the United States, involving moral turpitude, fraudulent or dishonest dealings and that no final judgment has been entered against the applicant in a civil action **[**upon**]** **on** grounds of fraud, misrepresentation or deceit which has not been previously reported to the director;

(13) Will account for and deliver to any person any **[**personal**]** property**[**, including, but not limited to, money, funds, deposits, checks, drafts, mortgages or any other thing of value, which has come into the applicant's possession and which is not the applicant's property or which the applicant is not in law or equity entitled to retain under the circumstances, at the time which has been**]** **as** agreed **[**upon**]** or **[**is**]** required by law, or, **[**in the absence of a fixed time,**]** upon demand of the person entitled to such accounting and delivery;

(14) Has not engaged in any conduct which would be cause for denial of a license;

(15) Has not become insolvent;

(16) Has not submitted an application which contains a material misstatement;

(17) Has not demonstrated negligence or incompetence in the performance of any activity required to hold a license under sections **[**443.800**]** **443.701** to 443.893;

(18) Will advise the director in writing of any changes to the information submitted on the most recent application for license within forty-five days of such change. The written notice must be signed in the same form as the application for the license being amended;

(19) Will comply with the provisions of sections **[**443.800**]** **443.701** to 443.893, or with any lawful order or rule made thereunder;

(20) **[**When probable cause exists,**]** Will submit to periodic examinations by the director as required by sections **[**443.800**]** **443.701** to 443.893; **[**and**]**

(21) Will advise the director in writing of any judgments entered against, and bankruptcy petitions by, the license applicant within five days of the occurrence of the judgment or petition**; and**

(22) Will implement appropriate systems of supervision, management, and control to assure that each employee engaged in the activities of a mortgage loan originator does so in compliance with sections 443.701 to 443.893, and will promptly report any detected violations or apparent violations to the director within thirty days of detection.

443.830. LICENSE REFUSED — GROUNDS. — The director shall refuse to license or renew a **residential mortgage loan broker** license if:

(1) **[**It is determined that**]** The applicant is not in compliance with any provision of sections **[**443.800**]** **443.701** to 443.893;

(2) There is substantial continuity between the applicant and any violator of any provision of sections **[**443.800**]** **443.701** to 443.893; or

(3) The director cannot make the findings specified in section 443.821.

443.833. RENEWAL OF LICENSE, DATE, PROCEDURE, FEE — FAILURE TO RENEW, LICENSE BECOMES INACTIVE, REACTIVATION — EXPIRES, WHEN. — 1. **Residential mortgage loan broker** licenses shall be renewed on the first anniversary of the date of issuance and every two years thereafter **or as otherwise determined by the director to implement a system of licensing compatible with the NMLSR**. Renewal application forms and fees shall be submitted to the director at least sixty days before the renewal date.

2. The director shall send notice at least ninety days before the **[**licensee's**]** **residential mortgage loan broker's** renewal date, but failure to send or receive such notice is no defense for failure to timely renew, except when an extension for good cause is granted by the director. If the director does not grant an extension and the **[**licensee**]** **residential mortgage loan broker** fails to submit a completed renewal application form and the proper fees in a timely manner, the director may assess additional fees as follows:

(1) A fee of five hundred dollars shall be assessed the **[**licensee**]** **residential mortgage loan broker** thirty days after the proper renewal date, and one thousand dollars each month thereafter, until the license is either renewed or expires pursuant to subsections 3 and 4 of this section;

(2) Such fee shall be assessed without prior notice to the **[**licensee**]** **residential mortgage loan broker**, but shall be assessed only in cases where the director possesses documentation of the **[**licensee's**]** **residential mortgage loan broker's** continuing activity for which the unrenewed license was issued.

3. A license which is not renewed by the date required in this section shall automatically become inactive. No activity regulated by sections **[**443.800**]** **443.701** to 443.893 shall be conducted by the **[**licensee**]** **residential mortgage loan broker** when a license becomes inactive. An inactive license may be reactivated by filing a completed reactivation application with the director, payment of the renewal fee, and payment of a reactivation fee equal to the renewal fee.

4. A license which is not renewed within one year of becoming inactive shall expire.

443.835. BROKER CEASING ACTIVITY AND NOT DESIRING TO BE LICENSED, PROCEDURE — DIRECTOR TO CANCEL LICENSE. — A **[**licensee**]** **residential mortgage loan broker** ceasing an activity or activities regulated by sections **[**443.800**]** **443.701** to 443.893 and desiring to no longer be licensed shall so inform the director in writing and, at the same time, return the license and all other symbols or indicia of licensure to the director. The **[**licensee**]** **residential mortgage loan broker** shall include a plan for the withdrawal from a business regulated by sections **[**443.800**]** **443.701** to 443.893, including a timetable for the disposition of the business. Upon receipt of such written notice, the director shall issue a certified statement canceling the license.

443.839. APPLICATION BY BROKER TO OPEN ADDITIONAL FULL-SERVICE OFFICES, FEE — CERTIFICATE TO BE ISSUED AND POSTED. — 1. A **[**licensee**]** **residential mortgage loan broker** may apply for authority to open and maintain additional offices **in Missouri** by:

(1) Giving the director prior notice of the **[**licensee's**]** **residential mortgage loan broker's** intention in such form as prescribed by the director; **and**

(2) Paying a fee to be established by the director **[**by administrative rule**]**.

2. **[**Upon**]** **On** receipt of the notice and fee **[**required by subsection 1 of this section**]**, the director shall issue a certificate for the additional office. The certificate shall be conspicuously displayed in the respective **[**additional**]** office.

443.841. LICENSE TO BE DISPLAYED. — The **appropriate residential mortgage loan broker** license **or certificate** shall be conspicuously displayed in every Missouri office. **[**The

license shall state the full name and address of the licensee.**]** The license **or certificate** shall not be transferable or assignable. **[**A separate certificate shall be issued for display in each Missouri office.**]**

443.843. FEES TO BE ESTABLISHED BY DIRECTOR — RULES AUTHORIZED FOR ASSESSMENT AND COLLECTION. — 1. The expenses of administering sections **[**443.800**] 443.701** to 443.893, including investigations and examinations **[**provided for in sections 443.800 to 443.893**]** shall be borne by and assessed against **[**entities**] persons** regulated by sections **[**443.800**] 443.701** to 443.893. The director shall establish fees by regulation **or rule** in at least the following categories:

(1) Application fees;

(2) Investigation of license applicant fees;

(3) Examination fees;

(4) Contingent fees; **[**and**]**

(5) **Fees collected by the NMLSR or paid by a licensee, to the NMLSR; and**

(6) Such other categories as may be required to administer sections **[**443.800**] 443.701** to 443.893.

2. In addition to any fees collected pursuant to sections **[**443.800**] 443.701** to 443.893, the director shall **[**by rules and regulations**]** establish schedules **[**to apply to the assessment and collection**]** of **[**any necessary contingent or miscellaneous**]** fees. Any fees established pursuant to the authority of sections **[**443.800**] 443.701** to 443.893 shall **[**be set at an amount to**]** produce revenue **[**which will not**] that does not** substantially exceed the cost of administering sections **[**443.800**] 443.701** to 443.893.

443.845. RESIDENTIAL MORTGAGE LICENSING FUND CREATED — PURPOSE — FEES TO BE DEPOSITED IN INTEREST-BEARING ACCOUNT TO CREDIT OF FUND — AMOUNT IN FUND SUBJECT TO LAPSE INTO GENERAL REVENUE. — 1. There is hereby created in the state treasury the "Residential Mortgage Licensing Fund" which shall be used, upon appropriation by the general assembly, for all costs incurred by the director in administering the provisions of sections **[**443.800**] 443.701** to 443.893. The director shall transmit all fees received **by the director** pursuant to sections **[**443.800**] 443.701** to 443.893 to the director of revenue for deposit in an interest-bearing account in the state treasury to the credit of the residential mortgage licensing fund. Any interest earned on the money in this fund shall be credited to the residential mortgage licensing fund.

2. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds three times the amount of the appropriations from the residential mortgage licensing fund for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the residential mortgage licensing fund for the preceding fiscal years.

443.849. BONDING REQUIREMENTS. — **[**A corporate surety bond in the principal sum of twenty thousand dollars shall accompany each application for a license. The bond shall be in a form satisfactory to the director and shall be issued by a bonding company or insurance company authorized to do business in this state, to secure the faithful performance of the obligations of the applicant and the agents and subagents of the applicant in connection with the activities of originating, servicing or acquiring mortgage loans. An applicant or licensee may, in lieu of filing the bond required pursuant to this section, provide the director with a twenty thousand dollar irrevocable letter of credit, as defined in section 400.5-103, RSMo, issued by any financial institution.**] 1. Residential mortgage loan brokers shall deliver a surety bond to the director prior to the issuance or renewal of a license:**

(1) The surety bond shall provide coverage in an amount as prescribed in subsection 2 of this section;

(2) The surety bond shall be in a form as prescribed by the director;

(3) Such bond shall be issued by a bonding or insurance company authorized to do business in Missouri and shall secure the faithful performance of the applicant, its employees or agents, including mortgage loan originators, in connection with the activities of originating, servicing, or acquiring mortgage loans;

(4) The director may promulgate rules with respect to the requirements for such surety bonds as are necessary to accomplish the purposes of sections 443.701 to 443.893.

2. The penal sum of the surety bond shall be maintained in an amount that reflects the dollar amount of loans originated by the residential mortgage loan broker as determined by the director but in no case shall be less than fifty thousand dollars or more than one million dollars.

3. When an action is commenced on a licensee's bond the director may require the filing of a new bond.

4. Immediately upon any recovery on the bond the licensee shall file a new bond.

5. The surety bond is for the protection of borrowers and the director may make a claim on the bond on behalf of any borrower sustaining injury as the result of the actions of a licensee not in compliance with or in violation of any of the provisions of sections 443.701 to 443.893.

6. In lieu of presenting a claim directly, the director may release the bond to a borrower or the borrower's attorney to present a claim.

7. The surety may cancel or withdraw the bond under such terms as the director may prescribe but the bond shall cover any actions that occurred while the bond was in place for the applicable period of limitations under statute and so long as the bond is not exhausted by valid claims of borrowers.

443.855. ADVERTISING POLICIES MAY BE ESTABLISHED BY DIRECTOR — STANDARDS REQUIRED. — **[**In addition to such other rules the director may promulgate to effectuate sections 443.800 to 443.893,**]** The director **[**shall**] may** prescribe rules governing the advertising of mortgage loans, including, without limitation, the following requirements:

(1) Advertising **[**for loans transacted**]** pursuant to **[**the requirements of**]** sections **[**443.800**] 443.701** to 443.893 may not be false, misleading or deceptive. No person whose activities are regulated pursuant to the provisions of sections **[**443.800**] 443.701** to 443.893 may advertise in any manner so as to indicate or imply that the person's interest rates or charges for loans are in any way recommended, approved, set or established by the state **or federal government** or by the provisions of sections **[**443.800**] 443.701** to 443.893;

(2) All advertisements by a licensee shall contain the name and an office address of such **[**entity**] person**, which shall conform to a name and address on record with the director.

443.857. LICENSEE SHALL MAINTAIN AT LEAST ONE FULL-SERVICE OFFICE WITH STAFF, DUTIES TO HANDLE MATTERS RELATING TO MORTGAGE — WAIVER, WHEN. — Each **[**licensee**] residential mortgage loan broker** shall maintain, in the state of Missouri, at least one full-service office with staff reasonably adequate to efficiently handle all matters relating to any proposed or existing home mortgage with respect to which such **[**licensee**] residential mortgage loan broker** is performing services**; except that this provision may be waived by the director for persons providing mortgage loan servicing under section 443.812**.

443.861. TRANSFER OR SALE OF RESIDENTIAL MORTGAGE, NOTICE TO BE GIVEN TO MORTGAGOR, CONTENTS. — Whenever the **[**serving**] servicing** of a residential mortgage is transferred or sold by a **[**licensee**] residential mortgage loan broker**, notice shall be given to the mortgagor simultaneously with such transfer and shall include, at the minimum, where and

to whom to address the mortgagor's questions relating to the residential mortgage, the exact name, address and telephone number to whom at least the next three months' payments are to be submitted and the total amount required of the mortgagor by the servicer for each of the months referred to in the notice.

443.863. UNLAWFUL DISCRIMINATION FOR REFUSAL TO LOAN OR VARY TERMS OF THE LOAN. — It is unlawful discrimination to refuse loans or to vary the terms of loans or the application procedures for loans because of:

(1) The borrower's race, color, religion, national origin, age, gender or marital status; or

(2) The **[**geographic**]** location of the proposed security.

443.865. ESCROW ACCOUNTS, PLACEMENT BY BROKERS — AUTHORITY FOR RULES. — The director may promulgate rules with respect to placement in escrow accounts by any **[**licensee**] residential mortgage loan broker** of any money, funds, deposits, checks or drafts entrusted to the **[**licensee by any person dealing with the licensee as a residential mortgage licensee**] residential mortgage loan broker**.

443.867. DISCLOSURE STATEMENT REQUIRED OF BROKERS, CONTENT — FEE — COMPENSATION. — **1. [**At the time of application,**]** Each residential mortgage **[**licensee which is a**] loan** broker shall disclose, within **[**the**] a** loan brokerage disclosure statement**[**, that**] and fee agreement with each borrower**:

(1) **Whether** the licensee **[**does not make**] makes** loans; and

(2) **Whether** the funds **[**are**] may be** provided by another person which may affect availability of funds.

2. The mortgage loan brokerage disclosure statement and fee agreement shall disclose the amount and sources of the residential mortgage loan broker's fees and all other compensation related to obtaining a residential mortgage loan on behalf of the borrower.

3. The loan origination fee or other compensation of a residential mortgage loan broker shall not be limited under state law so long as the mortgage loan brokerage disclosure statement and fee agreement is fully compliant with this section and federal law.

4. A mortgage loan originator shall be compensated exclusively by the residential mortgage loan broker employing the mortgage loan originator. A mortgage loan originator shall not obtain compensation directly from any lender or borrower or any other person providing real estate settlement services.

5. In the event the mortgage loan brokerage disclosure statement and fee agreement is not fully compliant with this section or in the event the mortgage loan broker obtains fees and compensation in excess of the amount disclosed, the mortgage loan broker shall forfeit double the amount of fees and compensation obtained to the borrower.

443.869. POWERS AND DUTIES OF DIRECTOR — RULEMAKING AUTHORITY. — 1. The functions, powers and duties of the director shall include the following:

(1) To issue or refuse to issue any license as provided in sections **[**443.800**] 443.701** to 443.893;

(2) To revoke or suspend for cause any license issued pursuant to sections **[**443.800**] 443.701** to 443.893;

(3) To keep records of all licenses issued pursuant to sections **[**443.800**] 443.701** to 443.893;

(4) To receive, consider, investigate and act upon complaints made by any person in connection with any residential mortgage **[**licensee**] loan broker or mortgage loan originator** in this state;

(5) To consider and act upon any recommendations from the residential mortgage board;

(6) To prescribe the forms **[**of**] for** and receive:

(a) Applications for licenses; and

(b) All reports and all books and records required to be made by any residential mortgage **[**licensee**]** **loan broker** pursuant to the provisions of sections **[**443.800**]** **443.701** to 443.893, including annual audited financial statements;

(7) To adopt rules necessary and proper for the administration of sections **[**443.800**]** **443.701** to 443.893;

(8) To subpoena documents and witnesses and compel their attendance and production, to administer oaths and to require the production of any books, papers or other material relevant to any inquiry authorized by sections **[**443.800**]** **443.701** to 443.893;

(9) To require information with regard to any applicant as the director may deem desirable, with due regard to the paramount interests of the public, about the experience, background, honesty, truthfulness, integrity and competency of the applicant concerning financial transactions involving primary or subordinate mortgage financing and where the applicant is **[**an entity**]** **a person** other than an individual, as to the honesty, truthfulness, integrity and competency of any officer or director of the corporation, association or other **[**entity**]** **person** or the members of a partnership;

(10) To examine the books and records of every **[**licensee**]** **residential mortgage loan broker** at intervals as provided by sections **[**443.800**]** **443.701** to 443.893 and the rules promulgated thereunder;

(11) To enforce the provisions of sections **[**443.800**]** **443.701** to 443.893;

(12) To levy fees and charges for services performed in administering the provisions of sections **[**443.800**]** **443.701** to 443.893. The aggregate of all fees collected by the director shall be deposited promptly after receipt and accompanied by a detailed statement of such receipts in the residential mortgage licensing fund**; provided that fees may also be collected under the requirements of the NMLSR**;

(13) To appoint a staff which may include an executive director, examiners, supervisors, experts, special assistants and any necessary support staff as needed to effectively and efficiently administer the provisions of sections **[**443.800**]** **443.701** to 443.893; **[**and**]**

(14) To conduct hearings for such purposes as the director deems appropriate**; and**

(15) To enter into agreements or contracts with authorized representatives of the NMLSR as appropriate to implement the NMLSR in Missouri.

2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

443.879. REPORTS REQUIRED, FAILURE TO COMPLY, PENALTY. — 1. In addition to any reports required pursuant to sections **[**443.800**]** **443.701** to 443.893, every licensee shall file such other reports as the director shall request.

2. Any **[**licensee**]** **residential mortgage loan broker** or any officer, director, employee or agent of any **[**licensee**]** **residential mortgage loan broker** who fails to file any reports required by sections **[**443.800**]** **443.701** to 443.893 or who shall deliberately, willfully or knowingly make, subscribe to or cause to be made any false entry with intent to deceive the director or the director's appointees or who shall purposely cause delay in filing such reports shall be deemed guilty of a class A misdemeanor.

443.881. SUSPENSION OR REVOCATION OF LICENSE, GROUNDS — PROCEDURE, PENALTIES. — 1. Upon written notice to a licensee, the director may suspend or revoke any

license issued pursuant to sections [443.800] **443.701** to 443.893 if the director makes a finding of one or more of the following in the notice that:

(1) Through separate acts or an act or a course of conduct, the licensee has violated any provision of sections [443.800] **443.701** to 443.893, any rule promulgated by the director or any other law or rule of this state or the United States;

(2) Any fact or condition exists which, if it had existed at the time of the original application for such license would have warranted the director in refusing originally to issue such license;

(3) If a licensee is other than an individual, any ultimate equitable owner, officer, director or member of the licensed partnership, association, corporation or other [entity] **person** has so acted or failed to act as would be cause for suspending or revoking a license to that party as an individual.

2. No license shall be suspended or revoked, except as provided in this section, nor shall any licensee be subject to any other disciplinary proceeding without notice of the licensee's right to a hearing as provided in sections [443.800] **443.701** to 443.893.

3. The director, on good cause shown that an emergency exists, may suspend any license for a period not to exceed thirty days, pending an investigation.

4. The provisions of section 443.835 shall not affect a [residential mortgage] licensee's civil or criminal liability for acts committed before such licensee surrenders the license.

5. No revocation, suspension or surrender of any license shall impair or affect the obligation of any preexisting lawful contract between the licensee and any person.

6. Every license issued pursuant to sections [443.800] **443.701** to 443.893 shall remain in force and effect until the license has expired without renewal, has been surrendered, revoked or suspended in accordance with the provisions of sections [443.800] **443.701** to 443.893, except that, the director may reinstate a suspended license or issue a new license to a licensee whose license has been revoked if no fact or condition exists which would have warranted the director to refuse originally to issue such license pursuant to sections [443.800] **443.701** to 443.893.

7. Whenever the director revokes or suspends a license issued pursuant to sections [443.800] **443.701** to 443.893, the director shall [execute in duplicate a written order to that effect. The director shall publish notice of such order in a newspaper of general circulation in the county in which the residential mortgage licensee's business is located] **post public notice of such order** and shall serve a copy of such order upon the licensee. Such order may be reviewed by the board.

8. When the director finds any person in violation of the grounds provided in subsection 9 of this section, the director may enter an order imposing one or more of the following disciplinary actions:

(1) Revocation of the license;

(2) Suspension of the license subject to reinstatement upon satisfying all reasonable conditions the director may specify;

(3) Placement of the licensee on probation for a period of time and subject to any reasonable conditions as the director may specify;

(4) Issuance of a reprimand; and

(5) Denial of a license.

9. The following acts shall constitute grounds for which the disciplinary actions specified in subsection 8 of this section may be taken:

(1) Being convicted or found guilty, regardless of pendency of an appeal, of a crime in any jurisdiction which involves fraud, dishonest dealings, or any other act involving moral turpitude;

(2) Fraud, misrepresentation, deceit or negligence in any mortgage financing transaction;

(3) A material or intentional misstatement of fact on an initial or renewal application;

(4) Failure to follow the director's rules with respect to placement of funds in escrow accounts;

(5) Insolvency or filing under any provision of the United States Bankruptcy Code as a debtor;

(6) Failure to account or deliver to any person any property **[**such as any money, funds, deposits, checks, drafts, mortgages or any other documents or things of value, which has come into the licensee's possession and which is not the person's property or which the licensee is not in law or equity entitled to retain, under the circumstances and at the time which has been agreed upon or is required by law or, in the absence of a fixed time,**]** upon demand of the person entitled to such accounting and delivery;

(7) Failure to disburse funds in accordance with agreements;

(8) Any misuse, misapplication or misappropriation of trust funds or escrow funds;

(9) Having a license, or the equivalent, to practice any profession or occupation revoked, suspended or otherwise acted against, including the denial of licensure by a licensing authority of this state or another state, territory or country for fraud, dishonest dealings or any other act involving moral turpitude;

(10) Failure to issue a satisfaction of mortgage when the mortgage has been executed and proceeds were not disbursed to the benefit of the mortgagor and when the mortgagor has fully paid the licensee's costs and commission;

(11) Failure to comply with any order of the director or rule made or issued pursuant to the provisions of sections **[**443.800**]** **443.701** to 443.893;

(12) Engaging in activities regulated by sections **[**443.800**]** **443.701** to 443.893 without a current, active license unless specifically exempted by the provisions of sections **[**443.800**]** **443.701** to 443.893;

(13) Failure to pay timely any fee or charge due under the provisions of sections **[**443.800**]** **443.701** to 443.893;

(14) Failure to maintain, preserve and keep available for examination, all books, accounts or other documents required by the provisions of sections **[**443.800**]** **443.701** to 443.893 and the rules of the director;

(15) Refusal to permit an investigation or examination of the licensee's or the licensee's affiliates' books and records or refusal to comply with the director's subpoena or subpoena duces tecum;

(16) A pattern of substantially underestimating closing costs;

(17) Failure to comply with, or any violation of, any provision of sections **[**443.800**]** **443.701** to 443.893.

10. A licensee shall be subject to the disciplinary actions specified in sections **[**443.800**]** **443.701** to 443.893 for a violation of subsection 9 of this section by any officer, director, **member,** shareholder, joint venture, partner, ultimate equitable owner or employee of the licensee.

11. Such licensee shall be subject to suspension or revocation for employee actions only if there is a pattern of repeated violations by an employee or employees or the licensee has knowledge of the violation.

12. The procedures for the surrender**, suspension, or revocation** of a license shall be:

(1) The director may, after ten days' notice by certified mail to the licensee at the address set forth on the license, **or in the case of a mortgage loan originator, the principal office of the residential mortgage loan broker employing or last employing the originator,** stating the contemplated action and, in general, the grounds for such action and the date, time and place of a hearing on the action, and after providing the licensee with a reasonable opportunity to be heard prior to such action, revoke or suspend any license issued pursuant to sections **[**443.800**]** **443.701** to 443.893 if the director finds that:

(a) The licensee has failed to comply with any provision of sections **[**443.800**]** **443.701** to 443.893 or any order, decision, finding, rule or direction of the director lawfully made pursuant to the authority of sections **[**443.800**]** **443.701** to 443.893; or

(b) Any fact or condition exists which, if it had existed at the time of the original application for the license, clearly would have warranted the director to refuse to issue the license;

(2) Any licensee may surrender a license by delivering to the director written notice that the licensee thereby surrenders such license, but surrender shall not affect the licensee's civil or criminal liability for acts committed prior to surrender or entitle the licensee to a return of any part of the license fee.

443.883. DIRECTOR TO MAINTAIN A STAFF CAPABLE OF INVESTIGATIONS — LICENSEES TO OPEN RECORD FOR INVESTIGATORS. — The director shall at all times maintain staff and facilities adequate to receive, record and investigate complaints and inquiries made by any person concerning sections **[**443.800**]** **443.701** to 443.893 and any licensees licensed pursuant to the provisions of sections **[**443.800**]** **443.701** to 443.893. Each licensee shall open the licensee's books, records, documents and offices wherever situated to the director or the director's appointees as needed to facilitate such investigations.

443.885. REPORT TO BE FILED WITH DIRECTOR ANNUALLY, CONTENTS. — On or before March first of each year, each **[**licensee**]** **residential mortgage loan broker**, except **[**those**]** exempt **[**entities provided for in subsection 8 of section 443.803,**]** **persons** shall file a report with the director which shall disclose the following information with respect to the immediately preceding calendar year:

(1) A list of home mortgages granted, issued, originated or closed during the report period, with respect to which such licensee has had any connection. The list shall show for each census tract, in regions where such census tracts have been established and by zip code in all other regions, the number and aggregate dollar amount of applications for and the number granted and aggregate dollar amount of:

(a) Conventional mortgage loans;

(b) Mortgage loans insured under the National Housing Act, 12 U.S.C. 1701, et seq.; and

(c) Mortgage loans guaranteed under the provisions of the Federal Veterans' Benefits Act, 38 U.S.C. 3710 et seq.;

(2) List by zip code in those areas having no census tract:

(a) The total number of home mortgages on real estate situated in this state with respect to which the licensee has had any connection and which are in default on the last day of the reporting period; and

(b) The total number of claims paid during the reporting period on home mortgages with respect to which the licensee has had any connection, including the date of the first default thereon and the date each such foreclosure proceeding was instituted;

(3) If the director finds that another report that the licensee is required to compile is equivalent to the annual report of mortgage activity, then the director may accept such report as fulfilling the reporting requirements of this section;

(4) The director may also require by rule that licensees report such additional information as is necessary to assure **[**strict**]** compliance with the provisions of sections **[**443.800**]** **443.701** to 443.893.

443.887. GENERAL RULEMAKING POWERS OF DIRECTOR. — 1. In addition to such other powers as may be prescribed by sections **[**443.800**]** **443.701** to 443.893, the director may promulgate rules consistent with the purpose of sections **[**443.800**]** **443.701** to 443.893, including, but not limited to:

(1) Such rules in connection with the activities of licensees as may be necessary and appropriate for the protection of consumers in this state;

(2) Such rules as may be necessary and appropriate to define improper or fraudulent business practices in connection with the activities of licensees;

(3) Such rules as may define the terms used in sections **[**443.800**]** **443.701** to 443.893 and as may be necessary and appropriate to interpret and implement the provisions of sections **[**443.800**]** **443.701** to 443.893; and

(4) Such rules as may be necessary for the enforcement of sections **[**443.800**]** **443.701** to 443.893.

2. The director may make such specific ruling, demands and findings as the director may deem necessary for the proper conduct of the mortgage lending industry.

443.889. COURT ACTION TO RECOVER COMPENSATION FOR SERVICES, PROOF THAT SERVICES PERFORMED BY VALID LICENSEE REQUIRED, EXCEPTION. — Unless exempt from licensure pursuant to the provisions of sections **[**443.800**]** **443.701** to 443.893, no person engaged in, or offering to engage in, any act or service for which a license is required pursuant to the provisions of sections **[**443.800**]** **443.701** to 443.893 may bring or maintain any action in any court of this state to collect compensation for the performance of the licensable services without alleging and proving that the person was the holder of a valid residential mortgage license issued pursuant to the provisions of sections **[**443.800**]** **443.701** to 443.893 at all times during the performance of such services.

443.891. CHARGE IN SUPPORT OF REMOVAL OR PROHIBITION NOTICE ISSUED ON CERTAIN FINDINGS OF CONDUCT. — 1. Upon making any one or more of the following preliminary findings, the director may issue a notice of charges **against a licensee** in support of an order **imposing a fine, requiring restitution or forfeiture, suspending or revoking a license, or an order** of removal and prohibition, which order may remove and prohibit a named person **[**or entity**]** from participating in loan brokering, mortgage brokering or mortgage brokerage service for any loan secured by real estate whether in the affairs of an exempt **[**entity**]** **person** or in the affairs **[**of one or more**]** **any** licensees under sections **[**443.800**]** **443.701** to 443.893, or in the affairs of any **[**financial**]** **depositary** institution under the jurisdiction of the director. An order of removal or of prohibition may be permanent or for a specific term and may impose additional conditions including requiring restitution and imposition of a civil penalty not exceeding **[**five**]** **twenty-five** thousand dollars per occurrence. The findings required by this section may be any one or more of the following:

(1) A finding that the person **[**or entity**]** subject to the order has been convicted of a crime involving material financial loss to a licensee, a **[**federally insured**]** depository institution, a government-sponsored enterprise, a Federal Home Loan Bank, a Federal Reserve Bank or any other person;

(2) A finding that the person **[**or entity**]** subject to the order has, in connection with the application for or procurement of a loan secured by real estate, made any material misstatement, misrepresentation, or omission. As used in this section, "material" means important information about which the **director or** board should be informed and which may influence a licensing or lending decision;

(3) A finding that the person subject to the order has pleaded guilty to, entered a plea of nolo contendere to, or been found guilty of mortgage fraud as defined in section 570.310, RSMo**;**

(4) A finding that the person subject to the order has violated any provision of sections 443.701 to 443.893.

2. If a hearing is requested, the director or his or her designee shall conduct a hearing under chapter 536, RSMo.

3. If the respondent defaults, consents to an order **[**of removal and prohibition,**]** **under this section,** or if upon the record the director finds the grounds specified supporting **[**a removal and prohibition are established,**]** **an order,** the director may issue such an order including conditions for restitution or for a civil penalty not to exceed **[**five**]** **twenty-five** thousand dollars **[**per occurrence**]** to be effective thirty days after service and to remain in effect and enforceable except to the extent it is stayed, modified, terminated or set aside by action of the director or a reviewing court.

443.893. RECEIVER OR CONSERVATOR TO BE APPOINTED BY COURT, WHEN — ATTORNEY GENERAL'S DUTY. — When the director makes a finding that a receivership or conservatorship is necessary to protect consumers of a licensee from the consequences of the licensee's failure to comply with the provisions of sections **[**443.800**]** **443.701** to 443.893 or other unsafe and unsound practice, the director shall request the attorney general of this state to petition the circuit court of Cole County or of the county in which the licensee is located to appoint a receiver or conservator for purposes of protecting consumers and resolving the affairs of the licensee.

[443.800. CITATION OF LAW. — Sections 443.800 to 443.893 shall be known and may be cited as the "Residential Mortgage Brokers License Act".**]**

[443.803. DEFINITIONS. — 1. For the purposes of sections 443.800 to 443.893, the following terms mean:

(1) "Advertisement", the attempt by publication, dissemination or circulation to induce, directly or indirectly, any person to apply for a loan to be secured by residential real estate;

(2) "Affiliate":

(a) Any entity that directly controls, or is controlled by, the licensee and any other company that is directly affecting activities regulated by sections 443.800 to 443.893 that is controlled by the company that controls the licensee;

(b) Any entity:

a. That is controlled, directly or indirectly, by a trust or otherwise by, or for the benefit of, shareholders who beneficially, or otherwise, control, directly or indirectly, by trust or otherwise, the licensee or any company that controls the licensee; or

b. A majority of the directors or trustees of which constitute a majority of the persons holding any such office with the licensee or any company that controls the licensee;

(c) Any company, including a real estate investment trust, that is sponsored and advised on a contractual basis by the licensee or any subsidiary or affiliate of the licensee;

(3) "Annual audit", a certified audit of the licensee's books and records and systems of internal control performed by a certified public accountant in accordance with generally accepted accounting principles and generally accepted auditing standards;

(4) "Board", the residential mortgage board, created in section 443.816;

(5) "Borrower", the person or persons who use the services of a loan broker, originator or lender;

(6) "Director", the director of the division of finance;

(7) "Escrow agent", a third party, individual or entity, charged with the fiduciary obligation for holding escrow funds on a residential mortgage loan pending final payout of those funds in accordance with the terms of the residential mortgage loan;

(8) "Exempt entity", the following entities:

(a) Any bank or trust company organized under the laws of this or any other state or any national bank or any foreign banking corporation licensed by the division of finance or the United States Comptroller of the Currency to transact business in this state;

(b) Any state or federal savings and loan association, savings bank or credit union or any consumer finance company licensed under sections 367.100 to 367.215, RSMo, which is actively engaged in consumer credit lending;

(c) Any insurance company authorized to transact business in this state;

(d) Any person engaged solely in commercial mortgage lending or any person making or acquiring residential or commercial construction loans with the person's own funds for the person's own investment;

(e) Any service corporation of a federally chartered or state-chartered savings and loan association, savings bank or credit union;

(f) Any first-tier subsidiary of a national or state bank that has its principal place of business in this state, provided that such first-tier subsidiary is regularly examined by the division of finance or the Comptroller of the Currency or a consumer compliance examination of it is regularly conducted by the Federal Reserve;

(g) Any person engaged solely in the business of securing loans on the secondary market provided such person does not make decisions about the extension of credit to the borrower;

(h) Any mortgage banker as defined in subdivision (19) of this subsection; or

(i) Any wholesale mortgage lender who purchases mortgage loans originated by a licensee provided such wholesale lender does not make decisions about the extension of credit to the borrower;

(j) Any person making or acquiring residential mortgage loans with the person's own funds for the person's own investment;

(k) Any person employed or contracted by a licensee to assist in the performance of the activities regulated by sections 443.800 to 443.893 who is compensated in any manner by only one licensee;

(l) Any person licensed pursuant to the real estate agents and brokers licensing law, chapter 339, RSMo, who engages in servicing or the taking of applications and credit and appraisal information to forward to a licensee or an exempt entity for transactions in which the licensee is acting as a real estate broker and who is compensated by either a licensee or an exempt entity;

(m) Any person who originates, services or brokers residential mortgagee loans and who receives no compensation for those activities, subject to the director's regulations regarding the nature and amount of compensation;

(9) "Financial institution", a savings and loan association, savings bank, credit union, mortgage banker or bank organized under the laws of Missouri or the laws of the United States with its principal place of business in Missouri;

(10) "First-tier subsidiary", as defined by administrative rule promulgated by the director;

(11) "Full-service office", office and staff in Missouri reasonably adequate to handle efficiently communications, questions and other matters relating to any application for a new, or existing, home mortgage loan which the licensee is brokering, funding, originating, purchasing or servicing. The management and operation of each full-service office must include observance of good business practices such as adequate, organized and accurate books and records, ample phone lines, hours of business, staff training and supervision and provision for a mechanism to resolve consumer inquiries, complaints and problems. The director shall promulgate regulations with regard to the requirements of this subdivision and shall include an evaluation of compliance with this subdivision in the periodic examination of the licensee;

(12) "Government-insured mortgage loan", any mortgage loan made on the security of residential real estate insured by the Department of Housing and Urban Development or Farmers Home Loan Administration, or guaranteed by the Veterans Administration;

(13) "Lender", any person who either lends money for or invests money in residential mortgage loans;

(14) "Licensee" or "residential mortgage licensee", a person who is licensed to engage in the activities regulated by sections 443.800 to 443.893;

(15) "Loan broker" or "broker", a person exempted from licensing pursuant to subdivision (8) of this subsection, who performs the activities described in subdivisions (17) and (32) of this subsection;

(16) "Loan brokerage agreement", a written agreement in which a broker agrees to do either of the following:

(a) Obtain a residential mortgage loan for the borrower or assist the borrower in obtaining a residential mortgage loan; or

(b) Consider making a residential mortgage loan to the borrower;

(17) "Loan brokering", "mortgage brokering", or "mortgage brokerage service", the act of helping to obtain for an investor or from an investor for a borrower, a loan secured by residential

real estate situated in Missouri or assisting an investor or a borrower in obtaining a loan secured by residential real estate in return for consideration;

(18) "Making a residential mortgage loan" or "funding a residential mortgage loan", for compensation or gain, either, directly or indirectly, advancing funds or making a commitment to an applicant for a residential mortgage loan;

(19) "Mortgage banker", a mortgage loan company which is subject to licensing, supervision, or annual audit requirements by the Federal National Mortgage Association (FNMA), or the Federal Home Loan Mortgage Corporation (FHLMC), or the United States Veterans Administration (VA), or the United States Department of Housing and Urban Development (HUD), or a successor of any of the foregoing agencies or entities, as an approved lender, loan correspondent, seller, or servicer;

(20) "Mortgage loan" or "residential mortgage loan", a loan to, or for the benefit of, any natural person made primarily for personal, family or household use, including a reverse mortgage loan, primarily secured by either a mortgage or reverse mortgage on residential real property or certificates of stock or other evidence of ownership interests in, and proprietary leases from, corporations or partnerships formed for the purpose of cooperative ownership of residential real property;

(21) "Net worth", as provided in section 443.859;

(22) "Originating", the advertising, soliciting, taking applications, processing, closing, or issuing of commitments for, and funding of, residential mortgage loans;

(23) "Party to a residential mortgage financing transaction", a borrower, lender or loan broker in a residential mortgage financing transaction;

(24) "Payments", payment of all, or any part of, the following: principal, interest and escrow reserves for taxes, insurance and other related reserves and reimbursement for lender advances;

(25) "Person", any individual, firm, partnership, corporation, company or association and the legal successors thereof;

(26) "Personal residence address", a street address, but shall not include a post office box number;

(27) "Purchasing", the purchase of conventional or government-insured mortgage loans secured by residential real estate from either the lender or from the secondary market;

(28) "Residential mortgage board", the residential mortgage board created in section 443.816;

(29) "Residential mortgage financing transaction", the negotiation, acquisition, sale or arrangement for, or the offer to negotiate, acquire, sell or arrange for, a residential mortgage loan or residential mortgage loan commitment;

(30) "Residential mortgage loan commitment", a written conditional agreement to finance a residential mortgage loan;

(31) "Residential real property" or "residential real estate", real property located in this state improved by a one-family to four-family dwelling;

(32) "Servicing", the collection or remittance for, or the right or obligation to collect or remit for, any lender, noteowner, noteholder or for a licensee's own account, of payments, interests, principal and trust items such as hazard insurance and taxes on a residential mortgage loan and includes loan payment follow-up, delinquency loan follow-up, loan analysis and any notifications to the borrower that are necessary to enable the borrower to keep the loan current and in good standing;

(33) "Soliciting, processing, placing or negotiating a residential mortgage loan", for compensation or gain, either, directly or indirectly, accepting or offering to accept an application for a residential mortgage loan, assisting or offering to assist in the processing of an application for a residential mortgage loan on behalf of a borrower, or negotiating or offering to negotiate the terms or conditions of a residential mortgage loan with a lender on behalf of a borrower including, but not limited to, the submission of credit packages for the approval of lenders, the

preparation of residential mortgage loan closing documents, and including a closing in the name of a broker;

(34) "Ultimate equitable owner", a person who, directly or indirectly, owns or controls an ownership interest in a corporation, foreign corporation, alien business organization, trust or any other form of business organization regardless of whether the person owns or controls the ownership interest through one or more persons or one or more proxies, powers of attorney, nominees, corporations, associations, partnerships, trusts, joint stock companies or other entities or devices, or any combination thereof.

2. The director may define by rule any terms used in sections 443.800 to 443.893 for efficient and clear administration.**]**

[443.837. WAIVER OF LICENSE FEE FOR IN-STATE AND OUT-OF-STATE SERVICERS, REQUIREMENTS. — 1. The director may waive the licensing fee upon receipt of:

(1) An application for a residential mortgage license in Missouri;

(2) An addendum requesting waiver of the fee stating the grounds in support of such waiver, including, but not limited to, not-for-profit status, or the showing of undue hardship; and

(3) In the case of out-of-state servicer of loans in Missouri, the following documentation shall be required;

(a) A verification that the firm services only twenty-five or fewer loans secured by residential real estate situated in Missouri; except that, any out-of-state servicer located in the metropolitan area of the city of St. Louis and any city with at least three hundred fifty thousand inhabitants which is located in more than one county may service more than twenty-five loans provided that such servicer meets all the requirements for licensing provided for businesses located in Missouri, except the provision for a full-service office located in Missouri;

(b) An agreement not to originate, purchase or acquire additional servicing of loans secured by residential real estate situated in Missouri;

(c) An agreement to maintain a dedicated toll-free telephone number for the exclusive use by the licensee's Missouri customers;

(d) An agreement to provide a written notice, at least annually, to the licensee's Missouri customers advising them of the dedicated toll-free telephone number and to furnish the director with a copy of such written notice.

2. In order for a licensee to be granted a waiver pursuant to subsection 1 of this section, a request for a waiver of the filing fee shall be submitted each year along with any other required license renewal procedures.**]**

[443.847. RULES, PROCEDURE. — No rule or portion of a rule promulgated under the authority of sections 443.800 to 443.893 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.**]**

[443.851. AUDIT REQUIRED ANNUALLY OF LICENSEE'S BOOKS AND ACCOUNTS — SCOPE OF AUDIT — FILED WITH DIRECTOR, AUTHORITY FOR RULES — ALTERNATIVE TO AUDIT REQUIREMENTS. — 1. At the end of the licensee's fiscal year, but in no case more than twelve months after the last audit conducted pursuant to this section and section 443.853, each licensee shall cause the licensee's books and accounts to be audited by a certified public accountant not connected with such licensee. The books and records of all licensees shall be maintained on an accrual basis. The audit shall be sufficiently comprehensive in scope to permit the expression of an opinion on the financial statements in the report and must be performed in accordance with generally accepted accounting principles and generally accepted auditing standards.

2. As used in this section and section 443.853, the term "expression of opinion" includes either:

(1) An unqualified opinion;

(2) A qualified opinion;
(3) A disclaimer of opinion; or
(4) An adverse opinion.

3. If a qualified or adverse opinion is expressed or if an opinion is disclaimed, the reasons therefor shall be fully explained. An opinion, qualified as to a scope limitation, shall not be acceptable.

4. The audit report shall be filed with the director within one hundred twenty days of the audit date. The report filed with the director shall be certified by the certified public accountant conducting the audit. The director may promulgate rules regarding late audit reports.

5. As an alternative to the audit requirements of subsections 1 to 4 of this section, a licensee may meet the requirements of this section without filing an audit report by posting and maintaining a corporate surety bond, in addition to that described in section 443.849, in the amount of one hundred thousand dollars. The bond shall be in form specified by and satisfactory to the director and payable to the director and shall be issued by a bonding company or insurance company authorized to do business in this state, to secure the faithful performance of the obligations of the licensee, its agents and subagents in connection with the activities of originating, servicing or acquiring mortgage loans. A licensee may, in lieu of this bond, provide the director with a one hundred thousand dollar irrevocable letter of credit, as defined in section 400.5-103, RSMo, issued by any financial institution.

[443.853. FAILURE TO MAKE AN AUDIT — DIRECTOR TO SELECT CPA BY BID TO PERFORM AUDIT — EXCEPTION, CERTAIN FEDERAL AUDIT ACCEPTABLE — WORKPAPERS OF ALL AUDITS TO BE AVAILABLE TO DIRECTOR. — 1. If any licensee required to make an audit fails to cause an audit to be made, the director shall cause the audit to be made by a certified public accountant at the licensee's expense. The director shall select such certified public accountant by advertising for bids or by such other fair and impartial means as the director establishes by regulation.

2. In lieu of an audit required by this section and section 443.851, the director may accept any audit made in conformance with the audit requirements of the United States Department of Housing and Urban Development.

3. The workpapers of the certified public accountants employed by each licensee for purposes of conducting audits required by this section and section 443.851 are to be made available to the director or the director's designee upon request and may be reproduced by the director or the director's designee to enable the director to carry out the purposes of sections 443.800 to 443.893.**]**

[443.859. NET WORTH REQUIREMENT FOR LICENSEES. — Effective May 21, 1998, every licensee shall have and maintain a net worth of not less than twenty-five thousand dollars. The director may promulgate rules with respect to net worth definitions and requirements for licensees as necessary to accomplish the purposes of sections 443.800 to 443.893. In lieu of the net worth requirement established by this section, the director may accept evidence of conformance by the licensee with the net worth requirements of the United States Department of Housing and Urban Development.**]**

SECTION B. EMERGENCY CLAUSE. — Because of the need to implement Section 1508 of Public Law 110-289, Title V, the S.A.F.E. Act and the need to establish a level playing field in Missouri to support residential mortgage originations to benefit Missouri citizens and the Missouri economy, particularly in securing housing and in promoting the housing market, the provisions of section A of this act are deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and are hereby declared to be an emergency within the

meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved July 8, 2009

HB 390 [CCS SS SCS HCS HB 390]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding unauthorized aliens

AN ACT to repeal sections 208.009, 285.530, 285.555, and 292.675, RSMo, and to enact in lieu thereof five new section relating to unauthorized aliens, with an emergency clause.

SECTION

A. Enacting clause.
173.1110. Unlawfully present students, no public benefits permitted — documentation of citizenship or lawful presence required — annual certification — definitions.
208.009. Illegal aliens prohibited from receiving any state or local public benefit — proof of lawful residence required — temporary benefits permitted, when — exceptions for nonprofit organizations.
285.530. Employment of unauthorized aliens prohibited — federal work authorization program, requirements for participation in — liability of contractors and subcontractors.
285.555. Discontinuance of federal work authorization program, effect of.
292.675. Definitions — on-site training required — workers to maintain documentation of completion of training — resolution or ordinance required — violations, penalty — rulemaking authority.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 208.009, 285.530, 285.555, and 292.675, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 173.1110, 208.009, 285.530, 285.555, and 292.675, to read as follows:

173.1110. UNLAWFULLY PRESENT STUDENTS, NO PUBLIC BENEFITS PERMITTED — DOCUMENTATION OF CITIZENSHIP OR LAWFUL PRESENCE REQUIRED — ANNUAL CERTIFICATION — DEFINITIONS. — 1. No covered student unlawfully present in the United States shall receive a postsecondary education public benefit. Educational institutions awarding postsecondary education public benefits to covered students shall verify that these students are United States citizens, permanent residents, or lawfully present in the United States.

2. The following documents, in hard copy or electronic form, may be used to document that a covered student is a United States citizen, permanent resident, or is lawfully present in the United States:

(1) The Free Application for Student Aid Institutional Student Information Record;

(2) A state-issued driver's license;

(3) A state-issued nondriver's identification card;

(4) Documentary evidence recognized by the department of revenue when processing an application for a driver's license or nondriver's identification card;

(5) A United States birth certificate;

(6) A United States military identification card; or

(7) Any document issued by the federal government that confirms an alien's lawful presence in the United States.

3. All postsecondary higher education institutions shall annually certify to the department of higher education that they have not knowingly awarded a postsecondary education public benefit to a covered student who is unlawfully present in the United States.

4. As used in this section, the following terms shall mean:

(1) "Covered student", a student eighteen years of age or older, who has graduated from high school and is attending classes on the campus of a postsecondary educational institution during regularly scheduled academic sessions;

(2) "Postsecondary education public benefit", institutional financial aid awarded by public postsecondary educational institutions and state-administered postsecondary grants and scholarships awarded by all postsecondary educational institutions to covered students.

208.009. ILLEGAL ALIENS PROHIBITED FROM RECEIVING ANY STATE OR LOCAL PUBLIC BENEFIT — PROOF OF LAWFUL RESIDENCE REQUIRED — TEMPORARY BENEFITS PERMITTED, WHEN — EXCEPTIONS FOR NONPROFIT ORGANIZATIONS. — 1. No alien unlawfully present in the United States shall receive any state or local public benefit, except for state or local public benefits that may be offered under 8 U.S.C. 1621(b). Nothing in this section shall be construed to prohibit the rendering of emergency medical care, prenatal care, services offering alternatives to abortion, emergency assistance, or legal assistance to any person.

2. As used in this section, "public benefit" means any grant, contract, or loan provided by an agency of state or local government; or any retirement, welfare, health, **[**postsecondary education, state grants and scholarships,**]** disability, housing, or food assistance benefit under which payments, assistance, credits, or reduced rates or fees are provided. The term "public benefit" shall not include **postsecondary education public benefits as defined in section 173.1110, RSMo, any municipal permit, or contracts or agreements between public utility providers and their customers or** unemployment benefits payable under chapter 288, RSMo. The unemployment compensation program shall verify the lawful presence of an alien for the purpose of determining eligibility for benefits in accordance with its own procedures.

3. In addition to providing proof of other eligibility requirements, at the time of application for any state or local public benefit, an applicant who is eighteen years of age or older shall provide affirmative proof that the applicant is a citizen or a permanent resident of the United States or is lawfully present in the United States**[**, provided, however, that in the case of state grants and scholarships, such proof shall be provided before the applicant receives any state grant or scholarship**]**. Such affirmative proof shall include documentary evidence recognized by the department of revenue when processing an application for a driver's license, a Missouri driver's license, as well as any document issued by the federal government that confirms an alien's lawful presence in the United States. In processing applications for public benefits, an employee of an agency of state or local government shall not inquire about the legal status of a custodial parent or guardian applying for a public benefit on behalf of his or her dependent child who is a citizen or permanent resident of the United States.

4. An applicant who cannot provide the proof required under this section at the time of application may alternatively sign an affidavit under oath, attesting to either United States citizenship or classification by the United States as an alien lawfully admitted for permanent residence, in order to receive temporary benefits or a temporary identification document as provided in this section. The affidavit shall be on or consistent with forms prepared by the state or local government agency administering the state or local public benefits and shall include the applicant's Social Security number or any applicable federal identification number and an explanation of the penalties under state law for obtaining public assistance benefits fraudulently.

5. An applicant who has provided the sworn affidavit required under subsection 4 of this section is eligible to receive temporary public benefits as follows:

(1) For ninety days or until such time that it is determined that the applicant is not lawfully present in the United States, whichever is earlier; or

(2) Indefinitely if the applicant provides a copy of a completed application for a birth certificate that is pending in Missouri or some other state. An extension granted under this subsection shall terminate upon the applicant's receipt of a birth certificate or a determination that a birth certificate does not exist because the applicant is not a United States citizen.

6. An applicant who is an alien shall not receive any state or local public benefit unless the alien's lawful presence in the United States is first verified by the federal government. State and local agencies administering public benefits in this state shall cooperate with the United States Department of Homeland Security in achieving verification of an alien's lawful presence in the United States in furtherance of this section. The system utilized may include the Systematic Alien Verification for Entitlements Program operated by the United States Department of Homeland Security. **After an applicant's lawful presence in the United States has been verified through the Systematic Alien Verification for Entitlements Program, no additional verification is required within the same agency of the state or local government.**

7. The provisions of this section shall not be construed to require any nonprofit organization **[**organized under**]** **duly registered with** the Internal Revenue **[**Code**]** **Service** to enforce the provisions of this section, nor does it prohibit such an organization from providing aid.

8. Any agency that administers public benefits shall provide assistance in obtaining appropriate documentation to persons applying for public benefits who sign the affidavit required by subsection 4 of this section stating they are eligible for such benefits but lack the documents required under subsection 3 of this section.

285.530. EMPLOYMENT OF UNAUTHORIZED ALIENS PROHIBITED — FEDERAL WORK AUTHORIZATION PROGRAM, REQUIREMENTS FOR PARTICIPATION IN — LIABILITY OF CONTRACTORS AND SUBCONTRACTORS. — 1. No business entity or employer shall knowingly employ, hire for employment, or continue to employ an unauthorized alien to perform work within the state of Missouri.

2. As a condition for the award of any contract or grant in excess of five thousand dollars by the state or by any political subdivision of the state to a business entity, or for any business entity receiving a state-administered or subsidized tax credit, tax abatement, or loan from the state, the business entity shall, by sworn affidavit and provision of documentation, affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services. Every such business entity shall also sign an affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the contracted services. **Any entity contracting with the state or any political subdivision of the state shall only be required to provide the affidavits required in this subsection to the state and any political subdivision of the state with which it contracts, on an annual basis. During or immediately after an emergency, the requirements of this subsection that a business entity enroll and participate in a federal work authorization program shall be suspended for fifteen working days. As used in this subsection, "emergency" includes the following natural and manmade disasters: major snow and ice storms, floods, tornadoes, severe weather, earthquakes, hazardous material incidents, nuclear power plant accidents, other radiological hazards, and major mechanical failures of a public utility facility.**

3. All public employers shall enroll and actively participate in a federal work authorization program.

4. An employer may enroll and participate in a federal work authorization program and shall verify the employment eligibility of every employee in the employer's hire whose employment commences after the employer enrolls in a federal work authorization program. The employer shall retain a copy of the dated verification report received from the federal

government. Any business entity that participates in such program shall have an affirmative defense that such business entity has not violated subsection 1 of this section.

5. A general contractor or subcontractor of any tier shall not be liable under sections 285.525 to 285.550 when such general contractor or subcontractor contracts with its direct subcontractor who violates subsection 1 of this section, if the contract binding the contractor and subcontractor affirmatively states that the direct subcontractor is not knowingly in violation of subsection 1 of this section and shall not henceforth be in such violation and the contractor or subcontractor receives a sworn affidavit under the penalty of perjury attesting to the fact that the direct subcontractor's employees are lawfully present in the United States.

285.555. DISCONTINUANCE OF FEDERAL WORK AUTHORIZATION PROGRAM, EFFECT OF. — Should the federal government discontinue or fail to authorize or implement any federal work authorization program, **then subsections 2 and 3 of section 285.530 and paragraph (b) of subdivision (1) of subsection 6 of section 285.535 and paragraph (b) of subdivision (2) of subsection 6 of section 285.535 shall not apply after the date of discontinuance or failure to authorize or implement, and** the general assembly shall review sections 285.525 to 285.555 for the purpose of determining whether the sections are no longer applicable and should be repealed.

292.675. DEFINITIONS — ON-SITE TRAINING REQUIRED — WORKERS TO MAINTAIN DOCUMENTATION OF COMPLETION OF TRAINING — RESOLUTION OR ORDINANCE REQUIRED — VIOLATIONS, PENALTY — RULEMAKING AUTHORITY. — 1. As used in this section, the following terms shall mean:

(1) "Construction", construction, reconstruction, demolition, painting and decorating, or major repair;

(2) **"Contractor", any person entering into a contract with a public body for construction of public works which employs "on-site employees" for purposes of completion of the contract;**

(3) "Department", the department of labor and industrial relations;

(4) "On-site employee", laborers, workmen, drivers, equipment operators, and craftsmen employed by contractors and subcontractors to be directly engaged in construction at the site of the public works. "Directly engaged in construction" shall mean work performed in the actual erection of the structure or completion of the improvement constituting the public works. In addition, employees working at a nearby or adjacent facility used by the contractor or subcontractor for construction of the public works shall be deemed "on-site employees". Persons engaged solely in the transportation of materials, fuel, or equipment to the site of the public works shall not be deemed to be "directly engaged in construction;

[(3)**] (5)** "Person", any natural person, joint venture, partnership, corporation, or other business or legal entity;

[(4)**] (6)** "Public body", the state of Missouri or any officer, official, authority, board or commission of the state, or other political subdivision thereof, or any institution supported in whole or in part by public funds;

[(5)**] (7)** "Public works", all fixed works constructed for public use or benefit or paid for wholly or in part out of public funds. "Public works" includes any work done directly by any public utility company when performed by it pursuant to the order of the public service commission or other public authority whether or not it be done under public supervision or direction or paid for wholly or in part out of public funds when let to contract by said utility**;**

(8) "Subcontractor", any person entering into a subcontract with a contractor for construction of public works which employs "on-site employees" for purposes of completion of the contract.

2. Any **[**person signing a contract to work on the construction of public works**]** **contractor** for any public body **for purposes of construction of public works and any subcontractor to such contractor** shall provide a ten-hour Occupational Safety and Health Administration (OSHA) construction safety program for their on-site employees which includes a course in construction safety and health approved by OSHA or a similar program approved by the department which is at least as stringent as an approved OSHA program**, unless such employees have previously completed the required program**. All employees **who have not previously completed the program** are required to complete the program within sixty days of beginning work on such construction project.

3. Any employee found on a work site subject to this section without documentation of the successful completion of the course required under subsection 2 of this section shall be afforded twenty days to produce such documentation before being subject to removal from the project.

4. The public body shall specify the requirements of this section in the resolution or ordinance and in the call for bids for the contract. The contractor to whom the contract is awarded and any subcontractor under such contractor shall require all on-site employees to complete the ten-hour training program required under subsection 2 of this section **or such employees must hold documentation of prior completion of the program**. The public body awarding the contract shall include this requirement in the contract. The contractor shall forfeit as a penalty to the public body on whose behalf the contract is made or awarded, two thousand five hundred dollars plus one hundred dollars for each employee employed by the contractor or subcontractor, for each calendar day, or portion thereof, such employee is employed without the required training. The penalty shall not begin to accrue until the time period in subsections 2 and 3 of this section have elapsed. The public body awarding the contract shall include notice of these penalties in the contract. The public body awarding the contract shall withhold and retain therefrom all sums and amounts due and owing as a result of any violation of this section when making payments to the contractor under the contract. The contractor may withhold from any subcontractor sufficient sums to cover any penalties the public body has withheld from the contractor resulting from the subcontractor's failure to comply with the terms of this section. If the payment has been made to the subcontractor without withholding, the contractor may recover the amount of the penalty resulting from the fault of the subcontractor in an action maintained in the circuit court in the county in which the public works project is located from the subcontractor.

5. In determining whether a violation of this section has occurred, and whether the penalty under subsection 4 of this section shall be imposed, the department shall investigate any claim of violation. Upon completing such investigation, the department shall notify the public body and any party found to be in violation of this section of its findings and whether a penalty shall be assessed. Determinations under this section may be appealed in the circuit court in the county in which the public works project is located.

6. If the contractor or subcontractor fails to pay the penalty within forty-five days following notification by the department, the department shall pursue an enforcement action to enforce the monetary penalty provisions of subsection 4 of this section against the contractor or subcontractor found to be in violation of this section. If the court orders payment of the penalties as prescribed under subsection 4 of this section, the department shall be entitled to recover its actual cost of enforcement in addition to such penalty amount.

7. The department may establish rules and regulations for the purpose of implementing the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently

held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

8. This section shall not apply to work performed by public utilities which are under the jurisdiction of the public service commission, or their contractors, or work performed at or on facilities owned or operated by said public utilities.

9. The provisions of this section shall not apply to rail grade crossing improvement projects where there exists a signed agreement between the railroad and the Missouri department of transportation or an order issued by the department of transportation ordering such construction.

10. This section shall take effect on August 28, 2009.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to prevent illegal student enrollment and to promote legal foreign student enrollment in the upcoming summer educational sessions, and to prevent the disqualification of legitimate public works contractors, section A 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 A of this act shall be in full force and effect upon its passage and approval.

Approved July 7, 2009

HB 395 [CCS SS SCS HB 395]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding long-term care facilities and residents and home and community-based care assessments

AN ACT to repeal sections 198.074, 198.075, 198.096, 198.525, 198.527, 208.437, 208.480, 208.819, 338.535, 338.550, and 633.401, RSMo, and to enact in lieu thereof fifteen new sections relating to health care services, with an emergency clause.

SECTION

A. Enacting clause.
198.074. Sprinkler system requirements — fire alarm system requirements.
198.075. Fire safety standards loan fund created, use of moneys.
198.096. Bond required for facility holding resident's property in trust — exception, cash deposit held in insured escrow.
198.187. Criminal background checks for residents permitted.
198.525. Inspection of certain long-term care facilities, when — restrictions on surveyors, required disclosures — immediate family member defined — conflict of interest, when.
198.527. Inspectors and surveyors of long-term care facilities — uniformity of application of regulation standards.
198.545. Definitions — contracting with third parties — department to establish IDR process, procedures — rulemaking authority.
208.016. Personal needs allowance to be deducted from resident's income — increase in allowance, when.
208.437. Reimbursement allowance period — notification of balance due, when — delinquent payments, procedure, basis for denial of licensure — expiration date.
208.480. Federal reimbursement allowance expiration date.
208.819. Transition grants created, eligibility, amount — information and training developed — rulemaking authority.
338.535. Remittance to department — pharmacy reimbursement allowance fund created.
338.550. Expiration date of tax, when.
633.401. Definitions — assessment imposed, formula — rates of payment — fund created, use of moneys — record-keeping requirements — report — appeal process — rulemaking authority.
1. Referral for services, department duties.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 198.074, 198.075, 198.096, 198.525, 198.527, 208.437, 208.480, 208.819, 338.535, 338.550, and 633.401, RSMo, are repealed and fifteen new sections enacted in lieu thereof, to be known as sections 198.074, 198.075, 198.096, 198.187, 198.525, 198.527, 198.545, 208.016, 208.437, 208.480, 208.819, 338.535, 338.550, 633.401, and 1, to read as follows:

198.074. SPRINKLER SYSTEM REQUIREMENTS — FIRE ALARM SYSTEM REQUIREMENTS. — 1. Effective August 28, 2007, all new facilities licensed **under this chapter** on or after August 28, 2007, or any **[**facilities completing a**] section of a facility licensed under this chapter in which a** major renovation **[**to the facility**] has been completed** on or after August 28, 2007, as defined and approved by the department, **[**and which are licensed under this chapter**]** shall install and maintain an approved sprinkler system in accordance with National Fire Protection Association (NFPA) 13.

2. Facilities that were initially licensed and had an approved sprinkler system prior to August 28, 2007, shall continue to meet all laws, rules, and regulations for testing, inspection and maintenance of the sprinkler system that were in effect for such facilities on August 27, 2007.

3. Multi-level assisted living facilities that accept or retain any individual with a physical, cognitive, or other impairment that prevents the individual from safely evacuating the facility with minimal assistance shall install and maintain an approved sprinkler system in accordance with NFPA 13. Single-story assisted living facilities that accept or retain any individual with a physical, cognitive, or other impairment that prevents the individual from safely evacuating the facility with minimal assistance shall install and maintain an approved sprinkler system in accordance with NFPA 13R.

4. All residential care and assisted living facilities with more than twenty residents not included in subsection 3 of this section, which are initially licensed under this chapter prior to August 28, 2007, and that do not have installed an approved sprinkler system in accordance with NFPA 13R **or 13** prior to August 28, 2007, shall install and maintain an approved sprinkler system in accordance with NFPA 13R **or 13** by December 31, 2012, unless the facility meets the safety requirements of Chapter 33 of existing residential board and care occupancies of NFPA 101 life safety code.

5. All skilled nursing and intermediate care facilities not required prior to August 28, 2007, to install and maintain an approved sprinkler system shall install and maintain an approved sprinkler system in accordance with NFPA 13 by December 31, 2012, unless the facility receives an exemption from the department and presents evidence in writing from a certified sprinkler system representative or licensed engineer that the facility is unable to install an approved National Fire Protection Association 13 system due to the unavailability of water supply requirements associated with this system **[**or the facility meets the safety requirements of Chapter 33 of existing residential board and care occupancies of NFPA 101 life safety code**]**.

6. Facilities that take a substantial step, as specified in **[**subsection 7**] subsections 4 and 5** of this section, to install an approved NFPA 13R **or 13** system prior to December 31, 2012, may apply to the **[**department**] state treasurer's office** for a loan in accordance with section 198.075 to install such system. However, such loan shall not be available if by December 31, 2009, the average total reimbursement for the care of persons eligible for Medicaid public assistance in an assisted living facility and residential care facility is equal to or exceeds fifty-two dollars per day. The average total reimbursement includes room, board, and care delivered by the facility, but shall not include payments to the facility for care or services not provided by the facility. If a facility under this subsection does not have an approved sprinkler system installed by December 31, 2012, such facility shall be required to install and maintain an approved sprinkler system in accordance with NFPA 13 by December 31, 2013. Such loans received under this subsection and in accordance with section 198.075, shall be paid in full as follows:

(1) Ten years for those facilities approved for the loan and whose average total reimbursement rate for the care of persons eligible for Medicaid public assistance is equal to forty-eight and no more than forty-nine dollars per day;

(2) Eight years for those facilities approved for the loan and whose average total reimbursement rate for the care of persons eligible for Medicaid public assistance is greater than forty-nine and no more than fifty-two dollars per day; or

(3) Five years for those facilities approved for the loan and whose average total reimbursement rate for the care of persons eligible for Medicaid public assistance is greater than fifty-two dollars per day.

(4) No payments or interest shall be due until the average total reimbursement rate for the care of persons eligible for Medicaid public assistance is equal to or greater than forty-eight dollars.

7. (1) All facilities licensed under this chapter shall be equipped with a complete fire alarm system in compliance with NFPA 101, Life Safety Code for Detection, Alarm, and Communication Systems **[**as referenced in NFPA 72**]**, or shall maintain a system that was approved by the department when such facility was constructed so long as such system is a complete fire alarm system. A complete fire alarm system shall include, but not be limited to, interconnected smoke detectors **[**throughout the facility**]**, automatic transmission to the fire department, dispatching agency, or central monitoring company, manual pull stations at each required exit and attendant's station, heat detectors, and audible and visual alarm indicators. **If a facility submits a plan of compliance for installation of a sprinkler system required by this chapter, such facility shall install a complete fire alarm system that complies with NFPA 72 upon installation of the sprinkler system. Until such time that the sprinkler system is installed in the facility which has submitted a plan of compliance, each resident room or any room designated for sleeping in the facility shall be equipped with at least one battery-powered smoke alarm installed, tested, and maintained in accordance with NFPA 72. In addition, any such facility shall be equipped with heat detectors interconnected to the fire alarm system which are installed, tested, and maintained in accordance with NFPA 72 in all areas subject to nuisance alarms, including but not limited to, kitchens, laundries, bathrooms, mechanical air handling rooms, and attic spaces.**

(2) In addition, each floor accessed by residents shall be divided into at least two smoke sections by one-hour rated smoke partitions. No smoke section shall exceed one hundred fifty feet in length. If neither the length nor the width of the floor exceeds seventy-five feet, no smoke-stop partition shall be required. Facilities with a complete fire alarm system and smoke sections meeting the requirements of this subsection prior to August 28, 2007, shall continue to meet such requirements. Facilities initially licensed on or after August 28, 2007, shall comply with such requirements beginning August 28, 2007, or on the effective date of licensure.

(3) Except as otherwise provided in this subsection, the requirements for complete fire alarm systems and smoke sections shall be enforceable on December 31, 2008.

8. The requirements of this section shall be construed to supersede the provisions of section 198.058 relating to the exemption of facilities from construction standards.

9. Fire safety inspections of **skilled nursing and intermediate care** facilities licensed under this chapter for compliance with this section shall be conducted annually by the **[**state fire marshal if such inspections are not available to be conducted by local fire protection districts or fire departments**]** **department. All department inspectors who inspect facilities for compliance under this section shall complete a fire inspector course, as developed by the division of fire safety within the department of public safety, by December 31, 2012. Fire safety inspections of residential care and assisted living facilities licensed under this chapter for compliance with this section shall be conducted annually by the state fire marshal**. The provisions of this section shall be enforced by the **department or the** state fire marshal **[**or by the local fire protection district or fire department**]**, depending on which entity conducted the inspection.

10. By July 1, 2008, all facilities licensed under this chapter shall submit a plan for compliance with the provisions of this section to the state fire marshal.

198.075. FIRE SAFETY STANDARDS LOAN FUND CREATED, USE OF MONEYS. — 1. There is hereby created in the state treasury the "Fire Safety Standards Loan Fund", for implementing the provisions of **[**subsection 3**]** **subsections 4 and 5** of section 198.074. Moneys deposited in the fund shall be considered state funds under article IV, section 15 of the Missouri Constitution. The state treasurer shall be custodian of the fund and may disburse moneys from the fund in accordance with sections 30.170 and 30.180, RSMo. Any moneys remaining in the fund at the end of the biennium shall revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

2. Qualifying facilities shall make an application to the **[**department of health and senior services**]** **state treasurer's office** upon forms provided by the **[**department**]** **state treasurer's office**. Upon receipt of an application for a loan, the **[**department**]** **state treasurer's office** shall review the application **[**and advise the governor**]** before state funds are allocated for a loan. For purposes of this section, a "qualifying facility" shall mean a facility licensed under this chapter that is in substantial compliance. "Substantial compliance" shall mean a facility that has no uncorrected deficiencies and is in compliance with department of health and senior services rules and regulations governing such facility.

3. The fund shall be a loan of which the interest rate shall not exceed two and one-half percent.

4. The fund shall be administered by the **[**department of health and senior services**]** **state treasurer's office**.

198.096. BOND REQUIRED FOR FACILITY HOLDING RESIDENT'S PROPERTY IN TRUST — EXCEPTION, CASH DEPOSIT HELD IN INSURED ESCROW. — 1. The operator of any facility who holds in trust personal funds of residents as provided in section 198.090 shall obtain and file with the department a bond in a form approved by the department in an amount equal to one and one-half times the average monthly balance or average total of the monthly balances, rounded to the nearest one thousand dollars, in the residents' personal funds account or accounts kept pursuant to subdivision (3) of subsection 1 of section 198.090 for the preceding **[**calendar year**]** **twelve months**. In the case of a new facility or of an operator not previously holding in trust the personal funds of residents, the department shall determine the amount of bond to be required, taking into consideration the size and type of facility, the number of residents, and the experience of comparable facilities.

2. The required bond shall be conditioned to secure to every resident or former resident, or the estate of a former resident, the return of any moneys held in trust of which the resident has been wrongfully deprived by acts of the operator or any affiliates or employees of the operator. The liability of the surety to any and all persons shall not exceed the stated amount of the bond regardless of the period of time the bond has been in effect.

3. Whenever the director determines that the amount of any bond which is filed pursuant to this subsection is insufficient to adequately protect the money of residents which is being handled, or whenever the amount of any such bond is impaired by any recovery against the bond, the director may require the operator to file an additional bond in such amount as necessary to adequately protect the money of residents being handled.

4. In the event that any such bond includes a provision allowing the surety to cancel after notice, the bond shall provide for a minimum of sixty days' notice to the department.

5. The operator may, in lieu of a bond, place a cash deposit equal to the amount of the bond required in this section with an insured lending institution pursuant to a noncancelable escrow agreement with the lending institution if the written agreement is submitted to and approved by the department. No escrow agreement shall be approved without verification of cash deposit.

198.187. CRIMINAL BACKGROUND CHECKS FOR RESIDENTS PERMITTED. — Any long-term care facility licensed under this chapter may request criminal background checks under chapter 43, RSMo, of a resident in such facility.

198.525. INSPECTION OF CERTAIN LONG-TERM CARE FACILITIES, WHEN — RESTRICTIONS ON SURVEYORS, REQUIRED DISCLOSURES — IMMEDIATE FAMILY MEMBER DEFINED — CONFLICT OF INTEREST, WHEN. — 1. Except as otherwise provided pursuant to section 198.526, in order to comply with sections 198.012 and 198.022, the department of health and senior services shall inspect residential care facilities, assisted living facilities, intermediate care facilities, and skilled nursing, including those facilities attached to acute care hospitals at least twice a year.

2. The department shall not assign an individual to inspect or survey a long-term care facility licensed under this chapter, for any purpose, in which the inspector or surveyor was an employee of such facility within the preceding two years.

3. For any inspection or survey of a facility licensed under this chapter, regardless of the purpose, the department shall require every newly hired inspector or surveyor at the time of hiring or, with respect to any currently employed inspector or surveyor as of August 28, 2009, to disclose:

(1) The name of every Missouri licensed long-term care facility in which he or she has been employed; and

(2) The name of any member of his or her immediate family who has been employed or is currently employed at a Missouri licensed long-term care facility.

The disclosures under this subsection shall be disclosed to the department whenever the event giving rise to disclosure first occurs.

4. For purposes of this section, the phrase "immediate family member" shall mean husband, wife, natural or adoptive parent, child, sibling, stepparent, stepchild, stepbrother, stepsister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent or grandchild.

5. The information called for in this section shall be a public record under the provisions of subdivision (6) of section 610.010, RSMo.

6. Any person may notify the department if facts exist that would lead a reasonable person to conclude that any inspector or surveyor has any personal or business affiliation that would result in a conflict of interest in conducting an inspection or survey for a facility. Upon receiving that notice, the department, when assigning an inspector or surveyor to inspect or survey a facility, for any purpose, shall take steps to verify the information and, if the department has probable cause to believe that it is correct, shall not assign the inspector or surveyor to the facility or any facility within its organization so as to avoid an appearance of prejudice or favor to the facility or bias on the part of the inspector or surveyor.

198.527. INSPECTORS AND SURVEYORS OF LONG-TERM CARE FACILITIES — UNIFORMITY OF APPLICATION OF REGULATION STANDARDS. — To ensure uniformity of application of regulation standards in long-term care facilities throughout the state, the department of **[**social**]** **health and senior** services shall:

(1) Evaluate the requirements for inspectors or surveyors of facilities, including the eligibility, training and testing requirements for the position.

Based on the evaluation, the department shall develop and implement additional training and knowledge standards for inspectors and surveyors;

(2) Periodically evaluate the performance of the inspectors or surveyors regionally and statewide to identify any deviations or inconsistencies in regulation application. At a minimum, the Missouri on-site surveyor evaluation process, and the number and type of actions overturned

by the informal dispute resolution process **under section 198.545** and formal appeal shall be used **[**in**]** **as part of** the evaluation. Based on such evaluation, the department shall develop standards and a retraining process for the region, state, or individual inspector or surveyor, as needed;

(3) In addition to the provisions of subdivisions (1) and (2) of this section, the department shall develop a single uniform comprehensive and mandatory course of instruction for inspectors/surveyors on the practical application of enforcement of statutes, rules and regulations. Such course shall also be open to attendance by administrators and staff of facilities licensed pursuant to this chapter.

198.545. DEFINITIONS — CONTRACTING WITH THIRD PARTIES — DEPARTMENT TO ESTABLISH IDR PROCESS, PROCEDURES — RULEMAKING AUTHORITY. — 1. This section shall be known and may be cited as the "Missouri Informal Dispute Resolution Act".

2. As used in this section, the following terms shall mean:

(1) "Deficiency", a facility's failure to meet a participation requirement or standard, whether state or federal, supported by evidence gathered from observation, interview, or record review;

(2) "Department", the department of health and senior services;

(3) "Facility", a long-term care facility licensed under this chapter;

(4) "IDR", informal dispute resolution as provided for in this section;

(5) "Independent third party", the federally designated Medicare Quality Improvement Organization in this state;

(6) "Plan of correction", a facility's response to deficiencies which explains how corrective action will be accomplished, how the facility will identify other residents who may be affected by the deficiency practice, what measures will be used or systemic changes made to ensure that the deficient practice will not reoccur, and how the facility will monitor to ensure that solutions are sustained;

(7) "QIO", the federally designated Medicare Quality Improvement Organization in this state.

3. The department of health and senior services shall contract with an independent third party to conduct informal dispute resolution (IDR) for facilities licensed under this chapter. The IDR process, including conferences, shall constitute an informal administrative process and shall not be construed to be a formal evidentiary hearing. Use of IDR under this section shall not waive the facility's right to pursue further or additional legal actions.

4. The department shall establish an IDR process to determine whether a cited deficiency as evidenced by a statement of deficiencies against a facility shall be upheld. The department shall promulgate rules to incorporate by reference the provisions of 42 CFR 488.331 regarding the IDR process and to include the following minimum requirements for the IDR process:

(1) Within ten working days of the end of the survey, the department shall by certified mail transmit to the facility a statement of deficiencies committed by the facility. Notification of the availability of an IDR and IDR process shall be included in the transmittal;

(2) Within ten calendar days of receipt of the statement of deficiencies, the facility shall return a plan of correction to the department. Within such ten-day period, the facility may request in writing an IDR conference to refute the deficiencies cited in the statement of deficiencies;

(3) Within ten working days of receipt for an IDR conference made by a facility, the QIO shall hold an IDR conference unless otherwise requested by the facility. The IDR conference shall provide the facility with an opportunity to provide additional information or clarification in support of the facility's contention that the deficiencies were erroneously

cited. The facility may be accompanied by counsel during the IDR conference. The type of IDR held shall be at the discretion of the facility, but shall be limited to:

(a) A desk review of written information submitted by the facility; or

(b) A telephonic conference; or

(c) A face-to-face conference held at the headquarters of the QIO or at the facility at the request of the facility.

If the QIO determines the need for additional information, clarification, or discussion after conclusion of the IDR conference, the department and the facility shall be present.

5. Within ten days of the IDR conference described in subsection 4 of this section, the QIO shall make a determination, based upon the facts and findings presented, and shall transmit the decision and rationale for the outcome in writing to the facility and the department.

6. If the department disagrees with such determination, the department shall transmit the department's decision and rationale for the reversal of the QIO's decision to the facility within ten calendar days of receiving the QIO's decision.

7. If the QIO determines that the original statement of deficiencies should be changed as a result of the IDR conference, the department shall transmit a revised statement of deficiencies to the facility with the notification of the determination within ten calendar days of the decision to change the statement of deficiencies.

8. Within ten calendar days of receipt of the determination made by the QIO and the revised statement of deficiencies, the facility shall submit a plan of correction to the department.

9. The department shall not post on its web site or enter into the Centers for Medicare & Medicaid Services Online Survey, Certification and Reporting System, or report to any other agency, any information about the deficiencies which are in dispute unless the dispute determination is made and the facility has responded with a revised plan of correction, if needed.

10. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

208.016. PERSONAL NEEDS ALLOWANCE TO BE DEDUCTED FROM RESIDENT'S INCOME — INCREASE IN ALLOWANCE, WHEN. — In determining the amount of an institutionalized MO HealthNet individual's income that is to be applied to payment for the costs of care in the institution, there shall be deducted a personal needs allowance of no less than thirty dollars per month or the minimum amount required by 42 U.S.C. 1396a(q)(2) if more than thirty dollars. Beginning January 1, 2010, the personal needs allowance shall be increased by an amount equal to the product of the percentage of the Social Security benefit cost of living adjustment and the average amount that MO HealthNet participants are required to contribute to the cost of institutionalized care. The annual increase in the personal needs allowance shall be rounded to the nearest whole dollar and shall not exceed five dollars in any year. Once the personal needs allowance reaches fifty dollars, there shall be no further increases unless authorized by annual appropriation.

208.437. REIMBURSEMENT ALLOWANCE PERIOD — NOTIFICATION OF BALANCE DUE, WHEN — DELINQUENT PAYMENTS, PROCEDURE, BASIS FOR DENIAL OF LICENSURE —

EXPIRATION DATE. — 1. A Medicaid managed care organization reimbursement allowance period as provided in sections 208.431 to 208.437 shall be from the first day of July to the thirtieth day of June. The department shall notify each Medicaid managed care organization with a balance due on the thirtieth day of June of each year the amount of such balance due. If any managed care organization fails to pay its managed care organization reimbursement allowance within thirty days of such notice, the reimbursement allowance shall be delinquent. The reimbursement allowance may remain unpaid during an appeal.

2. Except as otherwise provided in this section, if any reimbursement allowance imposed under the provisions of sections 208.431 to 208.437 is unpaid and delinquent, the department of social services may compel the payment of such reimbursement allowance in the circuit court having jurisdiction in the county where the main offices of the Medicaid managed care organization are located. In addition, the director of the department of social services or the director's designee may cancel or refuse to issue, extend or reinstate a Medicaid contract agreement to any Medicaid managed care organization which fails to pay such delinquent reimbursement allowance required by sections 208.431 to 208.437 unless under appeal.

3. Except as otherwise provided in this section, failure to pay a delinquent reimbursement allowance imposed under sections 208.431 to 208.437 shall be grounds for denial, suspension or revocation of a license granted by the department of insurance, financial institutions and professional registration. The director of the department of insurance, financial institutions and professional registration may deny, suspend or revoke the license of a Medicaid managed care organization with a contract under 42 U.S.C. Section 1396b(m) which fails to pay a managed care organization's delinquent reimbursement allowance unless under appeal.

4. Nothing in sections 208.431 to 208.437 shall be deemed to affect or in any way limit the tax-exempt or nonprofit status of any Medicaid managed care organization with a contract under 42 U.S.C. Section 1396b(m) granted by state law.

5. Sections 208.431 to 208.437 shall expire on **[**June**]** **September** 30, **[**2009**]** **2011**.

208.480. FEDERAL REIMBURSEMENT ALLOWANCE EXPIRATION DATE. — Notwithstanding the provisions of section 208.471 to the contrary, sections 208.453 to 208.480 shall expire on September 30, **[**2009**]** **2011**.

208.819. TRANSITION GRANTS CREATED, ELIGIBILITY, AMOUNT — INFORMATION AND TRAINING DEVELOPED — RULEMAKING AUTHORITY. — 1. **Subject to appropriations,** persons institutionalized in nursing homes who are **[**Medicaid**]** **MO HealthNet** eligible and who wish to move back into the community shall be eligible for a one-time **[**Missouri**]** transition **[**to independence**]** grant. The **[**Missouri**]** transition **[**to independence**]** grant shall be limited to up to **[**fifteen**]** **twenty-four** hundred dollars to offset the initial down payments **[**and**]** **,** setup costs**, and other expenditures** associated with housing a **senior or** person with disabilities **needing home and community-based services** as such person moves out of a nursing home. Such grants shall be established and administered by the division of **[**vocational rehabilitation**]** **senior and disability services** in consultation with the department of social services. The division of **[**vocational rehabilitation**]** **senior and disability services** and the department of social services shall cooperate in actively seeking federal and private grant moneys to **further** fund this program; except that, such federal and private grant moneys shall not limit the general assembly's ability to appropriate moneys for the **[**Missouri**]** transition **[**to independence**]** grants.

2. The **[**division of medical services within the department of social services, the**]** department of health and senior services and the **[**division of vocational rehabilitation within the department of elementary and secondary education**]** **department of mental health** shall work together to develop information and training on community-based service options for residents transitioning into the community**[**. Representatives of disability-related community organizations shall complete such training before initiating contact with institutionalized individuals**]** **and shall promulgate rules as necessary. Any rule or portion of a rule, as that term is defined in**

section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

338.535. REMITTANCE TO DEPARTMENT — PHARMACY REIMBURSEMENT ALLOWANCE FUND CREATED. — 1. The pharmacy tax owed or, if an offset has been made, the balance after such offset, if any, shall be remitted by the pharmacy **or the pharmacy's designee** to the department of social services. The remittance shall be made payable to the director of the department of revenue and shall be deposited in the state treasury to the credit of the "Pharmacy Reimbursement Allowance Fund" which is hereby created to provide payments for services related to the Medicaid pharmacy program. All investment earnings of the fund shall be credited to the fund.

2. An offset authorized by section 338.530 or a payment to the pharmacy reimbursement allowance fund shall be accepted as payment of the obligation set forth in section 338.500.

3. The state treasurer shall maintain records showing the amount of money in the pharmacy reimbursement allowance fund at any time and the amount of investment earnings on such amount.

4. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any unexpended balance in the pharmacy reimbursement allowance fund at the end of the biennium shall not revert to the credit of the general revenue fund.

338.550. EXPIRATION DATE OF TAX, WHEN. — 1. The pharmacy tax required by sections 338.500 to 338.550 shall expire ninety days after any one or more of the following conditions are met:

(1) The aggregate dispensing fee as appropriated by the general assembly paid to pharmacists per prescription is less than the fiscal year 2003 dispensing fees reimbursement amount; or

(2) The formula used to calculate the reimbursement as appropriated by the general assembly for products dispensed by pharmacies is changed resulting in lower reimbursement to the pharmacist in the aggregate than provided in fiscal year 2003; or

(3) **[**June**]** **September** 30, **[**2009**]** **2011**.

The director of the department of social services shall notify the revisor of statutes of the expiration date as provided in this subsection. The provisions of sections 338.500 to 338.550 shall not apply to pharmacies domiciled or headquartered outside this state which are engaged in prescription drug sales that are delivered directly to patients within this state via common carrier, mail or a carrier service.

2. Sections 338.500 to 338.550 shall expire on **[**June**]** **September** 30, **[**2009**]** **2011**.

633.401. DEFINITIONS — ASSESSMENT IMPOSED, FORMULA — RATES OF PAYMENT — FUND CREATED, USE OF MONEYS — RECORD-KEEPING REQUIREMENTS — REPORT — APPEAL PROCESS — RULEMAKING AUTHORITY. — 1. For purposes of this section, the following terms mean:

(1) "Engaging in the business of providing health benefit services", accepting payment for health benefit services;

(2) "Intermediate care facility for the mentally retarded", a private or department of mental health facility which admits persons who are mentally retarded or developmentally disabled for

residential habilitation and other services pursuant to chapter 630, RSMo. Such term shall include habilitation centers and private or public intermediate care facilities for the mentally retarded that have been certified to meet the conditions of participation under 42 CFR, Section 483, Subpart 1;

(3) "Net operating revenues from providing services of intermediate care facilities for the mentally retarded" shall include, without limitation, all moneys received on account of such services pursuant to rates of reimbursement established and paid by the department of social services, but shall not include charitable contributions, grants, donations, bequests and income from nonservice related fund-raising activities and government deficit financing, contractual allowance, discounts or bad debt;

(4) "Services of intermediate care facilities for the mentally retarded" has the same meaning as the term used in Title 42 United States Code, Section 1396b(w)(7)(A)(iv), as amended, and as such qualifies as a class of health care services recognized in federal Public Law 102-234, the Medicaid Voluntary Contribution and Provider Specific Tax Amendment of 1991.

2. Beginning July 1, 2008, each provider of services of intermediate care facilities for the mentally retarded shall, in addition to all other fees and taxes now required or paid, pay assessments on their net operating revenues for the privilege of engaging in the business of providing services of the intermediate care facilities for the mentally retarded or developmentally disabled in this state.

3. Each facility's assessment shall be based on a formula set forth in rules and regulations promulgated by the department of mental health.

4. For purposes of determining rates of payment under the medical assistance program for providers of services of intermediate care facilities for the mentally retarded, the assessment imposed pursuant to this section on net operating revenues shall be a reimbursable cost to be reflected as timely as practicable in rates of payment applicable within the assessment period, contingent, for payments by governmental agencies, on all federal approvals necessary by federal law and regulation for federal financial participation in payments made for beneficiaries eligible for medical assistance under Title XIX of the federal Social Security Act.

5. Assessments shall be submitted by or on behalf of each provider of services of intermediate care facilities for the mentally retarded on a monthly basis to the director of the department of mental health or his or her designee and shall be made payable to the director of the department of revenue.

6. In the alternative, a provider may direct that the director of the department of social services offset, from the amount of any payment to be made by the state to the provider, the amount of the assessment payment owed for any month.

7. Assessment payments shall be deposited in the state treasury to the credit of the "Intermediate Care Facility Mentally Retarded Reimbursement Allowance Fund", which is hereby created in the state treasury. All investment earnings of this fund shall be credited to the fund. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any unexpended balance in the intermediate care facility mentally retarded reimbursement allowance fund at the end of the biennium shall not revert to the general revenue fund but shall accumulate from year to year. The state treasurer shall maintain records that show the amount of money in the fund at any time and the amount of any investment earnings on that amount.

8. Each provider of services of intermediate care facilities for the mentally retarded shall keep such records as may be necessary to determine the amount of the assessment for which it is liable under this section. On or before the forty-fifth day after the end of each month commencing July 1, 2008, each provider of services of intermediate care facilities for the mentally retarded shall submit to the department of social services a report on a cash basis that reflects such information as is necessary to determine the amount of the assessment payable for that month.

9. Every provider of services of intermediate care facilities for the mentally retarded shall submit a certified annual report of net operating revenues from the furnishing of services of

intermediate care facilities for the mentally retarded. The reports shall be in such form as may be prescribed by rule by the director of the department of mental health. Final payments of the assessment for each year shall be due for all providers of services of intermediate care facilities for the mentally retarded upon the due date for submission of the certified annual report.

10. The director of the department of mental health shall prescribe by rule the form and content of any document required to be filed pursuant to the provisions of this section.

11. Upon receipt of notification from the director of the department of mental health of a provider's delinquency in paying assessments required under this section, the director of the department of social services shall withhold, and shall remit to the director of the department of revenue, an assessment amount estimated by the director of the department of mental health from any payment to be made by the state to the provider.

12. In the event a provider objects to the estimate described in subsection 11 of this section, or any other decision of the department of mental health related to this section, the provider of services may request a hearing. If a hearing is requested, the director of the department of mental health shall provide the provider of services an opportunity to be heard and to present evidence bearing on the amount due for an assessment or other issue related to this section within thirty days after collection of an amount due or receipt of a request for a hearing, whichever is later. The director shall issue a final decision within forty-five days of the completion of the hearing. After reconsideration of the assessment determination and a final decision by the director of the department of mental health, an intermediate care facility for the mentally retarded provider's appeal of the director's final decision shall be to the administrative hearing commission in accordance with sections 208.156 and 621.055, RSMo.

13. Notwithstanding any other provision of law to the contrary, appeals regarding this assessment shall be to the circuit court of Cole County or the circuit court in the county in which the facility is located. The circuit court shall hear the matter as the court of original jurisdiction.

14. Nothing in this section shall be deemed to affect or in any way limit the tax-exempt or nonprofit status of any intermediate care facility for the mentally retarded granted by state law.

15. The director of the department of mental health shall promulgate rules and regulations to implement this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

16. The provisions of this section shall expire on **[**June**]** **September** 30, **[**2009**]** **2011**.

SECTION 1. REFERRAL FOR SERVICES, DEPARTMENT DUTIES. — Upon receipt of a properly completed referral for MO HealthNet-funded home and community-based care containing a nurse assessment or physician's order, the department of health and senior services shall:

(1) Review the recommendations regarding services and process the referral within fifteen business days;

(2) Issue a prior-authorization for home and community-based services when information contained in the referral is sufficient to establish eligibility for MO HealthNet-funded long-term care and determine the level of service need as required under state and federal regulations;

(3) Arrange for the provision of services by an in-home provider;

(4) Reimburse the in-home provider for one nurse visit to conduct an assessment and recommendation for a care plan, and where necessary based on case circumstances, a

second nurse visit may be authorized to gather additional information or documentation necessary to constitute a completed referral;

(5) Notify the referring entity upon the authorization of MO HealthNet eligibility and provide MO HealthNet reimbursement for personal care benefits effective the date of the assessment or physician's order, and MO HealthNet reimbursement for waiver services effective the date the state reviews and approves the care plan;

(6) Notify the referring entity within five business days of receiving the referral if additional information is required to process the referral; and

(7) Inform the provider and contact the individual when information is insufficient or the proposed care plan requires additional evaluation by state staff that is not obtained from the referring entity to schedule an in-home assessment to be conducted by the state staff within thirty days.

SECTION B. EMERGENCY CLAUSE. — Because of the need for continued imposition and collection of certain provider taxes, the repeal and reenactment of sections 208.437, 208.480, 338.535, 338.550, and 633.401 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 the repeal and reenactment of sections 208.437, 208.480, 338.535, 338.550, and 633.401 of this act shall be in full force and effect upon its passage and approval.

Approved July 10, 2009

HB 397 [CCS SCS HCS HB 397 & HCS HB 947]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding the Police Retirement System of Kansas City and the Police Retirement System of St. Louis

AN ACT to repeal sections 86.200, 86.207, 86.237, 86.257, 86.260, 86.263, 86.270, 86.1170, and 86.1240, RSMo, and to enact in lieu thereof nine new sections relating to police retirement, with an emergency clause for a certain section.

SECTION

A. Enacting clause.
86.200. Definitions.
86.207. Members of system, who are — reserve officer not a member.
86.237. Legal adviser — medical director — duties.
86.257. Disability retirement allowance granted, when — periodic medical examinations required, when — cessation of disability benefit, when.
86.260. Disability allowance, how calculated — members as special consultants, when — benefits for children.
86.263. Service-connected accidental disability retirement, requirements — periodic examinations required, when — cessation of benefits, when.
86.270. Investigation and examination of applicants for disability benefits.
86.1170. Pension benefit after twenty-five years of service or injury in line of duty, when — retirees appointed as consultants to board, when.
86.1240. Pensions of spouses of deceased members — surviving spouse to be appointed as consultant to board, when.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 86.200, 86.207, 86.237, 86.257, 86.260, 86.263, 86.270, 86.1170, and 86.1240, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as sections 86.200, 86.207, 86.237, 86.257, 86.260, 86.263, 86.270, 86.1170, and 86.1240, to read as follows:

86.200. DEFINITIONS. — The following words and phrases as used in sections 86.200 to 86.366, unless a different meaning is plainly required by the context, shall have the following meanings:

(1) "Accumulated contributions", the sum of all mandatory contributions deducted from the compensation of a member and credited to the member's individual account, together with members' interest thereon;

(2) "Actuarial equivalent", a benefit of equal value when computed upon the basis of mortality tables and interest assumptions adopted by the board of trustees;

(3) "Average final compensation":

(a) With respect to a member who earns no creditable service on or after October 1, 2001, the average earnable compensation of the member during the member's last three years of creditable service as a police officer, or if the member has had less than three years of creditable service, the average earnable compensation of the member's entire period of creditable service;

(b) With respect to a member who is not participating in the DROP pursuant to section 86.251 on October 1, 2001, who did not participate in the DROP at any time before such date, and who earns any creditable service on or after October 1, 2001, the average earnable compensation of the member during the member's last two years of creditable service as a policeman, or if the member has had less than two years of creditable service, then the average earnable compensation of the member's entire period of creditable service;

(c) With respect to a member who is participating in the DROP pursuant to section 86.251 on October 1, 2001, or whose participation in DROP ended before such date, who returns to active participation in the system pursuant to section 86.251, and who terminates employment as a police officer for reasons other than death or disability before earning at least two years of creditable service after such return, the portion of the member's benefit attributable to creditable service earned before DROP entry shall be determined using average final compensation as defined in paragraph (a) of this subdivision; and the portion of the member's benefit attributable to creditable service earned after return to active participation in the system shall be determined using average final compensation as defined in paragraph (b) of this subdivision;

(d) With respect to a member who is participating in the DROP pursuant to section 86.251 on October 1, 2001, or whose participation in the DROP ended before such date, who returns to active participation in the system pursuant to section 86.251, and who terminates employment as a police officer after earning at least two years of creditable service after such return, the member's benefit attributable to all of such member's creditable service shall be determined using the member's average final compensation as defined in paragraph (b) of this subdivision;

(e) With respect to a member who is participating in the DROP pursuant to section 86.251 on October 1, 2001, or whose participation in DROP ended before such date, who returns to active participation in the system pursuant to section 86.251, and whose employment as a police officer terminates due to death or disability after such return, the member's benefit attributable to all of such member's creditable service shall be determined using the member's average final compensation as defined in paragraph (b) of this subdivision; and

(f) With respect to the surviving spouse or surviving dependent child of a member who earns any creditable service on or after October 1, 2001, the average earnable compensation of the member during the member's last two years of creditable service as a police officer or, if the member has had less than two years of creditable service, the average earnable compensation of the member's entire period of creditable service;

(4) "Beneficiary", any person in receipt of a retirement allowance or other benefit;

(5) "Board of police commissioners", any board of police commissioners, police commissioners and any other officials or boards now or hereafter authorized by law to employ and manage a permanent police force in such cities;

(6) "Board of trustees", the board provided in sections 86.200 to 86.366 to administer the retirement system;

(7) "Creditable service", prior service plus membership service as provided in sections 86.200 to 86.366;

(8) "DROP", the deferred retirement option plan provided for in section 86.251;

(9) "Earnable compensation", the annual salary which a member would earn during one year on the basis of the member's rank or position as specified in the applicable salary matrix in section 84.160, RSMo, plus additional compensation for academic work as provided in subsection 8 of section 84.160, RSMo, plus shift differential as provided in subdivision (4) of subsection 9 of section 84.160, RSMo. Such amount shall include the member's deferrals to a deferred compensation plan pursuant to Section 457 of the Internal Revenue Code or to a cafeteria plan pursuant to Section 125 of the Internal Revenue Code or, effective October 1, 2001, to a transportation fringe benefit program pursuant to Section 132(f)(4) of the Internal Revenue Code. Earnable compensation shall not include a member's additional compensation for overtime, standby time, court time, nonuniform time or unused vacation time. Notwithstanding the foregoing, the earnable compensation taken into account under the plan established pursuant to sections 86.200 to 86.366 with respect to a member who is a noneligible participant, as defined in this subdivision, for any plan year beginning on or after October 1, 1996, shall not exceed the amount of compensation that may be taken into account under Section 401(a)(17) of the Internal Revenue Code, as adjusted for increases in the cost of living, for such plan year. For purposes of this subdivision, a "noneligible participant" is an individual who first becomes a member on or after the first day of the first plan year beginning after the earlier of:

(a) The last day of the plan year that includes August 28, 1995; or

(b) December 31, 1995;

(10) "Internal Revenue Code", the federal Internal Revenue Code of 1986, as amended;

(11) "Mandatory contributions", the contributions required to be deducted from the salary of each member who is not participating in DROP in accordance with section 86.320;

(12) **[**"Medical board", the board of physicians provided for in section 86.237;

(13)**]** "Member", a member of the retirement system as defined by sections 86.200 to 86.366;

[(14)**] (13)** "Members' interest", interest on accumulated contributions at such rate as may be set from time to time by the board of trustees;

[(15)**] (14)** "Membership service", service as a policeman rendered since last becoming a member, except in the case of a member who has served in the armed forces of the United States and has subsequently been reinstated as a policeman, in which case "membership service" means service as a policeman rendered since last becoming a member prior to entering such armed service;

[(16)**] (15)** "Plan year" or "limitation year", the twelve consecutive-month period beginning each October first and ending each September thirtieth;

[(17)**] (16)** "Policeman" or "police officer", any member of the police force of such cities who holds a rank in such police force for which the annual salary is listed in section 84.160, RSMo;

[(18)**] (17)** "Prior service", all service as a policeman rendered prior to the date the system becomes operative or prior to membership service which is creditable in accordance with the provisions of sections 86.200 to 86.366;

(18) "Reserve officer", any member of the police reserve force of such cities, armed or unarmed, who works less than full time, without compensation, and who, by his or her assigned function or as implied by his or her uniform, performs duties associated with

those of a police officer and who currently receives a service retirement as provided by sections 86.200 to 86.366;

(19) "Retirement allowance", annual payments for life as provided by sections 86.200 to 86.366 which shall be payable in equal monthly installments or any benefits in lieu thereof granted to a member upon termination of employment as a police officer and actual retirement;

(20) "Retirement system", the police retirement system of the cities as defined in sections 86.200 to 86.366;

(21) "Surviving spouse", the surviving spouse of a member who was the member's spouse at the time of the member's death.

86.207. MEMBERS OF SYSTEM, WHO ARE — RESERVE OFFICER NOT A MEMBER. — 1. All persons who become policemen and all policemen who enter or reenter the service of the city after the first day of October, 1957, become members as a condition of their employment and shall receive no pensions or retirement allowance from any other pension or retirement system supported wholly or in part by the city or the state of Missouri, nor shall they be required to make contributions under any other pension or retirement system of the city or the state of Missouri, anything to the contrary notwithstanding.

2. If any member ceases to be in service for more than one year unless the member has attained the age of fifty-five or has twenty years or more of creditable service, or if the member withdraws the member's accumulated contributions or if the member receives benefits under the retirement system or dies, the member thereupon ceases to be a member; except in the case of a member who has served in the armed forces of the United States and has subsequently been reinstated as a policeman. A member who has terminated employment as a police officer, has actually retired and is receiving retirement benefits under the system shall be considered a retired member.

3. A reserve officer shall not be considered a member of the system for the purpose of determining creditable service, nor shall any contributions be due. A reserve officer shall not be entitled to any benefits from the system other than those awarded when the reserve officer originally retired under section 86.250, nor shall service as a reserve officer prohibit distribution of those benefits.

86.237. LEGAL ADVISER — MEDICAL DIRECTOR — DUTIES. — 1. The board of trustees is authorized to use the city counselor of the specified cities as a legal advisor to the board of trustees and may also appoint an attorney-at-law or firm of attorneys-at-law to serve as the legal advisor and consultant to the board of trustees and to represent the system and the board of trustees in all legal proceedings.

2. The board of trustees shall designate a medical **[**board to be composed of three physicians who shall**]** **director, who shall appoint physicians, including himself or herself if appropriate, as he or she deems necessary to** arrange for and pass upon all medical examinations required under the provisions of sections 86.200 to 86.366**[**,**]** **. Such physicians** shall investigate all essential statements **[**and certificates**]** **as to physical or mental conditions** made by or on behalf of a member in connection with an application for disability retirement and shall report in writing **[**to the board of trustees its**]** **their** conclusions and recommendations upon all the matters referred to **[**it**]** **them**. **[**In addition, the board of trustees may appoint a fourth physician to act as an administrator of the medical board who may, with the consent of the board of trustees, select the members of the medical board and coordinate any reports to the board of trustees.**]** **The medical director shall report in writing to the board of trustees conclusions and recommendations concerning all essential statements as to physical or mental conditions made by or on behalf of a member in connection with an application for disability retirement.**

86.257. DISABILITY RETIREMENT ALLOWANCE GRANTED, WHEN — PERIODIC MEDICAL EXAMINATIONS REQUIRED, WHEN — CESSATION OF DISABILITY BENEFIT, WHEN. — 1. Upon the application of a member in service or of the board of police commissioners, any member who has **[**had**]** **completed** ten or more years of creditable service **[**shall terminate employment as a police officer and**]** **and who has become permanently unable to perform the duties of a police officer as the result of an injury or illness not exclusively caused or induced by the actual performance of his or her official duties or by his or her own negligence,** shall be **[**actually**]** retired by the board of trustees**[**, not more than ninety days next following the date of filing such application on an ordinary disability retirement allowance; provided, that**]** **of the police retirement system upon certification by** the medical **[**board after a medical examination of such member shall certify that such**]** **director of the police retirement system and approval by the board of trustees of the police retirement system that the** member is mentally or physically **[**incapacitated for the further performance of duty, that such incapacity**]** **unable to perform the duties of a police officer, that the inability** is **permanent or** likely to **[**be**]** **become** permanent**,** and that **[**such**]** **the** member should be retired.

2. Once each year during the first five years following such member's retirement, and at least once in every three-year period thereafter, the board of trustees may, and upon the member's application shall, require any nonduty disability beneficiary who has not yet attained sixty years of age, to undergo a medical examination at a place designated by the medical director or such physicians as the medical director appoints. If any nonduty disability beneficiary who has not attained sixty years of age refuses to submit to a medical examination, his or her nonduty disability pension may be discontinued until his or her withdrawal of such refusal, and if his or her refusal continues for one year, all rights in and to such pension may be revoked by the board of trustees.

3. If the medical director certifies to the board of trustees that a nonduty disability beneficiary is able to perform the duties of a police officer, and if the board of trustees concurs on the report, then such beneficiary's nonduty disability pension shall cease.

4. If upon cessation of a disability pension under subsection 3 of this section, the former disability beneficiary is restored to active service, he or she shall again become a member, and he or she shall contribute thereafter at the same rate as other members. Upon his or her subsequent retirement, he or she shall be credited with all of his or her active retirement, but not including any time during which the former disability beneficiary received a disability pension under this section.

86.260. DISABILITY ALLOWANCE, HOW CALCULATED — MEMBERS AS SPECIAL CONSULTANTS, WHEN — BENEFITS FOR CHILDREN. — 1. Upon termination of employment as a police officer and actual retirement for **[**ordinary**]** **nonduty** disability a member shall receive a service retirement allowance **as calculated under subsection 1 of section 86.253** if the member has attained the age of fifty-five or completed twenty years of creditable service; otherwise the member shall receive **[**an ordinary**]** **a nonduty** disability retirement allowance which shall be equal to ninety percent of the member's accrued service retirement in section 86.253, but not less than one-fourth of the member's average final compensation; provided, however, that no such allowance shall exceed ninety percent of the member's accrued service retirement benefit based on continuation of the member's creditable service to the age set out in section 86.250.

2. Effective October 1, 1999, the **[**ordinary**]** **nonduty** disability retirement allowance will be increased by fifteen percent of the member's average final compensation for each unmarried dependent child of the disabled member who is under the age of eighteen, or who, regardless of age, is totally and permanently mentally or physically disabled and incapacitated from engaging in gainful occupation sufficient to support himself or herself.

3. Any member receiving benefits pursuant to the provisions of this section immediately prior to October 1, 1999, shall upon application to the board of trustees be made, constituted,

appointed and employed by the board of trustees as a special consultant on the problems of retirement, aging and other matters while the member is receiving such benefits, and upon request of the board of trustees shall give opinions in writing or orally in response to such requests as may be required. Beginning October 1, 1999, for such services as may be required, there shall be payable an additional monthly compensation of one hundred dollars or five percent of the member's average final compensation, whichever is greater, for each unmarried dependent child of the member.

4. Any benefit payable to or for the benefit of a child or children under the age of eighteen years pursuant to the provisions of subsections 2 and 3 of this section shall continue to be paid beyond the age of eighteen years through the age of twenty-two years in those cases where the child is a full-time student at a regularly accredited college, business school, nursing school, school for technical or vocational training, or university, but such extended benefit shall cease whenever the child ceases to be a student. A college or university shall be deemed to be regularly accredited which maintains membership in good standing in a national or regional accrediting agency recognized by any state college or university.

5. No benefits pursuant to this section shall be paid to a child over eighteen years of age who is totally and permanently disabled if such child is a patient or resident of a public-supported institution, nor shall such benefits be paid unless such disability occurred prior to such child reaching the age of eighteen.

86.263. SERVICE-CONNECTED ACCIDENTAL DISABILITY RETIREMENT, REQUIREMENTS — PERIODIC EXAMINATIONS REQUIRED, WHEN — CESSATION OF BENEFITS, WHEN. — [Upon application by the member or the board of police commissioners] **1.** Any member who [has become totally and permanently incapacitated for duty at some definite time and place] **is permanently unable to perform the duties of a police officer** as the natural [and] **,** proximate**, and exclusive** result of an accident occurring [while in] **within** the actual performance of duty **at some definite time and place,** through no negligence on the member's part, [and if such accident occurred not more than five years prior to date of application unless the accident was reported and an examination made of the member by the medical staff of the board of police commissioners within five years of the date of the accident with subsequent examinations made as requested,] shall**, upon application,** be retired **upon certification** by [the board of trustees provided that] the medical [board shall certify that such] **director of the police retirement system and approval by the board of trustees of the police retirement system that the** member is mentally or physically [incapacitated for further performance of duty, that such incapacity] **unable to perform the duties of a police officer and that the inability** is **permanent or reasonably** likely to [be] **become** permanent [and that such member should be retired; provided that if the accident occurred prior to the age and year set out in section 86.250, application for benefits must be made before such age and year except that the interval between date of accident and of application may be six months].

2. No member shall be approved for retirement under the provisions of subsection 1 of this section unless the application was made and submitted to the board of trustees of the police retirement system no later than five years following the date of accident, provided, that if the accident was reported within five years of the date of the accident and an examination made of the member within thirty days of the date of accident by a health care provider whose services were provided through the board of police commissioners with subsequent examinations made as requested, then an application made more than five years following the date of the accident shall be considered timely.

3. Once each year during the first five years following a member's retirement, and at least once in every three-year period thereafter, the board of trustees may require any disability beneficiary who has not yet attained sixty years of age to undergo a medical examination or medical examinations at a place designated by the medical director or such physicians as the medical director appoints. If any disability beneficiary who has not

attained sixty years of age refuses to submit to a medical examination, his or her disability pension may be discontinued until his or her withdrawal of such refusal, and if his or her refusal continues for one year, all rights in and to such pension may be revoked by the board of trustees.

4. If the medical director certifies to the board of trustees that a disability beneficiary is able to perform the duties of a police officer, and if the board of trustees concurs with the medical director's determination, then such beneficiary's disability pension shall cease.

5. If upon cessation of a disability pension under subsection 4 of this section, the former disability beneficiary is restored to active service, he or she shall again become a member, and he or she shall contribute thereafter at the same rate as other members. Upon his or her subsequent retirement, he or she shall be credited with all of his or her active service time as a member including the service time prior to receiving disability retirement, but not including any time during which the former disability beneficiary received a disability pension under this section.

6. If upon cessation of a disability pension under subsection 4 of this section, the former disability beneficiary is not restored to active service, such former disability beneficiary shall be entitled to the retirement benefit to which such former disability beneficiary would have been entitled if such former disability beneficiary had terminated service for any reason other than dishonesty or being convicted of a felony at the time of such cessation of such former disability beneficiary's disability pension. For purposes of such retirement benefits, such former disability beneficiary shall be credited with all of the former disability beneficiary's active service time as a member, but not including any time during which the former disability beneficiary received a disability beneficiary pension under this section.

86.270. INVESTIGATION AND EXAMINATION OF APPLICANTS FOR DISABILITY BENEFITS. — 1. Any determination of whether a member is disabled under the provisions of section 86.257 or 86.263 shall consist of an investigation of the member's physical and mental condition by the medical director of the police retirement system and all physicians appointed by the medical director under the provisions of section 86.237 and an investigation by the board of trustees of the police retirement system of any other matter relevant to determine whether the member satisfies the applicable requirements of section 86.257 or 86.263. The board of trustees may authorize the use of staff of the police retirement system and other persons not employed by the police retirement system to assist in its investigation. The board of trustees of the police retirement system and the medical director of the police retirement system and any such physicians appointed by the medical director under the provisions of section 86.237 may communicate with each other as to matters relevant to determine whether the member satisfies the applicable requirements of section 86.257 or 86.263.

2. The board of trustees shall require each member who applies for disability benefits **and any disability beneficiary to be reexamined under the provisions of section 86.257 or 86.263** to undergo **[**a**]** medical **[**examination**]** **examinations** at **[**a place**]** **places** designated by the medical **[**board**]** **director and any physicians appointed by the medical director under the provisions of section 86.237**. The examination shall be made by the medical **[**board**]** **director** or by **[**a physician or**]** **any** physicians **[**designated**]** **appointed** by **[**such board**]** **the medical director under the provisions of section 86.237**. **[**Once each year during the first five years following the retirement of a member on a disability retirement allowance and once in every three-year period after that, the board of trustees may require any disabled member to undergo a medical examination. Should any disabled member refuse to submit to such medical examination, such member's disability allowance may be discontinued until the withdrawal of such refusal and should the refusal continue for one year all rights in and to the member's disability allowance may be revoked by the board of trustees.**]**

86.1170. PENSION BENEFIT AFTER TWENTY-FIVE YEARS OF SERVICE OR INJURY IN LINE OF DUTY, WHEN — RETIREES APPOINTED AS CONSULTANTS TO BOARD, WHEN. — 1. Any member who retires after August 28, 2000, who is entitled to a pension benefit under the provisions of sections 86.900 to 86.1280 and who either has at least twenty-five years of creditable service or is retired as a result of an injury or illness occurring in the line of duty or course of employment under section 86.1180, shall receive a pension benefit which, without including any supplemental retirement benefits paid such member by the retirement system, shall be **[**not less than**]** six hundred dollars monthly. Any member who retired on or before August 28, 2000, who is entitled to a pension benefit under the provisions of sections 86.900 to 86.1280 and who either had at least twenty-five years of creditable service or was retired as a result of an injury or illness occurring in the line of duty or course of employment under section 86.1180, shall upon application to the retirement board be appointed by the retirement board as a consultant and shall, beginning the later of August 28, 2000, or the time of such appointment under this **[**section**]** **subsection** or a previously applicable statute, be compensated in an amount which, without including any supplemental retirement benefits provided by this system, shall be not less than six hundred dollars monthly. A pension benefit under this **[**section**]** **subsection** shall be paid in lieu of such member's base pension as increased by cost-of-living adjustments granted under section 86.1220. The benefit under this **[**section**]** **subsection** shall not be subject to cost-of-living adjustments, but shall be terminated and replaced by the member's base pension and cost-of-living adjustments at such time as the total base pension and such adjustments exceed six hundred dollars monthly.

2. Any member who retired on or before August 28, 2009, who is entitled to a pension benefit under the provisions of sections 86.900 to 86.1280 and was retired under section 86.1200 shall, upon application to the retirement board, be appointed by the retirement board as a consultant and shall, beginning August 28, 2009, or the time of such appointment under this subsection, whichever is later, be compensated in an amount which, without including any supplemental retirement benefits provided by sections 86.900 to 86.1280, shall be six hundred dollars monthly. A pension benefit under this subsection shall be paid in lieu of such member's base pension as increased by cost-of-living adjustments granted under section 86.1220. The benefit under this subsection shall not be subject to cost-of-living adjustments, but shall be terminated and replaced by the member's base pension and cost-of-living adjustments at such time as the total base pension and adjustments exceed six hundred dollars monthly.

86.1240. PENSIONS OF SPOUSES OF DECEASED MEMBERS — SURVIVING SPOUSE TO BE APPOINTED AS CONSULTANT TO BOARD, WHEN. — 1. Upon receipt of the proper proofs of death of a member in service for any reason whatsoever, there shall be paid to such member's surviving spouse, if any, in addition to all other benefits but subject to subsection **[**6**]** **7** of this section, a base pension equal to forty percent of the final compensation of such member, subject to adjustments, if any, as provided in section 86.1220.

2. (1) Upon receipt of the proper proofs of death of a member who was retired or terminated service after August 28, 1999, and died after commencement of benefits to such member from this retirement system, there shall be paid to such member's surviving spouse, if any, in addition to all other benefits but subject to subsection **[**6**]** **7** of this section, a base pension equal to eighty percent of the pension being received by such member, including cost-of-living adjustments to such pension but excluding supplemental retirement benefits, at the time of such member's death, subject to subsequent adjustments, if any, as provided in section 86.1220. The pension provided by this subdivision shall terminate upon remarriage by the surviving spouse prior to August 28, 2000.

(2) (a) Upon receipt of the proper proof of death of a member who retired or terminated service on or before August 28, 1999, and who died after August 28, 1999, and after commencement of benefits to such member from this retirement system, such member's

surviving spouse, if any, shall be entitled to a base pension equal to forty percent of the final compensation of such member.

(b) Such a surviving spouse shall, upon application to the retirement board, be appointed by the retirement board as a consultant and be compensated in an amount equal to the benefits such spouse would receive under subdivision (1) of this subsection if the member had retired or terminated service after August 28, 1999.

(c) The benefits provided by this subdivision shall terminate upon remarriage by the surviving spouse prior to August 28, 2000.

3. In the case of any member who, prior to August 28, 2000, died in service or retired, the surviving spouse who would qualify for benefits under subsection 1 or 2 of this section but for remarriage, and who has not remarried prior to August 28, 2000, but remarries thereafter, shall upon application be appointed by the retirement board as a consultant. For services as such consultant, such surviving spouse shall be compensated in an amount equal to the benefits such spouse would have received under sections 86.900 to 86.1280 in the absence of such remarriage.

4. For purposes of this section, commencement of benefits shall begin, for any benefit, at such time as all requirements of sections 86.900 to 86.1280 have been met entitling the member to a payment of such benefit at the next following payment date with the amount thereof established, regardless of whether the member has received the initial payment of such benefit.

5. Upon the death of any member who is in service after August 28, 2000, and who either had at least twenty-five years of creditable service or was retired or died as a result of an injury or illness occurring in the line of duty or course of employment under section 86.1180, the surviving spouse's benefit provided under this section, without including any supplemental retirement benefits paid such surviving spouse by this retirement system, shall **[**not**]** be **[**less than**]** six hundred dollars per month. For any member who died, retired or terminated service on or before August 28, 2000, and who either had at least twenty-five years of creditable service or was retired or died as a result of an injury or illness occurring in the line of duty or course of employment under section 86.1180, the surviving spouse shall upon application to the retirement board be appointed by the retirement board as a consultant. For services as such consultant, the surviving spouse shall, beginning the later of August 28, 2000, or the time the appointment is made under this subsection, be compensated in an amount which without including supplemental retirement benefits provided by this system shall be **[**not less than**]** six hundred dollars monthly. A pension benefit under this subsection shall be paid in lieu of any base pension as increased by cost-of-living adjustments granted under section 86.1220. The benefit under this subsection shall not be subject to cost-of-living adjustments, but shall be terminated and replaced by the base pension and cost-of-living adjustments to which such spouse would otherwise be entitled at such time as the total base pension and such adjustments exceed six hundred dollars monthly.

6. **A surviving spouse who is entitled to benefits under the provisions of subsection 1 of this section as a result of the death on or before August 28, 2009, of a member in service who is receiving benefits under sections 86.900 to 86.1280 and who does not qualify under the provisions of subsection 5 of this section shall, upon application to the retirement board, be appointed as a consultant, and for such services such surviving spouse shall be compensated in an amount which, without including any supplemental retirement benefits provided by sections 86.900 to 86.1280, shall be six hundred dollars monthly. A pension benefit under this subsection shall be paid in lieu of any base pension as increased by cost-of-living adjustments granted under section 86.1220. The benefit under this subsection shall not be subject to cost-of-living adjustments, but shall be terminated and replaced by the base pension and cost-of-living adjustments to which such surviving spouse would otherwise be entitled at such time as the total base pension and such adjustments exceed six hundred dollars monthly. As used in this subsection, "surviving spouse" shall not include any children of the member who would be entitled to receive part or all of the pension that would be received by a surviving spouse, if living.**

7. Any beneficiary of benefits under sections 86.900 to 86.1280 who becomes the surviving spouse of more than one member shall be paid all benefits due a surviving spouse of that member whose entitlements produce the largest surviving spouse benefits for such beneficiary but shall not be paid surviving spouse benefits as the surviving spouse of more than one member.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary for the immediate preservation of the public health, welfare, peace, and safety, the repeal and reenactment of section 86.1240 of section A of this act is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of section 86.1240 of section A of this act shall be in full force and effect upon its passage and approval.

Approved July 9, 2009

HB 400 [HB 400]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Allows certain veterans to park free in metered parking spaces under certain circumstances

AN ACT to amend chapter 304, RSMo, by adding thereto one new section relating to free parking for certain veterans.

SECTION

A. Enacting clause.

304.840. Veterans displaying special license plates or Bronze Star recipient may park without charge in metered parking — windshield placard for Bronze Star recipients — exceptions.

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

SECTION A. ENACTING CLAUSE. — Chapter 304, RSMo, is amended by adding thereto one new section, to be known as section 304.840, to read as follows:

304.840. VETERANS DISPLAYING SPECIAL LICENSE PLATES OR BRONZE STAR RECIPIENT MAY PARK WITHOUT CHARGE IN METERED PARKING — WINDSHIELD PLACARD FOR BRONZE STAR RECIPIENTS — EXCEPTIONS. — 1. A veteran displaying special license plates issued under section 301.145, 301.443, 301.451, or 301.456, RSMo, or a veteran who is a bronze star recipient who displays a placard issued under subsection 2 of this section, may park his or her motor vehicle, weighing not more than six thousand pounds gross weight, without charge, in a metered parking space.

2. A veteran who has been awarded the military service award known as the "Bronze Star" may apply to the director of revenue for a removable windshield placard. Upon application, such veteran shall present proof to the director of his or her receipt of such award. Such placard shall be hung from the front, middle rearview mirror of a parked motor vehicle and may not be hung from the mirror during operation. When there is no rearview mirror, the placard shall be displayed on the dashboard on the driver's side.

3. A local authority's compliance with this section is solely contingent upon the approval of its governing body.

4. This section does not exempt a vehicle displaying special license plates under section 301.145, 301.443, 301.451, or 301.456, RSMo, or displaying a placard as provided

in subsection 2 of this section, from compliance with any other state law or ordinance, including, but not limited to, vehicle height restrictions, zones that prohibit stopping, parking, or standing of all vehicles, parking time limitations, street sweeping, restrictions of the parking space to a particular type of vehicle, or the parking of a vehicle that is involved in the operation of a street vending business.

5. This section does not authorize a vehicle displaying special license plates under section 301.145, 301.443, 301.451, or 301.456, RSMo, or displaying a placard as provided in subsection 2 of this section, to park in a state parking facility that is designated only for state employees.

6. This section does not authorize a vehicle displaying special license plates under section 301.145, 301.443, 301.451, or 301.456, RSMo, or displaying a placard as provided in subsection 2 of this section, to park during time periods other than the normal business hours of, or the maximum time allotted by, a state or local authority parking facility.

7. This section does not require the state or a local authority to designate specific parking spaces for vehicles displaying special license plates under section 301.145, 301.443, 301.451, or 301.456, RSMo, or displaying a placard as provided in subsection 2 of this section.

Approved July 2, 2009

HB 427 [CCS SCS HCS HB 427]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding members of the military, veterans, and their families

AN ACT to repeal sections 41.150, 42.007, 173.234, 301.451, and 452.412, RSMo, and to enact in lieu thereof twelve new sections relating to members of the military and their families.

SECTION

A. Enacting clause.
9.074. Silver Star Families of America Day designated on May 1st.
41.150. Assistant adjutants general — appointment — duties.
42.007. Missouri veterans' commission established in the department of public safety — members, qualifications, appointment, terms, vacancies, expenses — officers, terms — meetings — powers and duties, staff — volunteers deemed unpaid employees, consequences.
173.234. Definitions — grants to be awarded, when, duration — duties of the board — rulemaking authority — eligibility criteria — sunset provision.
173.1155. Dependents of military personnel assigned geographically within this state eligible for in-state tuition.
194.360. Veterans, cremated remains — definitions — funeral establishment not liable for negligence, when, notice required.
227.297. Heroes Way interstate interchange designation program established — signage — application procedure — joint committee to review applications.
227.311. Veterans Memorial Highway designated for portion of Poplar Bluff bypass in Butler County.
301.451. Purple Heart medal, special license plates.
301.3157. Armed Forces Expeditionary Medal special license plate, procedure.
304.840. Veterans displaying special license plates or Bronze Star recipient may park without charge in metered parking — windshield placard for Bronze Star recipients — exceptions.
452.412. Military service of parent not to be a basis for modification of a visitation or custody order — limitations on issuance of certain court orders.

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

SECTION A. ENACTING CLAUSE. — Sections 41.150, 42.007, 173.234, 301.451, and 452.412, RSMo, are repealed and twelve new sections enacted in lieu thereof, to be known as

sections 9.074, 41.150, 42.007, 173.234, 173.1155, 194.360, 227.297, 227.311, 301.451, 301.3157, 304.840, and 452.412, to read as follows:

9.074. SILVER STAR FAMILIES OF AMERICA DAY DESIGNATED ON MAY 1ST. — May first of every year shall be known and designated as "Silver Star Families of America Day". It shall be a day on which to honor the wounded soldiers of this state and the efforts of the Silver Star Families of America to honor the wounded members of the United States armed forces. The Silver Star Families of America has worked tirelessly since its inception to distribute silver star banners, flags, and care packages to wounded service members and their families to ensure that the people of this state and nation remember the blood sacrifice made by those service members.

41.150. ASSISTANT ADJUTANTS GENERAL — APPOINTMENT — DUTIES. — The adjutant general may assign **[**two**]** **the number of** assistant adjutants general **[**in the grade of brigadier general or below, one**]** **that are authorized by National Guard Bureau rules and regulations** from the ground forces and **[**the other from**]** the air forces of this state**[** however, general officers of the line federally recognized in the grade of major general may be reassigned as a state assistant adjutant general without change in grade or branch**]**. **The assistant adjutants general shall, if they qualify therefore, hold military rank as may be authorized and approved for the positions by the National Guard Bureau of the United States.** The assistant adjutants general, at the time of their appointment, shall have not less than ten years of military service as a commissioned officer with the military forces of this state, another state or territory, the District of Columbia or the United States, or in any or all such services combined, five years of the service being in field grade. The assistant adjutants general shall serve at the pleasure of the adjutant general and perform such duties as are assigned by the adjutant general. During any period when the adjutant general is unable to perform such duties, the senior assistant adjutant general may, under the direction of the governor, perform the duties of the adjutant general.

42.007. MISSOURI VETERANS' COMMISSION ESTABLISHED IN THE DEPARTMENT OF PUBLIC SAFETY — MEMBERS, QUALIFICATIONS, APPOINTMENT, TERMS, VACANCIES, EXPENSES — OFFICERS, TERMS — MEETINGS — POWERS AND DUTIES, STAFF — VOLUNTEERS DEEMED UNPAID EMPLOYEES, CONSEQUENCES. — 1. There is hereby established within the department of public safety the "Missouri Veterans' Commission", such commission to be a type III agency within the department of public safety under the Omnibus State Reorganization Act of 1974. All duties and activities carried on by the division of veterans' affairs on August 28, 1989, shall be vested in such commission as provided by the Omnibus Reorganization Act of 1974.

2. The commission shall be composed of **nine members. Two members shall be members of the senate, one appointed by the president pro tem of the senate and one appointed by the senate minority floor leader, two members shall be members of the house of representatives, one appointed by the speaker of the house of representatives and one appointed by the house minority floor leader, and in appointing such members, preference shall be given to current or former members of the military and their spouses, parents, and children. Members appointed from the house of representatives and the senate shall be appointed for a two-year term or until a successor is appointed and may be reappointed to the commission.** Five members, who shall be veterans appointed by the governor, with the advice and consent of the senate, for a four-year term; except that initial appointments to the commission shall consist of two veterans to serve four-year terms, two veterans to serve three-year terms, and one veteran to serve a two-year term. In addition, the chair of the Missouri military preparedness and enhancement commission or the chair's designee shall be an ex officio member of the commission.

3. The governor shall make **[**all**]** appointments to the commission from lists of nominees recommended by each of the statewide veterans' organizations incorporated in this state, chartered by Congress, or authorized under Title 38, United States Code. Vacancies shall be filled by appointment made in the same manner as the original appointments. A member of the commission**, not a member of the senate or house of representatives,** shall be a resident of the state of Missouri but shall not be an employee of the state. Members of the commission shall not be compensated for their services, but shall be reimbursed from funds appropriated therefor for actual and necessary expenses incurred in the performance of their duties.

4. The commission shall organize by electing one member as chairman and another as vice chairman. Such officers shall serve for a term of two years. The commission shall meet no fewer than four times per calendar year, at the call of the chairman, and at times and places established by the chairman by written notice. The commission's executive director shall serve as secretary to the commission.

5. The commission shall aid and assist all veterans and their dependents and legal representatives, who are legal Missouri residents or who live in the state of Missouri, in all matters relating to the rights of veterans under the laws of the United States and under the rules and regulations of federal agencies, boards, commissions and other authorities which are in any manner concerned with the interest and welfare of veterans and their dependents. In addition to any other duties imposed by sections 42.002 to 42.135 and **[**section**]** **sections** 143.1001, **and 173.234,** RSMo, the commission shall:

(1) Disseminate by all means available information concerning the rights of veterans and their dependents;

(2) Provide aid and assistance to all veterans, their dependents and legal representatives, in preparing, presenting and prosecuting claims for compensation, education, pensions, insurance benefits, hospitalization, rehabilitation and all other matters in which a veteran may have a claim against the United States or any state arising out of or connected with service in the military forces of the United States;

(3) Prosecute all claims listed in subdivision (2) of this subsection to conclusion, when so authorized and empowered by a veteran, his survivors or legal representatives;

(4) Cooperate with the United States Employment Service, the United States Department of Veterans' Affairs and all federal and state offices legally concerned with and interested in the welfare of veterans and their dependents;

(5) Arrange for and accept through such mutual arrangements as may be made the volunteer services, equipment, facilities, properties, supplies, funds and personnel of all federal, welfare, civic and service organizations, and other organized groups and individuals which are in furtherance of the purposes of sections 42.002 to 42.135 and section 143.1001, RSMo;

(6) Volunteers shall be deemed unpaid employees and shall be accorded the protection of the legal expense fund and liability provisions. Reimbursement for transportation and other necessary expenses may be furnished to those volunteers whose presence on special assignment is determined to be necessary by the commission. Such expenses shall be reimbursed from the regular appropriations of the commission. Volunteers may utilize state vehicles in the performance of commission-related duties, subject to those rules and regulations governing use of state vehicles by paid staff;

(7) Establish, maintain and operate offices throughout this state as necessary to carry out the purposes of sections 42.002 to 42.135 and section 143.1001, RSMo;

(8) Provide to the executive director of the commission all appropriate authority for the execution of the duties of the commission under this chapter;

(9) Employ such staff as necessary for performance of the duties and purposes of this chapter.

6. The commission shall make all rules and regulations necessary for the management and administration of its veteran service programs and cemeteries. All rules and regulations shall be consistent with the provisions of sections 42.002 to 42.135, and

sections 143.1001 and 173.234, RSMo. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this subsection shall become effective only if it complies with and is subject to all provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

173.234. DEFINITIONS — GRANTS TO BE AWARDED, WHEN, DURATION — DUTIES OF THE BOARD — RULEMAKING AUTHORITY — ELIGIBILITY CRITERIA — SUNSET PROVISION. — 1. As used in this section, unless the context clearly requires otherwise, the following terms mean:

(1) "Board", the coordinating board for higher education;

(2) "Books", any books required for any course for which tuition was paid by a grant awarded under this section;

(3) **"Eligible student", the natural, adopted, or stepchild of a qualifying military member, who is less than twenty-five years of age and who was a dependent of a qualifying military member at the time of death or injury, or the spouse of a qualifying military member which was the spouse of a veteran at the time of death or injury;**

(4) "Grant", the **[**war**]** veteran's survivors grant as established in this section;

[(4)**] (5)** "Institution of postsecondary education", any approved Missouri public institution of postsecondary education, as defined in **subdivision (3) of** section **[**173.205**] 173.1102**;

(6) "Qualifying military member", any member of the military of the United States, whether active duty, reserve, or national guard, who served in the military after September 11, 2001, during time of war and for whom the following criteria apply:

(a) A veteran was a Missouri resident when first entering the military service or at the time of death or injury;

(b) A veteran died or was injured as a result of combat action or a veteran's death or injury was certified by the Department of Veterans' Affairs medical authority to be attributable to an illness or accident that occurred while serving in combat, or became eighty percent disabled as a result of injuries or accidents sustained in combat action after September 11, 2001; and

(c) "Combat veteran", a Missouri resident who is discharged for active duty service having served since September 11, 2001, and received a DD214 in a geographic area entitled to receive combat pay tax exclusion exemption, hazardous duty pay, or imminent danger pay, or hostile fire pay;

[(5)**] (7)** "Survivor", **[**a child or spouse of a war veteran**]** an eligible student of a qualifying military member;

[(6)**] (8)** "Tuition", any tuition or incidental fee, or both, charged by an institution of postsecondary education for attendance at the institution by a student as a resident of this state. The tuition grant shall not exceed the amount of tuition charged a Missouri resident at the University of Missouri-Columbia for attendance**[**;

(7) "War veteran", a person who served in armed combat in the military and to whom the following criteria shall apply:

(a) The veteran was a Missouri resident when first entering the military service and at the time of death or injury; and

(b) The veteran dies as a result of combat action or the veteran's death was certified by a Veterans' Administration medical authority to be attributable to an illness that was contracted while serving in combat, or who became eighty percent disabled as a result of injuries or accidents sustained in combat action**]**.

2. Within the limits of the amounts appropriated therefor, the coordinating board for higher education shall award annually up to twenty-five grants to survivors of **[**war veterans**]** **qualifying military members** to attend institutions of postsecondary education in this state, which shall continue to be awarded annually to eligible recipients as long as the recipient achieves and maintains a cumulative grade point average of at least two and one-half on a four-point scale, or its equivalent. If the waiting list of eligible survivors exceeds fifty, the coordinating board may petition the general assembly to expand the quota. If the quota is not expanded, then the eligibility of survivors on the waiting list shall be extended.

3. A survivor may receive a grant under this section only so long as the survivor is enrolled in a program leading to a certificate, or an associate or baccalaureate degree. In no event shall a survivor receive a grant beyond the completion of the first baccalaureate degree, regardless of age.

4. The coordinating board for higher education shall:

(1) Promulgate all necessary rules and regulations for the implementation of this section; and

(2) Provide the forms and determine the procedures necessary for a survivor to apply for and receive a grant under this section.

5. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

6. In order to be eligible to receive a grant under this section, a survivor shall be certified as eligible by the Missouri veterans' commission. **[**In the case of an illness-related death, such certification shall be made upon qualified medical certification by a Veterans' Administration medical authority that the illness was both a direct result of the veteran's combat service and a substantial factor in the cause of the resulting death of the veteran.**]**

7. A survivor who is enrolled or has been accepted for enrollment as an undergraduate postsecondary student at an approved institution of postsecondary education, and who is selected to receive a grant under this section, shall receive the following:

(1) An amount not to exceed the actual tuition charged at the approved institution of postsecondary education where the survivor is enrolled or accepted for enrollment;

(2) An allowance of up to two thousand dollars per semester for room and board; and

(3) The actual cost of books, up to a maximum of five hundred dollars per semester.

8. A survivor who is a recipient of a grant may transfer from one approved public institution of postsecondary education to another without losing his or her entitlement under this section. The board shall make necessary adjustments in the amount of the grant. If a grant recipient at any time withdraws from the institution of postsecondary education so that under the rules and regulations of that institution he or she is entitled to a refund of any tuition, fees, room and board, books, or other charges, the institution shall pay the portion of the refund to which he or she is entitled attributable to the grant for that semester or similar grading period to the board.

9. If a survivor is granted financial assistance under any other student aid program, public or private, the full amount of such aid shall be reported to the board by the institution and the eligible survivor.

10. Nothing in this section shall be construed as a promise or guarantee that a person will be admitted to an institution of postsecondary education or to a particular institution of postsecondary education, will be allowed to continue to attend an institution of postsecondary

education after having been admitted, or will be graduated from an institution of postsecondary education.

11. The benefits conferred by this section shall be available to any academically **[**qualified surviving spouse or children of war veterans**] eligible student of a qualifying military member**. Surviving children who are eligible shall be permitted to apply for full benefits conferred by this section until they reach twenty-five years of age.

12. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall sunset automatically six years after August 28, 2008, unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall sunset automatically twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

173.1155. DEPENDENTS OF MILITARY PERSONNEL ASSIGNED GEOGRAPHICALLY WITHIN THIS STATE ELIGIBLE FOR IN-STATE TUITION. — Notwithstanding any other provision of law, all dependents, as defined by 37 U.S.C. Section 401, of active duty military personnel, or activated or temporarily mobilized reservists or guard members, assigned to a permanent duty station or workplace geographically located in this state, who reside in this state, shall be deemed to be domiciled in this state for purposes of eligibility for in-state tuition and shall be eligible to receive in-state tuition at public institutions of higher education in this state. All such dependents shall be afforded the same educational benefits as any other individual receiving in-state tuition so long as he or she is continuously enrolled in an undergraduate or graduate degree program of an institution of higher education in Missouri, or transferring between Missouri institutions of higher education or from an undergraduate degree program to a graduate degree program.

194.360. VETERANS, CREMATED REMAINS — DEFINITIONS — FUNERAL ESTABLISHMENT NOT LIABLE FOR NEGLIGENCE, WHEN, NOTICE REQUIRED. — 1. As used in this section the following terms shall mean:

(1) "Funeral establishment", as defined in section 333.011, RSMo, a funeral home, a funeral director, an embalmer, or an employee of any of the individuals or entities;

(2) "Veterans' service organization", an association or other entity organized for the benefit of veterans that has been recognized or chartered by the United States congress, including the disabled American veterans, veterans of foreign wars, the American legion, the legion of honor, the missing in America project, and the Vietnam veterans of America. The term includes a member or employee of any of those associations or entities.

2. A funeral establishment is not liable for simple negligence in the disposition of the cremated remains of a veteran to a veterans' service organization for the purposes of internment by that organization if:

(1) The remains have been in the possession of the funeral establishment for a period of at least one year, all or any part of which period may occur or may have occurred before or after August 28, 2009;

(2) The funeral establishment has given notice, as provided in subdivision (1) or (2) of subsection 3 of this section, to the person entitled to the remains under section 194.350 of the matters provided in subsection 4 of this section; and

(3) The remains have not been claimed by the person entitled to the remains under section 194.350 within the period of time provided for in subsection 4 of this section following notice to the person entitled to the remains under section 194.350.

3. In order for the immunity provided in subsection 2 of this section to apply, a funeral establishment shall take the following action, alone or in conjunction with a

veterans' service organization, to provide notice to the person entitled to the remains under section 194.350:

(1) Give written notice by mail to the person entitled to the remains under section 194.350 for whom the address of the person entitled to the remains under section 194.350 is known or can reasonably be ascertained by the funeral establishment giving the notice; or

(2) If the address of the person entitled to the remains under section 194.350 is not known or cannot reasonably be ascertained, give notice to the person entitled to the remains under section 194.350 by publication in a newspaper of general circulation:

(a) In the county of the veterans' residence; or

(b) If the residence of the veteran is unknown, in the county in which the veteran died; or

(c) If the county in which the veteran died is unknown, in the county in which the funeral establishment giving notice is located.

4. The notice required by subsection 3 of this section must include a statement to the effect that the remains of the veteran must be claimed by the person entitled to the remains under section 194.350 within thirty days after the date of mailing of the written notice provided for in subdivision (1) of subsection 3 of this section or within four months of the date of the first publication of the notice provided for in subdivision (2) of subsection 3 of this section, as applicable, and that if the remains are not claimed, the remains may be given to a veterans' service organization for internment.

5. A veterans' service organization receiving cremated remains of a veteran from a funeral establishment for the purposes of internment is not liable for simple negligence in the custody or internment of the remains if the veterans' service organization inters and does not scatter the remains and does not know and has no reason to know that the remains do not satisfy the requirements of subdivision (1) or (2) of subsection 3 of this section, as applicable.

6. A veterans' service organization accepting remains under this section shall take all reasonable steps to inter the remains in a veterans' cemetery.

227.297. HEROES WAY INTERSTATE INTERCHANGE DESIGNATION PROGRAM ESTABLISHED — SIGNAGE — APPLICATION PROCEDURE — JOINT COMMITTEE TO REVIEW APPLICATIONS. — 1. This section establishes an interstate interchange designation program, to be known as the "Heroes Way Interstate Interchange Designation Program", to honor the fallen Missouri heroes who have been killed in action while performing active military duty with the armed forces in Afghanistan or Iraq on or after September 11, 2001. The signs shall be placed upon the interstate interchanges in accordance with this section, and any applicable federal limitations or conditions on highway signage, including location and spacing.

2. Any person who is related by marriage, adoption, or consanguinity within the second degree to a member of the United States armed forces who was killed in action while performing active military duty with the armed forces in Afghanistan or Iraq on or after September 11, 2001, and who was a resident of this state at the time he or she was killed in action, may apply for an interstate interchange designation under the provisions of this section.

3. Any person described under subsection 2 of this section who desires to have an interstate interchange designated after his or her family member shall petition the department of transportation by submitting the following:

(1) An application in a form prescribed by the director, describing the interstate interchange for which the designation is sought and the proposed name of the interstate interchange. The application shall include the name of at least one current member of the

general assembly who will sponsor the interstate interchange designation. The application may contain written testimony for support of the interstate interchange designation;

(2) Proof that the family member killed in action was a member of the United States armed forces and proof that such family member was in fact killed in action while performing active military duty with the United States armed forces in Afghanistan or Iraq on or after September 11, 2001. Acceptable proof shall be a statement from the Missouri veterans commission or the United States Department of Veterans Affairs so certifying such facts;

(3) By signing a form provided by the Missouri transportation department, the applicant shall certify that the applicant is related by marriage, adoption, or consanguinity within the second degree to the member of the United States armed forces who was killed in action; and

(4) A fee to be determined by the commission to cover the costs of constructing and maintaining the proposed interstate interchange signs. The fee shall not exceed the cost of constructing and maintaining each sign.

4. All moneys received by the department of transportation for the construction and maintenance of an interstate interchange signs shall be deposited in the state treasury to the credit of the state road fund.

5. The documents and fees required under this section shall be submitted to the department of transportation.

6. The department of transportation shall submit for approval or disapproval all applications for interstate interchange designations to the joint committee on transportation oversight. The joint committee on transportation oversight may review such applications at any scheduled meeting convened pursuant to section 21.795, RSMo. If satisfied with the application and all its contents, the committee shall approve the application. The committee shall notify the department of transportation upon the approval or denial of an application for an interstate interchange designation.

7. The department of transportation shall give notice of any proposed interstate interchange designation under this section in a manner reasonably calculated to advise the public of such proposal. Reasonable notice shall include posting the proposal for the designation on the department's official public web site and making available copies of the sign designation application to any representative of the news media or public upon request and posting the application on a bulletin board or other prominent public place which is easily accessible to the public and clearly designated for that purpose at the principal office.

8. If the memorial interstate interchange designation request is not approved by the joint committee on transportation oversight, ninety-seven percent of the application fee shall be refunded to the applicant.

9. Two signs shall be erected for each interstate interchange designation processed under this section.

10. No interstate interchange may be named or designated after more than one member of the United States armed forces killed in action. Such person shall only be eligible for one interstate interchange designation under the provisions of this section.

11. Any highway signs erected for any interstate interchange designation under the provisions of this section shall be erected and maintained for a twenty-year period. After such period, the signs shall be subject to removal by the department of transportation and the interstate interchange may be designated to honor persons other than the current designee. An existing interstate interchange designation processed under the provisions of this section may be retained for additional twenty-year increments if, at least one year before the designation's expiration, an application to the department of transportation is made to retain the designation along with the required documents and all applicable fees required under this section.

227.311. VETERANS MEMORIAL HIGHWAY DESIGNATED FOR PORTION OF POPLAR BLUFF BYPASS IN BUTLER COUNTY. — The portion of the Poplar Bluff bypass located in Butler County from highway 60 where it crosses over the Black River to highway 67 where it crosses Missouri highway M, shall be designated as the "Veterans Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway, with the costs for such designation to be paid for by private donations.

301.451. PURPLE HEART MEDAL, SPECIAL LICENSE PLATES. — Any person who has been awarded the purple heart medal may apply for special motor vehicle license plates for any vehicle he **or she** owns, either solely or jointly, other than commercial vehicles weighing over twelve thousand pounds. Any such person shall make application for the special license plates on a form provided by the director of revenue and furnish such proof as a recipient of the purple heart medal as the director may require. The director shall then issue license plates bearing letters or numbers or a combination thereof, with the words "PURPLE HEART" in place of the words "SHOW-ME STATE" in a form prescribed by the advisory committee established in section 301.129. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. **There shall be no fee in addition to regular registration fees for the initial set of plates issued to the applicant, however,** there shall be an additional fee charged for each **subsequent** set of special purple heart license plates issued equal to the fee charged for personalized license plates, but the additional fee shall only have to be paid once by the qualified applicant at the time of initial application **for the additional set of plates**. There shall be no limit on the number of license plates any person qualified under this section may obtain so long as each set of license plates issued under this section is issued for vehicles owned solely or jointly by such person. License plates issued under the provisions of this section shall not be transferable to any other person except that any registered co-owner of the motor vehicle shall be entitled to operate the motor vehicle for the duration of the year licensed in the event of the death of the qualified person.

301.3157. ARMED FORCES EXPEDITIONARY MEDAL SPECIAL LICENSE PLATE, PROCEDURE. — 1. Any person who has been awarded the military service award known as the "Armed Forces Expeditionary Medal" may apply for Armed Forces Expeditionary Medal motor vehicle license plates for any motor vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight.

2. Any such person shall make application for Armed Forces Expeditionary Medal license plates on a form provided by the director of revenue and furnish such proof as a recipient of the Armed Forces Expeditionary Medal as the director may require. The director shall then issue license plates bearing letters or numbers or a combination thereof as determined by the director with the words "ARMED FORCES EXPEDITIONARY MEDAL" in place of the words "SHOW-ME STATE". Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Such plates shall also be inscribed with the words "expeditionary service" and bear a reproduction of the armed forces expeditionary service ribbon.

3. There shall be a fifteen dollar fee in addition to the regular registration fees charged for each set of Armed Forces Expeditionary Medal license plates issued under this section. A fee for the issuance of personalized license plates pursuant to section 301.144 shall not be required for plates issued under this section. There shall be no limit on the number of license plates any person qualified pursuant to this section may obtain so long as each set of license plates issued pursuant to this section is issued for vehicles

owned solely or jointly by such person. License plates issued pursuant to the provisions of this section shall not be transferable to any other person except that any registered co-owner of the motor vehicle shall be entitled to operate the motor vehicle with such plates for the duration of the year licensed in the event of the death of the qualified person.

304.840. VETERANS DISPLAYING SPECIAL LICENSE PLATES OR BRONZE STAR RECIPIENT MAY PARK WITHOUT CHARGE IN METERED PARKING — WINDSHIELD PLACARD FOR BRONZE STAR RECIPIENTS — EXCEPTIONS. — 1. A veteran displaying special license plates issued under section 301.145, 301.443, 301.451, or 301.456, RSMo, or a veteran who is a bronze star recipient who displays a placard issued under subsection 2 of this section, may park his or her motor vehicle, weighing not more than six thousand pounds gross weight, without charge, in a metered parking space.

2. A veteran who has been awarded the military service award known as the "Bronze Star" may apply to the director of revenue for a removable windshield placard. Upon application, such veteran shall present proof to the director of his or her receipt of such award. Such placard shall be hung from the front, middle rearview mirror of a parked motor vehicle and may not be hung from the mirror during operation. When there is no rearview mirror, the placard shall be displayed on the dashboard on the driver's side.

3. A local authority's compliance with this section is solely contingent upon the approval of its governing body.

4. This section does not exempt a vehicle displaying special license plates under section 301.145, 301.443, 301.451, or 301.456, RSMo, or displaying a placard as provided in subsection 2 of this section, from compliance with any other state law or ordinance, including, but not limited to, vehicle height restrictions, zones that prohibit stopping, parking, or standing of all vehicles, parking time limitations, street sweeping, restrictions of the parking space to a particular type of vehicle, or the parking of a vehicle that is involved in the operation of a street vending business.

5. This section does not authorize a vehicle displaying special license plates under section 301.145, 301.443, 301.451, or 301.456, RSMo, or displaying a placard as provided in subsection 2 of this section, to park in a state parking facility that is designated only for state employees.

6. This section does not authorize a vehicle displaying special license plates under section 301.145, 301.443, 301.451, or 301.456, RSMo, or displaying a placard as provided in subsection 2 of this section, to park during time periods other than the normal business hours of, or the maximum time allotted by, a state or local authority parking facility.

7. This section does not require the state or a local authority to designate specific parking spaces for vehicles displaying special license plates under section 301.145, 301.443, 301.451, or 301.456, RSMo, or displaying a placard as provided in subsection 2 of this section.

452.412. MILITARY SERVICE OF PARENT NOT TO BE A BASIS FOR MODIFICATION OF A VISITATION OR CUSTODY ORDER — LIMITATIONS ON ISSUANCE OF CERTAIN COURT ORDERS. — 1. A party's absence, relocation, or failure to comply with custody and visitation orders shall not, by itself, be sufficient to justify a modification of a custody or visitation order if the reason for the absence, relocation, or failure to comply is the party's activation to military service and deployment out-of-state.

2. For a party in active military service and deployed out-of-state, any court order:

(1) Issued or modified regarding child custody or visitation during the time of such out-of-state military deployment of the party, including as part of an entry of decree of dissolution of marriage or legal separation, shall be temporary in nature and shall not exceed the length of time of such deployment;

(2) Issued regarding ex parte adult or child orders of protection under sections 455.010 to 455.085, RSMo, or sections 455.500 to 455.538, RSMo, during the time of such out-of-state military deployment of the party, may be extended beyond the initial fifteen days required under sections 455.040 and 455.516, RSMo. Such orders issued under this subdivision shall be temporary in nature and shall not exceed the length of time of such deployment.

Upon such party's return from out-of-state military deployment, the party shall be given an opportunity to be heard on the child custody and visitation order or ex parte order of protection prior to a permanent order being entered by the court as to such issues. If the party in active military service knowingly and voluntarily signs a written waiver to the right to have such a hearing upon the party's return from out-of-state military deployment, the court may issue a permanent order on the issues under this section.

Approved July 13, 2009

HB 481 [SS HCS HB 481]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding courts and judicial proceedings

AN ACT to repeal sections 41.950, 60.010, 82.300, 84.150, 84.175, 141.160, 208.040, 208.055, 217.450, 217.460, 229.110, 347.179, 347.183, 351.047, 351.120, 351.125, 351.127, 351.145, 351.155, 351.484, 351.592, 351.594, 351.598, 351.602, 351.690, 355.016, 355.021, 355.066, 355.071, 355.151, 355.176, 355.688, 355.706, 355.796, 355.806, 355.811, 355.821, 355.856, 356.211, 359.681, 452.305, 452.310, 452.312, 452.343, 452.423, 452.440, 452.445, 452.450, 452.455, 452.460, 452.465, 452.470, 452.475, 452.480, 452.485, 452.490, 452.495, 452.500, 452.505, 452.510, 452.515, 452.520, 452.525, 452.530, 452.535, 452.540, 452.545, 452.550, 454.500, 455.010, 473.743, 476.415, 485.077, 516.200, 517.041, 535.030, 535.120, 545.050, 550.050, 550.070, 550.080, 550.090, 561.031, 537.610, 630.407, and 650.055, RSMo, section 454.516 as enacted by conference committee substitute for house substitute for house committee substitute for senate bill no. 895, ninety-first general assembly, second regular session, and to enact in lieu thereof one hundred twenty-five new sections relating to courts and judicial proceedings, with penalty provisions.

SECTION

A. Enacting clause.
41.950. Members of military forces called to active duty — relieved from certain provisions of law.
60.010. Surveyor to be elected in certain counties — qualifications — term.
82.300. Certain cities may enact ordinances, purposes, punishments (including Kansas City).
82.1026. Vacant nuisance building or structure, building official may petition for appointment of receiver (Kansas City).
84.150. Number of officers in each rank.
84.175. Police reserve force authorized, powers and duties — riots or emergencies, may appoint additional members.
141.160. General law relating to taxation to apply to first class charter counties — exception.
173.270. Foster care or residential care students, waiver of tuition and fees, when.
208.040. Temporary assistance benefits — eligibility for — assignment of rights to support to state, when, effect of.
208.055. Public assistance recipients required to cooperate in establishing paternity — assignment of child support rights, when — public assistance defined.

217.450. Offender may request final disposition of pending indictment, information or complaint, how requested — director to notify offender of pending actions, failure to notify, effect.
217.460. Trial to be held, when — failure, effect.
227.409. Jack Buck Memorial Highway designated for portion of Interstate I-64/US 40.
347.179. Fees.
347.183. Additional duties of secretary.
351.047. Forms.
351.120. Corporate registration report required, when — change in registered office or agent to be filed with report.
351.122. Option of biennial filing of corporate registration reports.
351.125. Fee.
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351.145. Notice provided for corporate registration report.
351.155. Duplicate forms, when furnished.
351.484. Grounds for administrative dissolution.
351.592. Resignation of registered agent of foreign corporation.
351.594. Service on foreign corporation.
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351.602. Procedure and effect of revocation.
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355.016. Forms.
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355.811. Procedure, effect of revocation.
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356.211. Registration report — filed when, contents — form — fee — penalties for failure to file or making false declarations.
359.681. Powers and authority of secretary of state — examination of books and records — failure to exhibit, penalty — cancellation or disapproval of certificate, when, notice, appeal in circuit court — petition for appeal, filed when — rescission of cancellation — late filing fees, penalty.
376.789. Definition of actual charge and actual fee.
379.130. Insurance claims, percentage of fault not to be assigned based solely on operation of a motorcycle.
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Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 41.950, 60.010, 82.300, 84.150, 84.175, 141.160, 208.040, 208.055, 217.450, 217.460, 229.110, 347.179, 347.183, 351.047, 351.120, 351.125, 351.127, 351.145, 351.155, 351.484, 351.592, 351.594, 351.598, 351.602, 351.690, 355.016, 355.021, 355.066, 355.071, 355.151, 355.176, 355.688, 355.706, 355.796, 355.806, 355.811, 355.821, 355.856, 356.211, 359.681, 452.305, 452.310, 452.312, 452.343, 452.423, 452.440, 452.445, 452.450, 452.455, 452.460, 452.465, 452.470, 452.475, 452.480, 452.485, 452.490, 452.495, 452.500, 452.505, 452.510, 452.515, 452.520, 452.525, 452.530, 452.535, 452.540, 452.545, 452.550, 454.500, 455.010, 473.743, 476.415, 485.077, 516.200, 517.041, 535.030, 535.120, 545.050, 550.050, 550.070, 550.080, 550.090, 561.031, 537.610, 630.407, and 650.055, RSMo, section 454.516 as enacted by conference committee substitute for house substitute for house committee substitute for senate bill no. 895, ninety-first general assembly, second regular session, are repealed and one hundred twenty-five new sections enacted in lieu thereof, to be known as sections 41.950, 60.010, 82.300, 82.1026, 84.150, 84.175, 141.160, 173.270, 208.040, 208.055, 217.450, 217.460, 227.409, 347.179, 347.183, 351.047, 351.120, 351.122, 351.125, 351.127, 351.145, 351.155, 351.484, 351.592, 351.594, 351.598, 351.602, 351.690, 355.016, 355.021, 355.066, 355.071, 355.151, 355.176, 355.688, 355.706, 355.796, 355.806, 355.811, 355.821, 355.856, 355.857, 356.211, 359.681, 376.789, 379.130, 452.305, 452.310, 452.312, 452.343, 452.423, 452.426, 452.430, 452.700, 452.705, 452.710, 452.715, 452.720, 452.725, 452.730, 452.735, 452.740, 452.745, 452.747, 452.750, 452.755, 452.760, 452.762, 452.765, 452.770, 452.775, 452.780, 452.782, 452.785, 452.790, 452.795, 452.800, 452.805, 452.810, 452.815, 452.820, 452.825, 452.830, 452.835, 452.840, 452.845, 452.850, 452.855, 452.860, 452.865, 452.870, 452.875, 452.880, 452.885, 452.890, 452.895, 452.900, 452.905, 452.910, 452.915, 452.920, 452.925, 452.930, 454.500, 455.010, 473.743, 475.375, 476.415, 485.077, 509.520, 516.200, 517.041, 535.030, 535.120, 537.055, 537.296, 537.610, 545.050, 561.031, 630.407, 650.055, 1, 2, 3, and 4, to read as follows:

41.950. MEMBERS OF MILITARY FORCES CALLED TO ACTIVE DUTY — RELIEVED FROM CERTAIN PROVISIONS OF LAW. — 1. Any resident of this state who is a member of the national guard or of any reserve component of the armed forces of the United States or who is a member of the United States Army, the United States Navy, the United States Air Force, the United States Marine Corps, the United States Coast Guard or an officer of the United States Public Health Service detailed by proper authority for duty with any branch of the United States armed forces described in this section and who is engaged in the performance of active duty in the military service of the United States in a military conflict in which reserve components have been called to active duty under the authority of 10 U.S.C. 672(d) or 10 U.S.C. 673b or any such subsequent call or order by the President or Congress for any period of thirty days or more shall be relieved from certain provisions of state law, as follows:

(1) No person performing such military service who owns a motor vehicle shall be required to maintain financial responsibility on such motor vehicle as required under section 303.025, RSMo, until such time as that person completes such military service, unless any person shall be operating such motor vehicle while the vehicle owner is performing such military service;

(2) No person failing to renew his driver's license while performing such military service shall be required to take a complete examination as required under section 302.173, RSMo, when renewing his license within sixty days after completing such military service;

(3) Any motor vehicle registration required under chapter 301, RSMo, that expires for any person performing such military service may be renewed by such person within sixty days of completing such military service without being required to pay a delinquent registration fee; however, such motor vehicle shall not be operated while the person is performing such military service unless the motor vehicle registration is renewed;

(4) Any person enrolled by the supreme court of Missouri or licensed, registered or certified under chapter 168, 256, **[**289,**]** 317, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 375, 640 or 644, RSMo, and interpreters licensed under sections 209.319 to 209.339, RSMo, whose license, registration or certification expires while performing such military service, may renew such license, registration or certification within sixty days of completing such military service without penalty;

(5) In the case of **[**annual**] corporate registration** reports, franchise tax reports or other reports required to be filed with the office of secretary of state, where the filing of such report would be delayed because of a person performing such military service, such reports shall be filed without penalty within one hundred twenty days of the completion of such military service;

(6) No person performing such military service who is subject to a criminal summons for a traffic violation shall be subject to nonappearance sanctions for such violation until after one hundred eighty days after the completion of such military service;

(7) No person performing such military service who is required under state law to file financial disclosure reports shall be required to file such reports while performing such military service; however, such reports covering that period of time that such military service is performed shall be filed within one hundred eighty days after the completion of such military service;

(8) Any person with an indebtedness, liability or obligation for state income tax or property tax on personal or real property who is performing such military service or a spouse of such person filing a combined return or owning property jointly shall be granted an extension to file any papers or to pay any obligation until one hundred eighty days after the completion of such military service or continuous hospitalization as a result of such military service notwithstanding the provisions of section 143.991, RSMo, to the contrary and shall be allowed to pay such tax without penalty or interest if paid within the one hundred eighty-day period;

(9) Notwithstanding other provisions of the law to the contrary, for the purposes of this section, interest shall be allowed and paid on any overpayment of tax imposed by sections 143.011 to 143.998, RSMo, at the rate of six percent per annum from the original due date of the return or the date the tax was paid, whichever is later;

(10) No state agency, board, commission or administrative tribunal shall take any administrative action against any person performing such military service for that person's failure to take any required action or meet any required obligation not already provided for in subdivisions (1) to (8) of this subsection until one hundred eighty days after the completion of such military service, except that any agency, board, commission or administrative tribunal affected by this subdivision may, in its discretion, extend the time required to take such action or meet such obligation beyond the one hundred eighty-day period;

(11) Any disciplinary or administrative action or proceeding before any state agency, board, commission or administrative tribunal where the person performing such military service is a necessary party, which occurs during such period of military service, shall be stayed by the administrative entity before which it is pending until sixty days after the end of such military service.

2. Upon completing such military service, the person shall provide the appropriate agency, board, commission or administrative tribunal an official order from the appropriate military authority as evidence of such military service.

3. The provisions of this section shall apply to any individual **[**defined**]** **described** in subsection 1 of this section who performs such military service on or after August 2, 1990.

60.010. SURVEYOR TO BE ELECTED IN CERTAIN COUNTIES — QUALIFICATIONS — TERM. — 1. At the regular general election in the year 1948, and every four years thereafter, the voters of each county of this state in counties of the second, third, and fourth classification shall elect a registered land surveyor as county surveyor, who shall hold **[**his**]** office for four years and until **[**his**]** **a** successor is duly elected, commissioned and qualified. The person elected shall be commissioned by the governor.

2. No person shall be elected or appointed surveyor unless **[**he be**]** **such person is** a citizen of the United States, over the age of twenty-one years, **[**be**]** a registered land surveyor, and shall have resided within the state one whole year. An elected surveyor shall have resided within the county for which **[**he**]** **the person** is elected six months immediately prior to **[**his**]** election and shall after **[**his**]** election continue to reside within the county for which **[**he**]** **the person** is surveyor. An appointed surveyor need not reside within the county for which **[**he**]** **the person** is surveyor.

3. Notwithstanding the provisions of subsection 1 of this section, or any other law to the contrary, the county commission of any county of the third or fourth classification may appoint a surveyor following **[**a general election in which**]** **the deadline for filing for** the office of surveyor **[**is on the ballot**]**, if no qualified candidate **[**seeks said**]** **files for the** office **in the general election in which the office would have been on the ballot, provided that the notice required by section 115.345, RSMo, has been published in at least one newspaper of general circulation in the county**. The appointed surveyor shall serve at the pleasure of the county commission, however, an appointed surveyor shall forfeit said office once a qualified individual, who has been duly elected at a regularly scheduled general election where the office of surveyor is on the ballot and who has been commissioned by the governor, takes office. The county commission shall fix appropriate compensation, which need not be equal to that of an elected surveyor.

82.300. CERTAIN CITIES MAY ENACT ORDINANCES, PURPOSES, PUNISHMENTS (INCLUDING KANSAS CITY). — 1. Any city with a population of four hundred thousand or more inhabitants which is located in more than one county may enact all needful ordinances for preserving order, securing persons or property from violence, danger and destruction, protecting public and private property and for promoting the general interests and ensuring the good government of the city, and for the protection, regulation and orderly government of parks, public grounds and other public property of the city, both within and beyond the corporate limits of such city; and to prescribe and impose, enforce and collect fines, forfeitures and penalties for the

breach of any provisions of such ordinances and to punish the violation of such ordinances by fine or imprisonment, or by both fine and imprisonment; but no fine shall exceed **[**five hundred**]** **one thousand** dollars nor imprisonment exceed twelve months for any such offense, except as provided in subsection 2 of this section.

2. Any city with a population of four hundred thousand or more inhabitants which is located in more than one county which operates a publicly owned treatment works in accordance with an approved pretreatment program pursuant to the federal Clean Water Act, 33 U.S.C. 1251, et seq. and chapter 644, RSMo, may enact all necessary ordinances which require compliance by an industrial user with any pretreatment standard or requirement. Such ordinances may authorize injunctive relief or the imposition of a fine of at least one thousand dollars but not more than five thousand dollars per violation for noncompliance with such pretreatment standards or requirements. For any continuing violation, each day of the violation shall be considered a separate offense.

3. Any city with a population of more than four hundred thousand inhabitants may enact all needful ordinances to protect public and private property from illegal and unauthorized dumping and littering, and to punish the violation of such ordinances by a fine not to exceed one thousand dollars or by imprisonment not to exceed twelve months for each offense, or by both such fine and imprisonment.

4. Any city with a population of more than four hundred thousand inhabitants may enact all needful ordinances to protect public and private property from nuisance and property maintenance code violations, and to punish the violation of such ordinances by a fine not to exceed one thousand dollars or by imprisonment not to exceed twelve months for each offense, or by both such fine and imprisonment.

82.1026. VACANT NUISANCE BUILDING OR STRUCTURE, BUILDING OFFICIAL MAY PETITION FOR APPOINTMENT OF RECEIVER (KANSAS CITY). — The governing body of any home rule city with more than four hundred thousand inhabitants and located in more than one county may enact ordinances to provide for the building official of the city or any authorized representative of the building official to petition the circuit court in the county in which a vacant nuisance building or structure is located for the appointment of a receiver to rehabilitate the building or structure, to demolish it, or to sell it to a qualified buyer.

84.150. NUMBER OF OFFICERS IN EACH RANK. — The officers of the police force in each such city shall be as follows: One chief of police with the rank of colonel; **[**one assistant chief of police with the rank of lieutenant colonel; one chief of detectives with the rank of lieutenant colonel; one inspector of police with the rank of lieutenant colonel; and two other lieutenant colonels, making a total of five lieutenant colonels, except that upon reaching two thousand eighty-seven patrolmen pursuant to the provisions of section 84.100 an additional lieutenant colonel shall be appointed, making a total of six lieutenant colonels; one assistant chief of detectives with the rank of major and five other majors, except that upon reaching two thousand eighty-seven patrolmen pursuant to the provisions of section 84.100 an additional major shall be appointed, making a total of seven majors; twenty-two captains, except that upon reaching two thousand eighty-seven patrolmen pursuant to the provisions of section 84.100 an additional two captains shall be appointed, making a total of twenty-four captains; sixty-seven lieutenants, except that for each thirty-eight additional patrolmen appointed pursuant to the provisions of section 84.100 an additional lieutenant shall be appointed; two hundred sixty sergeants, except that for each nine additional patrolmen appointed pursuant to the provisions of section 84.100 an additional sergeant shall be appointed. No further appointments to the rank of corporal shall hereafter be made, but all members of the force now holding the rank of corporal shall continue in such rank until their promotion, demotion, removal, resignation or other separation from the force**] lieutenant colonels, not to exceed five in number and other such ranks and number**

of members within such ranks as the board from time to time deems necessary. The officers of the police force shall have commissions issued to them by the boards of police commissioners, and those heretofore and those hereafter commissioned shall serve so long as they shall faithfully perform their duties and possess the necessary mental and physical ability, and be subject to removal only for cause after a hearing by the board, who are hereby invested with exclusive jurisdiction in the premises. **[**Any increase in the number of officers to be appointed, in addition to that provided for above, shall be permitted upon recommendation by the board of police commissioners with the approval of the municipal board of estimate and apportionment.**]**

84.175. POLICE RESERVE FORCE AUTHORIZED, POWERS AND DUTIES — RIOTS OR EMERGENCIES, MAY APPOINT ADDITIONAL MEMBERS. — 1. Upon recommendation of the chief of police, the board may authorize and provide for the organization of a police reserve force composed of **[**residents of the city**] members who receive a service retirement under the provisions of sections 86.200 to 86.366, RSMo, and** who qualify under the provisions of section 84.120. Such reserve force shall be under the command of the chief of police and shall be provided training, equipment, uniforms, and arms as the chief shall direct with the approval of the board**[**; and when assigned to active duty the**] .** Members of the reserve force shall possess all of the powers of regular police officers and shall be subject to all laws and regulations applicable to police officers; provided, however, that the city council or other governing body of any such city may in its discretion fix a total in number which the reserve force may not exceed.

2. In event of riot or other emergencies as declared and defined by the mayor, in concurrence with the board, the board, upon recommendation of the chief, may appoint special officers or patrolmen for temporary service in addition to the police reserve force herein provided for, but the length of time for which such officers or patrolmen shall be employed shall be limited to the time during which such emergency shall exist.

141.160. GENERAL LAW RELATING TO TAXATION TO APPLY TO FIRST CLASS CHARTER COUNTIES — EXCEPTION. — 1. The general law relating to taxation and the collection of delinquent taxes, as now existing, shall apply to counties of the first class having a charter form of government insofar as not inconsistent with the provisions of sections 141.010 to 141.160, except that counties of the first class operating under a charter form of government may hereafter elect to operate under the provisions of chapter 140, RSMo, the general law relating to the collection of delinquent taxes, by the enactment of an ordinance by the legislative body of such county.

2. **In addition to any other provisions of law related to delinquent tax collection fees, in all counties having a charter form of government and more than six hundred thousand inhabitants, the collector shall collect on behalf of the county and pay into the county general fund an additional fee for the collection of delinquent and back taxes of five percent on all sums collected to be added to the face of the tax bill and collected from the party paying the tax.**

3. The provisions of sections 141.010 to 141.160 shall not apply to counties of the first class not having a charter form of government, and such counties shall operate under the provisions of chapter 140, RSMo.

173.270. FOSTER CARE OR RESIDENTIAL CARE STUDENTS, WAIVER OF TUITION AND FEES, WHEN. — 1. The coordinating board for higher education shall make provisions for institutions under the board's jurisdiction to award a tuition and fee waiver for undergraduate courses at state institutions of higher education for any student, beginning with incoming freshmen in the 2010 fall semester or term, who:

(1) Is a resident of this state;

(2) Has graduated within the previous three years from high school or passed the GED examination; and

(3) Has been in foster care or other residential care under the department of social services on or after:

(a) The day preceding the student's eighteenth birthday;

(b) The day of the student's fourteenth birthday, if the student was also eligible for adoption on or after that day; or

(c) The day the student graduated from high school or received a GED.

2. To be eligible for a waiver award, a student shall:

(1) Apply to and be accepted at the institution not later than:

(a) The third anniversary of the date the student was discharged from foster or other residential care, the date the student graduated from high school, or the date the student received a GED, whichever is earliest; or

(b) The student's twenty-first birthday;

(2) Apply for other student financial assistance, other than student loans, in compliance with federal financial aid rules, including the federal Pell grant;

(3) Apply to the coordinating board for higher education for a determination of eligibility. Application shall be on forms and in a manner prescribed by rule of the coordinating board; and

(4) Complete a minimum of one hundred hours of community service or public internship within a twelve-month period beginning September first for each year in which the student is receiving a tuition and fee waiver award under this section. The department of higher education, in collaboration with participating state institutions of higher education, shall by rule determine the community service and public internships that students may participate in to meet the requirements of this subdivision. A student may fulfill this requirement by completing the necessary community service or public internship hours during the summer.

3. The tuition and fee waiver provided by this section shall be awarded on an annual basis, subject to appropriation to reimburse the institution, and shall continue to be available, if the student is otherwise eligible under this section, as long as the student remains in good academic standing at the state institution of higher education. The institution shall monitor compliance with subdivision (4) of subsection 2 of this section and report it to the department of higher education.

4. The waiver provided by this section for each eligible student may be used for no more than four years of undergraduate study and may only be used after other sources of financial aid that are dedicated solely to tuition and fees are exhausted.

5. No student who is enrolled in an institution of higher education as of the effective date of this section shall be eligible for a waiver award under this section.

6. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

208.040. TEMPORARY ASSISTANCE BENEFITS — ELIGIBILITY FOR — ASSIGNMENT OF RIGHTS TO SUPPORT TO STATE, WHEN, EFFECT OF. — 1. Temporary assistance benefits shall be granted on behalf of a dependent child or children and may be granted to the parents or other needy eligible relative caring for a dependent child or children who:

(1) Is under the age of eighteen years; or is under the age of nineteen years and a full-time student in a secondary school (or at the equivalent level of vocational or technical training), if before the child attains the age of nineteen the child may reasonably be expected to complete the program of the secondary school (or vocational or technical training);

(2) Has been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent, and who is living with father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew or niece, in a place of residence maintained by one or more of such relatives as the child's own home, and financial aid for such child is necessary to save the child from neglect and to secure for the child proper care in such home. Physical or mental incapacity shall be certified to by competent medical or other appropriate authority designated by the **family support** division **[**of family services**]**, and such certificate is hereby declared to be competent evidence in any proceedings concerning the eligibility of such claimant to receive **[**aid to families with dependent children**]** **temporary assistance** benefits. Benefits may be granted and continued for this reason only while it is the judgment of the **family support** division **[**of family services**]** that a physical or mental defect, illness or disability exists which prevents the parent from performing any gainful work;

(3) Is not receiving supplemental aid to the blind, blind pension, supplemental payments, or aid or public relief as an unemployable person;

(4) Is a resident of the state of Missouri.

2. The **family support** division **[**of family services**]** shall require as additional conditions of eligibility for benefits that each applicant for or recipient of **[**aid**]** **assistance**:

(1) Shall furnish to the division the applicant or recipient's Social Security number or numbers, if the applicant or recipient has more than one such number;

(2) Shall assign to the **family support** division **[**of family services**]** in behalf of the state any rights to support from any other person such applicant may have in the applicant's own behalf or in behalf of any other **[**family member**]** **person** for whom the applicant is applying for or receiving **[**aid**]** **assistance**. An application for benefits made under this section shall constitute an assignment of support rights which shall take effect, by operation of law, upon a determination that the applicant is eligible for assistance under this section. The assignment **[**is effective as to both current and accrued support obligations**]** **shall comply with the requirements of 42 U.S.C. Section 608(a)(3)** and authorizes the **family support** division **[**of child support enforcement**]** of the department of social services to bring any administrative or judicial action to establish or enforce a current support obligation, to collect support arrearages accrued under an existing order for support, or to seek reimbursement of support provided by the division;

(3) Shall cooperate with the **[**divisions of family services and of child support enforcement**]** **family support division** unless the division **[**of family services**]** determines in accordance with federally prescribed standards that such cooperation is contrary to the best interests of the child on whose behalf **[**aid**]** **assistance** is claimed or to the caretaker of such child, in establishing the paternity of a child born out of wedlock with respect to whom **[**aid**]** **assistance** is claimed, and in obtaining support payments for such applicant and for a child with respect to whom such **[**aid**]** **assistance** is claimed, or in obtaining any other payments or property due such applicant or such child. The **[**divisions of family services and of child support enforcement**]** **family support division** shall impose all penalties allowed pursuant to federal participation requirements;

(4) Shall cooperate with the department of social services in identifying and providing information to assist the state in pursuing any third party who may be liable to pay for care and services available under the state's plan for medical assistance as provided in section 208.152, unless such individual has good cause for refusing to cooperate as determined by the department of social services in accordance with federally prescribed standards; and

(5) Shall participate in any program designed to reduce the recipient's dependence on welfare, if requested to do so by the department of social services.

3. The division shall require as a condition of eligibility for temporary assistance benefits that a minor child under the age of eighteen who has never married and who has a dependent child in his or her care, or who is pregnant and otherwise eligible for temporary assistance benefits, shall reside in a place of residence maintained by a parent, legal guardian, or other adult relative or in some other adult-supervised supportive living arrangement, as required by Section 403 of P.L. 100-485. Exceptions to the requirements of this subsection shall be allowed in accordance with requirements of the federal Family Support Act of 1988 in any of the following circumstances:

(1) The individual has no parent or legal guardian who is living or the whereabouts of the individual's parent or legal guardian is unknown; or

(2) The **family support** division **[**of family services**]** determines that the physical health or safety of the individual or the child of the individual would be jeopardized; or

(3) The individual has lived apart from any parent or legal guardian for a period of at least one year prior to the birth of the child or applying for benefits; or

(4) The individual claims to be or to have been the victim of abuse while residing in the home where she would be required to reside and the case has been referred to the child abuse hotline and a "reason to suspect finding" has been made. Households where the individual resides with a parent, legal guardian or other adult relative or in some other adult-supervised supportive living arrangement shall, subject to federal waiver to retain full federal financial participation and appropriation, have earned income disregarded from eligibility determinations up to one hundred percent of the federal poverty level.

4. If the relative with whom a child is living is found to be ineligible because of refusal to cooperate as required in subdivision (3) of subsection 2 of this section, any **[**aid**]** **assistance** for which such child is eligible will be paid in the manner provided in subsection 2 of section 208.180, without regard to subsections 1 and 2 of this section.

5. The department of social services may implement policies designed to reduce a family's dependence on welfare. The department of social services is authorized to implement these policies by rule promulgated pursuant to section 660.017, RSMo, and chapter 536, RSMo, including the following:

(1) The department shall increase the earned income and resource disregards allowed recipients to help families achieve a gradual transition to self-sufficiency, including implementing policies to simplify employment-related eligibility standards by increasing the earned income disregard to two-thirds by October 1, 1999. The expanded earned income disregard shall apply only to recipients of cash assistance who obtain employment but not to new applicants for cash assistance who are already working. Once the individual has received the two-thirds disregard for twelve months, the individual would not be eligible for the two-thirds disregard until the individual has not received temporary assistance benefits for twelve consecutive months. The department shall promulgate rules pursuant to chapter 536, RSMo, to implement the expanded earned income disregard provisions;

(2) The department shall permit a recipient's enrollment in educational programs beyond secondary education to qualify as a work activity for purposes of receipt of temporary assistance for needy families. Such education beyond secondary education shall qualify as a work activity if such recipient is attending and according to the standards of the institution and the **family support** division **[**of family services**]**, making satisfactory progress towards completion of a postsecondary or vocational program. Weekly classroom time and allowable study time shall be applied toward the recipient's weekly work requirement. Such recipient shall be subject to the sixty-month lifetime limit for receipt of temporary assistance for needy families unless otherwise excluded by rule of the **family support** division **[**of family services**]**;

(3) Beginning January 1, 2002, and every two years thereafter, the department of social services shall make a detailed report and a presentation on the temporary assistance for needy families program to the house appropriations for social services committee and the house social

services, Medicaid and the elderly committee, and the senate aging, families and mental health committee, or comparable committees;

(4) Other policies designed to reduce a family's dependence on welfare may include supplementing wages for recipients for the lesser of forty-eight months or the length of the recipient's employment by diverting the temporary assistance grant.

The provisions of this subsection shall be subject to compliance by the department with all applicable federal laws and rules regarding temporary assistance for needy families.

6. The work history requirements and definition of "unemployed" shall not apply to any parents in order for these parents to be eligible for assistance pursuant to section 208.041.

7. The department shall continue to apply uniform standards of eligibility and benefits, excepting pilot projects, in all political subdivisions of the state.

8. Consistent with federal law, the department shall establish income and resource eligibility requirements that are no more restrictive than its July 16, 1996, income and resource eligibility requirements in determining eligibility for temporary assistance benefits.

208.055. PUBLIC ASSISTANCE RECIPIENTS REQUIRED TO COOPERATE IN ESTABLISHING PATERNITY — ASSIGNMENT OF CHILD SUPPORT RIGHTS, WHEN — PUBLIC ASSISTANCE DEFINED. — 1. A person who has applied for or is receiving public assistance under programs funded under Part A of Title IV**[**, the work first program**]** or Title XIX of the federal Social Security Act shall:

(1) Cooperate in good faith in establishing the paternity of, or in establishing, modifying, or enforcing a support order for any child of such person by providing the **family support** division **[**of child support enforcement**]** with the name of the noncustodial parent of the child and such other information as the division may require with respect to such parent, subject to good cause and other exceptions to be applied in each case as defined by the **family support** division **[**of child support enforcement**]**; and

(2) A person who has applied for or is receiving assistance under programs funded under Part A of Title IV of the federal Social Security Act **[**and the work first program**]** shall assign to the state any rights to support from any other person such applicant may have in the applicant's own behalf or on behalf of any other family member for whom the applicant is applying for or receiving public assistance. An application for public assistance shall constitute an assignment of support rights and shall take effect by operation of law upon a determination that the applicant is eligible for public assistance. The assignment **[**is effective for both current and accrued support obligations, unless otherwise prohibited by the federal Social Security Act**] shall comply with the requirements of 42 U.S.C. Section 608(a)(3)**, and authorizes the **family support** division **[**of child support enforcement**]** to bring any administrative or judicial action to establish, modify or enforce a current support obligation, to collect support arrearages accrued under an existing order for support, or to seek reimbursement of public assistance provided by the state pursuant to Part IV of the federal Social Security Act.

2. For purposes of this section, "public assistance" means any income support benefit, including, but not limited to, money, institutional care, or shelter, except temporary shelter. Public assistance includes programs under the federal Social Security Act including, but not limited to, Part IV-A, as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Public assistance shall not include:

(1) A noncash benefit; or

(2) A short term benefit.

217.450. OFFENDER MAY REQUEST FINAL DISPOSITION OF PENDING INDICTMENT, INFORMATION OR COMPLAINT, HOW REQUESTED — DIRECTOR TO NOTIFY OFFENDER OF PENDING ACTIONS, FAILURE TO NOTIFY, EFFECT. — 1. Any person confined in a department correctional facility may request a final disposition of any untried indictment, information or

complaint pending in this state on the basis of which a **law enforcement agency, prosecuting attorney's office, or circuit attorney's office has delivered a certified copy of a warrant and has requested that a** detainer **[**has been**]** **be** lodged against him **[**while so imprisoned**]** **with the facility where the offender is confined**. The request shall be in writing addressed to the court in which the indictment, information or complaint is pending and to the prosecuting attorney charged with the duty of prosecuting it, and shall set forth the place of imprisonment.

2. **When the director receives a certified copy of a warrant and a written request by the issuing agency to place a detainer, the director shall lodge a detainer in favor of the requesting agency.** The director shall promptly inform each offender in writing of the source and nature of any untried indictment, information or complaint for which a detainer has been lodged against him of which the director has knowledge, and of his right to make a request for final disposition of such indictment, information or complaint on which the detainer is based.

3. Failure of the director to **[**inform an offender, as required by this section, within one year after a detainer has been filed at the facility shall entitle him to a final dismissal of the indictment, information or complaint with prejudice**]** **comply with this section shall not be the basis for dismissing the indictment, information, or complaint unless the court also finds that the offender has been denied his constitutional right to a speedy trial**.

217.460. TRIAL TO BE HELD, WHEN — FAILURE, EFFECT. — Within one hundred eighty days after the receipt of the request and certificate, pursuant to sections 217.450 and 217.455, by the court and the prosecuting attorney or within such additional necessary or reasonable time as the court may grant, for good cause shown in open court, the offender or his counsel being present, the indictment, information or complaint shall be brought to trial. The parties may stipulate for a continuance or a continuance may be granted if notice is given to the attorney of record with an opportunity for him to be heard. If the indictment, information or complaint is not brought to trial within the period **and if the court finds that the offender's constitutional right to a speedy trial has been denied**, no court of this state shall have jurisdiction of such indictment, information or complaint, nor shall the untried indictment, information or complaint be of any further force or effect; and the court shall issue an order dismissing the same with prejudice.

227.409. JACK BUCK MEMORIAL HIGHWAY DESIGNATED FOR PORTION OF INTERSTATE I-64/US 40. — The portion of interstate highway I-64/US 40 from the McClausland/Skinker interchange east to the I-64/I-55 interchange shall be designated the "Jack Buck Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway designation, with the cost to be paid for by private donation.

347.179. FEES. — The secretary shall charge and collect:

(1) For filing the original articles of organization, a fee of one hundred dollars;

(2) **For filing the original articles of organization online, in an electronic format prescribed by the secretary of state, a fee of forty-five dollars;**

(3) Applications for registration of foreign limited liability companies and issuance of a certificate of registration to transact business in this state, a fee of one hundred dollars;

[(3)**]** **(4)** Amendments to and restatements of articles of limited liability companies to application for registration of a foreign limited liability company or any other filing otherwise provided for, a fee of twenty dollars;

[(4)**]** **(5)** Articles of termination of limited liability companies or cancellation of registration of foreign limited liability companies, a fee of twenty dollars;

[(5)**]** **(6)** For filing notice of merger or consolidation, a fee of twenty dollars;

[(6)**]** **(7)** For filing a notice of winding up, a fee of twenty dollars;

[(7)**]** **(8)** For issuing a certificate of good standing, a fee of five dollars;

[(8)**] (9)** For a notice of the abandonment of merger or consolidation, a fee of twenty dollars;

[(9)**] (10)** For furnishing a copy of any document or instrument, a fee of fifty cents per page;

[(10)**] (11)** For accepting an application for reservation of a name, or for filing a notice of the transfer or cancellation of any name reservation, a fee of twenty dollars;

[(11)**] (12)** For filing a statement of change of address of registered office or registered agent, or both, a fee of five dollars;

[(12)**] (13)** For any service of notice, demand, or process upon the secretary as resident agent of a limited liability company, a fee of twenty dollars, which amount may be recovered as taxable costs by the party instituting such suit, action, or proceeding causing such service to be made if such party prevails therein;

[(13)**] (14)** For filing an amended certificate of registration a fee of twenty dollars; and

[(14)**] (15)** For filing a statement of correction a fee of five dollars.

347.183. ADDITIONAL DUTIES OF SECRETARY. — In addition to the other powers of the secretary established in sections 347.010 to 347.187, the secretary shall, as is reasonably necessary to enable the secretary to administer sections 347.010 to 347.187 efficiently and to perform the secretary's duties, have the following powers including, but not limited to:

(1) The power to examine the books and records of any limited liability company to which sections 347.010 to 347.187 apply, and it shall be the duty of any manager, member or agent of such limited liability company having possession or control of such books and records, to produce such books and records for examination on demand of the secretary or his designated employee; except that no person shall be subject to any criminal prosecution on account of any matter or thing which may be disclosed by examination of any limited liability company books and records, which they may produce or exhibit for examination; or on account of any other matter or thing concerning which they may make any voluntary and truthful statement in writing to the secretary or his designated employee. All facts obtained in the examination of the books and records of any limited liability company, or through the voluntary sworn statement of any manager, member, agent or employee of any limited liability company, shall be treated as confidential, except insofar as official duty may require the disclosure of same, or when such facts are material to any issue in any legal proceeding in which the secretary or his designated employee may be a party or called as witness, and, if the secretary or his designated employee shall, except as provided in this subdivision, disclose any information relative to the private accounts, affairs, and transactions of any such limited liability company, he shall be guilty of a class C misdemeanor. If any manager, member or registered agent in possession or control of such books and records of any such limited liability company shall refuse a demand of the secretary or his designated employee, to exhibit the books and records of such limited liability company for examination, such person shall be guilty of a class B misdemeanor;

(2) The power to cancel or disapprove any articles of organization or other filing required under sections 347.010 to 347.187, if the limited liability company fails to comply with the provisions of sections 347.010 to 347.187 by failing to file required documents under sections 347.010 to 347.187, by failing to maintain a registered agent, by failing to pay the required filing fees, by using fraud or deception in effecting any filing, by filing a required document containing a false statement, or by violating any section or sections of the criminal laws of Missouri, the federal government or any other state of the United States. Thirty days before such cancellation shall take effect, the secretary shall notify the limited liability company with written notice, either personally or by certified mail, deposited in the United States mail in a sealed envelope addressed to such limited liability company's last registered agent in office, or to one of the limited liability company's members or managers. Written notice of the secretary's proposed cancellation to the limited liability company, domestic or foreign, shall specify the reasons for such action. The limited liability company may appeal this notice of proposed cancellation to the circuit court of

the county in which the registered office of such limited liability company is or is proposed to be situated by filing with the clerk of such court a petition setting forth a copy of the articles of organization or other relevant documents and a copy of the proposed written cancellation thereof by the secretary, such petition to be filed within thirty days after notice of such cancellation shall have been given, and the matter shall be tried by the court, and the court shall either sustain the action of the secretary or direct him to take such action as the court may deem proper. An appeal from the circuit court in such a case shall be allowed as in civil action. The limited liability company may provide information to the secretary that would allow the secretary to withdraw the notice of proposed cancellation. This information may consist of, but need not be limited to, corrected statements and documents, new filings, affidavits and certified copies of other filed documents;

(3) The power to rescind cancellation provided for in subdivision (2) of this section upon compliance with either of the following:

(a) The affected limited liability company provides the necessary documents and affidavits indicating the limited liability company has corrected the conditions causing the proposed cancellation or the cancellation; or

(b) The limited liability company provides the correct statements or documentation that the limited liability company is not in violation of any section of the criminal code; and

(4) The power to charge late filing fees for any filing fee required under sections 347.010 to 347.187 and the power to impose civil penalties as provided in section 347.053. Late filing fees shall be assessed at a rate of ten dollars for each thirty-day period of delinquency**;**

(5) (a) The power to administratively cancel an articles of organization if the limited liability company's period of duration stated in articles of organization expires.

(b) Not less than thirty days before such administrative cancellation shall take effect, the secretary shall notify the limited liability company with written notice, either personally or by mail. If mailed, the notice shall be deemed delivered five days after it is deposited in the United States mail in a sealed envelope addressed to such limited liability company's last registered agent and office or to one of the limited liability company's managers or members.

(c) If the limited liability company does not timely file an articles of amendment in accordance with section 347.041 to extend the duration of the limited liability company, which may be any number of years or perpetual, or demonstrate to the reasonable satisfaction of the secretary that the period of duration determined by the secretary is incorrect, within sixty days after service of the notice is perfected by posting with the United States Postal Service, then the secretary shall cancel the articles of organization by signing an administrative cancellation that recites the grounds for cancellation and its effective date. The secretary shall file the original of the administrative cancellation and serve a copy on the limited liability company as provided in section 347.051.

(d) A limited liability company whose articles of organization has been administratively cancelled continues its existence but may not carry on any business except that necessary to wind up and liquidate its business and affairs under section 347.147 and notify claimants under section 347.141.

(e) The administrative cancellation of an articles of organization does not terminate the authority of its registered agent.

(6) (a) The power to rescind an administrative cancellation and reinstate the articles of organization.

(b) Except as otherwise provided in the operating agreement, a limited liability company whose articles of organization has been administratively cancelled under subdivision (5) of this section may file an articles of amendment in accordance with section 347.041 to extend the duration of the limited liability company, which may be any number or perpetual.

(c) A limited liability company whose articles of organization has been administratively cancelled under subdivision (5) of this section may apply to the secretary for reinstatement. The applicant shall:

a. Recite the name of the limited liability company and the effective date of its administrative cancellation;

b. State that the grounds for cancellation either did not exist or have been eliminated, as applicable, and be accompanied by documentation satisfactory to the secretary evidencing the same;

c. State that the limited liability company's name satisfies the requirements of section 347.020;

d. Be accompanied by a reinstatement fee in the amount of one hundred dollars, or such greater amount as required by state regulation, plus any delinquent fees, penalties, and other charges as determined by the secretary to then be due.

(d) If the secretary determines that the application contains the information and is accompanied by the fees required in paragraph (c) of this subdivision and that the information and fees are correct, the secretary shall rescind the cancellation and prepare a certificate of reinstatement that recites his or her determination and the effective date of reinstatement, file the original articles of organization, and serve a copy on the limited liability company as provided in section 347.051.

(e) When the reinstatement is effective, it shall relate back to and take effect as of the effective date of the administrative cancellation of the articles of organization and the limited liability company may continue carrying on its business as if the administrative cancellation had never occurred.

(f) In the event the name of the limited liability company was reissued by the secretary to another entity prior to the time application for reinstatement was filed, the limited liability company applying for reinstatement may elect to reinstate using a new name that complies with the requirements of section 347.020 and that has been approved by appropriate action of the limited liability company for changing the name thereof.

(g) If the secretary denies a limited liability company's application for reinstatement following administrative cancellation of the articles of organization, he or she shall serve the limited liability company as provided in section 347.051 with a written notice that explains the reason or reasons for denial.

(h) The limited liability company may appeal a denial of reinstatement as provided for in subdivision (2) of this section.

(7) Subdivision (6) of this section shall apply to any limited liability company whose articles of organization was cancelled because such limited liability company's period of duration stated in the articles of organization expired on or after August 28, 2003.

351.047. FORMS. — The secretary of state may prescribe and furnish on request forms for all documents required or permitted to be filed by this chapter. The use of the following forms is mandatory:

(1) A foreign corporation's application for a certificate of authority to do business in this state;

(2) A foreign corporation's application for a certificate of withdrawal;

(3) A corporation's **[**annual**]** **corporate registration** report.

351.120. CORPORATE REGISTRATION REPORT REQUIRED, WHEN — CHANGE IN REGISTERED OFFICE OR AGENT TO BE FILED WITH REPORT. — 1. Every corporation organized pursuant to the laws of this state, including corporations organized pursuant to or subject to this chapter, and every foreign corporation licensed to do business in this state, whether such license shall have been issued pursuant to this chapter or not, other than corporations exempted from

taxation by the laws of this state, shall file **[**an annual corporation**]** **a corporate** registration report.

2. The **[**annual**]** corporate registration report shall state the corporate name, the name of its registered agent and such agent's Missouri **physical** address, giving street and number, or building and number, or both, as the case may require, the name and correct business or residence address of its officers and directors, and the mailing address of the corporation's principal place of business or corporate headquarters.

3. The **[**annual**]** corporate registration report shall **be filed annually, except as provided in section 351.122, and shall** be due the month that the corporation incorporated or qualified**, unless changed by the corporation under subsection 8 of this section**. Corporations existing prior to July 1, 2003, shall file the **[**annual**]** **corporate** registration report on the month indicated on the corporation's last **[**annual**]** **corporate registration** report. Corporations formed on or after July 1, 2003, shall file **[**an annual**]** **a corporate** registration report within thirty days of the date of incorporation or qualification and every year thereafter**, except as provided in section 351.122,** in the month that they were incorporated or qualified**, unless such month is changed by the corporation under subsection 8 of this section**.

4. The **[**annual**]** **corporate** registration report shall be signed by an officer or authorized person.

5. In the event of any error in the names and addresses of the officers and directors set forth in **[**an annual**]** **a corporate** registration report, the corporation may correct such information by filing a certificate of correction pursuant to section 351.049.

6. A corporation may change the corporation's registered office or registered agent with the filing of the corporation's **[**annual**]** **corporate** registration report. To change the corporation's registered agent with the filing of the **[**annual**]** **corporate** registration report, the corporation must include the new registered agent's written consent to the appointment as registered agent and a written consent stating that such change in registered agents was authorized by resolution duly adopted by the board of directors. The written consent must be signed by the new registered agent and must include such agent's address. If the **[**annual**]** corporate registration report is not completed correctly, the secretary of state may reject the filing of such report.

7. A corporation's **[**annual**]** **corporate** registration report must be filed in a format as prescribed by the secretary of state.

8. A corporation may change the month of its corporate registration report in the corporation's initial corporate registration report or a subsequent report. To change its filing month, a corporation shall designate the desired month in its corporate registration report and include with that report an additional fee of twenty dollars. After a corporation registration report designating a new filing month is filed by the secretary of state, the corporation's next corporate registration report shall be filed in the newly designated month in the next year in which a report is due under subsection 3 of this section or under section 351.122. This subsection shall become effective January 1, 2010.

351.122. OPTION OF BIENNIAL FILING OF CORPORATE REGISTRATION REPORTS. — 1. Notwithstanding the provisions of section 351.120 to the contrary, beginning January 1, 2010, the secretary of state may provide corporations the option of biennially filing corporate registration reports. Any corporation incorporated or qualified in an even-numbered year may file a biennial corporate registration report only in an even-numbered calendar year, and any corporation incorporated or qualified in an odd-numbered year may file a biennial corporate registration report only in an odd-numbered calendar year, subject to the following requirements:

(1) The fee paid at the time of biennial registration shall be eighty dollars if the report is filed in a written format. The fee shall be thirty dollars if the report is filed via an electronic format prescribed by the secretary of state;

(2) A corporation's biennial corporate registration report shall be filed in a format as prescribed by the secretary of state;

(3) The secretary of state may collect an additional fee of ten dollars for each biennial corporate registration report filed under this section. Such fee shall be deposited into the state treasury and credited to the secretary of state's technology trust fund account.

2. Once a corporation chooses the option of biennial registration, such registration shall be maintained for the full twenty-four month period. Once the twenty-four month period has expired and another corporate registration report is due, a corporation may choose to file an annual registration report under section 351.120. However, upon making such choice the corporation may later only choose to file a biennial corporate registration report in a year appropriate under subsection 1 of this section, based on the year in which the corporation was incorporated.

3. The secretary of state may promulgate rules for the effective administration of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

351.125. FEE. — Every corporation required to register under the provisions of this chapter shall pay to the state a fee of forty dollars for its **[**annual**]** **corporate** registration if the report is filed in a written format. The fee is fifteen dollars for each **[**annual**]** **corporate** registration report filed via an electronic format prescribed by the secretary of state. **Biennial corporate registration reports filed under section 351.122 shall require the fee prescribed in that section.** If a corporation fails to file a corporation registration report when due, it shall be assessed, in addition to its regular registration fee, a late fee of fifteen dollars for each thirty-day period within which the registration report is filed whether in writing or in an electronic format. If the registration report is not filed within ninety days, **[**the corporation shall forfeit its charter**]** **the secretary of state may proceed with administrative dissolution of such corporation under sections 351.484 and 351.486**.

351.127. ADDITIONAL FEE — EXPIRATION DATE. — The secretary of state may collect an additional fee of five dollars on each and every fee required in this chapter**, provided that the secretary of state may collect an additional fee of ten dollars on each corporate registration report fee filed under section 351.122**. All fees collected as provided in this section shall be deposited in the state treasury and credited to the secretary of state's technology trust fund account. The provisions of this section shall expire on December 31, 2017.

351.145. NOTICE PROVIDED FOR CORPORATE REGISTRATION REPORT. — It shall be the duty of the secretary of state to send notice that the **[**annual**]** corporate registration report is due to each corporation in this state required to register. The notice shall be directed to its registered office as disclosed originally by its articles of incorporation or by its application for a certificate of authority to transact business in this state and thereafter as disclosed by its **immediately preceding corporate** registration **[**for the year preceding**]** **report**, as provided by law. The secretary of state may provide a form of the **[**annual**]** corporate registration report for filing in a format and medium prescribed by the secretary of state.

351.155. DUPLICATE FORMS, WHEN FURNISHED. — It shall be the duty of the secretary of state to furnish forms of **[**annual**]** corporate registration reports to any corporation upon request

to any representative of the corporation, but no such form of the **[**annual**]** corporate registration report shall be furnished unless the name of the corporation for which **[**they are**] it is** desired shall accompany the request.

351.484. GROUNDS FOR ADMINISTRATIVE DISSOLUTION. — The secretary of state may commence a proceeding pursuant to section 351.486 to dissolve a corporation administratively if:

(1) The corporation fails to pay any final assessment of Missouri corporation franchise tax as provided in chapter 147, RSMo, and the director of revenue has notified the secretary of state of such failure;

(2) The corporation fails or neglects to file the Missouri corporation franchise tax report required pursuant to chapter 147, RSMo, provided the director of revenue has provided a place on both the individual and corporation income tax return to indicate no such tax is due and provided the director has delivered or mailed at least two notices of such failure to file to the usual place of business of such corporation or the corporation's last known address and the corporation has failed to respond to such second notice within thirty days of the date of mailing of the second notice and the director of revenue has notified the secretary of state of such failure;

(3) The corporation fails to file any corporation income tax return or pay any final assessment of corporation income tax as provided in chapter 143, RSMo, and the director of revenue has notified the secretary of state of such failure;

(4) The corporation does not deliver its **[**annual**] corporate registration** report to the secretary of state within **[**thirty**] ninety** days after it is due;

(5) The corporation is without a registered agent or registered office in this state for thirty days or more;

(6) The corporation does not notify the secretary of state within thirty days that its registered agent or registered office has been changed, that its registered agent has resigned, or that its registered office has been discontinued;

(7) The corporation's period of duration stated in its articles of incorporation expires;

(8) The corporation procures its franchise through fraud practiced upon the state;

(9) The corporation 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 law of the state of Missouri after a written demand to discontinue the same has been delivered by the secretary of state to the corporation, either personally or by mail;

(10) The corporation 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 the secretary of state of such failure; or

(11) The corporation fails to pay any final assessment of sales and use taxes, as provided in chapter 144, RSMo, and the director of revenue has notified the secretary of state of such failure.

351.592. RESIGNATION OF REGISTERED AGENT OF FOREIGN CORPORATION. — 1. The registered agent of a foreign corporation may resign his agency appointment by signing and delivering to the secretary of state for filing the original and two exact or conformed copies of a statement of resignation. The statement of resignation may include a statement that the registered office is also discontinued.

2. After filing the statement, the secretary of state shall attach the filing receipt to one copy, and mail the copy and receipt to the registered office if not discontinued. The secretary of state shall mail the other copy to the foreign corporation at its principal office address shown in its most recent **[**annual**] corporate registration** report.

3. The agency appointment is terminated, and the registered office discontinued if so provided, on the thirty-first day after the date on which the statement was filed.

351.594. SERVICE ON FOREIGN CORPORATION. — 1. The registered agent of a foreign corporation authorized to transact business in this state is the corporation's agent for service of process, notice, or demand required or permitted by law to be served on the foreign corporation.

2. A foreign corporation may be served by registered or certified mail, return receipt requested, addressed to the secretary of the foreign corporation at its principal office shown in its application for a certificate of authority or in its most recent **[**annual**] corporate registration** report, if the foreign corporation:

(1) Has no registered agent or its registered agent cannot with reasonable diligence be served;

(2) Has withdrawn from transacting business in this state as provided in section 351.596; or

(3) Has had its certificate of authority revoked under section 351.602.

If the corporation has no secretary or if the secretary cannot, after the exercise of reasonable diligence, be served, then service on the corporation may be obtained by registered or certified mail, return receipt requested, addressed to any person designated as a director or officer of the corporation at any place of business of the corporation, or at the residence of or any usual business address of such director or officer.

3. Service is perfected as provided in subsection 2 of this section at the earliest of:

(1) The date the foreign corporation receives the mail;

(2) The date shown on the return receipt, if signed on behalf of the foreign corporation; or

(3) Five days after its deposit in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed.

4. This section does not prescribe the only means, or necessarily the required means, of serving a foreign corporation.

351.598. REVOCATION. — The secretary of state may commence a proceeding pursuant to section 351.602 to revoke the certificate of a foreign corporation authorized to transact business in this state if:

(1) The foreign corporation does not deliver its **[**annual**] corporate registration** report to the secretary of state within thirty days after it is due;

(2) The foreign corporation fails to pay any final assessment of Missouri corporation franchise tax, as provided in chapter 147, RSMo, and the director of revenue has notified the secretary of state of such failure;

(3) The foreign corporation is without a registered agent or registered office in this state for thirty days or more;

(4) The foreign corporation does not inform the secretary of state pursuant to section 351.588 or 351.592 that its registered agent or registered office has changed, that its registered agent has resigned, or that its registered office has been discontinued within thirty days of the change, resignation, or discontinuance;

(5) An incorporator, director, officer, or agent of the foreign corporation signed a document the person knew was false in any material respect with intent that the document be delivered to the secretary of state for filing;

(6) The secretary of state receives a duly authenticated certificate from **[**the secretary of state or other**] an** official having custody of corporate records in the state or country under whose law the foreign corporation is incorporated stating that it has been dissolved or has disappeared as the result of a merger;

(7) The foreign corporation 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 the secretary of state of such failure; or

(8) The foreign corporation fails to pay any final assessment of sales and use taxes, as provided in chapter 144, RSMo, and the director of revenue has notified the secretary of state of such failure.

351.602. PROCEDURE AND EFFECT OF REVOCATION. — 1. If the secretary of state determines that one or more grounds exist under section 351.598 for revocation of a certificate of authority, he shall serve the foreign corporation with written notice of his determination as provided in section 351.594.

2. If the foreign corporation does not correct each ground for revocation or demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist within sixty days after service of the notice is perfected under section 351.594, the secretary of state may revoke the foreign corporation's certificate of authority by signing a certificate of revocation that recites the ground or grounds for revocation and its effective date. The secretary of state shall file the original of the certificate and serve a copy on the foreign corporation as provided in section 351.594.

3. The authority of a foreign corporation to transact business in this state ceases on the date shown on the certificate revoking its certificate of authority.

4. The secretary of state's revocation of a foreign corporation's certificate of authority appoints the secretary of state the foreign corporation's agent for service of process in any proceeding based on a cause of action which arose during the time the foreign corporation was authorized to transact business in this state. Service of process on the secretary of state under this subsection is service on the foreign corporation. Upon receipt of process, the secretary of state shall mail a copy of the process to the secretary of the foreign corporation at its principal office shown in its most recent **[**annual**]** **corporate registration** report or in any subsequent communication received from the corporation specifically advising the secretary of state of the current mailing address of its principal office, or, if none are on file, in its application for a certificate of authority.

5. Revocation of a foreign corporation's certificate of authority does not terminate the authority of the registered agent of the corporation.

351.690. APPLICABILITY OF CHAPTER TO CERTAIN CORPORATIONS. — The provisions of this chapter shall be applicable to existing corporations and corporations not formed pursuant to this chapter as follows:

(1) Those provisions of this chapter requiring reports, registration statements and the payment of taxes and fees, shall be applicable, to the same extent and with the same effect, to all existing corporations, domestic and foreign, which were required to make such reports and registration statements and to pay such taxes and fees, prior to November 21, 1943;

(2) The provisions of this chapter shall be applicable to banks, trust companies and safe deposit companies when such provisions relating to the internal affairs of a corporation supplement the existing provisions of chapter 362, RSMo, or when the provisions of chapter 362, RSMo, do not deal with a matter involving the internal affairs of a corporation organized pursuant to the provisions of chapter 362, RSMo, as well as those provisions mentioned in subdivision (1) of this section, to the extent applicable. For the purposes of this chapter, the "internal affairs of a corporation" shall include, but not be limited to, matters of corporate governance, director and officer liability, and financial structure;

(3) No provisions of this chapter, other than those mentioned in subdivision (1) of this section, and then only to the extent required by the statutes pursuant to which they are incorporated, or other than the provisions of section 351.347, or section 351.355, shall be applicable to insurance companies, savings and loan associations, corporations formed for benevolent, religious, scientific or educational purposes, and nonprofit corporations;

(4) Only those provisions of this chapter which supplement the existing laws applicable to railroad corporations, union stations, cooperative companies for profit, credit unions, street railroads, telegraph and telephone companies, booming and rafting companies, urban redevelopment corporations, professional corporations, development finance corporations, and loan and investment companies, and which are not inconsistent with, or in conflict with the purposes of, or are not in derogation or limitation of, such existing laws, shall be applicable to

the type of corporations mentioned above in this subdivision; and without limiting the generality of the foregoing, those provisions of this chapter which permit the issuance of shares without par value and the amendment of articles of incorporation for such purpose shall be applicable to railroad corporations, union stations, street railroads, telegraph and telephone companies, and booming and rafting companies, professional corporations, development finance corporations, and loan and investment companies, and those provisions of this chapter mentioned in subdivisions (1) and (2) of this section will apply to all corporations mentioned in this subdivision; except that, the **[**annual**] corporate registration** report and fee of a professional corporation pursuant to section 356.211, RSMo, shall suffice in lieu of the **[**annual**] corporate** registration **report** and fee required of a business corporation;

(5) All of the provisions of this chapter to the extent provided shall apply to all other corporations existing pursuant to general laws of this state enacted prior to November 21, 1943, and not specifically mentioned in subdivisions (1), (2) and (3) of this section.

355.016. FORMS. — 1. The secretary of state may prescribe and furnish on request, forms for:

(1) A foreign corporation's application for a certificate of authority to transact business in this state;

(2) A foreign corporation's application for a certificate of withdrawal; and

(3) The **[**annual**] corporate registration** report.

If the secretary of state so requires, use of these forms is mandatory.

2. The secretary of state may prescribe and furnish on request forms for other documents required or permitted to be filed by this chapter but their use is not mandatory.

355.021. FEES. — 1. The secretary of state shall collect the following fees when the documents described in this subsection are delivered for filing:

(1) Articles of incorporation, twenty dollars;

(2) Application for reserved name, twenty dollars;

(3) Notice of transfer of reserved name, two dollars;

(4) Application for renewal of reserved name, twenty dollars;

(5) Corporation's statement of change of registered agent or registered office or both, five dollars;

(6) Agent's statement of change of registered office for each affected corporation, five dollars;

(7) Agent's statement of resignation, five dollars;

(8) Amendment of articles of incorporation, five dollars;

(9) Restatement of articles of incorporation with amendments, five dollars;

(10) Articles of merger, five dollars;

(11) Articles of dissolution, five dollars;

(12) Articles of revocation of dissolution, five dollars;

(13) Application for reinstatement following administrative dissolution, twenty dollars;

(14) Application for certificate of authority, twenty dollars;

(15) Application for amended certificate of authority, five dollars;

(16) Application for certificate of withdrawal, five dollars;

(17) **[**Annual**] Corporate registration** report **filed annually**, ten dollars if filed in a written format or five dollars if filed electronically in a format prescribed by the secretary of state;

(18) **Corporate registration report filed biennially, twenty dollars if filed in a written format or ten dollars if filed electronically in a format prescribed by the secretary of state;**

(19) Articles of correction, five dollars;

[(19)**] (20)** Certificate of existence or authorization, five dollars;

[(20)**] (21)** Any other document required or permitted to be filed by this chapter, five dollars.

2. The secretary of state shall collect a fee of ten dollars upon being served with process under this chapter. The party to a proceeding causing service of process is entitled to recover the fee paid the secretary of state as costs if the party prevails in the proceeding.

3. The secretary of state shall collect the following fees for copying and certifying the copy of any filed document relating to a domestic or foreign corporation: in a written format fifty cents per page plus five dollars for certification, or in an electronic format five dollars for certification and copies.

355.066. DEFINITIONS. — Unless the context otherwise requires or unless otherwise indicated, as used in this chapter the following terms mean:

(1) "Approved by or approval by the members", approved or ratified by the affirmative vote of a majority of the voters represented and voting at a duly held meeting at which a quorum is present, which affirmative votes also constitute a majority of the required quorum, or by a written ballot or written consent in conformity with this chapter, or by the affirmative vote, written ballot or written consent of such greater proportion, including the votes of all the members of any class, unit or grouping as may be provided in the articles, bylaws or this chapter for any specified member action;

(2) "Articles of incorporation" or "articles", amended and restated articles of incorporation and articles of merger;

(3) "Board" or "board of directors", the board of directors except that no person or group of persons is the board of directors because of powers delegated to that person or group pursuant to section 355.316;

(4) "Bylaws", the code or codes of rules, other than the articles, adopted pursuant to this chapter for the regulation or management of the affairs of the corporation, irrespective of the name or names by which such rules are designated. Bylaws shall not include legally enforceable covenants, declarations, indentures or restrictions imposed upon members by validly recorded indentures, declarations, covenants, restrictions or other recorded instruments, as they apply to real property;

(5) "Class", a group of memberships which have the same rights with respect to voting, dissolution, redemption and transfer. For the purpose of this section, "rights" shall be considered the same if they are determined by a formula applied uniformly;

(6) "Corporation", public benefit and mutual benefit corporations;

(7) "Delegates", those persons elected or appointed to vote in a representative assembly for the election of a director or directors or on other matters;

(8) "Deliver" includes mail;

(9) "Directors", individuals, designated in the articles or bylaws or elected by the incorporator or incorporators, and their successors and individuals elected or appointed by any other name or title to act as members of the board;

(10) "Distribution", the payment of a dividend or any part of the income or profit of a corporation to its members, directors or officers;

(11) "Domestic corporation", a Missouri corporation;

(12) "Effective date of notice" is defined in section 355.071;

(13) "Employee" does not include an officer or director who is not otherwise employed by the corporation;

(14) "Entity", domestic corporations and foreign corporations, business corporations and foreign business corporations, for-profit and nonprofit unincorporated associations, business trusts, estates, partnerships, trusts, and two or more persons having a joint or common economic interest, and a state, the United States, and foreign governments;

(15) "File", "filed" or "filing", filed in the office of the secretary of state;

(16) "Foreign corporation", a corporation organized under a law other than the laws of this state which would be a nonprofit corporation if formed under the laws of this state;

(17) "Governmental subdivision" includes authority, county, district, and municipality;

(18) "Includes" denotes a partial definition;

(19) "Individual", a natural person;

(20) "Means" denotes a complete definition;

(21) "Member", without regard to what a person is called in the articles or bylaws, any person or persons who on more than one occasion, pursuant to a provision of a corporation's articles or bylaws, have the right to vote for the election of a director or directors; but a person is not a member by virtue of any of the following:

(a) Any rights such person has as a delegate;

(b) Any rights such person has to designate a director or directors; or

(c) Any rights such person has as a director;

(22) "Membership", the rights and obligations a member or members have pursuant to a corporation's articles, bylaws and this chapter;

(23) "Mutual benefit corporation", a domestic corporation which is formed as a mutual benefit corporation pursuant to sections 355.096 to 355.121 or is required to be a mutual benefit corporation pursuant to section 355.881;

(24) "Notice" is defined in section 355.071;

(25) "Person" includes any individual or entity;

(26) "Principal office", the office, in or out of this state, so designated in the **[**annual**]** **corporate registration** report filed pursuant to section 355.856 where the principal offices of a domestic or foreign corporation are located;

(27) "Proceeding" includes civil suits and criminal, administrative, and investigatory actions;

(28) "Public benefit corporation", a domestic corporation which is formed as a public benefit corporation pursuant to sections 355.096 to 355.121, or is required to be a public benefit corporation pursuant to section 355.881;

(29) "Record date", the date established pursuant to sections 355.181 to 355.311 on which a corporation determines the identity of its members for the purposes of this chapter;

(30) "Resident", a full-time resident of a long-term care facility or residential care facility;

(31) "Secretary", the corporate officer to whom the board of directors has delegated responsibility pursuant to subsection 2 of section 355.431 for custody of the minutes of the directors' and members' meetings and for authenticating the records of the corporation;

(32) "State", when referring to a part of the United States, includes a state or commonwealth, and its agencies and governmental subdivisions, and any territory or insular possession, and its agencies and governmental subdivisions, of the United States;

(33) "United States" includes any agency of the United States;

(34) "Vote" includes authorization by written ballot and written consent; and

(35) "Voting power", the total number of votes entitled to be cast for the election of directors at the time the determination of voting power is made, excluding a vote which is contingent upon the happening of a condition or event that has not occurred at the time. Where a class is entitled to vote as a class for directors, the determination of voting power of the class shall be based on the percentage of the number of directors the class is entitled to elect out of the total number of authorized directors.

355.071. NOTICE — FORM — REQUIREMENTS. — 1. For purposes of this chapter, notice may be oral or written.

2. Notice may be communicated in person, by telephone, telegraph, teletype, or other form of wire or wireless communication, or by mail or private carrier; if these forms of personal notice are impracticable, notice may be communicated by a newspaper of general circulation in the area where published, or by radio, television, or other form of public broadcast communication.

3. Oral notice is effective when communicated if communicated in a comprehensible manner.

4. Written notice, if in a comprehensible form, is effective at the earliest of the following:

(1) When received;

(2) Five days after its deposit in the United States mail, as evidenced by the postmark, if mailed correctly addressed and with first class postage affixed;

(3) On the date shown on the return receipt, if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee;

(4) Thirty days after its deposit in the United States mail, as evidenced by the postmark, if mailed correctly addressed and with other than first class, registered or certified postage affixed.

5. Written notice is correctly addressed to a member of a domestic or foreign corporation if addressed to the member's address shown in the corporation's current list of members.

6. A written notice or report delivered as part of a newsletter, magazine or other publication regularly sent to members shall constitute a written notice or report if addressed or delivered to the member's address shown in the corporation's current list of members, or in the case of members who are residents of the same household and who have the same address in the corporation's current list of members, if addressed or delivered to one of such members, at the address appearing on the current list of members.

7. Written notice is correctly addressed to a domestic or foreign corporation, authorized to transact business in this state, other than in its capacity as a member, if addressed to its registered agent or to its secretary at its principal office shown in its most recent **[**annual**] corporate registration** report or, in the case of a foreign corporation that has not yet delivered **[**an annual**] a corporate registration** report, in its application for a certificate of authority.

8. If subsection 2 of section 355.251 or any other provision of this chapter prescribes notice requirements for particular circumstances, those requirements govern. If the articles or bylaws prescribe notice requirements, not inconsistent with this section or other provisions of this chapter, those requirements govern. Failure to comply with the terms of this section shall not invalidate the terms of the notice delivered.

355.151. RESERVATION OF NAME. — 1. A person may reserve the exclusive use of a corporate name, including a fictitious name for a foreign corporation whose corporate name is not available, by delivering an application to the secretary of state for filing. Upon finding that the corporate name applied for is available, the secretary of state shall reserve the name for the applicant's exclusive use for a sixty-day period. **A name reservation shall not exceed a period of one hundred eighty days from the date of the first name reservation application. Upon the hundred eighty-first day, the name shall cease reserve status and shall not be placed back in reserve status.**

2. The owner of a reserved corporate name may transfer the reservation to another person by delivering to the secretary of state a signed notice of the transfer that states the name and address of the transferee.

355.176. SERVICE. — 1. A corporation's registered agent is the corporation's agent for service of process, notice, or demand required or permitted by law to be served on the corporation.

2. If a corporation has no registered agent, or the agent cannot with reasonable diligence be served, the corporation may be served by registered or certified mail, return receipt requested, addressed to the secretary of the corporation at its principal office shown in the most recent **[**annual**] corporate registration** report filed under section 355.856. Service is perfected under this subsection on the earliest of:

(1) The date the corporation receives the mail;

(2) The date shown on the return receipt, if signed on behalf of the corporation; or

(3) Five days after its deposit in the United States mail, if mailed and correctly addressed with first class postage affixed.

3. This section does not prescribe the only means, or necessarily the required means, of serving a corporation.

355.688. DUTY TO CONTINUE REPORT, TAX PAYMENTS. — A voluntarily dissolved corporation must continue to file the **[**annual**]** **corporate** registration report and pay all required taxes due the state of Missouri until the effective date of articles of termination.

355.706. ADMINISTRATIVE DISSOLUTION, GROUNDS. — The secretary of state may commence a proceeding under section 355.711 to administratively dissolve a corporation if:

(1) The corporation does not pay within thirty days after they are due fees or penalties imposed by this chapter;

(2) The corporation does not deliver its **[**annual**]** **corporate registration** report to the secretary of state within **[**thirty**]** **ninety** days after it is due;

(3) The corporation is without a registered agent or registered office in this state for thirty days or more;

(4) The corporation does not notify the secretary of state within thirty days that its registered agent or registered office has been changed, that its registered agent has resigned, or that its registered office has been discontinued;

(5) The corporation's period of duration, if any, stated in its articles of incorporation expires; or

(6) The corporation has procured its charter through fraud practiced upon the state.

355.796. SERVICE UPON FOREIGN CORPORATION. — 1. The registered agent of a foreign corporation authorized to transact business in this state is the corporation's agent for service of process, notice, or demand required or permitted by law to be served on the foreign corporation.

2. A foreign corporation may be served by registered or certified mail, return receipt requested, addressed to the secretary of the foreign corporation at its principal office shown in its application for a certificate of authority or in its more recent **[**annual**]** **corporate registration** report filed under section 355.856 if the foreign corporation:

(1) Has no registered agent or its registered agent cannot with reasonable diligence be served;

(2) Has withdrawn from transacting business in this state under section 355.801; or

(3) Has had its certificate of authority revoked under section 355.811.

3. Service is perfected under subsection 2 of this section at the earliest of:

(1) The date the foreign corporation receives the mail;

(2) The date shown on the return receipt, if signed on behalf of the foreign corporation; or

(3) Five days after its deposit in the United States mail, as evidenced by the postmark if mailed postpaid and correctly addressed.

4. This section does not prescribe the only means, or necessarily the required means, of serving a foreign corporation.

355.806. REVOCATION OF CERTIFICATE OF AUTHORITY, GROUNDS. — 1. The secretary of state may commence a proceeding under section 355.811 to revoke the certificate of authority of a foreign corporation authorized to transact business in this state if:

(1) The foreign corporation does not deliver the **[**annual**]** **corporate registration** report to the secretary of state within thirty days after it is due;

(2) The foreign corporation does not pay within thirty days after they are due any fees or penalties imposed by this chapter;

(3) The foreign corporation is without a registered agent or registered office in this state for thirty days or more;

(4) The foreign corporation does not inform the secretary of state under section 355.786 or 355.791 that its registered agent or registered office has changed, that its registered agent has resigned, or that its registered office has been discontinued within thirty days of the change, resignation, or discontinuance;

(5) An incorporator, director, officer or agent of the foreign corporation signed a document such person knew was false in any material respect with intent that the document be delivered to the secretary of state for filing;

(6) The secretary of state receives a duly authenticated certificate from the secretary of state or other official having custody of corporate records in the state or country under whose law the foreign corporation is incorporated stating that it has been dissolved or disappeared as the result of a merger; or

(7) The corporation procured its certificate of authority through fraud practiced on the state.

2. The attorney general may commence a proceeding under section 355.811 to revoke the certificate of authority of a foreign corporation authorized to transact business in this state if:

(1) The corporation has continued to exceed or abuse the authority conferred upon it by law;

(2) The corporation would have been a public benefit corporation other than a church or convention or association of churches had it been incorporated in this state and that its corporate assets in this state are being misapplied or wasted; or

(3) The corporation would have been a public benefit corporation other than a church or convention or association of churches had it been incorporated in this state and it is no longer able to carry out its purposes.

355.811. PROCEDURE, EFFECT OF REVOCATION. — 1. The secretary of state upon determining that one or more grounds exist under section 355.806 for revocation of a certificate of authority shall serve the foreign corporation with written notice of that determination under section 355.796.

2. The attorney general upon determining that one or more grounds exist under subsection 2 of section 355.806 for revocation of a certificate of authority shall request the secretary of state to serve, and the secretary of state shall serve the foreign corporation with written notice of that determination under section 355.796.

3. If the foreign corporation does not correct each ground for revocation or demonstrate to the reasonable satisfaction of the secretary of state or attorney general that each ground for revocation determined by the secretary of state or attorney general does not exist within sixty days after service of the notice is perfected under section 355.796, the secretary of state may revoke the foreign corporation's certificate of authority by signing a certificate of revocation that recites the ground or grounds for revocation and its effective date. The secretary of state shall file the original of the certificate and serve a copy on the foreign corporation under section 355.796.

4. The authority of a foreign corporation to transact business in this state ceases on the date shown on the certificate revoking its certificate of authority.

5. The secretary of state's revocation of a foreign corporation's certificate of authority appoints the secretary of state the foreign corporation's agent for service of process in any proceeding based on a cause of action which arose during the time the foreign corporation was authorized to transact business in this state. Service of process on the secretary of state under this subsection is service on the foreign corporation. Upon receipt of process, the secretary of state shall mail a copy of the process to the secretary of the foreign corporation at its principal office shown in its most recent **[**annual**]** **corporate registration** report or in any subsequent communications received from the corporation stating the current mailing address of its principal office, or, if none are on file, in its application for a certificate of authority.

6. Revocation of a foreign corporation's certificate of authority does not terminate the authority of the registered agent of the corporation.

355.821. CORPORATE RECORDS. — 1. A corporation shall keep as permanent records minutes of all meetings of its members and board of directors, a record of all actions taken by the members or directors without a meeting, and a record of all actions taken by committees of the board of directors as authorized by subsection 4 of section 355.406.

2. A corporation shall maintain appropriate accounting records.

3. A corporation or its agent shall maintain a record of its members in a form that permits preparation of a list of the names and addresses of all members, in alphabetical order by class showing the number of votes each member is entitled to vote.

4. A corporation shall maintain its records in written form or in another form capable of conversion into written form within a reasonable time.

5. A corporation shall keep a copy of the following records at its principal office:

(1) Its articles or restated articles of incorporation and all amendments to them currently in effect;

(2) Its bylaws or restated bylaws and all amendments to them currently in effect;

(3) Resolutions adopted by its board of directors relating to the characteristics, qualifications, rights, limitations and obligations of members or any class or category of members;

(4) The minutes of all meetings of members and records of all actions approved by the members for the past three years;

(5) All written communications to all members or any specific class of members generally within the past three years, including the financial statements furnished for the past three years under section 355.846;

(6) A list of the names and business or home addresses of its current directors and officers;

(7) Its most recent **[**annual**]** **corporate registration** report delivered to the secretary of state under section 355.856; and

(8) Appropriate financial statements of all income and expenses. Public benefit corporations shall not be required, under this chapter, to disclose any information with respect to donors, gifts, contributions or the purchase or sale of art objects.

355.856. CORPORATE REGISTRATION REPORT. — 1. Each domestic corporation, and each foreign corporation authorized pursuant to this chapter to transact business in this state, shall file with the secretary of state **[**an annual**]** **a** corporate registration report on a form prescribed and furnished by the secretary of state that sets forth:

(1) The name of the corporation and the state or country under whose law it is incorporated;

(2) The address of its registered office and the name of its registered agent at the office in this state;

(3) The address of its principal office;

(4) The names and physical business or residence addresses of its directors and principal officers.

2. The information in the **[**annual**]** corporate registration report must be current on the date the **[**annual**]** corporate registration report is executed on behalf of the corporation.

3. The **[**first annual**]** **initial** corporate registration report must be delivered to the secretary of state no later than August thirty-first of the year following the calendar year in which a domestic corporation was incorporated or a foreign corporation was authorized to transact business. Subsequent **[**annual**]** corporate registration reports must be delivered to the secretary of state no later than August thirty-first of the following calendar years**, except as provided in section 355.857**. If **[**an annual**]** **a** corporate registration report is not filed within the time limits prescribed by this section, the secretary of state shall not accept the report unless it is accompanied by a fifteen dollar fee. Failure to file the **[**annual**]** registration report as required by this section will result in the administrative dissolution of the corporation as set forth in section 355.706.

4. If **[**an annual**]** **a** corporate registration report does not contain the information required by this section, the secretary of state shall promptly notify the reporting domestic or foreign corporation in writing and return the report to it for correction.

5. A corporation may change the corporation's registered office or registered agent with the filing of the corporation's **[**annual**]** registration report. To change the corporation's registered agent with the filing of the **[**annual**]** registration report, the corporation must include the new

registered agent's written consent to the appointment as registered agent and a written consent stating that such change in registered agents was authorized by resolution duly adopted by the board of directors. The written consent must be signed by the new registered agent and must include such agent's address. If the **[**annual**]** corporate registration report is not completed correctly, the secretary of state may reject the filing of such report.

6. A corporation's **[**annual**] corporate** registration report must be filed in a format and medium prescribed by the secretary of state.

7. The **[**annual**] corporate** registration report shall be signed by an officer or authorized person and pursuant to this section represents that the signer believes the statements are true and correct to the best knowledge and belief of the person signing, subject to the penalties of section 575.040, RSMo.

355.857. OPTION OF BIENNIAL FILING OF CORPORATE REGISTRATION REPORTS. — 1. Notwithstanding the provisions of section 355.856 to the contrary, beginning January 1, 2010, the secretary of state may provide corporations the option of biennially filing corporate registration reports. Any corporation incorporated or qualified in an even-numbered year may file a biennial corporate registration report only in an even-numbered calendar year, and any corporation incorporated or qualified in an odd-numbered year may file a biennial corporate registration report only in an odd-numbered calendar year, subject to the following requirements:

(1) The fee paid at the time of biennial registration shall be that specified in section 355.021;

(2) A corporation's biennial corporate registration report shall be filed in a format as prescribed by the secretary of state;

(3) The secretary of state may collect an additional fee of ten dollars on each biennial corporate registration report filed under this section. Such fee shall be deposited into the state treasury and credited to the secretary of state's technology trust fund account.

2. Once a corporation chooses the option of biennial registration, such registration shall be maintained for the full twenty-four month period. Once the twenty-four month period has expired and another corporate registration report is due, a corporation may choose to file an annual registration report under section 355.856. However, upon making such choice the corporation may later only choose to file a biennial corporate registration report in a year appropriate under subsection 1 of this section, based on the year in which the corporation was incorporated.

3. The secretary of state may promulgate rules for the effective administration of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

356.211. REGISTRATION REPORT — FILED WHEN, CONTENTS — FORM — FEE — PENALTIES FOR FAILURE TO FILE OR MAKING FALSE DECLARATIONS. — 1. Each professional corporation and each foreign professional corporation shall file with the secretary of state **[**an annual corporation**] a corporate** registration report pursuant to section 351.120, RSMo**, or section 351.122, RSMo**. The corporate registration report shall set forth the following information: the names and residence or physical business addresses of all officers, directors and shareholders of that professional corporation as of the date of the report.

2. The report shall be made on a form to be prescribed and furnished by the secretary of state, and shall be executed by an officer of the corporation or authorized person.

3. A filing fee in the amount set out in section 351.125, RSMo, **or section 351.122, RSMo,** shall be paid with the filing of each report, and no other fees shall be charged therefor; except that, penalty fees may be imposed by the secretary of state for late filings. The report shall be filed subject to the time requirements of section 351.120, RSMo**, or section 351.122, RSMo**.

4. If a professional corporation or foreign professional corporation shall fail to file a report qualifying with the provisions of this section when such a filing is due, then the corporation shall be subject to the provisions of chapter 351, RSMo, that are applicable to a corporation that has failed to timely file the **[**annual**]** **corporate registration** report required to be filed under chapter 351, RSMo.

359.681. POWERS AND AUTHORITY OF SECRETARY OF STATE — EXAMINATION OF BOOKS AND RECORDS — FAILURE TO EXHIBIT, PENALTY — CANCELLATION OR DISAPPROVAL OF CERTIFICATE, WHEN, NOTICE, APPEAL IN CIRCUIT COURT — PETITION FOR APPEAL, FILED WHEN — RESCISSION OF CANCELLATION — LATE FILING FEES, PENALTY. — In addition to the power and authority given the secretary of state by this chapter, the secretary of state or his designee shall have such further authority as is reasonably necessary to enable the secretary of state to administer this chapter efficiently and to perform the secretary of state's duties. This authority shall consist of, but is not limited to, the following powers:

(1) (a) The power to examine the books and records of any limited partnership to which this chapter applies, and it shall be the duty of any general partner or agent of such limited partnership to produce such books and records for examination on demand of the secretary of state or designated employee; provided, that no person shall be subject to any criminal prosecution on account of any matter or thing which may be disclosed by the examination of any limited partnership books, or records, which they may produce or exhibit for examination; or on account of any matter or thing concerning which they may make any voluntary and truthful statement in writing to the secretary of state, or designated employee. All facts obtained in the examination of the books and records of any limited partnership, or through voluntary sworn statement of any partner, agent, or employee of any limited partnership, shall be treated as confidential, except insofar as official duty may require the disclosure of same; or when such facts are material to any issue in any legal proceeding in which the secretary of state or designated employee may be a party or called as a witness, and, if the secretary of state or designated employee shall, except as herein provided, disclose any information relative to the private accounts, affairs, and transactions of any such limited partnership, he shall be deemed guilty of a class C misdemeanor.

(b) If any general partner, or registered agent, of any such limited partnership shall refuse the demand of the secretary of state, or designated employee, to exhibit the books and records of such limited partnership for examination, he, or they, shall be deemed guilty of a class B misdemeanor.

(2) (a) The power to cancel or disapprove any certificate of limited partnership or other filing required under this chapter, if the limited partnership fails to comply with the provisions of this chapter by failing to file required documents under this chapter by failing to maintain a registered agent, by failing to pay the required filing fees, by using fraud or deception in effecting any filing, by filing a required document containing a false statement, or by violating any section or sections of the criminal laws of Missouri, the federal government or any other state of the United States. Thirty days before such cancellation shall take effect, the secretary of state shall notify the limited partnership with written notice, either personally or by mail. If mailed, the notice shall be deemed delivered five days after it is deposited in the United States mail in a sealed envelope addressed to such limited partnership's last registered agent and office or to one of the limited partnership's general partners. The written notice of the secretary of state's

proposed cancellation to the limited partnership, domestic or foreign, will specify the reasons for such action.

(b) The limited partnership may appeal this notice of proposed cancellation to the circuit court of the county in which the registered office of such limited partnership is or is proposed to be situated by filing with the clerk of such court a petition setting forth a copy of the certificate of limited partnership or other relevant documents and a copy of the proposed written cancellation thereof by the secretary of state, such petition to be filed within thirty days after notice of such cancellation shall have been given, and the matter shall be tried by the court, and the court shall either sustain the action of the secretary of state or direct him to take such action as the court may deem proper. An appeal from the circuit court in such a case shall be allowed as in civil action.

(c) The limited partnership may provide information to the secretary of state that would allow the secretary of state to withdraw the notice of proposed cancellation. This information may consist of, but need not be limited to, corrected statements and documents, new filings, affidavits and certified copies of other filed documents.

(3) The power to rescind a cancellation provided for in subsection 2 of this section upon compliance with either of the following:

(a) The affected limited partnership provides the necessary documents and affidavits indicating the limited partnership has corrected the conditions causing the proposed cancellation or the cancellation;

(b) The limited partnership provides the correct statements or documentation that the limited partnership is not in violation of any section of the criminal code.

(4) The power to charge late filing fees for any filing fee required under this chapter. Late filing fees shall be assessed at a rate of ten dollars for each thirty-day period of delinquency.

(5) (a) The power to administratively cancel a certificate of limited partnership if the limited partnership's period of duration stated in the certificate of limited partnership expires.

(b) Not less than thirty days before such administrative cancellation shall take effect, the secretary of state shall notify the limited partnership with written notice, either personally or by mail. If mailed, the notice shall be deemed delivered five days after it is deposited in the United States mail in a sealed envelope addressed to such limited partnership's last registered agent and office or to one of the limited partnership's general partners.

(c) If the limited partnership does not timely file a certificate of amendment in accordance with section 359.101 to extend the duration of the limited partnership, which may be any number of years or perpetual, or demonstrate to the reasonable satisfaction of the secretary of state that the period of duration determined by the secretary of state is incorrect, within sixty days after service of the notice is perfected by posting with the United States Postal Service, then the secretary of state shall cancel the certificate of limited partnership by signing a certificate of administrative cancellation that recites the grounds for cancellation and its effective date. The secretary of state shall file the original of the certificate and serve a copy on the limited partnership as provided in section 359.141.

(d) A limited partnership whose certificate of limited partnership has been administratively cancelled continues its existence but may not carry on any business except that necessary to wind up and liquidate its business and affairs under section 359.471 and notify claimants under section 359.481.

(e) The administrative cancellation of a certificate of limited partnership does not terminate the authority of its registered agent.

(6) (a) The power to rescind an administrative cancellation and reinstate the certificate of limited partnership.

(b) Except as otherwise provided in the partnership agreement, a limited partnership whose certificate of limited partnership has been administratively cancelled under subdivision (5) of this section may file a certificate of amendment in accordance with section 359.101 to extend the duration of the limited partnership, which may be any number or perpetual.

(c) A limited partnership whose certificate of limited partnership has been administratively cancelled under subdivision (5) of this section may apply to the secretary of state for reinstatement. The applicant shall:

a. Recite the name of the limited partnership and the effective date of its administrative cancellation;

b. State that the grounds for cancellation either did not exist or have been eliminated, as applicable, and be accompanied by documentation satisfactory to the secretary of state evidencing the same;

c. State that the limited partnership's name satisfies the requirements of section 359.021;

d. Be accompanied by a reinstatement fee in the amount of one hundred dollars, or such greater amount as required by state regulation, plus any delinquent fees, penalties, and other charges as determined by the secretary of state to then be due.

(d) If the secretary of state determines that the application contains the information and is accompanied by the fees required in paragraph (c) of this subdivision and that the information and fees are correct, the secretary of state shall rescind the certificate of administrative cancellation and prepare a certificate of reinstatement that recites his or her determination and the effective date of reinstatement, file the original of the certificate, and serve a copy on the limited partnership as provided in section 359.141.

(e) When the reinstatement is effective, it shall relate back to and take effect as of the effective date of the administrative cancellation of the certificate of limited partnership and the limited partnership may continue carrying on its business as if the administrative cancellation had never occurred.

(f) In the event the name of the limited partnership was reissued by the secretary of state to another entity prior to the time application for reinstatement was filed, the limited partnership applying for reinstatement may elect to reinstate using a new name that complies with the requirements of section 359.021 and that has been approved by appropriate action of the limited partnership for changing the name thereof.

(g) If the secretary of state denies a limited partnership's application for reinstatement following administrative cancellation of the certificate of limited partnership, he or she shall serve the limited partnership as provided in section 359.141 with a written notice that explains the reason or reasons for denial.

(h) The limited partnership may appeal a denial of reinstatement as provided for in paragraph (b) of subdivision (2) of this section.

(7) Subdivision (6) of this section shall apply to any limited partnership whose certificate of limited partnership was cancelled because such limited partnership's period of duration stated in the certificate of limited partnership expired on or after August 28, 2003.

376.789. DEFINITION OF ACTUAL CHARGE AND ACTUAL FEE. — 1. (1) This section applies to an individual or a group specified disease insurance policy issued to any person that contains the terms "actual charge" or "actual fee" without containing an express definition of the term.

(2) "Actual charge" or "actual fee" when used in an individual specified disease insurance policy in connection with the benefits payable for services rendered by a health care provider or other designated person or entity, means the amount the health care provider or other designated person or entity:

(a) Agrees to accept under a network or other participation agreement with the health insurer, third-party administrator, or other third-party payor, or other person, including the insured, as payment in full for the treatment, goods, or services provided to the insured; or

(b) Agrees, or as obligated by operation of law, to accept as payment in full for the treatment, goods, or services provided to the insured under a provider, participation, or supplier agreement under Medicare, Medicaid, or any other government administered health care program where the insured is covered or reimbursed by this program.

(3) "Payment in full" includes the actual charge or actual fee that was actually paid for the health care provider's treatment, goods, or services on behalf of the insured by Medicare, Medicaid, any other government administered health care program, any other health insurer, thirty-party administrator, or other third-party payor and, where applicable, any remaining portion of the actual charge or actual fee that was applied or assessed against the insured by Medicare, Medicaid, any other government administered health care program, any other health insurer, third-party administrator, or other third-party payor for the applicable deductions, co-insurance requirements, or co-pay requirements.

(4) If paragraphs (a) and (b) of subdivision (2) of this subsection apply, the actual charge or actual fee shall be the lesser of the amounts determined under such paragraphs.

2. Notwithstanding any other provision of law, after the effective date of this section, an insurer or issuer of an individual or group specified disease insurance policy shall not pay a claim of benefit under the applicable policy in an amount in excess of the actual charge or actual fee as defined in this section.

379.130. INSURANCE CLAIMS, PERCENTAGE OF FAULT NOT TO BE ASSIGNED BASED SOLELY ON OPERATION OF A MOTORCYCLE. — 1. When investigating an accident or settling an automobile insurance policy claim, no insurer, agent, producer, or claims adjuster of an insurer shall assign a percentage of fault to a party based upon the sole fact that the party was operating a motorcycle in an otherwise legal manner.

2. A violation of this section shall be an unfair trade practice as defined by sections 375.930 to 375.948, RSMo, and shall be subject to all of the provisions and penalties provided by such sections.

3. As used in this section, the term "insurer" shall mean any insurance company, association or exchange authorized to issue policies of automobile insurance in the state of Missouri. The term "automobile insurance policy" shall mean a policy providing automobile liability coverage, uninsured motorists coverage, automobile medical payments coverage or automobile physical damage coverage insuring a private passenger automobile owned by an individual or partnership.

452.305. JUDGMENT OF DISSOLUTION, GROUNDS FOR — LEGAL SEPARATION, WHEN — JUDGMENTS TO CONTAIN SOCIAL SECURITY NUMBERS. — 1. The court shall enter a judgment of dissolution of marriage if:

(1) The court finds that one of the parties has been a resident of this state, or is a member of the armed services who has been stationed in this state, for ninety days immediately preceding the commencement of the proceeding and that thirty days have elapsed since the filing of the petition; and

(2) The court finds that there remains no reasonable likelihood that the marriage can be preserved and that therefore the marriage is irretrievably broken; and

(3) To the extent it has jurisdiction, the court has considered and made provision for child custody, the support of each child, the maintenance of either spouse and the disposition of property.

2. The court shall enter a judgment of legal separation if:

(1) The court finds that one of the parties has been a resident of this state, or is a member of the armed services who has been stationed in this state, for ninety days immediately preceding the commencement of the proceeding and that thirty days have elapsed since the filing of the petition; and

(2) The court finds that there remains a reasonable likelihood that the marriage can be preserved and that therefore the marriage is not irretrievably broken; and

(3) To the extent it has jurisdiction, the court has considered and made provision for the custody and the support of each child, the maintenance of either spouse and the disposition of property.

3. Any judgment of dissolution of marriage or legal separation shall include the **last four digits of the** Social Security numbers of the parties. **The full Social Security number of each party and each child shall be retained in the manner required under section 509.520, RSMo.**

452.310. PETITION, CONTENTS — SERVICE, HOW — RULES TO APPLY — DEFENSES ABOLISHED — PARENTING PLANS SUBMITTED, WHEN, CONTENT, EXCEPTION. — 1. In any proceeding commenced pursuant to this chapter, the petition, a motion to modify, a motion for a family access order and a motion for contempt shall be verified. The petition in a proceeding for dissolution of marriage shall allege that the marriage is irretrievably broken and that therefore there remains no reasonable likelihood that the marriage can be preserved. The petition in a proceeding for legal separation shall allege that the marriage is not irretrievably broken and that therefore there remains a reasonable likelihood that the marriage can be preserved.

2. The petition in a proceeding for dissolution of marriage or legal separation shall set forth:

(1) The residence of each party, including the county, and the length of residence of each party in this state and in the county of residence;

(2) The date of the marriage and the place at which it is registered;

(3) The date on which the parties separated;

(4) The name, **[**date of birth**] age,** and address of each child, and the parent with whom each child has primarily resided for the sixty days immediately preceding the filing of the petition for dissolution of marriage or legal separation;

(5) Whether the wife is pregnant;

(6) The **last four digits of the** Social Security number of the petitioner, respondent and each child;

(7) Any arrangements as to the custody and support of the children and the maintenance of each party; and

(8) The relief sought.

3. Upon the filing of the petition in a proceeding for dissolution of marriage or legal separation, each child shall immediately be subject to the jurisdiction of the court in which the proceeding is commenced, unless a proceeding involving allegations of abuse or neglect of the child is pending in juvenile court. Until permitted by order of the court, neither parent shall remove any child from the jurisdiction of the court or from any parent with whom the child has primarily resided for the sixty days immediately preceding the filing of a petition for dissolution of marriage or legal separation.

4. The mere fact that one parent has actual possession of the child at the time of filing shall not create a preference in favor of such parent in any judicial determination regarding custody of the child.

5. The respondent shall be served in the manner provided by the rules of the supreme court and applicable court rules and, to avoid an interlocutory judgment of default, shall file a verified answer within thirty days of the date of service which shall not only admit or deny the allegations of the petition, but shall also set forth:

(1) The **last four digits of the** Social Security number of the petitioner, respondent and each child;

(2) Any arrangements as to the custody and support of the child and the maintenance of each party; and

(3) The relief sought.

6. Previously existing defenses to divorce and legal separation, including but not limited to condonation, connivance, collusion, recrimination, insanity, and lapse of time, are abolished.

7. **The full Social Security number of each party and each child and the date of birth of each child shall be provided in the manner required under section 509.520, RSMo.**

8. The petitioner and respondent shall submit a proposed parenting plan, either individually or jointly, within thirty days after service of process or the filing of the entry of appearance, whichever event first occurs of a motion to modify or a petition involving custody or visitation issues. The proposed parenting plan shall set forth the arrangements that the party believes to be in the best interest of the minor children and shall include but not be limited to:

(1) A specific written schedule detailing the custody, visitation and residential time for each child with each party including:

(a) Major holidays stating which holidays a party has each year;

(b) School holidays for school-age children;

(c) The child's birthday, Mother's Day and Father's Day;

(d) Weekday and weekend schedules and for school-age children how the winter, spring, summer and other vacations from school will be spent;

(e) The times and places for transfer of the child between the parties in connection with the residential schedule;

(f) A plan for sharing transportation duties associated with the residential schedule;

(g) Appropriate times for telephone access;

(h) Suggested procedures for notifying the other party when a party requests a temporary variation from the residential schedule;

(i) Any suggested restrictions or limitations on access to a party and the reasons such restrictions are requested;

(2) A specific written plan regarding legal custody which details how the decision-making rights and responsibilities will be shared between the parties including the following:

(a) Educational decisions and methods of communicating information from the school to both parties;

(b) Medical, dental and health care decisions including how health care providers will be selected and a method of communicating medical conditions of the child and how emergency care will be handled;

(c) Extracurricular activities, including a method for determining which activities the child will participate in when those activities involve time during which each party is the custodian;

(d) Child care providers, including how such providers will be selected;

(e) Communication procedures including access to telephone numbers as appropriate;

(f) A dispute resolution procedure for those matters on which the parties disagree or in interpreting the parenting plan;

(g) If a party suggests no shared decision-making, a statement of the reasons for such a request;

(3) How the expenses of the child, including child care, educational and extraordinary expenses as defined in the child support guidelines established by the supreme court, will be paid including:

(a) The suggested amount of child support to be paid by each party;

(b) The party who will maintain or provide health insurance for the child and how the medical, dental, vision, psychological and other health care expenses of the child not paid by insurance will be paid by the parties;

(c) The payment of educational expenses, if any;

(d) The payment of extraordinary expenses of the child, if any;

(e) Child care expenses, if any;

(f) Transportation expenses, if any.

[8.**]** **9.** If the proposed parenting plans of the parties differ and the parties cannot resolve the differences or if any party fails to file a proposed parenting plan, upon motion of either party and an opportunity for the parties to be heard, the court shall enter a temporary order containing a parenting plan setting forth the arrangements specified in subsection **[**7**]** **8** of this section which will remain in effect until further order of the court. The temporary order entered by the court shall not create a preference for the court in its adjudication of final custody, child support or visitation.

[9.**]** **10.** Within one hundred twenty days after August 28, 1998, the Missouri supreme court shall have in effect guidelines for a parenting plan form which may be used by the parties pursuant to this section in any dissolution of marriage, legal separation or modification proceeding involving issues of custody and visitation relating to the child.

[10.**]** **11.** The filing of a parenting plan for any child over the age of eighteen for whom custody, visitation, or support is being established or modified by a court of competent jurisdiction is not required. Nothing in this section shall be construed as precluding the filing of a parenting plan upon agreement of the parties or if ordered to do so by the court for any child over the age of eighteen for whom custody, visitation, or support is being established or modified by a court of competent jurisdiction.

452.312. PARTIES' CURRENT EMPLOYERS AND SOCIAL SECURITY NUMBERS TO BE CONTAINED IN CERTAIN PLEADINGS AND DECREES. — 1. Every petition for dissolution of marriage or legal separation, every motion for modification of a decree respecting maintenance or support, and every petition or motion for support of a minor child shall contain the **[**name and address of the current employer and the**]** **last four digits of the** Social Security number of the petitioner or movant, if a person, **[**and, if known to petitioner or movant, the name and address of the current employer**]** and **the last four digits of** the Social Security number of the respondent. **The name and address of the petitioner's and respondent's current employer shall be provided and retained in the same manner as required under section 509.520, RSMo.**

2. Every responsive pleading to a petition for dissolution of marriage or legal separation, motion for modification of a decree respecting maintenance or support, and petition or motion for support of a minor child shall contain the name and address of the current employer and the **last four digits of the** Social Security number of the respondent, if the respondent is a person.

3. Every decree dissolving a marriage, every order modifying a previous decree of dissolution or divorce, and every order for support of a minor child shall contain the **last four digits of the** Social Security numbers of the parties, if disclosed by the pleadings.

4. The full Social Security number of each party and each child shall be retained in the manner required by section 509.520, RSMo.

452.343. ALL JUDGMENTS AND ORDERS SHALL CONTAIN THE PARTIES' SOCIAL SECURITY NUMBERS. — Notwithstanding any provision of law to the contrary, every judgment or order issued in this state which, in whole or in part, affects child custody, child support, visitation, modification of custody, support or visitation, or is issued pursuant to section 454.470 or 454.475, RSMo, shall contain the **last four digits of the** Social Security number of the parties to the action which gives rise to such judgment or order. **The full Social Security number of each party and each child shall be retained in the manner required by section 509.520, RSMo.**

452.423. GUARDIAN AD LITEM APPOINTED, WHEN, DUTIES — DISQUALIFICATION, WHEN — FEES. — 1. In all proceedings for child custody or for dissolution of marriage or legal separation where custody, visitation, or support of a child is a contested issue, the court may appoint a guardian ad litem. Disqualification of a guardian ad litem shall be ordered in any legal

proceeding only pursuant to this chapter, upon the filing of a written application by any party within ten days of appointment, or within ten days of August 28, 1998, if the appointment occurs prior to August 28, 1998. Each party shall be entitled to one disqualification of a guardian ad litem appointed under this subsection in each proceeding, except a party may be entitled to additional disqualifications of a guardian ad litem for good cause shown.

2. The court shall appoint a guardian ad litem in any proceeding in which child abuse or neglect is alleged.

3. The guardian ad litem shall:

(1) Be the legal representative of the child at the hearing, and may examine, cross-examine, subpoena witnesses and offer testimony;

(2) Prior to the hearing, conduct all necessary interviews with persons having contact with or knowledge of the child in order to ascertain the child's wishes, feelings, attachments and attitudes. If appropriate, the child should be interviewed;

(3) Request the juvenile officer to cause a petition to be filed in the juvenile division of the circuit court if the guardian ad litem believes the child alleged to be abused or neglected is in danger.

4. The appointing judge shall require the guardian ad litem to faithfully discharge such guardian ad litem's duties, and upon failure to do so shall discharge such guardian ad litem and appoint another. The judge in making appointments pursuant to this section shall give preference to persons who served as guardian ad litem for the child in the earlier proceeding, unless there is a reason on the record for not giving such preference.

5. The guardian ad litem shall be awarded a reasonable fee for such services to be set by the court. The court, in its discretion, may:

(1) Issue a direct payment order to the parties. If a party fails to comply with the court's direct payment order, the court may find such party to be in contempt of court; or

(2) Award such fees as a judgment to be paid by any party to the proceedings or from public funds. Such an award of guardian fees shall constitute a final judgment in favor of the guardian ad litem. Such final judgment shall be enforceable against the parties in accordance with chapter 513, RSMo.

[6. The court may designate volunteer advocates, who may or may not be attorneys licensed to practice law, to assist in the performance of the guardian ad litem duties for the court. The volunteer advocate shall be provided with all reports relevant to the case made to or by any agency or person and shall have access to all records of such agencies or persons relating to the child or such child's family members. Any such designated person shall receive no compensation from public funds. This shall not preclude reimbursement for reasonable expenses.**]**

452.426. RISK OF INTERNATIONAL ABDUCTION, COURT MAY IMPOSE RESTRICTIONS AND RESTRAINTS. — If the judge determines that there is potential risk of international abduction of the child by either party, the judge may place any restraints on the parties or grant any remedies to either party that is necessary.

452.430. LIMITATION ON INSPECTION OF CERTAIN DOCUMENTS — REDACTION OF SOCIAL SECURITY NUMBERS. — Any pleadings, other than the interlocutory or final judgment, in a dissolution of marriage or legal separation filed prior to August 28, 2009, shall be subject to inspection only by the parties or an attorney of record or upon order of the court for good cause shown, or by the family support division within the department of social services when services are being provided under section 454.400, RSMo. The clerk shall redact the Social Security number from any judgment or pleading before releasing the interlocutory or final judgment to the public.

452.700. SHORT TITLE. — Sections 452.700 to 452.930 may be cited as the "Uniform Child Custody Jurisdiction and Enforcement Act".

ARTICLE I
GENERAL PROVISIONS

452.705. DEFINITIONS. — As used in sections 452.700 to 452.930:

(1) "Abandoned" means left without provision for reasonable and necessary care or supervision;

(2) "Child" means an individual who has not attained eighteen years of age;

(3) "Child custody determination" means a judgment, decree, or other order of a court providing for the legal custody, physical custody, or visitation with respect to a child. The term includes a permanent, temporary, initial, or modification order. The term shall not include an order relating to child support or other monetary obligation of an individual;

(4) "Child custody proceeding" means a proceeding in which legal custody, physical custody, or visitation with respect to a child is an issue. The term includes a proceeding for divorce, separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights, and protection from domestic violence in which the issue may appear. The term shall not include a proceeding involving juvenile delinquency, contractual emancipation, or enforcement under sections 452.850 to 452.915;

(5) "Commencement" means the filing of the first pleading in a proceeding;

(6) "Court" means an entity authorized under the law of a state to establish, enforce, or modify a child custody determination;

(7) "Decree" or "custody decree" means a custody determination contained in a judicial decree or order made in a custody proceeding, and includes an initial decree and a modification decree;

(8) "Home state" means the state in which a child has lived with a parent or a person acting as a parent for at least six consecutive months immediately prior to the commencement of a child custody proceeding. In the case of a child less than six months of age, the term means the state in which the child has lived from birth with any of the persons mentioned. A period of temporary absence of any of the mentioned persons is part of such period;

(9) "Initial determination" means the first child custody determination concerning a particular child;

(10) "Issuing court" means the court making a child custody determination for which enforcement is sought under sections 452.700 to 452.930;

(11) "Issuing state" means the state in which a child custody determination is made;

(12) "Litigant" means a person, including a parent, grandparent, or stepparent, who claims a right to custody or visitation with respect to a child;

(13) "Modification" means a child custody determination that changes, replaces, supersedes or is otherwise made after a previous determination concerning the same child, whether or not it is made by the court that made the previous determination;

(14) "Person" includes government, a governmental subdivision, agency or instrumentality, or any other legal or commercial entity;

(15) "Person acting as a parent" means a person, other than a parent, who:

(a) Has physical custody of the child or has had physical custody for a period of six consecutive months, including any temporary absence, within one year immediately prior to the commencement of a child custody proceeding; and

(b) Has been awarded legal custody by a court or claims a right to legal custody under the law of this state;

(16) "Physical custody" means the physical care and supervision of a child;

(17) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States;

(18) "Warrant" means an order issued by a court authorizing law enforcement officers to take physical custody of a child.

452.710. PROCEEDINGS GOVERNED BY OTHER LAW. — Sections 452.700 to 452.930 shall not govern:

(1) An adoption proceeding; or

(2) A proceeding pertaining to the authorization of emergency medical care for a child.

452.715. APPLICATION TO INDIAN TRIBES. — 1. A child custody proceeding that pertains to an Indian child, as defined in the Indian Child Welfare Act, 25 U.S.C. Section 1901, et seq., is not subject to sections 452.700 to 452.930 to the extent that it is governed by the Indian Child Welfare Act.

2. A court of this state shall treat a tribe as a state of the United States for purposes of sections 452.700 to 452.930.

3. A child custody determination made by a tribe under factual circumstances in substantial conformity with the jurisdictional standards of sections 452.700 to 452.930 shall be recognized and enforced under the provisions of sections 452.850 to 452.915.

452.720. INTERNATIONAL APPLICATION OF ACT. — 1. A court of this state shall treat a foreign country as a state of the United States for purposes of applying sections 452.700 to 452.785.

2. A child custody determination made in a foreign country under factual circumstances in substantial conformity with the jurisdictional standards of sections 452.700 to 452.930 shall be recognized and enforced under sections 452.850 to 452.915.

3. The court need not apply the provisions of sections 452.700 to 452.930 when the child custody law of the other country violates fundamental principles of human rights.

452.725. APPEARANCE AND LIMITED IMMUNITY. — 1. A party to a child custody proceeding who is not subject to personal jurisdiction in this state and is a responding party under sections 452.740 to 452.785, a party in a proceeding to modify a child custody determination under sections 452.740 to 452.785, or a petitioner in a proceeding to enforce or register a child custody determination under sections 452.850 to 452.915 may appear and participate in such proceeding without submitting to personal jurisdiction over the party for another proceeding or purpose.

2. A party is not subject to personal jurisdiction in this state solely by being physically present for the purpose of participating in a proceeding under sections 452.700 to 452.930. If a party is subject to personal jurisdiction in this state on a basis other than physical presence, the party may be served with process in this state. If a party present in this state is subject to the jurisdiction of another state, service of process permissible under the laws of the other state may be accomplished in this state.

3. The immunity granted by this section shall not extend to civil litigation based on acts unrelated to the participation in a proceeding under sections 452.700 to 452.930 committed by an individual while present in this state.

452.730. COMMUNICATION BETWEEN COURTS. — 1. A court of this state may communicate with a court in another state concerning a proceeding arising under sections 452.700 to 452.930.

2. The court may allow the parties to participate in the communication. If the parties are not able to participate in the communication, the parties shall be given the opportunity to present facts and legal arguments before a decision on jurisdiction is made.

3. A communication between courts on schedules, calendars, court records, and similar matters may occur without informing the parties. A record need not be made of such communication.

4. Except as provided in subsection 3 of this section, a record shall be made of the communication. The parties shall be informed promptly of the communication and granted access to the record.

5. For the purposes of this section, "record" means information that is inscribed on a tangible medium, or that which is stored in an electronic or other medium and is retrievable in perceivable form. A record includes notes or transcripts of a court reporter who listened to a conference call between the courts, an electronic recording of a telephone call, a memorandum or an electronic record of the communication between the courts, or a memorandum or an electronic record made by a court after the communication.

452.735. COOPERATION BETWEEN COURTS — PRESERVATION OF RECORDS. — 1. A court of this state may request the appropriate court of another state to:

(1) Hold an evidentiary hearing;

(2) Order a person to produce or give evidence under procedures of that state;

(3) Order that an evaluation be made with respect to the custody of a child involved in a pending proceeding;

(4) Forward to the court of this state a certified copy of the transcript of the record of the hearing, the evidence otherwise presented and any evaluation prepared in compliance with the request; and

(5) Order a party to a child custody proceeding or any person having physical custody of the child to appear in the proceeding with or without the child.

2. Upon request of a court of another state, a court of this state may hold a hearing or enter an order described in subsection 1 of this section.

3. Travel and other necessary and reasonable expenses incurred under subsection 1 or 2 of this section may be assessed against the parties according to the law of this state.

4. A court of this state shall preserve the pleadings, orders, decrees, records of hearings, evaluations, and other pertinent records with respect to a child custody proceeding until the child attains eighteen years of age. Upon appropriate request by a court or law enforcement official of another state, the court shall forward a certified copy of such records.

ARTICLE II
JURISDICTION

452.740. INITIAL CHILD CUSTODY JURISDICTION. — 1. Except as otherwise provided in section 452.755, a court of this state has jurisdiction to make an initial child custody determination only if:

(1) This state is the home state of the child on the date of the commencement of the proceeding, or was the home state of the child within six months prior to the commencement of the proceeding and the child is absent from this state but a parent or person acting as a parent continues to live in this state;

(2) A court of another state does not have jurisdiction under subdivision (1) of this subsection, or a court of the home state of the child has declined to exercise jurisdiction on the ground that this state is the more appropriate forum under section 452.770 or 452.775, and:

(a) The child and the child's parents, or the child and at least one parent or person acting as a parent have a significant connection with this state other than mere physical presence; and

(b) Substantial evidence is available in this state concerning the child's care, protection, training and personal relationships;

(3) All courts having jurisdiction under subdivisions (1) and (2) of this subsection have declined to exercise jurisdiction on the ground that a court of this state is the more appropriate forum to determine the custody of the child under section 452.770 or 452.775; or

(4) No state would have jurisdiction under subdivision (1), (2) or (3) of this subsection.

2. Subsection 1 of this section is the exclusive jurisdictional basis for making a child custody determination by a court of this state.

3. Physical presence of, or personal jurisdiction over, a party or a child is not necessary or sufficient to make a child custody determination.

452.745. EXCLUSIVE, CONTINUING JURISDICTION. — 1. Except as otherwise provided in section 452.755, a court of this state that has made a child custody determination consistent with section 452.740 or 452.750 has exclusive continuing jurisdiction over the determination until:

(1) A court of this state determines that neither the child, the child and one parent, nor the child and a person acting as a parent have a significant connection with this state, and that substantial evidence is no longer available in this state concerning the child's care, protection, training and personal relationships; or

(2) A court of this state or a court of another state determines that neither the child, nor a parent, nor any person acting as a parent presently resides in this state.

2. A court of this state that has exclusive continuing jurisdiction under this section may decline to exercise its jurisdiction if the court determines that it is an inconvenient forum under section 452.770.

3. A court of this state that has made a child custody determination and does not have exclusive continuing jurisdiction under this section may modify that determination only if it has jurisdiction to make an initial determination under section 452.740.

452.747. VERIFIED PETITION — SERVICE OF PROCESS. — 1. Any petition for modification of child custody decrees filed under the provisions of section 452.410 or sections 452.700 to 452.930 shall be verified and, if the original proceeding originated in the state of Missouri, shall be filed in that original case, but service shall be obtained and responsive pleadings may be filed as in any original proceeding.

2. Before making a decree under section 452.410 or sections 452.700 to 452.930, the litigants, any parent whose parental rights have not been previously terminated, and any person who has physical custody of the child shall be served in the manner provided by the rules of civil procedure and applicable court rules and may within thirty days after the date of service (forty-five days if service by publication) file a verified answer. If any such persons are outside this state, notice and opportunity to be heard shall be given under section 452.740.

452.750. JURISDICTION TO MODIFY DETERMINATION. — Except as otherwise provided in section 452.755, a court of this state shall not modify a child custody determination made by a court of another state unless a court of this state has jurisdiction to make an initial determination under subdivision (1) or (2) of subsection 1 of section 452.740 and:

(1) The court of the other state determines it no longer has exclusive continuing jurisdiction under section 452.745 or that a court of this state would be a more convenient forum under section 452.770; or

(2) A court of this state or a court of the other state determines that neither the child, nor a parent, nor any person acting as a parent presently resides in the other state.

452.755. TEMPORARY EMERGENCY JURISDICTION. — 1. A court of this state has temporary emergency jurisdiction if the child is present in this state and the child has been

abandoned, or it is necessary in an emergency to protect the child because the child, or a sibling or parent of the child, is subjected to or threatened with mistreatment or abuse.

2. If there is no previous child custody determination that is entitled to be enforced under sections 452.700 to 452.930, and if no child custody proceeding has been commenced in a court of a state having jurisdiction under sections 452.740 to 452.750, a child custody determination made under this section remains in effect until an order is obtained from a court of a state having jurisdiction under sections 452.740 to 452.750. If a child custody proceeding has not been or is not commenced in a court of a state having jurisdiction under sections 452.740 to 452.750, a child custody determination made under this section becomes a final determination if:

(1) It so provides; and

(2) This state becomes the home state of the child.

3. If there is a previous child custody determination that is entitled to be enforced under sections 452.700 to 452.930, or a child custody proceeding has been commenced in a court of a state having jurisdiction under sections 452.740 to 452.750, any order issued by a court of this state under this section shall specify in the order a period of time which the court considers adequate to allow the person seeking an order to obtain an order from the state having jurisdiction under sections 452.740 to 452.750. The order issued in this state remains in effect until an order is obtained from the other state within the period specified or the period expires.

4. A court of this state that has been asked to make a child custody determination under this section, upon being informed that a child custody proceeding has been commenced, or a child custody determination has been made, by a court of a state having jurisdiction under sections 452.740 to 452.750, shall immediately communicate with the other court. A court of this state that is exercising jurisdiction under sections 452.740 to 452.750, upon being informed that a child custody proceeding has been commenced, or a child custody determination has been made by a court of another state under a statute similar to this section shall immediately communicate with the court of that state. The purpose of such communication is to resolve the emergency, protect the safety of the parties and the child, and determine a period for the duration of the temporary order.

452.760. NOTICE — OPPORTUNITY TO BE HEARD — JOINDER. — 1. Before a child custody determination is made under sections 452.700 to 452.930, notice and an opportunity to be heard in accordance with the standards of section 452.762 shall be given to:

(1) All persons entitled to notice under the provisions of the law of this state as in child custody proceedings between residents of this state;

(2) Any parent whose parental rights have not been previously terminated; and

(3) Any person having physical custody of the child.

2. Sections 452.700 to 452.930 shall not govern the enforceability of a child custody determination made without notice and an opportunity to be heard.

3. The obligation to join a party and the right to intervene as a party in a child custody proceeding under sections 452.700 to 452.930 are governed by the law of this state as in child custody proceedings between residents of this state.

452.762. NOTICE FOR EXERCISE OF JURISDICTION. — 1. Notice required for the exercise of jurisdiction when a person is outside this state may be given in a manner prescribed by the law of this state for the service of process or by the law of the state in which the service is made. Notice must be given in a manner reasonably calculated to give actual notice, but may be by publication if other means are not effective.

2. Proof of service may be made in the manner prescribed by law of this state or by the law of the state in which the service is made.

3. Notice is not required for the exercise of jurisdiction with respect to a person who submits to the jurisdiction of the court.

452.765. SIMULTANEOUS PROCEEDINGS. — 1. Except as otherwise provided in section 452.755, a court of this state shall not exercise its jurisdiction under sections 452.740 to 452.785 if, at the time of the commencement of the proceeding, a proceeding concerning the custody of the child had been previously commenced in a court of another state having jurisdiction substantially in conformity with sections 452.700 to 452.930, unless the proceeding has been terminated or is stayed by the court of the other state because a court of this state is a more convenient forum under section 452.770.

2. Except as otherwise provided in section 452.755, a court of this state, prior to hearing a child custody proceeding, shall examine the court documents and other information supplied by the parties under section 452.780. If the court determines that a child custody proceeding was previously commenced in a court in another state having jurisdiction substantially in accordance with sections 452.700 to 452.930, the court of this state shall stay its proceeding and communicate with the court of the other state. If the court of the state having jurisdiction substantially in accordance with sections 452.700 to 452.930 does not determine that the court of this state is a more appropriate forum, the court of this state shall dismiss the proceeding.

3. In a proceeding to modify a child custody determination, a court of this state shall determine if a proceeding to enforce the determination has been commenced in another state. If a proceeding to enforce a child custody determination has been commenced in another state, the court may:

(1) Stay the proceeding for modification pending the entry of an order of a court of the other state enforcing, staying, denying or dismissing the proceeding for enforcement;

(2) Enjoin the parties from continuing with the proceeding for enforcement; or

(3) Proceed with the modification under conditions it considers appropriate.

452.770. INCONVENIENT FORUM. — 1. A court of this state that has jurisdiction under sections 452.700 to 452.930 to make a child custody determination may decline to exercise its jurisdiction at any time if the court determines that it is an inconvenient forum under the circumstances and that a court of another state is a more appropriate forum. The issue of inconvenient forum may be raised upon the court's own motion, at the request of another court or upon motion of a party.

2. Before determining whether the court is an inconvenient forum, a court of this state shall consider whether it is appropriate that a court of another state exercise jurisdiction. For this purpose, the court shall allow the parties to submit information and shall consider all relevant factors, including:

(1) Whether domestic violence has occurred and is likely to continue in the future and which state could best protect the parties and the child;

(2) The length of time the child has resided outside this state;

(3) The distance between the court in this state and the court in the state that would assume jurisdiction;

(4) The relative financial circumstances of the parties;

(5) Any agreement of the parties as to which state should assume jurisdiction;

(6) The nature and location of the evidence required to resolve the pending litigation, including the testimony of the child;

(7) The ability of the court of each state to decide the issue expeditiously and the procedures necessary to present the evidence; and

(8) The familiarity of the court of each state with the facts and issues of the pending litigation.

3. If a court of this state determines that it is an inconvenient forum and that a court of another state is a more appropriate forum, the court shall stay the proceedings on the condition that a child custody proceeding be promptly commenced in another designated state and may impose any other condition the court considers just and proper.

4. A court of this state may decline to exercise its jurisdiction under sections 452.700 to 452.930 if a child custody determination is incidental to an action for divorce or another proceeding while still retaining jurisdiction over the divorce or other proceeding.

452.775. JURISDICTION DECLINED BY REASON OF CONDUCT. — 1. Except as otherwise provided in section 452.755, if a court of this state has jurisdiction under sections 452.700 to 452.930 because a person invoking the jurisdiction has engaged in unjustifiable conduct, the court shall decline to exercise its jurisdiction unless:

(1) The parents and all persons acting as parents have acquiesced in the exercise of jurisdiction;

(2) A court of the state otherwise having jurisdiction under sections 452.740 to 452.750 determines that this state is a more appropriate forum under section 452.770; or

(3) No other state would have jurisdiction under sections 452.740 to 452.750.

2. If a court of this state declines to exercise its jurisdiction under subsection 1 of this section, the court may fashion an appropriate remedy to ensure the safety of the child and prevent a repetition of the wrongful conduct, including staying the proceeding until a child custody proceeding is commenced in a court having jurisdiction under sections 452.740 to 452.750.

3. If a court dismisses a petition or stays a proceeding because it declines to exercise its jurisdiction under subsection 1 of this section, the court shall charge the party invoking the jurisdiction of the court with necessary and reasonable expenses including costs, communication expenses, attorney's fees, investigative fees, expenses for witnesses, travel expenses and child care during the course of the proceedings, unless the party from whom fees are sought establishes that the award would be clearly inappropriate. The court may not assess fees, costs or expenses against this state except as otherwise provided by law other than sections 452.700 to 452.930.

452.780. INFORMATION TO BE SUBMITTED TO COURT. — 1. Subject to local law providing for the confidentiality of procedures, addresses, and other identifying information, in a child custody proceeding, each party, in its first pleading or in an attached affidavit, shall give information, if reasonably ascertainable, under oath as to the child's present address, the places where the child has lived during the last five years, and the names and present addresses of the persons with whom the child has lived during such period. The pleading or affidavit shall state whether the party:

(1) Has participated, as a party or witness or in any other capacity, in any other proceeding concerning the custody of or visitation with the child and, if so, identify the court, case number of the proceeding and date of the child custody determination, if any;

(2) Knows of any proceeding that could affect the current proceeding, including proceedings for enforcement and proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions and, if so, identify the court and case number and nature of the proceeding; and

(3) Knows the names and addresses of any person not a party to the proceeding who has physical custody of the child or claims rights of legal custody or physical custody of, or visitation with, the child and, if so, the names and addresses of such persons.

2. If the information required by subsection 1 of this section is not furnished, the court, upon its own motion or that of a party, may stay the proceeding until the information is furnished.

3. If the declaration as to any of the items described in subdivisions (1) to (3) of subsection 1 of this section is in the affirmative, the declarant shall give additional information under oath as required by the court. The court may examine the parties under oath as to details of the information furnished and other matters pertinent to the court's jurisdiction and the disposition of the case.

4. Each party has a continuing duty to inform the court of any proceeding in this or any other state that could affect the current proceeding.

5. If a party alleges in an affidavit or a pleading under oath that the health, safety, or liberty of a party or child would be put at risk by the disclosure of identifying information, that information shall be sealed and not disclosed to the other party or the public unless the court orders the disclosure to be made after a hearing in which the court takes into consideration the health, safety, or liberty of the party or child and determines that the disclosure is in the interest of justice.

452.782. JOINDER OF A PARTY. — If the court learns from information furnished by the parties under section 452.800 or from other sources that a person not a party to the custody proceeding has physical custody of the child or claims to have custody or visitation rights with respect to the child, it may order that person to be joined as a party and to be duly notified of the pendency of the proceeding and of his or her joinder as a party. If the person joined as a party is outside this state, such person shall be served with process or otherwise notified in accordance with section 452.762.

452.785. APPEARANCE OF PARTIES AND CHILD. — 1. The court may order any party to the proceeding who is in this state to appear before the court personally. If the court finds the physical presence of the child to be in the best interest of the child, the court may order that the party who has physical custody of the child to appear physically with the child.

2. If a party to a child custody proceeding whose presence is desired by the court is outside this state, with or without the child, the court may order that a notice given under section 452.762 include a statement directing the party to appear personally with or without the child.

3. If a party to the proceeding who is outside this state is directed to appear under subsection 1 of this section or desires to appear personally before the court with or without the child, the court may require another party to pay to the clerk of the court travel and other necessary expenses of the party so appearing and of the child, if this is just and proper under the circumstances.

4. If the court finds it to be in the best interest of the child that a guardian ad litem be appointed, the court may appoint a guardian ad litem for the child. The guardian ad litem so appointed shall be an attorney licensed to practice law in the state of Missouri. Disqualification of a guardian ad litem shall be ordered in any legal proceeding under this chapter upon the filing of a written application by any party within ten days of appointment. Each party shall be entitled to one disqualification of a guardian ad litem appointed under this subsection in each proceeding, except a party may be entitled to additional disqualifications of a guardian ad litem for good cause shown. The guardian ad litem may, for the purpose of determining custody of the child only, participate in the proceeding as if such guardian ad litem were a party. The court shall enter judgment allowing a reasonable fee to the guardian ad litem.

5. The court shall appoint a guardian ad litem in any proceeding in which child abuse or neglect is alleged.

6. The court may enter any orders necessary to ensure the safety of the child and of any person ordered to appear under this section.

452.790. EFFECT OF CHILD CUSTODY DETERMINATION. — A child custody determination made by a court of this state that had jurisdiction under sections 452.700 to 452.930 binds all persons who have been served in accordance with the laws of this state or notified in accordance with section 452.762 or who have submitted to the jurisdiction of the court, and who have been given an opportunity to be heard. The determination is conclusive as to them as to all decided issues of law and fact except to the extent the determination is modified.

452.795. FULL FAITH AND CREDIT. — A court of this state shall accord full faith and credit to an order made consistently with sections 452.700 to 452.930 which enforces a child custody determination by a court of another state unless the order has been vacated, stayed, or modified by a court authorized to do so under sections 452.740 to 452.845.

452.800. MODIFICATION OF ANOTHER COURT'S DETERMINATION. — Except as otherwise provided in section 452.755, a court of this state may not modify a child custody determination made by a court of another state unless a court of this state has jurisdiction to make an initial determination under subdivision (1) or (2) of subsection 1 of section 452.740 and:

(1) The court of the other state determines that it no longer has exclusive, continuing jurisdiction under section 452.745 or that a court of this state would be a more convenient forum under section 452.770; or

(2) A court of this state or a court of the other state determines that neither child, nor a parent, nor any person acting as a parent presently resides in the other state.

452.805. FILING OF CERTIFIED COPY OF CUSTODY DECREE. — 1. A certified copy of a custody decree of another state may be filed in the office of the clerk of any circuit court of this state. The clerk shall treat the decree in the same manner as a custody decree of the circuit court of this state. A custody decree so filed has the same effect and shall be enforced in like manner as a custody decree rendered by a court of this state.

2. A person violating a custody decree of another state which makes it necessary to enforce the decree in this state may be required to pay necessary travel and other expenses, including attorneys' fees, incurred by the party entitled to the custody or the party's witnesses.

3. A court of this state shall recognize and enforce a child custody determination of a court of another state if the latter court exercised jurisdiction that was in substantial conformity with sections 452.700 to 452.930 or the determination was made under factual circumstances meeting the jurisdictional standards of sections 452.700 to 452.930 and the determination has not been modified in accordance with sections 452.700 to 452.930.

4. A court may utilize any remedy available under other law of this state to enforce a child custody determination made by a court of another state. The procedure provided by sections 452.740 to 452.845 does not affect the availability of other remedies to enforce a child custody determination.

452.810. REGISTRATION OF CHILD CUSTODY DETERMINATION. — 1. A child custody determination issued by a court of another state may be registered in this state, with or without a simultaneous request for enforcement, by sending to the appropriate court in this state:

(1) A letter or other document requesting registration;

(2) Two copies, including one certified copy, of the determination sought to be registered, and a statement under penalty of perjury that to the best of the knowledge and belief of the person seeking registration the order has not been modified; and

(3) Except as otherwise provided in section 452.780, the name and address of the person seeking registration and any parent or person acting as a parent who has been awarded custody or visitation in the child custody determination sought to be registered.

2. On receipt of the documents required in subsection 1 of this section, the registering court shall:

(1) Cause the determination to be filed as a foreign judgment, together with one copy of any accompanying documents and information, regardless of their form; and

(2) Serve notice upon the persons named under subdivision (3) of subsection 1 of this section and provide them with an opportunity to contest the registration in accordance with this section.

3. The notice required by subdivision (2) of subsection 2 of this section must state:

(1) That a registered determination is enforceable as of the date of the registration in the same manner as a determination issued by a court of this state;

(2) That a hearing to contest the validity of the registered determination must be requested within twenty days after service of notice; and

(3) That failure to contest the registration will result in confirmation of the child custody determination and preclude further contest of that determination with respect to any matter that could have been asserted.

4. A person seeking to contest the validity of a registered order must request a hearing within twenty days after service of the notice. At that hearing, the court shall confirm the registered order unless the person contesting registration establishes that:

(1) The issuing court did not have jurisdiction under sections 452.740 to 452.845;

(2) The child custody determination sought to be registered has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under sections 452.740 to 452.845; or

(3) The person contesting registration was entitled to notice, but notice was not given in accordance with the standards of section 452.740 in the proceedings before the court that issued the order for which registration is sought.

5. If a timely request for a hearing to contest the validity of the registration is not made, the registration is confirmed as a matter of law and the person requesting registration and all persons served must be notified of the confirmation.

6. Confirmation of a registered order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter which could have been asserted at the time of registration.

452.815. FORWARDING COPIES OF DECREES. — The clerk of the circuit court of this state, at the request of the court of another state or at the request of any person who is affected by or has a legitimate interest in a custody decree, may, upon payment therefor, certify and forward a copy of the decree to that court or person.

452.820. TESTIMONY OF WITNESSES. — 1. In addition to other procedures available to a party, a party to a child custody proceeding may offer testimony of witnesses who are located in another state, including testimony of the parties and the child, by deposition or other means allowable in this state for testimony taken in another state. The court on its own motion may order that the testimony of a person be taken in another state and may prescribe the manner in which and the terms upon which the testimony is taken.

2. A court of this state may permit an individual residing in another state to be deposed or to testify by telephone, audiovisual means, or other electronic means before a designated court or at another location in that state. A court of this state shall cooperate with courts of other states in designating an appropriate location for the deposition or testimony.

3. Documentary evidence transmitted from another state to a court of this state by technological means that do not produce an original writing may not be excluded from evidence on an objection based on the means of transmission.

452.825. REQUEST FOR ANOTHER COURT TO HOLD HEARING. — 1. A court of this state may request the appropriate court of another state to hold a hearing to obtain evidence, to order persons within that state to produce or give evidence under other procedures of that state, or to have social studies made with respect to the custody of a child involved in proceedings pending in the court of this state; and to forward to the court of this state certified copies of the transcript of the record of the hearing, the evidence otherwise obtained, or any social studies prepared in compliance with the request. The cost of the services may be assessed against the parties.

2. A court of this state may request the appropriate court of another state to order a party to custody proceedings pending in the court of this state to appear in the proceedings and, if that party has physical custody of the child, to appear with the child. The request may state that travel and other necessary expenses of the party and of the child whose appearance is desired will be assessed against the appropriate party.

452.830. APPEARANCE AT HEARING. — 1. Upon request of the court of another state, the courts of this state which are competent to hear custody matters may order a person in this state to appear at a hearing to obtain evidence or to produce or give evidence under other procedures available in this state for use in a custody proceeding in another state. A certified copy of the transcript of the record of the hearing or the evidence otherwise obtained may, in the discretion of the court and upon payment therefor, be forwarded to the requesting court.

2. A person within this state may voluntarily give his testimony or statement in this state for use in a custody proceeding outside this state.

3. Upon request of the court of another state, a competent court of this state may order a person in this state to appear alone or with the child in a custody proceeding in another state. The court may condition compliance with the request upon assurance by the other state that travel and other necessary expenses will be advanced or reimbursed.

452.835. PRESERVATION OF DOCUMENTS. — A court of this state shall preserve the pleadings, orders, decrees, records of hearings, evaluations, and other pertinent records with respect to a child custody proceeding until the child reaches eighteen years of age. Upon appropriate request by the court or law enforcement official of another state, the court shall forward certified copies of these records.

452.840. TRANSFER OF TRANSCRIPTS AND DOCUMENTS. — If a custody decree has been rendered in another state concerning a child involved in a custody proceeding pending in a court of this state, the court of this state, upon taking jurisdiction of the case, shall request of the court of the other state a certified copy of the transcript of any court record and other documents mentioned in section 452.835.

452.845. PRIORITY OF JURISDICTIONAL QUESTION. — If a question of existence or exercise of jurisdiction under sections 452.700 to 452.930 is raised in a child custody proceeding, the question, upon request of a party, must be given priority on the calendar and handled expeditiously.

ARTICLE III
ENFORCEMENT

452.850. DEFINITIONS. — As used in sections 452.850 to 452.915:

(1) "Petitioner" means a person who seeks enforcement of a child custody determination or enforcement of an order for the return of the child under the Hague Convention on the Civil Aspects of International Child Abduction;

(2) "Respondent" means a person against whom a proceeding has been commenced for enforcement of a child custody determination or enforcement of an order for the return of the child under the Hague Convention on the Civil Aspects of International Child Abduction.

452.855. TEMPORARY VISITATION. — 1. Sections 452.850 to 452.915 may be invoked to enforce:

(1) A child custody determination; and

(2) An order for the return of the child made under the Hague Convention on the Civil Aspects of International Child Abduction.

2. A court of this state which does not have jurisdiction to modify a child custody determination may issue a temporary order enforcing:

(1) A visitation schedule made by a court of another state; or

(2) The visitation provisions of a child custody determination of another state that does not provide for a specific visitation schedule.

3. If a court of this state makes an order under subdivision (2) of subsection 2 of this section, the court shall specify in the order a period of time which it considers adequate to allow the person seeking the order to obtain an order from the state having jurisdiction under sections 452.740 to 452.845. The order remains in effect until an order is obtained from the other state or the period expires.

452.860. ENFORCEMENT OF REGISTERED DETERMINATION. — 1. A court of this state may grant any relief normally available under the provisions of the laws of this state to enforce a registered child custody determination made by a court of another state.

2. A court of this state shall recognize and enforce, but shall not modify, except in accordance with sections 452.740 to 452.845, a registered child custody determination of another state.

452.865. SIMULTANEOUS PROCEEDING. — If a proceeding for enforcement under sections 452.850 to 452.915 has been or is commenced in this state and a court of this state determines that a proceeding to modify the determination has been commenced in another state having jurisdiction to modify the determination under sections 452.740 to 452.845, the enforcing court shall immediately communicate with the modifying court. The proceeding for enforcement continues unless the enforcing court, after consultation with the modifying court, stays or dismisses the proceeding.

452.870. EXPEDITED ENFORCEMENT OF CHILD CUSTODY DETERMINATION. — 1. A petition under sections 452.850 to 452.915 shall be verified. Certified copies of all orders sought to be enforced and of the order confirming registration, if any, shall be attached to the petition. A copy of a certified copy of an order may be attached instead of the original.

2. A petition for enforcement of a child custody determination shall state:

(1) Whether the court that issued the determination identified the jurisdictional basis it relied upon in exercising jurisdiction and, if so, what the basis was;

(2) Whether the determination for which enforcement is sought has been vacated, stayed or modified by a court whose decision shall be enforced under sections 452.700 to 452.930 or federal law and, if so, identify the court, case number of the proceeding and action taken;

(3) Whether any proceeding has been commenced that could affect the current proceeding, including proceedings relating to domestic violence, protective orders, termination of parental rights and adoptions, and, if so, identify the court, and the case number and nature of the proceeding;

(4) The present physical address of the child and respondent, if known; and

(5) Whether relief in addition to the immediate physical custody of the child and attorney's fees is sought, including a request for assistance from law enforcement officials and, if so, the relief sought.

3. If the child custody determination has been registered and confirmed under section 452.810, the petition shall also state the date and place of registration.

4. The court shall issue an order directing the respondent to appear with or without the child at a hearing and may enter any orders necessary to ensure the safety of the parties and the child.

5. The hearing shall be held on the next judicial day following service of process unless such date is impossible. In such event, the court shall hold the hearing on the first day possible. The court may extend the date of hearing at the request of the petitioner.

6. The order shall state the time and place of the hearing, and shall advise the respondent that at the hearing the court will order the delivery of the child and payment of fees, costs and expenses under section 452.890, and may set an additional hearing to determine if further relief is appropriate, unless the respondent appears and establishes that:

(1) The child custody determination is not registered and confirmed under section 452.810, and:

(a) The issuing court did not have jurisdiction under sections 452.740 to 452.845;

(b) The child custody determination for which enforcement is sought has been vacated, stayed or modified by a court of a state having jurisdiction to do so under sections 452.740 to 452.845 or federal law; or

(c) The respondent was entitled to notice, but notice was not given in accordance with the standards of section 452.762 in the proceedings before the court that issued the order for which enforcement is sought; or

(2) The child custody determination for which enforcement is sought was registered and confirmed under section 452.810, but has been vacated, stayed or modified by a court of a state having jurisdiction to do so under sections 452.740 to 452.845 or federal law.

452.875. SERVICE OF PETITION AND ORDER. — Except as otherwise provided in section 452.885, the petition and order shall be served by any method authorized by the laws of this state upon the respondent and any person who has physical custody of the child.

452.880. HEARING AND ORDER. — 1. Unless the court enters a temporary emergency order under section 452.755, upon a finding that a petitioner is entitled to the physical custody of the child immediately, the court shall order the child delivered to the petitioner unless the respondent establishes that:

(1) The child custody determination has not been registered and confirmed under section 452.810, and that:

(a) The issuing court did not have jurisdiction under sections 452.740 to 452.845;

(b) The child custody determination for which enforcement is sought has been vacated, stayed or modified by a court of a state having jurisdiction to do so under sections 452.740 to 452.845 or federal law; or

(c) The respondent was entitled to notice, but notice was not given in accordance with the standards of section 452.762 in the proceedings before the court that issued the order for which enforcement is sought; or

(2) The child custody determination for which enforcement is sought was registered and confirmed under section 452.810, but has been vacated, stayed or modified by a court of a state having jurisdiction to do so under sections 452.740 to 452.845 or federal law.

2. The court shall award the fees, costs and expenses authorized under section 452.890 and may grant additional relief, including a request for the assistance of law enforcement officials, and set a further hearing to determine if additional relief is appropriate.

3. If a party called to testify refuses to answer on the grounds that the testimony may be self-incriminating, the court may draw an adverse inference from such refusal.

4. A privilege against disclosure of communications between spouses and a defense of immunity based on the relationship of husband and wife, or parent and child shall not be invoked in a proceeding under sections 452.850 to 452.915.

452.885. WARRANT TO TAKE PHYSICAL CUSTODY OF CHILD. — 1. Upon the filing of a petition seeking enforcement of a child custody determination, the petitioner may file a verified application for the issuance of a warrant to take physical custody of the child if the child is likely to suffer serious imminent physical harm or removal from this state.

2. If the court, upon the testimony of the petitioner or other witnesses, finds that the child is likely to suffer serious imminent physical harm or be imminently removed from this state, the court may issue a warrant to take physical custody of the child. The petition shall be heard on the next judicial day after the warrant is executed. The warrant shall include the statements required under subsection 2 of section 452.870.

3. A warrant to take physical custody of a child shall:

(1) Recite the facts which a conclusion of serious imminent physical harm or removal from the jurisdiction is based;

(2) Direct law enforcement officers to take physical custody of the child immediately; and

(3) Provide for the placement of the child pending final relief.

4. The respondent shall be served with the petition, warrant and order immediately after the child is taken into physical custody.

5. A warrant to take physical custody of a child is enforceable throughout this state. If the court finds on the basis of the testimony of the petitioner or other witness that a less intrusive remedy is not effective, the court may authorize law enforcement officers to enter private property to take physical custody of the child. If required by the exigency of the case, the court may authorize law enforcement officers to make a forcible entry at any hour.

6. The court may impose conditions on the placement of a child to ensure the appearance of the child and the child's custodian.

452.890. COSTS, FEES, AND EXPENSES. — 1. The court shall award the prevailing party, including a state, necessary and reasonable expenses incurred by or on behalf of the party, including costs, communication expenses, attorney's fees, investigative fees, expenses for witnesses, travel expenses and child care during the course of the proceedings, unless the party from whom fees or expenses are sought establishes that the award would be clearly inappropriate.

2. The court shall not assess fees, costs or expenses against a state except as otherwise provided by law other than sections 452.700 to 452.930.

452.895. RECOGNITION AND ENFORCEMENT. — A court of this state shall accord full faith and credit to an order made consistently with sections 452.700 to 452.930 which enforces a child custody determination by a court of another state unless the order has

been vacated, stayed or modified by a court authorized to do so under sections 452.740 to 452.845.

452.900. APPEALS. — An appeal may be taken from a final order in a proceeding under sections 452.850 to 452.915 in accordance with appellate procedures in other civil cases. Unless the court enters a temporary emergency order under section 452.755, the enforcing court shall not stay an order enforcing a child custody determination pending appeal.

452.905. ROLE OF PROSECUTOR OR PUBLIC OFFICIAL. — 1. In a case arising under sections 452.700 to 452.930 or involving the Hague Convention on the Civil Aspects of International Child Abduction, the appropriate public official may take any lawful action, including resort to a proceeding under sections 452.850 to 452.915 or any other available civil proceeding to locate a child, obtain the return of a child or enforce a child custody determination if there is:

(1) An existing child custody determination;

(2) A request from a court in a pending child custody case;

(3) A reasonable belief that a criminal statute has been violated; or

(4) A reasonable belief that the child has been wrongfully removed or retained in violation of the Hague Convention on the Civil Aspects of International Child Abduction.

2. A prosecutor or an appropriate public official shall act on behalf of the court and shall not represent any party to a child custody determination.

452.910. ROLE OF LAW ENFORCEMENT. — At the request of a prosecutor or other appropriate public official acting under section 452.905, a law enforcement officer may take any lawful action reasonably necessary to locate a child or a party and assist such prosecutor or public official with responsibilities under section 452.905.

452.915. COSTS AND EXPENSES. — If the respondent is not the prevailing party, the court may assess against the respondent all direct expenses and costs incurred by the prosecutor or other appropriate public official and law enforcement officers under sections 452.905 and 452.910.

ARTICLE IV
MISCELLANEOUS PROVISIONS

452.920. APPLICATION AND CONSTRUCTION. — In applying and construing sections 452.700 to 452.930, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

452.925. SEVERABILITY CLAUSE. — If any provision of sections 452.700 to 452.930 or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of sections 452.700 to 452.930 which can be given effect without the invalid provision or application, and to this end the provisions of sections 452.700 to 452.930 are severable.

452.930. TRANSITIONAL PROVISION. — A motion or other request for relief made in a child custody or enforcement proceeding which was commenced before August 28, 2009, is governed by the law in effect at the time the motion or other request was made.

454.500. MODIFICATION OF AN ADMINISTRATIVE ORDER, PROCEDURE, EFFECT — RELIEF FROM ORDERS, WHEN. — 1. At any time after the entry of an order pursuant to sections 454.470 and 454.475, the obligated parent, the division, or the person or agency having custody

of the dependent child may file a motion for modification with the director. Such motion shall be in writing, shall set forth the reasons for modification, and shall state the address of the moving party. The motion shall be served by the moving party in the manner provided for in subsection 5 of section 454.465 upon the obligated parent or the party holding the support rights, as appropriate. In addition, if the support rights are held by the division of family services on behalf of the state, a true copy of the motion shall be mailed by the moving party by certified mail to the person having custody of the dependent child at the last known address of that person. A hearing on the motion shall then be provided in the same manner, and determinations shall be based on considerations set out in section 454.475, unless the party served fails to respond within thirty days, in which case the director may enter an order by default. If the child for whom the order applies is no longer in the custody of a person receiving public assistance or receiving support enforcement services from the department, or a division thereof, pursuant to section 454.425, the director may certify the matter for hearing to the circuit court in which the order was filed pursuant to section 454.490 in lieu of holding a hearing pursuant to section 454.475. If the director certifies the matter for hearing to the circuit court, service of the motion to modify shall be had in accordance with the provisions of subsection 5 of section 452.370, RSMo. If the director does not certify the matter for hearing to the circuit court, service of the motion to modify shall be considered complete upon personal service, or on the date of mailing, if sent by certified mail. For the purpose of 42 U.S.C. 666(a)(9)(C), the director shall be considered the "appropriate agent" to receive the notice of the motion to modify for the obligee or the obligor, but only in those instances in which the matter is not certified to circuit court for hearing, and only when service of the motion is attempted on the obligee or obligor by certified mail.

2. A motion for modification made pursuant to this section shall not stay the director from enforcing and collecting upon the existing order pending the modification proceeding unless so ordered by the court.

3. Only payments accruing subsequent to the service of the motion for modification upon all named parties to the motion may be modified. Modification may be granted only upon a showing of a change of circumstances so substantial and continuing as to make the terms unreasonable. In a proceeding for modification of any child support award, the director, in determining whether or not a substantial change in circumstances has occurred, shall consider all financial resources of both parties, including the extent to which the reasonable expenses of either party are, or should be, shared by a spouse or other person with whom he or she cohabits, and the earning capacity of a party who is not employed. If the application of the guidelines and criteria set forth in supreme court rule 88.01 to the financial circumstances of the parties would result in a change of child support from the existing amount by twenty percent or more, then a prima facie showing has been made of a change of circumstances so substantial and continuing as to make the present terms unreasonable.

4. The circuit court may, upon such terms as may be just, relieve a parent from an administrative order entered against that parent because of mistake, inadvertence, surprise, or excusable neglect.

5. No order entered pursuant to section 454.476 shall be modifiable pursuant to this section, except that an order entered pursuant to section 454.476 shall be amended by the director to conform with any modification made by the court that entered the court order upon which the director based his or her order.

6. When the party seeking modifications has met the burden of proof set forth in subsection 3 of this section, then the child support shall be determined in conformity with the criteria set forth in supreme court rule 88.01.

7. The **last four digits of the** Social Security number of the parents shall be recorded on any order entered pursuant to this section. **The full Social Security number of each party and each child shall be retained in the manner required by section 509.520, RSMo.**

455.010. DEFINITIONS. — As used in sections 455.010 to 455.085, unless the context clearly indicates otherwise, the following terms shall mean:

(1) "Abuse" includes but is not limited to the occurrence of any of the following acts, attempts or threats against a person who may be protected pursuant to sections 455.010 to 455.085:

(a) "Assault", purposely or knowingly placing or attempting to place another in fear of physical harm;

(b) "Battery", purposely or knowingly causing physical harm to another with or without a deadly weapon;

(c) "Coercion", compelling another by force or threat of force to engage in conduct from which the latter has a right to abstain or to abstain from conduct in which the person has a right to engage;

(d) "Harassment", engaging in a purposeful or knowing course of conduct involving more than one incident that alarms or causes distress to another adult and serves no legitimate purpose. The course of conduct must be such as would cause a reasonable adult to suffer substantial emotional distress and must actually cause substantial emotional distress to the petitioner. Such conduct might include, but is not limited to:

a. Following another about in a public place or places;

b. Peering in the window or lingering outside the residence of another; but does not include constitutionally protected activity;

(e) "Sexual assault", causing or attempting to cause another to engage involuntarily in any sexual act by force, threat of force, or duress;

(f) "Unlawful imprisonment", holding, confining, detaining or abducting another person against that person's will;

(2) "Adult", any person **[**eighteen**]** **seventeen** years of age or older or otherwise emancipated;

(3) "Court", the circuit or associate circuit judge or a family court commissioner;

(4) "Ex parte order of protection", an order of protection issued by the court before the respondent has received notice of the petition or an opportunity to be heard on it;

(5) "Family" or "household member", spouses, former spouses, adults related by blood or marriage, adults who are presently residing together or have resided together in the past, an adult who is or has been in a continuing social relationship of a romantic or intimate nature with the victim, and adults who have a child in common regardless of whether they have been married or have resided together at any time;

(6) "Full order of protection", an order of protection issued after a hearing on the record where the respondent has received notice of the proceedings and has had an opportunity to be heard;

(7) "Order of protection", either an ex parte order of protection or a full order of protection;

(8) "Petitioner", a family or household member or an adult who has been the victim of stalking, who has filed a verified petition pursuant to the provisions of section 455.020;

(9) "Respondent", the family or household member or adult alleged to have committed an act of stalking, against whom a verified petition has been filed;

(10) "Stalking" is when an adult purposely and repeatedly engages in an unwanted course of conduct that causes alarm to another person when it is reasonable in that person's situation to have been alarmed by the conduct. As used in this subdivision:

(a) "Course of conduct" means a pattern of conduct composed of repeated acts over a period of time, however short, that serves no legitimate purpose. Such conduct may include, but is not limited to, following the other person or unwanted communication or unwanted contact;

(b) "Repeated" means two or more incidents evidencing a continuity of purpose; and

(c) "Alarm" means to cause fear of danger of physical harm.

473.743. DUTY OF PUBLIC ADMINISTRATOR TO TAKE CHARGE OF ESTATES, WHEN. — It shall be the duty of the public administrator to take into his or her charge and custody the estates of all deceased persons, and the person and estates of all minors, and the estates or person and estate of all incapacitated persons in his or her county, in the following cases:

(1) When a stranger dies intestate in the county without relations, or dies leaving a will, and the personal representative named is absent, or fails to qualify;

(2) When persons die intestate without any known heirs;

(3) When persons unknown die or are found dead in the county;

(4) When money, property, papers or other estate are left in a situation exposed to loss or damage, and no other person administers on the same;

(5) When any estate of any person who dies intestate therein, or elsewhere, is left in the county liable to be injured, wasted or lost, when the intestate does not leave a known husband, widow or heirs in this state;

(6) The persons of all minors under the age of fourteen years, whose parents are dead, and who have no legal guardian or conservator;

(7) The estates of all minors whose parents are dead, or, if living, refuse or neglect to qualify as conservator, or, having qualified have been removed, or are, from any cause, incompetent to act as such conservator, and who have no one authorized by law to take care of and manage their estate;

(8) The estates or person and estate of all disabled or incapacitated persons in his or her county who have no legal guardian or conservator, and no one competent to take charge of such estate, or to act as such guardian or conservator, can be found, or is known to the court having jurisdiction, who will qualify;

(9) Where from any other good cause, the court shall order him to take possession of any estate to prevent its being injured, wasted, purloined or lost;

(10) When moneys are delivered to the public administrator from the county coroner**;**

(11) The public administrator shall act as trustee when appointed by the circuit court or the probate division of the circuit court.

475.375. FIREARMS, PETITION TO REMOVE DISQUALIFICATION, WHEN, PROCEDURE. — 1. Any individual over the age of eighteen years who has been adjudged incapacitated under this chapter or who has been involuntarily committed under chapter 632, RSMo, may file a petition for the removal of the disqualification to purchase, possess, or transfer a firearm when:

(1) The individual no longer suffers from the condition that resulted in the individual's incapacity or involuntary commitment;

(2) The individual no longer poses a danger to self or others for purposes of the purchase, possession, or transfer of firearms under 18 U.S.C. Section 922; and

(3) Granting relief under this section is not contrary to the public interest.

No individual who has been found guilty by reason of mental disease or defect may petition a court for restoration under this section.

2. The petition shall be filed in the circuit court that entered the letters of guardianship or the most recent order for involuntary commitment, whichever is later. Upon receipt of the petition, the clerk shall schedule a hearing and provide notice of the hearing to the petitioner.

3. The burden is on the petitioner to establish by clear and convincing evidence that:

(1) The petitioner no longer suffers from the condition that resulted in the incapacity or the involuntary commitment;

(2) The individual no longer poses a danger to self or others for purposes of the purchase, possession, or transfer of firearms under 18 U.S.C. Section 922; and

(3) Granting relief under this section is not contrary to the public interest.

4. Upon the filing of the petition the court shall review the petition and determine if the petition is based upon frivolous grounds and if so may deny the petition without a hearing. in order to determine whether petitioner has met the burden pursuant to this section, the court may request the local prosecuting attorney, circuit attorney, or attorney general to provide a written recommendation as to whether relief should be granted. in any order requiring such review the court may grant access to any and all mental health records, juvenile records, and criminal history of the petitioner wherever maintained. The court may allow presentation of evidence at the hearing if requested by the local prosecuting attorney, circuit attorney, or attorney general.

5. If the petitioner is filing the petition as a result of an involuntary commitment under chapter 632, RSMo, the hearing and records shall be closed to the public, unless the court finds that public interest would be better served by conducting the hearing in public. If the court determines the hearing should be open to the public, upon motion by the petitioner, the court may allow for the in-camera inspection of mental health records. The court may allow the use of the record but shall restrict from public disclosure, unless it finds that the public interest would be better served by making the record public.

6. The court shall enter an order that:

(1) The petitioner does or does not continue to suffer from the condition that resulted in commitment;

(2) The individual does or does not continue to pose a danger to self or others for purposes of the purchase, possession, or transfer of firearms under 18 U.S.C. Section 922; and

(3) Granting relief under this section is not contrary to the public interest. The court shall include in its order the specific findings of fact on which it bases its decision.

7. Upon a judicial determination to grant a petition under this section, the clerk in the county where the petition was granted shall forward the order to the Missouri state highway patrol for updating of the petitioner's record with the national Instant Criminal Background Check System (NICS).

8. (1) Any person who has been denied a petition for the removal of the disqualification to purchase, possess, or transfer a firearm pursuant to this section shall not be eligible to file another petition for removal of the disqualification to purchase, possess, or transfer a firearm until the expiration of one year from the date of such denial.

(2) If a person has previously filed a petition for the removal of the disqualification to purchase, possess, or transfer a firearm and the court determined that:

(a) The petitioner's petition was frivolous; or

(b) The petitioner's condition had not so changed such that the person continued to suffer form the condition that resulted in the individual's incapacity or involuntary commitment and continued to pose a danger to self or others for purposes of the purchase, possession, or transfer of firearms under 18 U.S.C. Section 922; or

(3) Granting relief under this section would be contrary to the public interest, then the court shall deny the subsequent petition unless the petition contains the additional facts upon which the court could find the condition of the petitioner had so changed that a hearing was warranted.

476.415. COMMISSION ON JUDICIAL RESOURCES, ESTABLISHED — MEMBERS, TERMS — ACCESS TO REPORTS, WHEN — STAFF ALLOWED, ASSISTANCE RENDERED, WHEN. — 1. There is hereby created a "Commission on Judicial Resources", to be comprised of the following persons:

(1) A circuit court judge elected by the circuit court judges of the state;

(2) A judge of the court of appeals elected by the judges of the court of appeals of the state;

(3) An associate circuit judge elected by the associate circuit judges of the state;

(4) **[**A municipal court judge appointed by the supreme court;

(5)**]** A senior judge under the provisions of section 476.001 appointed by the supreme court;

[(6)**] (5)** An attorney appointed by the board of governors of the Missouri Bar;

[(7)**] (6)** The chairman of the judiciary committee of the senate;

[(8)**] (7)** The chairman of the judiciary committee of the house of representatives;

[(9)**] (8)** A member of the appropriations committee of the senate, appointed by the president pro tem;

[(10)**] (9)** A member of the budget committee of the house of representatives, appointed by the speaker;

[(11)**] (10)** The executive director of the public defender commission; and

[(12)**] (11)** One prosecuting or circuit attorney elected by the prosecuting and circuit attorneys of this state.

2. The legislative members of the commission shall serve during the period they hold the committee assignments qualifying them for the office. The appointed and elective members shall serve for two years and until their successors are appointed and qualified. If a vacancy occurs in any of the appointed or elected members, a successor shall be appointed or elected by the body originally appointing or electing the position for whom the vacancy occurs for the remainder of the unexpired term. The commission shall meet within sixty days after the appointment of the members at the call of the chief justice of the supreme court and shall meet subsequently at the call of the chairman. The commission shall elect its own officers as necessary. The members of the commission shall receive no compensation for their services, but shall be reimbursed for their actual and necessary expenses paid out of appropriations made for that purpose except that senior judges shall be credited for time actually spent in the performance of duties according to section 476.682.

3. The commission shall have full access to the reports filed pursuant to section 476.412, examine and prepare a digest of such reports, conduct a comprehensive study of the state's judicial system, assess the needs, priorities, workload, case management and general performance of the court system and for the judges thereof. The commission shall make an annual report to the supreme court and the general assembly before the convening of each session of the general assembly in which they shall detail the true state of the judicial system in this state, its success or inability to handle the caseload, and the efficiency of disposition of judicial business and the administration of justice. The report shall detail the utilization of judges transferred between circuits and of senior judges as provided in section 476.681, including an appraisal of the effect that the appointment of senior judges and transfer of judges has on the efficiency of the courts and the reduction of caseloads. The report shall include a detailed breakdown of the needs of specific courts and the commission's recommendations.

4. **[**The commission may employ consultants and other staff within the limits of any appropriations made for that purpose, or may employ senior judges who may be compensated pursuant to section 476.682, and may call upon the committee on legislative research, the state courts administrator, and the research staffs of the house and the senate for staff necessary to carry out the duties of the commission**] The clerk of the supreme court shall provide suitable staff for the commission out of any funds appropriated for this purpose**. The commission may seek and receive gifts, donations and grants in aid from private or other sources to defray expenses incurred in its assessment of judicial resources.

485.077. CERTIFICATION OF OFFICIAL COURT REPORTERS REQUIRED. — 1. No judge of any court in this state shall appoint an official court reporter who is not a court reporter certified by the board of certified court reporter examiners, as provided in Supreme Court Rule 14. In the absence of an official court reporter due to illness, physical incapacity, death, dismissal or resignation, a judge may appoint a temporary court reporter, but such temporary court reporter shall not serve more than six months without obtaining a certificate pursuant to the provisions of Supreme Court Rule 14.

2. No testimony taken in this state by deposition shall be given in any court in this state, and no record on appeal from an administrative agency of this state shall include testimony taken in this state by deposition, unless the deposition is prepared and certified by a certified court reporter, except as provided in Supreme Court Rule 57.03(c).

3. Deposition testimony taken outside the state shall be deemed to be in conformity with this section if the testimony was prepared and certified by a court reporter authorized to prepare and certify deposition testimony in the jurisdiction in which the testimony was taken.

4. This section shall not apply to depositions taken in this state in connection with cases not pending in a Missouri state court or administrative agency at the time the deposition was taken.

[5. A deposition prepared by a person who is not a certified court reporter may be used to give testimony in any court in this state under the following circumstances:

(1) All parties must consent in writing to using an uncertified court reporter prior to the deposition. Such consent shall be filed as a memo with the court no later than seven days prior to the date of the deposition unless the time is shortened by the court;

(2) All parties involved in any cause of action wherein the deposition is to be used certify by their signatures or by the signatures of their attorneys that such deposition is a true and correct copy of the testimony given;

(3) The uncertified court reporter shall state on the record that he or she is an uncertified court reporter appearing by consent of the parties;

(4) The uncertified court reporter shall keep a voice recording of the deposition for two years. Upon written request by a party, a copy of the voice recording shall be provided to the requesting party within fourteen days;

(5) The uncertified court reporter shall have made application for the certified court reporter examination and shall have paid all required application fees;

(6) The notice of deposition shall contain a statement that an uncertified court reporter will be used. Such statement shall be in bold fourteen typeface on the notice; and

(7) An uncertified court reporter granted privileges under this subsection shall be deemed operating under a temporary certificate.

6. The provisions of subsection 5 of this section shall expire on December 31, 2012.**]**

509.520. COURT PLEADINGS, ATTACHMENTS, AND EXHIBITS, REDACTION OF SOCIAL SECURITY AND CREDIT CARD NUMBERS — CONFIDENTIAL CASE FILE SHEET, CONTENTS. — 1. Notwithstanding any provision of law to the contrary, beginning August 28, 2009, pleadings, attachments, or exhibits filed with the court in any case, as well as any judgments issued by the court, shall not include:

(1) The full Social Security number of any party or any child who is the subject to an order of custody or support;

(2) The full credit card number or other financial account number of any party.

2. Contemporaneously with the filing of every petition for dissolution of marriage, legal separation, motion for modification, action to establish paternity, and petition or motion for support or custody of a minor child, the filing party shall file a confidential case filing sheet with the court which shall not be subject to public inspection and which provides:

(1) The name and address of the current employer and the Social Security number of the petitioner or movant, if a person;

(2) If known to the petitioner or movant, the name and address of the current employer and the Social Security number of the respondent; and

(3) The names, dates of birth, and Social Security numbers of any children subject to the action.

3. Contemporaneously with the filing of every responsive pleading petition for dissolution of marriage, legal separation, motion for modification, action to establish paternity, and petition or motion for support or custody of a minor child, the responding

party shall file a confidential case filing sheet with the court which shall not be subject to public inspection and which provides:

(1) The name and address of the current employer and the Social Security number of the responding party, if a person;

(2) If known to the responding party, the name and address of the current employer and the Social Security number of the petitioner or movant; and

(3) The names, dates of birth, and Social Security numbers of any children subject to the action.

4. The full Social Security number of any party or child subject to an order of custody or support shall be retained by the court on the confidential case filing sheet or other confidential record maintained in conjunction with the administration of the case. The full credit card number or other financial account number of any party may be retained by the court on a confidential record if it is necessary to maintain the number in conjunction with the administration of the case.

5. Any document described in subsection 1 of this section shall, in lieu of the full number, include only the last four digits of any such number.

6. Except as provided in section 452.430, RSMo, the clerk shall not be required to redact any document described in subsection 1 of this section issued or filed before August 28, 2009, prior to releasing the document to the public.

7. For good cause shown, the court may release information contained on the confidential case filing sheet; except that, any state agency acting under authority of chapter 454, RSMo, shall have access to information contained herein without court order in carrying out their official duty.

516.200. IF DEFENDANT BE OUT OF STATE BEFORE OR DEPARTS AFTER CAUSE OF ACTION COMMENCES, WHEN ACTION MAY BE COMMENCED. — If at any time when any cause of action herein specified accrues against any person who is a resident of this state, and he is absent therefrom, such action may be commenced within the times herein respectively limited, after the return of such person into the state**[**; and if, after such cause of action shall have accrued, such person depart from and reside out of this state, the time of his absence shall not be deemed or taken as any part of the time limited for the commencement of such action**]**.

517.041. SUMMONS, HOW SERVED. — 1. The process in all cases shall be a summons with a copy of the petition of the plaintiff attached, directed to the sheriff or other proper person for service on the defendant. The summons shall command the defendant to appear before the court on a date and time, not less than ten days nor more than **[**thirty**]** **sixty** days from the date of service of the summons.

2. If process is not timely served, the plaintiff may request further process be issued to any defendant not timely served with the case being continued, or the plaintiff may dismiss as to any such defendant and proceed with the case.

[3. A petition filed which states a claim or claims that in the aggregate exceeds the jurisdictional limit of the division shall be certified to presiding judge for assignment.**]**

535.030. SERVICE OF SUMMONS — COURT DATE INCLUDED IN SUMMONS. — 1. Such summons shall be served as in other civil cases at least four days before the court date in the summons. The summons shall include a court date which shall not be more than twenty-one business days from the date the summons is issued unless at the time of filing the affidavit the plaintiff or plaintiff's attorney consents in writing to a later date.

2. In addition to attempted personal service, the plaintiff may request, and thereupon the clerk of the court shall make an order directing that the officer, or other person empowered to execute the summons, shall also serve the same by securely affixing a copy of such summons and the complaint in a conspicuous place on the dwelling of the premises in question at least ten

days before the court date in such summons, and by also mailing a copy of the summons and complaint to the defendant at the defendant's last known address by ordinary mail at least ten days before the court date. If the officer, or other person empowered to execute the summons, shall return that the defendant is not found, or that the defendant has absconded or vacated his or her usual place of abode in this state, and if proof be made by affidavit of the posting and of the mailing of a copy of the summons and complaint, the judge shall at the request of the plaintiff proceed to hear the case as if there had been personal service, and judgment shall be rendered and proceedings had as in other cases, except that no money judgment shall be granted the plaintiff where the defendant is in default and service is by the posting and mailing procedure set forth in this section.

3. If the plaintiff does not request service of the original summons by posting and mailing as provided in subsection 2 of this section, and if the officer, or other person empowered to execute the summons, makes return that the defendant is not found, or that the defendant has absconded or vacated the defendant's usual place of abode in this state, the plaintiff may request the issuance of an alias summons and service of the same by posting and mailing in the time and manner provided in subsection 2 of this section. In addition, the plaintiff or an agent of the plaintiff who is at least eighteen years of age may serve the summons by posting and mailing a copy of the summons in the time and manner provided in subsection 2 of this section. Upon proof by affidavit of the posting and of the mailing of a copy of the summons or alias summons and the complaint, the judge shall proceed to hear the case as if there had been personal service, and judgment shall be rendered and proceedings had as in other cases, except that no money judgment shall be granted the plaintiff where the defendant is in default and service is by the posting and mailing procedure provided in subsection 2 of this section.

4. On the date judgment is rendered as provided in this section where the defendant is in default, the clerk of the court shall mail to the defendant at the defendant's last known address by **[**certified mail, with a request for return receipt and with directions to deliver to the addressee only,**]** **ordinary mail** a notice informing the defendant of the judgment and the date it was entered, and stating that the defendant has ten days from the date of the judgment to file a motion to set aside the judgment or to file an application for a trial de novo in the circuit court, as the case may be, and that unless the judgment is set aside or an application for a trial de novo is filed within ten days, the judgment will become final and the defendant will be subject to eviction from the premises without further notice.

535.120. ACTION BROUGHT, WHEN. — Whenever **[**a half year's**]** **one month's** rent or more is in arrear from a tenant, the landlord, if he has a subsisting right by law to reenter for the nonpayment of such rent, may bring an action to recover the possession of the demised premises.

537.055. OPERATION OF A MOTORCYCLE NOT EVIDENCE OF COMPARATIVE NEGLIGENCE — INSURANCE CLAIMS, NO PERCENTAGE OF FAULT TO BE ATTRIBUTED SOLELY FOR OPERATION OF A MOTORCYCLE. — In any action to recover damages arising out of the ownership, common maintenance, or operation of a motor vehicle, the fact that one of the parties was operating a motorcycle shall not, in and of itself, be considered evidence of comparative negligence.

537.296. PRIVATE NUISANCE ACTION IN EXCESS OF ONE MILLION DOLLARS, COURT OR JURY SHALL VISIT PROPERTY. — In any action for private nuisance where the amount in controversy exceeds one million dollars, if any party requests the court or jury to visit the property alleged to be affected by the nuisance, the court or jury shall visit the property.

537.610. LIABILITY INSURANCE FOR TORT CLAIMS MAY BE PURCHASED BY WHOM — LIMITATION ON WAIVER OF IMMUNITY — MAXIMUM AMOUNT PAYABLE FOR CLAIMS OUT OF SINGLE OCCURRENCE — EXCEPTION — APPORTIONMENT OF SETTLEMENTS —

INFLATION — PENALTIES. — 1. The commissioner of administration, through the purchasing division, and the governing body of each political subdivision of this state, notwithstanding any other provision of law, may purchase liability insurance for tort claims, made against the state or the political subdivision, but the maximum amount of such coverage shall not exceed two million dollars for all claims arising out of a single occurrence and shall not exceed three hundred thousand dollars for any one person in a single accident or occurrence, except for those claims governed by the provisions of the Missouri workers' compensation law, chapter 287, RSMo, and no amount in excess of the above limits shall be awarded or settled upon. Sovereign immunity for the state of Missouri and its political subdivisions is waived only to the maximum amount of and only for the purposes covered by such policy of insurance purchased pursuant to the provisions of this section and in such amount and for such purposes provided in any self-insurance plan duly adopted by the governing body of any political subdivision of the state.

2. The liability of the state and its public entities on claims within the scope of sections 537.600 to 537.650, shall not exceed two million dollars for all claims arising out of a single accident or occurrence and shall not exceed three hundred thousand dollars for any one person in a single accident or occurrence, except for those claims governed by the provisions of the Missouri workers' compensation law, chapter 287, RSMo.

3. No award for damages on any claim against a public entity within the scope of sections 537.600 to 537.650, shall include punitive or exemplary damages.

4. If the amount awarded to or settled upon multiple claimants exceeds two million dollars, any party may apply to any circuit court to apportion to each claimant his proper share of the total amount limited by subsection 1 of this section. The share apportioned each claimant shall be in the proportion that the ratio of the award or settlement made to him bears to the aggregate awards and settlements for all claims arising out of the accident or occurrence, but the share shall not exceed three hundred thousand dollars.

5. The limitation on awards for liability provided for in this section shall be increased or decreased on an annual basis effective January first of each year in accordance with the Implicit Price Deflator for Personal Consumption Expenditures as published by the Bureau of Economic Analysis of the United States Department of Commerce. The current value of the limitation shall be calculated by the director of the department of insurance, financial institutions and professional registration, who shall furnish that value to the secretary of state, who shall publish such value in the Missouri Register as soon after each January first as practicable, but it shall otherwise be exempt from the provisions of section 536.021, RSMo.

6. Any claim filed against any public entity under this section shall be subject to the penalties provided by supreme court rule 55.03**, or any successor rule**.

545.050. NAME OF PROSECUTOR ON INDICTMENT, WHEN. — **[**1.**]** No indictment for any trespass against the person or property of another, not amounting to a felony, except for petit larceny, and no indictment for the disturbance of the peace of a person, or for libel or slander, shall be preferred unless the name of a prosecutor is affixed thereto, thus: "A B, prosecutor", except where the same is preferred upon the information and testimony of one or more grand jurors, or of some public officer in the necessary discharge of his **or her** duty.

[2. If the defendant be acquitted or the prosecution fails, judgment shall be entered against such prosecutor for the costs.**]**

561.031. PHYSICAL APPEARANCE IN COURT OF A PRISONER MAY BE MADE BY USING TWO-WAY AUDIO-VISUAL COMMUNICATION INCLUDING CLOSED CIRCUIT TELEVISION, WHEN — REQUIREMENTS. — 1. In the following proceedings, the provisions of section 544.250, 544.270, 544.275, RSMo, 546.030, RSMo, or of any other statute, or the provisions of supreme court rules 21.10, 22.07, 24.01, 24.02, 27.01, 29.07, 31.02, 31.03, 36.01, 37.16, 37.47, 37.48, 37.50, 37.57, 37.58, 37.59, and 37.64 to the contrary notwithstanding, when the physical appearance in person in court is required of any person **[**held in a place of custody or

confinement**]**, such personal appearance may be made by means of two-way audio-visual communication, including but not limited to, closed circuit television or computerized video conferencing; provided that such audio-visual communication facilities provide two-way audio-visual communication between the court and the **[**place of custody or confinement and that a full record of such proceedings be made by split-screen imaging and recording of the proceedings in the courtroom and the place of confinement or custody in addition to such other record as may be required**] person**:

(1) First appearance before an associate circuit judge on a criminal complaint;

(2) Waiver of preliminary hearing **and preliminary hearing with consent of the defendant**;

(3) Arraignment on an information or indictment where a plea of not guilty is entered;

(4) Arraignment on an information or indictment where a plea of guilty is entered upon waiver of any right such person might have to be physically present;

(5) Any pretrial or posttrial criminal proceeding not allowing the cross-examination of witnesses;

(6) Sentencing after conviction at trial upon waiver of any right such person might have to be physically present;

(7) Sentencing after entry of a plea of guilty; **[**and**]**

(8) Any civil proceeding other than trial by jury**;**

(9) Any civil or criminal proceeding which is not required to be a matter of record; and

(10) Any civil or criminal proceeding by the consent of the parties.

2. This section shall not prohibit other appearances via closed circuit television upon waiver of any right such person held in custody or confinement might have to be physically present.

3. Nothing contained in this section shall be construed as establishing a right for any person held in custody to appear on television or as requiring that any governmental entity or place of custody or confinement provide a two-way audio-visual communication system.

630.407. ADMINISTRATIVE ENTITIES MAY BE RECOGNIZED, WHEN — CONTRACTING WITH VENDORS — SUBCONTRACTING — DEPARTMENT TO PROMULGATE RULES. — 1. The department may recognize providers as administrative entities under the following circumstances:

(1) Vendors operated or funded pursuant to sections 205.975 to 205.990, RSMo;

(2) Vendors operated or funded pursuant to sections 205.968 to 205.973, RSMo;

(3) Providers of a consortium of treatment services to the clients of the division of comprehensive psychiatric services as an agent of the division in a service area, except that such providers may not exceed thirty-six in number**;**

(4) Providers of targeted case management services to the clients of the division of developmental disabilities as an agent of the division in a defined region that has not established a board as set forth in sections 205.968 to 205.973, RSMo.

2. Notwithstanding any other provision of law to the contrary, the department may contract directly with vendors recognized as administrative entities without competitive bids.

3. Notwithstanding any other provision of law to the contrary, the commissioner of administration shall delegate the authority to administrative entities which are state facilities to subcontract with other vendors in order to provide a full consortium of treatment services for the service area.

4. When state contracts allow, the department may authorize administrative entities to use state contracts for pharmaceuticals or other medical supplies for the purchase of these items.

5. A designation as an administrative entity does not entitle a provider to coverage under sections 105.711 to 105.726, RSMo, the state legal expense fund, or other state statutory protections or requirements.

6. The department shall promulgate regulations within twelve months of August 28, 1990, regulating the manner in which they will contract and designate and revoke designations of

providers under this section. Such regulations shall not be required when the parties to such contracts are both governmental entities.

650.055. FELONY CONVICTIONS FOR CERTAIN OFFENSES TO HAVE BIOLOGICAL SAMPLES COLLECTED, WHEN — USE OF SAMPLE — HIGHWAY PATROL AND DEPARTMENT OF CORRECTIONS, DUTY — DNA RECORDS AND BIOLOGICAL MATERIALS TO BE CLOSED RECORD, DISCLOSURE, WHEN — EXPUNGEMENT OF RECORD, WHEN. — 1. Every individual, in a Missouri circuit court, who pleads guilty to or is found guilty of a felony or any offense under chapter 566, RSMo, or has been determined **[**beyond a reasonable doubt**]** to be a sexually violent predator pursuant to sections 632.480 to 632.513, RSMo, shall have a blood or scientifically accepted biological sample collected for purposes of DNA profiling analysis:

(1) Upon entering or before release from the department of corrections reception and diagnostic centers; or

(2) Upon entering or before release from a county jail or detention facility, state correctional facility, or any other detention facility or institution, whether operated by private, local, or state agency, or any mental health facility if committed as a sexually violent predator pursuant to sections 632.480 to 632.513, RSMo; or

(3) When the state accepts a person from another state under any interstate compact, or under any other reciprocal agreement with any county, state, or federal agency, or any other provision of law, whether or not the person is confined or released, the acceptance is conditional on the person providing a DNA sample if the person was convicted of, pleaded guilty to, or pleaded nolo contendere to an offense in any other jurisdiction which would be considered a qualifying offense as defined in this section if committed in this state, or if the person was convicted of, pleaded guilty to, or pleaded nolo contendere to any equivalent offense in any other jurisdiction; or

(4) If such individual is under the jurisdiction of the department of corrections. Such jurisdiction includes persons currently incarcerated, persons on probation, as defined in section 217.650, RSMo, and on parole, as also defined in section 217.650, RSMo.

2. The Missouri state highway patrol and department of corrections shall be responsible for ensuring adherence to the law. Any person required to provide a DNA sample pursuant to this section shall be required to provide such sample, without the right of refusal, at a collection site designated by the Missouri state highway patrol and the department of corrections. Authorized personnel collecting or assisting in the collection of samples shall not be liable in any civil or criminal action when the act is performed in a reasonable manner. Such force may be used as necessary to the effectual carrying out and application of such processes and operations. The enforcement of these provisions by the authorities in charge of state correctional institutions and others having custody or jurisdiction over those who have been convicted of, pleaded guilty to, or pleaded nolo contendere to felony offenses which shall not be set aside or reversed is hereby made mandatory. The board of probation or parole shall recommend that an individual who refuses to provide a DNA sample have his or her probation or parole revoked. In the event that a person's DNA sample is not adequate for any reason, the person shall provide another sample for analysis.

3. The procedure and rules for the collection, analysis, storage, expungement, use of DNA database records and privacy concerns shall not conflict with procedures and rules applicable to the Missouri DNA profiling system and the Federal Bureau of Investigation's DNA databank system.

4. Unauthorized uses or dissemination of individually identifiable DNA information in a database for purposes other than criminal justice or law enforcement is a class A misdemeanor.

5. Implementation of sections 650.050 to 650.100 shall be subject to future appropriations to keep Missouri's DNA system compatible with the Federal Bureau of Investigation's DNA databank system.

6. All DNA records and biological materials retained in the DNA profiling system are considered closed records pursuant to chapter 610, RSMo. All records containing any information held or maintained by any person or by any agency, department, or political subdivision of the state concerning an individual's DNA profile shall be strictly confidential and shall not be disclosed, except to:

(1) Peace officers, as defined in section 590.010, RSMo, and other employees of law enforcement agencies who need to obtain such records to perform their public duties;

(2) The attorney general or any assistant attorneys general acting on his or her behalf, as defined in chapter 27, RSMo;

(3) Prosecuting attorneys or circuit attorneys as defined in chapter 56, RSMo, and their employees who need to obtain such records to perform their public duties; or

(4) Associate circuit judges, circuit judges, judges of the courts of appeals, supreme court judges, and their employees who need to obtain such records to perform their public duties.

7. Any person who obtains records pursuant to the provisions of this section shall use such records only for investigative and prosecutorial purposes, including but not limited to use at any criminal trial, hearing, or proceeding; or for law enforcement identification purposes, including identification of human remains. Such records shall be considered strictly confidential and shall only be released as authorized by this section.

8. An individual may request expungement of his or her DNA sample and DNA profile through the court issuing the reversal or dismissal. A certified copy of the court order establishing that such conviction has been reversed or guilty plea or plea of nolo contendere has been set aside shall be sent to the Missouri state highway patrol crime laboratory. Upon receipt of the court order, the laboratory will determine that the requesting individual has no other qualifying offense as a result of any separate plea or conviction prior to expungement.

(1) A person whose DNA record or DNA profile has been included in the state DNA database in accordance with this section, section 488.5050, RSMo, and sections 650.050, 650.052, and 650.100 may request expungement on the grounds that the conviction has been reversed, or the guilty plea or plea of nolo contendere on which the authority for including that person's DNA record or DNA profile was based has been set aside.

(2) Upon receipt of a written request for expungement, a certified copy of the final court order reversing the conviction or setting aside the plea and any other information necessary to ascertain the validity of the request, the Missouri state highway patrol crime laboratory shall expunge all DNA records and identifiable information in the database pertaining to the person and destroy the DNA sample of the person, unless the Missouri state highway patrol determines that the person is otherwise obligated to submit a DNA sample. Within thirty days after the receipt of the court order, the Missouri state highway patrol shall notify the individual that it has expunged his or her DNA sample and DNA profile, or the basis for its determination that the person is otherwise obligated to submit a DNA sample.

(3) The Missouri state highway patrol is not required to destroy any item of physical evidence obtained from a DNA sample if evidence relating to another person would thereby be destroyed.

(4) Any identification, warrant, arrest, or evidentiary use of a DNA match derived from the database shall not be excluded or suppressed from evidence, nor shall any conviction be invalidated or reversed or plea set aside due to the failure to expunge or a delay in expunging DNA records.

SECTION 1. MODIFICATION OF CHILD SUPPORT, ATTORNEY FEES AWARDED TO STATE, WHEN. — In all proceedings for the modification of child support where the state is a party, the court may, upon motion, award court costs and reasonable attorney fees to the state.

SECTION 2. PUBLICATION OF CERTAIN REAL ESTATE TRANSACTIONS. — All public advertisements and orders of publication required by law to be made, including but not limited to amendments to the Missouri Constitution, legal publications affecting all sales of real estate under a power of sale contained in any mortgage or deed of trust, and other legal publications affecting the title to real estate, shall be published in a newspaper of general circulation, qualified under the provisions of section 493.050, RSMo, and persons responsible for orders of publication described in sections 443.310 and 443.320, RSMo, shall be subject to the prohibitions in sections 493.130 and 493.140, RSMo.

SECTION 3 OWNERSHIP OF DOMESTIC ANIMALS, NO LAWS OR REGULATIONS TO PROHIBIT. — No political subdivision of the state nor any local government, city or county, or any agency, authority, board, commission, department or officer thereof, shall enact any ordinance or promulgate or issue any regulation, rule, policy, guideline or proclamation describing the relationship between persons and domestic animals as other than persons may or can own domestic animals.

SECTION 4. COMPLIANCE WITH APPLICABLE LAWS REQUIRED. — Nothing in sections 320.350 to 320.374, RSMo, shall be interpreted or applied to permit non-compliance with other applicable statutes and case law.

[229.110. HEDGE FENCES, REGULATIONS — PENALTY — DUTIES AND LIABILITIES OF PROSECUTING ATTORNEY. — 1. Every person owning a hedge fence situated along or near the right-of-way of any public road shall between the first days of May and August of each year cut the same down to a height of not more than five feet, and any owner of such fence failing to comply with this section shall forfeit and pay to the capital school fund of the county wherein such fence is situated not less than fifty nor more than five hundred dollars, to be recovered in a civil action in the name of the county upon the relation of the prosecuting attorney, and any judgment of forfeiture obtained shall be a lien upon the real estate of the owner of such fence upon which same is situated, and a special execution shall issue against said real estate and no exemption shall be allowed.

2. Any prosecuting attorney who shall fail or refuse to institute suit as herein provided within thirty days after being notified by any road overseer, county or state highway engineer, that any hedge fence has not been cut down to the height herein required within the time required, shall be removed from office by the governor and some other person appointed to fill the vacancy thus created. The cutting of any such fence after the time herein required shall not be a defense to the action herein provided for.**]**

[452.440. SHORT TITLE. — Sections 452.440 to 452.550 may be cited as the "Uniform Child Custody Jurisdiction Act".**]**

[452.445. DEFINITIONS. — As used in sections 452.440 to 452.550:

(1) "Custody determination" means a court decision and court orders and instructions providing for the custody of a child, including visitation rights. This term does not include a decision relating to child support or any other monetary obligation of any person; but the court shall have the right in any custody determination where jurisdiction is had pursuant to section 452.460 and where it is in the best interest of the child to adjudicate the issue of child support;

(2) "Custody proceeding" includes proceedings in which a custody determination is one of several issues, such as an action for dissolution of marriage, legal separation, separate maintenance, appointment of a guardian of the person, child neglect or abandonment, but excluding actions for violation of a state law or municipal ordinance;

(3) "Decree" or "custody decree" means a custody determination contained in a judicial decree or order made in a custody proceeding, and includes an initial decree and a modification decree;

(4) "Home state" means the state in which, immediately preceding the filing of custody proceeding, the child lived with his parents, a parent, an institution; or a person acting as parent, for at least six consecutive months; or, in the case of a child less than six months old, the state in which the child lived from birth with any of the persons mentioned. Periods of temporary absence of any of the named persons are counted as part of the six-month or other period;

(5) "Initial decree" means the first custody decree concerning a particular child;

(6) "Litigant" means a person, including a parent, grandparent, or step-parent, who claims a right to custody or visitation with respect to a child.**]**

[452.450. JURISDICTION. — 1. A court of this state which is competent to decide child custody matters has jurisdiction to make a child custody determination by initial or modification decree if:

(1) This state:

(a) Is the home state of the child at the time of commencement of the proceeding; or

(b) Had been the child's home state within six months before commencement of the proceeding and the child is absent from this state for any reason, and a parent or person acting as parent continues to live in this state; or

(2) It is in the best interest of the child that a court of this state assume jurisdiction because:

(a) The child and his parents, or the child and at least one litigant, have a significant connection with this state; and

(b) There is available in this state substantial evidence concerning the child's present or future care, protection, training, and personal relationships; or

(3) The child is physically present in this state and:

(a) The child has been abandoned; or

(b) It is necessary in an emergency to protect the child because he has been subjected to or threatened with mistreatment or abuse, or is otherwise being neglected; or

(4) It appears that no other state would have jurisdiction under prerequisites substantially in accordance with subdivision (1), (2), or (3), or another state has declined to exercise jurisdiction on the ground that this state is the more appropriate forum to determine the custody of the child, and it is in the best interest of the child that this court assume jurisdiction.

2. Except as provided in subdivisions (3) and (4) of subsection 1 of this section, physical presence of the child, or of the child and one of the litigants, in this state is not sufficient alone to confer jurisdiction on a court of this state to make a child custody determination.

3. Physical presence of the child, while desirable, is not a prerequisite for jurisdiction to determine his custody.**]**

[452.455. PETITION FOR MODIFICATION — PROCEDURE — CHILD SUPPORT DELINQUENCY, EFFECT OF. — 1. Any petition for modification of child custody decrees filed under the provisions of section 452.410, or sections 452.440 to 452.450, shall be verified and, if the original proceeding originated in the state of Missouri, shall be filed in that original case, but service shall be obtained and responsive pleadings may be filed as in any original proceeding.

2. Before making a decree under the provisions of section 452.410, or sections 452.440 to 452.450, the litigants, any parent whose parental rights have not been previously terminated, and any person who has physical custody of the child must be served in the manner provided by the rules of civil procedure and applicable court rules and may within thirty days after the date of service (forty-five days if service by publication) file a verified answer. If any of these persons is outside this state, notice and opportunity to be heard shall be given pursuant to section 452.460.

3. In any case in which the paternity of a child has been determined by a court of competent jurisdiction and where the noncustodial parent is delinquent in the payment of child support in an amount in excess of ten thousand dollars, the custodial parent shall have the right to petition a court of competent jurisdiction for the termination of the parental rights of the noncustodial parent.

4. When a person filing a petition for modification of a child custody decree owes past due child support to a custodial parent in an amount in excess of ten thousand dollars, such person shall post a bond in the amount of past due child support owed as ascertained by the division of child support enforcement or reasonable legal fees of the custodial parent, whichever is greater, before the filing of the petition. The court shall hold the bond in escrow until the modification proceedings pursuant to this section have been concluded wherein such bond shall be transmitted to the division of child support enforcement for disbursement to the custodial parent.**]**

[452.460. NOTICE TO PERSONS OUTSIDE THIS STATE — SUBMISSION TO JURISDICTION. — 1. The notice required for the exercise of jurisdiction over a person outside this state shall be given in a manner reasonably calculated to give actual notice, and may be given in any of the following ways:

(1) By personal delivery outside this state in the manner prescribed for service of process within this state;

(2) In the manner prescribed by the law of the place in which the service is made for service of process in that place in an action in any of its courts of general jurisdiction;

(3) By certified or registered mail; or

(4) As directed by the court, including publication, if any other means of notification are ineffective.

2. Proof of service outside this state may be made by affidavit of the individual who made the service, or in the manner prescribed by the law of this state, the order pursuant to which the service is made, or the law of the place in which the service is made. If service is made by mail, proof of service may be a receipt signed by the addressee or other evidence of delivery to the addressee.

3. The notice provided for in this section is not required for a person who submits to the jurisdiction of the court.**]**

[452.465. SIMULTANEOUS PROCEEDINGS IN OTHER STATES. — 1. A court of this state shall not exercise its jurisdiction under sections 452.440 to 452.550 if, at the time of filing the petition, a proceeding concerning the custody of the child was pending in a court of another state exercising jurisdiction substantially in conformity with sections 452.440 to 452.550, unless the proceeding is stayed by the court of that other state for any reason.

2. Before hearing the petition in a custody proceeding, the court shall examine the pleadings and other information supplied by the parties under section 452.480 and shall consult the child custody registry established under section 452.515 concerning the pendency of proceedings with respect to the child in other states. If the court has reason to believe that proceedings may be pending in another state, it shall direct an inquiry to the state court administrator or other appropriate official of that state.

3. If the court is informed during the course of the proceeding that a proceeding concerning the custody of the child was pending in another state before the court assumed jurisdiction, it shall stay the proceeding and communicate with the court in which the other proceeding is pending in order that the issue may be litigated in the more appropriate forum and that information may be exchanged in accordance with sections 452.530 to 452.550. If a court of this state has made a custody decree before being informed of a pending proceeding in a court of another state, it shall immediately inform that court of the fact. If the court is informed that a proceeding was commenced in another state after it assumed jurisdiction, it shall likewise inform the other court in order that the issues may be litigated in the more appropriate forum.**]**

[452.470. INCONVENIENT FORUM. — 1. A court which has jurisdiction under this act to make an initial or modification decree may decline to exercise its jurisdiction any time before making a decree if it finds that it is an inconvenient forum to make a custody determination under the circumstances of the case and that a court of another state is a more appropriate forum.

2. A finding that a court is an inconvenient forum under subsection 1 above may be made upon the court's own motion or upon the motion of a party or a guardian ad litem or other representative of the child. In determining if it is an inconvenient forum, the court shall consider if it is in the interest of the child that another state assume jurisdiction.

3. Before determining whether to decline or retain jurisdiction the court may communicate with a court of another state and exchange information pertinent to the assumption of jurisdiction by either court, with a view to assuring that jurisdiction will be exercised by the more appropriate court and that a forum will be available to the parties.

4. If the court finds that it is an inconvenient forum and that a court of another state is a more appropriate forum, it may dismiss the proceedings, or it may stay the proceedings upon condition that a custody proceeding be promptly commenced in another named state or upon any other conditions which may be just and proper, including the condition that a moving party stipulate his consent and submission to the jurisdiction of the other forum.

5. The court may decline to exercise its jurisdiction under this act if a custody determination is incidental to an action for dissolution of marriage or another proceeding while retaining jurisdiction over the dissolution of marriage or other proceeding.

6. If it appears to the court that it is clearly an inappropriate forum, it may require the party who commenced the proceedings to pay, in addition to the costs of the proceedings in this state, necessary travel and other expenses, including attorneys' fees, incurred by other parties or their witnesses. Payment is to be made to the clerk of the court for remittance to the proper party.

7. Upon dismissal or stay of proceedings under this section, the court shall inform the court found to be the more appropriate forum of this fact or, if the court which would have jurisdiction in the other state is not certainly known, shall transmit the information to the court administrator or other appropriate official for forwarding to the appropriate court.

8. Any communication received from another state informing this state of a finding that a court of this state is the more appropriate forum shall be filed in the custody registry of the appropriate court. Upon assuming jurisdiction the court of this state shall inform the original court of this fact.**]**

[452.475. JURISDICTION DECLINED BECAUSE OF CONDUCT. — 1. If the petitioner for an initial decree has wrongfully taken the child from another state or has engaged in similar reprehensible conduct, the court may decline to exercise jurisdiction if this is just and proper under the circumstances.

2. Unless required in the interest of the child, the court shall not exercise its jurisdiction to modify a custody decree of another state if the petitioner, without consent of the person entitled to custody, has improperly removed the child from the physical custody of the person entitled to custody or has improperly retained the child after a visit or other temporary relinquishment of physical custody. If the petitioner has violated any other provision of a custody decree of another state, the court may decline to exercise its jurisdiction if this is just and proper under the circumstances.

3. In appropriate cases a court dismissing a petition under this section may charge the petitioner with necessary travel and other expenses, including attorneys' fees, incurred by other parties or their witnesses.**]**

[452.480. INFORMATION UNDER OATH TO BE SUBMITTED TO THE COURT. — 1. In his first pleading, or in an affidavit attached to that pleading, every party in a custody proceeding shall give information under oath as to the child's present address, with whom the child is presently living and with whom and where the child lived, other than on a temporary basis,

within the past six months. In this pleading or affidavit every party shall further declare under oath whether:

(1) He has participated in any capacity in any other litigation concerning the custody of the same child in this or any other state;

(2) He has information of any custody proceeding concerning the child pending in a court of this or any other state; and

(3) He knows of any person not a party to the proceedings who has physical custody of the child or claims to have custody or visitation rights with respect to the child.

2. If the declaration as to any of the items listed in subdivisions (1) through (3) of subsection 1 above is in the affirmative, the declarant shall give additional information under oath as required by the court. The court may examine the parties under oath as to details of the information furnished and as to other matters pertinent to the court's jurisdiction and the disposition of the case.

3. Each party has a continuing duty to inform the court of any change in information required by subsection 1 of this section.**]**

[452.485. ADDITIONAL PARTIES. — If the court learns from information furnished by the parties pursuant to section 452.480 or from other sources that a person not a party to the custody proceeding has physical custody of the child or claims to have custody or visitation rights with respect to the child, it may order that person to be joined as a party and to be duly notified of the pendency of the proceeding and of his joinder as a party. If the person joined as a party is outside this state he shall be served with process or otherwise notified in accordance with section 452.460.**]**

[452.490. APPEARANCE OF PARTIES — CHILD — GUARDIAN AD LITEM APPOINTED, FEE — DISQUALIFICATION, WHEN. — 1. The court may order any party to the proceeding who is in this state to appear personally before the court. If the court finds the physical presence of the child in court to be in the best interests of the child, the court may order that the party who has physical custody of the child appear personally with the child.

2. If a party to the proceeding whose presence is desired by the court is outside this state, with or without the child, the court may order that the notice given under section 452.460 include a statement directing that party to appear personally with or without the child.

3. If a party to the proceeding who is outside this state is directed to appear under subsection 1 of this section or desires to appear personally before the court with or without the child, the court may require another party to pay to the clerk of the court travel and other necessary expenses of the party so appearing and of the child, if this is just and proper under the circumstances.

4. If the court finds it to be in the best interest of the child that a guardian ad litem be appointed, the court may appoint a guardian ad litem for the child. The guardian ad litem so appointed shall be an attorney licensed to practice law in the state of Missouri. Disqualification of a guardian ad litem shall be ordered in any legal proceeding pursuant to this chapter, upon the filing of a written application by any party within ten days of appointment. Each party shall be entitled to one disqualification of a guardian ad litem appointed under this subsection in each proceeding, except a party may be entitled to additional disqualifications of a guardian ad litem for good cause shown. The guardian ad litem may, for the purpose of determining custody of the child only, participate in the proceedings as if such guardian ad litem were a party. The court shall enter judgment allowing a reasonable fee to the guardian ad litem.

5. The court shall appoint a guardian ad litem in any proceeding in which child abuse or neglect is alleged.**]**

[452.495. BINDING FORCE AND RES JUDICATA EFFECT OF CUSTODY DECREE. — A custody decree rendered by a court of this state which had jurisdiction under section 452.450

binds all parties who have been served in this state or notified in accordance with section 452.460, or who have submitted to the jurisdiction of the court, and who have been given an opportunity to be heard. As to these parties the custody decree is conclusive as to all issues of law and fact decided and as to the custody determination made, unless and until that determination is modified pursuant to law, including the provisions of section 452.410 and sections 452.440 to 452.550.**]**

[452.500. RECOGNITION OF OUT-OF-STATE CUSTODY DECREES. — The courts of this state shall recognize and enforce an initial or modification decree of a court of another state which had assumed jurisdiction under statutory provisions substantially in accordance with sections 452.440 to 452.550, or which was made under factual circumstances meeting the jurisdictional standards of sections 452.440 to 452.550, so long as this decree has not been modified in accordance with jurisdictional standards substantially similar to those of sections 452.440 to 452.550.**]**

[452.505. MODIFICATION OF CUSTODY DECREE OF ANOTHER STATE. — If a court of another state has made a custody decree, a court of this state shall not modify that decree unless it appears to the court of this state that the court which rendered the decree does not now have jurisdiction under jurisdictional prerequisites substantially in accordance with sections 452.440 to 452.550 or has declined to assume jurisdiction to modify the decree and the court of this state has jurisdiction.**]**

[452.510. FILING AND ENFORCEMENT OF CUSTODY DECREE OF ANOTHER STATE. — 1. A certified copy of a custody decree of another state may be filed in the office of the clerk of any circuit court of this state. The clerk shall treat the decree in the same manner as a custody decree of the circuit court of this state. A custody decree so filed has the same effect and shall be enforced in like manner as a custody decree rendered by a court of this state.

2. A person violating a custody decree of another state which makes it necessary to enforce the decree in this state may be required to pay necessary travel and other expenses, including attorneys' fees, incurred by the party entitled to the custody or his witnesses.**]**

[452.515. REGISTRY OF OUT-OF-STATE CUSTODY DECREES AND PROCEEDINGS. — The clerk of each circuit court shall maintain a registry in which he shall enter the following:

(1) Certified copies of custody decrees of other states received for filing;

(2) Communications as to the pendency of custody proceedings in other states;

(3) Communications concerning findings of inconvenient forum under section 452.470 by a court of another state; and

(4) Other communications or documents concerning custody proceedings in another state which in the opinion of the circuit judge may affect the jurisdiction of a court of this state or the disposition to be made by it in a custody proceeding.**]**

[452.520. CERTIFIED COPIES OF CUSTODY DECREES. — The clerk of the circuit court of this state, at the request of the court of another state or at the request of any person who is affected by or has a legitimate interest in a custody decree, may, upon payment therefor, certify and forward a copy of the decree to that court or person.**]**

[452.525. TAKING TESTIMONY IN ANOTHER STATE. — In addition to other procedural devices available to a party, any party to the proceeding or a guardian ad litem or other representative of the child may obtain the testimony of witnesses, including parties and the child, by deposition or otherwise, in another state. The court on its own motion may direct that the testimony of a person be taken in another state and may prescribe the manner in which and the terms upon which the testimony shall be taken.**]**

[452.530. HEARINGS AND STUDIES IN ANOTHER STATE — ORDERS TO APPEAR. — 1. A court of this state may request the appropriate court of another state to hold a hearing to obtain evidence, to order persons within that state to produce or give evidence under other procedures of that state, or to have social studies made with respect to the custody of a child involved in proceedings pending in the court of this state; and to forward to the court of this state certified copies of the transcript of the record of the hearing, the evidence otherwise obtained, or any social studies prepared in compliance with the request. The cost of the services may be assessed against the parties.

2. A court of this state may request the appropriate court of another state to order a party to custody proceedings pending in the court of this state to appear in the proceedings and, if that party has physical custody of the child, to appear with the child. The request may state that travel and other necessary expenses of the party and of the child whose appearance is desired will be assessed against the appropriate party.**]**

[452.535. ASSISTANCE TO COURTS OF OTHER STATES. — 1. Upon request of the court of another state, the courts of this state which are competent to hear custody matters may order a person in this state to appear at a hearing to obtain evidence or to produce or give evidence under other procedures available in this state for use in a custody proceeding in another state. A certified copy of the transcript of the record of the hearing or the evidence otherwise obtained may, in the discretion of the court and upon payment therefor, be forwarded to the requesting court.

2. A person within this state may voluntarily give his testimony or statement in this state for use in a custody proceeding outside this state.

3. Upon request of the court of another state, a competent court of this state may order a person in this state to appear alone or with the child in a custody proceeding in another state. The court may condition compliance with the request upon assurance by the other state that travel and other necessary expenses will be advanced or reimbursed.**]**

[452.540. PRESERVATION OF DOCUMENTS FOR USE IN OTHER STATES. — In any custody proceeding in this state the court shall preserve the pleadings, orders and decrees, any record that has been made of its hearings, social studies, and other pertinent documents until the child reaches eighteen years of age. When requested by the court of another state the court may, upon payment therefor, forward to the other court certified copies of any or all of such documents.**]**

[452.545. REQUEST FOR COURT RECORDS OF ANOTHER STATE. — If a custody decree has been rendered in another state concerning a child involved in a custody proceeding pending in a court of this state, the court of this state, upon taking jurisdiction of the case, shall request of the court of the other state a certified copy of the transcript of any court record and other documents mentioned in section 452.540.**]**

[452.550. PRIORITY. — Upon the request of a party to a custody proceeding which raises a question of existence or exercise of jurisdiction under sections 452.440 to 452.550, determination of jurisdiction shall be given calendar priority and handled expeditiously.**]**

[454.516. LIEN ON MOTOR VEHICLES, BOATS, MOTORS, MANUFACTURED HOMES AND TRAILERS, WHEN, PROCEDURE — NOTICE, CONTENTS — REGISTRATION OF LIEN, RESTRICTIONS, REMOVAL OF LIEN — PUBLIC SALE, WHEN — GOOD FAITH PURCHASERS — CHILD SUPPORT LIEN DATABASE TO BE MAINTAINED. — 1. The director or IV-D agency may cause a lien pursuant to subsections 2 and 3 of this section or the obligee may cause a lien pursuant to subsection 7 of this section for unpaid and delinquent child support to block the issuance of a certificate of ownership for motor vehicles, motor boats, outboard motors,

manufactured homes and trailers that are registered in the name of a delinquent child support obligor.

2. The director or IV-D agency shall notify the department of revenue with the required information necessary to impose a lien pursuant to this section by filing a notice of lien.

3. The director or IV-D agency shall not notify the department of revenue and the department of revenue shall not register such lien except as provided in this subsection. After the director or IV-D agency decides that such lien qualifies pursuant to this section and forward it to the department of revenue, the director of revenue or the director's designee shall only file such lien against the obligor's certificate of ownership when:

(1) The obligor has unpaid child support which exceeds one thousand dollars;

(2) The property has a value of more than three thousand dollars as determined by current industry publications that provide such estimates to dealers in the business, and the property's year of manufacture is within seven years of the date of filing of the lien except in the case of a motor vehicle that has been designated a historic vehicle;

(3) The property has no more than two existing liens for child support;

(4) The property has had no more than three prior liens for child support in the same calendar year.

4. In the event that a lien is placed and the obligor's total support obligation is eliminated, the director shall notify the department of revenue that the lien shall be removed.

5. Upon notification that a lien exists pursuant to this section, the department of revenue shall register the lien on the records of the department of revenue. Such registration shall contain the type and model of the property and the serial number of the property.

6. Upon notification by the director that the lien shall be removed pursuant to subsection 4 of this section, the department of revenue shall register such removal of lien on its datebank, that shall contain the type and model of the property and the serial number of the property. The division or IV-D agency may hold any satisfaction of the registered lien until the child support obligation is satisfied, or levy and execute on the motor vehicle, motor boat, outboard motor, manufactured home or trailer and sell same, at public sale, in order to satisfy the debt.

7. In cases which are not IV-D cases, to cause a lien pursuant to the provisions of this section the obligee or the obligee's attorney shall file notice of the lien with the department of revenue. This notice shall have attached a certified copy of the court order with all modifications and a sworn statement by the obligee or a certified statement from the court attesting to or certifying the amount of arrearages.

8. Notwithstanding any other law to the contrary, the department of revenue shall maintain a child support lien database for outstanding child support liens against the owner's certificate of ownership provided for by chapters 301, 306, and 700, RSMo. To determine any existing liens for child support pursuant to this section, the lienholder, dealer, or buyer may inquire electronically into the database. A good faith purchaser for value without notice of the lien in the database or a lender without notice of the lien in the database takes free of the lien.**]**

[550.050. PROSECUTOR TO PAY COSTS UPON ACQUITTAL — EXCEPTION FOR PUBLIC OFFICERS. — 1. Every person who shall institute any prosecution to recover a fine, penalty or forfeiture shall be adjudged to pay all costs if the defendant is acquitted although he may not be entitled to any part of the same.

2. When such prosecutions are commenced by a public officer whose duty it is to institute the same, and the defendant is acquitted, the county shall pay the costs; if he is convicted, and unable to pay the costs, the county shall pay all the costs, except such as were incurred on the part of the defendant.**]**

[550.070. PROSECUTOR TO PAY COSTS IF ACCUSED DISCHARGED UPON EXAMINATION. — If a person, charged with a felony, shall be discharged by the officer taking his examination, the costs shall be paid by the prosecutor or person on whose oath the prosecution was instituted,

and the officer taking such examination shall enter judgment against such person for the same, and issue execution therefor immediately; and in no such case shall the state or county pay the costs.**]**

[550.080. JUDGMENT RENDERED AGAINST PROSECUTOR, WHEN. — If, upon the trial of any indictment or information, the defendant shall be acquitted or discharged, and the prosecutor or prosecuting witness shall be liable to pay the costs according to law, judgment shall be rendered against such prosecutor for the costs in the case, and in no such case shall the same be paid by either the county or state.**]**

[550.090. PROSECUTOR TO PAY COSTS, WHEN. — When the proceedings are prosecuted before any associate circuit judge, at the instance of the injured party, for the disturbance of the peace of a person, or for libel or slander, or for any trespass against the person or property of another, not amounting to a felony, except for petit larceny, the name of such injured party shall be entered by the associate circuit judge on his record as a prosecutor; and if the defendant shall be discharged or acquitted, such prosecutor shall be adjudged to pay the costs not otherwise adjudged; and in every other case of acquittal, if the associate circuit judge or jury trying the case shall state in the finding that the prosecution was malicious or without probable cause, the associate circuit judge shall enter judgment for costs against the prosecution or party at whose instance the information was filed, and shall issue execution therefor; but in no case shall the prosecuting attorney be liable for costs. In other cases of discharge or acquittal the costs shall be paid by the county, except when the prosecution is commenced by complaint and the prosecuting attorney declines to file information thereon, in which case the proceedings shall be dismissed at the cost of the party filing the complaint.**]**

Approved July 10, 2009

HB 485 [HCS HB 485]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the membership and quorum requirements for the Seismic Safety Commission

AN ACT to repeal section 44.227, RSMo, and to enact in lieu thereof one new section relating to the seismic safety commission.

SECTION

A. Enacting clause.

44.227. Commission on seismic safety created — members, qualifications — officers — quorum — terms — removal from office — vacancies — expenses — staff.

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

SECTION A. ENACTING CLAUSE. — Section 44.227, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 44.227, to read as follows:

44.227. COMMISSION ON SEISMIC SAFETY CREATED — MEMBERS, QUALIFICATIONS — OFFICERS — QUORUM — TERMS — REMOVAL FROM OFFICE — VACANCIES — EXPENSES — STAFF. — 1. There is hereby created a "Seismic Safety Commission", which shall be domiciled in the department of public safety.

2. The commission shall consist of seventeen members, one who shall be a member of the senate appointed by the president pro tem of the senate, one who shall be a member of the house of representatives appointed by the speaker of the house of representatives, and fifteen members appointed by the governor, with the advice and consent of the senate, **[**one each representing**]** **with no more than two from any one of** the following professional areas: architecture, planning, fire protection, public utilities, electrical engineering, mechanical engineering, structural engineering, soils engineering, geology, seismology, local government, insurance, business, the American Red Cross**, public education** and emergency management.

3. Commission members shall elect annually from its membership a chairman and vice chairman. A quorum shall consist of **[**nine**]** **a majority of appointed** members**, but not less than seven members, and may be met by electronic attendance and nonvoting participation of the staff of the legislative members of the commission**. All commission members shall be residents of the state of Missouri and shall have reasonable knowledge of issues relating to earthquakes.

4. The term of office for each member of the commission appointed by the governor shall be four years, except that of the initial appointments, seven members shall be appointed for a term of two years and eight members shall be appointed for a term of four years. Any member may be removed from office by the governor without cause. Before the expiration of the term of a member appointed by the governor, the governor shall appoint a successor whose term begins on July first next following. A member is eligible for reappointment. If there is a vacancy for any cause, the governor shall make an appointment to become effective immediately for the unexpired term.

5. Each member of the commission shall serve without compensation but shall receive fifty dollars for each day devoted to the affairs of the commission, plus actual and necessary expenses incurred in the discharge of his official duties.

6. The office of emergency management in the department of public safety shall provide to the commission all technical, clerical and other necessary support services.

Approved June 26, 2009

HB 490 [HB 490]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Allows all public vocational and technical schools to participate in the A+ Schools Program without stipulations

AN ACT to repeal section 160.545, RSMo, and to enact in lieu thereof one new section relating to the A+ Schools Program.

SECTION

A. Enacting clause.

160.545. A+ school program established — purpose — rules — variable fund match requirement — waiver of rules and regulations, requirement — reimbursement for higher education costs for students — evaluation — reimbursement for two-year schools.

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

SECTION A. ENACTING CLAUSE. — Section 160.545, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 160.545, to read as follows:

160.545. A+ SCHOOL PROGRAM ESTABLISHED — PURPOSE — RULES — VARIABLE FUND MATCH REQUIREMENT — WAIVER OF RULES AND REGULATIONS, REQUIREMENT — REIMBURSEMENT FOR HIGHER EDUCATION COSTS FOR STUDENTS — EVALUATION — REIMBURSEMENT FOR TWO-YEAR SCHOOLS. — 1. There is hereby established within the department of elementary and secondary education the "A+ Schools Program" to be administered by the commissioner of education. The program shall consist of grant awards made to public secondary schools that demonstrate a commitment to ensure that:

(1) All students be graduated from school;

(2) All students complete a selection of high school studies that is challenging and for which there are identified learning expectations; and

(3) All students proceed from high school graduation to a college or postsecondary vocational or technical school or high-wage job with work place skill development opportunities.

2. The state board of education shall promulgate rules and regulations for the approval of grants made under the program to schools that:

(1) Establish measurable districtwide performance standards for the goals of the program outlined in subsection 1 of this section; and

(2) Specify the knowledge, skills and competencies, in measurable terms, that students must demonstrate to successfully complete any individual course offered by the school, and any course of studies which will qualify a student for graduation from the school; and

(3) Do not offer a general track of courses that, upon completion, can lead to a high school diploma; and

(4) Require rigorous coursework with standards of competency in basic academic subjects for students pursuing vocational and technical education as prescribed by rule and regulation of the state board of education; and

(5) Have a partnership plan developed in cooperation and with the advice of local business persons, labor leaders, parents, and representatives of college and postsecondary vocational and technical school representatives, with the plan then approved by the local board of education. The plan shall specify a mechanism to receive information on an annual basis from those who developed the plan in addition to senior citizens, community leaders, and teachers to update the plan in order to best meet the goals of the program as provided in subsection 1 of this section. Further, the plan shall detail the procedures used in the school to identify students that may drop out of school and the intervention services to be used to meet the needs of such students. The plan shall outline counseling and mentoring services provided to students who will enter the work force upon graduation from high school, address apprenticeship and intern programs, and shall contain procedures for the recruitment of volunteers from the community of the school to serve in schools receiving program grants.

3. A school district may participate in the program irrespective of its accreditation classification by the state board of education, provided it meets all other requirements.

4. By rule and regulation, the state board of education may determine a local school district variable fund match requirement in order for a school or schools in the district to receive a grant under the program. However, no school in any district shall receive a grant under the program unless the district designates a salaried employee to serve as the program coordinator, with the district assuming a minimum of one-half the cost of the salary and other benefits provided to the coordinator. Further, no school in any district shall receive a grant under the program unless the district makes available facilities and services for adult literacy training as specified by rule of the state board of education.

5. For any school that meets the requirements for the approval of the grants authorized by this section and specified in subsection 2 of this section for three successive school years, by August first following the third such school year, the commissioner of education shall present a plan to the superintendent of the school district in which such school is located for the waiver

of rules and regulations to promote flexibility in the operations of the school and to enhance and encourage efficiency in the delivery of instructional services in the school. The provisions of other law to the contrary notwithstanding, the plan presented to the superintendent shall provide a summary waiver, with no conditions, for the pupil testing requirements pursuant to section 160.257 in the school. Further, the provisions of other law to the contrary notwithstanding, the plan shall detail a means for the waiver of requirements otherwise imposed on the school related to the authority of the state board of education to classify school districts pursuant to subdivision (9) of section 161.092, RSMo, and such other rules and regulations as determined by the commissioner of education, except such waivers shall be confined to the school and not other schools in the school district unless such other schools meet the requirements of this subsection. However, any waiver provided to any school as outlined in this subsection shall be void on June thirtieth of any school year in which the school fails to meet the requirements for the approval of the grants authorized by this section as specified in subsection 2 of this section.

6. For any school year, grants authorized by subsections 1 to 3 of this section shall be funded with the amount appropriated for this program, less those funds necessary to reimburse eligible students pursuant to subsection 7 of this section.

7. The commissioner of education shall, by rule and regulation of the state board of education and with the advice of the coordinating board for higher education, establish a procedure for the reimbursement of the cost of tuition, books and fees to any public community college or **[**within the limits established in subsection 9 of this section any two-year public or private**]** vocational or technical school **or within the limits established in subsection 9 of this section for any two-year private vocational or technical school** for any student:

(1) Who has attended a public high school in the state for at least three years immediately prior to graduation that meets the requirements of subsection 2 of this section, except that students who are active duty military dependents who, in the school year immediately preceding graduation, meet all other requirements of this subsection and are attending a school that meets the requirements of subsection 2 of this section shall be exempt from the three-year attendance requirement of this subdivision; and

(2) Who has made a good faith effort to first secure all available federal sources of funding that could be applied to the reimbursement described in this subsection; and

(3) Who has earned a minimal grade average while in high school as determined by rule of the state board of education, and other requirements for the reimbursement authorized by this subsection as determined by rule and regulation of said board.

8. The commissioner of education shall develop a procedure for evaluating the effectiveness of the program described in this section. Such evaluation shall be conducted annually with the results of the evaluation provided to the governor, speaker of the house, and president pro tempore of the senate.

9. For a two-year **[**public or**]** private vocational or technical school to obtain reimbursements under subsection 7 of this section**[**, except for those schools that are receiving reimbursements on August 28, 2008,**]** the following requirements shall be satisfied:

(1) Such two-year **[**public or**]** private vocational or technical school shall be a member of the North Central Association and be accredited by the Higher Learning Commission as of July 1, 2008, and maintain such accreditation;

(2) Such two-year **[**public or**]** private vocational or technical school shall be designated as a 501(c)(3) nonprofit organization under the Internal Revenue Code of 1986, as amended;

(3) No two-year **[**public or**]** private vocational or technical school shall receive tuition reimbursements in excess of the tuition rate charged by a public community college for course work offered by the private vocational or technical school within the service area of such college; and

(4) The reimbursements provided to any two-year private vocational or technical school shall not violate the provisions of article IX, section 8, or article I, section 7, of the Missouri Constitution or the first amendment of the United States Constitution.

Approved July 9, 2009

HB 506 [SCS HB 506]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Requires the Governor to issue an annual proclamation designating the first week of March as "Math, Engineering, Technology and Science (METS) Week"

AN ACT to amend chapter 9, RSMo, by adding thereto one new section relating to math, engineering, technology and sciences week.

SECTION
A. Enacting clause.
9.138. Math, engineering, technology and science week designated — governor to proclaim.

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

SECTION A. ENACTING CLAUSE. — Chapter 9, RSMo, is amended by adding thereto one new section, to be known as section 9.138, to read as follows:

9.138. MATH, ENGINEERING, TECHNOLOGY AND SCIENCE WEEK DESIGNATED — GOVERNOR TO PROCLAIM. — The governor shall annually issue a proclamation setting apart the first week of March as "Math, Engineering, Technology and Science (METS) Week", and recommending to the people of the state that the week be appropriately observed through activities that will result in an increased awareness of the importance of advancing community interest in math, engineering, technology, and science programs, and promote METS careers statewide in order to advance Missouri's workforce. The proclamation shall also recommend that the week be observed with appropriate activities in public schools. Public and private involvement in METS week demonstrates that fostering and encouraging interest in the sciences is a major factor in determining growth and success in school and will help students develop a focus on technology based careers after graduation.

Approved June 24, 2009

HB 525 [HCS HB 525]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Requires the Division of Developmental Disabilities to establish programs and services for individuals diagnosed with autism jointly with families, regional councils, and a newly established committee

AN ACT to amend chapter 633, RSMo, by adding thereto one new section relating to autism as addressed by the division of developmental disabilities.

SECTION
A. Enacting clause.
633.220. Definitions — programs for persons with autism to be established — state to be divided into regions, regional projects, purchase of services — regional councils — advisory committee, duties — rulemaking authority.

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

SECTION A. ENACTING CLAUSE. — Chapter 633, RSMo, is amended by adding thereto one new section, to be known as section 633.220, to read as follows:

633.220. DEFINITIONS — PROGRAMS FOR PERSONS WITH AUTISM TO BE ESTABLISHED — STATE TO BE DIVIDED INTO REGIONS, REGIONAL PROJECTS, PURCHASE OF SERVICES — REGIONAL COUNCILS — ADVISORY COMMITTEE, DUTIES — RULEMAKING AUTHORITY. — 1. For purposes of this section, the following terms shall mean:

(1) "Autism", a lifelong developmental disability that typically appears during the first three years of life resulting from a neurological disorder that affects brain functioning which interferes with communication, learning, behavior, and social development;

(2) "Division", the division of developmental disabilities;

(3) "Family support", services and helping relationships for the purpose of maintaining and enhancing family caregiving. Family support may be any combination of services that enable individuals with autism to reside within their family homes and remain integrated within their communities. Family support services shall be:

(a) Based on individual and family needs;

(b) Identified by the family;

(c) Easily accessible to the family;

(d) Family-centered and culturally sensitive;

(e) Flexible and varied to meet the changing needs of the family members; and

(f) Provided in a timely manner contingent upon the availability of resources;

(4) "Service provider", a person or entity which provides and receives reimbursement for autism programs and services as specified in this section.

2. The division of developmental disabilities shall establish programs and services for persons with autism. These programs and services shall be established in conjunction with persons with autism and with families of persons with autism. The division shall establish such programs and services in conjunction with the regional parent advisory councils and with the Missouri parent advisory committee on autism. The programs and services shall be designed to enhance persons with autism spectrum disorders and families' abilities to meet needs they identify and shall:

(1) Develop skills for persons with autism through supports, services, and teaching;

(2) Teach families to provide behavioral supports to members with autism; and

(3) Provide needed family support.

3. The division director, with input from the Missouri parent advisory council on autism, shall divide the state into at least five regions and establish autism programs and services which are responsive to the needs of persons with autism and families consistent with contemporary and emerging best practices. The boundaries of such regions, to the extent practicable, shall be contiguous with relevant boundaries of political subdivisions and health service areas.

4. The regional projects may provide or purchase, but shall not be limited to the following services in addition to other contemporary and emerging based practices:

(1) Assessment;

(2) Advocacy training;

(3) Behavior management training and supports;

(4) Communication and language therapy;

(5) Consultation on individualized education and habilitation plans;

(6) Crisis intervention;

(7) Information and referral assistance;

(8) Life skills;

(9) Music therapy;

(10) Occupational therapy, sensory integration therapy, and consultation;

(11) Parent or caregiver training;

(12) Public education and information dissemination;

(13) Respite care; and

(14) Staff training.

5. Each regional project shall have a regional parent advisory council composed of persons with autism and persons that have family members with autism, including family members that are young children, school-age children, and adults, and who have met the division's eligibility requirements to be a client as defined under section 630.005, RSMo. Members of a regional parent advisory council shall be Missouri residents. No member shall be a service provider, a member of a service provider's board of directors, or an employee of a service provider or the division.

6. The responsibilities of each regional parent advisory council shall include, but not be limited to, the following:

(1) Advocacy;

(2) Contract monitoring;

(3) Review of annual audits of projects by the department of mental health;

(4) Recommendation of services to be provided based on input from families;

(5) Recommendation of policy, budget, and service priorities;

(6) Monthly review of service delivery;

(7) Planning;

(8) Public education and awareness;

(9) Recommendation of service providers to the division for administration of the project; and

(10) Recommendation of contract cancellation.

7. The division shall establish the Missouri parent advisory committee on autism. The committee shall be appointed by the division director. A chair of the committee shall be selected by members of the committee. It shall be composed of:

(1) Two representatives and one alternate from each of the regional parent advisory committees established in subsection 3 of this section;

(2) One person with autism and his or her alternate.

8. The division director shall make every effort to appoint members nominated by the regional parent advisory councils. The membership should represent the cultural diversity of the state and represent persons with autism of all ages and capabilities.

9. The responsibilities of the Missouri parent advisory committee on autism shall include, but not be limited to, the following:

(1) Serve as a liaison with the regional parent advisory councils and provide current information to them and the persons and families they serve;

(2) Determine project outcomes for autism services;

(3) Plan and sponsor statewide activities;

(4) Recommend service providers to the division director in the event a regional parent advisory committee and the district administrator cannot reach consensus; and

(5) Provide an annual report to the Missouri commission on autism spectrum disorders, the governor, the director of the department of mental health, and director of the division of developmental disabilities.

10. The director of the department of mental health shall promulgate rules and regulations to implement this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall

become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

Approved July 8, 2009

HB 537 [HB 537]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Authorizes the Governor to convey state property to the Highways and Transportation Commission for the new Mississippi River Bridge project

AN ACT to authorize the conveyance of property owned by the state in the city of St. Louis to the state highways and transportation commission.

SECTION

1. Governor to quit claim to state highways and transportation commission property in the City of St. Louis.
2. Governor to grant an easement to the state highways and transportation commission on property in the City of St. Louis.
3. Instruments of conveyance to contain any provisions deemed necessary for construction of new Mississippi River bridge.
4. Consideration for conveyances.
5. Attorney general to approve form of conveyance.

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

SECTION 1. GOVERNOR TO QUIT CLAIM TO STATE HIGHWAYS AND TRANSPORTATION COMMISSION PROPERTY IN THE CITY OF ST. LOUIS. — The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim to the state highways and transportation commission all interest of the state of Missouri in real property located in part of City Block Number 239 and 240 in the city of St. Louis. The property to be conveyed is more particularly described as follows:

Commencing at the Northwest corner of City Block Number 239; thence South 18 degrees 13 minutes 13 seconds East for a distance of 62.14 feet to centerline Station 68+00.00; thence South 62 degrees 38 minutes 07 seconds West for a distance of 241.54 feet to centerline P.T. Station 65+58.46; BEGINNING AGAIN at centerline Station 68+00.00; on the centerline of Interstate Highway 70; thence North 62 degrees 38 minutes 07 seconds East for a distance of 239.19 feet to centerline P.C. Station 70+39.19; thence Northeasterly along the arc of a curve to the right having a radius of 1,892.60 for a distance of 81.74 feet to centerline Station 71+20.93; thence Southeasterly leaving the centerline of said Interstate Route 70 to a point 4.87 feet Southeasterly of and radial to said centerline Station 71+20.93, BEING THE POINT OF BEGINNING; thence Southerly to a point 73.35 feet Southeasterly of and radial to centerline Station 71+08.40; thence Southwesterly along the arc of a curve to the left having a radius of 1910 feet a distance of 76.83 feet to a point 74.77 feet Southeasterly of and at a right angle to centerline Station 70+31.57; thence Southwesterly to a point 66.72 feet

Southeasterly of and at a right angle to centerline Station 68+99.79; thence southwesterly to a point 79.31 feet southeasterly of and at right angle to centerline Station 68+04.62; thence southwesterly to a point 79.83 feet southeasterly of and at right angle to centerline station 67+78.62; thence Northerly to a point 61.35 feet Northwesterly of and at a right angle to centerline Station 68+09.88; thence Easterly to the point of BEGINNING, and containing 32,682 square feet, more or less.

Also, all of abutter's rights of direct access between the highway now known as Interstate Highway 70 and grantor's abutting land in City Block Number 239 and 240, St. Louis City, Missouri.

SECTION 2. GOVERNOR TO GRANT AN EASEMENT TO THE STATE HIGHWAYS AND TRANSPORTATION COMMISSION ON PROPERTY IN THE CITY OF ST. LOUIS. — The governor is also hereby authorized and empowered to give, grant, bargain, and convey a permanent transmission easement for construction and maintenance of utilities to the state highways and transportation commission, and any successors or assigns as designated by the commission, which is located in part of City Block Number 239 and 240 in the City of St. Louis, Missouri. The permanent transmission easement is more particularly described as follows:

Commencing at the Northwest corner of City Block Number 239; thence South 18 degrees 13 minutes 13 seconds East for a distance of 62.14 feet to centerline Station 68+00.00; thence South 62 degrees 38 minutes 07 seconds West for a distance of 241.54 feet to centerline P.T. Station 65+58.46; BEGINNING AGAIN at centerline Station 68+00.00 on the centerline of Interstate Highway 70; thence North 62 degrees 38 minutes 07 seconds East for a distance of 4.62 feet to centerline Station 68+04.62; thence Southeasterly to a point 79.31 feet Southeasterly of and at a right angle to said centerline Station 68+04.62, BEING THE POINT OF BEGINNING; thence Southerly to a point 265.03 feet Southeasterly of and at a right angle to centerline Station 67+63.71; thence Southerly to a point 703.22 feet Southeasterly of and at a right angle to centerline Station 66+15.05; thence continuing Southerly to a point 759.86 feet Southeasterly of and at a right angle to centerline Station 65+66.31; thence Northerly to a point 278.24 feet Southeasterly of and at a right angle to centerline Station 67+34.70; thence Northerly to a point 79.83 feet Southeasterly of and at a right angle to centerline Station 67+78.62; thence Northeasterly to the point of BEGINNING, and containing 17,333 square feet, more or less.

SECTION 3. INSTRUMENTS OF CONVEYANCE TO CONTAIN ANY PROVISIONS DEEMED NECESSARY FOR CONSTRUCTION OF NEW MISSISSIPPI RIVER BRIDGE. — In addition, the instruments of conveyance noted in sections 1 and 2 shall contain such other restrictions, temporary easements, and any other conditions as are deemed necessary by the governor and the commission to construct a new Mississippi River bridge and necessary accompanying state highways.

SECTION 4. CONSIDERATION FOR CONVEYANCES. — Consideration for the conveyance shall be as negotiated by the commissioner of administration and the state highways and transportation commission.

SECTION 5. ATTORNEY GENERAL TO APPROVE FORM OF CONVEYANCE. — The attorney general shall approve the form of the instrument of conveyance.

Approved July 7, 2009

HB 577 [CCS SS SCS HCS HB 577]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding the regulation of insurance

AN ACT to repeal sections 143.441, 147.010, 148.370, 303.024, 374.456, 375.020, 375.1025, 375.1028, 375.1030, 375.1032, 375.1035, 375.1037, 375.1040, 375.1042, 375.1045, 375.1047, 375.1050, 375.1052, 375.1057, 379.1300, 379.1302, 379.1310, 379.1326, 379.1332, 379.1373, 379.1388, 379.1412, 382.400, 382.402, 382.405, 382.407, 382.409, 384.025, 384.031, 384.043, 384.051, 384.057, and 384.062, RSMo, and to enact in lieu thereof forty-nine new sections relating to the regulation of insurance, with penalty provisions.

SECTION
A. Enacting clause.
143.441. Corporation defined — corporate tax inapplicable, when.
147.010. Annual franchise tax, rate — exceptions.
148.370. Insurance companies, tax on premiums — rate — credit.
208.192. Certain medicaid data to be made available on web site — sunset provision.
303.024. Insurance identification cards issued by insurer, contents — identification cards for self-insured issued by director, contents — exhibition of card to peace officers or commercial vehicle enforcement officers — failure to exhibit, violation of section 303.025.
374.350. Short title.
374.351. Intent of compact.
374.352. Interstate insurance product regulation compact.
374.776. Study on licensure and policies of bail bond industry, hearings, report.
375.020. Continuing education for producers, required, exceptions — procedures — director to promulgate rules and regulations — fees, how determined, deposit of.
375.1025. Definitions.
375.1028. Applicability — exemptions.
375.1030. Annual audit required, report filed, when — extensions granted, when — audit committee required, when.
375.1032. Audited financial report, contents — form.
375.1035. Accountant, name and address to be registered — letter, filed with director, contents — change of accountant, notice to director.
375.1037. Qualifications of accountant — limitation of number of years, when — approval by director — dispute resolution — accountant not recognized, when — exemption, when — preapproval for nonaudit services performed, when.
375.1038. Consolidated or commingled financial statements permitted, when — worksheet , contents.
375.1040. Accountant's letter, contents.
375.1042. Audit of financial statement by independent accountant.
375.1045. Report of findings of accountant to insurer, contents.
375.1047. Unremediated material weaknesses to be furnished to director, requirements — insurer to communicate remedial actions taken.
375.1050. Workpapers, defined — availability to insurance examiners — confidentiality of.
375.1052. Temporary exemption, granted when — denial of, petition for hearing, procedures — schedule of compliance — effective date of requirements.
375.1053. Inapplicability of statute to foreign insurers — audit committee responsibilities, member qualifications — report required — waiver, when.
375.1054. Prohibited acts — violation, penalty.
375.1056. Report required by insurer, when, contents.
375.1057. Canadian and British insurers, special requirements.
376.391. Co-payments for chiropractic services, cap.
376.502. Life insurers not to discriminate based on lawful travel destinations — violations, penalty.
376.1232. Insurers to offer coverage for prosthetics.
379.1300. Definitions.
379.1302. Licensure — prohibited acts — requirements for conducting business — application requirements.
379.1310. Incorporation as a stock insurer permitted, when.
379.1326. Premium tax imposed, amount, procedure.
379.1332. Promotion of captive insurance, moneys from dedicated insurance fund to be used.

379.1339. Conversion to reciprocal insurer, when, procedure.
379.1373. Limitation on activities and name — number of incorporators required.
379.1388. Recognition of admitted assets — value of assets.
379.1412. Premium tax required, amount, procedure.
382.400. Definitions.
382.402. Applicability of law.
382.405. Degree of control required, provisions applicable, exemptions — contract between producer and insurer, requirements — insurer to have audit committee, members, purpose — loss ratios, report to director, contents.
382.407. Notice to insured, producer to provide, contents.
382.409. Noncompliance with law, powers of director — receiver in liquidation, powers.
384.025. Ineligibility of nonadmitted insurer, grounds, when — notice to licensees.
384.043. Licensing requirements for insurance producers, fee — examination, exception — renewal, when, violation, effect.
384.051. Insured to file report on surplus lines insurance not obtained through a broker — contents, when due — tax imposed, procedure to collect tax.
384.057. Licensee to file annual statement, contents — report to director, contents.
384.062. Premium taxes collected by licensee but unpaid to department, actions authorized — taxes payable to department.
374.456. Annual report to the general assembly by the director.
384.031. Report to be filed by brokers and licensees, content.

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

SECTION A. ENACTING CLAUSE. — Sections 143.441, 147.010, 148.370, 303.024, 374.456, 375.020, 375.1025, 375.1028, 375.1030, 375.1032, 375.1035, 375.1037, 375.1040, 375.1042, 375.1045, 375.1047, 375.1050, 375.1052, 375.1057, 379.1300, 379.1302, 379.1310, 379.1326, 379.1332, 379.1373, 379.1388, 379.1412, 382.400, 382.402, 382.405, 382.407, 382.409, 384.025, 384.031, 384.043, 384.051, 384.057, and 384.062, RSMo, are repealed and forty-nine new sections enacted in lieu thereof, to be known as sections 143.441, 147.010, 148.370, 208.192, 303.024, 374.350, 374.351, 374.352, 374.776, 375.020, 375.1025, 375.1028, 375.1030, 375.1032, 375.1035, 375.1037, 375.1038, 375.1040, 375.1042, 375.1045, 375.1047, 375.1050, 375.1052, 375.1053, 375.1054, 375.1056, 375.1057, 376.391, 376.502, 376.1232, 379.1300, 379.1302, 379.1310, 379.1326, 379.1332, 379.1339, 379.1373, 379.1388, 379.1412, 382.400, 382.402, 382.405, 382.407, 382.409, 384.025, 384.043, 384.051, 384.057, and 384.062, to read as follows:

143.441. CORPORATION DEFINED — CORPORATE TAX INAPPLICABLE, WHEN. — 1. The term "corporation" means every corporation, association, joint stock company and joint stock association organized, authorized or existing under the laws of this state and includes:

(1) Every corporation, association, joint stock company, and joint stock association organized, authorized, or existing under the laws of this state, and every corporation, association, joint stock company, and joint stock association, licensed to do business in this state, or doing business in this state, and not organized, authorized, or existing under the laws of this state, or by any receiver in charge of the property of any such corporation, association, joint stock company or joint stock association;

(2) Every railroad corporation or receiver in charge of the property thereof which operates over rails owned or leased by it and every corporation operating any buslines, trucklines, airlines, or other forms of transportation operating over fixed routes owned, leased, or used by it extending from this state to another state or states;

(3) Every corporation, or receiver in charge of the property thereof, which owns or operates a bridge between this and any other state; and

(4) Every corporation, or receiver in charge of the property thereof, which operates a telephone line or lines extending from this state to another state or states or a telegraph line or lines extending from this state to another state or states.

2. The tax on corporations provided in subsection 1 of section 143.431 and section 143.071 shall not apply to:

(1) A corporation which by reason of its purposes and activities is exempt from federal income tax. The preceding sentence shall not apply to unrelated business taxable income and other income on which chapter 1 of the Internal Revenue Code imposes the federal income tax or any other tax measured by income;

(2) An express company which pays an annual tax on its gross receipts in this state;

(3) An insurance company which **[**pays**]** **is subject to** an annual tax on its gross premium receipts in this state;

(4) A Missouri mutual or an extended Missouri mutual insurance company organized under chapter 380, RSMo; and

(5) Any other corporation that is exempt from Missouri income taxation under the laws of Missouri or the laws of the United States.

147.010. ANNUAL FRANCHISE TAX, RATE — EXCEPTIONS. — 1. For the transitional year defined in subsection 4 of this section and each taxable year beginning on or after January 1, 1980, but before January 1, 2000, every corporation organized pursuant to or subject to chapter 351, RSMo, or pursuant to any other law of this state shall, in addition to all other fees and taxes now required or paid, pay an annual franchise tax to the state of Missouri equal to one-twentieth of one percent of the par value of its outstanding shares and surplus if its outstanding shares and surplus exceed two hundred thousand dollars, or if the outstanding shares of such corporation or any part thereof consist of shares without par value, then, in that event, for the purpose contained in this section, such shares shall be considered as having a value of five dollars per share unless the actual value of such shares exceeds five dollars per share, in which case the tax shall be levied and collected on the actual value and the surplus if the actual value and the surplus exceed two hundred thousand dollars. If such corporation employs a part of its outstanding shares in business in another state or country, then such corporation shall pay an annual franchise tax equal to one-twentieth of one percent of its outstanding shares and surplus employed in this state if its outstanding shares and surplus employed in this state two hundred thousand dollars, and for the purposes of sections 147.010 to 147.120, such corporation shall be deemed to have employed in this state that proportion of its entire outstanding shares and surplus that its property and assets employed in this state bears to all its property and assets wherever located. A foreign corporation engaged in business in this state, whether pursuant to a certificate of authority issued pursuant to chapter 351, RSMo, or not, shall be subject to this section. Any corporation whose outstanding shares and surplus as calculated in this subsection does not exceed two hundred thousand dollars shall state that fact on the annual report form prescribed by the secretary of state. For all taxable years beginning on or after January 1, 2000, the annual franchise tax shall be equal to one-thirtieth of one percent of the corporation's outstanding shares and surplus if the outstanding shares and surplus exceed one million dollars. Any corporation whose outstanding shares and surplus do not exceed one million dollars shall state that fact on the annual report form prescribed by the director of revenue.

2. Sections 147.010 to 147.120 shall not apply to corporations not organized for profit, nor to corporations organized pursuant to the provisions of chapter 349, RSMo, nor to express companies, which now pay an annual tax on their gross receipts in this state, nor to insurance companies, which **[**pay**]** **are subject to** an annual tax on their premium receipts in this state, nor to state, district, county, town and farmers' mutual companies now organized or that may be hereafter organized pursuant to any of the laws of this state, organized for the sole purpose of writing fire, lightning, windstorm, tornado, cyclone, hail and plate glass and mutual automobile insurance and for the purpose of paying any loss incurred by any member by assessment, nor to any mutual insurance corporation not having shares, nor to a company or association organized to transact business of life or accident insurance on the assessment plan for the purpose of mutual protection and benefit to its members and the payment of stipulated sums of moneys to the family, heirs, executors, administrators or assigns of the deceased member, nor to foreign life, fire, accident, surety, liability, steam boiler, tornado, health, or other kind of insurance company

of whatever nature coming within the provisions of section 147.050 and doing business in this state, nor to savings and loan associations and domestic and foreign regulated investment companies as defined by Section 170 of the Act of Congress commonly known as the "Revenue Act of 1942", nor to electric and telephone corporations organized pursuant to chapter 351, RSMo, and chapter 392, RSMo, prior to January 1, 1980, which have been declared tax exempt organizations pursuant to Section 501(c) of the Internal Revenue Code of 1986, nor for taxable years beginning after December 31, 1986, to banking institutions subject to the annual franchise tax imposed by sections 148.010 to 148.110, RSMo; but bank deposits shall be considered as funds of the individual depositor left for safekeeping and shall not be considered in computing the amount of tax collectible pursuant to the provisions of sections 147.010 to 147.120.

3. A corporation's "taxable year" for purposes of sections 147.010 to 147.120 shall be its taxable year as provided in section 143.271, RSMo.

4. A corporation's "transitional year" for the purposes of sections 147.010 to 147.120 shall be its taxable year which includes parts of each of the years 1979 and 1980.

5. The franchise tax payable for a corporation's transitional year shall be computed by multiplying the amount otherwise due for that year by a fraction, the numerator of which is the number of months between January 1, 1980, and the end of the taxable year and the denominator of which is twelve. The franchise tax payable, if a corporation's taxable year is changed as provided in section 143.271, RSMo, shall be similarly computed pursuant to regulations prescribed by the director of revenue.

6. All franchise reports and franchise taxes shall be returned to the director of revenue. All checks and drafts remitted for payment of franchise taxes shall be made payable to the director of revenue.

7. Pursuant to section 32.057, RSMo, the director of revenue shall maintain the confidentiality of all franchise tax reports returned to the director.

8. The director of the department of revenue shall honor all existing agreements between taxpayers and the director of the department of revenue.

148.370. INSURANCE COMPANIES, TAX ON PREMIUMS — RATE — CREDIT. — Every insurance company or association organized under the laws of the state of Missouri and doing business under the provisions of sections 376.010 to 376.670, 379.205 to 379.310, 379.650 to 379.790 and chapter 381, RSMo, and every mutual fire insurance company organized under the provisions of sections 379.010 to 379.190, RSMo, shall, as hereinafter provided, quarterly pay, beginning with the year 1983, a tax upon the direct premiums received by it from policyholders in this state, whether in cash or in notes, or on account of business done in this state, **in lieu of the taxes imposed under the provisions of chapters 143 and 147, RSMo,** for insurance of life, property or interest in this state, at the rate of two percent per annum, which amount of taxes shall be assessed and collected as hereinafter provided; provided, that fire and casualty insurance companies or associations shall be credited with canceled or returned premiums actually paid during the year in this state, and that life insurance companies shall be credited with dividends actually declared to policyholders in this state but held by the company and applied to the reduction of premiums payable by the policyholder.

208.192. CERTAIN MEDICAID DATA TO BE MADE AVAILABLE ON WEB SITE — SUNSET PROVISION. — 1. By August 28, 2010, the director of the MO HealthNet division shall implement a program under which the director shall make available through its Internet web site nonaggregated information on individuals collected under the federal Medicaid Statistical Information System described in the Social Security Act, Section 1903(r)(1)(F), insofar as such information has been de-identified in accordance with regulations promulgated under the Health Insurance Portability and Accountability Act of 1996, as amended. In implementing such program, the director shall ensure that:

(1) The information made so available is in a format that is easily accessible, useable, and understandable to the public, including individuals interested in improving the quality of care provided to individuals eligible for programs and services under the MO HealthNet program, researchers, health care providers, and individuals interested in reducing the prevalence of waste and fraud under the program;

(2) The information made so available is as current as deemed practical by the director and shall be updated at least once per calendar quarter;

(3) To the extent feasible, all health care providers, as such term is defined in subdivision (20) of section 376.1350, RSMo, included in such information are identifiable by name to individuals who access the information through such program; and

(4) The director periodically solicits comments from a sampling of individuals who access the information through such program on how to best improve the utility of the program.

2. For purposes of implementing the program under this section and ensuring the information made available through such program is periodically updated, the director may select and enter into a contract with a public or private entity meeting such criteria and qualifications as the director determines appropriate.

3. By August 28, 2011, and annually thereafter, the director shall submit to the general assembly and the MO HealthNet oversight committee, a report on the progress of the program under subsection 1 of this section, including the extent to which information made available through the program is accessed and the extent to which comments received under subdivision (4) of subsection 1 of this section were used during the year involved to improve the utility of the program.

4. By August 28, 2011, the director shall submit to the general assembly and the MO HealthNet oversight committee a report on the feasibility, potential costs, and potential benefits of making publicly available through an Internet-based program de-identified payment and patient encounter information for items and services furnished under Title XXI of the Social Security Act which would not otherwise be included in the information collected under the federal Medicaid Statistical Information System described in Section 1903(r)(1)(F) of such act and made available under Section 1942 of such act, as added by Section 5008.

5. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset six years after the effective date of this section unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

303.024. INSURANCE IDENTIFICATION CARDS ISSUED BY INSURER, CONTENTS — IDENTIFICATION CARDS FOR SELF-INSURED ISSUED BY DIRECTOR, CONTENTS — EXHIBITION OF CARD TO PEACE OFFICERS OR COMMERCIAL VEHICLE ENFORCEMENT OFFICERS — FAILURE TO EXHIBIT, VIOLATION OF SECTION 303.025. — 1. Each insurer issuing motor vehicle liability policies in this state, or an agent of the insurer, shall furnish an insurance identification card to the named insured for each motor vehicle insured by a motor vehicle liability policy that complies with the requirements of sections 303.010 to 303.050, 303.060, 303.140, 303.220, 303.290, 303.330 and 303.370.

2. The insurance identification card shall include all of the following information:

(1) The name and address of the insurer;

(2) The name of the named insured;

(3) The policy number;

(4) The effective dates of the policy, including month, day and year;

(5) A description of the insured motor vehicle, including year and make or at least five digits of the vehicle identification number or the word "Fleet" if the insurance policy covers five or more motor vehicles; and

(6) The statement "THIS CARD MUST BE CARRIED IN THE INSURED MOTOR VEHICLE FOR PRODUCTION UPON DEMAND" prominently displayed on the card.

3. A new insurance identification card shall be issued when the insured motor vehicle is changed, when an additional motor vehicle is insured, and when a new policy number is assigned. A replacement insurance identification card shall be issued at the request of the insured in the event of loss of the original insurance identification card.

4. The director shall furnish each self-insurer, as provided for in section 303.220, an insurance identification card for each motor vehicle so insured. The insurance identification card shall include all of the following information:

(1) Name of the self-insurer;

(2) The word "self-insured"; and

(3) The statement "THIS CARD MUST BE CARRIED IN THE SELF-INSURED MOTOR VEHICLE FOR PRODUCTION UPON DEMAND" prominently displayed on the card.

5. An insurance identification card shall be carried in the insured motor vehicle at all times. The operator of an insured motor vehicle shall exhibit the insurance identification card on the demand of any peace officer, commercial vehicle enforcement officer or commercial vehicle inspector who lawfully stops such operator or investigates an accident while that officer or inspector is engaged in the performance of the officer's or inspector's duties. If the operator fails to exhibit an insurance identification card, the officer or inspector shall issue a citation to the operator for a violation of section 303.025. A motor vehicle liability insurance policy, a motor vehicle liability insurance binder, or receipt which contains the policy information required in subsection 2 of this section, shall be satisfactory evidence of insurance in lieu of an insurance identification card.

6. Any person who knowingly or intentionally produces, manufactures, sells, or otherwise distributes a fraudulent document intended to serve as an insurance identification card is guilty of a class D felony. Any person who knowingly or intentionally possesses a fraudulent document intended to serve as an insurance identification card is guilty of a class B misdemeanor.

374.350. SHORT TITLE. — Sections 374.350 to 374.352 may be cited as the "Interstate Insurance Product Regulation Compact".

374.351. INTENT OF COMPACT. — The Interstate Insurance Product Regulation Compact is intended to help States join together to establish an interstate compact to regulate designated insurance products. Pursuant to terms and conditions of this Act, the State of Missouri seeks to join with other States and establish the Interstate Insurance Product Regulation Compact, and thus become a member of the Interstate Insurance Product Regulation Commission. The Director of the Department of Insurance, Financial Institutions and Professional Registration is hereby designated to serve as the representative of this State to the Commission.

374.352. INTERSTATE INSURANCE PRODUCT REGULATION COMPACT. — The State of Missouri ratifies, approves, and adopts the following interstate compact:

ARTICLE I. PURPOSES

The purposes of this Compact are, through means of joint and cooperative action among the Compacting States:

1. To promote and protect the interest of consumers of individual and group annuity, life insurance, disability income and long-term care insurance products;

2. To develop uniform standards for insurance products covered under the Compact;

3. To establish a central clearinghouse to receive and provide prompt review of insurance products covered under the Compact and, in certain cases, advertisements related thereto, submitted by insurers authorized to do business in one or more Compacting States;

4. To give appropriate regulatory approval to those product filings and advertisements satisfying the applicable uniform standard;

5. To improve coordination of regulatory resources and expertise between state insurance departments regarding the setting of uniform standards and review of insurance products covered under the Compact;

6. To create the Interstate Insurance Product Regulation Commission; and

7. To perform these and such other related functions as may be consistent with the state regulation of the business of insurance.

ARTICLE II. DEFINITIONS

For purposes of this Compact:

1. "Advertisement" means any material designed to create public interest in a Product, or induce the public to purchase, increase, modify, reinstate, borrow on, surrender, replace or retain a policy, as more specifically defined in the Rules and Operating Procedures of the Commission.

2. "Bylaws" mean those bylaws established by the Commission for its governance, or for directing or controlling the Commission's actions or conduct.

3. "Compacting State" means any State which has enacted this Compact legislation and which has not withdrawn pursuant to Article XIV, Section 1, or been terminated pursuant to Article XIV, Section 2.

4. "Commission" means the "Interstate Insurance Product Regulation Commission" established by this Compact.

5. "Commissioner" means the chief insurance regulatory official of a State including, but not limited to commissioner, superintendent, director or administrator.

6. "Domiciliary State" means the state in which an Insurer is incorporated or organized; or, in the case of an alien Insurer, its state of entry.

7. "Insurer" means any entity licensed by a State to issue contracts of insurance for any of the lines of insurance covered by this Act.

8. "Member" means the person chosen by a Compacting State as its representative to the Commission, or his or her designee.

9. "Non-compacting State" means any State which is not at the time a Compacting State.

10. "Operating Procedures" mean procedures promulgated by the Commission implementing a Rule, Uniform Standard or a provision of this Compact.

11. "Product" means the form of a policy or contract, including any application, endorsement, or related form which is attached to and made a part of the policy or contract, and any evidence of coverage or certificate, for an individual or group annuity, life insurance, disability income or long-term care insurance product that an Insurer is authorized to issue.

12. "Rule" means a statement of general or particular applicability and future effect promulgated by the Commission, including a Uniform Standard developed pursuant to Article VII of this Compact, designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of the Commission, which shall have the force and effect of law in the Compacting States.

13. "State" means any state, district or territory of the United States of America.

14. "Third-Party Filer" means an entity that submits a Product filing to the Commission on behalf of an Insurer.

15. "Uniform Standard" means a standard adopted by the Commission for a Product line, pursuant to Article VII of this Compact, and shall include all of the Product requirements in aggregate; provided, that each Uniform Standard shall be construed, whether express or implied, to prohibit the use of any inconsistent, misleading or ambiguous provisions in a Product and the form of the Product made available to the public shall not be unfair, inequitable or against public policy as determined by the Commission.

ARTICLE III. ESTABLISHMENT OF THE COMMISSION AND VENUE

1. The Compacting States hereby create and establish a joint public agency known as the "Interstate Insurance Product Regulation Commission." Pursuant to Article IV, the Commission will have the power to develop Uniform Standards for Product lines, receive and provide prompt review of Products filed therewith, and give approval to those Product filings satisfying applicable Uniform Standards; provided, it is not intended for the Commission to be the exclusive entity for receipt and review of insurance product filings. Nothing herein shall prohibit any Insurer from filing its product in any State wherein the Insurer is licensed to conduct the business of insurance; and any such filing shall be subject to the laws of the State where filed.

2. The Commission is a body corporate and politic, and an instrumentality of the Compacting States.

3. The Commission is solely responsible for its liabilities except as otherwise specifically provided in this Compact.

4. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a Court of competent jurisdiction where the principal office of the Commission is located.

ARTICLE IV. POWERS OF THE COMMISSION

The Commission shall have the following powers:

1. To promulgate Rules, pursuant to Article VII of this Compact, which shall have the force and effect of law and shall be binding in the Compacting States to the extent and in the manner provided in this Compact;

2. To exercise its rulemaking authority and establish reasonable Uniform Standards for Products covered under the Compact, and Advertisement related thereto, which shall have the force and effect of law and shall be binding in the Compacting States, but only for those Products filed with the Commission, provided, that a Compacting State shall have the right to opt out of such Uniform Standard pursuant to Article VII, to the extent and in the manner provided in this Compact, and, provided further, that any Uniform Standard established by the Commission for long-term care insurance products may provide the same or greater protections for consumers as, but shall not provide less than, those protections set forth in the National Association of Insurance Commissioners' Long-Term Care Insurance Model Act and Long-Term Care Insurance Model Regulation, respectively, adopted as of 2001. The Commission shall consider whether any subsequent amendments to the NAIC Long-Term Care Insurance Model Act or Long-Term Care Insurance Model Regulation adopted by the NAIC require amending of the Uniform Standards established by the Commission for long-term care insurance products;

3. To receive and review in an expeditious manner Products filed with the Commission, and rate filings for disability income and long-term care insurance Products, and give approval of those Products and rate filings that satisfy the applicable Uniform Standard, where such approval shall have the force and effect of law and be binding on the Compacting States to the extent and in the manner provided in the Compact;

4. To receive and review in an expeditious manner Advertisement relating to long-term care insurance products for which Uniform Standards have been adopted by the

Commission, and give approval to all Advertisement that satisfies the applicable Uniform Standard. For any product covered under this Compact, other than long-term care insurance products, the Commission shall have the authority to require an insurer to submit all or any part of its Advertisement with respect to that product for review or approval prior to use, if the Commission determines that the nature of the product is such that an Advertisement of the product could have the capacity or tendency to mislead the public. The actions of the Commission as provided in this section shall have the force and effect of law and shall be binding in the Compacting States to the extent and in the manner provided in the Compact;

5. To exercise its rulemaking authority and designate Products and Advertisement that may be subject to a self-certification process without the need for prior approval by the Commission.

6. To promulgate Operating Procedures, pursuant to Article VII of this Compact, which shall be binding in the Compacting States to the extent and in the manner provided in this Compact;

7. To bring and prosecute legal proceedings or actions in its name as the Commission; provided, that the standing of any state insurance department to sue or be sued under applicable law shall not be affected;

8. To issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence;

9. To establish and maintain offices;

10. To purchase and maintain insurance and bonds;

11. To borrow, accept or contract for services of personnel, including, but not limited to, employees of a Compacting State;

12. To hire employees, professionals or specialists, and elect or appoint officers, and to fix their compensation, define their duties and give them appropriate authority to carry out the purposes of the Compact, and determine their qualifications; and to establish the Commission's personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation and qualifications of personnel;

13. To accept any and all appropriate donations and grants of money, equipment, supplies, materials and services, and to receive, utilize and dispose of the same; provided that at all times the Commission shall strive to avoid any appearance of impropriety;

14. To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, real, personal or mixed; provided that at all times the Commission shall strive to avoid any appearance of impropriety;

15. To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, real, personal or mixed;

16. To remit filing fees to Compacting States as may be set forth in the Bylaws, Rules or Operating Procedures;

17. To enforce compliance by Compacting States with Rules, Uniform Standards, Operating Procedures and Bylaws;

18. To provide for dispute resolution among Compacting States;

19. To advise Compacting States on issues relating to Insurers domiciled or doing business in Non-compacting jurisdictions, consistent with the purposes of this Compact;

20. To provide advice and training to those personnel in state insurance departments responsible for product review, and to be a resource for state insurance departments;

21. To establish a budget and make expenditures;

22. To borrow money;

23. To appoint committees, including advisory committees comprising Members, state insurance regulators, state legislators or their representatives, insurance industry and consumer representatives, and such other interested persons as may be designated in the Bylaws;

24. To provide and receive information from, and to cooperate with law enforcement agencies;

25. To adopt and use a corporate seal; and

26. To perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the state regulation of the business of insurance.

ARTICLE V. ORGANIZATION OF THE COMMISSION

1. Membership, Voting and Bylaws

a. Each Compacting State shall have and be limited to one Member. Each Member shall be qualified to serve in that capacity pursuant to applicable law of the Compacting State. Any Member may be removed or suspended from office as provided by the law of the State from which he or she shall be appointed. Any vacancy occurring in the Commission shall be filled in accordance with the laws of the Compacting State wherein the vacancy exists. Nothing herein shall be construed to affect the manner in which a Compacting State determines the election or appointment and qualification of its own Commissioner.

b. Each Member shall be entitled to one vote and shall have an opportunity to participate in the governance of the Commission in accordance with the Bylaws. Notwithstanding any provision herein to the contrary, no action of the Commission with respect to the promulgation of a Uniform Standard shall be effective unless two-thirds (2/3) of the Members vote in favor thereof.

c. The Commission shall, by a majority of the Members, prescribe Bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes, and exercise the powers, of the Compact, including, but not limited to:

i. Establishing the fiscal year of the Commission;

ii. Providing reasonable procedures for appointing and electing members, as well as holding meetings, of the Management Committee;

iii. Providing reasonable standards and procedures: (i) for the establishment and meetings of other committees, and (ii) governing any general or specific delegation of any authority or function of the Commission;

iv. Providing reasonable procedures for calling and conducting meetings of the Commission that consists of a majority of Commission members, ensuring reasonable advance notice of each such meeting and providing for the right of citizens to attend each such meeting with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and insurers' proprietary information, including trade secrets. The Commission may meet in camera only after a majority of the entire membership votes to close a meeting en toto or in part. As soon as practicable, the Commission must make public (i) a copy of the vote to close the meeting revealing the vote of each Member with no proxy votes allowed, and (ii) votes taken during such meeting;

v. Establishing the titles, duties and authority and reasonable procedures for the election of the officers of the Commission;

vi. Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the Commission. Notwithstanding any civil service or other similar laws of any Compacting State, the Bylaws shall exclusively govern the personnel policies and programs of the Commission;

vii. Promulgating a code of ethics to address permissible and prohibited activities of commission members and employees; and

viii. Providing a mechanism for winding up the operations of the Commission and the equitable disposition of any surplus funds that may exist after the termination of the Compact after the payment and/or reserving of all of its debts and obligations.

d. The Commission shall publish its bylaws in a convenient form and file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the Compacting States.

2. Management Committee, Officers and Personnel

a. A Management Committee comprising no more than fourteen (14) members shall be established as follows:

i. One (1) member from each of the six (6) Compacting States with the largest premium volume for individual and group annuities, life, disability income and long-term care insurance products, determined from the records of the NAIC for the prior year;

ii. Four (4) members from those Compacting States with at least two percent (2%) of the market based on the premium volume described above, other than the six (6) Compacting States with the largest premium volume, selected on a rotating basis as provided in the Bylaws; and

iii. Four (4) members from those Compacting States with less than two percent (2%) of the market, based on the premium volume described above, with one (1) selected from each of the four (4) zone regions of the NAIC as provided in the Bylaws.

b. The Management Committee shall have such authority and duties as may be set forth in the Bylaws, including but not limited to:

i. Managing the affairs of the Commission in a manner consistent with the Bylaws and purposes of the Commission;

ii. Establishing and overseeing an organizational structure within, and appropriate procedures for, the Commission to provide for the creation of Uniform Standards and other Rules, receipt and review of product filings, administrative and technical support functions, review of decisions regarding the disapproval of a product filing, and the review of elections made by a Compacting State to opt out of a Uniform Standard; provided that a Uniform Standard shall not be submitted to the Compacting States for adoption unless approved by two-thirds (2/3) of the members of the Management Committee;

iii. Overseeing the offices of the Commission; and

iv. Planning, implementing, and coordinating communications and activities with other state, federal and local government organizations in order to advance the goals of the Commission.

c. The Commission shall elect annually officers from the Management Committee, with each having such authority and duties, as may be specified in the Bylaws.

d. The Management Committee may, subject to the approval of the Commission, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the Commission may deem appropriate. The executive director shall serve as secretary to the Commission, but shall not be a Member of the Commission. The executive director shall hire and supervise such other staff as may be authorized by the Commission.

3. Legislative and Advisory Committees

a. A legislative committee comprising state legislators or their designees shall be established to monitor the operations of, and make recommendations to, the Commission, including the Management Committee; provided that the manner of selection and term of any legislative committee member shall be as set forth in the Bylaws. Prior to the adoption by the Commission of any Uniform Standard, revision to the Bylaws, annual budget or other significant matter as may be provided in the Bylaws, the Management Committee shall consult with and report to the legislative committee.

b. The Commission shall establish two (2) advisory committees, one of which shall comprise consumer representatives independent of the insurance industry, and the other comprising insurance industry representatives.

c. The Commission may establish additional advisory committees as its Bylaws may provide for the carrying out of its functions.

4. Corporate Records of the Commission

The Commission shall maintain its corporate books and records in accordance with the Bylaws.

5. Qualified Immunity, Defense and Indemnification

a. The Members, officers, executive director, employees and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided, that nothing in this paragraph shall be construed to protect any such person from suit and/or liability for any damage, loss, injury or liability caused by the intentional or willful and wanton misconduct of that person.

b. The Commission shall defend any Member, officer, executive director, employee or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of Commission employment, duties or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided, that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error or omission did not result from that person's intentional or willful and wanton misconduct.

c. The Commission shall indemnify and hold harmless any Member, officer, executive director, employee or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of Commission employment, duties or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities, provided, that the actual or alleged act, error or omission did not result from the intentional or willful and wanton misconduct of that person.

ARTICLE VI. MEETINGS AND ACTS OF THE COMMISSION

1. The Commission shall meet and take such actions as are consistent with the provisions of this Compact and the Bylaws.

2. Each Member of the Commission shall have the right and power to cast a vote to which that Compacting State is entitled and to participate in the business and affairs of the Commission. A Member shall vote in person or by such other means as provided in the Bylaws. The Bylaws may provide for Members' participation in meetings by telephone or other means of communication.

3. The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the Bylaws.

ARTICLE VII. RULES AND OPERATING PROCEDURES: RULEMAKING FUNCTIONS OF THE COMMISSION AND OPTING OUT OF UNIFORM STANDARDS

1. Rulemaking Authority. The Commission shall promulgate reasonable Rules, including Uniform Standards, and Operating Procedures in order to effectively and efficiently achieve the purposes of this Compact. Notwithstanding the foregoing, in the event the Commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this Act, or the powers granted hereunder, then such an action by the Commission shall be invalid and have no force and effect.

2. Rulemaking Procedure. Rules and Operating Procedures shall be made pursuant to a rulemaking process that conforms to the Model State Administrative Procedure Act of 1981 as amended, as may be appropriate to the operations of the Commission. Before

the Commission adopts a Uniform Standard, the Commission shall give written notice to the relevant state legislative committee(s) in each Compacting State responsible for insurance issues of its intention to adopt the Uniform Standard. The Commission in adopting a Uniform Standard shall consider fully all submitted materials and issue a concise explanation of its decision.

3. Effective Date and Opt Out of a Uniform Standard. A Uniform Standard shall become effective ninety (90) days after its promulgation by the Commission or such later date as the Commission may determine; provided, however, that a Compacting State may opt out of a Uniform Standard as provided in this Article. "Opt out" shall be defined as any action by a Compacting State to decline to adopt or participate in a promulgated Uniform Standard. All other Rules and Operating Procedures, and amendments thereto, shall become effective as of the date specified in each Rule, Operating Procedure or amendment.

4. Opt Out Procedure. A Compacting State may opt out of a Uniform Standard, either by legislation or regulation duly promulgated by the Insurance Department under the Compacting State's Administrative Procedure Act. If a Compacting State elects to opt out of a Uniform Standard by regulation, it must (a) give written notice to the Commission no later than ten (10) business days after the Uniform Standard is promulgated, or at the time the State becomes a Compacting State and (b) find that the Uniform Standard does not provide reasonable protections to the citizens of the State, given the conditions in the State. The Commissioner shall make specific findings of fact and conclusions of law, based on a preponderance of the evidence, detailing the conditions in the State which warrant a departure from the Uniform Standard and determining that the Uniform Standard would not reasonably protect the citizens of the State. The Commissioner must consider and balance the following factors and find that the conditions in the State and needs of the citizens of the State outweigh: (i) the intent of the legislature to participate in, and the benefits of, an interstate agreement to establish national uniform consumer protections for the Products subject to this Act; and (ii) the presumption that a Uniform Standard adopted by the Commission provides reasonable protections to consumers of the relevant Product. Notwithstanding the foregoing, a Compacting State may, at the time of its enactment of this Compact, prospectively opt out of all Uniform Standards involving long-term care insurance products by expressly providing for such opt out in the enacted Compact, and such an opt out shall not be treated as a material variance in the offer or acceptance of any State to participate in this Compact. Such an opt out shall be effective at the time of enactment of this Compact by the Compacting State and shall apply to all existing Uniform Standards involving long-term care insurance products and those subsequently promulgated.

5. Effect of Opt Out. If a Compacting State elects to opt out of a Uniform Standard, the Uniform Standard shall remain applicable in the Compacting State electing to opt out until such time the opt out legislation is enacted into law or the regulation opting out becomes effective. Once the opt out of a Uniform Standard by a Compacting State becomes effective as provided under the laws of that State, the Uniform Standard shall have no further force and effect in that State unless and until the legislation or regulation implementing the opt out is repealed or otherwise becomes ineffective under the laws of the State. If a Compacting State opts out of a Uniform Standard after the Uniform Standard has been made effective in that State, the opt out shall have the same prospective effect as provided under Article XIV for withdrawals.

6. Stay of Uniform Standard. If a Compacting State has formally initiated the process of opting out of a Uniform Standard by regulation, and while the regulatory opt out is pending, the Compacting State may petition the Commission, at least fifteen (15) days before the effective date of the Uniform Standard, to stay the effectiveness of the Uniform Standard in that State. The Commission may grant a stay if it determines the

regulatory opt out is being pursued in a reasonable manner and there is a likelihood of success. If a stay is granted or extended by the Commission, the stay or extension thereof may postpone the effective date by up to ninety (90) days, unless affirmatively extended by the Commission; provided, a stay may not be permitted to remain in effect for more than one (1) year unless the Compacting State can show extraordinary circumstances which warrant a continuance of the stay, including, but not limited to, the existence of a legal challenge which prevents the Compacting State from opting out. A stay may be terminated by the Commission upon notice that the rulemaking process has been terminated.

7. Not later than thirty (30) days after a Rule or Operating Procedure is promulgated, any person may file a petition for judicial review of the Rule or Operating Procedure; provided, that the filing of such a petition shall not stay or otherwise prevent the Rule or Operating Procedure from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the Commission consistent with applicable law and shall not find the Rule or Operating Procedure to be unlawful if the Rule or Operating Procedure represents a reasonable exercise of the Commission's authority.

ARTICLE VIII. COMMISSION RECORDS AND ENFORCEMENT

1. The Commission shall promulgate Rules establishing conditions and procedures for public inspection and copying of its information and official records, except such information and records involving the privacy of individuals and insurers' trade secrets. The Commission may promulgate additional Rules under which it may make available to federal and state agencies, including law enforcement agencies, records and information otherwise exempt from disclosure, and may enter into agreements with such agencies to receive or exchange information or records subject to nondisclosure and confidentiality provisions.

2. Except as to privileged records, data and information, the laws of any Compacting State pertaining to confidentiality or nondisclosure shall not relieve any Compacting State Commissioner of the duty to disclose any relevant records, data or information to the Commission; provided, that disclosure to the Commission shall not be deemed to waive or otherwise affect any confidentiality requirement; and further provided, that, except as otherwise expressly provided in this Act, the Commission shall not be subject to the Compacting State's laws pertaining to confidentiality and nondisclosure with respect to records, data and information in its possession. Confidential information of the Commission shall remain confidential after such information is provided to any Commissioner.

3. The Commission shall monitor Compacting States for compliance with duly adopted Bylaws, Rules, including Uniform Standards, and Operating Procedures. The Commission shall notify any non-complying Compacting State in writing of its noncompliance with Commission Bylaws, Rules or Operating Procedures. If a non-complying Compacting State fails to remedy its noncompliance within the time specified in the notice of noncompliance, the Compacting State shall be deemed to be in default as set forth in Article XIV.

4. The Commissioner of any State in which an Insurer is authorized to do business, or is conducting the business of insurance, shall continue to exercise his or her authority to oversee the market regulation of the activities of the Insurer in accordance with the provisions of the State's law. The Commissioner's enforcement of compliance with the Compact is governed by the following provisions:

a. With respect to the Commissioner's market regulation of a Product or Advertisement that is approved or certified to the Commission, the content of the Product or Advertisement shall not constitute a violation of the provisions, standards or requirements of the Compact except upon a final order of the Commission, issued at the

request of a Commissioner after prior notice to the Insurer and an opportunity for hearing before the Commission.

b. Before a Commissioner may bring an action for violation of any provision, standard or requirement of the Compact relating to the content of an Advertisement not approved or certified to the Commission, the Commission, or an authorized Commission officer or employee, must authorize the action. However, authorization pursuant to this paragraph does not require notice to the Insurer, opportunity for hearing or disclosure of requests for authorization or records of the Commission's action on such requests.

ARTICLE IX. DISPUTE RESOLUTION

The Commission shall attempt, upon the request of a Member, to resolve any disputes or other issues that are subject to this Compact and which may arise between two or more Compacting States, or between Compacting States and Non-compacting States, and the Commission shall promulgate an Operating Procedure providing for resolution of such disputes.

ARTICLE X. PRODUCT FILING AND APPROVAL

1. Insurers and Third-Party Filers seeking to have a Product approved by the Commission shall file the Product with, and pay applicable filing fees to, the Commission. Nothing in this Act shall be construed to restrict or otherwise prevent an insurer from filing its Product with the insurance department in any State wherein the insurer is licensed to conduct the business of insurance, and such filing shall be subject to the laws of the States where filed.

2. The Commission shall establish appropriate filing and review processes and procedures pursuant to Commission Rules and Operating Procedures. Notwithstanding any provision herein to the contrary, the Commission shall promulgate Rules to establish conditions and procedures under which the Commission will provide public access to Product filing information. In establishing such Rules, the Commission shall consider the interests of the public in having access to such information, as well as protection of personal medical and financial information and trade secrets, that may be contained in a Product filing or supporting information.

3. Any Product approved by the Commission may be sold or otherwise issued in those Compacting States for which the Insurer is legally authorized to do business.

ARTICLE XI. REVIEW OF COMMISSION DECISIONS REGARDING FILINGS

1. Not later than thirty (30) days after the Commission has given notice of a disapproved Product or Advertisement filed with the Commission, the Insurer or Third Party Filer whose filing was disapproved may appeal the determination to a review panel appointed by the Commission. The Commission shall promulgate Rules to establish procedures for appointing such review panels and provide for notice and hearing. An allegation that the Commission, in disapproving a Product or Advertisement filed with the Commission, acted arbitrarily, capriciously, or in a manner that is an abuse of discretion or otherwise not in accordance with the law, is subject to judicial review in accordance with Article III, Section 4.

2. The Commission shall have authority to monitor, review and reconsider Products and Advertisement subsequent to their filing or approval upon a finding that the product does not meet the relevant Uniform Standard. Where appropriate, the Commission may withdraw or modify its approval after proper notice and hearing, subject to the appeal process in Section 1 above.

ARTICLE XII. FINANCE

1. The Commission shall pay or provide for the payment of the reasonable expenses of its establishment and organization. To fund the cost of its initial operations, the Commission may accept contributions and other forms of funding from the National Association of Insurance Commissioners, Compacting States and other sources.

Contributions and other forms of funding from other sources shall be of such a nature that the independence of the Commission concerning the performance of its duties shall not be compromised.

2. The Commission shall collect a filing fee from each Insurer and Third Party Filer filing a product with the Commission to cover the cost of the operations and activities of the Commission and its staff in a total amount sufficient to cover the Commission's annual budget.

3. The Commission's budget for a fiscal year shall not be approved until it has been subject to notice and comment as set forth in Article VII of this Compact.

4. The Commission shall be exempt from all taxation in and by the Compacting States.

5. The Commission shall not pledge the credit of any Compacting State, except by and with the appropriate legal authority of that Compacting State.

6. The Commission shall keep complete and accurate accounts of all its internal receipts, including grants and donations, and disbursements of all funds under its control. The internal financial accounts of the Commission shall be subject to the accounting procedures established under its Bylaws. The financial accounts and reports including the system of internal controls and procedures of the Commission shall be audited annually by an independent certified public accountant. Upon the determination of the Commission, but no less frequently than every three (3) years, the review of the independent auditor shall include a management and performance audit of the Commission. The Commission shall make an Annual Report to the Governor and legislature of the Compacting States, which shall include a report of the independent audit. The Commission's internal accounts shall not be confidential and such materials may be shared with the Commissioner of any Compacting State upon request provided, however, that any work papers related to any internal or independent audit and any information regarding the privacy of individuals and insurers' proprietary information, including trade secrets, shall remain confidential.

7. No Compacting State shall have any claim to or ownership of any property held by or vested in the Commission or to any Commission funds held pursuant to the provisions of this Compact.

ARTICLE XIII. COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT

1. Any State is eligible to become a Compacting State.

2. The Compact shall become effective and binding upon legislative enactment of the Compact into law by two Compacting States; provided, the Commission shall become effective for purposes of adopting Uniform Standards for, reviewing, and giving approval or disapproval of, Products filed with the Commission that satisfy applicable Uniform Standards only after twenty-six (26) States are Compacting States or, alternatively, by States representing greater than forty percent (40%) of the premium volume for life insurance, annuity, disability income and long-term care insurance products, based on records of the NAIC for the prior year. Thereafter, it shall become effective and binding as to any other Compacting State upon enactment of the Compact into law by that State.

3. Amendments to the Compact may be proposed by the Commission for enactment by the Compacting States. No amendment shall become effective and binding upon the Commission and the Compacting States unless and until all Compacting States enact the amendment into law.

ARTICLE XIV. WITHDRAWAL, DEFAULT AND TERMINATION

1. Withdrawal

a. Once effective, the Compact shall continue in force and remain binding upon each and every Compacting State; provided, that a Compacting State may withdraw from the

Compact ("Withdrawing State") by enacting a statute specifically repealing the statute which enacted the Compact into law.

b. The effective date of withdrawal is the effective date of the repealing statute. However, the withdrawal shall not apply to any product filings approved or self-certified, or any Advertisement of such products, on the date the repealing statute becomes effective, except by mutual agreement of the Commission and the Withdrawing State unless the approval is rescinded by the Withdrawing State as provided in Paragraph e of this section.

c. The Commissioner of the Withdrawing State shall immediately notify the Management Committee in writing upon the introduction of legislation repealing this Compact in the Withdrawing State.

d. The Commission shall notify the other Compacting States of the introduction of such legislation within ten (10) days after its receipt of notice thereof.

e. The Withdrawing State is responsible for all obligations, duties and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal, except to the extent those obligations may have been released or relinquished by mutual agreement of the Commission and the Withdrawing State. The Commission's approval of Products and Advertisement prior to the effective date of withdrawal shall continue to be effective and be given full force and effect in the Withdrawing State, unless formally rescinded by the Withdrawing State in the same manner as provided by the laws of the Withdrawing State for the prospective disapproval of products or advertisement previously approved under state law.

f. Reinstatement following withdrawal of any Compacting State shall occur upon the effective date of the Withdrawing State reenacting the Compact.

2. Default

a. If the Commission determines that any Compacting State has at any time defaulted ("Defaulting State") in the performance of any of its obligations or responsibilities under this Compact, the Bylaws or duly promulgated Rules or Operating Procedures, then, after notice and hearing as set forth in the Bylaws, all rights, privileges and benefits conferred by this Compact on the Defaulting State shall be suspended from the effective date of default as fixed by the Commission. The grounds for default include, but are not limited to, failure of a Compacting State to perform its obligations or responsibilities, and any other grounds designated in Commission Rules. The Commission shall immediately notify the Defaulting State in writing of the Defaulting State's suspension pending a cure of the default. The Commission shall stipulate the conditions and the time period within which the Defaulting State must cure its default. If the Defaulting State fails to cure the default within the time period specified by the Commission, the Defaulting State shall be terminated from the Compact and all rights, privileges and benefits conferred by this Compact shall be terminated from the effective date of termination.

b. Product approvals by the Commission or product self-certifications, or any Advertisement in connection with such product, that are in force on the effective date of termination shall remain in force in the Defaulting State in the same manner as if the Defaulting State had withdrawn voluntarily pursuant to Section 1 of this article.

c. Reinstatement following termination of any Compacting State requires a reenactment of the Compact.

3. Dissolution of Compact

a. The Compact dissolves effective upon the date of the withdrawal or default of the Compacting State which reduces membership in the Compact to one Compacting State.

b. Upon the dissolution of this Compact, the Compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Commission shall be wound up and any surplus funds shall be distributed in accordance with the Bylaws.

ARTICLE XV. SEVERABILITY AND CONSTRUCTION

1. The provisions of this Compact shall be severable; and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the Compact shall be enforceable.

2. The provisions of this Compact shall be liberally construed to effectuate its purposes.

ARTICLE XVI. BINDING EFFECT OF COMPACT AND OTHER LAWS

1. Other Laws

a. Nothing herein prevents the enforcement of any other law of a Compacting State, except as provided in Paragraph b of this section.

b. For any Product approved or certified to the Commission, the Rules, Uniform Standards and any other requirements of the Commission shall constitute the exclusive provisions applicable to the content, approval and certification of such Products. For Advertisement that is subject to the Commission's authority, any Rule, Uniform Standard or other requirement of the Commission which governs the content of the Advertisement shall constitute the exclusive provision that a Commissioner may apply to the content of the Advertisement. Notwithstanding the foregoing, no action taken by the Commission shall abrogate or restrict: (i) the access of any person to state courts; (ii) remedies available under state law related to breach of contract, tort, or other laws not specifically directed to the content of the Product; (iii) state law relating to the construction of insurance contracts; or (iv) the authority of the attorney general of the state, including but not limited to maintaining any actions or proceedings, as authorized by law.

c. All insurance products filed with individual States shall be subject to the laws of those States.

2. Binding Effect of this Compact

a. All lawful actions of the Commission, including all Rules and Operating Procedures promulgated by the Commission, are binding upon the Compacting States.

b. All agreements between the Commission and the Compacting States are binding in accordance with their terms.

c. Upon the request of a party to a conflict over the meaning or interpretation of Commission actions, and upon a majority vote of the Compacting States, the Commission may issue advisory opinions regarding the meaning or interpretation in dispute.

d. In the event any provision of this Compact exceeds the constitutional limits imposed on the legislature of any Compacting State, the obligations, duties, powers or jurisdiction sought to be conferred by that provision upon the Commission shall be ineffective as to that Compacting State, and those obligations, duties, powers or jurisdiction shall remain in the Compacting State and shall be exercised by the agency thereof to which those obligations, duties, powers or jurisdiction are delegated by law in effect at the time this Compact becomes effective.

374.776. STUDY ON LICENSURE AND POLICIES OF BAIL BOND INDUSTRY, HEARINGS, REPORT. — During the legislative interim between the first regular session and the second regular session of the ninety-fifth general assembly, the Missouri department of insurance, financial institutions and professional registration shall conduct a study regarding its licensing rules and other policies and procedures governing the bail bond industry within the state of Missouri. The department, in its discretion, may hold public hearings within the state and permit testimony and input from surety insurance companies, general bail bond agents, bail bond agents, legislators, law enforcement agencies, officials from the department, and other interested parties. If public hearings are held, the director shall provide notice to all licensees licensed under sections 374.695 to 374.789 of the date, time, and location of such public hearings. The department shall

submit a report of its findings and recommendations to the house of representatives and senate insurance committees no later than January 6, 2010.

375.020. CONTINUING EDUCATION FOR PRODUCERS, REQUIRED, EXCEPTIONS — PROCEDURES — DIRECTOR TO PROMULGATE RULES AND REGULATIONS — FEES, HOW DETERMINED, DEPOSIT OF. — 1. Beginning January 1, 2008, each insurance producer, unless exempt pursuant to section 375.016, licensed to sell insurance in this state shall successfully complete courses of study as required by this section. Any person licensed to act as an insurance producer shall, during each two years, attend courses or programs of instruction or attend seminars equivalent to a minimum of sixteen hours of instruction. Of the sixteen hours' training required in this subsection, the hours need not be divided equally among the lines of authority in which the producer has qualified. The courses or programs attended by the producer during each two-year period shall include instruction on Missouri law, products offered in any line of authority in which the producer is qualified, producers' duties and obligations to the department, and business ethics, including sales suitability. Course credit shall be given to members of the general assembly as determined by the department.

2. Subject to approval by the director, the courses or programs of instruction which shall be deemed to meet the director's standards for continuing educational requirements shall include, but not be limited to, the following:

(1) American College Courses (CLU, ChFC);

(2) Life Underwriters Training Council (LUTC);

(3) Certified Insurance Counselor (CIC);

(4) Chartered Property and Casualty Underwriter (CPCU);

(5) Insurance Institute of America (IIA);

(6) Any other professional financial designation approved by the director by rule;

(7) An insurance-related course taught by an accredited college or university or qualified instructor who has taught a course of insurance law at such institution;

(8) A course or program of instruction or seminar developed or sponsored by any authorized insurer, recognized producer association or insurance trade association**, or any other entity engaged in the business of providing education courses to producers**. A local producer group may also be approved if the instructor receives no compensation for services.

3. A person teaching any approved course of instruction or lecturing at any approved seminar shall qualify for the same number of classroom hours as would be granted to a person taking and successfully completing such course, seminar or program.

4. Excess hours accumulated during any two-year period may be carried forward to the two-year period immediately following the two-year period in which the course, program or seminar was held.

5. For good cause shown, the director may grant an extension of time during which the educational requirements imposed by this section may be completed, but such extension of time shall not exceed the period of one calendar year. The director may grant an individual waiver of the mandatory continuing education requirement upon a showing by the licensee that it is not feasible for the licensee to satisfy the requirements prior to the renewal date. Waivers may be granted for reasons including, but not limited to:

(1) Serious physical injury or illness;

(2) Active duty in the armed services for an extended period of time;

(3) Residence outside the United States; or

(4) The licensee is at least seventy years of age.

6. Every person subject to the provisions of this section shall furnish in a form satisfactory to the director, written certification as to the courses, programs or seminars of instruction taken and successfully completed by such person. Every provider of continuing education courses authorized in this state shall, within thirty working days of a licensed producer completing its

approved course, provide certification to the director of the completion in a format prescribed by the director.

7. The provisions of this section shall not apply to those natural persons holding licenses for any kind or kinds of insurance for which an examination is not required by the law of this state, nor shall they apply to any limited lines insurance producer license or restricted license as the director may exempt.

8. The provisions of this section shall not apply to a life insurance producer who is limited by the terms of a written agreement with the insurer to transact only specific life insurance policies having an initial face amount of five thousand dollars or less, or annuities having an initial face amount of ten thousand dollars or less, that are designated by the purchaser for the payment of funeral or burial expenses. The director may require the insurer entering into the written agreements with the insurance producers pursuant to this subsection to certify as to the representations of the insurance producers.

9. Rules and regulations necessary to implement and administer this section shall be promulgated by the director, including, but not limited to, rules and regulations regarding the following:

(1) Course content and hour credits: the insurance advisory board established by section 375.019 shall be utilized by the director to assist him in determining acceptable content of courses, programs and seminars to include classroom equivalency;

(2) Filing fees for course approval: every applicant seeking approval by the director of a continuing education course under this section shall pay to the director a filing fee of fifty dollars per course. Fees shall be waived for state and local insurance producer groups. Such fee shall accompany any application form required by the director. Courses shall be approved for a period of no more than one year. Applicants holding courses intended to be offered for a longer period must reapply for approval. Courses approved by the director prior to August 28, 1993, for which continuous certification is sought should be resubmitted for approval sixty days before the anniversary date of the previous approval.

10. All funds received pursuant to the provisions of this section shall be transmitted by the director to the department of revenue for deposit in the state treasury to the credit of the insurance dedicated fund. All expenditures necessitated by this section shall be paid from funds appropriated from the insurance dedicated fund by the legislature.

375.1025. DEFINITIONS. — As used in sections 375.1025 to 375.1062, the following terms shall mean:

(1) **[**"Audited financial report" means and includes those items specified in section 375.1032;

(2)**]** "Accountant" **[**and**]** **or** "independent certified public accountant", an independent certified public accountant or accounting firm in good standing with the American Institute of Certified Public Accountants and in all states in which they are licensed to practice. For Canadian and British companies, it means a Canadian-chartered or British-chartered accountant;

(2) "Affiliate" or "affiliated", a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified;

(3) "AICPA", the American Institute of Certified Public Accountants;

(4) "Audit committee", a committee (or equivalent body) established by the board of directors of an entity for the purpose of overseeing the accounting and financial reporting processes of an insurer or group of insurers, and audits of financial statements of the insurer or group of insurers. The audit committee of any entity that controls a group of insurers may be deemed to be the audit committee for one or more of such controlled insurers solely for the purposes of sections 375.1025 to 375.1062 at the election of the controlling person. Such election shall be exercised under subsection 5 of section

375.1053. If an audit committee is not designated by the insurer, the insurer's entire board of directors shall constitute the audit committee;

(5) "Audited financial report", includes those items specified in section 375.1032;

(6) "Department", the department of insurance, financial institutions and professional registration;

[(3)**] (7)** "Director", the director of the department of insurance, financial institutions and professional registration;

(8) "Group of insurers", those licensed insurers included in the reporting requirements of sections 382.010 to 382.300, RSMo, or a set of insurers as identified by management, for the purpose of assessing the effectiveness of internal control over financial reporting;

(9) "Indemnification", an agreement of indemnity or a release from liability where the intent or effect is to shift or limit in any manner the potential liability of the person or firm for failure to adhere to applicable auditing or professional standards, whether or not resulting in part from knowing of other misrepresentations made by the insurer or its representatives;

(10) "Independent board member", the same meaning as described in subsection 3 of section 375.1053;

[(4)**] (11)** "Insurer", an insurer certified to do business in this state pursuant to section 375.161 or 375.831, and to companies authorized to transact business in this state pursuant to chapters 354, 376, 377, 378, 379 and 381, RSMo**;**

(12) "Internal control over financial reporting", a process effected by an entity's board of directors, management and other personnel designed to provide reasonable assurance regarding the reliability of the financial statements, i.e., those items specified in subsections 2 to 7 of section 375.1032 and includes those policies and procedures that:

(a) Pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of assets;

(b) Provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements, i.e., those items specified in subsections 2 to 7 of section 375.1032, and that receipts and expenditures are being made only in accordance with authorizations of management and directors; and

(c) Provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of assets that could have a material effect on the financial statements, i.e., those items specified in subsections 2 to 7 of section 375.1032;

(13) "NAIC", the National Association of Insurance Commissioners;

(14) "SEC", the United States Securities and Exchange Commission;

(15) "Section 404", Section 404 of the Sarbanes-Oxley Act of 2002, as amended, and the SEC's rules and regulations promulgated thereunder;

(16) "Section 404 report", management's report on internal control over financial reporting, as defined by the SEC and the related attestation report of the independent certified public accountant as described in subsection 1 of section 375.1030;

(17) "SOX compliant entity", an entity that either is required to be or voluntarily is compliant with all of the following provisions of the Sarbanes-Oxley Act of 2002, as amended:

(a) The preapproval requirements of Section 201 (Section 10A(i) of the federal Securities Exchange Act of 1934);

(b) The audit committee independence requirements of Section 301 (Section 10A(m)(3) of the federal Securities Exchange Act of 1934); and

(c) The internal control over financial reporting requirements of Section 404.

375.1028. APPLICABILITY — EXEMPTIONS. — 1. Sections 375.1025 to 375.1062 shall apply to all insurers as defined by section 375.1025. **Insurers having direct premiums written**

in this state of less than one million dollars in any calendar year and less than one thousand policyholders or certificate holders of direct written policies nationwide at the end of the calendar year shall be exempt from sections 375.1025 to 375.1062, unless the director makes a specific finding that compliance is necessary for the director to carry out statutory responsibilities; except that, insurers having assumed premiums under contracts or treaties of reinsurance of one million dollars or more shall not be so exempt.

2. Foreign or alien insurers filing audited financial reports in another state, pursuant to such other state's requirement for **filing of** audited financial reports which **[**are**]** **have been** found by the director to be substantially similar to the requirements herein, are exempt from sections **[**375.1025 to 375.1062**]** **375.1030 to 375.1050** if:

(1) A copy of the audited financial report **[**and the evaluation of accounting procedures and systems of internal control report which**]** **, communication of internal control-related matters noted in an audit, and the accountant's letter of qualifications that** are filed with such other state are filed with the director in accordance with the filing dates specified in sections 375.1030**, 375.1047,** and **[**375.1052**]** **375.1040**, respectively. Canadian insurers may submit accountant's reports as filed with the **[**Canadian Dominion Department of Insurance;**]** **Office of the Superintendent of Financial Institutions, Canada; and**

(2) A copy of any notification of adverse financial condition report filed with such other state is filed with the director within the time specified in section 375.1045.

3. **Foreign or alien insurers required to file management's report of internal control over financial reporting in another state are exempt from filing such report in this state, provided such other state has substantially similar reporting requirements and such report is filed with such other state's chief insurance regulatory official within the time specified.**

4. Sections 375.1025 to 375.1062 shall not prohibit, preclude or in any way limit the director from ordering **[**and**]** **,** conducting **[**and**]** **, or** performing examinations of insurers under any other applicable law.

375.1030. ANNUAL AUDIT REQUIRED, REPORT FILED, WHEN — EXTENSIONS GRANTED, WHEN — AUDIT COMMITTEE REQUIRED, WHEN. — 1. All insurers shall have an annual audit **[**performed**]** by an independent certified public accountant and shall file an audited financial report with the director on or before June first **[**with respect to the calendar**]** **for the** year ended December thirty-first immediately preceding. The director may require an insurer to file an audited financial report earlier than June first with ninety days' advance notice to the insurer.

2. Extensions of the June first filing date may be granted by the director for thirty-day periods upon **a** showing by the insurer and its independent certified public accountant **of** the reasons for requesting such extension and determination by the director of good cause for an extension. The request for extension must be submitted in writing not less than **[**twenty**]** **ten** days prior to the due date in sufficient detail to permit the director to make an informed decision with respect to the requested extension.

3. If an extension is granted in accordance with the provisions of subsection 2 of this section, a similar extension of thirty days is granted to the filing of management's report of internal control over financial reporting.

4. Every insurer required to file an annual audited financial report under sections 375.1025 to 375.1062 shall designate a group of individuals as constituting its audit committee, as defined in section 375.1025. The audit committee of an entity that controls an insurer may be deemed to be the insurer's audit committee for purposes of sections 375.1025 to 375.1062 at the election of the controlling person.

375.1032. AUDITED FINANCIAL REPORT, CONTENTS — FORM. — 1. The annual audited financial report shall report the financial condition of the insurer as of the end of the most recent calendar year and the results of its operation, cash flows and changes in capital and surplus for

the previous year ended in conformity with accounting practices prescribed, or otherwise permitted, by law or rule of the department of insurance of the state of domicile of the insurer.

2. The annual audited financial report shall include the following:

(1) Report of independent certified public accountant;

(2) Balance sheet reporting admitted assets, liabilities, capital and surplus;

(3) Statement of **[**gain or loss from**]** operations;

(4) Statement of cash **[**flows**]** **flow**;

(5) Statement of changes in capital and surplus;

(6) Notes to financial statements. These notes shall be those required by the **appropriate** National Association of Insurance Commissioners' Annual Statement Instructions **[**and any other notes required by generally accepted accounting principles**]** **the NAIC's Accounting Practices and Procedures Manual as adopted by the director** and shall include**[**:

(a)**]** a reconciliation of differences, if any, between the audited statutory financial statements and the annual statement filed pursuant to section 375.041 and section 354.105, 354.435, RSMo, 376.350, RSMo, 377.100, 377.380, RSMo, 378.350, RSMo, 379.105, RSMo, 380.051 or 380.482, RSMo, with a written description of the nature of these differences**[**;

(b) A summary of ownership and relationships of the insurer and all affiliated companies; and

(c) A narrative explanation of all significant intercompany transactions and balances**]**.

3. The financial statements included in the audited financial report shall be prepared in a form and using language and groupings substantially the same as the relevant sections of the annual statement of the insurer filed with the director**[**:

(1)**] , and** the financial statement shall be comparative, presenting the amounts as of December thirty-first of the current year and the amounts as of the immediately preceding December thirty-first. However, in the first year in which an insurer is required to file an audited financial report, the comparative data may be omitted**[**;

(2) Amounts may be rounded to the nearest thousand dollars;

(3) Insignificant amounts may be combined**]**.

375.1035. ACCOUNTANT, NAME AND ADDRESS TO BE REGISTERED — LETTER, FILED WITH DIRECTOR, CONTENTS — CHANGE OF ACCOUNTANT, NOTICE TO DIRECTOR. — 1. Each insurer required by sections 375.1025 to **[**375.1057**]** **375.1062** to file an annual audited financial report shall, within sixty days after becoming subject to such requirement, register with the director in writing the name and address of its independent certified public accountant or accounting firm **[**(generally referred to in sections 375.1025 to 375.1057 as the "accountant")**]** retained to conduct the annual audit set forth in sections 375.1025 to **[**375.1057**]** **375.1062**. Any insurer not retaining an independent certified public accountant on the effective date of sections 375.1025 to **[**375.1057**]** **375.1062** shall register the name and address of its retained **independent** certified public accountant not less than six months before the date when the first audited financial report is to be filed.

2. The insurer shall obtain a letter from such accountant, and file a copy with the director stating that the accountant is aware of the provisions of the insurance laws and the rules and regulations of the department of insurance of the state of domicile that relate to accounting and financial matters and affirming that **[**he**]** **the accountant** will express his **or her** opinion on the financial statements in **[**the**]** terms of their conformity to the statutory accounting practices prescribed or otherwise permitted by that department of insurance, specifying such exceptions as he **or she** may believe appropriate.

3. If an accountant who was the accountant for the immediately preceding filed audited financial report is dismissed or resigns, the insurer shall within five business days notify the director of this event. The insurer shall also furnish the director with a separate letter within ten business days of the notification stating whether in the twenty-four months preceding such event there were any disagreements with the former accountant on any matter of accounting principles

or practices, financial statement disclosure, or auditing scope or procedure, which disagreements, if not resolved to the satisfaction of the former accountant, would have caused him **or her** to make reference to the subject matter of the disagreement in connection with his **or her** opinion. Disagreements required to be reported by this section include both disagreements resolved to the former accountant's satisfaction, and disagreements not resolved to the former accountant's satisfaction. Disagreements contemplated by this section are those that occur at the decision-making level, between personnel of the insurer responsible for the presentation of its financial statements and personnel of the accounting firm responsible for rendering its report. The insurer shall also in writing request such former accountant to furnish a letter addressed to the **[**director**]** **insurer** stating whether the accountant agrees with the statements contained in the insurer's letter and, if not, stating the reasons for which he does not agree, and the insurer shall furnish such responsive letter from the former accountant to the director together with its own.

375.1037. QUALIFICATIONS OF ACCOUNTANT — LIMITATION OF NUMBER OF YEARS, WHEN — APPROVAL BY DIRECTOR — DISPUTE RESOLUTION — ACCOUNTANT NOT RECOGNIZED, WHEN — EXEMPTION, WHEN — PREAPPROVAL FOR NONAUDIT SERVICES PERFORMED, WHEN. — 1. The director shall not recognize **[**or approve**]** any person or firm as **[**an**]** **a qualified** independent certified public accountant **[**that**]** **if such person or firm:**

(1) Is not in good standing with the American Institute of Certified Public Accountants and in all states in which the accountant is licensed to practice, or, for a Canadian or British company, that is not a chartered accountant**;**

(2) Has either directly or indirectly entered into an indemnification with respect to the audit of the insurer.

2. Except as otherwise provided **[**herein, a**]** **in sections 375.1025 to 375.1062, the director shall recognize an independent** certified public accountant **[**shall be recognized as independent**]** **as qualified** as long as he **or she** conforms to the standards of his **or her** profession, as contained in the code of professional ethics of the American Institute of Certified Public Accountants and rules and regulations and code of ethics and rules of professional conduct of the Missouri state board of accountancy, or similar code.

3. **[**No partner or other person responsible for rendering a report may**]** **The lead or coordinating audit partner or person having primary responsibility for the audit shall not** act in that capacity for more than **[**seven**]** **five** consecutive years. **[**Following any period of service**]** Such **partner or** person shall be disqualified from acting in that or a similar capacity for the same company or its insurance subsidiaries or affiliates for a period of **[**two**]** **five** years. An insurer may make application to the director for relief from the above rotation requirement on the basis of unusual circumstances. **Such application shall be made at least thirty days before the end of the calendar year. The insurer shall file, with its annual statement filing, the approval, if any, for relief from this subsection with the states that it is licensed in or doing business in and with the NAIC. If the nondomestic state accepts electronic filing with the NAIC, the insurer shall file the approval in an electronic format acceptable to the NAIC.** The director may consider the following factors in determining if the relief should be granted:

(1) Number of partners, expertise of the partners or the number of insurance clients in the currently registered firm;

(2) Premium volume of the insurer; or

(3) Number of jurisdictions in which the insurer transacts business.

4. The director shall **[**not**]** **neither** recognize as **[**capable or competent,**]** a **qualified independent** certified public accountant, nor **[**shall the director**]** accept any annual audited financial report, prepared in whole or in part by any **natural** person who:

(1) Has been convicted of fraud, bribery, a violation of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. Sections 1961 to 1968, or any dishonest conduct or practices under federal law or the laws of any state;

(2) Has **been found to have** violated the laws of this state with respect to any previous audited financial report submitted pursuant to sections 375.1025 to **[**375.1057 or the similar laws of any other state**]** **375.1062**; or

(3) Has demonstrated a pattern or practice of failing to detect or disclose material information in previous reports filed under the provisions of sections 375.1025 to **[**375.1057**]** **375.1062**.

5. The director **[**shall notify the insurer should he determine that the certified public accountant is not independent or is incapable or incompetent**]** **may hold a hearing under sections 536.100 to 536.140, RSMo, to determine whether an independent certified public accountant is qualified and, considering the evidence presented, may rule that the accountant is not qualified** for purposes of expressing his **or her** opinion on the financial statements in the annual audited financial report made pursuant to sections 375.1025 to **[**375.1057. If the insurer contests such determination, the director shall hold a hearing to determine whether the certified public accountant is independent, capable and competent, and, considering the evidence presented, may rule that the accountant is not independent or is incapable or incompetent for purposes of expressing his opinion on the financial statements in the annual audited financial report**]** **375.1062** and require the insurer to replace the accountant with another whose relationship with the insurer is **[**independent**]** **qualified** within the meaning of**[**, or who is capable or competent to perform the requirements of,**]** sections 375.1025 to **[**375.1057**]** **375.1062**.

6. A qualified independent certified public accountant may enter into an agreement with an insurer to have disputes relating to an audit resolved by mediation or arbitration. However, in the event of a delinquency proceeding commenced against the insurer under sections 375.570 to 375.750, the mediation or arbitration provisions shall operate at the option of the statutory successor.

7. The director shall not recognize as a qualified independent certified public accountant, nor accept an annual audited financial report, prepared in whole or in part by an accountant who functions in the role of management, audits his or her own work, or serves in an advocacy role for the insurer. Without limiting the foregoing, the director shall not recognize as a qualified independent certified public accountant, nor accept an annual audited financial report, prepared in whole or in part by an accountant who provides to an insurer, contemporaneously with the audit, the following nonaudit services:

(1) Bookkeeping or other services related to the accounting records or financial statements of the insurer;

(2) Financial information systems design and implementation;

(3) Appraisal or valuation services, fairness opinions, or contribution-in-kind reports;

(4) Actuarially oriented advisory services involving the determination of amounts recorded in the financial statements. The accountant may assist an insurer in understanding the methods, assumptions, and inputs used in the determination of amounts recorded in the financial statement only if it is reasonable to conclude that the services provided will not be subject to audit procedures during an audit of the insurer's financial statements. An accountant's actuary may also issue an actuarial opinion or certification ("opinion") on an insurer's reserves if the following conditions have been met:

(a) Neither the accountant nor the accountant's actuary has performed any management functions or made any management decisions;

(b) The insurer has competent personnel (or engages a third party actuary) to estimate the reserves for which management takes responsibility; and

(c) The accountant's actuary tests the reasonableness of the reserves after the insurer's management has determined the amount of the reserves;

(5) Internal audit outsourcing services;

(6) Management functions or human resources;

(7) Broker or dealer, investment adviser, or investment banking services;

(8) Legal services or expert services unrelated to the audit; or

(9) Any other services that the director determines, by rule, are impermissible.

8. Insurers having direct written and assumed premiums of less than one hundred million dollars in any calendar year may request an exemption from subsection 7 of this section. The insurer shall file with the director a written statement discussing the reasons why the insurer should be exempt from these provisions. If the director finds, upon review of this statement, that compliance with this requirement would constitute a financial or organizational hardship upon the insurer, an exemption may be granted.

9. A qualified independent certified public accountant who performs the audit may engage in other nonaudit services, including tax services, that are not described in and do not conflict with subsection 7 of this section, only if the activity is approved in advance by the audit committee, in accordance with subsection 10 of this section.

10. All auditing services and nonaudit services provided to an insurer by the qualified independent certified public accountant of the insurer shall be preapproved by the audit committee. The preapproval requirement is waived with respect to nonaudit services if the insurer is a SOX compliant entity or a direct or indirect wholly owned subsidiary of a SOX compliant entity or:

(1) The aggregate amount of all such nonaudit services provided to the insurer constitutes not more than five percent of the total amount of fees paid by the insurer to its qualified independent certified public accountant during the fiscal year in which the nonaudit services are provided;

(2) The services were not recognized by the insurer at the time of the engagement to be nonaudit services; and

(3) The services are promptly brought to the attention of the audit committee and approved prior to the completion of the audit by the audit committee or by one or more members of the audit committee who are the members of the board of directors to whom authority to grant such approvals has been delegated by the audit committee.

11. The audit committee may delegate to one or more designated members of the audit committee the authority to grant the preapprovals required by subsection 10 of this section. The decisions of any member to whom this authority is delegated shall be presented to the full audit committee at each of its scheduled meetings.

12. The director shall not recognize an independent certified public accountant as qualified for a particular insurer if a member of the board, president, chief executive officer, controller, chief financial officer, chief accounting officer, or any person serving in an equivalent position for that insurer was employed by the independent certified public accountant and participated in the audit of that insurer during the one-year period preceding the date that the most current statutory opinion is due.

13. Subsection 12 of this section shall only apply to partners and senior managers involved in the audit. An insurer may make application to the director for relief from subsection 12 of this section on the basis of unusual circumstances. The insurer shall file, with its annual statement filing, the approval for relief from subsection 12 of this section with the states that it is licensed in or doing business in and the NAIC. If the nondomestic state accepts electronic filing with the NAIC, the insurer shall file the approval in an electronic format acceptable to the NAIC.

375.1038. CONSOLIDATED OR COMMINGLED FINANCIAL STATEMENTS PERMITTED, WHEN — WORKSHEET , CONTENTS. — An insurer may make written application to the director for approval to file audited consolidated or combined financial statements in lieu of separate annual audited financial statements if the insurer is part of a group of insurance companies that utilizes a pooling or one hundred percent reinsurance agreement that affects the solvency and integrity of the insurer's reserves and the insurer

cedes all of its direct and assumed business to the pool. In such cases, a columnar consolidating or combining worksheet shall be filed with the report as follows:

(1) Amounts shown on the consolidated or combined audited financial report shall be shown on the worksheet;

(2) Amounts for each insurer subject to this section shall be stated separately;

(3) Noninsurance operations may be shown on the worksheet on a combined or individual basis;

(4) Explanations of consolidating and eliminating entries shall be included; and

(5) A reconciliation shall be included of any differences between the amounts shown in the individual insurer columns of the worksheet and comparable amounts shown on the annual statements of the insurers.

375.1040. ACCOUNTANT'S LETTER, CONTENTS. — The accountant shall furnish the insurer in connection with, and for inclusion in, the filing of the annual audited financial report, a letter stating:

(1) **[**That he**]** **Such accountant** is independent with respect to the insurer and conforms to the standards of his **or her** profession as contained in the code of professional ethics and pronouncements of the American Institute of Certified Public Accountants, and the rules of professional conduct of the Missouri board of accountancy, or similar code;

(2) The background and experience in general, and the experience in audits of insurers, of the staff assigned to audit the financial statements of the insurer and whether each is an independent certified public accountant**. Nothing within this requirement shall be construed as prohibiting the accountant from utilizing such staff as he or she deems appropriate where use is consistent with the standards prescribed by generally accepted auditing standards**;

(3) That the accountant understands the annual audited financial report and his opinion thereon will be filed in compliance with sections 375.1025 to 375.1062 and that the director will be relying on this information in the monitoring and regulation of the financial position of the insurer;

(4) That the accountant consents to the requirements of section 375.1050 and that the accountant consents and agrees to make available for review by the director, **[**his**]** **the director's** designee or **[**his**]** appointed agent, the workpapers, as defined in section 375.1050;

(5) That the accountant is properly licensed by an appropriate state licensing authority and that **[**he**]** **the accountant** is a member in good standing in the American Institute of Certified Public Accountants;

(6) **[**That the accountant has liability insurance coverage of the lesser of one million dollars or ten percent of the insurer's admitted assets; and

(7)**]** That the accountant is in compliance with the requirements of section 375.1037.

375.1042. AUDIT OF FINANCIAL STATEMENT BY INDEPENDENT ACCOUNTANT. — Financial statements of the insurer to be filed pursuant to section 375.1030 shall be examined by an independent certified public accountant. The **[**examination**]** **audit** by the independent certified public accountant of the insurer's financial statements shall be conducted in accordance with generally accepted auditing standards **[**and consideration**]** **. In accordance with AU Section 319 of the Professional Standards of the AICPA, Consideration of Internal Control in a Financial Statement Audit, the independent certified public accountant should obtain an understanding of internal control sufficient to plan the audit. To the extent required by AU 319, for those insurers required to file a Management's Report of Internal Control over Financial Reporting under section 375.1056, the independent certified public accountant should consider, as such term is defined in Statement on Auditing Standards (SAS) No. 102, Defining Professional Requirements in Statements on Auditing Standards or its replacement, the most recently available report in planning and performing the**

audit of the statutory financial statements. Consideration shall be given to procedures illustrated in the Financial Condition Examiner's Handbook promulgated by the National Association of Insurance Commissioners **as the independent certified public accountant deems necessary**.

375.1045. REPORT OF FINDINGS OF ACCOUNTANT TO INSURER, CONTENTS. — 1. The insurer required to furnish the annual audited financial report shall require the independent certified public accountant to report, in writing, within five business days to the board of directors or its audit committee any determination by the independent certified public accountant that the insurer has materially misstated its financial condition as reported to the director as of the balance sheet date currently under **[**examination**]** **audit** or that the insurer does not meet the minimum capital and surplus requirement of the law as of that date. An insurer who has received a report pursuant to this subsection shall forward a copy of the report to the director within five business days of receipt of such report and shall provide the independent certified public accountant making the report with evidence of the report being furnished to the director. If the independent certified public accountant fails to receive such evidence within the required five-business-day period, the independent certified public accountant shall furnish to the director a copy of its report within the next five business days.

2. No independent public accountant shall be liable in any manner to any person for any statement made in connection with subsection 1 of this section if such statement is made in good faith in compliance with subsection 1 of this section.

3. If the accountant, subsequent to the date of the audited financial report filed **[**pursuant to this section**]** **under sections 375.1025 to 375.1062**, becomes aware of facts which might have affected his **or her** report, **[**the department notes the obligation of the**]** **such** accountant **is required** to take such action **[**under**]** **as prescribed in** the professional standards of the American Institute of Certified Public Accountants.

375.1047. UNREMEDIATED MATERIAL WEAKNESSES TO BE FURNISHED TO DIRECTOR, REQUIREMENTS — INSURER TO COMMUNICATE REMEDIAL ACTIONS TAKEN. — 1. In addition to the annual audited financial report, each insurer shall furnish the director with a **[**report of evaluation performed by the accountant, in connection with his examination, of the system of internal accounting controls of the insurer**]** **written communication as to any unremediated material weaknesses in its internal control over financial reporting noted during the audit. Such communication shall be prepared by the accountant within sixty days after the filing of the annual audited financial report and shall contain a description of any unremediated material weakness, as the term material weakness is defined by Statement on Auditing Standard 60, Communication of Internal Control Related Matters Noted in an Audit, or its replacement, as of December thirty-first immediately preceding in the insurer's internal control over financial reporting noted by the accountant during the course of their audit of the financial statements. If no unremediated material weaknesses were noted, the communication shall so state**.

2. **[**A report of the evaluation by the accountant of the system of internal accounting controls of the insurer, including any remedial action taken or proposed, shall be filed annually by the insurer with the director within sixty days after the filing of the annual audited financial report. This report shall follow generally the form for reports on internal control structure related matters noted in an audit described in Volume 1, Section AU 325 of the professional standards of the American Institute of Certified Public Accountants, as may be amended, or in the event that such standards no longer be published, a similar standard to be designated by the director by duly promulgated regulation**]** **The insurer is required to provide a description of remedial actions taken or proposed to correct unremediated material weaknesses, if the actions are not described in the accountant's communication**.

375.1050. WORKPAPERS, DEFINED — AVAILABILITY TO INSURANCE EXAMINERS — CONFIDENTIALITY OF. — 1. As used in this section, "workpapers" are the records kept by the independent certified public accountant of the procedures followed, the tests performed, the information obtained and the conclusions reached pertinent to **[**his examination**]** **such accountant's audit** of the financial statements of an insurer. Workpapers may include audit planning documentation, work programs, analyses, memoranda, letters of confirmation and representation, abstracts of company documents, **[**any communications between the accountant and the insurer,**]** and schedules or commentaries prepared or obtained by the independent certified public accountant in the course of **[**his examination**]** **such accountant's audit** of the financial statements of an insurer **and** which **[**relate to his opinion thereof**]** **support such accountant's opinion**.

2. Every insurer required to file an audited financial report pursuant to sections 375.1025 to 375.1062 shall require the accountant to make available for review by the examiners of the department of insurance, financial institutions and professional registration all workpapers prepared in the conduct of **[**his examination**]** **the accountant's audit** and any communications related to the audit between the accountant and the insurer, at the offices of the insurer, at the department of insurance, financial institutions and professional registration or at any other reasonable place designated by the director. The insurer shall require that the accountant retain the audit workpapers **and communications** until the department has filed a report on examination covering the period of the audit, but no longer than seven years from the date of the audit report.

3. In the conduct of any examination or review by the department examiners, it shall be agreed that photocopies of pertinent audit workpapers may be made and retained by the **[**director**]** **department**. Such reviews by the **[**director or his**]** **department** examiners shall be considered investigations and all working papers and communications obtained during the course of such investigations shall be afforded the same confidentiality as other examination workpapers generated by the department.

375.1052. TEMPORARY EXEMPTION, GRANTED WHEN — DENIAL OF, PETITION FOR HEARING, PROCEDURES — SCHEDULE OF COMPLIANCE — EFFECTIVE DATE OF REQUIREMENTS. — 1. Upon written application of any insurer, the director may grant a temporary exemption from compliance with sections 375.1025 to 375.1062 if the director finds, upon review of the application, that compliance with sections 375.1025 to 375.1062 would constitute a financial or organizational hardship upon the insurer. An exemption may be granted at any time and from time to time for a specified period or periods. Within ten days from a denial of an insurer's written request for an exemption from sections 375.1025 to 375.1062, such insurer may request in writing a hearing on its application for an exemption. Such hearing shall be held in accordance with the provisions of chapter 536, RSMo, pertaining to administrative hearing procedures and shall be a public meeting as provided by subdivision (3) of section 610.010, RSMo.

2. Domestic insurers**:**

(1) Retaining a certified public accountant on the effective date of this section who qualifies as independent shall comply with sections 375.1025 to 375.1062 for the year ending December 31, 2009, and each year thereafter unless the director permits otherwise;

(2) Not retaining a certified public accountant on the effective date of this regulation who qualifies as independent

shall meet the following schedule for compliance with sections 375.1025 to 375.1062 unless the director permits otherwise:

[(1) As of May 1, 1992, with respect to the calendar year ending on December 31, 1991, each domestic insurer shall file with the director:

(a) Report of independent certified public accountant;

(b) Audited balance sheet;

(c) Notes to audited balance sheet;

(2)**] (a) As of December 31, 2009, file with the director an audited financial report;**

(b) For the year ending December 31, **[**1992**] 2010**, and each year thereafter, such insurers shall file with the director all reports **and communications** required by sections 375.1025 to 375.1062.

3. Foreign insurers shall comply with sections 375.1025 to 375.1062 for the year ending December 31, 1992, and each year thereafter, unless the director permits otherwise.

4. The requirements of subsection three of section 375.1037 shall be in effect for audits of the year beginning January 1, 2010, and thereafter.

5. The requirements of section 375.1053 are to be in effect January 1, 2010. An insurer or group of insurers that is not required to have independent audit committee members or only a majority but not a supermajority of independent audit committee members, because the total written and assumed premium is below the threshold and subsequently becomes subject to one of the independence requirements due to changes in premium shall have one year following the year the threshold is exceeded, but not earlier than January 1, 2010, to comply with the independence requirements. Likewise, an insurer that becomes subject to one of the independence requirements as a result of a business combination shall have one calendar year following the date of acquisition or combination to comply with the independence requirements.

6. The requirements of sections 375.1038, 375.1054, and 375.1056 are effective beginning with the reporting period ending December 31, 2010, and each year thereafter. An insurer or group of insurers that is not required to file a report because the total written premium is below the threshold and subsequently becomes subject to the reporting requirements shall have two years following the year the threshold is exceeded to file a report. Likewise, an insurer acquired in a business combination shall have two calendar years following the date of acquisition or combination to comply with the reporting requirements.

375.1053. INAPPLICABILITY OF STATUTE TO FOREIGN INSURERS — AUDIT COMMITTEE RESPONSIBILITIES, MEMBER QUALIFICATIONS — REPORT REQUIRED — WAIVER, WHEN. — 1. This section shall not apply to foreign or alien insurers licensed in this state or an insurer that is a SOX compliant entity or a direct or indirect wholly owned subsidiary of a SOX compliant entity.

2. The audit committee shall be directly responsible for the appointment, compensation, and oversight of the work of any accountant, including resolution of disagreements between management and the accountant regarding financial reporting, for the purpose of preparing or issuing the audited financial report or related work under sections 375.1025 to 375.1062. Each accountant shall report directly to the audit committee.

3. Each member of the audit committee shall be a member of the board of directors of the insurer or a member of the board of directors of an entity elected under subsection 6 of this section and subdivision (6) of section 375.1025.

4. In order to be considered independent for purposes of this section, a member of the audit committee shall not, other than in his or her capacity as a member of the audit committee, the board of directors, or any other board committee, accept any consulting, advisory, or other compensatory fee from the entity or be an affiliated person of the entity or any subsidiary thereof. However, if law requires board participation by otherwise nonindependent members, such law shall prevail and such members may participate in the audit committee and be designated as independent for audit committee purposes, unless they are an officer or employee of the insurer or one of its affiliates.

5. If a member of the audit committee ceases to be independent for reasons outside the member's reasonable control, that person, with notice by the responsible entity to the state, may remain an audit committee member of the responsible entity until the earlier of the next annual meeting of the responsible entity or one year from the occurrence of the event that caused the member to be no longer independent.

6. To exercise the election of the controlling person to designate the audit committee for purposes of sections 375.1025 to 375.1062, the ultimate controlling person shall provide written notice to the chief state insurance regulatory officials of the affected insurers. Notification shall be made timely prior to the issuance of the statutory audit report and include a description of the basis for the election. The election can be changed through notice to the director by the insurer, which shall include a description of the basis for the change. The election shall remain in effect for perpetuity, until rescinded.

7. (1) The audit committee shall require the accountant that performs for an insurer any audit required by sections 375.1025 to 375.1062 to timely report to the audit committee in accordance with the requirements of the auditing profession, including:

(a) All significant accounting policies and material permitted practices;

(b) All material alternative treatments of financial information within statutory accounting principles that have been discussed with management officials of the insurer, ramifications of the use of the alternative disclosures and treatments, and the treatment preferred by the accountant; and

(c) Other material written communications between the accountant and the management of the insurer, such as any management letter or schedule of unadjusted differences.

(2) If an insurer is a member of an insurance holding company system, the reports required by subdivision (1) of this subsection may be provided to the audit committee on an aggregate basis for insurers in the holding company system; provided that any substantial differences among insurers in the system are identified to the audit committee.

8. The proportion of independent audit committee members shall meet or exceed the following criteria:

(1) If the insurer wrote direct and assumed premiums of zero to three hundred million dollars during the prior calendar year, no minimum requirements are required regarding the number or proportion of audit committee members who shall be independent;

(2) If the insurer wrote direct and assumed premiums of three hundred million to five hundred million dollars during the prior calendar year, at least a majority of the members of the audit committee shall be independent; and

(3) If the insurer wrote direct and assumed premiums of five hundred million dollars or more during the prior calendar year, a supermajority of at least seventy-five percent of the members of the audit committee shall be independent.

9. An insurer with direct written and assumed premium, excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, less than five hundred million dollars may make application to the director for a waiver from the requirements of this section based upon hardship. The insurer shall file, with its annual statement filing, the approval for relief from this section with the states that it is licensed in or doing business in and the NAIC. If the nondomestic state accepts electronic filing with the NAIC, the insurer shall file the approval in an electronic format acceptable to the NAIC.

375.1054. PROHIBITED ACTS — VIOLATION, PENALTY. — 1. No director or officer of an insurer shall, directly or indirectly:

(1) Make or cause to be made a materially false or misleading statement to an accountant in connection with any audit, review, or communication required under sections 375.1025 to 375.1062; or

(2) Omit to state, or cause another person to omit to state, any material fact necessary in order to make statements made, in light of the circumstances under which the statements were made, not misleading to an accountant in connection with any audit, review, or communication required under sections 375.1025 to 375.1062.

2. No officer or director of an insurer, or any other person acting under the direction thereof, shall directly or indirectly take any action to coerce, manipulate, mislead, or fraudulently influence any accountant engaged in the performance of an audit under sections 375.1025 to 375.1062 if such person knew or should have known that the action, if successful, could result in rendering the insurer's financial statements materially misleading.

3. For purposes of subsection 2 of this section, actions that, "if successful, could result in rendering the insurer's financial statements materially misleading" include, but are not limited to, actions taken at any time with respect to the professional engagement period to coerce, manipulate, mislead, or fraudulently influence an accountant:

(1) To issue or reissue a report on an insurer's financial statements that is not warranted in the circumstances, due to material violations of statutory accounting principles prescribed by the director, generally accepted auditing standards, or other professional or regulatory standards;

(2) Not to perform audit, review, or other procedures required by generally accepted auditing standards or other professional standards;

(3) Not to withdraw an issued report; or

(4) Not to communicate matters to an insurer's audit committee.

4. Any violation of any provision of this section is a level three violation under section 374.049, RSMo.

375.1056. REPORT REQUIRED BY INSURER, WHEN, CONTENTS. — 1. Every insurer required to file an audited financial report under sections 375.1025 to 375.1062 that has annual direct written and assumed premiums, excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, of five hundred million dollars or more shall prepare a report of the insurer's or group of insurers' internal control over financial reporting, as such terms are defined in section 375.1025. The report shall be filed with the director along with the communication of internal control related matters noted in an audit described under section 375.1047. Management's report of internal control over financial reporting shall be as of December thirty-first immediately preceding.

2. Notwithstanding the premium threshold in subsection 1 of this section, the director may require an insurer to file management's report of internal control over financial reporting if the insurer is in any RBC level event, or meets any one or more of the standards of an insurer deemed to be in hazardous financial condition as defined in rules adopted by the director.

3. An insurer or a group of insurers that is:

(1) Directly subject to Section 404;

(2) Part of a holding company system whose parent is directly subject to Section 404;

(3) Not directly subject to Section 404 but is a SOX compliant entity; or

(4) A member of a holding company system whose parent is not directly subject to Section 404 but is a SOX compliant entity

may file its or its parent's Section 404 report and an addendum in satisfaction of the requirement of this section, provided that those internal controls of the insurer or group

of insurers having a material impact on the preparation of the insurer's or group of insurers' audited statutory financial statements, namely those items included in subdivisions (2) to (6) of subsection 2 of section 375.1032, were included in the scope of the Section 404 report. The addendum shall be a positive statement by management that there are no material processes with respect to the preparation of the insurer's or group of insurers' audited statutory financial statements excluded from the Section 404 report. If there are internal controls of the insurer or group of insurers that have a material impact on the preparation of the insurer's or group of insurers' audited statutory financial statements and those internal controls were not included in the scope of the Section 404 report, the insurer or group of insurers may either file a report under this section, or the Section 404 report and a report under this section for those internal controls that have a material impact on the preparation of the insurer's or group of insurers' audited statutory financial statements not covered by the Section 404 report.

4. Management's report of internal control over financial reporting shall include:

(1) A statement that management is responsible for establishing and maintaining adequate internal control over financial reporting;

(2) A statement that management has established internal control over financial reporting and an assertion, to the best of management's knowledge and belief, after diligent inquiry, as to whether its internal control over financial reporting is effective to provide reasonable assurance regarding the reliability of financial statements in accordance with statutory accounting principles;

(3) A statement that briefly describes the approach or processes by which management evaluated the effectiveness of its internal control over financial reporting;

(4) A statement that briefly describes the scope of work that is included and whether any internal controls were excluded;

(5) Disclosure of any unremediated material weaknesses in the internal control over financial reporting identified by management as of December thirty-first immediately preceding. Management is not permitted to conclude that the internal control over financial reporting is effective to provide reasonable assurance regarding the reliability of financial statements in accordance with statutory accounting principles if there is one or more unremediated material weaknesses in its internal control over financial reporting;

(6) A statement regarding the inherent limitations of internal control systems; and

(7) Signatures of the chief executive officer and the chief financial officer, or the equivalent position or title.

5. Management shall document and make available upon financial condition examination the basis upon which its assertions required in subsection 4 of this section are made. Management may base its assertions, in part, upon its review, monitoring and testing of internal controls undertaken in the normal course of its activities. Management shall have discretion as to the nature of the internal control framework used, and the nature and extent of documentation, in order to make its assertion in a cost-effective manner and, as such, may include assembly of or reference to existing documentation. Management's report on internal control over financial reporting, required by subsection 1 of this section, and any documentation provided in support thereof during the course of a financial condition examination, shall be kept confidential by the department.

6. No officer responsible for financial reporting may be a member of the audit committee.

375.1057. CANADIAN AND BRITISH INSURERS, SPECIAL REQUIREMENTS. — 1. In the case of Canadian and British insurers, the annual audited financial report shall be defined as the annual statement of total business on the form filed by such companies with their **[**domiciliary supervisory**]** **supervision** authority duly audited by an independent chartered accountant.

2. For such Canadian and British insurers, the letter required by **subsection 2 of** section 375.1035 shall state that the accountant is aware of the requirements relating to the annual audited financial report filed with the director pursuant to section 375.1030 and shall affirm that the opinion expressed is in conformity with such requirements.

376.391. CO-PAYMENTS FOR CHIROPRACTIC SERVICES, CAP. — A health benefit plan or health carrier, as defined in section 376.1350, including but not limited to preferred provider organizations, independent physicians associations, third-party administrators, or any entity that contracts with licensed health care providers shall not impose any co-payment that exceeds fifty percent of the total cost of providing any single chiropractic service to its enrollees.

376.502. LIFE INSURERS NOT TO DISCRIMINATE BASED ON LAWFUL TRAVEL DESTINATIONS — VIOLATIONS, PENALTY. — 1. No life insurance company doing business within this state shall deny or refuse to accept an application for life insurance, refuse to renew, cancel, restrict, or otherwise terminate a policy of life insurance, or charge a different rate for the same life insurance coverage, based upon the applicant's or insured's past or future lawful travel destinations. Nothing in this section shall prohibit a life insurance company from denying an application for life insurance, or restricting or charging a different premium or rate for coverage under such a policy based on a specific travel destination where the denial, restriction, or rate differential is based upon sound actuarial principles or is related to actual or reasonably anticipated experience.

2. A violation of the provisions of this section shall be unfair trade practice as defined by sections 375.930 to 375.948, RSMo, and shall be governed by and subject to all of the provisions and penalties provided by such sections.

3. The provisions of this section shall apply to any life insurance policy issued or renewed on or after August 28, 2009.

376.1232. INSURERS TO OFFER COVERAGE FOR PROSTHETICS. — 1. Each health carrier or health benefit plan that offers or issues health benefit plans which are delivered, issued for delivery, continued, or renewed in this state on or after January 1, 2010, shall offer coverage for prosthetic devices and services, including original and replacement devices, as prescribed by a physician acting within the scope of his or her practice.

2. For the purposes of this section, "health carrier" and "health benefit plan" shall have the same meaning as defined in section 376.1350.

3. The amount of the benefit for prosthetic devices and services under this section shall be no less than the annual and lifetime benefit maximums applicable to the basic health care services required to be provided under the health benefit plan. If the health benefit plan does not include any annual or lifetime maximums applicable to basic health care services, the amount of the benefit for prosthetic devices and services shall not be subject to an annual or lifetime maximum benefit level. Any copayment, coinsurance, deductible, and maximum out-of-pocket amount applied to the benefit for prosthetic devices and services shall be no more than the most common amounts applied to the basic health care services required to be provided under the health benefit plan.

4. The provisions of this section shall not apply to a supplemental insurance policy, including a life care contract, accident-only policy, specified disease policy, hospital policy providing a fixed daily benefit only, Medicare supplement policy, long-term care policy, short-term major medical policies of six months or less duration, or any other supplemental policy as determined by the director of the department of insurance, financial institutions and professional registration.

379.1300. DEFINITIONS. — As used in sections 379.1300 to 379.1350, the following terms shall mean:

(1) "Affiliated company", any company in the same corporate system as a parent, an industrial insured, or a member organization by virtue of common ownership, control, operation, or management;

(2) "Alien captive insurance company", any insurance company formed to write insurance business for its parents and affiliates and licensed under the laws of an alien jurisdiction that imposes statutory or regulatory standards in a form acceptable to the director on companies transacting the business of insurance in such jurisdiction;

(3) "Annuity", a contract issued for a valuable consideration under which the obligations are assumed with respect to periodic payments for a specified term or terms or where the making or continuance of all or of some of such payments, or the amount of any such payments, is dependent upon the continuance of human life;

(4) "Association", any legal association of individuals, corporations, limited liability companies, partnerships, associations, or other entities that has been in continuous existence for at least one year, the member organizations of which or which does itself, whether or not in conjunction with some or all of the member organizations:

(a) Own, control, or hold with power to vote all of the outstanding voting securities of an association captive insurance company incorporated as a stock insurer; or

(b) Have complete voting control over an association captive insurance company incorporated as a mutual insurer; **or**

(c) Constitute all of the subscribers of an association captive insurance company formed as a reciprocal insurer;

(5) "Association captive insurance company", any company that insures risks of the member organizations of the association and their affiliated companies**; except that, association captive insurance company shall not include, without limitation, any reciprocal insurer that has not chosen to apply for and is not licensed as a captive insurance company under section 379.1302**;

(6) "Branch business", any insurance business transacted by a branch captive insurance company in this state;

(7) "Branch captive insurance company", any alien captive insurance company licensed by the director to transact the business of insurance in this state through a business unit with a principal place of business in this state;

(8) "Branch operations", any business operations of a branch captive insurance company in this state;

(9) "Captive insurance company", any pure captive insurance company, association captive insurance company, or industrial insured captive insurance company formed or licensed under sections 379.1300 to 379.1350. For purposes of sections 379.1300 to 379.1350, a branch captive insurance company shall be a pure captive insurance company with respect to operations in this state, unless otherwise permitted by the director;

(10) "Controlled unaffiliated business", any company:

(a) That is not in the corporate system of a parent and affiliated companies;

(b) That has an existing contractual relationship with a parent or affiliated company; and

(c) Whose risks are managed by a pure captive insurance company in accordance with section 379.1338;

(11) "Director", the director of the department of insurance, financial institutions and professional registration;

(12) "Excess workers' compensation insurance", in the case of an employer that has insured or self-insured its workers' compensation risks in accordance with applicable state or federal law, insurance in excess of a specified per-incident or aggregate limit established by the director;

(13) "Industrial insured", an insured:

(a) Who procures the insurance of any risk or risks by use of the services of a full-time employee acting as an insurance manager or buyer;

(b) Whose aggregate annual premiums for insurance on all risks total at least twenty-five thousand dollars; and

(c) Who has at least twenty-five full-time employees;

(14) "Industrial insured captive insurance company", any company that insures risks of the industrial insureds that comprise the industrial insured group and their affiliated companies;

(15) "Industrial insured group", any group of industrial insureds that collectively:

(a) Own, control, or hold with power to vote all of the outstanding voting securities of an industrial insured captive insurance company incorporated as a stock insurer; or

(b) Have complete voting control over an industrial insured captive insurance company incorporated as a mutual insurer;

(16) "Member organization", any individual, corporation, limited liability company, partnership, association, or other entity that belongs to an association;

(17) "Mutual corporation", a corporation organized without stockholders and includes a nonprofit corporation with members;

(18) "Parent", a corporation, limited liability company, partnership, other entity, or individual that directly or indirectly owns, controls, or holds with power to vote more than fifty percent of the outstanding voting:

(a) Securities of a pure captive insurance company organized as a stock corporation; or

(b) Membership interests of a pure captive insurance company organized as a nonprofit corporation;

(19) "Pure captive insurance company", any company that insures risks of its parent and affiliated companies or controlled unaffiliated business.

379.1302. LICENSURE — PROHIBITED ACTS — REQUIREMENTS FOR CONDUCTING BUSINESS — APPLICATION REQUIREMENTS. — 1. Any captive insurance company, when permitted by its articles of association, charter, or other organizational document, may apply to the director for a license to do any and all insurance and annuity contracts comprised in section 376.010, RSMo, and subsection 1 of section 379.010, other than workers' compensation and employers' liability; provided, however, that:

(1) No pure captive insurance company shall insure any risks other than those of its parent and affiliated companies or controlled unaffiliated business;

(2) No association captive insurance company shall insure any risks other than those of the member organizations of its association and their affiliated companies;

(3) No industrial insured captive insurance company shall insure any risks other than those of the industrial insureds that comprise the industrial insured group and their affiliated companies;

(4) No captive insurance company shall provide personal motor vehicle or homeowner's insurance coverage or any component thereof;

(5) No captive insurance company shall accept or cede reinsurance except as provided in section 379.1320;

(6) Any captive insurance company may provide excess workers' compensation insurance to its parent and affiliated companies, unless prohibited by the federal law or laws of the state having jurisdiction over the transaction. Any captive insurance company, unless prohibited by federal law, may reinsure workers' compensation of a qualified self-insured plan of its parent and affiliated companies, provided that sections 379.1300 to 379.1350 shall not divest the division of workers' compensation of any jurisdiction, as authorized by law, over workers' compensation self-insured plans;

(7) Any captive insurance company which insures life and accident and health risks described in section 376.010, RSMo, and subdivision (4) of subsection 1 of section 379.010, shall comply with all applicable state and federal laws; and

(8) No captive insurance company shall transact business as a risk retention group under sections 375.1080 to 375.1105, RSMo.

2. No captive insurance company shall do any insurance business in this state unless:

(1) It first obtains from the director a license authorizing it to do insurance business in this state;

(2) Its board of directors **[**or**] ,** committee of managers**, or in the case of a reciprocal insurer, its subscribers' advisory committee,** holds at least one meeting each year in this state;

(3) It maintains its principal place of business in this state; **and**

(4) It appoints a registered agent to accept service of process and to otherwise act on its behalf in this state; provided that, whenever such registered agent cannot with reasonable diligence be found at the registered office of the captive insurance company, the secretary of state shall be an agent of such captive insurance company upon whom any process, notice, or demand may be served**[**; and

(5) It holds at least thirty-five percent of its assets either directly in this state or through a financial institution located in this state and approved by the director**]**.

3. (1) Before receiving a license, a captive insurance company shall:

(a) File with the director a certified copy of its organizational documents, a statement under oath of its president and secretary showing its financial condition, and any other statements or documents required by the director; and

(b) Submit to the director for approval a description of the coverages, deductibles, coverage limits, and rates, together with such additional information as the director may reasonably require. In the event of any subsequent material change in any item in such description, the captive insurance company shall submit to the director for approval an appropriate revision and shall not offer any additional kinds of insurance until a revision of such description is approved by the director. The captive insurance company shall inform the director of any material change in rates within thirty days of the adoption of such change.

(2) Each applicant captive insurance company shall also file with the director evidence of the following:

(a) The amount and liquidity of its assets relative to the risks to be assumed;

(b) The adequacy of the expertise, experience, and character of the person or persons who will manage it;

(c) The overall soundness of its plan of operation;

(d) The adequacy of the loss prevention programs of its insureds; and

(e) Such other factors deemed relevant by the director in ascertaining whether the proposed captive insurance company will be able to meet its policy obligations.

(3) Information submitted under this subsection shall be and remain confidential, and shall not be made public by the director or an employee or agent of the director without the written consent of the company; except that:

(a) Such information may be discoverable by a party in a civil action or contested case to which the captive insurance company that submitted such information is a party, upon a showing by the party seeking to discover such information that:

a. The information sought is relevant to and necessary for the furtherance of such action or case;

b. The information sought is unavailable from other nonconfidential sources; and

c. A subpoena issued by a judicial or administrative officer of competent jurisdiction has been submitted to the director; and

(b) The director may, in the director's discretion, disclose such information to a public officer having jurisdiction over the regulation of insurance in another state, provided that:

a. Such public official shall agree in writing to maintain the confidentiality of such information;

b. The laws of the state in which such public official serves require such information to be and to remain confidential; and

(c) The director may disclose information to the director of the division of workers' compensation regarding any captive insurance company issuing excess workers' compensation insurance provided that the director for the division of workers' compensation agrees in writing to maintain the confidentiality of such information provided by the director.

(4) Each captive insurance company shall pay to the director a nonrefundable license fee of seven thousand five hundred dollars for examining, investigating, and processing its application for license, and the director is authorized to retain legal, financial, and examination services from outside the department, the reasonable cost of which may be charged against the applicant. The provisions of sections 374.160 to 374.162 and sections 374.202 to 374.207, RSMo, shall apply to examinations, investigations, and processing conducted under the authority of this section. In addition, each captive insurance company shall pay a renewal fee for each year thereafter of seven thousand five hundred dollars. Each captive insurance company may deduct the license and renewal fee paid from the premium taxes payable under section 379.1326.

(5) If the director is satisfied that the documents and statements that such captive insurance company has filed comply with the provisions of sections 379.1300 to 379.1350, the director may grant a license authorizing it to do insurance business in this state until April first, which license may be renewed.

379.1310. INCORPORATION AS A STOCK INSURER PERMITTED, WHEN. — 1. A pure captive insurance company may be incorporated as a stock insurer with its capital divided into shares and held by the stockholders as a nonprofit corporation with one or more members, or as a manager-managed limited liability company.

2. An association captive insurance company or an industrial insured captive insurance company may be:

(1) Incorporated as a stock insurer with its capital divided into shares and held by the stockholders;

(2) Incorporated as a mutual insurer without capital stock, the governing body of which is elected by its insureds; **[**or**]**

(3) Organized as a manager-managed limited liability company**; or**

(4) Organized as a reciprocal insurer in accordance with sections 379.650 to 379.790.

3. A captive insurance company incorporated or organized in this state shall have not less than three incorporators or three organizers of whom not less than one shall be a resident of this state.

4. In the case of a captive insurance company:

(1) Formed as a corporation, before the articles of incorporation are transmitted to the secretary of state, the incorporators shall petition the director to issue a certificate setting forth the director's finding that the establishment and maintenance of the proposed corporation will promote the general good of the state. In arriving at such a finding the director shall consider:

(a) The character, reputation, financial standing and purposes of the incorporators;

(b) The character, reputation, financial responsibility, insurance experience, and business qualifications of the officers and directors; and

(c) Such other aspects as the director shall deem advisable.

The articles of incorporation, such certificate, and the organization fee shall be transmitted to the secretary of state, who shall thereupon record both the articles of incorporation and the certificate;

(2) Formed as a limited liability company, before the articles of organization are transmitted to the secretary of state, the organizers shall petition the director to issue a certificate setting forth the director's finding that the establishment and maintenance of the proposed company will promote the general good of the state. In arriving at such a finding, the director shall consider the items set forth in paragraphs (a) to (c) of subdivision (1) of this subsection**;**

(3) Formed as a reciprocal insurer, the organizers shall petition the director to issue a certificate setting the director's finding that the establishment and maintenance of the proposed association will promote the general good of the state. In arriving at such a

finding the director shall consider the items set forth in paragraphs (a) to (c) of subdivision (1) of this subsection.

5. The capital stock of a captive insurance company incorporated as a stock insurer may be authorized with no par value.

6. In the case of a captive insurance company:

(1) Formed as a corporation, at least one of the members of the board of directors shall be a resident of this state;

(2) Formed as a limited liability company, at least one of the managers shall be a resident of this state**;**

(3) Formed as a reciprocal insurer, at least one of the members of the subscribers' advisory committee shall be a resident of this state.

7. Other than captive insurance companies formed as limited liability companies under chapter 347, RSMo, or as nonprofit corporations under chapter 355, RSMo, captive insurance companies formed as corporations under sections 379.1300 to 379.1350 shall have the privileges and be subject to chapter 351, RSMo, as well as the applicable provisions contained in sections 379.1300 to 379.1308. In the event of conflict between the provisions of such general corporation law and sections 379.1300 to 379.1350, sections 379.1300 to 379.1350 shall control.

8. Captive insurance companies formed under sections 379.1300 to 379.1350:

(1) As limited liability companies shall have the privileges and be subject to the provisions of chapter 347, RSMo, as well as the applicable provisions contained in sections 379.1300 to 379.1350. In the event of a conflict between chapter 347, RSMo, and sections 379.1300 to 379.1350, sections 379.1300 to 379.1350 shall control; or

(2) As nonprofit corporations shall have the privileges and be subject to the provisions of chapter 355, RSMo, as well as the applicable provisions contained in sections 379.1300 to 379.1350. In the event of conflict between chapter 355, RSMo, and sections 379.1300 to 379.1350, sections 379.1300 to 379.1350 shall control.

9. The provisions of section 375.355, RSMo, **section 375.908, RSMo,** sections 379.980 to 379.988, and chapter 382, RSMo, pertaining to mergers, consolidations, conversions, mutualizations, redomestications, and mutual holding companies shall apply in determining the procedures to be followed by captive insurance companies in carrying out any of the transactions described therein; except that:

(1) The director may waive or modify the requirements for public notice and hearing in accordance with rules which the director may adopt addressing categories of transactions. If a notice of public hearing is required, but no one requests a hearing, then the director may cancel the hearing;

(2) An alien insurer may be a party to a merger **or a redomestication** authorized under this subsection, if approved by the director.

10. The articles of incorporation or bylaws of a captive insurance company formed as a corporation may authorize a quorum of its board of directors to consist of no fewer than one-third of the full board of directors determined, provided that a quorum shall not consist of fewer than two directors.

11. Captive insurance companies formed as reciprocal insurers under the provisions of sections 379.1300 to 379.1350 shall have the privileges and be subject to the provisions of sections 379.650 to 379.790 in addition to the applicable provisions of sections 379.1300 to 379.1350. In the event of a conflict between the provisions of sections 379.650 to 379.790 and the provisions of sections 379.1300 to 379.1350, the latter shall control, to the extent a reciprocal insurer is made subject to other provisions of chapters 374, 375, and 379 under sections 379.650 to 379.790, such provisions shall not be applicable to a reciprocal insurer formed under sections 379.1300 to 379.1350 unless such provisions are expressly made applicable to captive insurance companies under sections 379.1300 to 379.1350.

12. The subscribers' agreement or other organizing document of a captive insurance company formed as a reciprocal insurer may authorize a quorum of its subscribers' advisory committee to consist of no fewer than one-third of the number of its members.

379.1326. PREMIUM TAX IMPOSED, AMOUNT, PROCEDURE. — 1. Each captive insurance company shall pay to the director of revenue, on or before May first of each year, a premium tax at the rate of thirty-eight-hundredths of one percent on the first twenty million dollars and two hundred eighty-five-thousandths of one percent on the next twenty million dollars and nineteen-hundredths of one percent on the next twenty million dollars and seventy-two-thousandths of one percent on each dollar thereafter on the direct premiums collected or contracted for on policies or contracts of insurance written by the captive insurance company during the year ending December thirty-first next preceding, after deducting from the direct premiums subject to the tax the amounts paid to policyholders as return premiums which shall include dividends on unabsorbed premiums or premium deposits returned or credited to policyholders; provided, however, that no tax shall be due or payable as to considerations received for annuity contracts.

2. Each captive insurance company shall pay to the director of revenue on or before May first of each year a premium tax at the rate of two hundred fourteen-thousandths of one percent on the first twenty million dollars of assumed reinsurance premium, and one hundred forty-three-thousandths of one percent on the next twenty million dollars and forty-eight-thousandths of one percent on the next twenty million dollars and twenty-four-thousandths of one percent of each dollar thereafter. However, no reinsurance premium tax applies to premiums for risks or portions of risks which are subject to taxation on a direct basis under subsection 1 of this section. No reinsurance premium tax shall be payable in connection with the receipt of assets in exchange for the assumption of loss reserves and other liabilities of another insurer under common ownership and control if such transaction is part of a plan to discontinue the operations of such other insurer, and if the intent of the parties to such transaction is to renew or maintain such business with the captive insurance company.

3. The annual minimum aggregate tax to be paid by a captive insurance company calculated under subsections 1 and 2 of this section shall be seven thousand five hundred dollars, and the annual maximum aggregate tax shall be two hundred thousand dollars.

4. Every captive insurance company shall, on or before February first each year, make a return on a form provided by the director, verified by the affidavit of the company's president and secretary or other authorized officers, to the director stating the amount of all direct premiums received and assumed reinsurance premiums received, whether in cash or in notes, during the year ending on December thirty-first next preceding. Upon receipt of such returns, the director of the department of insurance, financial institutions and professional registration shall verify the same and certify the amount of tax due from the various companies on the basis and at the rate provided in subsections 1 to 3 of this section, and shall certify the same to the director of revenue, on or before March thirty-first of each year. The director of revenue shall immediately thereafter notify and assess each company the amount of tax due.

5. A captive insurance company failing to make returns as required by subsection 4 of this section or failing to pay within the time required all taxes assessed by this section shall be subject to the provisions of sections 148.375 and 148.410, RSMo.

6. Two or more captive insurance companies under common ownership and control shall be taxed as though they were a single captive insurance company.

7. For the purposes of this section, "common ownership and control" shall mean:

(1) In the case of stock corporations, the direct or indirect ownership of eighty percent or more of the outstanding voting stock of two or more corporations by the same shareholder or shareholders; and

(2) In the case of mutual or nonprofit corporations, the direct or indirect ownership of eighty percent or more of the surplus and the voting power of two or more corporations by the same member or members.

8. The tax provided for in this section shall constitute all taxes collectible under the laws of this state from any captive insurance company, and no other occupation tax or other taxes shall be levied or collected from any captive insurance company by the state or any county, city, or municipality within this state, except ad valorem taxes on real and personal property used in the production of income.

9. **[**The state treasurer shall annually transfer the premium tax revenues collected under this section to the general revenue fund, except as provided in section 379.1332**] Upon receiving the taxes collected under this section from the director of revenue, the state treasurer shall receipt ten percent thereof into the insurance dedicated fund established under section 374.150, RSMo, subject to a maximum of three percent of the current fiscal year's appropriation from such fund, and he or she shall place the remainder of such taxes collected to the general revenue fund of the state**.

10. The tax provided for in this section shall be calculated on an annual basis, notwithstanding policies or contracts of insurance or contracts of reinsurance issued on a multiyear basis. In the case of multiyear policies or contracts, the premium shall be prorated for purposes of determining the tax under this section.

11. A captive insurance company may deduct from premium taxes payable to this state, in addition to all other credits allowed by law, license fees and renewal fees payable under section 379.1302. A deduction for fees which exceeds a captive insurance company's premium tax liability for the same tax year shall not be refundable, but may be carried forward to any subsequent tax year, not to exceed five years, until the full deduction is claimed.

379.1332. PROMOTION OF CAPTIVE INSURANCE, MONEYS FROM DEDICATED INSURANCE FUND TO BE USED. — 1. (1) The insurance dedicated fund under section 374.150, RSMo, shall be adequately funded through the collection of fees and taxes for the purpose of providing the financial means for the director of the department of insurance, financial institutions and professional registration to administer sections 379.1300 to 379.1350 and for reasonable expenses incurred in promoting the captive insurance industry in Missouri. All fees and assessments received by the department for the administration of sections 379.1300 to 379.1350 shall be paid into the fund. **[**In addition, the transfer of twenty percent of the premium tax under section 375.1014, RSMo, shall be made to the insurance dedicated fund until two hundred thousand dollars has been transferred. Thereafter, up to ten percent of the premium tax under section 379.1326 may be transferred to the insurance dedicated fund for the administration of sections 379.1300 to 379.1350, and up to two percent of the premium tax under section 379.1326 may be transferred to the department of economic development, with approval of the commissioner of administration, for promotional expenses.**]** All fees received by the department from reinsurers who assume risk solely from captive insurance companies and are subject to the provisions of section 375.246, RSMo, shall be deposited into the insurance dedicated fund.

(2) All payments from the insurance dedicated fund for the maintenance of staff and expenses associated with the administration of sections 379.1300 to 379.1350, including contractual services as necessary, shall be disbursed from the state treasury only upon warrants issued by the director, after receipt of proper documentation regarding services rendered and expenses incurred.

2. The director may anticipate receipts to the insurance dedicated fund through the administration of sections 379.1300 to 379.1350 and issue warrants based thereon.

379.1339. CONVERSION TO RECIPROCAL INSURER, WHEN, PROCEDURE. — 1. An association captive insurance company or industrial insured captive insurance company formed as a stock or mutual corporation may be converted to or merged with and into a reciprocal insurer in accordance with a plan therefor and the provisions of this section.

2. Any plan for such conversion or merger shall provide a fair and equitable plan for purchasing, retiring, or otherwise extinguishing the interests of the stockholders and

policyholders of a stock insurer, and the members and policyholders of a mutual insurer, including a fair and equitable provision for the rights and remedies of dissenting stockholders, members, or policyholders.

3. In the case of a conversion authorized under subsection 1 of this section:

(1) Such conversion shall be accomplished under such reasonable plan and procedure as may be approved by the director; provided, however, that the director shall not approve any such plan of conversion unless such plan:

(a) Satisfies the provisions of subsection 2 of this section;

(b) Provides for a hearing, of which notice is given or to be given to the captive insurance company, its directors, officers, and policyholders, and in the case of a stock insurer, its stockholders, and in the case of a mutual insurer, its members, all of which persons shall be entitled to attend and appear at such hearing; provided, however, that if notice of a hearing is given and no director, officer, policyholder, member, or stockholder requests a hearing, the director may cancel such hearing;

(c) Provides a fair and equitable plan for the conversion of stockholder, member, or policyholder interests into subscriber interests in the resulting reciprocal insurer substantially proportionate to the corresponding interests in the stock or mutual insurer; provided, however, that this requirement shall not preclude the resulting reciprocal insurer from applying underwriting criteria that could affect ongoing ownership interests; and

(d) Is approved:

a. In the case of a stock insurer, by a majority of the shares entitled to vote represented in person or by proxy at a duly called regular or special meeting at which a quorum is present; and

b. In the case of a mutual insurer, by a majority of the voting interests of policyholders represented in person or by proxy at a duly called regular or special meeting thereof at which a quorum is present;

(2) The director shall approve such plan of conversion if the director finds that the conversion will promote the general good of the state in conformity with those standards set forth in subdivision (1) of subsection 4 of section 379.1310;

(3) If the director approves the plan, the director shall amend the converting insurer's certificate of authority to reflect conversion to a reciprocal insurer and issue such amended certificate of authority to the company's attorney-in-fact;

(4) Upon the issuance of an amended certificate of authority of a reciprocal insurer by the director, the conversion shall be effective; and

(5) Upon the effectiveness of such conversion the corporate existence of the converting insurer shall cease and the resulting reciprocal insurer shall notify the secretary of state of such conversion.

4. A merger authorized under subsection 1 of this section shall be accomplished substantially in accordance with such procedures and plan of merger adopted by the board of directors of the captive insurance company and as authorized by the director; except that, solely for purposes of such merger:

(1) The plan of merger shall satisfy the provisions of subsection 2 of this section;

(2) The subscribers' advisory committee of a reciprocal insurer shall be equivalent to the board of directors of a stock or mutual insurance company;

(3) The subscribers of a reciprocal insurer shall be the equivalent of the policyholders of a mutual insurance company;

(4) If a subscribers' advisory committee does not have a president or secretary, the officers of such committee having substantially equivalent duties shall be deemed the president or secretary of such committee;

(5) The director shall approve the articles of merger if the director finds that the merger will promote the general good of the state in conformity with those standards set

forth in subdivision (1) of subsection 4 of section 379.1310. If the director approves the articles of merger, the director shall endorse the director's approval thereon and the surviving insurer shall present the same to the secretary of state at the secretary of state's office;

(6) Notwithstanding section 379.1306, the director may permit the formation, without surplus, of a captive insurance company organized as a reciprocal insurer into which an existing captive insurance company may be merged for the purpose of facilitating a transaction under this section; provided, however, that there shall be no more than one authorized insurance company surviving such merger; and

(7) An alien insurer may be a party to a merger authorized under subsection 1 of this section; provided that such alien insurer shall be treated as a foreign insurer and such other jurisdictions shall be the equivalent of a state.

5. To the extent such effects are not inconsistent with the provisions of sections 379.1300 to 379.1350, a conversion or merger under this section shall have all of the following effects:

(1) The several insurers which are parties to the agreement of merger or consolidation shall be a single insurer which such single insurer shall have all of the rights, privileges, immunities, and powers and shall be subject to all of the duties and liabilities of an insurer organized under sections 379.1300 to 379.1350;

(2) Such single insurer shall thereupon and thereafter possess all the rights, privileges, immunities, powers, and franchises of a public as well as of a private nature of each of the insurers so merged or consolidated; and all property, real, personal, and mixed, and all debts due on whatever account, including subscriptions to shares of capital stock, and all other choices in action and all and every other interest of or belonging to or due to each of the insurers so merged or consolidated shall be taken and deemed to be transferred to and vested in such single insurer without further act or deed; and the title to any real estate, or any interest therein, under the laws of this state vested in any of such insurers shall not revert or be in any way impaired by reason of such merger or consolidation; and

(3) Such single insurer shall thenceforth be responsible and liable for all the liabilities and obligations of each of the insurers so merged or consolidated in the same manner and to the same extent as if such single insurer had itself incurred the same or contracted therefor; and any claim existing or action or proceeding pending by or against any of such insurers may be prosecuted to judgment as if such merger or consolidation had not taken place. Neither the rights of creditors nor any liens upon the property of any such insurers shall be impaired by such merger or consolidation, but such liens shall be limited to the property upon which they were liens immediately prior to the time of such merger or consolidation, unless otherwise provided in the agreement of merger or consolidation.

379.1373. LIMITATION ON ACTIVITIES AND NAME — NUMBER OF INCORPORATORS REQUIRED. — 1. Activities of a SPLRC must be limited to those necessary to accomplish its purpose as outlined in its plan of operation.

2. The name must not be deceptively similar to or likely to be confused with another existing business name registered in the state.

3. The SPLRC must have at least three incorporators or organizers of whom not fewer than **[**two**] one** must be **[**residents**] a resident** of the state.

4. The capital stock of a SPLRC incorporated as a stock company must be issued at not less than par value.

379.1388. RECOGNITION OF ADMITTED ASSETS — VALUE OF ASSETS. — 1. A SPLRC may recognize as an admitted asset on its financial statements filed with the director:

(1) Permitted investments;

(2) Letters of credit **[**issued without recourse to the SPLRC**]**;

(3) Financial guarantee policies issued for the sole benefit of the ceding company **[**without recourse to the SPLRC**]** by an insurer having a rating of no less than AAA by Standard and Poor's or less than AAA by Moody's Investor Service; and

(4) Surety bonds issued for the sole benefit of the ceding company **[**without recourse to the SPLRC**]** by an insurer having a rating of no less than AAA by Standard and Poor's or no less than AAA by Moody's Investors Service.

2. **(1)** The assets of a SPLRC shall be valued in the same manner as the assets of a Missouri domestic life insurer**[**. Notwithstanding the preceding, the director may by order authorize a SPLRC to value one or more of its assets through an alternative method**] ; however, letters of credit, financial guarantee policies, and surety bonds issued without recourse to the SPLRC, or with recourse to the SPLRC with a priority no higher than afforded to class 7 claims under section 375.1218, RSMo, shall be valued as follows**. Letters of credit shall be valued at the amount available for drawings by the SPLRC or its ceding company as of the time of valuation. A financial guarantee policy shall be valued at the amount available to pay aggregate claims as of the time of valuation. A surety bond shall be valued at the amount available to pay aggregate claims as of the time of valuation.

(2) Notwithstanding the preceding, the director may by order authorize a SPLRC to value one or more of its assets through an alternative method.

379.1412. PREMIUM TAX REQUIRED, AMOUNT, PROCEDURE. — 1. Each SPLRC shall pay to the director of revenue on or before May first of each year a premium tax at the rate of two hundred fourteen thousandths of one percent on the first twenty million dollars of assumed reinsurance premium, and one hundred forty-three thousandths of one percent on the next twenty million dollars and forty-eight thousandths of one percent on the next twenty million dollars and twenty-four thousandths of one percent of each dollar thereafter. No reinsurance premium tax shall be payable in connection with the receipt of assets in exchange for the assumption of loss reserves and other liabilities of another insurer under common ownership and control if such transaction is part of a plan to discontinue the operations of such other insurer, and if the intent of the parties to such transaction is to renew or maintain such business with the captive insurance company.

2. The premium tax imposed by subsection 1 of this section shall constitute all taxes collectible under the laws of this state from any SPLRC, and no other occupation tax or other taxes shall be levied or collected from any captive insurance company by the state or any county, city, or municipality within this state, except ad valorem taxes on real and personal property used in the production of income.

3. The annual minimum aggregate tax to be paid by a SPLRC calculated under subsection 1 of this section shall be seven thousand five hundred dollars, and the annual maximum aggregate tax shall be two hundred thousand dollars.

4. A SPLRC may deduct from premium taxes payable to this state, in addition to all other credits allowed by law, application fees payable under section 379.1359 and license fees and renewal fees payable under section 379.1364. A deduction for fees which exceeds a SPLRC's premium tax liability for the same tax year shall not be refundable, but may be carried forward to any subsequent tax year, not to exceed five years, until the full deduction is claimed.

5. Every SPLRC shall, on or before February first each year, make a return on a form provided by the director, verified by the affidavit of the company's president and secretary or other authorized officers, to the director stating the amount of all direct premiums received and assumed reinsurance premiums received, whether in cash or in notes, during the year ending on December thirty-first next preceding. Upon receipt of such returns, the director shall verify the same and certify the amount of tax due from the various companies on the basis and at the rate provided in this section, and shall certify the same to the director of revenue, on or before March thirty-first of each year. The director of revenue shall immediately thereafter notify and assess each company the amount of tax due.

6. A SPLRC failing to make returns as required by subsection 5 of this section, or failing to pay within the time required all taxes assessed by this section, shall be subject to the provisions of sections 148.375 and 148.410, RSMo.

7. Upon receiving the taxes collected under this section from the director of revenue, the state treasurer shall receipt ninety percent thereof into the general revenue fund of the state and the state treasurer shall place the remainder of such taxes collected to the credit of the insurance dedicated fund established under section 374.150, RSMo, subject to a maximum of three percent of the current fiscal year's appropriation from such fund, and he or she shall place the remainder of such taxes collected to the general revenue fund of the state.

382.400. DEFINITIONS. — As used in sections 382.400 to **[**382.410**] 382.409**, the following terms mean:

(1) "Accredited state", a state in which the insurance department or regulatory agency has qualified as meeting the minimum financial regulatory standards promulgated and established from time to time by the National Association of Insurance Commissioners;

(2) **[**"Broker", an insurance broker or brokers as defined in section 375.012, RSMo;

(3)**]** "Control" or "controlled" has the meaning prescribed by section 382.010;

[(4)**] (3)** "Controlled insurer", a licensed insurer which is controlled, directly or indirectly, by a **[**broker**] producer**;

[(5)**] (4)** "Controlling **[**broker**] producer**", a **[**broker**] producer** who, directly or indirectly, controls an insurer;

[(6)**] (5)** "Licensed insurer" or "insurer", any person, firm, association or corporation duly licensed to transact a property or casualty insurance business in this state. The following are not licensed insurers for the purposes of sections 382.400 to 382.410:

(a) All risk retention groups as defined in the federal Superfund Amendments Reauthorization Act of 1986, as amended, and the federal Risk Retention Act, 15 U.S.C. section 3901, et seq., as amended, and sections 375.1080 to 375.1105, RSMo;

(b) All residual market pools and joint underwriting authorities or associations; and

(c) All captive insurers. For the purposes of sections 382.400 to 382.410, "captive insurers" are insurance companies owned by another organization whose exclusive purpose is to insure risks of the parent organization and affiliated companies or, in the case of groups and associations, insurance organizations owned by the insureds whose exclusive purpose is to insure risks to member organizations and group members and their affiliates**;**

(6) "Producer", an insurance broker or brokers or any other person, firm, association, or corporation, when, for any compensation, commission, or other thing of value, the person, firm, association, or corporation acts or aids in any manner in soliciting, negotiating, or procuring the making of an insurance contract on behalf of an insured other than the person, firm, association, or corporation.

382.402. APPLICABILITY OF LAW. — Sections 382.400 to **[**382.410**] 382.409** shall apply to licensed insurers either domiciled in this state or domiciled in a state that is not an accredited state having in effect laws substantially similar to the provisions of sections 382.400 to **[**382.410**] 382.409**. All provisions of this chapter, to the extent they are not superseded by sections 382.400 to **[**382.410**] 382.409**, shall continue to apply to all parties within holding company systems subject to sections 382.400 to **[**382.410**] 382.409**.

382.405. DEGREE OF CONTROL REQUIRED, PROVISIONS APPLICABLE, EXEMPTIONS — CONTRACT BETWEEN PRODUCER AND INSURER, REQUIREMENTS — INSURER TO HAVE AUDIT COMMITTEE, MEMBERS, PURPOSE — LOSS RATIOS, REPORT TO DIRECTOR, CONTENTS. — 1. (1) The provisions of this section shall apply if in any calendar year the aggregate amount of gross written premium on business placed with a controlled insurer by controlling **[**broker**]**

producer is equal to or greater than five percent of the admitted assets of the controlled insurer, as reported in the controlled insurer's quarterly statement filed as of September thirtieth of the prior year.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, the provisions of this section shall not apply if:

(a) The controlling **[**broker**]** **producer**:

a. Places insurance only with the controlled insurer, or only with the controlled insurer and a number of members of the controlled insurer's holding company system, or the controlled insurer's parent, affiliate or subsidiary and receives no compensation based upon the amount of premiums written in connection with such insurance; and

b. Accepts insurance placements only from nonaffiliated subproducers, and not directly from insureds; and

(b) The controlled insurer, except for insurance business written through a residual market facility such as the joint underwriting association prescribed by section 303.200, RSMo, accepts insurance business only from a controlling **[**broker**]** **producer**, a **[**broker**]** **producer** controlled by the controlled insurer, or a **[**broker**]** **producer** that is a subsidiary of the controlled insurer.

2. A controlled insurer shall not accept business from a controlling **[**broker**]** **producer** and a controlling **[**broker**]** **producer** shall not place business with a controlled insurer unless there is a written contract between the controlling **[**broker**]** **producer** and the insurer specifying the responsibilities of each party, which contract has been approved by the board of directors of the insurer and contains the following minimum provisions:

(1) The controlled insurer may terminate the contract for cause, upon written notice to the controlling **[**broker**]** **producer**. The controlled insurer shall suspend the authority of the controlling **[**broker**]** **producer** to write business during the pendency of any dispute regarding the cause for the termination;

(2) The controlling **[**broker**]** **producer** shall render accounts to the controlled insurer detailing all material transactions, including information necessary to support all commissions, charges and other fees received by, or owing to, the controlling **[**broker**]** **producer**;

(3) The controlling **[**broker**]** **producer** shall remit all funds due under the terms of the contract to the controlled insurer on at least a monthly basis. The due date shall be fixed so that premiums or installments thereof collected shall be remitted no later than ninety days after the effective date of any policy placed with the controlled insurer under the contract;

(4) All funds collected for the controlled insurer's account shall be held by the controlling **[**broker**]** **producer** in a fiduciary capacity, in one or more appropriately identified bank accounts in banks that are members of the Federal Reserve System, in accordance with the provisions of applicable insurance law; however, funds of a controlling **[**broker**]** **producer** not required to be licensed in this state shall be maintained in compliance with the requirements of the controlling **[**broker's**]** **producer's** domiciliary jurisdiction;

(5) The controlling **[**broker**]** **producer** shall maintain separately identifiable records of business written for the controlled insurer;

(6) The contract shall not be assigned in whole or in part by the controlling **[**broker**]** **producer**;

(7) The controlled insurer shall provide the controlling **[**broker**]** **producer** with its underwriting standards, rules and procedures, manuals setting forth the rates to be charged, and the conditions for the acceptance or rejection of risks. The controlling **[**broker**]** **producer** shall adhere to the standards, rules, procedures, rates and conditions. The standards, rules, procedures, rates and conditions shall be the same as those applicable to comparable business placed with the controlled insurer by a **[**broker**]** **producer** other than the controlling **[**broker**]** **producer**;

(8) The rates and terms of the controlling **[**broker's**]** **producer's** commissions, charges or other fees and the purposes for those charges or fees. The rates of the commissions, charges and other fees shall be no greater than those applicable to comparable business placed with the controlled insurer by **[**brokers**]** **producers** other than controlling **[**brokers**]** **producers**. For

purposes of this subdivision and subdivision (7) of this subsection, examples of comparable business includes the same lines of insurance, same kinds of insurance, same kinds of risks, similar policy limits, and similar quality of business;

(9) If the contract provides that the controlling **[**broker**]** **producer**, on insurance business placed with the insurer, is to be compensated contingent upon the insurer's profits on that business, then such compensation shall not be determined and paid until at least five years after the premiums on liability insurance are earned and at least one year after the premiums are earned on any other insurance. In no event shall the commissions be paid until the adequacy of the controlled insurer's reserves on remaining claims has been independently verified pursuant to subsection 1 of this section;

(10) A limit on the controlling **[**broker's**]** **producer's** writings in relation to the controlled insurer's surplus and total writings. The insurer may establish a different limit for each line or subline of business. The controlled insurer shall notify the controlling **[**broker**]** **producer** when the applicable limit is approached and shall not accept business from the controlling **[**broker**]** **producer** if the limit is reached. The controlling **[**broker**]** **producer** shall not place business with the controlled insurer if it has been notified by the controlled insurer that the limit has been reached; and

(11) The controlling **[**broker**]** **producer** may negotiate but shall not bind reinsurance on behalf of the controlled insurer, except that the controlling **[**broker**]** **producer** may bind facultative reinsurance contracts pursuant to obligatory facultative agreements if the contract with the controlled insurer contains underwriting guidelines including, but both reinsurance assumed and ceded, a list of reinsurers with which such automatic agreements are in effect, the coverages and amounts or percentages that may be reinsured and commission schedules.

3. Every controlled insurer shall have an audit committee of the board of directors composed of independent directors. The audit committee shall annually meet with management, the insurer's independent certified public accountants, and an independent casualty actuary or other independent loss reserve specialist acceptable to the director to review the adequacy of the insurer's loss reserves.

4. (1) In addition to any other required loss reserve certification, the controlled insurer shall annually, on April first of each year, file with the director an opinion of an independent casualty actuary, or such other independent loss reserve specialist acceptable to the director, reporting loss ratios for each line of business written and attesting to the adequacy of loss reserves established for losses incurred and outstanding as of year-end, including incurred but not reported, on business placed by the **[**broker**]** **producer**; and

(2) The controlled insurer shall annually report to the director the amount of commissions paid to the **[**broker**]** **producer**, the percentage such amount represents of the net premiums written and comparable amounts and percentage paid to noncontrolling **[**brokers**]** **producers** for placements of the same kinds of insurance.

382.407. NOTICE TO INSURED, PRODUCER TO PROVIDE, CONTENTS. — The **[**broker**]** **producer**, prior to the effective date of the policy, shall deliver written notice to the prospective insured disclosing the relationship between the **[**broker**]** **producer** and the controlled insurer, except that if the business is placed through a subproducer who is not a controlling **[**broker**]** **producer**, the controlling **[**broker**]** **producer** shall retain in his records a signed commitment from the subproducer that the subproducer is aware of the relationship between the insurer and the **[**broker**]** **producer** and that the subproducer has or will notify the insured.

382.409. NONCOMPLIANCE WITH LAW, POWERS OF DIRECTOR — RECEIVER IN LIQUIDATION, POWERS. — 1. (1) If the director believes that the controlling **[**broker**]** **producer** or any other person has not materially complied with sections 382.400 to 382.410, or any regulation or order promulgated hereunder, after notice and opportunity to be heard, the director

may order the controlling **[**broker**]** **producer** to cease placing business with the controlled insurer; and

(2) If it was found that because of such material noncompliance that the controlled insurer or any policyholder thereof has suffered any loss or damage, the director may maintain a civil action or intervene in an action brought by or on behalf of the insurer or policyholder for recovery of compensatory damages for the benefit of the insurer or policyholder or other appropriate relief.

2. If an order of liquidation or rehabilitation of the controlled insurer has been entered pursuant to sections 375.1150 to 375.1246, RSMo, and the receiver appointed under that order believes that the controlling **[**broker**]** **producer** or any other person has not materially complied with sections 382.400 to 382.410, or any regulation or order promulgated hereunder, and the insurer suffered any loss or damage therefrom, the receiver may maintain a civil action for recovery of damages or other appropriate sanctions for the benefit of the insurer.

3. Nothing contained in this section shall affect the right of the director to impose any other penalties provided for by law.

4. Nothing contained in this section is intended to or shall in any manner alter or affect the rights of policyholders, claimants, creditors or other third parties.

384.025. INELIGIBILITY OF NONADMITTED INSURER, GROUNDS, WHEN — NOTICE TO LICENSEES. — 1. If at any time the director has reason to believe that an eligible surplus lines insurer:

(1) Is in unsound financial condition;

(2) Is no longer eligible under section 384.021;

(3) Has willfully violated the laws of this state; or

(4) Does not make reasonably prompt payment of just losses and claims in this state or elsewhere;

the director may declare it ineligible.

2. The director shall promptly **[**mail**]** **publish** notice of all such declarations **[**to each surplus lines licensee**]** **in any public electronic format**.

384.043. LICENSING REQUIREMENTS FOR INSURANCE PRODUCERS, FEE — EXAMINATION, EXCEPTION — RENEWAL, WHEN, VIOLATION, EFFECT. — 1. No insurance producer shall procure any contract of surplus lines insurance with any nonadmitted insurer, unless he possesses a current surplus lines insurance license issued by the director.

2. The director shall issue a surplus lines license to any qualified holder of a current resident or nonresident property and casualty insurance producer license but only when the licensee has:

(1) Remitted the one hundred dollar initial fee to the director;

(2) Submitted a completed license application on a form supplied by the director; and

(3) Passed a qualifying examination approved by the director, except that all holders of a license prior to July 1, 1987, shall be deemed to have passed such an examination.

3. Each surplus lines license shall be renewed **[**annually**]** **for a term of two years** on the **biennial** anniversary date of issuance and continue in effect until refused, revoked or suspended by the director in accordance with section 384.065; except that if the **[**annual**]** **biennial** renewal fee for the license is not paid on or before the anniversary date, the license terminates. The **[**annual**]** **biennial** renewal fee is **[**fifty**]** **one hundred** dollars.

384.051. INSURED TO FILE REPORT ON SURPLUS LINES INSURANCE NOT OBTAINED THROUGH A BROKER — CONTENTS, WHEN DUE — TAX IMPOSED, PROCEDURE TO COLLECT TAX. — 1. Every insured in this state who procures or causes to be procured or continues or renews insurance in any surplus lines insurer, or any self-insurer in this state who so procures or continues with, any surplus lines insurer, excess of loss, catastrophe or other insurance, upon a subject of insurance resident, located or to be performed within this state, other than insurance

procured through a surplus lines broker pursuant to sections 384.011 to 384.071, shall before March second of the year next succeeding the year in which the insurance was so procured, continued or renewed, file a written report of the same with the director on forms prescribed by the director and furnished to such an insured upon request. The report shall show:

(1) The name and address of the insured or insureds;

(2) The name and address of the insurer or insurers;

(3) The subject of the insurance;

(4) A general description of the coverage;

(5) The amount of premium currently charged therefor;

(6) Such additional pertinent information as may be reasonably requested by the director.

2. If any such insurance covers also a subject of insurance resident, located or to be performed outside this state, for the purposes of this section, a proper pro rata portion of the entire premium payable for all such insurance shall be allocated as to the subjects of insurance resident, located or to be performed in this state.

3. Any insurance in a surplus lines insurer procured through negotiations or an application in whole or in part occurring or made within or from within this state, or for which premiums in whole or in part are remitted directly or indirectly from within this state, shall be deemed to be insurance procured or continued or renewed in this state within the intent of subsection 1 of this section.

4. For the general support of the government of this state there is levied upon the insured **or self-insurer** who procures insurance pursuant to subsections 1 and 3 of this section a tax at the rate of five percent of the net amount of the premium in respect of risks located in this state. Before April sixteenth of the year next succeeding the year in which the insurance was so procured, continued or renewed, the insured shall remit to the **[**director**] department of revenue** the amount of the tax. The **[**director before June first of each year shall certify and transmit to the director of revenue the sums so collected**] department of revenue shall notify the director of the sums collected from each insured or self-insurer**.

384.057. LICENSEE TO FILE ANNUAL STATEMENT, CONTENTS — REPORT TO DIRECTOR, CONTENTS. — 1. Before March second of each year, each surplus lines broker shall report under oath to the director on forms prescribed by him **or her** a statement showing**, with respect to the year ending the immediately preceding December thirty-first**:

(1) The gross amounts charged for surplus lines insurance with respect to risks located within this state, exclusive of sums collected for the payment of federal, state or local taxes;

(2) The amount of net premiums with respect to the insurance. For the purpose of this section, "net premiums" means the gross amount of charges for surplus lines insurance with respect to risks located within this state, exclusive of sums collected for the payment of federal, state and local taxes, less returned premiums.

2. No later than within forty-five days after the end of each calendar quarter ending March thirty-first, June thirtieth, September thirtieth, and December thirty-first each surplus lines broker shall report under oath to the director on forms prescribed by him or her a statement showing, with respect to each respective calendar quarter:

(1) The gross amounts charged for surplus lines insurance with respect to risks located within this state, exclusive of sums collected for the payment of federal, state, or local taxes;

(2) The amount of net premiums with respect to the insurance. For the purpose of this section, "net premiums" means the gross amount of charges for surplus lines insurance with respect to risks located within this state, exclusive of sums collected for the payment of federal, state, and local taxes, less returned premiums.

384.062. PREMIUM TAXES COLLECTED BY LICENSEE BUT UNPAID TO DEPARTMENT, ACTIONS AUTHORIZED — TAXES PAYABLE TO DEPARTMENT. — 1. If **[**the tax collectible**] any**

tax, penalty, or interest payable by a surplus lines licensee under the provisions of sections 384.011 to 384.071 **[**has been collected and**]** is not paid within the time prescribed, the same shall be recoverable in a suit brought by the director against the surplus lines licensee.

2. All taxes, penalties, and interest or delinquent taxes levied pursuant to this chapter shall be paid to the **[**director**] department of revenue**, who shall **[**obtain such taxes, penalties and interest by civil action against the insured or the surplus lines licensee, and the director shall remit such taxes when collected to the director of revenue**] notify the director of the sums collected from each surplus lines licensee**. All checks and drafts remitted for the payment of such taxes, penalties and interest shall be made payable to the director of revenue.

3. Taxes collected pursuant to this chapter are taxes collected by the director of revenue within the meaning of section 139.031, RSMo.

[374.456. ANNUAL REPORT TO THE GENERAL ASSEMBLY BY THE DIRECTOR. — 1. The director of the department of insurance, financial institutions and professional registration shall personally report to the appropriate committees of the general assembly by March first of each year on the status of all actions initiated, maintained by the director, or which have been concluded, during the preceding year to enforce the provisions of this act. The director shall answer all questions regarding such actions, or regarding other matters that are related to the provisions of this act.

2. The report to the appropriate committees of the general assembly shall cover enforcement actions related to sections 354.500 to 354.636, RSMo, relating to health maintenance organizations, sections 374.500 to 374.515 relating to utilization review agents, and sections 376.1350 to 376.1399, RSMo, relating to all managed care health benefit plans.**]**

[384.031. REPORT TO BE FILED BY BROKERS AND LICENSEES, CONTENT. — Within thirty days after the placing of any surplus lines insurance, each surplus lines licensee shall file with the director a written report, on a form prescribed by the director, which shall be kept confidential, regarding the insurance with the director, including the following:

(1) The name and address of the insured;
(2) The identity of the insurer or insurers;
(3) A description of the subject and location of the risk;
(4) The amount of premium charged for the insurance; and
(5) Such other pertinent information as the director may reasonably require.**]**

Approved July 13, 2009

HB 580 [SCS HCS HB 580]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Establishes the Line of Duty Compensation Act which authorizes a claim to be filed with the Division of Workers' Compensation on behalf of public safety workers who are killed in the line of duty

AN ACT to repeal section 287.090, RSMo, and to enact in lieu thereof two new sections relating to compensation for emergency personnel killed in the line of duty, with an emergency clause.

SECTION
A. Enacting clause.

287.090. Exempt employers and occupations — election to accept — withdrawal — notification required of insurance companies.
287.243. Line of duty compensation — definitions — claim procedure — no subrogation rights for employers or insurers — grievance procedures — sunset date — fund created, use of moneys — rulemaking authority.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Section 287.090, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 287.090 and 287.243, to read as follows:

287.090. EXEMPT EMPLOYERS AND OCCUPATIONS — ELECTION TO ACCEPT — WITHDRAWAL — NOTIFICATION REQUIRED OF INSURANCE COMPANIES. — 1. This chapter shall not apply to:

(1) Employment of farm labor, domestic servants in a private home, including family chauffeurs, or occasional labor performed for and related to a private household;

(2) Qualified real estate agents and direct sellers as those terms are defined in Section 3508 of Title 26 United States Code;

(3) Employment where the person employed is an inmate confined in a state prison, penitentiary or county or municipal jail, or a patient or resident in a state mental health facility, and the labor or services of such inmate, patient, or resident are exclusively on behalf of the state, county or municipality having custody of said inmate, patient, or resident. Nothing in this subdivision is intended to exempt employment where the inmate, patient or resident was hired by a state, county or municipal government agency after direct competition with persons who are not inmates, patients or residents and the compensation for the position of employment is not contingent upon or affected by the worker's status as an inmate, patient or resident;

(4) **Except as provided in section 287.243,** volunteers of a tax-exempt organization which operates under the standards of Section 501(c)(3) of the federal Internal Revenue Code, where such volunteers are not paid wages, but provide services purely on a charitable and voluntary basis;

(5) Persons providing services as adjudicators, sports officials, or contest workers for interscholastic activities programs or similar amateur youth programs who are not otherwise employed by the sponsoring school, association of schools or nonprofit tax-exempt organization sponsoring the amateur youth programs.

2. Any employer exempted from this chapter as to the employer or as to any class of employees of the employer pursuant to the provisions of subdivision (3) of subsection 1 of section 287.030 or pursuant to subsection 1 of this section may elect coverage as to the employer or as to the class of employees of that employer pursuant to this chapter by purchasing and accepting a valid workers' compensation insurance policy or endorsement, or by written notice to the group self-insurer of which the employer is a member. The election shall take effect on the effective date of the workers' compensation insurance policy or endorsement, or by written notice to the group self-insurer of which the employer is a member, and continue while such policy or endorsement remains in effect or until further written notice to the group self-insurer of which the employer is a member. Any such exempt employer or employer with an exempt class of employees may withdraw such election by the cancellation or nonrenewal of the workers' compensation insurance policy or endorsement, or by written notice to the group self-insurer of which the employer is a member. In the event the employer is electing out of coverage as to the employer, the cancellation shall take effect on the later date of the cancellation of the policy or the filing of notice pursuant to subsection 3 of this section.

3. Any insurance company authorized to write insurance under the provisions of this chapter in this state shall file with the division a memorandum on a form prescribed by the division of any workers' compensation policy issued to any employer and of any renewal or cancellation thereof.

4. The mandatory coverage sections of this chapter shall not apply to the employment of any member of a family owning a family farm corporation as defined in section 350.010, RSMo, or to the employment of any salaried officer of a family farm corporation organized pursuant to the laws of this state, but such family members and officers of such family farm corporations may be covered under a policy of workers' compensation insurance if approved by a resolution of the board of directors. Nothing in this subsection shall be construed to apply to any other type of corporation other than a family farm corporation.

5. A corporation may withdraw from the provisions of this chapter, when there are no more than two owners of the corporation who are also the only employees of the corporation, by filing with the division notice of election to be withdrawn. The election shall take effect and continue from the date of filing with the division by the corporation of the notice of withdrawal from liability under this chapter. Any corporation making such an election may withdraw its election by filing with the division a notice to withdraw the election, which shall take effect thirty days after the date of the filing, or at such later date as may be specified in the notice of withdrawal.

287.243. LINE OF DUTY COMPENSATION — DEFINITIONS — CLAIM PROCEDURE — NO SUBROGATION RIGHTS FOR EMPLOYERS OR INSURERS — GRIEVANCE PROCEDURES — SUNSET DATE — FUND CREATED, USE OF MONEYS — RULEMAKING AUTHORITY. — 1. This section shall be known and may be cited as the "Line of Duty Compensation Act".

2. As used in this section, unless otherwise provided, the following words shall mean:

(1) "Air ambulance pilot", a person certified as an air ambulance pilot in accordance with sections 190.001 to 190.245, RSMo, and corresponding regulations applicable to air ambulances adopted by the department of health and senior services, division of regulation and licensure, 19 CSR 30-40.005 et seq.;

(2) "Air ambulance registered professional nurse", a person licensed as a registered professional nurse in accordance with sections 335.011 to 335.096, RSMo, and corresponding regulations adopted by the state board of nursing, 20 CSR 2200-4, et seq., who provides registered professional nursing services as a flight nurse in conjunction with an air ambulance program that is certified in accordance with sections 190.001 to 190.245, RSMo, and the corresponding regulations applicable to such programs;

(3) "Emergency medical technician", a person licensed in emergency medical care in accordance with standards prescribed by sections 190.001 to 190.245, RSMo, and by rules adopted by the department of health and senior services under sections 190.001 to 190.245, RSMo;

(4) "Firefighter", any person, including a volunteer firefighter, employed by the state or a local governmental entity as an employer defined under subsection 1 of section 287.030, or otherwise serving as, a member or officer of a fire department either for the purpose of the prevention or control of fire or the underwater recovery of drowning victims;

(5) "Killed in the line of duty", when a person defined in this section loses one's life as a result of an injury received in the active performance of his or her duties within the ordinary scope of his or her respective profession while the individual is on duty and but for the individual's performance, death would have not occurred. The term excludes death resulting from the willful misconduct or intoxication of the law enforcement officer, emergency medical technician, air ambulance pilot, air ambulance registered professional nurse, or firefighter. The division of workers' compensation shall have the burden of proving such willful misconduct or intoxication;

(6) "Law enforcement officer", any person employed by the state or a local governmental entity as a police officer, peace officer certified under chapter 590, RSMo, or serving as an auxiliary police officer or in some like position involving the enforcement of the law and protection of the public interest at the risk of that person's life;

(7) "Local governmental entity", includes counties, municipalities, townships, board or other political subdivision, cities under special charter, or under the commission form of government, fire protection districts, ambulance districts, and municipal corporations;

(8) "State", the state of Missouri and its departments, divisions, boards, bureaus, commissions, authorities, and colleges and universities;

(9) "Volunteer firefighter", a person having principal employment other than as a firefighter, but who is carried on the rolls of a regularly constituted fire department either for the purpose of the prevention or control of fire or the underwater recovery of drowning victims, the members of which are under the jurisdiction of the corporate authorities of a city, village, incorporated town, or fire protection district. Volunteer firefighter shall not mean an individual who volunteers assistance without being regularly enrolled as a firefighter.

3. (1) A claim for compensation under this section shall be filed by the estate of the deceased with the division of workers' compensation not later than one year from the date of death of a law enforcement officer, emergency medical technician, air ambulance pilot, air ambulance registered professional nurse, or firefighter. If a claim is made within one year of the date of death of a law enforcement officer, emergency medical technician, air ambulance pilot, air ambulance registered professional nurse, or firefighter killed in the line of duty, compensation shall be paid, if the division finds that the claimant is entitled to compensation under this section.

(2) The amount of compensation paid to the claimant shall be twenty-five thousand dollars, subject to appropriation, for death occurring on or after the effective date of this section.

4. Notwithstanding subsection 3 of this section, no compensation is payable under this section unless a claim is filed within the time specified under this section setting forth:

(1) The name, address, and title or designation of the position in which the law enforcement officer, emergency medical technician, air ambulance pilot, air ambulance registered professional nurse, or firefighter was serving at the time of his or her death;

(2) The names and addresses of the claimant;

(3) A full, factual account of the circumstances resulting in or the course of events causing the death at issue; and

(4) Such other information that is reasonably required by the division.

When a claim is filed, the division of workers' compensation shall make an investigation for substantiation of matters set forth in the application.

5. The compensation provided for under this section is in addition to, and not exclusive of, any pension rights, death benefits, or other compensation the claimant may otherwise be entitled to by law.

6. Neither employers nor workers' compensation insurers shall have subrogation rights against any compensation awarded for claims under this section. Such compensation shall not be assignable, shall be exempt from attachment, garnishment, and execution, and shall not be subject to setoff or counterclaim, or be in any way liable for any debt, except that the division or commission may allow as lien on the compensation, reasonable attorney's fees for services in connection with the proceedings for compensation if the services are found to be necessary. Such fees are subject to regulation as set forth in section 287.260.

7. Any person seeking compensation under this section who is aggrieved by the decision of the division of workers' compensation regarding his or her compensation claim, may make application for a hearing as provided in section 287.450. The procedures applicable to the processing of such hearings and determinations shall be those established by this chapter. Decisions of the administrative law judge under this section shall be binding, subject to review by either party under the provisions of section 287.480.

8. Pursuant to section 23.253, RSMo, of the Missouri Sunset Act:

(1) The provisions of the new program authorized under this section shall automatically sunset six years after the effective date of this section unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

9. The provisions of this section, unless specified, shall not be subject to other provisions of this chapter.

10. There is hereby created in the state treasury the "Line of Duty Compensation Fund", which shall consist of moneys appropriated to the fund and any voluntary contributions, gifts, or bequests to the fund. The state treasurer shall be custodian of the fund and shall approve disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo. Upon appropriation, money in the fund shall be used solely for paying claims under this section. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

11. The division shall promulgate rules to administer this section, including but not limited to the appointment of claims to multiple claimants, record retention, and procedures for information requests. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly under chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after the effective date of this section, shall be invalid and void.

SECTION B. EMERGENCY CLAUSE. — Because monetary support for the families of emergency personnel ensures that such personnel know that their loved ones will be provided for upon his or her death, it is deemed necessary for the immediate preservation of the public, health, welfare, peace, and safety of this state and is hereby declared to be an emergency act within the meaning of the constitution and shall be in full force and effect upon its passage and approval.

Approved June 19, 2009

HB 593 [HB 593]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Removes certain limitations on investments made by boards of trustees of police and firemen's pension systems

AN ACT to repeal sections 86.107 and 86.590, RSMo, and to enact in lieu thereof two new sections relating to investments by the board of trustees of police and firemen's pension systems.

SECTION
A. Enacting clause.
86.107. Trustees to manage funds.
86.590. Board of trustees authorized to invest funds, how.

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

SECTION A. ENACTING CLAUSE. — Sections 86.107 and 86.590, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 86.107 and 86.590, to read as follows:

86.107. TRUSTEES TO MANAGE FUNDS. — The board of trustees shall be the trustees of the several funds created by sections 86.010 to 86.193 as provided in section 86.123 and shall have full power to invest and reinvest such funds **[**subject to all the terms, conditions, limitations and restrictions imposed by law upon life insurance companies in the state of Missouri in making and disposing of their investments, and subject to like terms, conditions, limitations and restrictions said trustees**] and** shall have full power to hold, purchase, sell, assign, transfer or dispose of any of the securities and investments in which any of the funds created herein shall have been invested, as well as of the proceeds of said investments and any moneys belonging to said funds. **The board shall invest the funds of the system as permitted by sections 105.687 to 105.690, RSMo.**

86.590. BOARD OF TRUSTEES AUTHORIZED TO INVEST FUNDS, HOW. — The board of trustees of police and firemen's pension systems, established under the provisions of section 86.583, may invest and reinvest the moneys of the system, and may hold, purchase, sell, assign, transfer or dispose of any of the securities and investments in which such moneys shall have been invested, as well as the proceeds of such investments and such moneys**[**; except that such investment and reinvestments shall be subject to all the terms, conditions, limitations, and restrictions imposed by law upon life insurance or casualty companies in the state of Missouri in making and disposing of their investments, except that the percentage limitations of subsection 2 of section 376.305, RSMo, shall not apply**]**. The board of trustees of police and firemen's pension systems, established under the provisions of section 86.583, shall **[**comply with the prudent investor standard for investment fiduciaries as provided in section 105.688, RSMo, when investing the assets of the system**] invest the funds of the system as permitted by sections 105.687 to 105.690, RSMo**.

Approved June 26, 2009

HB 652 [HB 652]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Defines "certified mail" and "certified mail with return receipt requested" as they relate to Missouri's laws to include any parcel or letter carried by a delivery service that offers electronic tracking

AN ACT to repeal section 1.020, RSMo, and to enact in lieu thereof one new section relating to the definition of certified mail.

SECTION
A. Enacting clause.
1.020. Definitions.

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

SECTION A. ENACTING CLAUSE. — Section 1.020, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 1.020, to read as follows:

1.020. DEFINITIONS. — As used in the statutory laws of this state, unless otherwise specially provided or unless plainly repugnant to the intent of the legislature or to the context thereof:

(1) **"Certified mail" or "certified mail with return receipt requested", includes certified mail carried by the United States Postal Service, or any parcel or letter carried by an overnight, express, or ground delivery service that allows a sender or recipient to electronically track its location and provides record of the signature of the recipient;**

(2) "County or circuit attorney" means prosecuting attorney;

[(2)**] (3)** "Executor" includes administrator where the subject matter applies to an administrator;

[(3)**] (4)** "General election" means the election required to be held on the Tuesday succeeding the first Monday of November, biennially;

[(4)**] (5)** "Guardian", if used in a section in a context relating to property rights or obligations, means "conservator of the estate" as defined in chapter 475, RSMo. "Guardianship", if used in a section in a context relating to rights and obligations other than property rights or obligations, means "guardian of the person" as defined in chapter 475, RSMo;

[(5)**] (6)** "Handicap" means a mental or physical impairment that substantially limits one or more major life activities, whether the impairment is congenital or acquired by accident, injury, or disease, and where the impairment is verified by medical findings;

[(6)**] (7)** "Heretofore" means any time previous to the day when the statute containing it takes effect; and "hereafter" means the time after the statute containing it takes effect;

[(7)**] (8)** "In vacation" includes any adjournment of court for more than one day whenever any act is authorized to be done by or any power given to a court, or judge thereof in vacation, or whenever any act is authorized to be done by or any power given to a clerk of any court in vacation;

[(8)**] (9)** "Incompetent", if used in a section in a context relating to actual occupational ability without reference to a court adjudication of incompetency, means the actual ability of a person to perform in that occupation. "Incompetent", if used in a section in a context relating to the property rights and obligations of a person, means a "disabled person" as defined in chapter 475, RSMo. "Incompetent", if used in a section in a context relating to the rights and obligations of a person other than property rights and obligations, means an "incapacitated person" as defined in chapter 475, RSMo;

[(9)**] (10)** "Justice of the county court" means commissioner of the county commission;

[(10)**] (11)** "Month" and "year". "Month" means a calendar month, and "year" means a calendar year unless otherwise expressed, and is equivalent to the words "year of our Lord";

[(11)**] (12)** The word "person" may extend and be applied to bodies politic and corporate, and to partnerships and other unincorporated associations;

[(12)**] (13)** "Personal property" includes money, goods, chattels, things in action and evidences of debt;

[(13)**] (14)** "Place of residence" means the place where the family of any person permanently resides in this state, and the place where any person having no family generally lodges;

[(14)**] (15)** "Preceding" and "following", when used by way of reference to any section of the statutes, mean the section next preceding or next following that in which the reference is made, unless some other section is expressly designated in the reference;

[(15)**] (16)** "Property" includes real and personal property;

[(16)**]** **(17)** "Real property" or "premises" or "real estate" or "lands" is coextensive with lands, tenements and hereditaments;

[(17)**]** **(18)** "State", when applied to any of the United States, includes the District of Columbia and the territories, and the words "United States" includes such district and territories;

[(18)**]** **(19)** "Under legal disability" includes persons within the age of minority or of unsound mind or imprisoned;

[(19)**]** **(20)** "Ward", if used in a section in a context relating to the property rights and obligations of a person, means a "protectee" as defined in chapter 475, RSMo. "Ward", if used in a section in a context relating to the rights and obligations of a person other than property rights and obligations, means a "ward" as defined in chapter 475, RSMo;

[(20)**]** **(21)** "Will" includes the words "testament" and "codicil";

[(21)**]** **(22)** "Written" and "in writing" and "writing word for word" includes printing, lithographing, or other mode of representing words and letters, but in all cases where the signature of any person is required, the proper handwriting of the person, or his mark, is intended.

Approved July 7, 2009

HB 661 [SS HCS HB 661]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding programs administered by the Department of Natural Resources

AN ACT to repeal sections 260.273, 260.275, 260.276, 640.107, 640.150, 644.036, 644.054, and 644.101, RSMo, and to enact in lieu thereof ten new sections relating to programs administered by the department of natural resources, with an emergency clause for certain sections.

SECTION

A. Enacting clause.
204.659. No fee, charge, or tax to be assessed, when.
260.273. Fee, sale of new tires, amount — collection, use of moneys — termination — report to general assembly.
260.275. Scrap tire site, closure plan, contents — financial assurance instrument, purpose, how calculated.
260.276. Nuisance abatement activities, department may conduct — costs, civil action authorized, exception — resource recovery or nuisance abatement bids on contract, who may bid — content — nonprofits may be eligible for cleanup reimbursement, when.
640.107. Drinking water revolving fund — loans and grants — funds for training and technical assistance.
640.150. Duties as to energy activities — department may enter into contracts and agreements, when.
640.160. Energy futures fund created, use of moneys.
644.036. Public hearings — rules and regulations, how promulgated — listings under Clean Water Act, requirements, procedures, expiration date.
644.054. Fees, billing and collection — administration, generally — fees to become effective, when — fees to expire, when — variances granted, when — joint committee for restructuring fees to be appointed, report.
644.101. Certain drinking water and water pollution projects, state may provide assistance.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 260.273, 260.275, 260.276, 640.107, 640.150, 644.036, 644.054, and 644.101, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as sections 204.659, 260.273, 260.275, 260.276, 640.107, 640.150, 640.160, 644.036, 644.054, and 644.101, to read as follows:

204.659. NO FEE, CHARGE, OR TAX TO BE ASSESSED, WHEN. — No person who owns real property that is used for residential purposes within the boundaries of any district created under section 30 of article VI of the Missouri Constitution shall be assessed any fee, charge, or tax for storm water management services if the district does not directly provide sanitary sewer services to such property and if the storm water runoff from such person's property does not flow, or is not otherwise conveyed, to a sewer maintained by such district.

260.273. FEE, SALE OF NEW TIRES, AMOUNT — COLLECTION, USE OF MONEYS — TERMINATION — REPORT TO GENERAL ASSEMBLY. — 1. Any person purchasing a new tire may present to the seller the used tire or remains of such used tire for which the new tire purchased is to replace.

2. A fee for each new tire sold at retail shall be imposed on any person engaging in the business of making retail sales of new tires within this state. The fee shall be charged by the retailer to the person who purchases a tire for use and not for resale. Such fee shall be imposed at the rate of fifty cents for each new tire sold. Such fee shall be added to the total cost to the purchaser at retail after all applicable sales taxes on the tires have been computed. The fee imposed, less six percent of fees collected, which shall be retained by the tire retailer as collection costs, shall be paid to the department of revenue in the form and manner required by the department of revenue and shall include the total number of new tires sold during the preceding month. The department of revenue shall promulgate rules and regulations necessary to administer the fee collection and enforcement. The terms "sold at retail" and "retail sales" do not include the sale of new tires to a person solely for the purpose of resale, if the subsequent retail sale in this state is to the ultimate consumer and is subject to the fee.

3. The department of revenue shall administer, collect and enforce the fee authorized pursuant to this section pursuant to the same procedures used in the administration, collection and enforcement of the general state sales and use tax imposed pursuant to chapter 144, RSMo, except as provided in this section. The proceeds of the new tire fee, less four percent of the proceeds, which shall be retained by the department of revenue as collection costs, shall be transferred by the department of revenue into an appropriate subaccount of the solid waste management fund, created pursuant to section 260.330.

4. Up to five percent of the revenue available may be allocated, upon appropriation, to the department of natural resources to be used cooperatively with the department of elementary and secondary education for the purposes of developing **environmental** educational **materials,** programs**,** and curriculum **[**pursuant to section 260.342**] that assist in the department's implementation of sections 260.200 to 260.345**.

5. Up to **[**twenty-five**] fifty** percent of the moneys received pursuant to this section may, upon appropriation, be used to administer the programs imposed by this section. Up to **[**five**] forty-five** percent of the moneys received under this section may, upon appropriation, be used for the grants authorized in subdivision (2) of subsection 6 of this section **[**and authorized in section 260.274**]**. All remaining moneys shall be allocated, upon appropriation, for the projects authorized in section 260.276, except that any unencumbered moneys may be used for public health, environmental, and safety projects in response to environmental **or public health** emergencies **and threats** as determined by the director.

6. The department shall promulgate, by rule, a statewide plan for the use of moneys received pursuant to this section to accomplish the following:

(1) Removal of waste tires from illegal tire dumps;

(2) Providing grants to persons that will use products derived from waste tires, or used waste tires as a fuel or fuel supplement; and

(3) Resource recovery activities conducted by the department pursuant to section 260.276.

7. The fee imposed in subsection 2 of this section shall begin the first day of the month which falls at least thirty days but no more than sixty days immediately following August 28, 2005, and shall terminate January 1, **[**2010**]** **2015**.

[8. By January 1, 2009, the department shall report to the general assembly a complete accounting of the tire cleanups completed or in progress, the cost of the cleanups, the number of tires remaining, the balance of the fund, and enforcement actions completed or initiated to address waste tires.**]**

260.275. SCRAP TIRE SITE, CLOSURE PLAN, CONTENTS — FINANCIAL ASSURANCE INSTRUMENT, PURPOSE, HOW CALCULATED. — 1. Each operator of a scrap tire site shall ensure that the area is properly closed upon cessation of operations. The department of natural resources may require that a closure plan be submitted with the application for a permit. The closure plan, as approved by the department, shall include at least the following:

(1) A description of how and when the area will be closed;

(2) The method of final disposition of any scrap tires remaining on the site at the time notice of closure is given to the department.

2. The operator shall notify the department at least ninety days prior to the date he expects closure to begin. No scrap tires may be received by the scrap tire site after the date closure is to begin.

3. The permittee shall provide a financial assurance instrument in such an amount and form as prescribed by the department to ensure that, upon abandonment, cessation or interruption of the operation of the site, an approved closure plan is completed. The amount of the financial assurance instrument shall be based upon the current costs of similar cleanups using data from actual scrap tire cleanup project bids received by the department to remediate scrap tire sites of similar size. If scrap tires are accumulated at a solid **[**scrap management**]** **waste disposal** area, the existing **closure** financial assurance instrument filed for the solid **[**scrap**]** **waste** disposal area may be applied to the requirements of this section. Any interest that accrues to any financial assurance instrument established pursuant to this section shall remain with that instrument and shall be applied against the operator's obligation under this section until the instrument is released by the department. The director shall authorize the release of the financial assurance instrument after the department has been notified by the operator that the site has been closed, and after inspection, the department approves closure of the scrap tire site.

4. If the operator of a scrap tire site fails to properly implement the closure plan, the director shall order the operator to implement such plan, and take other steps necessary to assure the proper closure of the site pursuant to section 260.228 and this section.

5. A coal-fired electric generating facility that burns tire-derived fuel shall not be considered a scrap tire site or solid waste disposal area.

260.276. NUISANCE ABATEMENT ACTIVITIES, DEPARTMENT MAY CONDUCT — COSTS, CIVIL ACTION AUTHORIZED, EXCEPTION — RESOURCE RECOVERY OR NUISANCE ABATEMENT BIDS ON CONTRACT, WHO MAY BID — CONTENT — NONPROFITS MAY BE ELIGIBLE FOR CLEANUP REIMBURSEMENT, WHEN. — 1. The department of natural resources shall, subject to appropriation, conduct resource recovery or nuisance abatement activities designed to reduce the volume of scrap tires or alleviate any nuisance condition at any site if the owner or operator of such a site fails to comply with the rules and regulations authorized under section 260.270, or if the site is in continued violation of such rules and regulations. The department shall give first priority to cleanup of sites owned by persons who present satisfactory evidence that such persons were not responsible for the creation of the nuisance conditions or any violations of section 260.270 at the site.

2. The department may ask the attorney general to initiate a civil action to recover from any persons responsible the reasonable and necessary costs incurred by the department for its nuisance abatement activities and its legal expenses related to the abatement; except that in no

case shall the attorney general seek to recover cleanup costs from the owner of the property if such person presents satisfactory evidence that such person was not responsible for the creation of the nuisance condition or any violation of section 260.270 at the site.

3. The department shall allow any person, firm, corporation, state agency, charitable, fraternal, or other nonprofit organization to bid on a contract for each resource recovery or nuisance abatement activity authorized under this section. The contract shall specify the cost per tire for delivery to a registered scrap tire processing or end-user facility, and the cost per tire for processing. The recipient or recipients of any contract shall not be compensated by the department for the cost of delivery and the cost of processing for each tire until such tire is delivered to a registered scrap tire processing or end-user facility and the contract recipient has provided proof of delivery to the department. **[**Any charitable, fraternal, or other nonprofit organization which voluntarily cleans up land or water resources may turn in scrap tires collected in the course of such cleanup under the rules and regulations of the department.**]**

4. Subject to the availability of funds, any charitable, fraternal, or other nonprofit organization which voluntarily cleans up land or water resources may be eligible for reimbursement for the disposal costs of scrap tires collected in the course of such cleanup under the rules and regulations of the department. Also, subject to the availability of funds, any municipal or county government which voluntarily cleans up scrap tires from illegal dumps, not incidental to normal governmental activities or resulting from tire collection events, may also be eligible for reimbursement for the disposal costs of scrap tires collected in the course of such cleanup under the rules and regulations of the department.

640.107. DRINKING WATER REVOLVING FUND — LOANS AND GRANTS — FUNDS FOR TRAINING AND TECHNICAL ASSISTANCE. — 1. There is hereby established, as a subfund of the water and wastewater fund established in section 644.122, RSMo, the "Drinking Water Revolving Fund", which shall be maintained and accounted for separately, and which shall consist of moneys from all lawful public and private sources including legislative appropriations, federal capitalization grants, interest on investments and principal and interest payments with respect to loans made from the drinking water revolving fund. Money in the drinking water revolving fund may be used only for purposes as are authorized in the federal Safe Drinking Water Act, as amended **and the American Recovery and Reinvestment Act of 2009 as enacted by the 111th United States Congress**.

2. The commission shall, consistent with the requirements of the federal Safe Drinking Water Act **and the American Recovery and Reinvestment Act of 2009** for the drinking water revolving fund to become eligible for capitalization grants from the United States Environmental Protection Agency, establish criteria and procedures for the selection of projects and the making of loans or the grant of loan subsidies for disadvantaged communities.

3. After providing for review and public comment, and in accordance with the requirements for such plans set forth in the federal Safe Drinking Water Act, the commission shall annually prepare an intended use plan for the funds available in the drinking water revolving fund.

4. Consistent with the requirements of the federal Safe Drinking Water Act, and only to the extent funds are available to be obligated for eligible projects of public water systems, in developing its annual intended use plan, the commission shall make available no less than thirty-five percent, but may make available greater than thirty-five percent, of the moneys credited to the drinking water revolving fund solely for project loans and loan subsidies for projects of systems serving fewer than ten thousand people in accordance with the following:

Systems Serving:	Percentage:
0 - 3,300 people	20%
3,301 - 9,999 people	15%

provided that, in any fiscal year, loan subsidies may not exceed the maximum percentage as specified in the federal Safe Drinking Water Act. In any fiscal year in which there are

insufficient applicants and projects in the population categories listed in this subsection to allocate the percentages of funds specified pursuant to this subsection, any balance of funds otherwise reserved for systems serving fewer than ten thousand people shall be available for obligation to eligible projects from any eligible applicant. Such uncommitted balances shall be redistributed in accordance with the intended use plan.

5. The department shall make available two percent of the moneys from the federal capitalization grants received pursuant to this section for training and technical assistance to public water systems serving fewer than ten thousand people. Training and technical assistance provided pursuant to this subsection shall be consistent with rules of the commission.

6. The state may provide assistance, as funds are available, pursuant to this chapter, to any eligible public water system pursuant to the federal Safe Drinking Water Act, as amended, to assist in the construction of public drinking water facilities as authorized by the commission. Further, the state may provide additional assistance or subsidies to any eligible entity as described in this subsection in the form of principal forgiveness, negative interest loans, grants, or any combination thereof, to the extent allowed by the federal Safe Drinking Water Act or American Recovery and Reinvestment Act of 2009, as enacted by the 111th United States Congress, and within the process provided by the Missouri Constitution and revised statutes of the state of Missouri.

640.150. DUTIES AS TO ENERGY ACTIVITIES — DEPARTMENT MAY ENTER INTO CONTRACTS AND AGREEMENTS, WHEN. — 1. The department of natural resources shall be vested with the powers and duties prescribed by law and shall have the power to carry out the following activities:

(1) Assessing the impact of national energy policies on this state's supply and use of energy and this state's public health, safety and welfare;

(2) Consulting and cooperating with all state and federal governmental agencies, departments, boards and commissions and all other interested agencies and institutions, governmental and nongovernmental, public and private, on matters of energy research and development, management, conservation and distribution;

(3) The monitoring and analyzing of all federal, state, local and voluntarily disclosed private sector energy research projects and voluntarily disclosed private sector energy related data and information concerning supply and consumption, in order to plan for the future energy needs of this state. All information gathered shall be maintained, revised and updated as an aid to any interested person, foundation or other organization, public or private;

(4) Analyzing the potential for increased utilization of coal, nuclear, solar, resource recovery and reuse, **landfill gas, projects to reduce and capture methane and other greenhouse gas emissions from landfills,** energy efficient technologies and other energy alternatives, and making recommendations for the expanded use of alternate energy sources and technologies;

(5) **Entering into cooperative agreements with other states, political subdivisions, private entities, or educational institutions for the purpose of seeking and securing federal grants for the department and its partners in the grants;**

(6) The development and promotion of state energy conservation programs, including:

(a) Public education and information in energy related areas;

(b) Developing energy efficiency standards for agricultural and industrial energy use and for new and existing buildings, to be promoted through technical assistance efforts by cooperative arrangements with interested public, business and civic groups and by cooperating with political subdivisions of this state;

(c) Preparing plans for reducing energy use in the event of an energy or other resource supply emergency.

2. No funds shall be expended to implement the provisions of this section until funds are specifically appropriated for that purpose. **In order to carry out its responsibilities under this section, the department may expend any such appropriated funds by entering into**

agreements, contracts, grants, subgrants, or cooperative arrangements under various terms and conditions in the best interest of the state with other state, federal, or interstate agencies, political subdivisions, not-for-profit entities or organizations, educational institutions, or other entities, both public and private, to carry out its responsibilities.

640.160. ENERGY FUTURES FUND CREATED, USE OF MONEYS. — 1. There is hereby created in the state treasury the "Energy Futures Fund", which shall consist of money appropriated by the general assembly or received from gifts, bequests, donations, or from the federal government. The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

2. Upon appropriation, the department of natural resources may use moneys in the fund created under this section for the purposes of carrying out the provisions of sections 640.150 to 640.160 including, but not limited to, energy efficiency programs, energy studies, energy resource analyses, or energy projects. After appropriation, the department may also expend funds for the administration and management of energy responsibilities and activities associated with projects and studies funded from the energy futures fund.

644.036. PUBLIC HEARINGS — RULES AND REGULATIONS, HOW PROMULGATED — LISTINGS UNDER CLEAN WATER ACT, REQUIREMENTS, PROCEDURES, EXPIRATION DATE. — 1. No standard, rule or regulation or any amendment or repeal thereof shall be adopted except after a public hearing to be held after thirty days' prior notice by advertisement of the date, time and place of the hearing and opportunity given to the public to be heard. Notice of the hearings and copies of the proposed standard, rule or regulation or any amendment or repeal thereof shall also be given by regular mail, at least thirty days prior to the scheduled date of the hearing, to any person who has registered with the director for the purpose of receiving notice of such public hearings in accordance with the procedures prescribed by the commission at least forty-five days prior to the scheduled date of the hearing. However, this provision shall not preclude necessary changes during this thirty-day period.

2. At the hearing, opportunity to be heard by the commission with respect to the subject thereof shall be afforded any interested person upon written request to the commission, addressed to the director, not later than seven days prior to the hearing, and may be afforded to other persons if convenient. In addition, any interested persons, whether or not heard, may submit, within seven days subsequent to the hearings, a written statement of their views. The commission may solicit the views, in writing, of persons who may be affected by, or interested in, proposed rules and regulations, or standards. Any person heard or represented at the hearing or making written request for notice shall be given written notice of the action of the commission with respect to the subject thereof.

3. Any standard, rule or regulation or amendment or repeal thereof shall not be deemed adopted or in force and effect until it has been approved in writing by at least four members of the commission. A standard, rule or regulation or an amendment or repeal thereof shall not become effective until a certified copy thereof has been filed with the secretary of state as provided in chapter 536, RSMo.

4. Unless prohibited by any federal water pollution control act, any standard, rule or regulation or any amendment or repeal thereof which is adopted by the commission may differ in its terms and provisions as between particular types and conditions of water quality standards or of water contaminants, as between particular classes of water contaminant sources, and as between particular waters of the state.

5. Any listing required by Section 303(d) of the federal Clean Water Act, as amended, 33 U.S.C. 1251, et seq., to be sent to the U.S. Environmental Protection Agency for its approval that will result in any waters of the state being classified as impaired shall be adopted by the commission after a public hearing, or series of hearings, held in accordance with the following procedures. The department of natural resources shall publish in at least six regional newspapers, in advance, a notice by advertisement the availability of a proposed list of impaired waters of the state and such notice shall include at least ninety days' advance notice of the date, time, and place of the public hearing and opportunity given to the public to be heard. Notice of the hearings and copies of the proposed list of impaired waters also shall be posted on the department of natural resources' web site and given by regular mail, at least ninety days prior to the scheduled date of the hearing, to any person who has registered with the director for the purpose of receiving notice of such public hearings. The proposed list of impaired waters shall identify the water segment, the uses to be made of such waters, the uses impaired, identify the pollutants causing or expected to cause violations of the applicable water quality standards, and provide a summary of the data relied upon to make the preliminary determination. Contemporaneous with the publication of the notice of public hearing, the department shall make available on its web site all data and information it relied upon to prepare the proposed list of impaired waters, including a narrative explanation of how the department determined the water segment was impaired. At any time after the public notice and until seven days after the public hearing, the department shall accept written comments on the proposed list of impaired waters. After the public hearing and after all written comments have been submitted, the department shall prepare a written response to all comments and a revised list of impaired waters. The commission shall adopt a list of impaired waters in a public meeting during which the public shall be afforded an opportunity to respond to the department's written response to comments and revised list of impaired waters. Notice of the meeting shall include the date, time, and place of the public meeting and shall provide notice that the commission will give interested persons the opportunity to respond to the department's revised list of impaired waters and written responses to comments. At its discretion, the commission may extend public comment periods or hold additional public hearings on the proposed and revised lists of impaired waters. The commission shall not vote to add to the list of impaired waters any waters not recommended by the department in the proposed or revised lists of impaired waters without granting the public at least thirty additional days to comment on the proposed addition. The list of impaired waters adopted by the commission shall not be deemed to be a rule as defined by section 536.010, RSMo. The listing of any water segment on the list of impaired waters adopted by the commission shall be subject to judicial review by any adversely affected party under section 536.150, RSMo. The provisions in this subsection shall expire on August 28, **[**2009**]** **2010**.

644.054. FEES, BILLING AND COLLECTION — ADMINISTRATION, GENERALLY — FEES TO BECOME EFFECTIVE, WHEN — FEES TO EXPIRE, WHEN — VARIANCES GRANTED, WHEN — JOINT COMMITTEE FOR RESTRUCTURING FEES TO BE APPOINTED, REPORT. — 1. Fees imposed in sections 644.052 and 644.053 shall, except for those fees imposed pursuant to subsection 4 and subsections 6 to 13 of section 644.052, become effective October 1, 1990, and shall expire December 31, **[**2009**]** **2010**. Fees imposed pursuant to subsection 4 and subsections 6 to 13 of section 644.052 shall become effective August 28, 2000, and shall expire on December 31, **[**2009**]** **2010**. The clean water commission shall promulgate rules and regulations on the procedures for billing and collection. All sums received through the payment of fees shall be placed in the state treasury and credited to an appropriate subaccount of the natural resources protection fund created in section 640.220, RSMo. Moneys in the subaccount shall be expended, upon appropriation, solely for the administration of sections 644.006 to 644.141. Fees collected pursuant to subsection 10 of section 644.052 by a city, a public sewer district, a public water district or other publicly owned treatment works are state fees. Five percent of the fee

revenue collected shall be retained by the city, public sewer district, public water district or other publicly owned treatment works as reimbursement of billing and collection expenses.

2. The commission may grant a variance pursuant to section 644.061 to reduce fees collected pursuant to section 644.052 for facilities that adopt systems or technologies that reduce the discharge of water contaminants substantially below the levels required by commission rules.

3. Fees imposed in subsections 2 to 6 of section 644.052 shall be due on the date of application and on each anniversary date of permit issuance thereafter until the permit is terminated.

4. There shall be convened a joint committee appointed by the president pro tem of the senate and the speaker of the house of representatives to consider proposals for restructuring the fees imposed in sections 644.052 and 644.053. The committee shall review storm water programs, the state's implementation of the federal clean water program, storm water, and related state clean water responsibilities, and evaluate the costs to the state for maintaining the programs. The committee shall prepare and submit a report, including recommendations on funding the state clean water program, and storm water programs, to the governor, the house of representatives, and the senate no later than December 31, 2008.

644.101. CERTAIN DRINKING WATER AND WATER POLLUTION PROJECTS, STATE MAY PROVIDE ASSISTANCE. — The state may provide assistance, as funds are available, pursuant to this chapter, to any county, municipality, public water district, public sewer district, or any combination of the same, or any entity eligible pursuant to the Safe Drinking Water Act, as amended, or the Clean Water Act, as amended, to assist them in the construction of public drinking water and water pollution control projects as authorized by the clean water commission. The state may provide assistance pursuant to this chapter, including but not limited to the purchase of water and/or wastewater revenue or general obligation bonds, bonds of any county, instrumentality of the state, state entity, municipality, public sewer district, public water district, community water system, nonprofit noncommunity water system or any combination of the same, or any entity eligible pursuant to the Safe Drinking Water Act, as amended, or the Clean Water Act, as amended. **Further, the state may provide additional assistance or subsidies to any eligible entity as described in this section in the form of principal forgiveness, negative interest loans, grants, or any combination thereof, to the extent allowed by the American Recovery and Reinvestment Act of 2009, as enacted by the 111th United States Congress, and within the process provided by the Missouri Constitution and revised statutes of the state of Missouri.**

SECTION B. EMERGENCY CLAUSE. — Because of the need to distribute funds from the American Recovery and Reinvestment Act of 2009 in an efficient and timely manner, sections 640.107, 640.150, and 644.101 of this act are 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 sections 640.107, 640.150, 644.054, and 644.101 of this act shall be in full force and effect upon its passage and approval.

Approved July 7, 2009

HB 667 [SCS HCS HB 667]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Removes the twelve-month grace period that newly elected sheriffs are allowed in order to become licensed peace officers

AN ACT to repeal section 57.010, RSMo, and to enact in lieu thereof one new section relating to qualifications of sheriffs.

SECTION
A. Enacting clause.
57.010. Election — qualifications — certificate of election — sheriff to hold valid peace officer license, when.

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

SECTION A. ENACTING CLAUSE. — Section 57.010, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 57.010, to read as follows:

57.010. ELECTION — QUALIFICATIONS — CERTIFICATE OF ELECTION — SHERIFF TO HOLD VALID PEACE OFFICER LICENSE, WHEN. — 1. At the general election to be held in 1948, and at each general election held every four years thereafter, the voters in every county in this state shall elect some suitable person sheriff. No person shall be eligible for the office of sheriff who has been convicted of a felony. Such person shall be a resident taxpayer and elector of said county, shall have resided in said county for more than one whole year next before filing for said office and shall be a person capable of efficient law enforcement. When any person shall be elected sheriff, such person shall enter upon the discharge of the duties of such person's office as chief law enforcement officer of that county on the first day of January next succeeding said election.

2. Beginning January 1, 2003, any sheriff who does not hold a valid peace officer license pursuant to chapter 590, RSMo, shall refrain from personally executing any of the police powers of the office of sheriff, including but not limited to participation in the activities of arrest, detention, vehicular pursuit, search and interrogation. Nothing in this section shall prevent any sheriff from administering the execution of police powers through duly commissioned deputy sheriffs. This subsection shall not apply:

(1) During the first twelve months of the first term of office of any sheriff who is eligible to become licensed as a peace officer and who intends to become so licensed within twelve months after taking office**, except this subdivision shall not be effective beginning January 1, 2010**; or

(2) To the sheriff of any county of the first classification with a charter form of government with a population over nine hundred thousand.

Approved July 10, 2009

HB 678 [HB 678]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Designates May 1 of each year as "Silver Star Families of America Day"to honor the wounded soldiers of this state and the efforts of the group to honor the wounded members of the United States Armed Forces

AN ACT to amend chapter 9, RSMo, by adding thereto one new section relating to the designation of Silver Star Families of America Day in Missouri.

SECTION
A. Enacting clause.
9.074. Silver Star Families of America Day designated on May 1st.

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

SECTION A. ENACTING CLAUSE. — Chapter 9, RSMo, is amended by adding thereto one new section, to be known as section 9.074, to read as follows:

9.074. SILVER STAR FAMILIES OF AMERICA DAY DESIGNATED ON MAY 1ST. — May first of every year shall be known and designated as "Silver Star Families of America Day". It shall be a day on which to honor the wounded soldiers of this state and the efforts of the Silver Star Families of America to honor the wounded members of the United States armed forces. The Silver Star Families of America has worked tirelessly since its inception to distribute silver star banners, flags, and care packages to wounded service members and their families to ensure that the people of this state and nation remember the blood sacrifice made by those service members.

Approved July 2, 2009

HB 682 [HB 682]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Allows an exception for the 2008-2009 school year regarding the laws for school make-up days due to inclement weather

AN ACT to repeal section 171.033, RSMo, and to enact in lieu thereof one new section relating to loss of attendance due to inclement weather, with an emergency clause.

SECTION
A. Enacting clause.
171.033. Make-up of days lost or canceled, number required — exemption, when — waiver for schools in session twelve months of year, granted when.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Section 171.033, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 171.033, to read as follows:

171.033. MAKE-UP OF DAYS LOST OR CANCELED, NUMBER REQUIRED — EXEMPTION, WHEN — WAIVER FOR SCHOOLS IN SESSION TWELVE MONTHS OF YEAR, GRANTED WHEN. — 1. "Inclement weather", for purposes of this section, shall be defined as ice, snow, extreme cold, flooding, or a tornado, but such term shall not include excessive heat.

2. A district shall be required to make up the first six days of school lost or canceled due to inclement weather and half the number of days lost or canceled in excess of six days **except as otherwise provided in this section**.

3. **[**In the 2005-06 school year, a school district may be exempt from the requirement to make up days of school lost or canceled due to inclement weather occurring after April 1, 2006, in the school district, but such reduction of the minimum number of school days shall not exceed five days when a district has missed more than seven days overall, such reduction to be taken as follows: one day for eight days missed, two days for nine days missed, three days for ten days missed, four days for eleven days missed, and five days for twelve or more days missed. The requirement for scheduling two-thirds of the missed days into the next year's calendar pursuant

to subsection 1 of this section shall be waived for the 2006-07 school year.**] In the 2008-09 school year a school district may be exempt from the requirement to make up days of school lost or canceled due to inclement weather in the school district when the school district has made up the six days required under subsection 2 of this section and half the number of additional lost or canceled days up to eight days, resulting in no more than ten total make-up days required by this section.**

4. The commissioner of education may provide, for any school district in which schools are in session for twelve months of each calendar year that cannot meet the minimum school calendar requirement of at least one hundred seventy-four days and one thousand forty-four hours of actual pupil attendance, upon request, a waiver to be excused from such requirement. This waiver shall be requested from the commissioner of education and may be granted if the school was closed due to circumstances beyond school district control, including inclement weather, flooding or fire.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to clarify potential school scheduling and funding problems, section A 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 A of this act shall be in full force and effect upon its passage and approval.

Approved May 14, 2009

HB 683 [CCS SS SCS HB 683]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding transportation

AN ACT to repeal sections 21.795, 32.063, 136.055, 142.800, 144.054, 144.060, 144.070, 226.030, 227.600, 227.615, 227.630, 260.750, 301.010, 301.032, 301.131, 301.140, 301.150, 301.280, 301.290, 301.310, 301.420, 301.440, 301.562, 301.716, 302.302, 302.341, 302.545, 302.700, 302.735, 302.755, 302.775, 304.155, 304.170, 304.260, 307.010, 307.015, 307.090, 307.120, 307.125, 307.155, 307.172, 307.173, 307.195, 307.198, 307.350, 307.365, 307.375, 307.390, 307.400, 311.326, 387.040, 476.385, 556.021, 565.081, 565.082, and 565.083, RSMo, and to enact in lieu thereof seventy-seven new sections relating to transportation, with penalty provisions, an emergency clause for certain sections, and effective dates for certain sections.

SECTION

A. Enacting clause.
21.795. Joint committee on transportation oversight, members, quorum — report, when, contents — meetings, examination of reports, records required to be submitted.
32.063. Credit cards may be accepted by department for payment of taxes and fees — director may establish fee for use.
32.095. Motor vehicle dealer to act as agent of department, purpose — rulemaking authority.
136.055. Agent to collect motor vehicle taxes and issue licenses — fees — sign required — audit of records, when.
142.800. Definitions.
144.054. Additional sales tax exemptions for various industries and political subdivisions.
144.060. Purchaser to pay sales tax — refusal, a misdemeanor — exception.
144.070. Purchase or lease of motor vehicles, trailers, boats and outboard motors, tax on — option granted lessor — application to act as leasing company.
226.030. Number of members — qualifications — term — removal — compensation.

227.295. Drunk driving risk reduction awareness program established — placement of signage — rulemaking authority — sponsorship of signage, contents.
227.297. Heroes Way interstate interchange designation program established — signage — application procedure — joint committee to review applications.
227.310. Veterans Memorial Highway designated for a portion of highway 100 in Franklin County.
227.313. Dr. Martin Luther King Jr. Memorial Mile designated for portion of Highway 266 in Greene County.
227.320. Franklin Street designated for portion of highway 47 in the city of Washington.
227.368. Specialist James M. Finley Memorial Bridge designated for bridge crossing Interstate 44 in Laclede County.
227.402. WWII Okinawa Veterans Memorial Bridge designated for highway 17 bridge crossing the Gasconade River in Pulaski County.
227.406. CW2 Matthew G. Kelley Memorial Highway designated for portion of Highway 69 in city of Cameron.
227.407. Lamar Hunt Memorial Highway designated for portion of Interstate 435.
227.410. Rabbi Abraham Joshua Heschel Memorial Highway designated for portion of Highway 160 in Greene County.
227.600. Citation of law — definitions.
227.615. Approval of projects — procedure.
227.630. Powers of private partners.
227.646. Revenues tax-exempt.
260.392. Definitions — fees for transport of radioactive waste — deposit of moneys, use — notice of shipments — sunset provision.
260.750. Environmental radiation monitoring program and fund established — purposes.
301.010. Definitions.
301.032. Fleet vehicle registration, director to establish system — procedures — special license plates — exempt from inspection requirements, when.
301.131. Historic motor vehicles, permanent registration, fee — license plates — annual mileage allowed, record to be kept — penalty.
301.140. Plates removed on transfer or sale of vehicles — use by purchaser — reregistration — use of dealer plates — temporary permits, fees — credit, when.
301.150. Sale of vehicle, procedure to follow — use of voided plates, penalty for.
301.165. Brain Tumor Awareness Organization special license plates, procedure.
301.280. Dealers and garage keepers, sales report required — unclaimed vehicle report required, contents — alteration of vehicle identification number, effect.
301.290. Correctional enterprises to manufacture plates and highway signs — money received for manufacturing plates and signs, how deposited.
301.310. Owner may be instructed to replace plate — cancellation of registration — waiver of cost — penalty.
301.420. Applications — false statements prohibited.
301.440. Penalty for violations.
301.562. License suspension, revocation, refusal to renew — procedure — grounds — complaint may be filed, when.
301.571. Mobility motor vehicle dealers, definitions, authority.
301.716. Special enforcement procedures.
301.3155. Armed Forces Expeditionary Medal special license plate, procedure.
302.182. Permanent disability notation on driver's and nondriver's licenses — rulemaking authority.
302.184. Boater identification card, notation for compliance with boating safety requirements — rulemaking authority.
302.302. Point system — assessment for violation — assessment of points stayed, when, procedure.
302.341. Moving traffic violation, failure to prepay fine or appear in court, license suspended, procedure — reinstatement when — excessive revenue from fines to be distributed to schools — definition, state highways.
302.545. Expungement of records, when.
302.700. Citation of law — definitions.
302.735. Application for commercial license, contents, expiration, duration, fees — new resident, application dates — falsification of information, ineligibility for license, when — nonresident commercial license issued, when.
302.755. Violations, disqualification from driving, duration, penalties — reapplication procedure.
302.775. Provisions of law not applicable, when.
304.034. Municipalities may regulate golf cart and motorized wheelchair usage on streets and highways.
304.155. Abandoned motor vehicles on public property, removal — hazards on land and water, removal, limited liability, when — towing of property report to highway or water patrol or crime inquiry and inspection report when, owner liable for costs — check for stolen vehicles procedure — reclaiming vehicle — lien for charges — record maintenance by towing companies — lienholder repossession, procedure.
304.170. Regulations as to width, height and length of vehicles — tractor parades permitted.
304.260. Tractors exempt — designation of truck routes by commission.
304.285. Red light violations by motorcycles or bicycles, affirmative defense, when.
307.010. Loads which might become dislodged to be secured — failure, penalty.

307.015. Certain motor vehicles, mud flaps required — violation, penalty.
307.090. Spotlamps — restrictions, penalty.
307.120. Penalty for violations.
307.125. Animal-driven vehicles, lighting requirements — penalty — rulemaking authority.
307.155. Violation an infraction.
307.172. Altering passenger motor vehicle by raising front or rear of vehicle prohibited, when — bumpers front and rear required, when — violations not to pass inspection — penalty — certain vehicles exempt.
307.173. Specifications for sun screening device applied to windshield or windows — permit required, when — exceptions — rules, procedure — violations, penalty — exemptions.
307.195. License required — operation on interstate highway prohibited — violation, penalty.
307.198. All-terrain vehicles, equipment required — penalty.
307.350. Motor vehicles, biennial inspection required, exceptions — authorization to operate inspection station for inspection authorized — violation, penalty.
307.365. Inspection station permit not transferable — approval to be on official form — report to superintendent — defects, correction of, who may make — inspection fee — sticker fee — inspection fund, created, purpose — discontinuation of station, procedures.
307.375. Inspection of school buses — items covered — violations, when corrected, notice to patrol — spot checks authorized.
307.390. Penalty for violation — superintendent of highway patrol may assign persons to enforce inspections laws.
307.400. Commercial vehicles, equipment and operation, regulations, exceptions — department of public safety, rules, procedure, this chapter.
311.326. Expungement of record permitted, when.
387.040. Transportation prohibited until schedule of rates and fares is filed and published.
476.385. Schedule of fines committee, appointment, duties, powers — associate circuit judges may adopt schedule — central violations bureau established — powers, duties.
488.006. Infraction charges imposed same as misdemeanor charges.
556.021. Infractions.
565.081. Assault of a law enforcement officer, corrections officer, emergency personnel, highway worker, probation and parole officer, or transit operator in the first degree, definition, penalty.
565.082. Assault of a law enforcement officer, corrections officer, emergency personnel, highway worker, probation and parole officer, or transit operator in the second degree, definition, penalty.
565.083. Assault of a law enforcement officer, corrections officer, emergency personnel, highway worker, probation and parole officer, or transit operator in the third degree, definition, penalty.
B. Emergency clause.
C. Effective date.
D. Effective date.

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

SECTION A. ENACTING CLAUSE. — Sections 21.795, 32.063, 136.055, 142.800, 144.054, 144.060, 144.070, 226.030, 227.600, 227.615, 227.630, 260.750, 301.010, 301.032, 301.131, 301.140, 301.150, 301.280, 301.290, 301.310, 301.420, 301.440, 301.562, 301.716, 302.302, 302.341, 302.545, 302.700, 302.735, 302.755, 302.775, 304.155, 304.170, 304.260, 307.010, 307.015, 307.090, 307.120, 307.125, 307.155, 307.172, 307.173, 307.195, 307.198, 307.350, 307.365, 307.375, 307.390, 307.400, 311.326, 387.040, 476.385, 556.021, 565.081, 565.082, and 565.083, RSMo, are repealed and seventy-seven new sections enacted in lieu thereof, to be known as sections 21.795, 32.063, 32.095, 136.055, 142.800, 144.054, 144.060, 144.070, 226.030, 227.295, 227.297, 227.310, 227.313, 227.320, 227.368, 227.402, 227.406, 227.407, 227.410, 227.600, 227.615, 227.630, 227.646, 260.392, 260.750, 301.032, 301.010, 301.131, 301.140, 301.150, 301.165, 301.280, 301.290, 301.310, 301.420, 301.440, 301.562, 301.571, 301.716, 301.3155, 302.182, 302.184, 302.302, 302.341, 302.545, 302.700, 302.735, 302.755, 302.775, 304.034, 304.155, 304.170, 304.260, 304.285, 307.010, 307.015, 307.090, 307.120, 307.125, 307.155, 307.172, 307.173, 307.195, 307.198, 307.350, 307.365, 307.375, 307.390, 307.400, 311.326, 387.040, 476.385, 488.006, 556.021, 565.081, 565.082, and 565.083, to read as follows:

21.795. JOINT COMMITTEE ON TRANSPORTATION OVERSIGHT, MEMBERS, QUORUM — REPORT, WHEN, CONTENTS — MEETINGS, EXAMINATION OF REPORTS, RECORDS REQUIRED TO BE SUBMITTED. — 1. There is established a permanent joint committee of the general assembly to be known as the "Joint Committee on Transportation Oversight" to be composed

of seven members of the standing transportation committees of both the senate and the house of representatives and three nonvoting ex officio members. Of the fourteen members to be appointed to the joint committee, the seven senate members of the joint committee shall be appointed by the president pro tem of the senate and minority leader of the senate and the seven house members shall be appointed by the speaker of the house of representatives and the minority floor leader of the house of representatives. No major party shall be represented by more than four members from the house of representatives nor more than four members from the senate. The ex officio members shall be the state auditor, the director of the oversight division of the committee on legislative research, and the commissioner of the office of administration or the designee of such auditor, director or commissioner. The joint committee shall be chaired jointly by both chairs of the senate and house transportation committees. A majority of the committee shall constitute a quorum, but the concurrence of a majority of the members, other than the ex officio members, shall be required for the determination of any matter within the committee's duties.

2. **[**The transportation inspector general shall be appointed by majority vote of a group consisting of the speaker of the house of representatives, the minority floor leader of the house of representatives, the president pro tempore of the senate, and the minority floor leader of the senate. It shall be the duty of the inspector general to serve as the executive director of the joint committee on transportation oversight. The compensation of the inspector general and other personnel shall be paid from the joint contingent fund or jointly from the senate and house contingent funds until an appropriation is made therefor. No funds from highway user fees or other funds allocated for the operation of the department of transportation shall be used for the compensation of the inspector general and his or her staff. The joint committee inspector general initially appointed pursuant to this section shall take office January 1, 2004, for a term ending June 30, 2005. Subsequent joint committee on transportation oversight directors shall be appointed for five-year terms, beginning July 1, 2005. Any joint committee on transportation oversight inspector general whose term is expiring shall be eligible for reappointment. The inspector general of the joint committee on transportation oversight shall:

(1) Be qualified by training or experience in transportation policy, management of transportation organizations, accounting, auditing, financial analysis, law, management analysis, or public administration;

(2) Report to and be under the general supervision of the joint committee. The joint committee on transportation oversight shall, by a majority vote, direct the inspector general to perform specific investigations, reviews, audits, or other studies of the state department of transportation, in which instance the director shall report the findings and recommendations directly to the joint committee on transportation oversight. All investigations, reviews, audits, or other studies performed by the director shall be conducted so that the general assembly can procure information to assist it in formulating transportation legislation and policy for this state;

(3) Receive and process citizen complaints relating to transportation issues. The inspector general shall, when necessary, submit a written complaint report to the joint committee on transportation oversight and the highways and transportation commission. The complaint report shall contain the date, time, nature of the complaint, and any immediate facts and circumstances surrounding the initial report of the complaint. The inspector general shall investigate a citizen complaint if he or she is directed to do so by a majority of the joint committee on transportation oversight;

(4) Investigate complaints from current and former employees of the department of transportation if the inspector general receives information from an employee which shows:

(a) The department is violating a law, rule, or regulation;

(b) Gross mismanagement by department officers;

(c) Waste of funds by the department;

(d) That the department is engaging in activities which pose a danger to public health and safety;

(5) Maintain confidentiality with respect to all matters and the identities of the complainants or witnesses coming before the inspector general except insofar as disclosures may be necessary to enable the inspector general to carry out duties and to support recommendations;

(6) Maintain records of all investigations conducted, including any record or document or thing, any summary, writing, complaint, data of any kind, tape or video recordings, electronic transmissions, e-mail, or other paper or electronic documents, records, reports, digital recordings, photographs, software programs and software, expense accounts, phone logs, diaries, travel logs, or other things, including originals or copies of any of the above. Records of investigations by the inspector general shall be an "investigative report" of a law enforcement agency pursuant to the provisions of section 610.100, RSMo. As provided in such section, such records shall be a closed record until the investigation becomes inactive. If the inspector general refers a violation of law to the appropriate prosecuting attorney or the attorney general, such records shall be transmitted with the referral. If the inspector general finds no violation of law or determines not to refer the subject of the investigation to the appropriate prosecuting attorney or the attorney general regarding matters referred to the appropriate prosecuting attorney or the attorney general and the statute of limitations expires without any action being filed, the record shall remain closed. As provided in section 610.100, RSMo, any person may bring an action pursuant to this section in the circuit court having jurisdiction to authorize disclosure of information in the records of the inspector general which would otherwise be closed pursuant to this section. Any disclosure of records by the inspector general in violation of this section shall be grounds for a suit brought by any individual, person, or corporation to recover damages, and upon award to the plaintiff reasonable attorney's fees.

3.**]** The department of transportation shall submit a written report prior to November tenth of each year to the governor, lieutenant governor, and every member of the senate and house of representatives. The report shall be posted to the department's Internet web site so that general assembly members may elect to access a copy of the report electronically. The written report shall contain the following:

(1) A comprehensive financial report of all funds for the preceding state fiscal year which shall include a report by independent certified public accountants, selected by the commissioner of the office of administration, attesting that the financial statements present fairly the financial position of the department in conformity with generally accepted government accounting principles. This report shall include amounts of:

(a) State revenues by sources, including all new state revenue derived from highway users which results from action of the general assembly or voter-approved measures taken after August 28, 2003, and projects funded in whole or in part from such new state revenue, and amounts of federal revenues by source;

(b) Any other revenues available to the department by source;

(c) Funds appropriated, the amount the department has budgeted and expended for the following: contracts, right-of-way purchases, preliminary and construction engineering, maintenance operations and administration;

(d) Total state and federal revenue compared to the revenue estimate in the fifteen-year highway plan as adopted in 1992.

All expenditures made by, or on behalf of, the department for personal services including fringe benefits, all categories of expense and equipment, real estate and capital improvements shall be assigned to the categories listed in this subdivision in conformity with generally accepted government accounting principles;

(2) A detailed explanation of the methods or criteria employed to select construction projects, including a listing of any new or reprioritized projects not mentioned in a previous report, and an explanation as to how the new or reprioritized projects meet the selection methods or criteria;

(3) The proposed allocation and expenditure of moneys and the proposed work plan for the current fiscal year, at least the next four years, and for any period of time expressed in any

public transportation plan approved by either the general assembly or by the voters of Missouri. This proposed allocation and expenditure of moneys shall include the amounts of proposed allocation and expenditure of moneys in each of the categories listed in subdivision (1) of this subsection;

(4) The amounts which were planned, estimated and expended for projects in the state highway and bridge construction program or any other projects relating to other modes of transportation in the preceding state fiscal year and amounts which have been planned, estimated or expended by project for construction work in progress;

(5) The current status as to completion, by project, of the fifteen-year road and bridge program adopted in 1992. The first written report submitted pursuant to this section shall include the original cost estimate, updated estimate and final completed cost by project. Each written report submitted thereafter shall include the cost estimate at the time the project was placed on the most recent five-year highway and bridge construction plan and the final completed cost by project;

(6) The reasons for cost increases or decreases exceeding five million dollars or ten percent relative to cost estimates and final completed costs for projects in the state highway and bridge construction program or any other projects relating to other modes of transportation completed in the preceding state fiscal year. Cost increases or decreases shall be determined by comparing the cost estimate at the time the project was placed on the most recent five-year highway and bridge construction plan and the final completed cost by project. The reasons shall include the amounts resulting from inflation, department-wide design changes, changes in project scope, federal mandates, or other factors;

(7) Specific recommendations for any statutory or regulatory changes necessary for the efficient and effective operation of the department;

(8) An accounting of the total amount of state, federal and earmarked federal highway funds expended in each district of the department of transportation; and

(9) Any further information specifically requested by the joint committee on transportation oversight.

[4.**]** **3.** Prior to December first of each year, the committee shall hold an annual meeting and call before its members, officials or employees of the state highways and transportation commission or department of transportation, as determined by the committee, for the sole purpose of receiving and examining the report required pursuant to subsection **[**3**]** **2** of this section. **[**The joint committee may also call before its members at the annual meeting, the inspector general of the joint committee on transportation oversight for purposes authorized in this section.**]** The committee shall not have the power to modify projects or priorities of the state highways and transportation commission or department of transportation. The committee may make recommendations to the state highways and transportation commission or the department of transportation. Disposition of those recommendations shall be reported by the commission or the department to the joint committee on transportation oversight.

[5.**]** **4.** In addition to the annual meeting required by subsection **[**4**]** **3** of this section, the committee shall meet two times each year. The co-chairs of the committee shall establish an agenda for each meeting that may include, but not be limited to, the following items to be discussed with the committee members throughout the year during the scheduled meeting:

(1) Presentation of a prioritized plan for all modes of transportation;

(2) Discussion of department efficiencies and expenditure of cost-savings within the department;

(3) Presentation of a status report on department of transportation revenues and expenditures, including a detailed summary of projects funded by new state revenue as provided in paragraph (a) of subdivision (1) of subsection **[**3**]** **2** of this section; **and**

(4) **[**Review of any report from the joint committee inspector general; and

(5)**]** Implementation of any actions as may be deemed necessary by the committee as authorized by law.

The co-chairs of the committee may call special meetings of the committee with ten days' notice to the members of the committee, the director of the department of transportation, and the department of transportation.

[6.**]** **5.** The committee shall also review **[**for approval or denial**]** all applications for the development of specialty plates submitted to it by the department of revenue. The committee shall approve such application by **[**unanimous**]** **a majority** vote. The committee shall **[**not**]** approve any application **[**if**]** **unless** the committee receives**:**

(1) A signed petition from five house members or two senators that they are opposed to the approval of the proposed license plate **and the reason for such opposition;**

(2) Notification that the organization seeking authorization to establish a new specialty license plate has not met all the requirements of section 301.3150, RSMo;

(3) A proposed new specialty license plate containing objectionable language or design;

(4) A proposed license plate not meeting the requirements of any reason promulgated by rule.

The committee shall notify the director of the department of revenue upon approval or denial of an application for the development of a specialty plate.

[7.**]** **6.** The committee shall submit records of its meetings to the secretary of the senate and the chief clerk of the house of representatives in accordance with sections 610.020 and 610.023, RSMo.

32.063. CREDIT CARDS MAY BE ACCEPTED BY DEPARTMENT FOR PAYMENT OF TAXES AND FEES — DIRECTOR MAY ESTABLISH FEE FOR USE. — 1. The director of revenue**[**, his**]** **and the director's** employees or agents may accept credit cards in payment of taxes and fees. The type of credit cards accepted shall be at the discretion of the director.

2. In addition to other fees provided by law, the director of revenue **and the director's employees or agents** may set a fee to be added to each credit card transaction equal to the charge paid by the state or the taxpayer for the use of the credit card by the taxpayer. No other fees shall be imposed other than those herein authorized.

32.095. MOTOR VEHICLE DEALER TO ACT AS AGENT OF DEPARTMENT, PURPOSE — RULEMAKING AUTHORITY. — 1. Beginning January 1, 2012, the director of the department of revenue may select or appoint any motor vehicle dealer, as such term is defined in chapter 301, RSMo, to act as an agent of the department of revenue for the purpose of titling and registering motor vehicles under chapter 301, RSMo. Such motor vehicle dealers shall only act as an agent under this section for an initial sale or lease of a motor vehicle, but shall not act as an agent under this section for any subsequent registration under chapter 301 or 306, RSMo.

2. The director of revenue may promulgate rules to administer the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

136.055. AGENT TO COLLECT MOTOR VEHICLE TAXES AND ISSUE LICENSES — FEES — SIGN REQUIRED — AUDIT OF RECORDS, WHEN. — 1. Any person who is selected or appointed by the state director of revenue **as provided in subsection 2 of this section** to act as an agent

of the department of revenue, whose duties shall be the **[**sale**]** **processing** of motor vehicle **[**licenses**]** **title and registration transactions** and the collection of **[**motor vehicle**]** sales and use taxes **when required** under **[**the provisions of section**]** **sections 144.070 and** 144.440, RSMo, and who receives no salary from the department of revenue, shall be authorized to collect from the party requiring such services additional fees as compensation in full and for all services rendered on the following basis:

(1) For each motor vehicle or trailer **[**license sold**]** **registration issued**, renewed or transferred — **[**two dollars and fifty cents beginning January 1, 1998; and four dollars beginning July 1, 2000; and five dollars beginning August 28, 2002, for those licenses biennially renewed pursuant to section 301.147, RSMo. Beginning July 1, 2003, for each motor vehicle or trailer license sold, renewed or transferred — **]**three dollars and fifty cents and seven dollars for those licenses sold or biennially renewed pursuant to section 301.147, RSMo;

(2) For each application or transfer of title — two dollars and fifty cents **[**beginning January 1, 1998**]**;

(3) For each instruction permit, nondriver license, chauffeur's, operator's or driver's license issued for a period of three years or less — two dollars and fifty cents and five dollars for licenses or instruction permits issued or renewed for a period exceeding three years;

(4) For each notice of lien processed — two dollars and fifty cents **[**beginning August 28, 2000**]**;

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

2. The director of revenue shall award fee office contracts under this section through a competitive bidding process. The director of the department of revenue may promulgate rules and regulations necessary to carry out the provisions of this subsection. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this subsection shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

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

[2.**]** **4.** All fees charged shall not exceed those in this section. **[**Beginning July 1, 2003,**]** The fees imposed by this section shall be collected by all permanent **[**branch**]** offices and all full-time or temporary offices maintained by the department of revenue.

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

[4.**]** **6.** **[**The fee increases authorized by this section and approved by the general assembly were requested by the fee agents. All fee agent offices shall display a three foot by four foot sign with black letters of at least three inches in height on a white background which states:

The increased fees approved by the Missouri Legislature and charged by this fee office were requested by the fee agents.**]** **The fees authorized by this section shall not be collected by motor vehicle dealers acting as agents of the department of revenue under section 32.095, RSMo, or those motor vehicle dealers authorized to collect and remit sales tax under subsection 8 of section 144.070, RSMo.**

142.800. DEFINITIONS. — As used in this chapter, the following words, terms and phrases have the meanings given:

(1) "Agricultural purposes", clearing, terracing or otherwise preparing the ground on a farm; preparing soil for planting and fertilizing, cultivating, raising and harvesting crops; raising and feeding livestock and poultry; building fences; pumping water for any and all uses on the farm, including irrigation; building roads upon any farm by the owner or person farming the same; operating milking machines; sawing wood for use on a farm; producing electricity for use on a farm; movement of tractors, farm implements and nonlicensed equipment from one field to another;

(2) "Alternative fuel", electricity, liquefied petroleum gas (LPG or LP gas), compressed natural gas product, or a combination of liquefied petroleum gas and a compressed natural gas or electricity product used in an internal combustion engine or motor to propel any form of vehicle, machine, or mechanical contrivance. It includes all forms of fuel commonly or commercially known or sold as butane, propane, or compressed natural gas;

(3) "Aviation fuel", any motor fuel specifically compounded for use in reciprocating aircraft engines;

(4) "Blend stock", any petroleum product component of motor fuel, such as naphtha, reformat, toluene or kerosene, that can be blended for use in a motor fuel without further processing. The term includes those petroleum products presently defined by the Internal Revenue Service in regulations pursuant to 26 U.S.C., Sections 4081 and 4082, as amended. However, the term does not include any substance that:

(a) Will be ultimately used for consumer nonmotor fuel use; and

(b) Is sold or removed in drum quantities (fifty-five gallons) or less at the time of the removal or sale;

(5) "Blended fuel", a mixture composed of motor fuel and another liquid including blend stock, other than a de minimis amount of a product such as carburetor detergent or oxidation inhibitor, that can be used as a fuel in a highway vehicle. This term includes but is not limited to gasohol, ethanol, methanol, fuel grade alcohol, diesel fuel enhancers and resulting blends;

(6) "Blender", any person that produces blended motor fuel outside the bulk transfer/terminal system;

(7) "Blending", the mixing of one or more petroleum products, with or without another product, regardless of the original character of the product blended, if the product obtained by the blending is capable of use or otherwise sold for use in the generation of power for the propulsion of a motor vehicle, an airplane, or a motorboat. The term does not include the blending that occurs in the process of refining by the original refiner of crude petroleum or the blending of products known as lubricating oil and greases;

(8) "Bulk plant", a bulk motor fuel storage and distribution facility that is not a terminal within the bulk transfer system and from which motor fuel may be removed by truck;

(9) "Bulk transfer", any transfer of motor fuel from one location to another by pipeline tender or marine delivery within the bulk transfer/terminal system;

(10) "Bulk transfer/terminal system", the motor fuel distribution system consisting of refineries, pipelines, vessels, and terminals. Motor fuel in a refinery, pipeline, boat, barge or terminal is in the bulk transfer/terminal system. Motor fuel in the fuel supply tank of any engine, or in any tank car, rail car, trailer, truck, or other equipment suitable for ground transportation is not in the bulk transfer/terminal system;

(11) "Consumer", the user of the motor fuel;

(12) "Delivery", the placing of motor fuel or any liquid into the fuel tank of a motor vehicle or bulk storage facility;

(13) "Department", the department of revenue;

(14) "Destination state", the state, territory, or foreign country to which motor fuel is directed for delivery into a storage facility, a receptacle, a container, or a type of transportation equipment for the purpose of resale or use;

(15) "Diesel fuel", any liquid that is commonly or commercially known or sold as a fuel that is suitable for use in a diesel-powered highway vehicle. A liquid meets this requirement if,

without further processing or blending, the liquid has practical and commercial fitness for use in the propulsion engine of a diesel-powered highway vehicle. "Diesel fuel" does not include jet fuel sold to a buyer who is registered with the Internal Revenue Service to purchase jet fuel and remit taxes on its sale or use to the Internal Revenue Service**. "Diesel fuel" does not include biodiesel commonly referred to as B100 and defined in ASTM D6751, B99, or B99.9 until such biodiesel is blended with other diesel fuel or sold for highway use**;

(16) "Diesel-powered highway vehicle", a motor vehicle operated on a highway that is propelled by a diesel-powered engine;

(17) "Director", the director of revenue;

(18) "Distributor", a person who either produces, refines, blends, compounds or manufactures motor fuel, imports motor fuel into a state or exports motor fuel out of a state, or who is engaged in distribution of motor fuel;

(19) "Dyed fuel", diesel fuel or kerosene that is required to be dyed pursuant to United States Environmental Protection Agency rules or is dyed pursuant to Internal Revenue Service rules or pursuant to any other requirements subsequently set by the United States Environmental Protection Agency or Internal Revenue Service including any invisible marker requirements;

(20) "Eligible purchaser", a distributor who has been authorized by the director to purchase motor fuel on a tax-deferred basis;

(21) "Export", to obtain motor fuel in this state for sale or other distribution outside of this state. In applying this definition, motor fuel delivered out of state by or for the seller constitutes an export by the seller, and motor fuel delivered out of state by or for the purchaser constitutes an export by the purchaser;

(22) "Exporter", any person, other than a supplier, who purchases motor fuel in this state for the purpose of transporting or delivering the fuel outside of this state;

(23) "Farm tractor", all tractor-type, motorized farm implements and equipment but shall not include motor vehicles of the truck-type, pickup truck-type, automobiles, and other motor vehicles required to be registered and licensed each year pursuant to the provisions of the motor vehicle license and registration laws of this state;

(24) "Fuel grade alcohol", a methanol or ethanol with a proof of not less than one hundred ninety degrees (determined without regard to denaturants) and products derived from such alcohol for blending with motor fuel;

(25) "Fuel transportation vehicle", any vehicle designed for highway use which is also designed or used to transport motor fuels and includes transport trucks and tank wagons;

(26) "Gasoline", all products commonly or commercially known or sold as gasoline that are suitable for use as a motor fuel. Gasoline does not include products that have an American Society for Testing and Materials (ASTM) octane number of less than seventy-five as determined by the "motor method";

(27) "Gross gallons", the total measured motor fuel, exclusive of any temperature or pressure adjustments, in U.S. gallons;

(28) "Heating oil", a motor fuel that is burned in a boiler, furnace, or stove for heating or industrial processing purposes;

(29) "Import", to bring motor fuel into this state by any means of conveyance other than in the fuel supply tank of a motor vehicle. In applying this definition, motor fuel delivered into this state from out-of-state by or for the seller constitutes an import by the seller, and motor fuel delivered into this state from out-of-state by or for the purchaser constitutes an import by the purchaser;

(30) "Import verification number", the number assigned by the director with respect to a single transport truck delivery into this state from another state upon request for an assigned number by an importer or the transporter carrying motor fuel into this state for the account of an importer;

(31) "Importer" includes any person who is the importer of record, pursuant to federal customs law, with respect to motor fuel. If the importer of record is acting as an agent, the

person for whom the agent is acting is the importer. If there is no importer of record of motor fuel entered into this state, the owner of the motor fuel at the time it is brought into this state is the importer;

(32) "Indian country":

(a) Land held in trust by the United States of America for the benefit of a federally recognized Indian tribe or nation;

(b) All land within the limits of any Indian reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation;

(c) All dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state; and

(d) All Indian allotments, the Indian titles to which have not been extinguished, including individual allotments held in trust by the United States or allotments owned in fee by individual Indians subject to federal law restrictions regarding disposition of said allotments and including rights-of-way running through the same. The term shall also include the definition of Indian country as found in 18 U.S.C., Section 1151;

(33) "Indian tribe", "tribes", or "federally recognized Indian tribe or nation", an Indian tribal entity which is recognized by the United States Bureau of Indian Affairs as having a special relationship with the United States. The term shall also include the definition of a tribe as defined in 25 U.S.C., Section 479a;

(34) "Interstate motor fuel user", any person who operates a motor fuel-powered motor vehicle with a licensed gross weight exceeding twenty-six thousand pounds that travels from this state into another state or from another state into this state;

(35) "Invoiced gallons", the gallons actually billed on an invoice for payment to a supplier which shall be either gross or net gallons on the original manifest or bill of lading;

(36) "K-1 kerosene", a petroleum product having an A.P.I. gravity of not less than forty degrees, at a temperature of sixty degrees Fahrenheit and a minimum flash point of one hundred degrees Fahrenheit with a sulfur content not exceeding four one-hundredths percent by weight;

(37) "Kerosene", the petroleum fraction containing hydrocarbons that are slightly heavier than those found in gasoline and naphtha, with a boiling range of one hundred forty-nine to three hundred degrees Celsius;

(38) "Liquid", any substance that is liquid in excess of sixty degrees Fahrenheit and at a pressure of fourteen and seven-tenths pounds per square inch absolute;

(39) "Motor fuel", gasoline, diesel fuel, kerosene and blended fuel;

(40) "Motor vehicle", any automobile, truck, truck-tractor or any motor bus or self-propelled vehicle not exclusively operated or driven upon fixed rails or tracks. The term does not include:

(a) Farm tractors or machinery including tractors and machinery designed for off-road use but capable of movement on roads at low speeds, or

(b) A vehicle solely operated on rails;

(41) "Net gallons", the motor fuel, measured in U.S. gallons, when corrected to a temperature of sixty degrees Fahrenheit and a pressure of fourteen and seven-tenths pounds per square inch absolute (psi);

(42) "Permissive supplier", an out-of-state supplier that elects, but is not required, to have a supplier's license pursuant to this chapter;

(43) "Person", natural persons, individuals, partnerships, firms, associations, corporations, estates, trustees, business trusts, syndicates, this state, any county, city, municipality, school district or other political subdivision of the state, federally recognized Indian tribe, or any corporation or combination acting as a unit or any receiver appointed by any state or federal court;

(44) "Position holder", the person who holds the inventory position in motor fuel in a terminal, as reflected on the records of the terminal operator. A person holds the inventory

position in motor fuel when that person has a contract with the terminal operator for the use of storage facilities and terminating services for motor fuel at the terminal. The term includes a terminal operator who owns motor fuel in the terminal;

(45) "Propel", the operation of a motor vehicle, whether it is in motion or at rest;

(46) "Public highway", every road, toll road, highway, street, way or place generally open to the use of the public as a matter of right for the purposes of vehicular travel, including streets and alleys of any town or city notwithstanding that the same may be temporarily closed for construction, reconstruction, maintenance or repair;

(47) "Qualified terminal", a terminal which has been assigned a terminal control number ("tcn") by the Internal Revenue Service;

(48) "Rack", a mechanism for delivering motor fuel from a refinery or terminal into a railroad tank car, a transport truck or other means of bulk transfer outside of the bulk transfer/terminal system;

(49) "Refiner", any person that owns, operates, or otherwise controls a refinery;

(50) "Refinery", a facility used to produce motor fuel from crude oil, unfinished oils, natural gas liquids, or other hydrocarbons and from which motor fuel may be removed by pipeline, by boat or barge, or at a rack;

(51) "Removal", any physical transfer of motor fuel from a terminal, manufacturing plant, customs custody, pipeline, boat or barge, refinery or any facility that stores motor fuel;

(52) "Retailer", a person that engages in the business of selling or dispensing to the consumer within this state;

(53) "Supplier", a person that is:

(a) Registered or required to be registered pursuant to 26 U.S.C., Section 4101, for transactions in motor fuels in the bulk transfer/terminal distribution system; and

(b) One or more of the following:

a. The position holder in a terminal or refinery in this state;

b. Imports motor fuel into this state from a foreign country;

c. Acquires motor fuel from a terminal or refinery in this state from a position holder pursuant to either a two-party exchange or a qualified buy-sell arrangement which is treated as an exchange and appears on the records of the terminal operator; or

d. The position holder in a terminal or refinery outside this state with respect to motor fuel which that person imports into this state. A terminal operator shall not be considered a supplier based solely on the fact that the terminal operator handles motor fuel consigned to it within a terminal. "Supplier" also means a person that produces fuel grade alcohol or alcohol-derivative substances in this state, produces fuel grade alcohol or alcohol-derivative substances for import to this state into a terminal, or acquires upon import by truck, rail car or barge into a terminal, fuel grade alcohol or alcohol-derivative substances. "Supplier" includes a permissive supplier unless specifically provided otherwise;

(54) "Tank wagon", a straight truck having multiple compartments designed or used to carry motor fuel;

(55) "Terminal", a bulk storage and distribution facility which includes:

(a) For the purposes of motor fuel, is a qualified terminal;

(b) For the purposes of fuel grade alcohol, is supplied by truck, rail car, boat, barge or pipeline and the products are removed at a rack;

(56) "Terminal bulk transfers" include but are not limited to the following:

(a) Boat or barge movement of motor fuel from a refinery or terminal to a terminal;

(b) Pipeline movements of motor fuel from a refinery or terminal to a terminal;

(c) Book transfers of product within a terminal between suppliers prior to completion of removal across the rack; and

(d) Two-party exchanges or buy-sell supply arrangements within a terminal between licensed suppliers;

(57) "Terminal operator", any person that owns, operates, or otherwise controls a terminal. A terminal operator may own the motor fuel that is transferred through or stored in the terminal;

(58) "Transmix", the buffer or interface between two different products in a pipeline shipment, or a mix of two different products within a refinery or terminal that results in an off-grade mixture;

(59) "Transport truck", a semitrailer combination rig designed or used to transport motor fuel over the highways;

(60) "Transporter", any operator of a pipeline, barge, railroad or transport truck engaged in the business of transporting motor fuels;

(61) "Two-party exchange", a transaction in which the motor fuel is transferred from one licensed supplier or licensed permissive supplier to another licensed supplier or licensed permissive supplier and:

(a) Which transaction includes a transfer from the person that holds the original inventory position for motor fuel in the terminal as reflected on the records of the terminal operator; and

(b) The exchange transaction is simultaneous with removal from the terminal by the receiving exchange partner. However, in any event, the terminal operator in its books and records treats the receiving exchange party as the supplier which removes the product across a terminal rack for purposes of reporting such events to this state;

(62) "Ultimate vendor", a person that sells motor fuel to the consumer;

(63) "Undyed diesel fuel", diesel fuel that is not subject to the United States Environmental Protection Agency dyeing requirements, or has not been dyed in accordance with Internal Revenue Service fuel dyeing provisions; and

(64) "Vehicle fuel tank", any receptacle on a motor vehicle from which fuel is supplied for the propulsion of the motor vehicle.

144.054. ADDITIONAL SALES TAX EXEMPTIONS FOR VARIOUS INDUSTRIES AND POLITICAL SUBDIVISIONS. — 1. As used in this section, the following terms mean:

(1) "Processing", any mode of treatment, act, or series of acts performed upon materials to transform or reduce them to a different state or thing, including treatment necessary to maintain or preserve such processing by the producer at the production facility;

(2) "Recovered materials", those materials which have been diverted or removed from the solid waste stream for sale, use, reuse, or recycling, whether or not they require subsequent separation and processing.

2. In addition to all other exemptions granted under this chapter, there is hereby specifically exempted from the provisions of sections 144.010 to 144.525 and 144.600 to 144.761, and from the computation of the tax levied, assessed, or payable under sections 144.010 to 144.525 and 144.600 to 144.761, electrical energy and gas, whether natural, artificial, or propane, water, coal, and energy sources, chemicals, machinery, equipment, and materials used or consumed in the manufacturing, processing, compounding, mining, or producing of any product, or used or consumed in the processing of recovered materials, or used in research and development related to manufacturing, processing, compounding, mining, or producing any product. The exemptions granted in this subsection shall not apply to local sales taxes as defined in section 32.085, RSMo, and the provisions of this subsection shall be in addition to any state and local sales tax exemption provided in section 144.030.

3. In addition to all other exemptions granted under this chapter, there is hereby specifically exempted from the provisions of sections 144.010 to 144.525 and 144.600 to 144.761, and section 238.235, RSMo, and the local sales tax law as defined in section 32.085, RSMo, and from the computation of the tax levied, assessed, or payable under sections 144.010 to 144.525 and 144.600 to 144.761, and section 238.235, RSMo, and the local sales tax law as defined in section 32.085, RSMo, all utilities, machinery, and equipment used or consumed directly in television or radio broadcasting and all sales and purchases of tangible personal property, utilities, services, or any other transaction that would otherwise be subject to the state or local

sales or use tax when such sales are made to or purchases are made by a contractor for use in fulfillment of any obligation under a defense contract with the United States government, and all sales and leases of tangible personal property by any county, city, incorporated town, or village, provided such sale or lease is authorized under chapter 100, RSMo, and such transaction is certified for sales tax exemption by the department of economic development, and tangible personal property used for railroad infrastructure brought into this state for processing, fabrication, or other modification for use outside the state in the regular course of business.

4. In addition to all other exemptions granted under this chapter, there is hereby specifically exempted from the provisions of sections 144.010 to 144.525 and 144.600 to 144.761, and section 238.235, RSMo, and the local sales tax law as defined in section 32.085, RSMo, and from the computation of the tax levied, assessed, or payable under sections 144.010 to 144.525 and 144.600 to 144.761, and section 238.235, RSMo, and the local sales tax law as defined in section 32.085, RSMo, all sales and purchases of tangible personal property, utilities, services, or any other transaction that would otherwise be subject to the state or local sales or use tax when such sales are made to or purchases are made by a private partner for use in completing a project under sections 227.600 to 227.669, RSMo.

144.060. PURCHASER TO PAY SALES TAX — REFUSAL, A MISDEMEANOR — EXCEPTION. — It shall be the duty of every person making any purchase or receiving any service upon which a tax is imposed by sections 144.010 to 144.510 to pay, to the extent possible under the provisions of section 144.285, the amount of such tax to the person making such sale or rendering such service**[**;**]** **.** Any person who shall willfully and intentionally refuse to pay such tax shall be guilty of a misdemeanor**[**; provided, however, that**]** **.** The provisions of this section shall not apply to any person making any purchase or sale of a motor vehicle subject to sales tax as provided by the Missouri sales tax law**, unless such person making the sale is a motor vehicle dealer authorized to collect and remit sales tax pursuant to subsection 8 of section 144.070**.

144.070. PURCHASE OR LEASE OF MOTOR VEHICLES, TRAILERS, BOATS AND OUTBOARD MOTORS, TAX ON — OPTION GRANTED LESSOR — APPLICATION TO ACT AS LEASING COMPANY. — 1. At the time the owner of any new or used motor vehicle, trailer, boat, or outboard motor which was acquired in a transaction subject to sales tax under the Missouri sales tax law makes application to the director of revenue for an official certificate of title and the registration of the **[**automobile**]** **motor vehicle**, trailer, boat, or outboard motor as otherwise provided by law, **[**he**]** **the owner** shall present to the director of revenue evidence satisfactory to the director of revenue showing the purchase price exclusive of any charge incident to the extension of credit paid by or charged to the applicant in the acquisition of the motor vehicle, trailer, boat, or outboard motor, or that no sales tax was incurred in its acquisition, and if sales tax was incurred in its acquisition, the applicant shall pay or cause to be paid to the director of revenue the sales tax provided by the Missouri sales tax law in addition to the registration fees now or hereafter required according to law, and the director of revenue shall not issue a certificate of title for any new or used motor vehicle, trailer, boat, or outboard motor subject to sales tax as provided in the Missouri sales tax law until the tax levied for the sale of the same under sections 144.010 to 144.510 has been paid as **[**herein**]** provided **in this section** or is registered under the provisions of subsection 5 of this section.

2. As used **[**above**]** **in subsection 1 of this section**, the term "purchase price" shall mean the total amount of the contract price agreed upon between the seller and the applicant in the acquisition of the motor vehicle, trailer, boat, or outboard motor, regardless of the medium of payment therefor.

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

4. The director of the department of revenue shall endorse upon the official certificate of title issued by **[**him**] the director** upon such application an entry showing that such sales tax has been paid or that the **motor** vehicle, trailer, boat, or outboard motor represented by such certificate is exempt from sales tax and state the ground for such exemption.

5. Any person, company, or corporation engaged in the business of renting or leasing motor vehicles, trailers, boats, or outboard motors, which are to be used exclusively for rental or lease purposes, and not for resale, may apply to the director of revenue for authority to operate as a leasing company. Any company approved by the director of revenue may pay the tax due on any motor vehicle, trailer, boat, or outboard motor as required in section 144.020 at the time of registration thereof or in lieu thereof may pay a sales tax as provided in sections 144.010, 144.020, 144.070 and 144.440. A sales tax shall be charged to and paid by a leasing company which does not exercise the option of paying in accordance with section 144.020, on the amount charged for each rental or lease agreement while the motor vehicle, trailer, boat, or outboard motor is domiciled in this state. Any motor vehicle, **trailer,** boat, or outboard motor which is leased as the result of a contract executed in this state shall be presumed to be domiciled in this state.

6. Any corporation may have one or more of its divisions separately apply to the director of revenue for authorization to operate as a leasing company, provided that the corporation:

(1) Has filed a written consent with the director authorizing any of its divisions to apply for such authority;

(2) Is authorized to do business in Missouri;

(3) Has agreed to treat any sale of a motor vehicle, trailer, boat, or outboard motor from one of its divisions to another of its divisions as a sale at retail within the meaning of subdivision (9) of subsection 1 of section 144.010;

(4) Has registered under the fictitious name provisions of sections 417.200 to 417.230, RSMo, each of its divisions doing business in Missouri as a leasing company; and

(5) Operates each of its divisions on a basis separate from each of its other divisions.

However, when the transfer of a motor vehicle, trailer, boat or outboard motor occurs within a corporation which holds a license to operate as a motor vehicle or boat dealer pursuant to sections 301.550 to **[**301.575**] 301.573**, RSMo, the provisions in subdivision (3) of this subsection shall not apply.

7. If the owner of any motor vehicle, trailer, boat, or outboard motor desires to charge and collect sales tax as provided **[**hereinabove**] in this section**, **[**he**] the owner** shall make application to the director of revenue for a permit to operate as a motor vehicle, trailer, boat, or outboard motor leasing company. The director of revenue shall promulgate rules and regulations determining the qualifications of such a company, and the method of collection and reporting of sales tax charged and collected. Such regulations shall apply only to owners of motor vehicles, trailers, boats, or outboard motors, electing to qualify as motor vehicle, trailer, boat, or outboard motor leasing companies under the provisions of subsection 5 of this section, and no motor vehicle renting or leasing, trailer renting or leasing, or boat or outboard motor renting or leasing company can come under sections 144.010, 144.020, 144.070 and 144.440 unless all **motor** vehicles, trailers, boats, and outboard motors held for renting and leasing are included.

8. Beginning July 1, 2010, any motor vehicle dealer licensed under section 301.560, RSMo, engaged in the business of selling motor vehicles or trailers may apply to the director of revenue for authority to collect and remit the sales tax required under this section on all motor vehicles sold by the motor vehicle dealer. A motor vehicle dealer receiving authority to collect and remit the tax is subject to all provisions under sections 144.010 to 144.525. Any motor vehicle dealer authorized to collect and remit sales taxes on motor vehicles under this subsection shall be entitled to deduct and retain an amount

equal to two percent of the motor vehicle sales tax pursuant to section 144.140. Any amount of the tax collected under this subsection that is retained by a motor vehicle dealer pursuant to section 144.140 shall not constitute state revenue. In no event shall revenues from the general revenue fund or any other state fund be utilized to compensate motor vehicle dealers for their role in collecting and remitting sales taxes on motor vehicles. In the event this subsection or any portion thereof is held to violate article IV, section 30(b) of the Missouri Constitution, no motor vehicle dealer shall be authorized to collect and remit sales taxes on motor vehicles under this section. No motor vehicle dealer shall seek compensation from the state of Missouri or its agencies if a court of competent jurisdiction declares that the retention of two percent of the motor vehicle sales tax is unconstitutional and orders the return of such revenues.

226.030. NUMBER OF MEMBERS — QUALIFICATIONS — TERM — REMOVAL — COMPENSATION. — 1. The highways and transportation commission shall consist of six members, who shall be appointed by the governor, by and with the advice and consent of the senate, not more than three thereof to be members of the same political party. Each commissioner shall be a taxpayer and resident of state for at least five years prior to his appointment. Any commissioner may be removed by the governor if fully satisfied of his inefficiency, neglect of duty, or misconduct in office. Commissioners appointed pursuant to this section shall be appointed for terms of six years, except as otherwise provided in this subsection. Upon the expiration of each of the foregoing terms of these commissioners a successor shall be appointed for a term of six years or until his successor is appointed and qualified which term of six years shall thereafter be the length of term of each member of the commission unless removed as above provided. The members of the commission shall receive as compensation for their services twenty-five dollars per day for the time spent in the performance of their official duties, and also their necessary traveling and other expenses incurred while actually engaged in the discharge of their official duties. Members whose terms otherwise expire December 1, 2003, shall serve with terms expiring March 1, 2004, and new members or the members reappointed shall be appointed for terms expiring March 1, 2005; a member whose term otherwise expires December 1, 2005, shall serve with a term expiring March 1, 2007; a member whose term otherwise expires December 1, 2007, shall serve with a term expiring March 1, 2009; and one member whose term otherwise expires October 13, 2007, shall serve with a term expiring March 1, 2007; and one member whose term otherwise expires October 13, 2007, shall serve with a term expiring March 1, 2009. If a vacancy occurs in any term of a commissioner due to death, resignation, or removal, a successor shall be appointed for only the remainder of the unexpired term.

2. The two members of the commission, one each from opposing political parties, who have the most seniority in commission service shall serve as commission leadership with one member as chair and the other member as vice chair, respectively, for terms ending March 1, 2005. The commission shall elect one of the members as chair and the other as vice chair. Effective March 1, 2005, the commission shall elect the two members of the commission, one from each opposing political party who has the most seniority in commission service, who shall serve as commission leadership with one member as chair and the other member as vice chair, respectively, for one year. At the end of such year, the **[**member**]** **members** currently serving as chair **[**shall then serve as**]** **and** vice chair **shall have the option to rotate positions**, and the member currently serving as vice chair **[**shall**]** **may** serve as chair, **[**each to serve in such position for one year**]** **and vice versa**. Thereafter, commission leadership shall continue to rotate accordingly with the two members from opposing political parties who have the most seniority in terms of commission service being elected by the commission to serve as commission leadership. If one of the commission leadership offices becomes vacant due to death, resignation, removal, or refuses to serve before the one-year leadership term expires, the commission shall elect one of its members that is of the same political party as the vacating

officer to serve the remainder of the vacating officer's leadership term. Such election shall not prohibit that member from later serving as chair and vice chair when such member's seniority in commission service qualifies him or her for those offices as provided in this subsection.

3. No more than one-half of the members of the commission shall be of the same political party. The selection and removal of all employees of the department of transportation shall be without regard to political affiliation.

4. The present members of the commission shall continue to serve as members of the commission for the remainder of the terms for which they were appointed, except as provided in subsection 1 of this section.

5. [The director of the department of transportation shall, by February fifteenth of each year, present an annual state of the state of transportation to a joint session of the general assembly. The six members of the commission shall be present and available at such presentations for questions by members. The transportation inspector general may also be present and report to the general assembly on any matter of concern within his or her statutory authority. The provisions of this subsection shall expire August 28, 2008.

6.] Any member reappointed shall only be eligible to serve as chair or vice-chair during the final two years of such member's reappointment.

227.295. DRUNK DRIVING RISK REDUCTION AWARENESS PROGRAM ESTABLISHED — PLACEMENT OF SIGNAGE — RULEMAKING AUTHORITY — SPONSORSHIP OF SIGNAGE, CONTENTS. — 1. The department of transportation shall establish and administer a drunk driving risk reduction awareness program. The provisions of this section shall be known as "David's Law". The signs shall be placed upon the state highways in accordance with this section, placement guidelines adopted by the department, and any applicable federal limitations or conditions on highway signage, including location and spacing.

2. The department shall adopt, by rules and regulations, program guidelines for the application for and placement of signs authorized by this section, including, but not limited to, the sign application and qualification process, the procedure for the dedication of signs, and procedures for the replacement or restoration of any signs that are damaged or stolen. The department shall also establish by rule, application procedures and methods for proving eligibility for the program.

3. Any person may apply to the department of transportation to sponsor a drunk driving victim memorial sign in memory of an immediate family member who died as a result of a motor vehicle accident caused by a person who was shown to have been operating a motor vehicle in violation of section 577.010 or 577.012, RSMo, or was committing an intoxication-related traffic offense at the time of the accident. Upon the request of an immediate family member of the deceased victim involved in a drunk driving accident, the department shall place a sign in accordance with this section. A person who is not a member of the immediate family may also submit a request to have a sign placed under this section if that person also submits the written consent of an immediate family member. The department shall charge the sponsoring party a fee to cover the department's cost in designing, constructing, placing, and maintaining that sign, and the department's costs in administering this section. Signs erected under this section shall remain in place for a period of ten years. After the expiration of the ten-year period, the department shall remove the sign unless the sponsoring party remits to the department of transportation a ten-year renewable fee to cover maintenance costs associated with the sign.

4. The signs shall feature the words "Drunk Driving Victim!", the initials of the victim, the month and year in which the victim of the drunk driving accident was killed, and the phrase "Think About It!". The overall design of the sign, including size, color, and lettering, shall conform to the guidelines and regulations established by the department. The signs shall be placed near the scene of the accident.

5. No person, other than a department of transportation employee or the department's designee, may erect a drunk driving victim memorial sign.

6. As used in this section, the term "immediate family member" shall mean spouse, child, stepchild, brother, stepbrother, sister, stepsister, mother, stepmother, father, or stepfather.

7. The department shall adopt rules and regulations to implement and administer the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

227.297. HEROES WAY INTERSTATE INTERCHANGE DESIGNATION PROGRAM ESTABLISHED — SIGNAGE — APPLICATION PROCEDURE — JOINT COMMITTEE TO REVIEW APPLICATIONS. — 1. This section establishes an interstate interchange designation program, to be known as the "Heroes Way Interstate Interchange Designation Program", to honor the fallen Missouri heroes who have been killed in action while performing active military duty with the armed forces in Afghanistan or Iraq on or after September 11, 2001. The signs shall be placed upon the interstate interchanges in accordance with this section, and any applicable federal limitations or conditions on highway signage, including location and spacing.

2. Any person who is related by marriage, adoption, or consanguinity within the second degree to a member of the United States armed forces who was killed in action while performing active military duty with the armed forces in Afghanistan or Iraq on or after September 11, 2001, and who was a resident of this state at the time he or she was killed in action, may apply for an interstate interchange designation under the provisions of this section.

3. Any person described under subsection 2 of this section who desires to have an interstate interchange designated after his or her family member shall petition the department of transportation by submitting the following:

(1) An application in a form prescribed by the director, describing the interstate interchange for which the designation is sought and the proposed name of the interstate interchange. The application shall include the name of at least one current member of the general assembly who will sponsor the interstate interchange designation. The application may contain written testimony for support of the interstate interchange designation;

(2) Proof that the family member killed in action was a member of the United States armed forces and proof that such family member was in fact killed in action while performing active military duty with the United States armed forces in Afghanistan or Iraq on or after September 11, 2001;

(3) By signing a form provided by the Missouri transportation department, the applicant shall certify that the applicant is related by marriage, adoption, or consanguinity within the second degree to the member of the United States armed forces who was killed in action; and

(4) A fee to be determined by the commission to cover the costs of constructing and maintaining the proposed interstate interchange signs. The fee shall not exceed the cost of constructing and maintaining each sign.

4. All moneys received by the department of transportation for the construction and maintenance of an interstate interchange signs shall be deposited in the state treasury to the credit of the state road fund.

5. The documents and fees required under this section shall be submitted to the department of transportation.

6. The department of transportation shall submit for approval or disapproval all applications for interstate interchange designations to the joint committee on transportation oversight. The joint committee on transportation oversight may review such applications at any scheduled meeting convened pursuant to section 21.795, RSMo. If satisfied with the application and all its contents, the committee shall approve the application. The committee shall notify the department of transportation upon the approval or denial of an application for an interstate interchange designation.

7. The department of transportation shall give notice of any proposed interstate interchange designation under this section in a manner reasonably calculated to advise the public of such proposal. Reasonable notice shall include posting the proposal for the designation on the department's official public web site and making available copies of the sign designation application to any representative of the news media or public upon request and posting the application on a bulletin board or other prominent public place which is easily accessible to the public and clearly designated for that purpose at the principal office.

8. If the memorial interstate interchange designation request is not approved by the joint committee on transportation oversight, ninety-seven percent of the application fee shall be refunded to the applicant.

9. Two signs shall be erected for each interstate interchange designation processed under this section.

10. No interstate interchange may be named or designated after more than one member of the United States armed forces killed in action. Such person shall only be eligible for one interstate interchange designation under the provisions of this section.

11. Any highway signs erected for any interstate interchange designation under the provisions of this section shall be erected and maintained for a twenty-year period. After such period, the signs shall be subject to removal by the department of transportation and the interstate interchange may be designated to honor persons other than the current designee. An existing interstate interchange designation processed under the provisions of this section may be retained for additional twenty-year increments if, at least one year before the designation's expiration, an application to the department of transportation is made to retain the designation along with the required documents and all applicable fees required under this section.

227.310. VETERANS MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF HIGHWAY 100 IN FRANKLIN COUNTY. — The portion of Missouri highway 100 located in Franklin County, from its intersection with Missouri highway 47, to the highway's connection with Interstate 44, shall be designated as the "Veterans Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway, with the costs for such designation to be paid for by the city of Washington.

227.313. DR. MARTIN LUTHER KING JR. MEMORIAL MILE DESIGNATED FOR PORTION OF HIGHWAY 266 IN GREENE COUNTY. — The portion of Missouri Highway 266 located in Greene County from North Missouri Road AB to 1 mile east, shall be designated as the "Dr. Martin Luther King Jr. Memorial Mile". The department of transportation shall erect and maintain appropriate signs designating such highway, with the costs for such designation to be paid for by private donations.

227.320. FRANKLIN STREET DESIGNATED FOR PORTION OF HIGHWAY 47 IN THE CITY OF WASHINGTON. — The portion of the state highway system which was designated as Highway 47 as of January 1, 2009, within the limits of the city of Washington shall be

designated and known as "Franklin Street" and shall not be designated as a numbered state highway.

227.368. SPECIALIST JAMES M. FINLEY MEMORIAL BRIDGE DESIGNATED FOR BRIDGE CROSSING INTERSTATE 44 IN LACLEDE COUNTY. — The bridge crossing over Interstate 44 on Business Loop 44 at exit 127 in Laclede County shall be designated the "Specialist James M. Finley Memorial Bridge". The department of transportation shall erect and maintain appropriate signs designating such highway. The costs of such designation shall be paid for by private donations.

227.402. WWII OKINAWA VETERANS MEMORIAL BRIDGE DESIGNATED FOR HIGHWAY 17 BRIDGE CROSSING THE GASCONADE RIVER IN PULASKI COUNTY. — The Highway 17 bridge crossing over the Gasconade River in Pulaski County shall be designated the "WWII Okinawa Veterans Memorial Bridge". The department of transportation shall erect and maintain appropriate signs designating such highway, with the costs to be paid for by private donations.

227.406. CW2 MATTHEW G. KELLEY MEMORIAL HIGHWAY DESIGNATED FOR PORTION OF HIGHWAY 69 IN CITY OF CAMERON. — The portion of U.S. Highway 69, from the southern city limits of Cameron to its intersection with Interstate 35, shall be designated the "CW2 Matthew G. Kelley Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway, with the costs to be paid for by private donations.

227.407. LAMAR HUNT MEMORIAL HIGHWAY DESIGNATED FOR PORTION OF INTERSTATE 435. — Interstate 435 from mile marker 63.4 to mile marker 54.2 shall be designated the "Lamar Hunt Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway, with the costs to be paid for by private donations.

227.410. RABBI ABRAHAM JOSHUA HESCHEL MEMORIAL HIGHWAY DESIGNATED FOR PORTION OF HIGHWAY 160 IN GREENE COUNTY. — The portion of U.S. highway 160 in Greene County from the intersection of Farm Road 142 to the intersection of West Sunshine Street shall be designated the "Rabbi Abraham Joshua Heschel Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway, with the costs for such designation to be paid for by private donation.

227.600. CITATION OF LAW — DEFINITIONS. — 1. Sections 227.600 to 227.669 shall be known and may be cited as the "Missouri Public-Private Partnerships Transportation Act".

2. As used in sections 227.600 to 227.669, unless the context clearly requires otherwise, the following terms mean:

(1) "Commission", the Missouri highways and transportation commission;

(2) "Comprehensive agreement", the final binding written comprehensive project agreement between a private partner and the commission required in section 227.621 to finance, develop, and/or operate the project;

(3) "Department", the Missouri department of transportation;

(4) "Develop" or "development", to plan, locate, relocate, establish, acquire, lease, design, or construct;

(5) "Finance", to fund the costs, expenses, liabilities, fees, profits, and all other charges incurred to finance, develop, and/or operate the project;

(6) "Interim agreement", a preliminary binding written agreement between a private partner and the commission that provides for completion of studies and any other activities to advance the financing, development, and/or operation of the project required by section 227.618;

(7) "Material default", any uncured default by a private partner in the performance of its duties that jeopardizes adequate service to the public from the project as determined by the commission;

(8) "Operate" or "operation", to improve, maintain, equip, modify, repair, administer, or collect user fees;

(9) "Private partner", any natural person, corporation, partnership, limited liability company, joint venture, business trust, nonprofit entity, other business entity, or any combination thereof;

(10) "Project", **[**a bridge to be owned by the commission and the Illinois department of transportation or any other suitable public body of the state of Illinois, which is located across the boundaries of the state of Illinois and the state of Missouri in a city not within a county to be financed, developed, and/or operated under agreement between the commission, a private partner, the Illinois department of transportation, and, if appropriate, any other suitable public body of the state of Illinois**] exclusively includes any pipeline, ferry, river port, airport, railroad, light rail or other mass transit facility, to be financed, developed, and/or operated under agreement between the commission and a private partner. Any project not specifically included in this subdivision shall not be financed, developed, or operated by a private partner until such project is approved by a vote of the people**;

(11) "Public use", a finding by the commission that the project to be financed, developed, and/or operated by a private partner under sections 227.600 to 227.669 will improve or is needed as a necessary addition to the **[**state highway system**] state transportation system**;

(12) "Revenues", include but are not limited to the following which arise out of or in connection with the financing, development, and/or operation of the project:

(a) Income;

(b) Earnings;

(c) Proceeds;

(d) User fees;

(e) Lease payments;

(f) Allocations;

(g) Federal, state, and local moneys; or

(h) Private sector moneys, grants, bond proceeds, and/or equity investments;

(13) "State", the state of Missouri;

(14) "State highway system", the state system of highways and bridges planned, located, relocated, established, acquired, constructed, and maintained by the commission under section 30(b), article IV, Constitution of Missouri;

(15) **"State transportation system", the state system of nonhighway transportation programs, including, but not limited to aviation, transit and mass transportation, railroads, ports, waterborne commerce, freight and intermodal connections;**

(16) "User fees", tolls, fees, or other charges authorized to be imposed by the commission and collected by the private partner for the use of all or a portion of a project under a comprehensive agreement.

227.615. APPROVAL OF PROJECTS — PROCEDURE. — 1. The commission may by commission minute **preliminarily** approve the project if the commission determines the project will improve and is a needed addition to the **[**state highway system**] state transportation system**.

2. After a project has been preliminarily approved by the commission pursuant to subsection 1 of this section, the commission shall submit the proposed project to the joint committee on transportation oversight, as established in section 21.795, RSMo, for final approval. The joint committee shall approve such project submission by a majority vote.

3. Any private partner who has had a project request disapproved by the joint committee on transportation oversight may, within fifteen days of the committee's disapproval, request a hearing before the committee to review the committee's determination. Such request shall be made in writing. Within thirty days after receipt of the written request, the joint committee shall grant a hearing and set a date therefor.

227.630. POWERS OF PRIVATE PARTNERS. — The private partner shall have the following powers:

(1) To contract with a federal agency, a state or its agencies and political subdivisions, the commission, a local or regional transportation authority, a corporation, a partnership, or any person to finance, develop, and/or operate the project;

(2) To lease or acquire any right to use or finance, develop, and/or operate the project with the length of any term to be established in the comprehensive agreement;

(3) **Upon completion of the project,** to collect user fees in connection with the use of the project by the traveling public **or the direct beneficiaries of the project. The private partner, however, shall not have the authority to collect user fees in connection with the use of the project from motor carriers. As used in this subdivision, the term "motor carrier" shall mean any person engaged in the transportation of property, passengers, or both, for compensation or hire, over the public roads of this state by motor vehicle. The term motor carrier shall include common carriers, private carriers, interstate carriers, and intrastate carriers**. The collection and enforcement of such user fees shall be consistent with sections 227.660 and 227.666;

(4) To borrow money for project purposes at such rates or interest as the private partner may determine; and

(5) Any other powers delegated to such private partner in the comprehensive agreement with the commission.

227.646. REVENUES TAX-EXEMPT. — Any revenues received under sections 227.600 to 227.669 shall be exempt from any tax on income imposed by any law of this state.

260.392. DEFINITIONS — FEES FOR TRANSPORT OF RADIOACTIVE WASTE — DEPOSIT OF MONEYS, USE — NOTICE OF SHIPMENTS — SUNSET PROVISION. — 1. As used in sections 260.392 to 260.399, the following terms mean:

(1) "Cask", all the components and systems associated with the container in which spent fuel, high-level radioactive waste, highway route controlled quantity, or transuranic radioactive waste are stored;

(2) "Shipper", the generator, owner, or company contracting for transportation by truck or rail of the spent fuel, high-level radioactive waste, highway route controlled quantity shipments, transuranic radioactive waste, or low-level radioactive waste;

(3) "High-level radioactive waste", the highly radioactive material resulting from the reprocessing of spent nuclear fuel including liquid waste produced directly in reprocessing and any solid material derived from such liquid waste that contains fission products in sufficient concentrations, and other highly radioactive material that the United States Nuclear Regulatory Commission has determined to be high-level radioactive waste requiring permanent isolation;

(4) "Highway route controlled quantity", as defined in 49 CFR Part 173.403, as amended, a quantity of radioactive material within a single package. Highway route controlled quantity shipments of thirty miles or less within the state are exempt from the provisions of this section;

(5) "Low-level radioactive waste", any radioactive waste not classified as high-level radioactive waste, transuranic radioactive waste, or spent nuclear fuel by the United States Nuclear Regulatory Commission, consistent with existing law. Shipment of all sealed

sources meeting the definition of low-level radioactive waste, shipments of low-level radioactive waste that are within a radius of no more than fifty miles from the point of origin, and all naturally occurring radioactive material given written approval for landfill disposal by the Missouri department of natural resources under 10 CSR 80-3.010 are exempt from the provisions of this section. Any low-level radioactive waste that has a radioactive half-life equal to or less than one hundred twenty days is exempt from the provisions of this section;

(6) "Spent nuclear fuel", fuel that has been withdrawn from a nuclear reactor following irradiation, the constituent elements of which have not been separated by reprocessing;

(7) "State-funded institutions of higher education", any campus of any university within the state of Missouri that receives state funding and has a nuclear research reactor;

(8) "Transuranic radioactive waste", defined in 40 CFR Part 191.02, as amended, as waste containing more than one hundred nanocuries of alpha-emitting transuranic isotopes with half-lives greater than twenty years, per gram of waste. For the purposes of this section, transuranic waste shall not include:

(a) High-level radioactive wastes;

(b) Any waste determined by the Environmental Protection Agency with the concurrence of the Environmental Protection Agency administrator, that does not need the degree of isolation required by this section; or

(c) Any waste that the United States Nuclear Regulatory Commission has approved for disposal on a case-by-case basis in accordance with 10 CFR Part 61, as amended.

2. Any shipper that ships high-level radioactive waste, transuranic radioactive waste, highway route controlled quantity shipments, spent nuclear fuel, or low-level radioactive waste through or within the state shall be subject to the fees established in this subsection, provided that no state-funded institution of higher education that ships nuclear waste shall pay any such fee. These higher education institutions shall reimburse the Missouri state highway patrol directly for all costs related to shipment escorts. The fees for all other shipments shall be:

(1) One thousand eight hundred dollars for each cask transported through or within the state by truck of high-level radioactive waste, transuranic radioactive waste, spent nuclear fuel or highway route controlled quantity shipments. All casks of high-level radioactive waste, transuranic radioactive waste, spent nuclear fuel, or highway route controlled quantity shipments transported by truck are subject to a surcharge of twenty-five dollars per mile for every mile over two hundred miles traveled within the state;

(2) One thousand three hundred dollars for the first cask and one hundred twenty-five dollars for each additional cask for each rail shipment through or within the state of high-level radioactive waste, transuranic radioactive waste, or spent nuclear fuel;

(3) One hundred twenty-five dollars for each truck or train transporting low-level radioactive waste through or within the state. The department of natural resources may accept an annual shipment fee as negotiated with a shipper or accept payment per shipment.

3. All revenue generated from the fees established in subsection 2 of this section shall be deposited into the environmental radiation monitoring fund established in section 260.750 and shall be used by the department of natural resources to achieve the following objectives and for purposes related to the shipment of high-level radioactive waste, transuranic radioactive waste, highway route controlled quantity shipments, spent nuclear fuel, or low-level radioactive waste, including, but not limited to:

(1) Inspections, escorts, and security for waste shipment and planning;

(2) Coordination of emergency response capability;

(3) Education and training of state, county, and local emergency responders;

(4) Purchase and maintenance of necessary equipment and supplies for state, county, and local emergency responders through grants or other funding mechanisms;

(5) Emergency responses to any transportation incident involving the high-level radioactive waste, transuranic radioactive waste, highway route controlled quantity shipments, spent nuclear fuel, or low-level radioactive waste;

(6) Oversight of any environmental remediation necessary resulting from an incident involving a shipment of high-level radioactive waste, transuranic radioactive waste, highway route controlled quantity shipments, spent nuclear fuel, or low-level radioactive waste. Reimbursement for oversight of any such incident shall not reduce or eliminate the liability of any party responsible for the incident; such party may be liable for full reimbursement to the state or payment of any other costs associated with the cleanup of contamination related to a transportation incident;

(7) Administrative costs attributable to the state agencies which are incurred through their involvement as it relates to the shipment of high-level radioactive waste, transuranic radioactive waste, highway route controlled quantity shipments, spent nuclear fuel, or low-level radioactive waste through or within the state.

4. Nothing in this section shall preclude any other state agency from receiving reimbursement from the department of natural resources and the environmental radiation monitoring fund for services rendered that achieve the objectives and comply with the provisions of this section.

5. Any unencumbered balance in the environmental radiation monitoring fund that exceeds three hundred thousand dollars in any given fiscal year shall be returned to shippers on a pro rata basis, based on the shipper's contribution into the environmental radiation monitoring fund for that fiscal year.

6. The department of natural resources, in coordination with the department of health and senior services and the department of public safety, may promulgate rules necessary to carry out the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

7. All funds deposited in the environmental radiation monitoring fund through fees established in subsection 2 of this section shall be utilized, subject to appropriation by the general assembly, for the administration and enforcement of this section by the department of natural resources. All interest earned by the monies in the fund shall accrue to the fund.

8. All fees shall be paid to the department of natural resources prior to shipment.

9. Notice of any shipment of high-level radioactive waste, transuranic radioactive waste, highway route controlled quantity shipments, or spent nuclear fuel through or within the state shall be provided by the shipper to the governor's designee for advanced notification, as described in 10 CFR Parts 71 and 73, as amended, prior to such shipment entering the state. Notice of any shipment of low-level radioactive waste through or within the state shall be provided by the shipper to the Missouri department of natural resources before such shipment enters the state.

10. Any shipper who fails to pay a fee assessed under this section, or fails to provide notice of a shipment, shall be liable in a civil action for an amount not to exceed ten times the amount assessed and not paid. The action shall be brought by the attorney general at the request of the department of natural resources. If the action involves a facility

domiciled in the state, the action shall be brought in the circuit court of the county in which the facility is located. If the action does not involve a facility domiciled in the state, the action shall be brought in the circuit court of Cole county.

11. Beginning on December 31, 2009, and every two years thereafter, the department of natural resources shall prepare and submit a report on activities of the environmental radiation monitoring fund to the general assembly. This report shall include information on fee income received and expenditures made by the state to enforce and administer the provisions of this section.

12. The provisions of this section shall not apply to high-level radioactive waste, transuranic radioactive waste, highway route controlled quantity shipments, spent nuclear fuel, or low-level radioactive waste shipped by or for the federal government for military or national defense purposes.

13. Under section 23.253, RSMo, of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset six years after the effective date of this section unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

260.750. ENVIRONMENTAL RADIATION MONITORING PROGRAM AND FUND ESTABLISHED — PURPOSES. — 1. The department of natural resources shall develop an environmental radiation monitoring program for the purpose of monitoring radioactivity in air, water, soil, plant and animal life as necessary to insure the protection of the public health and safety of the environment from radiation hazards.

2. There is hereby created within the state treasury an "Environmental Radiation Monitoring Fund". In addition to general revenue, the department of natural resources is authorized to accept and shall deposit in said fund all gifts, bequests, donations, or other moneys, equipment, supplies, or services from any state, interstate or federal agency, or from any institution, person, firm, or corporation, public or private **as well as fees collected under subsection 2 of section 260.392**. This fund shall be used for the environmental radiation monitoring program established in this section **and to administer and enforce the provisions of section 260.392**.

301.010. DEFINITIONS. — As used in this chapter and sections 304.010 to 304.040, 304.120 to 304.260, RSMo, and sections 307.010 to 307.175, RSMo, the following terms mean:

(1) "All-terrain vehicle", any motorized vehicle manufactured and used exclusively for off-highway use which is fifty inches or less in width, with an unladen dry weight of one thousand **five hundred** pounds or less, traveling on three, four or more **[**low pressure**] non-highway** tires, with a seat designed to be straddled by the operator, or with a seat designed to carry more than one person, and handlebars for steering control;

(2) "Automobile transporter", any vehicle combination designed and used specifically for the transport of assembled motor vehicles;

(3) "Axle load", the total load transmitted to the road by all wheels whose centers are included between two parallel transverse vertical planes forty inches apart, extending across the full width of the vehicle;

(4) "Boat transporter", any vehicle combination designed and used specifically to transport assembled boats and boat hulls;

(5) "Body shop", a business that repairs physical damage on motor vehicles that are not owned by the shop or its officers or employees by mending, straightening, replacing body parts, or painting;

(6) "Bus", a motor vehicle primarily for the transportation of a driver and eight or more passengers but not including shuttle buses;

(7) "Commercial motor vehicle", a motor vehicle designed or regularly used for carrying freight and merchandise, or more than eight passengers but not including vanpools or shuttle buses;

(8) "Cotton trailer", a trailer designed and used exclusively for transporting cotton at speeds less than forty miles per hour from field to field or from field to market and return;

(9) "Dealer", any person, firm, corporation, association, agent or subagent engaged in the sale or exchange of new, used or reconstructed motor vehicles or trailers;

(10) "Director" or "director of revenue", the director of the department of revenue;

(11) "Driveaway operation":

(a) The movement of a motor vehicle or trailer by any person or motor carrier other than a dealer over any public highway, under its own power singly, or in a fixed combination of two or more vehicles, for the purpose of delivery for sale or for delivery either before or after sale;

(b) The movement of any vehicle or vehicles, not owned by the transporter, constituting the commodity being transported, by a person engaged in the business of furnishing drivers and operators for the purpose of transporting vehicles in transit from one place to another by the driveaway or towaway methods; or

(c) The movement of a motor vehicle by any person who is lawfully engaged in the business of transporting or delivering vehicles that are not the person's own and vehicles of a type otherwise required to be registered, by the driveaway or towaway methods, from a point of manufacture, assembly or distribution or from the owner of the vehicles to a dealer or sales agent of a manufacturer or to any consignee designated by the shipper or consignor;

(12) "Dromedary", a box, deck, or plate mounted behind the cab and forward of the fifth wheel on the frame of the power unit of a truck tractor-semitrailer combination. A truck tractor equipped with a dromedary may carry part of a load when operating independently or in a combination with a semitrailer;

(13) "Farm tractor", a tractor used exclusively for agricultural purposes;

(14) "Fleet", any group of ten or more motor vehicles owned by the same owner;

(15) "Fleet vehicle", a motor vehicle which is included as part of a fleet;

(16) "Fullmount", a vehicle mounted completely on the frame of either the first or last vehicle in a saddlemount combination;

(17) "Gross weight", the weight of vehicle and/or vehicle combination without load, plus the weight of any load thereon;

(18) "Hail-damaged vehicle", any vehicle, the body of which has become dented as the result of the impact of hail;

(19) "Highway", any public thoroughfare for vehicles, including state roads, county roads and public streets, avenues, boulevards, parkways or alleys in any municipality;

(20) "Improved highway", a highway which has been paved with gravel, macadam, concrete, brick or asphalt, or surfaced in such a manner that it shall have a hard, smooth surface;

(21) "Intersecting highway", any highway which joins another, whether or not it crosses the same;

(22) "Junk vehicle", a vehicle which is incapable of operation or use upon the highways and has no resale value except as a source of parts or scrap, and shall not be titled or registered;

(23) "Kit vehicle", a motor vehicle assembled by a person other than a generally recognized manufacturer of motor vehicles by the use of a glider kit or replica purchased from an authorized manufacturer and accompanied by a manufacturer's statement of origin;

(24) "Land improvement contractors' commercial motor vehicle", any not-for-hire commercial motor vehicle the operation of which is confined to:

(a) An area that extends not more than a radius of one hundred miles from its home base of operations when transporting its owner's machinery, equipment, or auxiliary supplies to or

from projects involving soil and water conservation, or to and from equipment dealers' maintenance facilities for maintenance purposes; or

(b) An area that extends not more than a radius of fifty miles from its home base of operations when transporting its owner's machinery, equipment, or auxiliary supplies to or from projects not involving soil and water conservation.

Nothing in this subdivision shall be construed to prevent any motor vehicle from being registered as a commercial motor vehicle or local commercial motor vehicle;

(25) "Local commercial motor vehicle", a commercial motor vehicle whose operations are confined solely to a municipality and that area extending not more than fifty miles therefrom, or a commercial motor vehicle whose property-carrying operations are confined solely to the transportation of property owned by any person who is the owner or operator of such vehicle to or from a farm owned by such person or under the person's control by virtue of a landlord and tenant lease; provided that any such property transported to any such farm is for use in the operation of such farm;

(26) "Local log truck", a commercial motor vehicle which is registered pursuant to this chapter to operate as a motor vehicle on the public highways of this state, used exclusively in this state, used to transport harvested forest products, operated solely at a forested site and in an area extending not more than a one hundred-mile radius from such site, carries a load with dimensions not in excess of twenty-five cubic yards per two axles with dual wheels, and when operated on the national system of interstate and defense highways described in Title 23, Section 103(e) of the United States Code, such vehicle shall not exceed the weight limits of section 304.180, RSMo, does not have more than four axles, and does not pull a trailer which has more than two axles. Harvesting equipment which is used specifically for cutting, felling, trimming, delimbing, debarking, chipping, skidding, loading, unloading, and stacking may be transported on a local log truck. A local log truck may not exceed the limits required by law, however, if the truck does exceed such limits as determined by the inspecting officer, then notwithstanding any other provisions of law to the contrary, such truck shall be subject to the weight limits required by such sections as licensed for eighty thousand pounds;

(27) "Local log truck tractor", a commercial motor vehicle which is registered under this chapter to operate as a motor vehicle on the public highways of this state, used exclusively in this state, used to transport harvested forest products, operated solely at a forested site and in an area extending not more than a one hundred-mile radius from such site, operates with a weight not exceeding twenty-two thousand four hundred pounds on one axle or with a weight not exceeding forty-four thousand eight hundred pounds on any tandem axle, and when operated on the national system of interstate and defense highways described in Title 23, Section 103(e) of the United States Code, such vehicle does not exceed the weight limits contained in section 304.180, RSMo, and does not have more than three axles and does not pull a trailer which has more than two axles. Violations of axle weight limitations shall be subject to the load limit penalty as described for in sections 304.180 to 304.220, RSMo;

(28) "Local transit bus", a bus whose operations are confined wholly within a municipal corporation, or wholly within a municipal corporation and a commercial zone, as defined in section 390.020, RSMo, adjacent thereto, forming a part of a public transportation system within such municipal corporation and such municipal corporation and adjacent commercial zone;

(29) "Log truck", a vehicle which is not a local log truck or local log truck tractor and is used exclusively to transport harvested forest products to and from forested sites which is registered pursuant to this chapter to operate as a motor vehicle on the public highways of this state for the transportation of harvested forest products;

(30) "Major component parts", the rear clip, cowl, frame, body, cab, front-end assembly, and front clip, as those terms are defined by the director of revenue pursuant to rules and regulations or by illustrations;

(31) "Manufacturer", any person, firm, corporation or association engaged in the business of manufacturing or assembling motor vehicles, trailers or vessels for sale;

(32) "Mobile scrap processor", a business located in Missouri or any other state that comes onto a salvage site and crushes motor vehicles and parts for transportation to a shredder or scrap metal operator for recycling;

(33) "Motor change vehicle", a vehicle manufactured prior to August, 1957, which receives a new, rebuilt or used engine, and which used the number stamped on the original engine as the vehicle identification number;

(34) "Motor vehicle", any self-propelled vehicle not operated exclusively upon tracks, except farm tractors;

(35) "Motor vehicle primarily for business use", any vehicle other than a recreational motor vehicle, motorcycle, motortricycle, or any commercial motor vehicle licensed for over twelve thousand pounds:

(a) Offered for hire or lease; or

(b) The owner of which also owns ten or more such motor vehicles;

(36) "Motorcycle", a motor vehicle operated on two wheels;

(37) "Motorized bicycle", any two-wheeled or three-wheeled device having an automatic transmission and a motor with a cylinder capacity of not more than fifty cubic centimeters, which produces less than three gross brake horsepower, and is capable of propelling the device at a maximum speed of not more than thirty miles per hour on level ground;

(38) "Motortricycle", a motor vehicle operated on three wheels, including a motorcycle while operated with any conveyance, temporary or otherwise, requiring the use of a third wheel. A motortricycle shall not be included in the definition of all-terrain vehicle;

(39) "Municipality", any city, town or village, whether incorporated or not;

(40) "Nonresident", a resident of a state or country other than the state of Missouri;

(41) "Non-USA-std motor vehicle", a motor vehicle not originally manufactured in compliance with United States emissions or safety standards;

(42) "Operator", any person who operates or drives a motor vehicle;

(43) "Owner", any person, firm, corporation or association, who holds the legal title to a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this law;

(44) "Public garage", a place of business where motor vehicles are housed, stored, repaired, reconstructed or repainted for persons other than the owners or operators of such place of business;

(45) "Rebuilder", a business that repairs or rebuilds motor vehicles owned by the rebuilder, but does not include certificated common or contract carriers of persons or property;

(46) "Reconstructed motor vehicle", a vehicle that is altered from its original construction by the addition or substitution of two or more new or used major component parts, excluding motor vehicles made from all new parts, and new multistage manufactured vehicles;

(47) "Recreational motor vehicle", any motor vehicle designed, constructed or substantially modified so that it may be used and is used for the purposes of temporary housing quarters, including therein sleeping and eating facilities which are either permanently attached to the motor vehicle or attached to a unit which is securely attached to the motor vehicle. Nothing herein shall prevent any motor vehicle from being registered as a commercial motor vehicle if the motor vehicle could otherwise be so registered;

(48) **"Recreational off-highway vehicle", any motorized vehicle manufactured and used exclusively for off-highway use which is sixty inches or less in width, with an unladen dry weight of one thousand eight hundred fifty pounds or less, traveling on four or more**

nonhighway tires, with a nonstraddle seat, and steering wheel, which may have access to ATV trails;

(49) "Rollback or car carrier", any vehicle specifically designed to transport wrecked, disabled or otherwise inoperable vehicles, when the transportation is directly connected to a wrecker or towing service;

[(49)**] (50)** "Saddlemount combination", a combination of vehicles in which a truck or truck tractor tows one or more trucks or truck tractors, each connected by a saddle to the frame or fifth wheel of the vehicle in front of it. The "saddle" is a mechanism that connects the front axle of the towed vehicle to the frame or fifth wheel of the vehicle in front and functions like a fifth wheel kingpin connection. When two vehicles are towed in this manner the combination is called a "double saddlemount combination". When three vehicles are towed in this manner, the combination is called a "triple saddlemount combination";

[(50)**] (51)** "Salvage dealer and dismantler", a business that dismantles used motor vehicles for the sale of the parts thereof, and buys and sells used motor vehicle parts and accessories;

[(51)**] (52)** "Salvage vehicle", a motor vehicle, semitrailer, or house trailer which:

(a) Was damaged during a year that is no more than six years after the manufacturer's model year designation for such vehicle to the extent that the total cost of repairs to rebuild or reconstruct the vehicle to its condition immediately before it was damaged for legal operation on the roads or highways exceeds eighty percent of the fair market value of the vehicle immediately preceding the time it was damaged;

(b) By reason of condition or circumstance, has been declared salvage, either by its owner, or by a person, firm, corporation, or other legal entity exercising the right of security interest in it;

(c) Has been declared salvage by an insurance company as a result of settlement of a claim;

(d) Ownership of which is evidenced by a salvage title; or

(e) Is abandoned property which is titled pursuant to section 304.155, RSMo, or section 304.157, RSMo, and designated with the words "salvage/abandoned property".

The total cost of repairs to rebuild or reconstruct the vehicle shall not include the cost of repairing, replacing, or reinstalling inflatable safety restraints, tires, sound systems, or damage as a result of hail, or any sales tax on parts or materials to rebuild or reconstruct the vehicle. For purposes of this definition, "fair market value" means the retail value of a motor vehicle as:

a. Set forth in a current edition of any nationally recognized compilation of retail values, including automated databases, or from publications commonly used by the automotive and insurance industries to establish the values of motor vehicles;

b. Determined pursuant to a market survey of comparable vehicles with regard to condition and equipment; and

c. Determined by an insurance company using any other procedure recognized by the insurance industry, including market surveys, that is applied by the company in a uniform manner;

[(52)**] (53)** "School bus", any motor vehicle used solely to transport students to or from school or to transport students to or from any place for educational purposes;

[(53)**] (54)** "Shuttle bus", a motor vehicle used or maintained by any person, firm, or corporation as an incidental service to transport patrons or customers of the regular business of such person, firm, or corporation to and from the place of business of the person, firm, or corporation providing the service at no fee or charge. Shuttle buses shall not be registered as buses or as commercial motor vehicles;

[(54)**] (55)** "Special mobile equipment", every self-propelled vehicle not designed or used primarily for the transportation of persons or property and incidentally operated or moved over the highways, including farm equipment, implements of husbandry, road construction or maintenance machinery, ditch-digging apparatus, stone crushers, air compressors, power shovels, cranes, graders, rollers, well-drillers and wood-sawing equipment used for hire, asphalt spreaders,

bituminous mixers, bucket loaders, ditchers, leveling graders, finished machines, motor graders, road rollers, scarifiers, earth-moving carryalls, scrapers, drag lines, concrete pump trucks, rock-drilling and earth-moving equipment. This enumeration shall be deemed partial and shall not operate to exclude other such vehicles which are within the general terms of this section;

[(55)**] (56)** "Specially constructed motor vehicle", a motor vehicle which shall not have been originally constructed under a distinctive name, make, model or type by a manufacturer of motor vehicles. The term specially constructed motor vehicle includes kit vehicles;

[(56)**] (57)** "Stinger-steered combination", a truck tractor-semitrailer wherein the fifth wheel is located on a drop frame located behind and below the rearmost axle of the power unit;

[(57)**] (58)** "Tandem axle", a group of two or more axles, arranged one behind another, the distance between the extremes of which is more than forty inches and not more than ninety-six inches apart;

[(58)**] (59)** "Tractor", "truck tractor" or "truck-tractor", a self-propelled motor vehicle designed for drawing other vehicles, but not for the carriage of any load when operating independently. When attached to a semitrailer, it supports a part of the weight thereof;

[(59)**] (60)** "Trailer", any vehicle without motive power designed for carrying property or passengers on its own structure and for being drawn by a self-propelled vehicle, except those running exclusively on tracks, including a semitrailer or vehicle of the trailer type so designed and used in conjunction with a self-propelled vehicle that a considerable part of its own weight rests upon and is carried by the towing vehicle. The term "trailer" shall not include cotton trailers as defined in subdivision (8) of this section and shall not include manufactured homes as defined in section 700.010, RSMo;

[(60)**] (61)** "Truck", a motor vehicle designed, used, or maintained for the transportation of property;

[(61)**] (62)** "Truck-tractor semitrailer-semitrailer", a combination vehicle in which the two trailing units are connected with a B-train assembly which is a rigid frame extension attached to the rear frame of a first semitrailer which allows for a fifth-wheel connection point for the second semitrailer and has one less articulation point than the conventional A-dolly connected truck-tractor semitrailer-trailer combination;

[(62)**] (63)** "Truck-trailer boat transporter combination", a boat transporter combination consisting of a straight truck towing a trailer using typically a ball and socket connection with the trailer axle located substantially at the trailer center of gravity rather than the rear of the trailer but so as to maintain a downward force on the trailer tongue;

[(63)**] (64)** "Used parts dealer", a business that buys and sells used motor vehicle parts or accessories, but not including a business that sells only new, remanufactured or rebuilt parts. "Business" does not include isolated sales at a swap meet of less than three days;

[(64)**] (65)** "Utility vehicle", any motorized vehicle manufactured and used exclusively for off-highway use which is sixty-three inches or less in width, with an unladen dry weight of one thousand eight hundred fifty pounds or less, traveling on four or six wheels, to be used primarily for landscaping, lawn care, or maintenance purposes;

[(65)**] (66)** "Vanpool", any van or other motor vehicle used or maintained by any person, group, firm, corporation, association, city, county or state agency, or any member thereof, for the transportation of not less than eight nor more than forty-eight employees, per motor vehicle, to and from their place of employment; however, a vanpool shall not be included in the definition of the term bus or commercial motor vehicle as defined by subdivisions (6) and (7) of this section, nor shall a vanpool driver be deemed a chauffeur as that term is defined by section 302.010, RSMo; nor shall use of a vanpool vehicle for ride-sharing arrangements, recreational, personal, or maintenance uses constitute an unlicensed use of the motor vehicle, unless used for monetary profit other than for use in a ride-sharing arrangement;

[(66)**] (67)** "Vehicle", any mechanical device on wheels, designed primarily for use, or used, on highways, except motorized bicycles, vehicles propelled or drawn by horses or human

power, or vehicles used exclusively on fixed rails or tracks, or cotton trailers or motorized wheelchairs operated by handicapped persons;

[(67)**] (68)** "Wrecker" or "tow truck", any emergency commercial vehicle equipped, designed and used to assist or render aid and transport or tow disabled or wrecked vehicles from a highway, road, street or highway rights-of-way to a point of storage or repair, including towing a replacement vehicle to replace a disabled or wrecked vehicle;

[(68)**] (69)** "Wrecker or towing service", the act of transporting, towing or recovering with a wrecker, tow truck, rollback or car carrier any vehicle not owned by the operator of the wrecker, tow truck, rollback or car carrier for which the operator directly or indirectly receives compensation or other personal gain.

301.032. FLEET VEHICLE REGISTRATION, DIRECTOR TO ESTABLISH SYSTEM — PROCEDURES — SPECIAL LICENSE PLATES — EXEMPT FROM INSPECTION REQUIREMENTS, WHEN. — 1. Notwithstanding the provisions of sections 301.030 and 301.035 to the contrary, the director of revenue shall establish a system of registration **[**on a calendar year basis**]** of all fleet vehicles owned or purchased by a fleet owner registered pursuant to this section. The director of revenue shall prescribe the forms for such fleet registration and the forms and procedures for the registration updates prescribed in this section. Any owner of ten or more motor vehicles which must be registered in accordance with this chapter may register as a fleet owner. All registered fleet owners may, at their option, register all motor vehicles included in the fleet on a calendar year **or biennial** basis pursuant to this section in lieu of the registration periods provided in sections 301.030 **[**and**] ,** 301.035**, and 301.147**. The director shall issue an identification number to each registered owner of fleet vehicles.

2. All fleet vehicles included in the fleet of a registered fleet owner shall be registered during April each year or on a prorated basis as provided in subsection 3 of this section. Fees of all vehicles in the fleet to be registered on a calendar year basis **or on a biennial basis** shall be payable not later than the last day of April of each year**, with two years' fees due for biennially-registered vehicles. Notwithstanding the provisions of section 307.355, RSMo, an application for registration of a fleet vehicle must be accompanied by a certificate of inspection and approval issued no more than one hundred twenty days prior to the date of application**. The fees for vehicles added to the fleet which must be licensed at the time of registration shall be payable at the time of registration, except that when such vehicle is licensed between July first and September thirtieth the fee shall be three-fourths the annual fee, when licensed between October first and December thirty-first the fee shall be one-half the annual fee and when licensed on or after January first the fee shall be one-fourth the annual fee. **When biennial registration is sought for vehicles added to a fleet, an additional year's annual fee will be added to the partial year's prorated fee.**

3. At any time during the calendar year in which an owner of a fleet purchases or otherwise acquires a vehicle which is to be added to the fleet or transfers plates to a fleet vehicle, the owner shall present to the director of revenue the identification number as a fleet number and may register the vehicle for the partial year as provided in subsection 2 of this section. The fleet owner shall also be charged a transfer fee of two dollars for each vehicle so transferred pursuant to this subsection.

4. **Except as specifically provided in this subsection,** all fleet vehicles registered pursuant to this section shall be issued a special license plate which shall have the words "Fleet Vehicle" in place of the words "Show-Me State" in the manner prescribed by the advisory committee established in section 301.129. **[**Such**] Alternatively, for a one time additional five dollar per vehicle fee beyond the regular registration fee, owners of fleet vehicles may apply for fleet license plates bearing a company name or logo. All fleet** license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Fleet vehicles shall be

issued multiyear license plates as provided in this section which shall not require issuance of a renewal tab.

Upon payment of appropriate registration fees, the director of revenue shall issue a registration certificate or other suitable evidence of payment of the annual **or biennial** fee, and such evidence of payment shall be carried at all times in the vehicle for which it is issued. The director of revenue shall promulgate rules and regulations establishing the procedure for application and issuance of fleet vehicle license plates.

5. Notwithstanding the provisions of sections 307.350 to 307.390, RSMo, to the contrary, a fleet vehicle registered in Missouri is exempt from the requirements of sections 307.350 to 307.390, RSMo, if at the time of the annual fleet registration, such fleet vehicle is situated outside the state of Missouri.

301.131. HISTORIC MOTOR VEHICLES, PERMANENT REGISTRATION, FEE — LICENSE PLATES — ANNUAL MILEAGE ALLOWED, RECORD TO BE KEPT — PENALTY. — 1. Any motor vehicle over twenty-five years old which is owned solely as a collector's item and which is used and intended to be used for exhibition and educational purposes shall be permanently registered upon payment of a registration fee of twenty-five dollars. Upon the transfer of the title to any such vehicle the registration shall be canceled and the license plates issued therefor shall be returned to the director of revenue.

2. The owner of any such vehicle shall file an application in a form prescribed by the director, if such vehicle meets the requirements of this section, and a certificate of registration shall be issued therefor. Such certificate need not specify the horsepower of the motor vehicle.

3. The director shall issue to the owner of any motor vehicle registered pursuant to this section the same number of license plates which would be issued with a regular annual registration, containing the number assigned to the registration certificate issued by the director of revenue. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130.

4. Historic vehicles may be driven to and from repair facilities one hundred miles from the vehicle's location, and in addition may be driven up to one thousand miles per year for personal use. The owner of the historic vehicle shall be responsible for keeping a log of the miles driven for personal use each calendar year. Such log must be kept in the historic vehicle when the vehicle is driven on any state road. The historic vehicle's mileage driven in an antique auto tour or event and mileage driven to and from such a tour or event shall not be considered mileage driven for the purpose of the mileage limitations in this section. Violation of this section **[**is a class C misdemeanor**] shall be punishable under section 301.440** and in addition to any other penalties prescribed by law, upon **[**conviction**] plea or finding of guilt** thereof, the director of revenue shall revoke the historic motor vehicle license plates of such violator which were issued pursuant to this section.

5. Notwithstanding any provisions of this section to the contrary, any person possessing a license plate issued by the state of Missouri that is over twenty-five years old, in which the year of the issuance of such plate is consistent with the year of the manufacture of the vehicle, the owner of the vehicle may register such plate as an historic vehicle plate as set forth in subsections 1 and 2 of this section, provided that the configuration of letters, numbers or combination of letters and numbers of such plate are not identical to the configuration of letters, numbers or combination of letters and numbers of any plates already issued to an owner by the director. Such license plate shall not be required to possess the characteristic features of reflective material and common color scheme and design as prescribed in section 301.130. The owner of the historic vehicle registered pursuant to this subsection shall keep the certificate of registration in the vehicle at all times. The certificate of registration shall be prima facie evidence that the vehicle has been properly registered with the director and that all fees have been paid.

301.140. PLATES REMOVED ON TRANSFER OR SALE OF VEHICLES — USE BY PURCHASER — REREGISTRATION — USE OF DEALER PLATES — TEMPORARY PERMITS, FEES — CREDIT, WHEN. — 1. Upon the transfer of ownership of any motor vehicle or trailer, the certificate of registration and the right to use the number plates shall expire and the number plates shall be removed by the owner at the time of the transfer of possession, and it shall be unlawful for any person other than the person to whom such number plates were originally issued to have the same in his or her possession whether in use or not**, unless such possession is solely for charitable purposes**; except that the buyer of a motor vehicle or trailer who trades in a motor vehicle or trailer may attach the license plates from the traded-in motor vehicle or trailer to the newly purchased motor vehicle or trailer. The operation of a motor vehicle with such transferred plates shall be lawful for no more than thirty days. As used in this subsection, the term "trade-in motor vehicle or trailer" shall include any single motor vehicle or trailer sold by the buyer of the newly purchased vehicle or trailer, as long as the license plates for the trade-in motor vehicle or trailer are still valid.

2. In the case of a transfer of ownership the original owner may register another motor vehicle under the same number, upon the payment of a fee of two dollars, if the motor vehicle is of horsepower, gross weight or (in the case of a passenger-carrying commercial motor vehicle) seating capacity, not in excess of that originally registered. When such motor vehicle is of greater horsepower, gross weight or (in the case of a passenger-carrying commercial motor vehicle) seating capacity, for which a greater fee is prescribed, applicant shall pay a transfer fee of two dollars and a pro rata portion for the difference in fees. When such vehicle is of less horsepower, gross weight or (in case of a passenger-carrying commercial motor vehicle) seating capacity, for which a lesser fee is prescribed, applicant shall not be entitled to a refund.

3. License plates may be transferred from a motor vehicle which will no longer be operated to a newly purchased motor vehicle by the owner of such vehicles. The owner shall pay a transfer fee of two dollars if the newly purchased vehicle is of horsepower, gross weight or (in the case of a passenger-carrying commercial motor vehicle) seating capacity, not in excess of that of the vehicle which will no longer be operated. When the newly purchased motor vehicle is of greater horsepower, gross weight or (in the case of a passenger-carrying commercial motor vehicle) seating capacity, for which a greater fee is prescribed, the applicant shall pay a transfer fee of two dollars and a pro rata portion of the difference in fees. When the newly purchased vehicle is of less horsepower, gross weight or (in the case of a passenger-carrying commercial motor vehicle) seating capacity, for which a lesser fee is prescribed, the applicant shall not be entitled to a refund.

4. Upon the sale of a motor vehicle or trailer by a dealer, a buyer who has made application for registration, by mail or otherwise, may operate the same for a period of thirty days after taking possession thereof, if during such period the motor vehicle or trailer shall have attached thereto, in the manner required by section 301.130, number plates issued to the dealer. Upon application and presentation of **proof of financial responsibility as required under subsection 5 of this section and** satisfactory evidence that the buyer has applied for registration, a dealer may furnish such number plates to the buyer for such temporary use. In such event, the dealer shall require the buyer to deposit the sum of ten dollars and fifty cents to be returned to the buyer upon return of the number plates as a guarantee that said buyer will return to the dealer such number plates within thirty days. The director shall issue a temporary permit authorizing the operation of a motor vehicle or trailer by a buyer for not more than thirty days of the date of purchase.

5. The temporary permit shall be made available by the director of revenue and may be purchased from the department of revenue upon proof of purchase of a motor vehicle or trailer for which the buyer has no registration plate available for transfer **and upon proof of financial responsibility**, or from a dealer upon purchase of a motor vehicle or trailer for which the buyer has no registration plate available for transfer. The director shall make temporary permits available to registered dealers in this state or authorized agents of the department of revenue in sets of ten permits. The fee for the temporary permit shall be seven dollars and fifty cents for

each permit or plate issued. No dealer or authorized agent shall charge more than seven dollars and fifty cents for each permit issued. The permit shall be valid for a period of thirty days from the date of purchase of a motor vehicle or trailer, or from the date of sale of the motor vehicle or trailer by a dealer for which the purchaser obtains a permit as set out above. **No permit shall be issued for a vehicle under this section unless the buyer shows proof of financial responsibility.**

6. The permit shall be issued on a form prescribed by the director and issued only for the applicant's use in the operation of the motor vehicle or trailer purchased to enable the applicant to legally operate the vehicle while proper title and registration plate are being obtained, and shall be displayed on no other vehicle. Temporary permits issued pursuant to this section shall not be transferable or renewable and shall not be valid upon issuance of proper registration plates for the motor vehicle or trailer. The director shall determine the size and numbering configuration, construction, and color of the permit.

7. The dealer or authorized agent shall insert the date of issuance and expiration date, year, make, and manufacturer's number of vehicle on the permit when issued to the buyer. The dealer shall also insert such dealer's number on the permit. Every dealer that issues a temporary permit shall keep, for inspection of proper officers, a correct record of each permit issued by recording the permit or plate number, buyer's name and address, year, make, manufacturer's vehicle identification number on which the permit is to be used, and the date of issuance.

8. Upon the transfer of ownership of any currently registered motor vehicle wherein the owner cannot transfer the license plates due to a change of vehicle category, the owner may surrender the license plates issued to the motor vehicle and receive credit for any unused portion of the original registration fee against the registration fee of another motor vehicle. Such credit shall be granted based upon the date the license plates are surrendered. No refunds shall be made on the unused portion of any license plates surrendered for such credit.

301.150. SALE OF VEHICLE, PROCEDURE TO FOLLOW — USE OF VOIDED PLATES, PENALTY FOR. — 1. License plates issued to owners of motor vehicles registered pursuant to the monthly series system of registration as provided in section 301.030 shall be removed on the sale or transfer of ownership of such vehicles. The plates, if still current, may thereafter be retained and preserved by the person to whom issued, to be fastened to such other motor vehicles as such person shall thereafter register in the person's name.

2. If application for registration of another motor vehicle is not made to the director of revenue within one year following the sale or transfer of ownership of a motor vehicle, the license plates held by the person who sold or transferred ownership of such motor vehicle shall be declared void, and new license plates bearing the same numbers may be issued to another registrant.

3. It shall be unlawful to fasten voided plates to any motor vehicle. Violation of this section shall be **[**deemed a class C misdemeanor**]** **punishable under section 301.440**.

301.165. BRAIN TUMOR AWARENESS ORGANIZATION SPECIAL LICENSE PLATES, PROCEDURE. — 1. Notwithstanding any other provision of law to the contrary, any person, after an annual payment of an emblem-use fee to the Brain Tumor Awareness Organization, may receive special license plates for any vehicle the person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight. The Brain Tumor Awareness Organization hereby authorizes the use of its official emblem to be affixed on multi-year personalized license plates as provided in this section. Any contribution to the Brain Tumor Awareness Organization derived from this section, except reasonable administrative costs, shall be used solely for the purposes of the Brain Tumor Awareness Organization. Any member of the Brain Tumor Awareness Organization may annually apply for the use of the emblem.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to the Brain Tumor Awareness Organization, the Brain Tumor Awareness Organization shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the vehicle owner to the director of revenue at the time of registration. Upon presentation of the annual statement and payment of a twenty-five dollar fee in addition to the regular registration fees, and presentation of any documents which may be required by law, the director of revenue shall issue to the vehicle owner a special license plate which shall bear the emblem of the Brain Tumor Awareness Organization. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. In addition, upon such set of license plates shall be inscribed, in lieu of the words "SHOW-ME STATE", the words "BRAINTUMORAWARENESS.ORG". Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates issued pursuant to this section.

3. A vehicle owner who was previously issued a plate with the Brain Tumor Awareness Organization's emblem authorized by this section, but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the Brain Tumor Awareness Organization's emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the enforcement of this section, and shall design all necessary forms required by this section.

4. Prior to the issuance of a Brain Tumor Awareness Organization specialty plate authorized under this section the department of revenue must be in receipt of an application, as prescribed by the director, which shall be accompanied by a list of at least two hundred potential applicants who plan to purchase the specialty plate, the proposed art design for the specialty license plate, and an application fee, not to exceed five thousand dollars, to defray the department's cost for issuing, developing, and programming the implementation of the specialty plate. Once the plate design is approved, the director of revenue shall not authorize the manufacture of the material to produce such specialized license plates with the individual seal, logo, or emblem until such time as the director has received two hundred applications, the twenty-five dollar specialty plate fee per application, and emblem-use statements, if applicable, and other required documents or fees for such plates.

301.280. DEALERS AND GARAGE KEEPERS, SALES REPORT REQUIRED — UNCLAIMED VEHICLE REPORT REQUIRED, CONTENTS — ALTERATION OF VEHICLE IDENTIFICATION NUMBER, EFFECT. — 1. Every motor vehicle dealer and boat dealer shall make a monthly report to the department of revenue, on blanks to be prescribed by the department of revenue, giving the following information: date of the sale of each motor vehicle, boat, trailer and all-terrain vehicle sold; the name and address of the buyer; the name of the manufacturer; year of manufacture; model of vehicle; vehicle identification number; style of vehicle; odometer setting; and it shall also state whether the motor vehicle, boat, trailer or all-terrain vehicle is new or secondhand. **Each monthly sales report filed by a motor vehicle dealer who collects sales tax under subsection 8 of section 144.070, RSMo, shall also include the amount of state and local sales tax collected for each motor vehicle sold if sales tax was due.** The odometer reading is not required when reporting the sale of any motor vehicle that is ten years old or older, any motor vehicle having a gross vehicle weight rating of more than sixteen thousand pounds, new vehicles that are transferred on a manufacturer's statement of origin between one franchised motor vehicle dealer and another, or boats, all-terrain vehicles or trailers. The sale of all thirty-day temporary permits, without exception, shall be recorded in the appropriate space on the dealer's monthly sales report by recording the complete permit number issued on the motor

vehicle or trailer sale listed. The monthly sales report shall be completed in full and signed by an officer, partner, or owner of the dealership, and actually received by the department of revenue on or before the fifteenth day of the month succeeding the month for which the sales are being reported. If no sales occur in any given month, a report shall be submitted for that month indicating no sales. Any vehicle dealer who fails to file a monthly report or who fails to file a timely report shall be subject to disciplinary action as prescribed in section 301.562 or a penalty assessed by the director not to exceed three hundred dollars per violation. Every motor vehicle and boat dealer shall retain copies of the monthly sales report as part of the records to be maintained at the dealership location and shall hold them available for inspection by appropriate law enforcement officials and officials of the department of revenue. Every vehicle dealer selling twenty or more vehicles a month shall file the monthly sales report with the department in an electronic format. Any dealer filing a monthly sales report in an electronic format shall be exempt from filing the notice of transfer required by section 301.196. For any dealer not filing electronically, the notice of transfer required by section 301.196 shall be submitted with the monthly sales report as prescribed by the director.

2. Every dealer and every person operating a public garage shall keep a correct record of the vehicle identification number, odometer setting, manufacturer's name of all motor vehicles or trailers accepted by him for the purpose of sale, rental, storage, repair or repainting, together with the name and address of the person delivering such motor vehicle or trailer to the dealer or public garage keeper, and the person delivering such motor vehicle or trailer shall record such information in a file kept by the dealer or garage keeper. The record shall be kept for three years and be open for inspection by law enforcement officials, members or authorized or designated employees of the Missouri highway patrol, and persons, agencies and officials designated by the director of revenue.

3. Every dealer and every person operating a public garage in which a motor vehicle remains unclaimed for a period of fifteen days shall, within five days after the expiration of that period, report the motor vehicle as unclaimed to the director of revenue. Such report shall be on a form prescribed by the director of revenue. A motor vehicle left by its owner whose name and address are known to the dealer or his employee or person operating a public garage or his employee is not considered unclaimed. Any dealer or person operating a public garage who fails to report a motor vehicle as unclaimed as herein required forfeits all claims and liens for its garaging, parking or storing.

4. The director of revenue shall maintain appropriately indexed cumulative records of unclaimed vehicles reported to the director. Such records shall be kept open to public inspection during reasonable business hours.

5. The alteration or obliteration of the vehicle identification number on any such motor vehicle shall be prima facie evidence of larceny, and the dealer or person operating such public garage shall upon the discovery of such obliteration or alteration immediately notify the highway patrol, sheriff, marshal, constable or chief of police of the municipality where the dealer or garage keeper has his place of business, and shall hold such motor vehicle or trailer for a period of forty-eight hours for the purpose of an investigation by the officer so notified.

301.290. CORRECTIONAL ENTERPRISES TO MANUFACTURE PLATES AND HIGHWAY SIGNS — MONEY RECEIVED FOR MANUFACTURING PLATES AND SIGNS, HOW DEPOSITED. — 1. Correctional enterprises of the department of corrections shall purchase, erect and maintain all of the machinery and equipment necessary for the manufacture of the license plates and tabs issued by the director of revenue, and of signs used by the state transportation department. Beginning on January 1, **[**2010**]** **2011**, correctional enterprises shall no longer erect and maintain tabs for the department of revenue.

2. The director of revenue shall procure all plates issued by him, and the state transportation department shall procure all signs used by it from correctional enterprises, unless an emergency arises and correctional enterprises cannot furnish the plates, tabs or signs.

3. Correctional enterprises shall furnish the plates and signs at such a price as will not exceed the price at which such plates and signs may be obtained upon the open market, but in no event shall such price be less than the cost of manufacture, including labor and materials.

4. All moneys derived from the sale of the plates, tabs and signs shall be paid into the state treasury to the credit of the working capital revolving fund as provided in section 217.595, RSMo.

301.310. OWNER MAY BE INSTRUCTED TO REPLACE PLATE — CANCELLATION OF REGISTRATION — WAIVER OF COST — PENALTY. — 1. Whenever a law enforcement officer observes a plate to be in such condition as to hinder or make difficult identification of same, he shall notify the director of revenue and instruct the owner to apply for a duplicate plate.

2. If the owner has not made application within fifteen days, the director of revenue may cancel such registration and notify the registrant and such cancellation shall remain in force until the application has been filed.

3. The director of revenue may at his discretion replace worn plates without cost to the registrant.

4. Failure to surrender a mutilated or worn plate for which duplicate has been issued shall **[**be deemed a misdemeanor**]** **punishable under section 301.440**.

301.420. APPLICATIONS — FALSE STATEMENTS PROHIBITED. — No person shall willfully or knowingly make a false statement in any application for the registration of a motor vehicle or trailer, or as a dealer, or in an application for or assignment of a certificate of ownership. All blanks or forms issued by the director of revenue for the purpose of making application for registration of certificate of ownership shall conspicuously bear on the face thereof the following words: "Any false statement in this application is a violation of the law and may be punished by fine or imprisonment or both". **Violation of this section shall be a class C misdemeanor.**

301.440. PENALTY FOR VIOLATIONS. — Any person who violates any provision of sections 301.010 to 301.440 for which no specific punishment is provided shall upon **[**conviction**]** **a plea of finding of guilt** thereof be **[**punished**]** **guilty of an infraction punishable** by a fine of not less than five dollars or more than five hundred dollars **[**or by imprisonment in the county jail for a term not exceeding one year, or by both the fine and imprisonment**]**.

301.562. LICENSE SUSPENSION, REVOCATION, REFUSAL TO RENEW — PROCEDURE — GROUNDS — COMPLAINT MAY BE FILED, WHEN. — 1. The department may refuse to issue or renew any license required pursuant to sections 301.550 to 301.573 for any one or any combination of causes stated in subsection 2 of this section. The department shall notify the applicant or licensee in writing at his or her last known address of the reasons for the refusal to issue or renew the license and shall advise the applicant or licensee of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The department may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any license issued under sections 301.550 to 301.573 for any one or any combination of the following causes:

(1) The applicant or license holder was previously the holder of a license issued under sections 301.550 to 301.573, which license was revoked for cause and never reissued by the department, or which license was suspended for cause and the terms of suspension have not been fulfilled;

(2) The applicant or license holder was previously a partner, stockholder, director or officer controlling or managing a partnership or corporation whose license issued under sections 301.550 to 301.573 was revoked for cause and never reissued or was suspended for cause and the terms of suspension have not been fulfilled;

(3) The applicant or license holder has, within ten years prior to the date of the application, been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions, or duties of any business licensed under sections 301.550 to 301.573; for any offense, an essential element of which is fraud, dishonesty, or an act of violence; or for any offense involving moral turpitude, whether or not sentence is imposed;

(4) Use of fraud, deception, misrepresentation, or bribery in securing any license issued pursuant to sections 301.550 to 301.573;

(5) Obtaining or attempting to obtain any money, commission, fee, barter, exchange, or other compensation by fraud, deception, or misrepresentation;

(6) Violation of, or assisting or enabling any person to violate any provisions of this chapter and chapters **144,** 306, 307, 407, 578, and 643, RSMo, or of any lawful rule or regulation adopted pursuant to this chapter and chapters 306, 307, 407, 578, and 643, RSMo;

(7) The applicant or license holder has filed an application for a license which, as of its effective date, was incomplete in any material respect or contained any statement which was, in light of the circumstances under which it was made, false or misleading with respect to any material fact;

(8) The applicant or license holder has failed to pay the proper application or license fee or other fees required pursuant to this chapter or chapter 306, RSMo, or fails to establish or maintain a bona fide place of business;

(9) Uses or permits the use of any special license or license plate assigned to the license holder for any purpose other than those permitted by law;

(10) The applicant or license holder is finally adjudged insane or incompetent by a court of competent jurisdiction;

(11) Use of any advertisement or solicitation which is false;

(12) Violations of sections 407.511 to 407.556, RSMo, section 578.120, RSMo, which resulted in a conviction or finding of guilt or violation of any federal motor vehicle laws which result in a conviction or finding of guilt.

3. Any such complaint shall be filed within one year of the date upon which the department receives notice of an alleged violation of an applicable statute or regulation. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the department may, singly or in combination, refuse to issue the person a license, issue a private reprimand, place the person on probation on such terms and conditions as the department deems appropriate for a period of one day to five years, suspend the person's license from one day to six days, or revoke the person's license for such period as the department deems appropriate. The applicant or licensee shall have the right to appeal the decision of the administrative hearing commission and department in the manner provided in chapter 536, RSMo.

4. Upon the suspension or revocation of any person's license issued under sections 301.550 to 301.573, the department shall recall any distinctive number plates that were issued to that licensee.

301.571. MOBILITY MOTOR VEHICLE DEALERS, DEFINITIONS, AUTHORITY. — 1. For purposes of this section, the following terms mean:

(1) "Mobility motor vehicle", a motor vehicle that is designed and equipped to transport a person with a disability and:

(a) Contains a lowered floor or lowered frame, or a raised roof and/or raised door;

(b) Contains an electronic or mechanical wheelchair, scooter, or platform lift that enables a person to enter or exit the vehicle while occupying a wheelchair or scooter; an electronic or mechanical wheelchair ramp; or a system to secure a wheelchair or scooter

to allow for a person to be safely transported while occupying the wheelchair or scooter; and

(c) Is installed as an integral part or permanent attachment to the motor vehicle chassis;

(2) "Mobility motor vehicle dealer", a dealer who is licensed as a new or used motor vehicle dealer under this chapter who is engaged in the business of buying, selling, or exchanging mobility motor vehicles and servicing or repairing mobility motor vehicles at an established and permanent place of business.

2. Notwithstanding any other law, a mobility motor vehicle dealer may:

(1) Purchase or otherwise acquire a new motor vehicle from a franchised dealer to fit or equip the motor vehicle for retail sale as a mobility motor vehicle from a franchised dealer wherever located;

(2) Display a new motor vehicle to a person with a disability to fit or equip the vehicle as a mobility motor vehicle for the person; or

(3) Sell a new motor vehicle that has been fitted or equipped as a new mobility motor vehicle with the resale occurring through or by a franchised dealer.

3. A mobility motor vehicle dealer who purchased or acquired a new motor vehicle from a franchised dealer to equip the vehicle as a mobility vehicle shall not advertise the vehicle for resale until the vehicle is fitted or equipped as a mobility motor vehicle.

4. A mobility motor vehicle dealer shall not, except as permitted by subdivision (2) of subsection 2 of this section, display or offer to display a new motor vehicle that is not a mobility motor vehicle to the public.

301.716. SPECIAL ENFORCEMENT PROCEDURES. — 1. **Any violation of the provisions of sections 301.700 to 301.714 shall be an infraction.** An arrest **or service of summons** for violations of the provisions of sections 301.700 to 301.714 and section 577.065, RSMo, or the provisions of this chapter, chapter 304, RSMo, or 307, RSMo, as such provisions relate to all-terrain vehicles may be made by the duly authorized law enforcement officer of any political subdivision of the state, the highway patrol and the state water patrol.

2. Violations of sections 301.700 to 301.714 and section 577.065, RSMo, or the provisions of this chapter, chapter 304, RSMo, or 307, RSMo, as such provisions relate to all-terrain vehicles or any rule or order hereunder may be referred to the proper prosecuting attorney or circuit attorney who may, with or without such reference, institute appropriate **[**criminal**]** proceedings.

3. Nothing in sections 301.700 to 301.714 and section 577.065, RSMo, or the provisions of this chapter, chapter 304, RSMo, or 307, RSMo, as such provisions relate to all-terrain vehicles limits the power of the state to punish any person for any conduct which constitutes a crime by statute or at common law.

301.3155. ARMED FORCES EXPEDITIONARY MEDAL SPECIAL LICENSE PLATE, PROCEDURE. — 1. Any person who has been awarded the military service award known as the "Armed Forces Expeditionary Medal" may apply for Armed Forces Expeditionary Medal motor vehicle license plates for any motor vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight.

2. Any such person shall make application for Armed Forces Expeditionary Medal license plates on a form provided by the director of revenue and furnish such proof as a recipient of the Armed Forces Expeditionary Medal as the director may require. The director shall then issue license plates bearing letters or numbers or a combination thereof as determined by the director with the words "ARMED FORCES EXPEDITIONARY MEDAL" in place of the words "SHOW-ME STATE". Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly

visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Such plates shall also be inscribed with the words "expeditionary service" and bear a reproduction of the armed forces expeditionary service ribbon.

3. There shall be a fifteen-dollar fee in addition to the regular registration fees charged for each set of Armed Forces Expeditionary Medal license plates issued under this section. A fee for the issuance of personalized license plates under section 301.144 shall not be required for plates issued under this section. There shall be no limit on the number of license plates any person qualified under this section may obtain so long as each set of license plates issued under this section is issued for vehicles owned solely or jointly by such person. License plates issued under the provisions of this section shall not be transferable to any other person except that any registered co-owner of the motor vehicle shall be entitled to operate the motor vehicle with such plates for the duration of the year licensed in the event of the death of the qualified person.

302.182. PERMANENT DISABILITY NOTATION ON DRIVER'S AND NONDRIVER'S LICENSES — RULEMAKING AUTHORITY. — 1. Any resident of this state who is permanently disabled may apply to the department of revenue to have a notation indicating such status on the person's driver's license or nondriver's license. The department of revenue, by rule, may establish the cost and criteria for placement of the notation, such as requiring an applicant to submit certain medical proof of permanent disability.

2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

302.184. BOATER IDENTIFICATION CARD, NOTATION FOR COMPLIANCE WITH BOATING SAFETY REQUIREMENTS — RULEMAKING AUTHORITY. — Any resident of this state who possesses a boater identification card issued by the Missouri state water patrol under section 306.127, RSMo, may apply to the department of revenue to have a notation placed on the person's driver's license or nondriver's license indicating that such person has complied with the provisions of section 306.127, RSMo. The department of revenue, by rule, may establish the cost and criteria for placement of the notation. Any driver's license or nondriver's license bearing such a notation may be used for identification in lieu of a boater identification card issued under section 306.127, RSMo. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

302.302. POINT SYSTEM — ASSESSMENT FOR VIOLATION — ASSESSMENT OF POINTS STAYED, WHEN, PROCEDURE. — 1. The director of revenue shall put into effect a point system for the suspension and revocation of licenses. Points shall be assessed only after a conviction or forfeiture of collateral. The initial point value is as follows:

(1) Any moving violation of a state law or county or municipal or federal traffic ordinance or regulation not listed in this section, other than a violation of vehicle equipment provisions or a court-ordered supervision as provided in section 302.303 . . . . . 2 points
(except any violation of municipal stop sign ordinance where no accident is involved . . . . . 1 point)
(2) Speeding
In violation of a state law . . . . . 3 points
In violation of a county or municipal ordinance . . . . . 2 points
(3) Leaving the scene of an accident in violation of section 577.060, RSMo. . . . . 12 points
In violation of any county or municipal ordinance . . . . . 6 points
(4) Careless and imprudent driving in violation of subsection 4 of section 304.016, RSMo . . . . . 4 points
In violation of a county or municipal ordinance . . . . . 2 points
(5) Operating without a valid license in violation of subdivision (1) or (2) of subsection 1 of section 302.020:
(a) For the first conviction . . . . . 2 points
(b) For the second conviction . . . . . 4 points
(c) For the third conviction . . . . . 6 points
(6) Operating with a suspended or revoked license prior to restoration of operating privileges . . . . . 12 points
(7) Obtaining a license by misrepresentation . . . . . 12 points
(8) For the first conviction of driving while in an intoxicated condition or under the influence of controlled substances or drugs . . . . . 8 points
(9) For the second or subsequent conviction of any of the following offenses however combined: driving while in an intoxicated condition, driving under the influence of controlled substances or drugs or driving with a blood alcohol content of eight-hundredths of one percent or more by weight . . . . . 12 points
(10) For the first conviction for driving with blood alcohol content eight-hundredths of one percent or more by weight In violation of state law . . . . . 8 points
In violation of a county or municipal ordinance or federal law or regulation . . . . . 8 points
(11) Any felony involving the use of a motor vehicle . . . . . 12 points
(12) Knowingly permitting unlicensed operator to operate a motor vehicle . . 4 points
(13) For a conviction for failure to maintain financial responsibility pursuant to county or municipal ordinance or pursuant to section 303.025, RSMo . . . . . 4 points
(14) Endangerment of a highway worker in violation of section 304.585, RSMo . . . . . 4 points
(15) Aggravated endangerment of a highway worker in violation of section 304.585, RSMo. . . . . 12 points
(16) For a conviction of violating a municipal ordinance that prohibits tow truck operators from stopping at or proceeding to the scene of an accident unless they have been requested to stop or proceed to such scene by a party involved in such accident or by an officer of a public safety agency . . . . . 4 points

2. The director shall, as provided in subdivision (5) of subsection 1 of this section, assess an operator points for a conviction pursuant to subdivision (1) or (2) of subsection 1 of section 302.020, when the director issues such operator a license or permit pursuant to the provisions of sections 302.010 to 302.340.

3. An additional two points shall be assessed when personal injury or property damage results from any violation listed in subdivisions (1) to (13) of subsection 1 of this section and if found to be warranted and certified by the reporting court.

4. When any of the acts listed in subdivision (2), (3), (4) or (8) of subsection 1 of this section constitutes both a violation of a state law and a violation of a county or municipal ordinance, points may be assessed for either violation but not for both. Notwithstanding that an offense arising out of the same occurrence could be construed to be a violation of subdivisions (8), (9) and (10) of subsection 1 of this section, no person shall be tried or convicted for more than one offense pursuant to subdivisions (8), (9) and (10) of subsection 1 of this section for offenses arising out of the same occurrence.

5. The director of revenue shall put into effect a system for staying the assessment of points against an operator. The system shall provide that the satisfactory completion of a driver-improvement program or, in the case of violations committed while operating a motorcycle, a motorcycle-rider training course approved by the state highways and transportation commission, by an operator, when so ordered and verified by any court having jurisdiction over any law of this state or county or municipal ordinance, regulating motor vehicles, other than a violation committed in a commercial motor vehicle as defined in section 302.700 or a violation committed by an individual who has been issued a commercial driver's license or is required to obtain a commercial driver's license in this state or any other state, shall be accepted by the director in lieu of the assessment of points for a violation pursuant to subdivision (1), (2) or (4) of subsection 1 of this section or pursuant to subsection 3 of this section. **A court using a centralized violation bureau established under section 476.385, RSMo, may elect to have the bureau order and verify completion of a driver-improvement program or motorcycle-rider training course as prescribed by order of the court.** For the purposes of this subsection, the driver-improvement program shall meet or exceed the standards of the National Safety Council's eight-hour "Defensive Driving Course" or, in the case of a violation which occurred during the operation of a motorcycle, the program shall meet the standards established by the state highways and transportation commission pursuant to sections 302.133 to 302.137. The completion of a driver-improvement program or a motorcycle-rider training course shall not be accepted in lieu of points more than one time in any thirty-six-month period and shall be completed within sixty days of the date of conviction in order to be accepted in lieu of the assessment of points. Every court having jurisdiction pursuant to the provisions of this subsection shall, within fifteen days after completion of the driver-improvement program or motorcycle-rider training course by an operator, forward a record of the completion to the director, all other provisions of the law to the contrary notwithstanding. The director shall establish procedures for record keeping and the administration of this subsection.

302.341. MOVING TRAFFIC VIOLATION, FAILURE TO PREPAY FINE OR APPEAR IN COURT, LICENSE SUSPENDED, PROCEDURE — REINSTATEMENT WHEN — EXCESSIVE REVENUE FROM FINES TO BE DISTRIBUTED TO SCHOOLS — DEFINITION, STATE HIGHWAYS. — 1. If a Missouri resident charged with a moving traffic violation of this state or any county or municipality of this state fails to dispose of the charges of which **[**he**]** **the resident** is accused through authorized prepayment of fine and court costs and fails to appear on the return date or at any subsequent date to which the case has been continued, or without good cause fails to pay any fine or court costs assessed against **[**him**]** **the resident** for any such violation within the period of time specified or in such installments as approved by the court or as otherwise provided by law, any court having jurisdiction over the charges shall within ten days of the failure to comply inform the defendant by ordinary mail at the last address shown on the court records that the court will order the director of revenue to suspend the defendant's driving privileges if the charges are not disposed of and fully paid within thirty days from the date of mailing. Thereafter, if the defendant fails to timely act to dispose of the charges and fully pay any applicable fines and court costs, the court shall notify the director of revenue of such failure and of the pending charges against the defendant. Upon receipt of this notification, the director shall suspend the license of the driver, effective immediately, and provide notice of the suspension to the driver at the last address for the driver shown on the records of the department of revenue. Such suspension shall remain in

effect until the court with the subject pending charge requests setting aside the noncompliance suspension pending final disposition, or satisfactory evidence of disposition of pending charges and payment of fine and court costs, if applicable, is furnished to the director by the individual. Upon proof of disposition of charges and payment of fine and court costs, if applicable, and payment of the reinstatement fee as set forth in section 302.304, the director shall return the license and remove the suspension from the individual's driving record. The filing of financial responsibility with the bureau of safety responsibility, department of revenue, shall not be required as a condition of reinstatement of a driver's license suspended solely under the provisions of this section.

2. If any city, town or village receives more than **[**forty-five**]** **thirty-five** percent of its **[**total**]** annual **general operating** revenue from fines **and court costs** for traffic violations occurring on state highways, all revenues from such violations in excess of **[**forty-five**]** **thirty-five** percent of the **[**total**]** annual **general operating** revenue of the city, town or village shall be sent to the director of the department of revenue and shall be distributed annually to the schools of the county in the same manner that proceeds of all penalties, forfeitures and fines collected for any breach of the penal laws of the state are distributed. For the purpose of this section the words "state highways" shall mean any state or federal highway, including any such highway continuing through the boundaries of a city, town or village with a designated street name other than the state highway number. **The director of the department of revenue shall set forth by rule a procedure whereby excess revenues as set forth above shall be sent to the department of revenue. If any city, town, or village disputes a determination that it has received excess revenues required to be sent to the department of revenue, such city, town, or village may submit to an annual audit by the state auditor under the authority of article IV, section 13 of the Missouri Constitution. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly under chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.**

302.545. EXPUNGEMENT OF RECORDS, WHEN. — 1. Any person who is less than twenty-one years of age and whose driving privilege has been suspended or revoked, for a first determination under sections 302.500 to 302.540, that such person was driving with two-hundredths of one percent of blood alcohol content, shall have all official records and all recordations maintained by the department of revenue of such suspension or revocation expunged two years after the date of such suspension or revocation, or when such person attains the age of twenty-one, whichever date first occurs. Such expungement shall be performed by the department of revenue without need of a court order. No records shall be expunged if the person was found guilty or pled guilty to operating a commercial motor vehicle, as defined in section 302.700, **or if the person was holding a commercial driver's license at the time of the offense,** with a blood alcohol content of at least four-hundredths of one percent.

2. The provisions of this section shall not apply to any person whose license is suspended or revoked for a second or subsequent time pursuant to subsection 1 of this section or who is convicted of any alcohol-related driving offense before the age of twenty-one including, but not limited to:

(1) Driving while intoxicated pursuant to section 577.010, RSMo; or

(2) Driving with excessive blood alcohol content pursuant to section 577.012, RSMo.

302.700. CITATION OF LAW — DEFINITIONS. — 1. Sections 302.700 to 302.780 may be cited as the "Uniform Commercial Driver's License Act".

2. When used in sections 302.700 to 302.780, the following words and phrases mean:

(1) "Alcohol", any substance containing any form of alcohol, including, but not limited to, ethanol, methanol, propanol and isopropanol;

(2) "Alcohol concentration", the number of grams of alcohol per one hundred milliliters of blood or the number of grams of alcohol per two hundred ten liters of breath or the number of grams of alcohol per sixty-seven milliliters of urine;

(3) "Commercial driver's instruction permit", a permit issued pursuant to section 302.720;

(4) "Commercial driver's license", a license issued by this state to an individual which authorizes the individual to operate a commercial motor vehicle;

(5) "Commercial driver's license information system", the information system established pursuant to the Commercial Motor Vehicle Safety Act of 1986 (Title XII of Pub. Law 99-570) to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers;

(6) "Commercial motor vehicle", a motor vehicle designed or used to transport passengers or property:

(a) If the vehicle has a gross combination weight rating of twenty-six thousand one or more pounds inclusive of a towed unit which has a gross vehicle weight rating of ten thousand one pounds or more;

(b) If the vehicle has a gross vehicle weight rating of twenty-six thousand one or more pounds or such lesser rating as determined by federal regulation;

(c) If the vehicle is designed to transport sixteen or more passengers, including the driver; or

(d) If the vehicle is transporting hazardous materials and is required to be placarded under the Hazardous Materials Transportation Act (46 U.S.C. 1801 et seq.);

(7) "Controlled substance", any substance so classified under Section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), and includes all substances listed in schedules I through V of 21 CFR part 1308, as they may be revised from time to time;

(8) "Conviction", an unvacated adjudication of guilt, including pleas of guilt and nolo contendre, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an authorized administrative proceeding, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether the penalty is rebated, suspended or prorated**, including an offense for failure to appear or pay**;

(9) "Director", the director of revenue or his authorized representative;

(10) "Disqualification", any of the following three actions:

(a) The suspension, revocation, or cancellation of a commercial driver's license;

(b) Any withdrawal of a person's privileges to drive a commercial motor vehicle by a state as the result of a violation of federal, state, county, municipal, or local law relating to motor vehicle traffic control or violations committed through the operation of motor vehicles, other than parking, vehicle weight, or vehicle defect violations;

(c) A determination by the Federal Motor Carrier Safety Administration that a person is not qualified to operate a commercial motor vehicle under 49 CFR Part 383.52 or Part 391;

(11) "Drive", to drive, operate or be in physical control of a commercial motor vehicle;

(12) "Driver", any person who drives, operates, or is in physical control of a motor vehicle, or who is required to hold a commercial driver's license;

(13) "Driving under the influence of alcohol", the commission of any one or more of the following acts:

(a) Driving a commercial motor vehicle with the alcohol concentration of four one-hundredths of a percent or more as prescribed by the secretary or such other alcohol concentration as may be later determined by the secretary by regulation;

(b) Driving a commercial or noncommercial motor vehicle while intoxicated in violation of any federal or state law, or in violation of a county or municipal ordinance;

(c) Driving a commercial or noncommercial motor vehicle with excessive blood alcohol content in violation of any federal or state law, or in violation of a county or municipal ordinance;

(d) Refusing to submit to a chemical test in violation of section 577.041, RSMo, section 302.750, any federal or state law, or a county or municipal ordinance; or

(e) Having any state, county or municipal alcohol-related enforcement contact, as defined in subsection 3 of section 302.525; provided that any suspension or revocation pursuant to section 302.505, committed in a noncommercial motor vehicle by an individual twenty-one years of age or older shall have been committed by the person with an alcohol concentration of at least eight-hundredths of one percent or more, or in the case of an individual who is less than twenty-one years of age, shall have been committed by the person with an alcohol concentration of at least two-hundredths of one percent or more, and if committed in a commercial motor vehicle, a concentration of four-hundredths of one percent or more;

(14) "Driving under the influence of a controlled substance", the commission of any one or more of the following acts in a commercial or noncommercial motor vehicle:

(a) Driving a commercial or noncommercial motor vehicle while under the influence of any substance so classified under Section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), including any substance listed in schedules I through V of 21 CFR Part 1308, as they may be revised from time to time;

(b) Driving a commercial or noncommercial motor vehicle while in a drugged condition in violation of any federal or state law or in violation of a county or municipal ordinance; or

(c) Refusing to submit to a chemical test in violation of section 577.041, RSMo, section 302.750, any federal or state law, or a county or municipal ordinance;

(15) "Employer", any person, including the United States, a state, or a political subdivision of a state, who owns or leases a commercial motor vehicle or assigns a driver to operate such a vehicle;

(16) "Farm vehicle", a commercial motor vehicle controlled and operated by a farmer used exclusively for the transportation of agricultural products, farm machinery, farm supplies, or a combination of these, within one hundred fifty miles of the farm, other than one which requires placarding for hazardous materials as defined in this section, or used in the operation of a common or contract motor carrier, except that a farm vehicle shall not be a commercial motor vehicle when the total combined gross weight rating does not exceed twenty-six thousand one pounds when transporting fertilizers as defined in subdivision (21) of this subsection;

(17) "Fatality", the death of a person as a result of a motor vehicle accident;

(18) "Felony", any offense under state or federal law that is punishable by death or imprisonment for a term exceeding one year;

(19) "Gross combination weight rating" or "GCWR", the value specified by the manufacturer as the loaded weight of a combination (articulated) vehicle. In the absence of a value specified by the manufacturer, GCWR will be determined by adding the GVWR of the power unit and the total weight of the towed unit and any load thereon;

(20) "Gross vehicle weight rating" or "GVWR", the value specified by the manufacturer as the loaded weight of a single vehicle;

(21) "Hazardous materials", **[**hazardous materials as specified in Section 103 of the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.).**]** **any material that has been designated as hazardous under 49 U.S.C. 5103 and is required to be placarded under subpart F of CFR part 172 or any quantity of a material listed as a select agent or toxin in 42 CFR part 73.** Fertilizers, including but not limited to ammonium nitrate, phosphate, nitrogen, anhydrous ammonia, lime, potash, motor fuel or special fuel, shall not be considered hazardous materials when transported by a farm vehicle provided all other provisions of this definition are followed;

(22) "Imminent hazard", the existence of a condition that presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment may occur before the reasonably foreseeable completion date of a formal proceeding begins to lessen the risk of that death, illness, injury, or endangerment;

(23) "Issuance", the initial licensure, license transfers, license renewals, and license upgrades;

(24) "Motor vehicle", any self-propelled vehicle not operated exclusively upon tracks;

(25) "Noncommercial motor vehicle", a motor vehicle or combination of motor vehicles not defined by the term "commercial motor vehicle" in this section;

(26) "Out of service", a temporary prohibition against the operation of a commercial motor vehicle by a particular driver, or the operation of a particular commercial motor vehicle, or the operation of a particular motor carrier;

(27) "Out-of-service order", a declaration by the Federal Highway Administration, or any authorized enforcement officer of a federal, state, Commonwealth of Puerto Rico, Canadian, Mexican or any local jurisdiction, that a driver, or a commercial motor vehicle, or a motor carrier operation, is out of service;

(28) "School bus", a commercial motor vehicle used to transport preprimary, primary, or secondary school students from home to school, from school to home, or to and from school-sponsored events. School bus does not include a bus used as a common carrier as defined by the Secretary;

(29) "Secretary", the Secretary of Transportation of the United States;

(30) "Serious traffic violation", driving a commercial motor vehicle in such a manner that the driver receives a conviction for the following offenses or driving a noncommercial motor vehicle when the driver receives a conviction for the following offenses and the conviction results in the suspension or revocation of the driver's license or noncommercial motor vehicle driving privilege:

(a) Excessive speeding, as defined by the Secretary by regulation;

(b) Careless, reckless or imprudent driving which includes, but shall not be limited to, any violation of section 304.016, RSMo, any violation of section 304.010, RSMo, or any other violation of federal or state law, or any county or municipal ordinance while driving a commercial motor vehicle in a willful or wanton disregard for the safety of persons or property, or improper or erratic traffic lane changes, or following the vehicle ahead too closely, but shall not include careless and imprudent driving by excessive speed;

(c) A violation of any federal or state law or county or municipal ordinance regulating the operation of motor vehicles arising out of an accident or collision which resulted in death to any person, other than a parking violation;

(d) Driving a commercial motor vehicle without obtaining a commercial driver's license in violation of any federal or state or county or municipal ordinance;

(e) Driving a commercial motor vehicle without a commercial driver's license in the driver's possession in violation of any federal or state or county or municipal ordinance. Any individual who provides proof to the court which has jurisdiction over the issued citation that the individual held a valid commercial driver's license on the date that the citation was issued shall not be guilty of this offense;

(f) Driving a commercial motor vehicle without the proper commercial driver's license class or endorsement for the specific vehicle group being operated or for the passengers or type of cargo being transported in violation of any federal or state law or county or municipal ordinance; or

(g) Any other violation of a federal or state law or county or municipal ordinance regulating the operation of motor vehicles, other than a parking violation, as prescribed by the secretary by regulation;

(31) "State", a state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Mexico, and any province of Canada;

(32) "United States", the fifty states and the District of Columbia.

302.735. APPLICATION FOR COMMERCIAL LICENSE, CONTENTS, EXPIRATION, DURATION, FEES — NEW RESIDENT, APPLICATION DATES — FALSIFICATION OF INFORMATION, INELIGIBILITY FOR LICENSE, WHEN — NONRESIDENT COMMERCIAL LICENSE ISSUED, WHEN. — 1. An application shall not be taken from a nonresident after September 30, 2005. The application for a commercial driver's license shall include, but not be limited to, the applicant's legal name, mailing and residence address, if different, a physical description of the person, including sex, height, weight and eye color, the person's Social Security number, date of birth and any other information deemed appropriate by the director. The application shall also require, beginning September 30, 2005, the applicant to provide the names of all states where the applicant has been previously licensed to drive any type of motor vehicle during the preceding ten years.

2. A commercial driver's license shall expire on the applicant's birthday in the sixth year after issuance, unless the license must be issued for a shorter period due to other requirements of law or for transition or staggering of work as determined by the director, and must be renewed on or before the date of expiration. When a person changes such person's name an application for a duplicate license shall be made to the director of revenue. When a person changes such person's mailing address or residence the applicant shall notify the director of revenue of said change, however, no application for a duplicate license is required. A commercial license issued pursuant to this section to an applicant less than twenty-one years of age and seventy years of age and older shall expire on the applicant's birthday in the third year after issuance, unless the license must be issued for a shorter period as determined by the director.

3. A commercial driver's license containing a hazardous materials endorsement issued to an applicant who is between the age of twenty-one and sixty-nine shall not be issued for a period exceeding five years from the approval date of the security threat assessment as determined by the Transportation Security Administration.

4. The director shall issue an annual commercial driver's license containing a school bus endorsement to an applicant who is seventy years of age or older. The fee for such license shall be seven dollars and fifty cents.

5. A commercial driver's license containing a hazardous materials endorsement issued to an applicant who is seventy years of age or older shall not be issued for a period exceeding three years. The director shall not require such drivers to obtain a security threat assessment more frequently than such assessment is required by the Transportation Security Administration under the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT ACT) of 2001.

(1) The state shall immediately revoke a hazardous materials endorsement upon receipt of an initial determination of threat assessment and immediate revocation from the Transportation Security Administration as defined by 49 CFR 1572.13(a).

(2) The state shall revoke or deny a hazardous materials endorsement within fifteen days of receipt of a final determination of threat assessment from the Transportation Security Administration as required by CFR 1572.13(a).

6. The fee for a commercial driver's license or renewal commercial driver's license issued for a period greater than three years shall be forty dollars.

7. The fee for a commercial driver's license or renewal commercial driver's license issued for a period of three years or less shall be twenty dollars.

8. The fee for a duplicate commercial driver's license shall be twenty dollars.

9. In order for the director to properly transition driver's license requirements under the Motor Carrier Safety Improvement Act of 1999 and the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT ACT) of 2001, the director is authorized to stagger expiration dates and make adjustments for

any fees, including driver examination fees that are incurred by the driver as a result of the initial issuance of a transitional license required to comply with such acts.

10. Within thirty days after moving to this state, the holder of a commercial driver's license shall apply for a commercial driver's license in this state. The applicant shall meet all other requirements of sections 302.700 to 302.780, except that the director may waive the driving test for a commercial driver's license as required in section 302.720 if the applicant for a commercial driver's license has a valid commercial driver's license from a state which has requirements for issuance of such license comparable to those in this state.

11. Any person who falsifies any information in an application or test for a commercial driver's license shall not be licensed to operate a commercial motor vehicle, or the person's commercial driver's license shall be canceled, for a period of one year after the director discovers such falsification.

12. Beginning July 1, 2005, the director shall not issue a commercial driver's license under this section unless the director verifies that the applicant is lawfully present in the United States before accepting the application. If lawful presence is granted for a temporary period, no commercial driver's license shall be issued. The director may, by rule or regulation, establish procedures to verify the lawful presence of the applicant and establish the duration of any commercial driver's license issued under this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

13. (1) Effective December 19, 2005, notwithstanding any provisions of subsections 1 and 5 of this section to the contrary, the director may issue a nonresident commercial driver's license to a resident of a foreign jurisdiction if the United States Secretary of Transportation has determined that the commercial motor vehicle testing and licensing standards in the foreign jurisdiction do not meet the testing standards established in 49 C.F.R. Part 383.

(2) Any applicant for a nonresident commercial driver's license must present evidence satisfactory to the director that the applicant currently has employment with an employer in this state. The nonresident applicant must meet the same testing, driver record requirements, conditions, and is subject to the same disqualification and conviction reporting requirements applicable to resident commercial drivers.

(3) The nonresident commercial driver's license will expire on the same date that the documents establishing lawful presence for employment expire. The word "nonresident" shall appear on the face of the nonresident commercial driver's license. Any applicant for a Missouri nonresident commercial driver's license must first surrender any nonresident commercial driver's license issued by another state.

(4) The nonresident commercial driver's license applicant must pay the same fees as required for the issuance of a resident commercial driver's license.

14. Foreign jurisdiction for purposes of issuing a nonresident commercial driver's license under this section shall not include any of the fifty states of the United States or Canada or Mexico.

302.755. VIOLATIONS, DISQUALIFICATION FROM DRIVING, DURATION, PENALTIES — REAPPLICATION PROCEDURE. — 1. A person is disqualified from driving a commercial motor vehicle for a period of not less than one year if convicted of a first violation of:

(1) Driving a motor vehicle under the influence of alcohol or a controlled substance**, or of an alcohol-related enforcement contact as defined in subsection 3 of section 302.525**;

(2) Driving a commercial motor vehicle which causes a fatality through the negligent operation of the commercial motor vehicle, including but not limited to the crimes of vehicular manslaughter, homicide by motor vehicle, and negligent homicide;

(3) Driving a commercial motor vehicle while revoked pursuant to section 302.727;

(4) Leaving the scene of an accident involving a commercial or noncommercial motor vehicle operated by the person;

(5) Using a commercial or noncommercial motor vehicle in the commission of any felony, as defined in section 302.700, except a felony as provided in subsection 4 of this section.

2. If any of the violations described in subsection 1 of this section occur while transporting a hazardous material the person is disqualified for a period of not less than three years.

3. Any person is disqualified from operating a commercial motor vehicle for life if convicted of two or more violations of any of the offenses specified in subsection 1 of this section, or any combination of those offenses, arising from two or more separate incidents. The director may issue rules and regulations, in accordance with guidelines established by the secretary, under which a disqualification for life under this section may be reduced to a period of not less than ten years.

4. Any person is disqualified from driving a commercial motor vehicle for life who uses a commercial or noncommercial motor vehicle in the commission of any felony involving the manufacture, distribution, or dispensing of a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance.

5. Any person is disqualified from operating a commercial motor vehicle for a period of not less than sixty days if convicted of two serious traffic violations or one hundred twenty days if convicted of three serious traffic violations, arising from separate incidents occurring within a three-year period.

6. Any person found to be operating a commercial motor vehicle while having any measurable alcohol concentration shall immediately be issued a continuous twenty-four-hour out-of-service order by a law enforcement officer in this state.

7. Any person who is convicted of operating a commercial motor vehicle beginning at the time of issuance of the out-of-service order until its expiration is guilty of a class A misdemeanor.

8. Any person convicted for the first time of driving while out of service shall be disqualified from driving a commercial motor vehicle **[**for a period of ninety days**]** **in the manner prescribed in 49 CFR Part 383, or as amended by the Secretary**.

9. Any person convicted of driving while out of service on a second occasion during any ten-year period, involving separate incidents, shall be disqualified **[**for a period of one year**]** **in the manner prescribed in 49 CFR Part 383, or as amended by the Secretary**.

10. Any person convicted of driving while out of service on a third or subsequent occasion during any ten-year period, involving separate incidents, shall be disqualified for a period of three years.

11. Any person convicted of a first violation of an out-of-service order while transporting hazardous materials or while operating a motor vehicle designed to transport sixteen or more passengers, including the driver, is disqualified for a period of one hundred eighty days.

12. Any person convicted of any subsequent violation of an out-of-service order in a separate incident within ten years after a previous violation, while transporting hazardous materials or while operating a motor vehicle designed to transport fifteen passengers, including the driver, is disqualified for a period of three years.

13. Any person convicted of any other offense as specified by regulations promulgated by the Secretary of Transportation shall be disqualified in accordance with such regulations.

14. After suspending, revoking, canceling or disqualifying a driver, the director shall update records to reflect such action and notify a nonresident's licensing authority and the commercial driver's license information system within ten days in the manner prescribed in 49 CFR Part 384, or as amended by the Secretary.

15. Any person disqualified from operating a commercial motor vehicle pursuant to subsection 1, 2, 3 or 4 of this section shall have such commercial driver's license canceled, and upon conclusion of the period of disqualification shall take the written and driving tests and meet all other requirements of sections 302.700 to 302.780. Such disqualification and cancellation shall not be withdrawn by the director until such person reapplies for a commercial driver's license in this or any other state after meeting all requirements of sections 302.700 to 302.780.

16. The director shall disqualify a driver upon receipt of notification that the Secretary has determined a driver to be an imminent hazard pursuant to 49 CFR, Part 383.52. Due process of a disqualification determined by the Secretary pursuant to this section shall be held in accordance with regulations promulgated by the Secretary. The period of disqualification determined by the Secretary pursuant to this section shall be served concurrently to any other period of disqualification which may be imposed by the director pursuant to this section. Both disqualifications shall appear on the driving record of the driver.

17. The director shall disqualify a commercial license holder or operator of a commercial vehicle from operation of any commercial motor vehicle upon receipt of a conviction for an offense of failure to appear or pay, and such disqualification shall remain in effect until the director receives notice that the person has complied with the requirement to appear or pay.

302.775. PROVISIONS OF LAW NOT APPLICABLE, WHEN. — The provisions of sections 302.700 to 302.780 shall not apply to:

(1) Any person driving a farm vehicle as defined in section 302.700 **which is:**

(a) Controlled and operated by a farmer, including operation by employees or family members;

(b) Used to transport agricultural products, farm machinery, farm supplies, or both, to or from a farm;

(c) Not used in the operations of a common or contract motor carrier; and

(d) Used within two hundred forty-one kilometers or one hundred fifty miles of the farmer's farm;

(2) Any active duty military personnel, members of the reserves and national guard on active duty, including personnel on full-time national guard duty, personnel on part-time training and national guard military technicians, while driving **[**military**]** vehicles for military purposes;

(3) Any person who drives emergency or fire equipment necessary to the preservation of life or property or the execution of emergency governmental functions under emergency conditions;

(4) Any person qualified to operate the equipment under subdivision (3) of this section when operating such equipment in other functions such as parades, special events, repair, service or other authorized movements;

(5) Any person driving or pulling a recreational vehicle, as defined in sections 301.010 and 700.010, RSMo, for personal use; and

(6) Any other class of persons exempted by rule or regulation of the director, which rule or regulation is in compliance with the Commercial Motor Vehicle Safety Act of 1986 and any amendments or regulations drafted to that act.

304.034. MUNICIPALITIES MAY REGULATE GOLF CART AND MOTORIZED WHEELCHAIR USAGE ON STREETS AND HIGHWAYS. — 1. Notwithstanding any other law to the contrary, the governing body of any municipality may by resolution or ordinance allow persons to operate golf carts or motorized wheelchairs upon any street or highway under the governing body's jurisdiction. A golf cart or motorized wheelchair shall not be operated at any time on any state or federal highway, but may be operated upon such highway in order to cross a portion of the state highway system which intersects a municipal street. No golf cart or motorized wheelchair shall cross any highway at an intersection where the highway being crossed has a posted speed limit of more than forty-five miles per hour.

2. Golf carts operated on city streets shall be equipped with adequate brakes and shall meet any other safety requirements imposed by the governing body. Golf carts are not subject to the registration provisions of chapter 301, RSMo.

3. As used in this section, a "golf cart" means a motor vehicle that is designed and manufactured for operation on a golf course for sporting or recreational purposes and that is not capable of exceeding speeds of twenty miles per hour.

304.155. ABANDONED MOTOR VEHICLES ON PUBLIC PROPERTY, REMOVAL — HAZARDS ON LAND AND WATER, REMOVAL, LIMITED LIABILITY, WHEN — TOWING OF PROPERTY REPORT TO HIGHWAY OR WATER PATROL OR CRIME INQUIRY AND INSPECTION REPORT WHEN, OWNER LIABLE FOR COSTS — CHECK FOR STOLEN VEHICLES PROCEDURE — RECLAIMING VEHICLE — LIEN FOR CHARGES — RECORD MAINTENANCE BY TOWING COMPANIES — LIENHOLDER REPOSSESSION, PROCEDURE. — 1. Any law enforcement officer within the officer's jurisdiction, or an officer of a government agency where that agency's real property is concerned, may authorize a towing company to remove to a place of safety:

(1) Any abandoned property on the right-of-way of:

(a) Any interstate highway or freeway in an urbanized area, left unattended for ten hours, or immediately if a law enforcement officer determines that the abandoned property is a serious hazard to other motorists, provided that commercial motor vehicles not hauling materials designated as hazardous under 49 U.S.C. 5103(a) may only be removed under this subdivision to a place of safety until the owner or owner's representative has had a reasonable opportunity to contact a towing company of choice;

(b) Any interstate highway or freeway outside of an urbanized area, left unattended for **[**forty-eight**]** **twenty-four** hours, or after four hours if a law enforcement officer determines that the abandoned property is a serious hazard to other motorists, provided that commercial motor vehicles not hauling materials designated as hazardous under 49 U.S.C. 5103(a) may only be removed under this subdivision to a place of safety until the owner or owner's representative has had a reasonable opportunity to contact a towing company of choice;

(c) Any state highway other than an interstate highway or freeway in an urbanized area, left unattended for more than ten hours; or

(d) Any state highway other than an interstate highway or freeway outside of an urbanized area, left unattended for more than **[**forty-eight**]** **twenty-four** hours; provided that commercial motor vehicles not hauling waste designated as hazardous under 49 U.S.C. 5103(a) may only be removed under this subdivision to a place of safety until the owner or owner's representative has had a reasonable opportunity to contact a towing company of choice;

(2) Any unattended abandoned property illegally left standing upon any highway or bridge if the abandoned property is left in a position or under such circumstances as to obstruct the normal movement of traffic where there is no reasonable indication that the person in control of the property is arranging for its immediate control or removal;

(3) Any abandoned property which has been abandoned under section 577.080, RSMo;

(4) Any abandoned property which has been reported as stolen or taken without consent of the owner;

(5) Any abandoned property for which the person operating such property is arrested for an alleged offense for which the officer **[**is required to take**]** **takes** the person into custody and where such person is unable to arrange for the property's timely removal;

(6) Any abandoned property which due to any other state law or local ordinance is subject to towing because of the owner's outstanding traffic or parking violations;

(7) Any abandoned property left unattended in violation of a state law or local ordinance where signs have been posted giving notice of the law or where the violation causes a safety hazard; **[**or**]**

(8) Any abandoned property illegally left standing on the waters of this state as defined in section 306.010, RSMo, where the abandoned property is obstructing the normal movement of traffic, or where the abandoned property has been unattended for more than ten hours or is floating loose on the water**; or**

(9) Any abandoned property for which the person operating such property or vehicle eludes arrest for an alleged offense for which the officer would have taken the offender into custody.

2. The **[**state transportation**]** department **of transportation or any law enforcement officer within the officer's jurisdiction** may immediately remove any abandoned, unattended, wrecked, burned or partially dismantled property, spilled cargo or other personal property from the **[**roadway**] right of way** of any **interstate highway, freeway, or** state highway if the abandoned property, cargo or personal property is creating a traffic hazard because of its position in relation to the **interstate highway, freeway, or** state highway. In the event the property creating a traffic hazard is a commercial motor vehicle, as defined in section 302.700, RSMo, the department's authority under this subsection shall be limited to authorizing a towing company to remove the commercial motor vehicle to a place of safety, except that the owner of the commercial motor vehicle or the owner's designated representative shall have a reasonable opportunity to contact a towing company of choice. The provisions of this subsection shall not apply to vehicles transporting any material which has been designated as hazardous under Section 5103(a) of Title 49, U.S.C.

3. Any law enforcement agency authorizing a tow pursuant to this section in which the abandoned property is moved from the immediate vicinity shall complete a crime inquiry and inspection report. Any state or federal government agency other than a law enforcement agency authorizing a tow pursuant to this section in which the abandoned property is moved away from the immediate vicinity in which it was abandoned shall report the towing to the state highway patrol or water patrol within two hours of the tow along with a crime inquiry and inspection report as required in this section. Any local government agency, other than a law enforcement agency, authorizing a tow pursuant to this section where property is towed away from the immediate vicinity shall report the tow to the local law enforcement agency within two hours along with a crime inquiry and inspection report.

4. Neither the law enforcement officer, government agency official nor anyone having custody of abandoned property under his direction shall be liable for any damage to such abandoned property occasioned by a removal authorized by this section or by ordinance of a county or municipality licensing and regulating the sale of abandoned property by the municipality, other than damages occasioned by negligence or by willful or wanton acts or omissions.

5. The owner of abandoned property removed as provided in this section or in section 304.157 shall be responsible for payment of all reasonable charges for towing and storage of such abandoned property as provided in section 304.158.

6. Upon the towing of any abandoned property pursuant to this section or under authority of a law enforcement officer or local government agency pursuant to section 304.157, the law enforcement agency that authorized such towing or was properly notified by another government agency of such towing shall promptly make an inquiry with the national crime information center and any statewide Missouri law enforcement computer system to determine if the abandoned property has been reported as stolen and shall enter the information pertaining to the towed property into the statewide law enforcement computer system. If the abandoned property is not claimed within ten working days of the towing, the tower who has online access to the department of revenue's records shall make an inquiry to determine the abandoned property owner and lienholder, if any, of record. In the event that the records of the department of revenue fail to disclose the name of the owner or any lienholder of record, the tower shall comply with the requirements of subsection 3 of section 304.156. If the tower does not have online access, the law enforcement agency shall submit a crime inquiry and inspection report to the director of revenue. A towing company that does not have online access to the department's records and that is in possession of abandoned property after ten working days shall report such fact to the law enforcement agency with which the crime inquiry and inspection report was filed.

The crime inquiry and inspection report shall be designed by the director of revenue and shall include the following:

(1) The year, model, make and property identification number of the property and the owner and any lienholders, if known;

(2) A description of any damage to the property noted by the officer authorizing the tow;

(3) The license plate or registration number and the state of issuance, if available;

(4) The storage location of the towed property;

(5) The name, telephone number and address of the towing company;

(6) The date, place and reason for the towing of the abandoned property;

(7) The date of the inquiry of the national crime information center, any statewide Missouri law enforcement computer system and any other similar system which has titling and registration information to determine if the abandoned property had been stolen. This information shall be entered only by the law enforcement agency making the inquiry;

(8) The signature and printed name of the officer authorizing the tow; **[**and**]**

(9) The name of the towing company, the signature and printed name of the towing operator, and an indicator disclosing whether the tower has online access to the department's records; **and**

(10) Any additional information the director of revenue deems appropriate.

7. One copy of the crime inquiry and inspection report shall remain with the agency which authorized the tow. One copy shall be provided to and retained by the storage facility and one copy shall be retained by the towing facility in an accessible format in the business records for a period of three years from the date of the tow or removal.

8. The owner of such abandoned property, or the holder of a valid security interest of record, may reclaim it from the towing company upon proof of ownership or valid security interest of record and payment of all reasonable charges for the towing and storage of the abandoned property.

9. Any person who removes abandoned property at the direction of a law enforcement officer or an officer of a government agency where that agency's real property is concerned as provided in this section shall have a lien for all reasonable charges for the towing and storage of the abandoned property until possession of the abandoned property is voluntarily relinquished to the owner of the abandoned property or to the holder of a valid security interest of record. Any personal property within the abandoned property need not be released to the owner thereof until the reasonable or agreed charges for such recovery, transportation or safekeeping have been paid or satisfactory arrangements for payment have been made, except that any medication prescribed by a physician shall be released to the owner thereof upon request. The company holding or storing the abandoned property shall either release the personal property to the owner of the abandoned property or allow the owner to inspect the property and provide an itemized receipt for the contents. The company holding or storing the property shall be strictly liable for the condition and safe return of the personal property. Such lien shall be enforced in the manner provided under section 304.156.

10. Towing companies shall keep a record for three years on any abandoned property towed and not reclaimed by the owner of the abandoned property. Such record shall contain information regarding the authorization to tow, copies of all correspondence with the department of revenue concerning the abandoned property, including copies of any online records of the towing company accessed and information concerning the final disposition of the possession of the abandoned property.

11. If a lienholder repossesses any motor vehicle, trailer, all-terrain vehicle, outboard motor or vessel without the knowledge or cooperation of the owner, then the repossessor shall notify the local law enforcement agency where the repossession occurred within two hours of the repossession and shall further provide the local law enforcement agency with any additional information the agency deems appropriate. The local law enforcement agency shall make an inquiry with the national crime information center and the Missouri statewide law enforcement

computer system and shall enter the repossessed vehicle into the statewide law enforcement computer system.

12. Notwithstanding the provisions of section 301.227, RSMo, any towing company who has complied with the notification provisions in section 304.156 including notice that any property remaining unredeemed after thirty days may be sold as scrap property may then dispose of such property as provided in this subsection. Such sale shall only occur if at least thirty days has passed since the date of such notification, the abandoned property remains unredeemed with no satisfactory arrangements made with the towing company for continued storage, and the owner or holder of a security agreement has not requested a hearing as provided in section 304.156. The towing company may dispose of such abandoned property by selling the property on a bill of sale as prescribed by the director of revenue to a scrap metal operator or licensed salvage dealer for destruction purposes only. The towing company shall forward a copy of the bill of sale provided by the scrap metal operator or licensed salvage dealer to the director of revenue within two weeks of the date of such sale. The towing company shall keep a record of each such vehicle sold for destruction for three years that shall be available for inspection by law enforcement and authorized department of revenue officials. The record shall contain the year, make, identification number of the property, date of sale, and name of the purchasing scrap metal operator or licensed salvage dealer and copies of all notifications issued by the towing company as required in this chapter. Scrap metal operators or licensed salvage dealers shall keep a record of the purchase of such property as provided in section 301.227, RSMo. Scrap metal operators and licensed salvage dealers may obtain a junk certificate as provided in section 301.227, RSMo, on vehicles purchased on a bill of sale pursuant to this section.

304.170. REGULATIONS AS TO WIDTH, HEIGHT AND LENGTH OF VEHICLES — TRACTOR PARADES PERMITTED. — 1. No vehicle operated upon the highways of this state shall have a width, including load, in excess of one hundred two inches, except clearance lights, rearview mirrors or other accessories required by federal, state or city law or regulation. Provided however, a recreational vehicle as defined in section 700.010, RSMo, may exceed the foregoing width limits if the appurtenances on such recreational vehicle extend no further than the rearview mirrors. Such mirrors may only extend the distance necessary to provide the required field of view before the appurtenances were attached.

2. No vehicle operated upon the interstate highway system or upon any route designated by the chief engineer of the state transportation department shall have a height, including load, in excess of fourteen feet. On all other highways, no vehicle shall have a height, including load, in excess of thirteen and one-half feet, except that any vehicle or combination of vehicles transporting automobiles or other motor vehicles may have a height, including load, of not more than fourteen feet.

3. No single motor vehicle operated upon the highways of this state shall have a length, including load, in excess of forty-five feet, except as otherwise provided in this section.

4. No bus, recreational motor vehicle or trackless trolley coach operated upon the highways of this state shall have a length in excess of forty-five feet, except that such vehicles may exceed the forty-five feet length when such excess length is caused by the projection of a front safety bumper or a rear safety bumper or both. Such safety bumper shall not cause the length of the bus or recreational motor vehicle to exceed the forty-five feet length limit by more than one foot in the front and one foot in the rear. The term "safety bumper" means any device which may be fitted on an existing bumper or which replaces the bumper and is so constructed, treated, or manufactured that it absorbs energy upon impact.

5. No combination of truck-tractor and semitrailer or truck-tractor equipped with dromedary and semitrailer operated upon the highways of this state shall have a length, including load, in excess of sixty feet; except that in order to comply with the provisions of Title 23 of the United States Code (Public Law 97-424), no combination of truck-tractor and semitrailer or truck-tractor equipped with dromedary and semitrailer operated upon the interstate highway system of this

state shall have an overall length, including load, in excess of the length of the truck-tractor plus the semitrailer or truck-tractor equipped with dromedary and semitrailer. The length of such semitrailer shall not exceed fifty-three feet.

6. In order to comply with the provisions of Title 23 of the United States Code (Public Law 97-424), no combination of truck-tractor, semitrailer and trailer operated upon the interstate highway system of this state shall have an overall length, including load, in excess of the length of the truck-tractor plus the semitrailer and trailer, neither of which semitrailer or trailer shall exceed twenty-eight feet in length, except that any existing semitrailer or trailer up to twenty-eight and one-half feet in length actually and lawfully operated on December 1, 1982, within a sixty-five foot overall length limit in any state, may continue to be operated upon the interstate highways of this state. On those primary highways not designated by the state highways and transportation commission as provided in subsection 10 of this section, no combination of truck-tractor, semitrailer and trailer shall have an overall length, including load, in excess of sixty-five feet; provided, however, the state highways and transportation commission may designate additional routes for such sixty-five foot combinations.

7. Automobile transporters, boat transporters, truck-trailer boat transporter combinations, stinger-steered combination automobile transporters and stinger-steered combination boat transporters having a length not in excess of seventy-five feet may be operated on the interstate highways of this state and such other highways as may be designated by the highways and transportation commission for the operation of such vehicles plus a distance not to exceed ten miles from such interstate or designated highway. All length provisions regarding automobile or boat transporters, truck-trailer boat transporter combinations and stinger-steered combinations shall include a semitrailer length not to exceed fifty-three feet and are exclusive of front and rear overhang, which shall be no greater than a three-foot front overhang and no greater than a four-foot rear overhang.

8. Driveaway saddlemount combinations having a length not in excess of ninety-seven feet may be operated on the interstate highways of this state and such other highways as may be designated by the highways and transportation commission for the operation of such vehicles plus a distance not to exceed ten miles from such interstate or designated highway. Saddlemount combinations must comply with the safety requirements of Section 393.71 of Title 49 of the Code of Federal Regulations and may contain no more than three saddlemounted vehicles and one fullmount.

9. No truck-tractor semitrailer-semitrailer combination vehicles operated upon the interstate and designated primary highway system of this state shall have a semitrailer length in excess of twenty-eight feet or twenty-eight and one-half feet if the semitrailer was in actual and lawful operation in any state on December 1, 1982, operating in a truck-tractor semitrailer-semitrailer combination. The B-train assembly is excluded from the measurement of semitrailer length when used between the first and second semitrailer of a truck-tractor semitrailer-semitrailer combination, except that when there is no semitrailer mounted to the B-train assembly, it shall be included in the length measurement of the semitrailer.

10. The highways and transportation commission is authorized to designate routes on the state highway system other than the interstate system over which those combinations of vehicles of the lengths specified in subsections 5, 6, 7, 8 and 9 of this section may be operated. Combinations of vehicles operated under the provisions of subsections 5, 6, 7, 8 and 9 of this section may be operated at a distance not to exceed ten miles from the interstate system and such routes as designated under the provisions of this subsection.

11. Except as provided in subsections 5, 6, 7, 8, 9 and 10 of this section, no other combination of vehicles operated upon the primary or interstate highways of this state plus a distance of ten miles from a primary or interstate highway shall have an overall length, unladen or with load, in excess of sixty-five feet or in excess of fifty-five feet on any other highway, except the state highways and transportation commission may designate additional routes for use by sixty-five foot combinations, seventy-five foot stinger-steered combinations or seventy-five

foot saddlemount combinations. Any vehicle or combination of vehicles transporting automobiles, boats or other motor vehicles may carry a load which extends no more than three feet beyond the front and four feet beyond the rear of the transporting vehicle or combination of vehicles.

12. (1) Except as hereinafter provided, these restrictions shall not apply to agricultural implements operating occasionally on the highways for short distances**[**,**]** **including tractor parades for fund-raising activities or special events, provided the tractors are driven by licensed drivers during daylight hours only and with the approval of the superintendent of the Missouri state highway patrol;** or to self-propelled hay-hauling equipment or to implements of husbandry, or to the movement of farm products as defined in section **[**400.9-109**]** **400.9-102**, RSMo, or to vehicles temporarily transporting agricultural implements or implements of husbandry or roadmaking machinery, or road materials or towing for repair purposes vehicles that have become disabled upon the highways; or to implement dealers delivering or moving farm machinery for repairs on any state highway other than the interstate system.

(2) Implements of husbandry and vehicles transporting such machinery or equipment and the movement of farm products as defined in section 400.9.109, RSMo, may be operated occasionally for short distances on state highways when operated between the hours of sunrise and sunset by a driver licensed as an operator or chauffeur.

13. As used in this chapter the term "implements of husbandry" means all self-propelled machinery operated at speeds of less than thirty miles per hour, specifically designed for, or especially adapted to be capable of, incidental over-the-road and primary offroad usage and used exclusively for the application of commercial plant food materials or agricultural chemicals, and not specifically designed or intended for transportation of such chemicals and materials.

14. Sludge disposal units may be operated on all state highways other than the interstate system. Such units shall not exceed one hundred thirty-eight inches in width and may be equipped with over-width tires. Such units shall observe all axle weight limits. The chief engineer of the state transportation department shall issue special permits for the movement of such disposal units and may by such permits restrict the movements to specified routes, days and hours.

304.260. TRACTORS EXEMPT — DESIGNATION OF TRUCK ROUTES BY COMMISSION. — Farm tractors when using the highways in traveling from one field or farm to another, or to or from places of delivery or repair**, or when participating in activities or events permitted under subsection 12 of section 304.170** are exempt from the provisions of the law relating to registration and display of number plates, but shall comply with all the other provisions hereof. The state highways and transportation commission shall have the power and authority to prescribe the type of road upon which such tractors may be used and may exclude the use of such tractors or the use of trucks of any particular weight from the use of certain designated roads or types of roads, by the posting of signs along or upon such roads or any part thereof.

304.285. RED LIGHT VIOLATIONS BY MOTORCYCLES OR BICYCLES, AFFIRMATIVE DEFENSE, WHEN. — Any person operating a motorcycle or bicycle who violates the provisions of section 304.281 or section 304.301 by entering or crossing an intersection controlled by a traffic control signal against a red light shall have an affirmative defense to that charge if the person establishes all of the following conditions:

(1) The motorcycle or bicycle has been brought to a complete stop;

(2) The traffic control signal continues to show a red light for an unreasonable time;

(3) The traffic control is apparently malfunctioning or, if programmed or engineered to change to a green light only after detecting the approach of a motor vehicle, the signal has apparently failed to detect the arrival of the motorcycle; and

(4) No motor vehicle or person is approaching on the street or highway to be crossed or entered or is so far away from the intersection that it does not constitute an immediate hazard.

The affirmative defense of this section applies only to a violation for entering or crossing an intersection controlled by a traffic control signal against a red light and does not provide a defense to any other civil or criminal action.

307.010. LOADS WHICH MIGHT BECOME DISLODGED TO BE SECURED — FAILURE, PENALTY. — 1. All motor vehicles, and every trailer and semitrailer operating upon the public highways of this state and carrying goods or material or farm products which may reasonably be expected to become dislodged and fall from the vehicle, trailer or semitrailer as a result of wind pressure or air pressure and/or by the movement of the vehicle, trailer or semitrailer shall have a protective cover or be sufficiently secured so that no portion of such goods or material can become dislodged and fall from the vehicle, trailer or semitrailer while being transported or carried.

2. Operation of a motor vehicle, trailer or semitrailer in violation of this section shall be **[**a class C misdemeanor**] an infraction**, and any person **[**convicted**] who pleads or is found guilty** thereof shall be punished as provided by law.

307.015. CERTAIN MOTOR VEHICLES, MUD FLAPS REQUIRED — VIOLATION, PENALTY. — 1. Trucks, semitrailers, and trailers, except utility trailers, without rear fenders, attached to a commercial motor vehicle registered for over twenty-four thousand pounds shall be equipped with mud flaps for the rear wheels when operated on the public highways of this state. If mud flaps are used, they shall be wide enough to cover the full tread width of the tire or tires being protected; shall be so installed that they extend from the underside of the vehicle body in a vertical plane behind the rear wheels to within eight inches of the ground; and shall be constructed of a rigid material or a flexible material which is of a sufficiently rigid character to provide adequate protection when the vehicle is in motion. No provisions of this section shall apply to a motor vehicle in transit and in process of delivery equipped with temporary mud flaps, to farm implements, or to any vehicle which is not required to be registered.

2. Any person who violates this section is guilty of **[**a class B misdemeanor**] an infraction** and, upon **[**conviction**] plea or finding of guilt**, shall be punished as provided by law.

307.090. SPOTLAMPS — RESTRICTIONS, PENALTY. — 1. Any motor vehicle may be equipped with not to exceed one spotlamp but every lighted spotlamp shall be so aimed and used so as not to be dazzling or glaring to any person.

2. Notwithstanding the provisions of section 307.120, violation of this section is **[**a class C misdemeanor**] an infraction**.

307.120. PENALTY FOR VIOLATIONS. — Any person violating any of the provisions of sections 307.020 to 307.120 shall, upon conviction thereof, be deemed guilty of **[**a misdemeanor**] an infraction**. The term "person" as used in sections 307.020 to 307.120 shall mean and include any individual, association, joint stock company, copartnership or corporation.

307.125. ANIMAL-DRIVEN VEHICLES, LIGHTING REQUIREMENTS — PENALTY — RULEMAKING AUTHORITY. — 1. Any person who shall place or drive or cause to be placed or driven upon or along any state or supplementary state highway of this state any animal-driven vehicle whatsoever, whether in motion or at rest, shall after sunset to one-half hour before sunrise have attached to every such vehicle at the rear thereof a red taillight or a red reflecting device of not less than three inches in diameter of effective area or its equivalent in area. When such device shall consist of reflecting buttons there shall be no less than seven of such buttons covering an area equal to a circle with a three-inch diameter. The total subtended effective angle

of reflection of every such device shall be no less than sixty degrees and the spread and efficiency of the reflected light shall be sufficient for the reflected light to be visible to the driver of any motor vehicle approaching such animal-drawn vehicle from the rear of a distance of not less than five hundred feet.

2. In addition, any person who operates any such animal-driven vehicle during the hours between sunset and one-half hour before sunrise shall have at least one light flashing at all times the vehicle is on any highway of this state. Such light or lights shall be amber in the front and red in the back and shall be placed on the left side of the vehicle at a height of no more than six feet from the ground and shall be visible from the front and the back of the vehicle at a distance of at least five hundred feet. Any person violating the provisions of this section shall be guilty of **[**a class C misdemeanor**]** **an infraction**.

3. Any person operating an animal-driven vehicle during the hours between sunset and one-half hour before sunrise may, in lieu of the requirements of subsection 2 of this section, use lamps or lanterns complying with the rules promulgated by the director of the department of public safety.

4. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

307.155. VIOLATION AN INFRACTION. — Any person violating any of the provisions of sections 307.130 to 307.160 shall be deemed guilty of **[**a class C misdemeanor**]** **an infraction** and shall be punished by a fine of not to exceed fifty dollars for each offense.

307.172. ALTERING PASSENGER MOTOR VEHICLE BY RAISING FRONT OR REAR OF VEHICLE PROHIBITED, WHEN — BUMPERS FRONT AND REAR REQUIRED, WHEN — VIOLATIONS NOT TO PASS INSPECTION — PENALTY — CERTAIN VEHICLES EXEMPT. — 1. No person shall operate any passenger motor vehicle upon the public streets or highways of this state, the body of which has been altered in such a manner that the front or rear of the vehicle is raised at such an angle as to obstruct the vision of the operator of the street or highway in front or to the rear of the vehicle.

2. Every motor vehicle which is licensed in this state and operated upon the public streets or highways of this state shall be equipped with front and rear bumpers if such vehicle was equipped with bumpers as standard equipment. This subsection shall not apply to motor vehicles designed or modified primarily for off-highway purposes while such vehicles are in tow or to motorcycles or motor-driven cycles, or to motor vehicles registered as historic motor vehicles when the original design of such vehicles did not include bumpers nor shall the provisions of this subsection prohibit the use of drop bumpers. The superintendent of the Missouri state highway patrol shall adopt rules and regulations relating to bumper standards. Maximum bumper heights of both the front and rear bumpers of motor vehicles shall be determined by weight category of gross vehicle weight rating (GVWR) measured from a level surface to the highest point of the bottom of the bumper when the vehicle is unloaded and the tires are inflated to the manufacturer's recommended pressure. Maximum bumper heights are as follows:

	Maximum front bumper height	Maximum rear bumper height
Motor vehicles except commercial motor vehicles	22 inches	22 inches

Commercial motor vehicles (GVWR)		
4,500 lbs and under	24 inches	26 inches
4,501 lbs through 7,500 lbs	27 inches	29 inches
7,501 lbs through 9,000 lbs	28 inches	30 inches
9,001 lbs through 11,500 lbs	29 inches	31 inches

3. A motor vehicle in violation of this section shall not be approved during any motor vehicle safety inspection required pursuant to sections 307.350 to 307.390.

4. Any person knowingly violating the provisions of this section is guilty of **[**a class C misdemeanor**]** **an infraction**.

307.173. SPECIFICATIONS FOR SUN SCREENING DEVICE APPLIED TO WINDSHIELD OR WINDOWS — PERMIT REQUIRED, WHEN — EXCEPTIONS — RULES, PROCEDURE — VIOLATIONS, PENALTY — EXEMPTIONS. — 1. Any person may operate a motor vehicle with front sidewing vents or windows located immediately to the left and right of the driver that have a sun screening device, in conjunction with safety glazing material, that has a light transmission of thirty-five percent or more plus or minus three percent and a luminous reflectance of thirty-five percent or less plus or minus three percent. Except as provided in subsection 5 of this section, any sun screening device applied to front sidewing vents or windows located immediately to the left and right of the driver in excess of the requirements of this section shall be prohibited without a permit pursuant to a physician's prescription as described below. A permit to operate a motor vehicle with front sidewing vents or windows located immediately to the left and right of the driver that have a sun screening device, in conjunction with safety glazing material, which permits less light transmission and luminous reflectance than allowed under the requirements of this subsection, may be issued by the department of public safety to a person having a serious medical condition which requires the use of a sun screening device if the permittee's physician prescribes its use. The director of the department of public safety shall promulgate rules and regulations for the issuance of the permit. The permit shall allow operation of the vehicle by any titleholder or relative within the second degree by consanguinity or affinity, which shall mean a spouse, each grandparent, parent, brother, sister, niece, nephew, aunt, uncle, child, and grandchild of a person, who resides in the household. Except as provided in subsection 2 of this section, all sun screening devices applied to the windshield of a motor vehicle are prohibited.

2. This section shall not prohibit labels, stickers, decalcomania, or informational signs on motor vehicles or the application of tinted or solar screening material to recreational vehicles as defined in section 700.010, RSMo, provided that such material does not interfere with the driver's normal view of the road. This section shall not prohibit factory-installed tinted glass, the equivalent replacement thereof or tinting material applied to the upper portion of the motor vehicle's windshield which is normally tinted by the manufacturer of motor vehicle safety glass.

3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

4. Any person who violates the provisions of this section is guilty of **[**a class C misdemeanor**]** **an infraction**.

5. Any vehicle licensed with a historical license plate shall be exempt from the requirements of this section.

307.195. LICENSE REQUIRED — OPERATION ON INTERSTATE HIGHWAY PROHIBITED — VIOLATION, PENALTY. — 1. No person shall operate a motorized bicycle on any highway or street in this state unless the person has a valid license to operate a motor vehicle.

2. No motorized bicycle may be operated on any public thoroughfare located within this state which has been designated as part of the federal interstate highway system.

3. Violation of this section shall be deemed **[**a class C misdemeanor**] an infraction**.

307.198. ALL-TERRAIN VEHICLES, EQUIPMENT REQUIRED — PENALTY. — 1. Every all-terrain vehicle, except those used in competitive events, shall have the following equipment:

(1) A lighted headlamp and tail lamp which shall be in operation at any time in which an all-terrain vehicle is being used on any street or highway in this state pursuant to section 304.013, RSMo;

(2) An equilateral triangular emblem, to be mounted on the rear of such vehicle at least two feet above the roadway when such vehicle is operated upon any street or highway pursuant to section 300.348, RSMo, or 304.013, RSMo. The emblem shall be constructed of substantial material with a fluorescent yellow-orange finish and a reflective, red border at least one inch in width. Each side of the emblem shall measure at least ten inches;

(3) A braking system maintained in good operating condition;

(4) An adequate muffler system in good working condition, and a United States Forest Service qualified spark arrester.

2. A violation of this section shall be **[**a class C misdemeanor**] an infraction**.

307.350. MOTOR VEHICLES, BIENNIAL INSPECTION REQUIRED, EXCEPTIONS — AUTHORIZATION TO OPERATE INSPECTION STATION FOR INSPECTION AUTHORIZED — VIOLATION, PENALTY. — 1. The owner of every motor vehicle as defined in section 301.010, RSMo, which is required to be registered in this state, except:

(1) **[**New**]** motor vehicles **[**which have not been previously titled and registered**]**, for the **[**two-year**] five-year** period following their model year of manufacture**, excluding prior salvage vehicles immediately following a rebuilding process and vehicles subject to the provisions of section 307.380**;

(2) Those motor vehicles which are engaged in interstate commerce and are proportionately registered in this state with the Missouri highway reciprocity commission, although the owner may request that such vehicle be inspected by an official inspection station, and a peace officer may stop and inspect such vehicles to determine whether the mechanical condition is in compliance with the safety regulations established by the United States Department of Transportation; and

(3) Historic motor vehicles registered pursuant to section 301.131, RSMo;

(4) Vehicles registered in excess of twenty-four thousand pounds for a period of less than twelve months;

shall submit such vehicles to a biennial inspection of their mechanism and equipment in accordance with the provisions of sections 307.350 to 307.390 and obtain a certificate of inspection and approval and a sticker, seal, or other device from a duly authorized official inspection station. The inspection, except the inspection of school buses which shall be made at the time provided in section 307.375, shall be made at the time prescribed in the rules and regulations issued by the superintendent of the Missouri state highway patrol; but the inspection of a vehicle shall not be made more than sixty days prior to the date of application for registration or within sixty days of when a vehicle's registration is transferred. Any vehicle manufactured as an even-numbered model year vehicle shall be inspected and approved pursuant

to the safety inspection program established pursuant to sections 307.350 to 307.390 in each even-numbered calendar year and any such vehicle manufactured as an odd-numbered model year vehicle shall be inspected and approved pursuant to sections 307.350 to 307.390 in each odd-numbered year. The certificate of inspection and approval shall be a sticker, seal, or other device or combination thereof, as the superintendent of the Missouri state highway patrol prescribes by regulation and shall be displayed upon the motor vehicle or trailer as prescribed by the regulations established by him. The replacement of certificates of inspection and approval which are lost or destroyed shall be made by the superintendent of the Missouri state highway patrol under regulations prescribed by him.

2. For the purpose of obtaining an inspection only, it shall be lawful to operate a vehicle over the most direct route between the owner's usual place of residence and an inspection station of such owner's choice, notwithstanding the fact that the vehicle does not have a current state registration license. It shall also be lawful to operate such a vehicle from an inspection station to another place where repairs may be made and to return the vehicle to the inspection station notwithstanding the absence of a current state registration license.

3. No person whose motor vehicle was duly inspected and approved as provided in this section shall be required to have the same motor vehicle again inspected and approved for the sole reason that such person wishes to obtain a set of any special personalized license plates available pursuant to section 301.144, RSMo, or a set of any license plates available pursuant to section 301.142, RSMo, prior to the expiration date of such motor vehicle's current registration.

4. Notwithstanding the provisions of section 307.390, violation of this section shall be deemed an infraction.

307.365. INSPECTION STATION PERMIT NOT TRANSFERABLE — APPROVAL TO BE ON OFFICIAL FORM — REPORT TO SUPERINTENDENT — DEFECTS, CORRECTION OF, WHO MAY MAKE — INSPECTION FEE — STICKER FEE — INSPECTION FUND, CREATED, PURPOSE — DISCONTINUATION OF STATION, PROCEDURES. — 1. No permit for an official inspection station shall be assigned or transferred or used at any location other than therein designated and every permit shall be posted in a conspicuous place at the location designated. The superintendent of the Missouri state highway patrol shall design and furnish each official inspection station, at no cost, one official sign made of metal or other durable material to be displayed in a conspicuous location to designate the station as an official inspection station. Additional signs may be obtained by an official inspection station for a fee equal to the cost to the state. Each inspection station shall also be supplied with one or more posters which must be displayed in a conspicuous location at the place of inspection and which informs the public that required repairs or corrections need not be made at the inspection station.

2. No person operating an official inspection station pursuant to the provisions of sections 307.350 to 307.390 may issue a certificate of inspection and approval for any vehicle except upon an official form furnished by the superintendent of the Missouri state highway patrol for that purpose and only after inspecting the vehicle and determining that its brakes, lighting equipment, signaling devices, steering mechanisms, horns, mirrors, windshield wipers, tires, wheels, exhaust system, glazing, air pollution control devices, fuel system and any other safety equipment as required by the state are in proper condition and adjustment to be operated upon the public highways of this state with safety to the driver or operator, other occupants therein, as well as other persons and property upon the highways, as provided by sections 307.350 to 307.390 and the regulations prescribed by the superintendent of the Missouri state highway patrol. Brakes may be inspected for safety by means of visual inspection or computerized brake testing. No person operating an official inspection station shall furnish, loan, give or sell a certificate of inspection and approval to any other person except those entitled to receive it under provisions of sections 307.350 to 307.390. No person shall have in such person's possession any

certificate of inspection and approval and/or inspection sticker with knowledge that the certificate and/or inspection sticker has been illegally purchased, stolen or counterfeited.

3. The superintendent of the Missouri state highway patrol may require officially designated stations to furnish reports upon forms furnished by the superintendent for that purpose as the superintendent considers reasonably necessary for the proper and efficient administration of sections 307.350 to 307.390.

4. If, upon inspection, defects or unsafe conditions are found, the owner may correct them or shall have them corrected at any place the owner chooses within twenty days after the defect or unsafe condition is found, and shall have the right to remove the vehicle to such place for correction, but before the vehicle is operated thereafter upon the public highways of this state, a certificate of inspection and approval must be obtained. The inspecting personnel of the official inspection station must inform the owner that the corrections need not be made at the inspection station.

5. A fee, not to exceed twelve dollars, as determined by each official inspection station, may be charged by an official inspection station for each official inspection including the issuance of the certificate of inspection and approval, sticker, seal or other device and a total fee, not to exceed ten dollars, as determined by each official inspection station, may be charged for an official inspection of a trailer or motorcycle, which shall include the issuance of the certificate of inspection and approval, sticker, seal or other device. Such fee shall be conspicuously posted on the premises of each such official inspection station. No owner shall be charged an additional inspection fee upon having corrected defects or unsafe conditions found in an inspection completed within the previous twenty consecutive days, excluding Saturdays, Sundays and holidays, if such follow-up inspection is made by the station making the initial inspection. Every inspection for which a fee is charged shall be a complete inspection, and upon completion of the inspection, if any defects are found the owner of the vehicle shall be furnished a list of the defects and a receipt for the fee paid for the inspection. If the owner of a vehicle decides to have any necessary repairs or corrections made at the official inspection station, the owner shall be furnished a written estimate of the cost of such repairs before such repairs or corrections are made by the official inspection station. The written estimate shall have plainly written upon it that the owner understands that the corrections need not be made by the official inspection station and shall have a signature line for the owner. The owner must sign below the statement on the signature line before any repairs are made.

6. Certificates of inspection and approval, sticker, seal or other device shall be purchased by the official inspection stations from the superintendent of the Missouri state highway patrol. The superintendent of the Missouri state highway patrol shall collect a fee of one dollar and fifty cents for each certificate of inspection, sticker, seal or other device issued to the official inspection stations, except that no charge shall be made for certificates of inspection, sticker, seal or other device issued to official inspection stations operated by governmental entities. All fees collected shall be deposited in the state treasury with one dollar of each fee collected credited to the state highway fund and, for the purpose of administering and enforcing the state motor vehicle laws and traffic regulations, fifty cents credited to the "Highway Patrol Inspection Fund" which is hereby created. The moneys collected and deposited in the highway patrol inspection fund shall be expended subject to appropriations by the general assembly for the administration and enforcement of sections 307.350 to 307.390 by the Missouri state highway patrol. The unexpended balance in the fund at the end of each biennium exceeding the amount of the appropriations from the fund for the first two fiscal years shall be transferred to the state road fund, and the provisions of section 33.080, RSMo, relating to the transfer of funds to the general revenue fund at the end of the biennium, shall not apply to the fund.

7. The owner or operator of any inspection station who discontinues operation during the period that a station permit is valid or whose station permit is suspended or revoked shall return all official signs and posters and any current unused inspection stickers, seals or other devices to the superintendent of the Missouri state highway patrol and shall receive a full refund on

request except for official signs and posters, provided the request is made during the calendar year or within sixty days thereafter in the manner prescribed by the superintendent of the Missouri state highway patrol. Stations which have a valid permit shall exchange unused previous year issue inspection stickers and/or decals for an identical number of current year issue, provided the unused stickers and/or decals are submitted for exchange not later than April thirtieth of the current calendar year, in the manner prescribed by the superintendent of the Missouri state highway patrol.

8. Notwithstanding the provisions of section 307.390 to the contrary, a violation of this section shall be a class C misdemeanor.

307.375. INSPECTION OF SCHOOL BUSES — ITEMS COVERED — VIOLATIONS, WHEN CORRECTED, NOTICE TO PATROL — SPOT CHECKS AUTHORIZED. — 1. The owner of every bus used to transport children to or from school in addition to any other inspection required by law shall submit the vehicle to an official inspection station, and obtain a certificate of inspection, sticker, seal or other device annually, but the inspection of the vehicle shall not be made more than sixty days prior to operating the vehicle during the school year. The inspection shall, in addition to the inspection of the mechanism and equipment required for all motor vehicles under the provisions of sections 307.350 to 307.390, include an inspection to ascertain that the following items are correctly fitted, adjusted, and in good working condition:

(1) All mirrors, including crossview, inside, and outside;

(2) The front and rear warning flashers;

(3) The stop signal arm;

(4) The crossing control arm on public school buses required to have them pursuant to section 304.050, RSMo;

(5) The rear bumper to determine that it is flush with the bus so that hitching of rides cannot occur;

(6) The exhaust tailpipe shall be flush with or may extend not more than two inches beyond the perimeter of the body or bumper;

(7) The emergency doors and exits to determine them to be unlocked and easily opened as required;

(8) The lettering and signing on the front, side and rear of the bus;

(9) The service door;

(10) The step treads;

(11) The aisle mats or aisle runners;

(12) The emergency equipment which shall include as a minimum a first aid kit, flares or fuses, and a fire extinguisher;

(13) The seats, including a determination that they are securely fastened to the floor;

(14) The emergency door buzzer;

(15) All hand hold grips;

(16) The interior glazing of the bus.

2. In addition to the inspection required by subsection 1 of this section, the Missouri state highway patrol shall conduct an inspection after February first of each school year of all vehicles required to be marked as school buses under section 304.050, RSMo. This inspection shall be conducted by the Missouri highway patrol in cooperation with the department of elementary and secondary education and shall include, as a minimum, items in subsection 1 of this section and the following:

(1) The driver seat belts;

(2) The heating and defrosting systems;

(3) The reflectors;

(4) The bus steps;

(5) The aisles;

(6) The frame.

3. If, upon inspection, conditions which violate the standards in subsection 2 of this section are found, the owner or operator shall have them corrected in ten days and notify the superintendent of the Missouri state highway patrol or those persons authorized by the superintendent. If the defects or unsafe conditions found constitute an immediate danger, the bus shall not be used until corrections are made and the superintendent of the Missouri state highway patrol or those persons authorized by the superintendent are notified.

4. The Missouri highway patrol may inspect any school bus at any time and if such inspection reveals a deficiency affecting the safe operation of the bus, the provisions of subsection 3 of this section shall be applicable.

5. Notwithstanding the provisions of section 307.390 to the contrary, a violation of this section shall be a class C misdemeanor.

307.390. PENALTY FOR VIOLATION — SUPERINTENDENT OF HIGHWAY PATROL MAY ASSIGN PERSONS TO ENFORCE INSPECTIONS LAWS. — 1. Any person who violates any provision of sections 307.350 to 307.390 is guilty of **[**a misdemeanor**] an infraction** and upon **[**conviction**] plea or finding of guilt** shall be punished as provided by law.

2. The superintendent of the Missouri state highway patrol may assign qualified persons who are not highway patrol officers to investigate and enforce motor vehicle safety inspection laws and regulations pursuant to sections 307.350 to 307.390 and sections 643.300 to 643.355, RSMo. A person assigned by the superintendent pursuant to the authority granted by this subsection shall be designated a motor vehicle inspector and shall have limited powers to issue a uniform complaint and summons for a violation of the motor vehicle inspection laws and regulations. A motor vehicle inspector shall not have authority to exercise the power granted in this subsection until such inspector successfully completes training provided by, and to the satisfaction of, the superintendent.

307.400. COMMERCIAL VEHICLES, EQUIPMENT AND OPERATION, REGULATIONS, EXCEPTIONS — DEPARTMENT OF PUBLIC SAFETY, RULES, PROCEDURE, THIS CHAPTER. — 1. It is unlawful for any person to operate any commercial motor vehicle as defined in Title 49, Code of Federal Regulations, Part 390.5, either singly or in combination with a trailer, as both vehicles are defined in Title 49, Code of Federal Regulations, Part 390.5, unless such vehicles are equipped and operated as required by Parts 390 through 397, Title 49, Code of Federal Regulations, as such regulations have been and may periodically be amended, whether intrastate transportation or interstate transportation. Members of the Missouri state highway patrol are authorized to enter the cargo area of a commercial motor vehicle or trailer to inspect the contents when reasonable grounds exist to cause belief that the vehicle is transporting hazardous materials as defined by Title 49 of the Code of Federal Regulations. The director of the department of public safety is hereby authorized to further regulate the safety of commercial motor vehicles and trailers as he deems necessary to govern and control their operation on the public highways of this state by promulgating and publishing rules and regulations consistent with this chapter. Any such rules shall, in addition to any other provisions deemed necessary by the director, require:

(1) Every commercial motor vehicle and trailer and all parts thereof to be maintained in a safe condition at all times;

(2) Accidents arising from or in connection with the operation of commercial motor vehicles and trailers to be reported to the department of public safety in such detail and in such manner as the director may require.

Except for the provisions of subdivisions (1) and (2) of this subsection, the provisions of this section shall not apply to any commercial motor vehicle operated in intrastate commerce and licensed for a gross weight of sixty thousand pounds or less when used exclusively for the transportation of solid waste or forty-two thousand pounds or less when the license plate has been designated for farm use by the letter "F" as authorized by the Revised Statutes of Missouri,

unless such vehicle is transporting hazardous materials as defined in Title 49, Code of Federal Regulations.

2. Notwithstanding the provisions of subsection 1 of this section to the contrary, Part 391, Subpart E, Title 49, Code of Federal Regulations, relating to the physical requirements of drivers shall not be applicable to drivers in intrastate commerce, provided such drivers were licensed by this state as chauffeurs to operate commercial motor vehicles on May 13, 1988. Persons who are otherwise qualified and licensed to operate a commercial motor vehicle in this state may operate such vehicle intrastate at the age of eighteen years or older, except that any person transporting hazardous material must be at least twenty-one years of age.

3. Commercial motor vehicles and drivers of such vehicles may be placed out of service if the vehicles are not equipped and operated according to the requirements of this section. Criteria used for placing vehicles and drivers out of service are the North American Uniform Out-of-Service Criteria adopted by the Commercial Vehicle Safety Alliance and the United States Department of Transportation, as such criteria have been and may periodically be amended.

4. Notwithstanding the provisions of subsection 1 of this section to the contrary, Part 395, Title 49, Code of Federal Regulations, relating to the hours of drivers, shall not apply to any vehicle owned or operated by any public utility, rural electric cooperative or other public service organization, or to the driver of such vehicle, while providing restoration of essential utility services during emergencies and operating intrastate. For the purposes of this subsection, the term "essential utility services" means electric, gas, water, telephone and sewer services.

5. Part 395, Title 49, Code of Federal Regulations, relating to the hours of drivers, shall not apply to drivers transporting agricultural commodities or farm supplies for agricultural purposes in this state if such transportation:

(1) Is limited to an area within a one hundred air mile radius from the source of the commodities or the distribution point for the farm supplies; and

(2) Is conducted during the planting and harvesting season within this state, as defined by the department of public safety by regulation.

6. The provisions of Part 395.8, Title 49, Code of Federal Regulations, relating to recording of a driver's duty status, shall not apply to drivers engaged in agricultural operations referred to in subsection 5 of this section, if the motor carrier who employs the driver maintains and retains for a period of six months accurate and true records showing:

(1) The total number of hours the driver is on duty each day; and

(2) The time at which the driver reports for, and is released from, duty each day.

7. Notwithstanding the provisions of subsection 1 of this section to the contrary, Parts 390 through 397, Title 49, Code of Federal Regulations shall not apply to commercial motor vehicles operated in intrastate commerce to transport property, which have a gross vehicle weight rating or gross combination weight rating of twenty-six thousand pounds or less. The exception provided by this subsection shall not apply to vehicles transporting hazardous materials or to vehicles designed to transport sixteen or more passengers including the driver as defined by Title 49 of the Code of Federal Regulations. Nothing in this subsection shall be construed to prohibit persons designated by the department of public safety from inspecting vehicles defined in this subsection.

8. Violation of any provision of this section or any rule promulgated as authorized therein is **[**a class B misdemeanor**]** **an infraction**.

9. **[**No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo**]** **Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,**

to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

311.326. EXPUNGEMENT OF RECORD PERMITTED, WHEN. — After a period of not less than one year, or upon reaching the age of twenty-one, whichever occurs first, a person who has pleaded guilty to or has been found guilty of violating section 311.325 for the first time, and who since such conviction has not been convicted of any other alcohol-related offense, may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial and conviction. **No records shall be expunged if the person who has plead guilty to or has been found guilty of violating section 311.325 is licensed as a commercial motor vehicle driver or was operating a commercial motor vehicle as defined in section 302.700, RSMo, at the time of the violation.** If the court determines, upon review, that such person has not been convicted of any other alcohol-related offense at the time of the application for expungement, and the person has had no other alcohol-related enforcement contacts, as defined in section 302.525, RSMo, the court shall enter an order of expungement. The effect of such an order shall be to restore such person to the status he or she occupied prior to such arrest, plea or conviction, as if such event had never happened. No person as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his or her failure to recite or acknowledge such arrest, plea, trial, conviction or expungement in response to any inquiry made of him or her for any purpose whatsoever. A person shall be entitled to only one expungement pursuant to this section. Nothing contained in this section shall prevent courts or other state officials from maintaining such records as are necessary to ensure that an individual receives only one expungement pursuant to this section.

387.040. TRANSPORTATION PROHIBITED UNTIL SCHEDULE OF RATES AND FARES IS FILED AND PUBLISHED. — 1. No motor carrier subject to the provisions of this chapter shall engage or participate in the transportation of passengers or household goods, between points within this state, until its schedules of rates, fares and charges shall have been filed and published in accordance with the provisions of this chapter. Any motor carrier, which shall undertake to perform any service or furnish any product or commodity unless or until the rates, tolls, fares, charges, classifications and rules and regulations relating thereto, applicable to such service, product or commodity, have been filed with the **[**division of motor carrier and railroad safety**]** **highways and transportation commission** and published in accordance with the provisions of this chapter, shall be subject to forfeiture to the state pursuant to the provisions of sections 390.156 to 390.176, RSMo.

2. Notwithstanding subsection 1 of this section, a motor carrier shall not be required to file its schedules of rates, fares, and charges for shipments of household goods that are transported wholly or exclusively within a commercial zone as defined in 390.020, RSMo, or within a commercial zone established by the highways and transportation commission pursuant to the provisions of subdivision (4) of section 390.041, RSMo.

476.385. SCHEDULE OF FINES COMMITTEE, APPOINTMENT, DUTIES, POWERS — ASSOCIATE CIRCUIT JUDGES MAY ADOPT SCHEDULE — CENTRAL VIOLATIONS BUREAU ESTABLISHED — POWERS, DUTIES. — 1. The judges of the supreme court may appoint a committee consisting of at least seven associate circuit judges, who shall meet en banc and establish and maintain a schedule of fines to be paid for violations of sections 210.104, 577.070, and 577.073, RSMo, and chapters 252, 301, 302, 304, 306, 307 and 390, RSMo, with such fines increasing in proportion to the severity of the violation. The associate circuit judges of each county may meet en banc and adopt the schedule of fines and participation in the centralized bureau pursuant to this section. Notice of such adoption and participation shall be given in the

manner provided by supreme court rule. Upon order of the supreme court, the associate circuit judges of each county may meet en banc and establish and maintain a schedule of fines to be paid for violations of municipal ordinances for cities, towns and villages electing to have violations of its municipal ordinances heard by associate circuit judges, pursuant to section 479.040, RSMo; and for traffic court divisions established pursuant to section 479.500, RSMo. The schedule of fines adopted for violations of municipal ordinances may be modified from time to time as the associate circuit judges of each county en banc deem advisable. No fine established pursuant to this subsection may exceed the maximum amount specified by statute or ordinance for such violation.

2. In no event shall any schedule of fines adopted pursuant to this section include offenses involving the following:

(1) Any violation resulting in personal injury or property damage to another person;

(2) Operating a motor vehicle while intoxicated or under the influence of intoxicants or drugs;

(3) Operating a vehicle with a counterfeited, altered, suspended or revoked license;

(4) Fleeing or attempting to elude an officer.

3. There shall be a centralized bureau to be established by supreme court rule in order to accept pleas of not guilty or guilty and payments of fines and court costs for violations of the laws and ordinances described in subsection 1 of this section, made pursuant to a schedule of fines established pursuant to this section. The centralized bureau shall collect, with any plea of guilty and payment of a fine, all court costs which would have been collected by the court of the jurisdiction from which the violation originated.

4. If a person elects not to contest the alleged violation, the person shall send payment in the amount of the fine and any court costs established for the violation to the centralized bureau. Such payment shall be payable to the "central violations bureau", shall be made by mail or in any other manner established by the centralized bureau, and shall constitute a plea of guilty, waiver of trial and a conviction for purposes of section 302.302, RSMo, and for purposes of imposing any collateral consequence of a criminal conviction provided by law. **By paying the fine and costs, the person also consents to attendance at any driver-improvement program or motorcycle-rider training course ordered by the court and consents to verification of such attendance as directed by the bureau.** Notwithstanding any provision of law to the contrary, the prosecutor shall not be required to sign any information, ticket or indictment if disposition is made pursuant to this subsection. In the event that any payment is made pursuant to this section by credit card or similar method, the centralized bureau may charge an additional fee in order to reflect any transaction cost, surcharge or fee imposed on the recipient of the credit card payment by the credit card company.

5. If a person elects to plead not guilty, such person shall send the plea of not guilty to the centralized bureau. The bureau shall send such plea and request for trial to the prosecutor having original jurisdiction over the offense. Any trial shall be conducted at the location designated by the court. The clerk of the court in which the case is to be heard shall notify in writing such person of the date certain for the disposition of such charges. The prosecutor shall not be required to sign any information, ticket or indictment until the commencement of any proceeding by the prosecutor with respect to the notice of violation.

6. In courts adopting a schedule of fines pursuant to this section, any person receiving a notice of violation pursuant to this section shall also receive written notification of the following:

(1) The fine and court costs established pursuant to this section for the violation or information regarding how the person may obtain the amount of the fine and court costs for the violation;

(2) That the person must respond to the notice of violation by paying the prescribed fine and court costs, or pleading not guilty and appearing at trial, and that other legal penalties prescribed by law may attach for failure to appear and dispose of the violation. The supreme court may modify the suggested forms for uniform complaint and summons for use in courts

adopting the procedures provided by this section, in order to accommodate such required written notifications.

7. Any moneys received in payment of fines and court costs pursuant to this section shall not be considered to be state funds, but shall be held in trust by the centralized bureau for benefit of those persons or entities entitled to receive such funds pursuant to this subsection. All amounts paid to the centralized bureau shall be maintained by the centralized bureau, invested in the manner required of the state treasurer for state funds by sections 30.240, 30.250, 30.260 and 30.270, RSMo, and disbursed as provided by the constitution and laws of this state. Any interest earned on such fund shall be payable to the director of the department of revenue for deposit into a revolving fund to be established pursuant to this subsection. The state treasurer shall be the custodian of the revolving fund, and shall make disbursements, as allowed by lawful appropriations, only to the judicial branch of state government for goods and services related to the administration of the judicial system.

8. Any person who receives a notice of violation subject to this section who fails to dispose of such violation as provided by this section shall be guilty of failure to appear provided by section 544.665, RSMo; and may be subject to suspension of driving privileges in the manner provided by section 302.341, RSMo. The centralized bureau shall notify the appropriate prosecutor of any person who fails to either pay the prescribed fine and court costs, or plead not guilty and request a trial within the time allotted by this section, for purposes of application of section 544.665, RSMo. The centralized bureau shall also notify the department of revenue of any failure to appear subject to section 302.341, RSMo, and the department shall thereupon suspend the license of the driver in the manner provided by section 302.341, RSMo, as if notified by the court.

9. In addition to the remedies provided by subsection 8 of this section, the centralized bureau and the courts may use the remedies provided by sections 488.010 to 488.020, RSMo, for the collection of court costs payable to courts, in order to collect fines and court costs for violations subject to this section.

488.006. INFRACTION CHARGES IMPOSED SAME AS MISDEMEANOR CHARGES. — For any infraction, unless otherwise provided by law, all court costs, fees, surcharges, and other miscellaneous charges shall be assessed in the same manner and amount as a misdemeanor.

556.021. INFRACTIONS. — 1. An offense defined by this code or by any other statute of this state constitutes an "infraction" if it is so designated or if **[**no other sentence than a fine, or fine and forfeiture or other civil penalty is authorized upon conviction**] a violation of the statute can result only in a fine, forfeiture, or other civil penalty, or any combination thereof**.

2. **[**An infraction does not constitute a crime and conviction of an infraction shall not give rise to any disability or legal disadvantage based on conviction of a crime.**] A determination of whether an infraction has occurred shall be made by the filing of a civil action. The action shall be filed by a person who is authorized to bring a criminal action or an action to enforce an ordinance if the conduct constituted a crime or ordinance violation. The action shall be brought in the name of the state of Missouri or appropriate political subdivision. An infraction violation shall be proven by a preponderance of the evidence but shall not be tried to a jury. If an infraction violation is proven, judgment shall be entered for the plaintiff.**

3. Notwithstanding any other provision of law to the contrary, it shall be the duty of the operator or driver of any vehicle or the rider of any animal traveling on the roads of this state to stop on signal of any law enforcement officer and to obey any other reasonable signal or direction of such law enforcement officer given in the course of enforcing any infraction. Any person who willfully fails or refuses to obey any signal or direction of a law enforcement officer given in the course of enforcing any infraction, or

who willfully resists or opposes a law enforcement officer in the proper discharge of his or her duties in the course of enforcing any infraction, shall be guilty of a class A misdemeanor and on plea or finding of guilt thereof shall be punished as provided by law for such offenses.

4. The supreme court of Missouri may promulgate rules for the enforcement of this section.

565.081. ASSAULT OF A LAW ENFORCEMENT OFFICER, CORRECTIONS OFFICER, EMERGENCY PERSONNEL, HIGHWAY WORKER, PROBATION AND PAROLE OFFICER, OR TRANSIT OPERATOR IN THE FIRST DEGREE, DEFINITION, PENALTY. — 1. A person commits the crime of assault of a law enforcement officer, **corrections officer,** emergency personnel, **highway worker in a construction zone or work zone,** or probation and parole officer in the first degree if such person attempts to kill or knowingly causes or attempts to cause serious physical injury to a law enforcement officer **[**or**] , corrections officer,** emergency personnel**, highway worker in a construction zone or work zone, or probation and parole officer**.

2. As used in this section, "emergency personnel" means any paid or volunteer firefighter, emergency room or trauma center personnel, or emergency medical technician as defined in subdivisions (15), (16), **[**and**]** (17)**, and (18)** of section 190.100, RSMo.

3. **As used in this section the term "corrections officer" includes any jailer or corrections officer of the state or any political subdivision of the state.**

4. When used in this section, the terms "highway worker", "construction zone", or "work zone" shall have the same meaning as such terms are defined in section 304.580, RSMo.

5. Assault of a law enforcement officer, **corrections officer,** emergency personnel, **highway worker in a construction zone or work zone,** or probation and parole officer in the first degree is a class A felony.

565.082. ASSAULT OF A LAW ENFORCEMENT OFFICER, CORRECTIONS OFFICER, EMERGENCY PERSONNEL, HIGHWAY WORKER, PROBATION AND PAROLE OFFICER, OR TRANSIT OPERATOR IN THE SECOND DEGREE, DEFINITION, PENALTY. — 1. A person commits the crime of assault of a law enforcement officer, **corrections officer,** emergency personnel, **highway worker in a construction zone or work zone,** or probation and parole officer in the second degree if such person:

(1) Knowingly causes or attempts to cause physical injury to a law enforcement officer, **corrections officer,** emergency personnel, or probation and parole officer by means of a deadly weapon or dangerous instrument;

(2) Knowingly causes or attempts to cause physical injury to a law enforcement officer, **corrections officer,** emergency personnel, **highway worker in a construction zone or work zone,** or probation and parole officer by means other than a deadly weapon or dangerous instrument;

(3) Recklessly causes serious physical injury to a law enforcement officer, **corrections officer,** emergency personnel, **highway worker in a construction zone or work zone,** or probation and parole officer; or

(4) While in an intoxicated condition or under the influence of controlled substances or drugs, operates a motor vehicle or vessel in this state and when so operating, acts with criminal negligence to cause physical injury to a law enforcement officer, **corrections officer,** emergency personnel, **highway worker in a construction zone or work zone,** or probation and parole officer;

(5) Acts with criminal negligence to cause physical injury to a law enforcement officer, **corrections officer,** emergency personnel, **highway worker in a construction zone or work zone,** or probation and parole officer by means of a deadly weapon or dangerous instrument;

(6) Purposely or recklessly places a law enforcement officer, **corrections officer,** emergency personnel, **highway worker in a construction zone or work zone,** or probation and parole officer in apprehension of immediate serious physical injury; or

(7) Acts with criminal negligence to create a substantial risk of death or serious physical injury to a law enforcement officer, **corrections officer,** emergency personnel, **highway worker in a construction zone or work zone,** or probation and parole officer.

2. As used in this section, "emergency personnel" means any paid or volunteer firefighter, emergency room or trauma center personnel, or emergency medical technician as defined in subdivisions (15), (16), **[**and**]** (17)**, and (18)** of section 190.100, RSMo.

3. **As used in this section the term "corrections officer" includes any jailer or corrections officer of the state or any political subdivision of the state.**

4. When used in this section, the terms "highway worker", "construction zone", or "work zone" shall have the same meaning as such terms are defined in section 304.580, RSMo.

5. Assault of a law enforcement officer, **corrections officer,** emergency personnel, **highway worker in a construction zone or work zone,** or probation and parole officer in the second degree is a class B felony unless committed pursuant to subdivision (2), (5), (6), or (7) of subsection 1 of this section in which case it is a class C felony. **For any violation of subdivision (1), (3), or (4) of subsection 1 of this section, the defendant must serve mandatory jail time as part of his or her sentence.**

565.083. ASSAULT OF A LAW ENFORCEMENT OFFICER, CORRECTIONS OFFICER, EMERGENCY PERSONNEL, HIGHWAY WORKER, PROBATION AND PAROLE OFFICER, OR TRANSIT OPERATOR IN THE THIRD DEGREE, DEFINITION, PENALTY. — 1. A person commits the crime of assault of a law enforcement officer, **corrections officer,** emergency personnel, **highway worker in a construction zone or work zone,** or probation and parole officer in the third degree if:

(1) Such person recklessly causes physical injury to a law enforcement officer, **corrections officer,** emergency personnel, **highway worker in a construction zone or work zone,** or probation and parole officer;

(2) Such person purposely places a law enforcement officer, **corrections officer,** emergency personnel, **highway worker in a construction zone or work zone,** or probation and parole officer in apprehension of immediate physical injury;

(3) Such person knowingly causes or attempts to cause physical contact with a law enforcement officer, **corrections officer,** emergency personnel, **highway worker in a construction zone or work zone,** or probation and parole officer without the consent of the law enforcement officer **[**or**] , corrections officer,** emergency personnel**, highway worker in a construction zone or work zone, or probation and parole officer**.

2. As used in this section, "emergency personnel" means any paid or volunteer firefighter, emergency room or trauma center personnel, or emergency medical technician as defined in subdivisions (15), (16), **[**and**]** (17)**, and (18)** of section 190.100, RSMo.

3. **As used in this section the term "corrections officer" includes any jailor or corrections officer of the state or any political subdivision of the state.**

4. When used in this section, the terms "highway worker", "construction zone", or "work zone" shall have the same meaning as such terms are defined in section 304.580, RSMo.

5. Assault of a law enforcement officer, **corrections officer,** emergency personnel, **highway worker in a construction zone or work zone,** or probation and parole officer in the third degree is a class A misdemeanor.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary for the immediate preservation of the public health, welfare, peace, and safety, the repeal and

reenactment of sections 304.170 and 304.260 of section A of this act are hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of sections 304.170 and 304.260 of section A of this act shall be in full force and effect upon its passage and approval.

SECTION C. EFFECTIVE DATE. — The repeal and reenactment of section 307.350 of section A of this act shall become effective on January 1, 2010.

SECTION D. EFFECTIVE DATE. — The enactment of sections 302.182 and 302.184 of section A this act shall become effective on July 1, 2010.

Approved July 1, 2009

HB 685 [HCS HB 685]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Specifies that the State Highway Patrol does not have to notify or be accompanied by the county sheriff when it serves certain search warrants

AN ACT to repeal section 43.200, RSMo, and to enact in lieu thereof one new section relating to serving search warrants for certain traffic-related offenses.

SECTION

A. Enacting clause.

43.200. Search and seizure powers of highway patrol — authority to serve warrants, participation of sheriff — instruction of officers.

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

SECTION A. ENACTING CLAUSE. — Section 43.200, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 43.200, to read as follows:

43.200. SEARCH AND SEIZURE POWERS OF HIGHWAY PATROL — AUTHORITY TO SERVE WARRANTS, PARTICIPATION OF SHERIFF — INSTRUCTION OF OFFICERS. — 1. The members of the patrol shall have the right and power of search and seizure to take from any person under arrest or about to be arrested deadly or dangerous weapons in the possession of such person, and to search and seize on a public highway of this state, or off the public highways of this state as an incident to an arrest made following a hot pursuit from a public highway.

2. When ordered to any county or municipality in this state by the governor because of civil disorder, members of the patrol during that time may exercise all powers of search and seizure in the same manner and to the same extent as any sheriff in this state.

3. The members of the highway patrol may request that the prosecuting or circuit attorney apply for, and members of the highway patrol may serve, search warrants anywhere within the state of Missouri, provided the sheriff of the county in which the warrant is to be served, or his designee, shall be notified upon application by the applicant of the search warrant **except for offenses pertaining to driving while intoxicated**. The sheriff or his **or her** designee shall participate in serving the search warrant **except for offenses pertaining to driving while intoxicated and the investigation of motor vehicle traffic accidents**. Any designee of the sheriff shall be a deputy sheriff or other person certified as a peace officer under chapter 590, RSMo. The sheriff shall always have a designee available.

4. The superintendent of the highway patrol shall see that every member of the highway patrol is thoroughly instructed in the powers of police officers to arrest for misdemeanors and felonies and to search and seize in order that no person or citizen traveling in this state shall be hindered, stopped, or arrested or his person or property searched or seized without constitutional grounds existing therefor.

Approved July 9, 2009

HB 698 [HB 698]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Specifies that "bold letters" as it relates to signage requirements on a public receptacle for donations of unwanted household items means a primary color on a white background so it is clearly visible

AN ACT to repeal section 407.485, RSMo, and to enact in lieu thereof one new section relating to donation receptacles.

SECTION
A. Enacting clause.
407.485. Donations of unwanted household items, collection of deemed unfair business practice, when.

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

SECTION A. ENACTING CLAUSE. — Section 407.485, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 407.485, to read as follows:

407.485. DONATIONS OF UNWANTED HOUSEHOLD ITEMS, COLLECTION OF DEEMED UNFAIR BUSINESS PRACTICE, WHEN. — 1. It shall be an unfair business practice in violation of section 407.020 for a for-profit entity or natural person to collect donations of unwanted household items via a public receptacle and resell the donated items for profit unless the donation receptacle prominently displays a statement in bold letters at least two inches high and two inches wide stating: "DONATIONS ARE NOT FOR CHARITABLE ORGANIZATIONS AND WILL BE RESOLD FOR PROFIT".

2. It shall be an unfair business practice in violation of section 407.020 for a for-profit entity or natural person to collect donations of unwanted household items via a public receptacle and resell the donated items where some or all of the proceeds from the sale are directly given to a not-for-profit entity unless the donation receptacle prominently displays a statement in bold letters at least two inches high and two inches wide stating: "DONATIONS TO THE FOR-PROFIT COMPANY: (name of the company) ARE SOLD FOR PROFIT AND (% of proceeds donated to the not-for-profit) % OF ALL PROCEEDS ARE DONATED TO (name of the nonprofit beneficiary organization's name)."

3. It shall be an unfair business practice in violation of section 407.020 for a for-profit entity or natural person to collect donations of unwanted household items via a public receptacle and resell the donated items, where such for-profit entity is paid a flat fee, not contingent upon the proceeds generated by the sale of the collected goods, and one hundred percent of the proceeds from the sale of the items are given directly to the not-for-profit, unless the donation receptacle prominently displays a statement in bold letters at least two inches high and two inches wide stating: "THIS DONATION RECEPTACLE IS OPERATED BY THE FOR-PROFIT

ENTITY: (name of the for profit/individual) ON BEHALF of (name of the nonprofit beneficiary organization's name)".

4. **The term "bold letters" as used in subsections 1, 2, and 3 of this section shall mean a primary color on a white background so as to be clearly visible to the public.**

5. Nothing in this section shall apply to paper, glass, or aluminum products that are donated for the purpose of being recycled in the manufacture of other products.

[5.**] 6.** Any entity which, on or before June 1, **[**2007**] 2009**, has distributed one hundred or more separate public receptacles within the state of Missouri to which the provisions of subsection 2 or 3 of this section would apply shall be deemed in compliance with the signage requirements imposed by this section for the first six months after August 28, **[**2007**] 2009**, provided such entity has made or is making good faith efforts to bring all signage in compliance with the provisions of this section and all such signage is in complete compliance no later than six months after August 28, **[**2007**] 2009**.

Approved July 7, 2009

HB 709 [HB 709]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes references of voter notification cards to identification cards and specifies that anyone registering to vote by mail and who has not previously voted will not receive a voter identification card

AN ACT to repeal section 115.163, RSMo, and to enact in lieu thereof one new section relating to voter identification.

SECTION

A. Enacting clause.

115.163. Precinct register required — voter identification cards, procedures and uses — list of registered voters available, fee.

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

SECTION A. ENACTING CLAUSE. — Section 115.163, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 115.163, to read as follows:

115.163. PRECINCT REGISTER REQUIRED — VOTER IDENTIFICATION CARDS, PROCEDURES AND USES — LIST OF REGISTERED VOTERS AVAILABLE, FEE. — 1. Each election authority shall use the Missouri voter registration system established by section 115.158 to prepare a list of legally registered voters for each precinct. The list shall be arranged alphabetically or by street address as the election authority determines and shall be known as the "precinct register". The precinct registers shall be kept by the election authority in a secure place, except when given to election judges for use at an election. Except as provided in subsection 2 of section 115.157, all registration records shall be open to inspection by the public at all reasonable times.

2. A new precinct register shall be prepared by the election authority prior to each election.

3. The election authority shall send to each voter**, except those who registered by mail and have not voted,** a voter **[**notification**] identification** card no later than ninety days prior to the date of a primary or general election for federal office, unless the voter has received such a card during the preceding six months. **The election authority shall send to each voter who**

registered by mail and has not voted, the verification notice required under section 115.155 no later than ninety days prior to the date of a primary or general election for federal office. The voter **[**notification**]** **identification** card shall contain the voter's name, address, and precinct. The card also shall inform the voter of the personal identification requirement in section 115.427 and may also contain other voting information at the discretion of the election authority. The voter **[**notification**]** **identification** card shall be sent to a voter**, except those who registered by mail and have not voted,** after a new registration or a change of address. If any voter**, except those who registered by mail and have not voted,** shall lose his voter **[**notification**]** **identification** card, he may request a new one from the election authority. The voter **[**notification**]** **identification** card authorized pursuant to this section may be used as a canvass of voters in lieu of the provisions set out in sections 115.179 to 115.193. Except as provided in subsection 2 of section 115.157, anyone, upon request and payment of a reasonable fee, may obtain a printout, list and/or computer tape of those newly registered voters or voters deleted from the voting rolls, since the last canvass or updating of the rolls. The election authority may authorize the use of the postal service contractors under the federal National Change of Address program to identify those voters whose address is not correct on the voter registration records. The election authority shall not be required to mail a voter registration card to those voters whose addresses are incorrect. Confirmation notices to such voters required by section 115.193 shall be sent to the corrected address provided by the National Change of Address program.

Approved July 8, 2009

HB 716 [SCS HB 716]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding newborn screening tests and premature infants

AN ACT to amend chapter 191, RSMo, by adding thereto three new sections relating to newborn screenings.

SECTION

A. Enacting clause.
191.333. Citation of law — screening for lysosomal storage diseases — rulemaking authority — fee increase authorized.
191.1127. MO HealthNet program and SCHIPS to focus on premature infant health care.
191.1130. Education publications to be prepared, contents — distribution.

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

SECTION A. ENACTING CLAUSE. — Chapter 191, RSMo, is amended by adding thereto three new sections, to be known as sections 191.333, 191.1127, and 191.1130 to read as follows:

191.333. CITATION OF LAW — SCREENING FOR LYSOSOMAL STORAGE DISEASES — RULEMAKING AUTHORITY — FEE INCREASE AUTHORIZED. — 1. This section shall be known and may be cited as the "Brady Alan Cunningham Newborn Screening Act".

2. By July 1, 2012, the department of health and senior services shall expand the newborn screening requirements in section 191.331 to include the following lysosomal storage diseases: Krabbe disease, Pompe disease, Gaucher disease, Niemann-Pick disease, and Fabry disease. The department may by rule screen for additional lysosomal storage disorders when the following occurs:

(1) The registration of the necessary reagents with the federal Food and Drug Administration;

(2) The availability of the necessary reagents from the Centers for Disease Control and Prevention;

(3) The availability of quality assurance testing methodology for such processes; and

(4) The acquisition and installment by the department of equipment necessary to implement the expanded screening tests.

3. The department may promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

4. The department may increase the fee authorized in subsection 6 of section 191.331 to cover the additional cost of the expanded newborn screening test required in this section.

191.1127. MO HEALTHNET PROGRAM AND SCHIPS TO FOCUS ON PREMATURE INFANT HEALTH CARE. — The MO HealthNet program and the health care for uninsured children program under sections 208.631 to 208.659, RSMo, in consultation with statewide organizations focused on premature infant health care, shall:

(1) Examine and improve hospital discharge and follow-up care procedures for premature infants born earlier than thirty-seven weeks gestational age to ensure standardized and coordinated processes are followed as premature infants leave the hospital from either a well-baby nursery, step down or transitional nursery, or neonatal intensive care unit and transition to follow-up care by a health care provider in the community;

(2) Urge hospitals serving infants eligible for medical assistance under the MO HealthNet and health care for uninsured children programs to report to the state the causes and incidence of all re-hospitalizations of infants born premature at earlier than thirty-seven weeks gestational age within their first six months of life; and

(3) Use guidance from the Centers for Medicare and Medicaid Services' Neonatal Outcomes Improvement Project to implement programs to improve newborn outcomes, reduce newborn health costs, and establish ongoing quality improvement for newborns.

191.1130. EDUCATION PUBLICATIONS TO BE PREPARED, CONTENTS — DISTRIBUTION. — 1. The department of health and senior services shall, by December 31, 2009, prepare written educational publications containing information about the possible complications, proper care and support associated with newborn infants who are born premature at earlier than thirty-seven weeks gestational age. The written information, at a minimum, shall include the following:

(1) The unique health issues affecting infants born premature, such as:

(a) Increased risk of developmental problems;

(b) Nutritional challenges;

(c) Infection;

(d) Chronic lung disease (bronchopulmonary dysplasia);

(e) Vision and hearing impairment;

(d) Breathing problems;

(f) Fine motor skills;

(g) Feeding;

(h) Maintaining body temperature;

(i) Jaundice;

(j) Hyperactivity;

(k) Infant mortality as well as long-term complications associated with growth and nutrition;

(l) Respiratory; and

(m) Reading, writing, mathematics, and speaking;

(2) The proper care needs of premature infants, developmental screenings and monitoring and health care services available to premature infants through the MO HealthNet program and other public or private health programs;

(3) Methods, vaccines, and other preventative measures to protect premature infants from infectious diseases, including viral respiratory infections;

(4) The emotional and financial burdens and other challenges that parents and family members of premature infants experience and information about community resources available to support them.

2. The publications shall be written in clear language to educate parents of premature infants across a variety of socioeconomic statuses. The department may consult with community organizations that focus on premature infants or pediatric health care. The department shall update the publications every two years.

3. The department shall distribute these publications to children's health providers, maternal care providers, hospitals, public health departments, and medical organizations and encourage those organizations to provide the publications to parents or guardians of premature infants.

Approved July 8, 2009

HB 734 [CCS SS SCS HB 734]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding natural resources

AN ACT to repeal sections 266.331, 644.036, 644.054, 701.500, 701.503, and 701.506, RSMo, and to enact in lieu thereof nine new sections relating to natural resources, with an emergency clause for a certain section.

SECTION

A. Enacting clause.
8.305. Appliances purchased shall be energy star under federal program — exemptions, when — expiration date.
266.331. Sales to be reported — fees — to be used for what.
644.036. Public hearings — rules and regulations, how promulgated — listings under Clean Water Act, requirements, procedures, expiration date.
644.054. Fees, billing and collection — administration, generally — fees to become effective, when — fees to expire, when — variances granted, when — joint committee for restructuring fees to be appointed, report.
701.500. New product sales, energy efficiency requirements — exceptions.
701.502. Study to be conducted — report, contents.
701.503. Rulemaking authority.
701.506. Updating of minimum energy efficiency standards.
1. Joint committee established, members, meetings, duties, hearings, report — dissolution of committee.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 266.331, 644.036, 644.054, 701.500, 701.503, and 701.506, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as sections 8.305, 266.331, 644.036, 644.054, 701.500, 701.502, 701.503, 701.506, and 1, to read as follows:

8.305. APPLIANCES PURCHASED SHALL BE ENERGY STAR UNDER FEDERAL PROGRAM — EXEMPTIONS, WHEN — EXPIRATION DATE. — 1. Any appliance purchased with state moneys or a portion of state moneys shall be an appliance that has earned the Energy Star under the Energy Star program co-sponsored by the United States Department of Energy and the United States Environmental Protection Agency. For purposes of this section, the term "appliance" shall have the same meaning as in section 144.526, RSMo.

2. The commissioner of the office of administration may exempt any appliance from the requirements of subsection 1 of this section when the cost of compliance is expected to exceed the projected energy cost savings gained.

3. The provisions of this section shall expire on August 28, 2011.

266.331. SALES TO BE REPORTED — FEES — TO BE USED FOR WHAT. — Every distributor shall, within thirty days after each six-months' period ending June thirtieth and December thirty-first, file with the director on forms supplied by him, a sworn certificate setting forth the information required by the director by rule. At the time of filing said certificate, each distributor **of fertilizer, excluding manipulated animal or vegetable manure,** shall pay to the director the fee prescribed by the director by rule, which fee shall not exceed one dollar per ton and one dollar ten cents per metric ton; except that, sales to fertilizer manufacturers or exchanges between them are hereby exempted. **Each distributor of fertilizer consisting of manipulated animal or vegetable manure shall pay to the director a fee paid for each ton of manure as prescribed by the director by rule, which fee shall not exceed two cents for each percent nitrogen for manure containing less than five percent nitrogen; or which fee shall not exceed four cents for each percent nitrogen for manure containing at least five but less than ten percent nitrogen; or which fee shall not exceed six cents for each percent nitrogen for manure containing ten or more percent nitrogen.** In the event that the director has not prescribed a fee under this section, each distributor required to pay a fee under this section shall pay a fee of one and one-half cents for each one hundred pounds of fertilizer sold by him during the period covered by the certificate filed under this section. The fees so paid to the director shall be used for defraying the expenses in administering sections 266.291 to 266.351 and the rules promulgated under sections 266.291 to 266.351, and for practical and scientific experiments by the Missouri agricultural experiment station in the value and proper use of fertilizers. Such fees may also be used to support such related research and methodology, publications, and educational programs extending the results of the fertilizer experiments as may be of practical use to the farmers of this state.

644.036. PUBLIC HEARINGS — RULES AND REGULATIONS, HOW PROMULGATED — LISTINGS UNDER CLEAN WATER ACT, REQUIREMENTS, PROCEDURES, EXPIRATION DATE. — 1. No standard, rule or regulation or any amendment or repeal thereof shall be adopted except after a public hearing to be held after thirty days' prior notice by advertisement of the date, time and place of the hearing and opportunity given to the public to be heard. Notice of the hearings and copies of the proposed standard, rule or regulation or any amendment or repeal thereof shall also be given by regular mail, at least thirty days prior to the scheduled date of the hearing, to any person who has registered with the director for the purpose of receiving notice of such public hearings in accordance with the procedures prescribed by the commission at least forty-five days prior to the scheduled date of the hearing. However, this provision shall not preclude necessary changes during this thirty-day period.

2. At the hearing, opportunity to be heard by the commission with respect to the subject thereof shall be afforded any interested person upon written request to the commission, addressed to the director, not later than seven days prior to the hearing, and may be afforded to other persons if convenient. In addition, any interested persons, whether or not heard, may submit, within seven days subsequent to the hearings, a written statement of their views. The commission may solicit the views, in writing, of persons who may be affected by, or interested in, proposed rules and regulations, or standards. Any person heard or represented at the hearing or making written request for notice shall be given written notice of the action of the commission with respect to the subject thereof.

3. Any standard, rule or regulation or amendment or repeal thereof shall not be deemed adopted or in force and effect until it has been approved in writing by at least four members of the commission. A standard, rule or regulation or an amendment or repeal thereof shall not become effective until a certified copy thereof has been filed with the secretary of state as provided in chapter 536, RSMo.

4. Unless prohibited by any federal water pollution control act, any standard, rule or regulation or any amendment or repeal thereof which is adopted by the commission may differ in its terms and provisions as between particular types and conditions of water quality standards or of water contaminants, as between particular classes of water contaminant sources, and as between particular waters of the state.

5. Any listing required by Section 303(d) of the federal Clean Water Act, as amended, 33 U.S.C. 1251, et seq., to be sent to the U.S. Environmental Protection Agency for its approval that will result in any waters of the state being classified as impaired shall be adopted by the commission after a public hearing, or series of hearings, held in accordance with the following procedures. The department of natural resources shall publish in at least six regional newspapers, in advance, a notice by advertisement the availability of a proposed list of impaired waters of the state and such notice shall include at least ninety days' advance notice of the date, time, and place of the public hearing and opportunity given to the public to be heard. Notice of the hearings and copies of the proposed list of impaired waters also shall be posted on the department of natural resources' web site and given by regular mail, at least ninety days prior to the scheduled date of the hearing, to any person who has registered with the director for the purpose of receiving notice of such public hearings. The proposed list of impaired waters shall identify the water segment, the uses to be made of such waters, the uses impaired, identify the pollutants causing or expected to cause violations of the applicable water quality standards, and provide a summary of the data relied upon to make the preliminary determination. Contemporaneous with the publication of the notice of public hearing, the department shall make available on its web site all data and information it relied upon to prepare the proposed list of impaired waters, including a narrative explanation of how the department determined the water segment was impaired. At any time after the public notice and until seven days after the public hearing, the department shall accept written comments on the proposed list of impaired waters. After the public hearing and after all written comments have been submitted, the department shall prepare a written response to all comments and a revised list of impaired waters. The commission shall adopt a list of impaired waters in a public meeting during which the public shall be afforded an opportunity to respond to the department's written response to comments and revised list of impaired waters. Notice of the meeting shall include the date, time, and place of the public meeting and shall provide notice that the commission will give interested persons the opportunity to respond to the department's revised list of impaired waters and written responses to comments. At its discretion, the commission may extend public comment periods or hold additional public hearings on the proposed and revised lists of impaired waters. The commission shall not vote to add to the list of impaired waters any waters not recommended by the department in the proposed or revised lists of impaired waters without granting the public at least thirty additional days to comment on the proposed addition. The list of impaired waters adopted by the commission shall not be deemed to be a rule as defined by section 536.010, RSMo. The listing of any water segment on

the list of impaired waters adopted by the commission shall be subject to judicial review by any adversely affected party under section 536.150, RSMo. The provisions in this subsection shall expire on August 28, **[**2009**]** **2010**.

644.054. FEES, BILLING AND COLLECTION — ADMINISTRATION, GENERALLY — FEES TO BECOME EFFECTIVE, WHEN — FEES TO EXPIRE, WHEN — VARIANCES GRANTED, WHEN — JOINT COMMITTEE FOR RESTRUCTURING FEES TO BE APPOINTED, REPORT. — 1. Fees imposed in sections 644.052 and 644.053 shall, except for those fees imposed pursuant to subsection 4 and subsections 6 to 13 of section 644.052, become effective October 1, 1990, and shall expire December 31, **[**2009**]** **2010**. Fees imposed pursuant to subsection 4 and subsections 6 to 13 of section 644.052 shall become effective August 28, 2000, and shall expire on December 31, **[**2009**]** **2010**. The clean water commission shall promulgate rules and regulations on the procedures for billing and collection. All sums received through the payment of fees shall be placed in the state treasury and credited to an appropriate subaccount of the natural resources protection fund created in section 640.220, RSMo. Moneys in the subaccount shall be expended, upon appropriation, solely for the administration of sections 644.006 to 644.141. Fees collected pursuant to subsection 10 of section 644.052 by a city, a public sewer district, a public water district or other publicly owned treatment works are state fees. Five percent of the fee revenue collected shall be retained by the city, public sewer district, public water district or other publicly owned treatment works as reimbursement of billing and collection expenses.

2. The commission may grant a variance pursuant to section 644.061 to reduce fees collected pursuant to section 644.052 for facilities that adopt systems or technologies that reduce the discharge of water contaminants substantially below the levels required by commission rules.

3. Fees imposed in subsections 2 to 6 of section 644.052 shall be due on the date of application and on each anniversary date of permit issuance thereafter until the permit is terminated.

4. There shall be convened a joint committee appointed by the president pro tem of the senate and the speaker of the house of representatives to consider proposals for restructuring the fees imposed in sections 644.052 and 644.053. The committee shall review storm water programs, the state's implementation of the federal clean water program, storm water, and related state clean water responsibilities, and evaluate the costs to the state for maintaining the programs. The committee shall prepare and submit a report, including recommendations on funding the state clean water program, and storm water programs, to the governor, the house of representatives, and the senate no later than December 31, 2008.

701.500. NEW PRODUCT SALES, ENERGY EFFICIENCY REQUIREMENTS — EXCEPTIONS. — 1. As used in sections 701.500 to 701.515, the following terms shall mean:

(1) "Department", the department of natural resources;

(2) "Director", the director of the department of natural resources;

(3) "Energy star program", a joint program of the United States Environmental Protection Agency and the United States Department of Energy that identifies and promotes energy efficient products and practices.

2. The provisions of sections 701.500 to 701.515 shall apply to appliances **[**and consumer electronics.
that have earned the energy star under the energy star program or**]** that **do not** have minimum energy efficiency standards required under federal law.

3. No person shall sell, offer for sale, or install any new product listed in subsection 2 of this section in the state unless the product meets the minimum energy efficiency standards under sections 701.500 to 701.515.

4. The provisions of sections 701.500 to 701.515 shall not apply to**:**

(1) Consumer electronics; or

(2) Products:

[(1)**] (a)** Manufactured in the state and sold outside the state;

[(2)**] (b)** Manufactured outside the state and sold at wholesale inside the state for final retail sale outside the state;

[(3)**] (c)** Installed in mobile manufactured homes at the time of construction; or

[(4)**] (d)** Designed expressly for installation and use in recreational vehicles.

701.502. STUDY TO BE CONDUCTED — REPORT, CONTENTS. — 1. The department shall conduct a study of the energy efficiency of consumer electronic products and report to the general assembly no later than July 1, 2010. The report shall include:

(1) An assessment of energy requirements and energy usage of consumer electronic products;

(2) Recommendations to consumers regarding appropriate use of consumer electronic products; and

(3) Recommendations to consumers regarding the availability of energy efficient consumer electronic products in Missouri.

2. The report shall be posted on the department's website and made available to the public upon request.

701.503. RULEMAKING AUTHORITY. — 1. In conjunction with the advisory group under section 701.509, the director shall promulgate, by rule, the minimum energy efficiency standards for the products in subsection 2 of section 701.500. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

2. The standards enacted by the director, in conjunction with the advisory group under section 701.509, shall not be more stringent than the federal energy star program requirements **[**or**]**, if **[**no**]** such requirements are applicable**[**, the minimum standard required by federal law**]**.

701.506. UPDATING OF MINIMUM ENERGY EFFICIENCY STANDARDS. — In conjunction with the advisory group under section 701.509, the department shall update the minimum energy efficiency standards in section 701.503 not less than once every three years beginning from the date the standards were first promulgated by rule. The purpose of any such update shall be to keep the state standards current with technological advancements and industry practices with regard to energy efficiency, while also giving due consideration to consumer and environmental costs and benefits. The department shall strive to have the standards achieve greater energy efficiency over time in a prudent and reasonable manner. Standards shall not be more stringent than required by the federal energy star program requirements **[**or**]**, if **[**no**]** such requirements are applicable**[**, the minimum standard required by federal law**]**.

SECTION 1. JOINT COMMITTEE ESTABLISHED, MEMBERS, MEETINGS, DUTIES, HEARINGS, REPORT — DISSOLUTION OF COMMITTEE. — 1. There is hereby established a joint committee of the general assembly, which shall be known as the "Joint Committee on Missouri's Energy Future", which shall be composed of five members of the senate, with no more than three members of one party, and five members of the house of representatives, with no more than three members of one party. The senate members of the committee shall be appointed by the president pro tem of the senate and the house members by the speaker of the house of representatives. The committee shall select either a chairperson or co-chairpersons, one of whom shall be a member of the senate and one

a member of the house of representatives. A majority of the members shall constitute a quorum. Meetings of the committee may be called at such time and place as the chairperson or chairpersons designate.

2. The committee shall examine Missouri's present and future energy needs to determine the best strategy to ensure a plentiful, affordable and clean supply of electricity that will meet the needs of the people and businesses of Missouri for the next twenty-five years and ensure that Missourians continue to benefit from low rates for residential, commercial, and industrial energy consumers.

3. The joint committee may hold hearings as it deems advisable and may obtain any input or information necessary to fulfill its obligations. The committee may make reasonable requests for staff assistance from the research and appropriations staffs of the house and senate and the committee on legislative research, as well as the department of economic development, department of natural resources, and the public service commission.

4. The joint committee shall prepare a final report, together with its recommendations for any legislative action deemed necessary, for submission to the general assembly by December 31, 2009, at which time the joint committee shall be dissolved.

5. Members of the committee shall receive no compensation but may be reimbursed for reasonable and necessary expenses associated with the performance of their official duties.

SECTION B. EMERGENCY CLAUSE. — Because of the critical need for reliable and affordable energy, 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 7, 2009

HB 740 [SS HCS HB 740]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Extends the expiration date of various federal reimbursement allowances from 2009 to 2011 and authorizes a federal gross receipts tax for in-home services

AN ACT to repeal sections 208.437, 208.480, 338.535, 338.550, and 633.401, RSMo, and to enact in lieu thereof fourteen new sections relating to federal reimbursement allowances, with an emergency clause and an expiration date for certain sections.

SECTION

A. Enacting clause.
208.437. Reimbursement allowance period — notification of balance due, when — delinquent payments, procedure, basis for denial of licensure — expiration date.
208.480. Federal reimbursement allowance expiration date.
338.535. Remittance to department — pharmacy reimbursement allowance fund created.
338.550. Expiration date of tax, when.
633.401. Definitions — assessment imposed, formula — rates of payment — fund created, use of moneys — record-keeping requirements — report — appeal process — rulemaking authority.
660.425. Home services providers tax imposed, definitions.
660.430. Amount of tax, formula — rulemaking authority — appeals.
660.435. List of vendors to be provided — record-keeping requirements — report of total payments.

660.440. Effective date of tax.
660.445. Determination of tax amount — notification to provider — quarterly tax adjustments permitted.
660.450. Offset of tax permitted, when.
660.455. Remittance of tax — fund created — record-keeping requirements.
660.460. Notification of taxes due — unpaid or delinquent amounts, effect of — failure to pay, penalty.
660.465. Expiration date.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 208.437, 208.480, 338.535, 338.550, and 633.401, RSMo, are repealed and fourteen new sections enacted in lieu thereof, to be known as sections 208.437, 208.480, 338.535, 338.550, 633.401, 660.425, 660.430, 660.435, 660.440, 660.445, 660.450, 660.455, 660.460, and 660.465, to read as follows:

208.437. REIMBURSEMENT ALLOWANCE PERIOD — NOTIFICATION OF BALANCE DUE, WHEN — DELINQUENT PAYMENTS, PROCEDURE, BASIS FOR DENIAL OF LICENSURE — EXPIRATION DATE. — 1. A Medicaid managed care organization reimbursement allowance period as provided in sections 208.431 to 208.437 shall be from the first day of July to the thirtieth day of June. The department shall notify each Medicaid managed care organization with a balance due on the thirtieth day of June of each year the amount of such balance due. If any managed care organization fails to pay its managed care organization reimbursement allowance within thirty days of such notice, the reimbursement allowance shall be delinquent. The reimbursement allowance may remain unpaid during an appeal.

2. Except as otherwise provided in this section, if any reimbursement allowance imposed under the provisions of sections 208.431 to 208.437 is unpaid and delinquent, the department of social services may compel the payment of such reimbursement allowance in the circuit court having jurisdiction in the county where the main offices of the Medicaid managed care organization are located. In addition, the director of the department of social services or the director's designee may cancel or refuse to issue, extend or reinstate a Medicaid contract agreement to any Medicaid managed care organization which fails to pay such delinquent reimbursement allowance required by sections 208.431 to 208.437 unless under appeal.

3. Except as otherwise provided in this section, failure to pay a delinquent reimbursement allowance imposed under sections 208.431 to 208.437 shall be grounds for denial, suspension or revocation of a license granted by the department of insurance, financial institutions and professional registration. The director of the department of insurance, financial institutions and professional registration may deny, suspend or revoke the license of a Medicaid managed care organization with a contract under 42 U.S.C. Section 1396b(m) which fails to pay a managed care organization's delinquent reimbursement allowance unless under appeal.

4. Nothing in sections 208.431 to 208.437 shall be deemed to **[**affect**]** **effect** or in any way limit the tax-exempt or nonprofit status of any Medicaid managed care organization with a contract under 42 U.S.C. Section 1396b(m) granted by state law.

5. Sections 208.431 to 208.437 shall expire on **[**June 30, 2009**]** **September 30, 2011**.

208.480. FEDERAL REIMBURSEMENT ALLOWANCE EXPIRATION DATE. — Notwithstanding the provisions of section 208.471 to the contrary, sections 208.453 to 208.480 shall expire on September 30, **[**2009**]** **2011**.

338.535. REMITTANCE TO DEPARTMENT — PHARMACY REIMBURSEMENT ALLOWANCE FUND CREATED. — 1. The pharmacy tax owed or, if an offset has been made, the balance after such offset, if any, shall be remitted by the pharmacy **or the pharmacy's designee** to the department of social services. The remittance shall be made payable to the director of the department of revenue and shall be deposited in the state treasury to the credit of the "Pharmacy Reimbursement Allowance Fund" which is hereby created to provide payments for services

related to the Medicaid pharmacy program. All investment earnings of the fund shall be credited to the fund.

2. An offset authorized by section 338.530 or a payment to the pharmacy reimbursement allowance fund shall be accepted as payment of the obligation set forth in section 338.500.

3. The state treasurer shall maintain records showing the amount of money in the pharmacy reimbursement allowance fund at any time and the amount of investment earnings on such amount.

4. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any unexpended balance in the pharmacy reimbursement allowance fund at the end of the biennium shall not revert to the credit of the general revenue fund.

338.550. EXPIRATION DATE OF TAX, WHEN. — 1. The pharmacy tax required by sections 338.500 to 338.550 shall expire ninety days after any one or more of the following conditions are met:

(1) The aggregate dispensing fee as appropriated by the general assembly paid to pharmacists per prescription is less than the fiscal year 2003 dispensing fees reimbursement amount; or

(2) The formula used to calculate the reimbursement as appropriated by the general assembly for products dispensed by pharmacies is changed resulting in lower reimbursement to the pharmacist in the aggregate than provided in fiscal year 2003; or

(3) **[**June 30, 2009**] September 30, 2011**.

The director of the department of social services shall notify the revisor of statutes of the expiration date as provided in this subsection. The provisions of sections 338.500 to 338.550 shall not apply to pharmacies domiciled or headquartered outside this state which are engaged in prescription drug sales that are delivered directly to patients within this state via common carrier, mail or a carrier service.

2. Sections 338.500 to 338.550 shall expire on **[**June 30, 2009**] September 30, 2011**.

633.401. DEFINITIONS — ASSESSMENT IMPOSED, FORMULA — RATES OF PAYMENT — FUND CREATED, USE OF MONEYS — RECORD-KEEPING REQUIREMENTS — REPORT — APPEAL PROCESS — RULEMAKING AUTHORITY. — 1. For purposes of this section, the following terms mean:

(1) "Engaging in the business of providing health benefit services", accepting payment for health benefit services;

(2) "Intermediate care facility for the mentally retarded", a private or department of mental health facility which admits persons who are mentally retarded or developmentally disabled for residential habilitation and other services pursuant to chapter 630, RSMo. Such term shall include habilitation centers and private or public intermediate care facilities for the mentally retarded that have been certified to meet the conditions of participation under 42 CFR, Section 483, Subpart 1;

(3) "Net operating revenues from providing services of intermediate care facilities for the mentally retarded" shall include, without limitation, all moneys received on account of such services pursuant to rates of reimbursement established and paid by the department of social services, but shall not include charitable contributions, grants, donations, bequests and income from nonservice related fund-raising activities and government deficit financing, contractual allowance, discounts or bad debt;

(4) "Services of intermediate care facilities for the mentally retarded" has the same meaning as the term used in Title 42 United States Code, Section 1396b(w)(7)(A)(iv), as amended, and as such qualifies as a class of health care services recognized in federal Public Law 102-234, the Medicaid Voluntary Contribution and Provider Specific Tax Amendment of 1991.

2. Beginning July 1, 2008, each provider of services of intermediate care facilities for the mentally retarded shall, in addition to all other fees and taxes now required or paid, pay assessments on their net operating revenues for the privilege of engaging in the business of providing services of the intermediate care facilities for the mentally retarded or developmentally disabled in this state.

3. Each facility's assessment shall be based on a formula set forth in rules and regulations promulgated by the department of mental health.

4. For purposes of determining rates of payment under the medical assistance program for providers of services of intermediate care facilities for the mentally retarded, the assessment imposed pursuant to this section on net operating revenues shall be a reimbursable cost to be reflected as timely as practicable in rates of payment applicable within the assessment period, contingent, for payments by governmental agencies, on all federal approvals necessary by federal law and regulation for federal financial participation in payments made for beneficiaries eligible for medical assistance under Title XIX of the federal Social Security Act.

5. Assessments shall be submitted by or on behalf of each provider of services of intermediate care facilities for the mentally retarded on a monthly basis to the director of the department of mental health or his or her designee and shall be made payable to the director of the department of revenue.

6. In the alternative, a provider may direct that the director of the department of social services offset, from the amount of any payment to be made by the state to the provider, the amount of the assessment payment owed for any month.

7. Assessment payments shall be deposited in the state treasury to the credit of the "Intermediate Care Facility Mentally Retarded Reimbursement Allowance Fund", which is hereby created in the state treasury. All investment earnings of this fund shall be credited to the fund. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any unexpended balance in the intermediate care facility mentally retarded reimbursement allowance fund at the end of the biennium shall not revert to the general revenue fund but shall accumulate from year to year. The state treasurer shall maintain records that show the amount of money in the fund at any time and the amount of any investment earnings on that amount.

8. Each provider of services of intermediate care facilities for the mentally retarded shall keep such records as may be necessary to determine the amount of the assessment for which it is liable under this section. On or before the forty-fifth day after the end of each month commencing July 1, 2008, each provider of services of intermediate care facilities for the mentally retarded shall submit to the department of social services a report on a cash basis that reflects such information as is necessary to determine the amount of the assessment payable for that month.

9. Every provider of services of intermediate care facilities for the mentally retarded shall submit a certified annual report of net operating revenues from the furnishing of services of intermediate care facilities for the mentally retarded. The reports shall be in such form as may be prescribed by rule by the director of the department of mental health. Final payments of the assessment for each year shall be due for all providers of services of intermediate care facilities for the mentally retarded upon the due date for submission of the certified annual report.

10. The director of the department of mental health shall prescribe by rule the form and content of any document required to be filed pursuant to the provisions of this section.

11. Upon receipt of notification from the director of the department of mental health of a provider's delinquency in paying assessments required under this section, the director of the department of social services shall withhold, and shall remit to the director of the department of revenue, an assessment amount estimated by the director of the department of mental health from any payment to be made by the state to the provider.

12. In the event a provider objects to the estimate described in subsection 11 of this section, or any other decision of the department of mental health related to this section, the provider of services may request a hearing. If a hearing is requested, the director of the department of mental

health shall provide the provider of services an opportunity to be heard and to present evidence bearing on the amount due for an assessment or other issue related to this section within thirty days after collection of an amount due or receipt of a request for a hearing, whichever is later. The director shall issue a final decision within forty-five days of the completion of the hearing. After reconsideration of the assessment determination and a final decision by the director of the department of mental health, an intermediate care facility for the mentally retarded provider's appeal of the director's final decision shall be to the administrative hearing commission in accordance with sections 208.156 and 621.055, RSMo.

13. Notwithstanding any other provision of law to the contrary, appeals regarding this assessment shall be to the circuit court of Cole County or the circuit court in the county in which the facility is located. The circuit court shall hear the matter as the court of original jurisdiction.

14. Nothing in this section shall be deemed to affect or in any way limit the tax-exempt or nonprofit status of any intermediate care facility for the mentally retarded granted by state law.

15. The director of the department of mental health shall promulgate rules and regulations to implement this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

16. The provisions of this section shall expire on **[**June 30, 2009**]** **September 30, 2011**.

660.425. HOME SERVICES PROVIDERS TAX IMPOSED, DEFINITIONS. — 1. In addition to all other fees and taxes required or paid, a tax is hereby imposed upon in-home services providers for the privilege of providing in-home services under chapter 208, RSMo. The tax is imposed upon payments received by an in-home services provider for the provision of in-home services under chapter 208, RSMo.

2. For purposes of sections 660.425 to 660.465, the following terms shall mean:

(1) "Engaging in the business of providing in-home services", all payments received by an in-home services provider for the provision of in-home services under chapter 208, RSMo;

(2) "In-home services", homemaker services, personal care services, chore services, respite services, consumer-directed services, and services, when provided in the individual's home and under a plan of care created by a physician, necessary to keep children out of hospitals. "In-home services" shall not include home health services as defined by federal and state law;

(3) "In-home services provider", any provider or vendor, as defined in section 208.900, RSMo, of compensated in-home services under chapter 208, RSMo, and under a provider agreement or contracted with the department of social services or the department of health and senior services.

660.430. AMOUNT OF TAX, FORMULA — RULEMAKING AUTHORITY — APPEALS. — 1. Each in-home services provider in this state providing in-home services under chapter 208, RSMo, shall, in addition to all other fees and taxes now required or paid, pay an in-home services gross receipts tax, not to exceed six and one-half percent of gross receipts, for the privilege of engaging in the business of providing in-home services in this state.

2. Each in-home services provider's tax shall be based on a formula set forth in rules promulgated by the department of social services. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the

provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

3. The director of the department of social services or the director's designee may prescribe the form and contents of any forms or other documents required by sections 660.425 to 660.465.

4. Notwithstanding any other provision of law to the contrary, appeals regarding the promulgation of rules under this section shall be made to the circuit court of Cole County. The circuit court of Cole County shall hear the matter as the court of original jurisdiction.

660.435. LIST OF VENDORS TO BE PROVIDED — RECORD-KEEPING REQUIREMENTS — REPORT OF TOTAL PAYMENTS. — 1. For purposes of assessing the tax under sections 660.425 to 660.465, the department of health and senior services shall make available to the department of social services a list of all providers and vendors under this section.

2. Each in-home services provider subject to sections 660.425 to 660.465 shall keep such records as may be necessary to determine the total payments received for the provision of in-home services under chapter 208, RSMo, by the in-home services provider. Every in-home services provider shall submit to the department of social services a statement that accurately reflects such information as is necessary to determine such in-home services provider's tax due.

3. The director of the department of social services may prescribe the form and contents of any forms or other documents required by this section.

4. Each in-home services provider shall report the total payments received for the provision of in-home services under chapter 208, RSMo, to the department of social services.

660.440. EFFECTIVE DATE OF TAX. — 1. The tax imposed by sections 660.425 to 660.465 shall become effective upon authorization by the federal Centers for Medicare & Medicaid Services for a gross receipts tax for in-home services.

2. If the federal Centers for Medicare & Medicaid Services determines that their authorization is not necessary for the tax imposed under sections 660.425 to 660.465, the tax shall become effective sixty days after the date of such determination.

660.445. DETERMINATION OF TAX AMOUNT — NOTIFICATION TO PROVIDER — QUARTERLY TAX ADJUSTMENTS PERMITTED. — 1. The determination of the amount of tax due shall be the total amount of payments reported to the department multiplied by the tax rate established by rule by the department of social services.

2. The department of social services shall notify each in-home services provider of the amount of tax due. Such amount may be paid in increments over the balance of the assessment period.

3. The department of social services may adjust the tax due quarterly on a prospective basis. The department of social services may adjust the tax due more frequently for individual providers if there is a substantial and statistically significant change in the in-home services provided or in the payments received for such services provided under chapter 208, RSMo. The department of social services may define such adjustment criteria by rule.

660.450. OFFSET OF TAX PERMITTED, WHEN. — The director of the department of social services may offset the tax owed by an in-home services provider against any

Missouri Medicaid payment due such in-home services provider, if the in-home services provider requests such an offset. The amounts to be offset shall result, so far as practicable, in withholding from the in-home services provider an amount substantially equal to the assessment due from the in-home services provider. The office of administration and the state treasurer may make any fund transfers necessary to execute the offset.

660.455. REMITTANCE OF TAX — FUND CREATED — RECORD-KEEPING REQUIREMENTS. — 1. The in-home services tax owed or, if an offset has been made, the balance after such offset, if any, shall be remitted by the in-home services provider to the department of social services. The remittance shall be made payable to the director of the department of social services and shall be deposited in the state treasury to the credit of the "In-home Services Gross Receipts Tax Fund" which is hereby created to provide payments for in-home services provided under chapter 208, RSMo. All investment earnings of the fund shall be credited to the fund.

2. An offset authorized by section 660.450 or a payment to the in-home services gross receipts tax fund shall be accepted as payment of the obligation set forth in section 660.425.

3. The state treasurer shall maintain records showing the amount of money in the in-home services gross receipts tax fund at any time and the amount of investment earnings on such amount.

4. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any unexpended balance in the in-home services gross receipts tax fund at the end of the biennium shall not revert to the credit of the general revenue fund.

660.460. NOTIFICATION OF TAXES DUE — UNPAID OR DELINQUENT AMOUNTS, EFFECT OF — FAILURE TO PAY, PENALTY. — 1. The department of social services shall notify each in-home services provider with a tax due of more than ninety days of the amount of such balance. If any in-home services provider fails to pay its in-home services tax within thirty days of such notice, the in-home services tax shall be delinquent.

2. If any tax imposed under sections 660.425 to 660.465 is unpaid and delinquent, the department of social services may proceed to enforce the state's lien against the property of the in-home services provider and compel the payment of such assessment in the circuit court having jurisdiction in the county where the in-home services provider is located. In addition, the department of social services may cancel or refuse to issue, extend, or reinstate a Medicaid provider agreement to any in-home services provider that fails to pay the tax imposed by section 660.425.

3. Failure to pay the tax imposed under section 660.425 shall be grounds for failure to renew a provider agreement for services under chapter 208, RSMo, or failure to renew a provider contract. The department of social services may revoke the provider agreement of any in-home services provider that fails to pay such tax, or notify the department of health and senior services to revoke the provider contract.

660.465. EXPIRATION DATE. — 1. The in-home services tax required by sections 660.425 to 660.465 shall expire:

(1) Ninety days after any one or more of the following conditions are met:

(a) The aggregate in-home services fee as appropriated by the general assembly paid to in-home services providers for in-home services provided under chapter 208, RSMo, is less than the fiscal year 2010 in-home services fees reimbursement amount; or

(b) The formula used to calculate the reimbursement as appropriated by the general assembly for in-home services provided is changed resulting in lower reimbursement to in-home services providers in the aggregate than provided in fiscal year 2010; or

(2) September 1, 2011. The director of the department of social services shall notify the revisor of statutes of the expiration date as provided in this subsection.

2. Sections 660.425 to 660.465 shall expire on September 1, 2011.

SECTION B. EMERGENCY CLAUSE. — Because of the need for continued imposition and collection of certain provider taxes, section A 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 A of this act shall be in full force and effect upon its passage and approval.

Approved June 26, 2009

HB 745 [CCS SCS HB 745]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Specifies that the Commissioner of the Office of Administration or any state agent when purchasing goods must give preference to products processed in this state and to all new generation processing entities

AN ACT to repeal section 34.070, RSMo, and to enact in lieu thereof one new section relating to state purchasing.

SECTION

A. Enacting clause.

34.070. Preference to Missouri products and firms.

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

SECTION A. ENACTING CLAUSE. — Section 34.070, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 34.070, to read as follows:

34.070. PREFERENCE TO MISSOURI PRODUCTS AND FIRMS. — In making purchases, the commissioner of administration or any agent of the state with purchasing power shall give preference to all commodities and tangible personal property manufactured, mined, produced**, processed,** or grown within the state of Missouri**, to all new generation processing entities defined in section 348.432, RSMo, except new generation processing entities that own or operate a renewable fuel production facility or that produce renewable fuel,** and to all firms, corporations or individuals doing business as Missouri firms, corporations or individuals, when quality is equal or better and delivered price is the same or less. The commissioner of administration or any agent of the state with purchasing power may also give such preference whenever competing bids, in their entirety, are comparable. **For purposes of this section, commodities shall include any agricultural product that has been processed or otherwise had value added to it in this state.**

Approved July 10, 2009

HB 747 [HB 747]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Specifies that in order for a person to be guilty of the crime of sexual contact with a prisoner or offender, the prisoner or offender must be confined in a jail, prison, or correctional facility

AN ACT to repeal section 566.145, RSMo, and to enact in lieu thereof one new section relating to sexual contact with a prisoner or offender, with a penalty provision.

SECTION
A. Enacting clause.
566.145. Sexual contact with prisoner or offender — definitions — penalty — consent not a defense.

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

SECTION A. ENACTING CLAUSE. — Section 566.145, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 566.145, to read as follows:

566.145. SEXUAL CONTACT WITH PRISONER OR OFFENDER — DEFINITIONS — PENALTY — CONSENT NOT A DEFENSE. — 1. A person commits the crime of sexual contact with a prisoner or offender if:

(1) Such person is an employee of, or assigned to work in, any jail, prison or correctional facility and such person has sexual intercourse or deviate sexual intercourse with a prisoner or **an** offender **who is confined in a jail, prison, or correctional facility**; or

(2) Such person is a probation and parole officer and has sexual intercourse or deviate sexual intercourse with an offender who is under the direct supervision of the officer.

2. For the purposes of this section the following terms shall mean:

(1) "Offender", includes any person in the custody of a prison or correctional facility and any person who is under the supervision of the state board of probation and parole;

(2) "Prisoner", includes any person who is in the custody of a jail, whether pretrial or after disposition of a charge.

3. Sexual contact with a prisoner or offender is a class D felony.

4. Consent of a prisoner or offender is not an affirmative defense.

Approved July 8, 2009

HB 752 [SCS HCS HB 752]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Eliminates the position of Transportation Inspector General for the Joint Committee on Transportation Oversight and changes the laws regarding leadership of the Highways and Transportation Commission

AN ACT to repeal sections 21.795 and 226.030, RSMo, and to enact in lieu thereof two new sections relating to transportation appointees.

SECTION
A. Enacting clause.
21.795. Joint committee on transportation oversight, members, quorum — report, when, contents — meetings, examination of reports, records required to be submitted.
226.030. Number of members — qualifications — term — removal — compensation.

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

SECTION A. ENACTING CLAUSE. — Sections 21.795 and 226.030, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 21.795 and 226.030, to read as follows:

21.795. JOINT COMMITTEE ON TRANSPORTATION OVERSIGHT, MEMBERS, QUORUM — REPORT, WHEN, CONTENTS — MEETINGS, EXAMINATION OF REPORTS, RECORDS REQUIRED TO BE SUBMITTED. — 1. There is established a permanent joint committee of the general assembly to be known as the "Joint Committee on Transportation Oversight" to be composed of seven members of the standing transportation committees of both the senate and the house of representatives and three nonvoting ex officio members. Of the fourteen members to be appointed to the joint committee, the seven senate members of the joint committee shall be appointed by the president pro tem of the senate and minority leader of the senate and the seven house members shall be appointed by the speaker of the house of representatives and the minority floor leader of the house of representatives. No major party shall be represented by more than four members from the house of representatives nor more than four members from the senate. The ex officio members shall be the state auditor, the director of the oversight division of the committee on legislative research, and the commissioner of the office of administration or the designee of such auditor, director or commissioner. The joint committee shall be chaired jointly by both chairs of the senate and house transportation committees. A majority of the committee shall constitute a quorum, but the concurrence of a majority of the members, other than the ex officio members, shall be required for the determination of any matter within the committee's duties.

2. **[**The transportation inspector general shall be appointed by majority vote of a group consisting of the speaker of the house of representatives, the minority floor leader of the house of representatives, the president pro tempore of the senate, and the minority floor leader of the senate. It shall be the duty of the inspector general to serve as the executive director of the joint committee on transportation oversight. The compensation of the inspector general and other personnel shall be paid from the joint contingent fund or jointly from the senate and house contingent funds until an appropriation is made therefor. No funds from highway user fees or other funds allocated for the operation of the department of transportation shall be used for the compensation of the inspector general and his or her staff. The joint committee inspector general initially appointed pursuant to this section shall take office January 1, 2004, for a term ending June 30, 2005. Subsequent joint committee on transportation oversight directors shall be appointed for five-year terms, beginning July 1, 2005. Any joint committee on transportation oversight inspector general whose term is expiring shall be eligible for reappointment. The inspector general of the joint committee on transportation oversight shall:

(1) Be qualified by training or experience in transportation policy, management of transportation organizations, accounting, auditing, financial analysis, law, management analysis, or public administration;

(2) Report to and be under the general supervision of the joint committee. The joint committee on transportation oversight shall, by a majority vote, direct the inspector general to perform specific investigations, reviews, audits, or other studies of the state department of transportation, in which instance the director shall report the findings and recommendations directly to the joint committee on transportation oversight. All investigations, reviews, audits,

or other studies performed by the director shall be conducted so that the general assembly can procure information to assist it in formulating transportation legislation and policy for this state;

(3) Receive and process citizen complaints relating to transportation issues. The inspector general shall, when necessary, submit a written complaint report to the joint committee on transportation oversight and the highways and transportation commission. The complaint report shall contain the date, time, nature of the complaint, and any immediate facts and circumstances surrounding the initial report of the complaint. The inspector general shall investigate a citizen complaint if he or she is directed to do so by a majority of the joint committee on transportation oversight;

(4) Investigate complaints from current and former employees of the department of transportation if the inspector general receives information from an employee which shows:

(a) The department is violating a law, rule, or regulation;

(b) Gross mismanagement by department officers;

(c) Waste of funds by the department;

(d) That the department is engaging in activities which pose a danger to public health and safety;

(5) Maintain confidentiality with respect to all matters and the identities of the complainants or witnesses coming before the inspector general except insofar as disclosures may be necessary to enable the inspector general to carry out duties and to support recommendations;

(6) Maintain records of all investigations conducted, including any record or document or thing, any summary, writing, complaint, data of any kind, tape or video recordings, electronic transmissions, e-mail, or other paper or electronic documents, records, reports, digital recordings, photographs, software programs and software, expense accounts, phone logs, diaries, travel logs, or other things, including originals or copies of any of the above. Records of investigations by the inspector general shall be an "investigative report" of a law enforcement agency pursuant to the provisions of section 610.100, RSMo. As provided in such section, such records shall be a closed record until the investigation becomes inactive. If the inspector general refers a violation of law to the appropriate prosecuting attorney or the attorney general, such records shall be transmitted with the referral. If the inspector general finds no violation of law or determines not to refer the subject of the investigation to the appropriate prosecuting attorney or the attorney general regarding matters referred to the appropriate prosecuting attorney or the attorney general and the statute of limitations expires without any action being filed, the record shall remain closed. As provided in section 610.100, RSMo, any person may bring an action pursuant to this section in the circuit court having jurisdiction to authorize disclosure of information in the records of the inspector general which would otherwise be closed pursuant to this section. Any disclosure of records by the inspector general in violation of this section shall be grounds for a suit brought by any individual, person, or corporation to recover damages, and upon award to the plaintiff reasonable attorney's fees.

3.**]** The department of transportation shall submit a written report prior to November tenth of each year to the governor, lieutenant governor, and every member of the senate and house of representatives. The report shall be posted to the department's Internet web site so that general assembly members may elect to access a copy of the report electronically. The written report shall contain the following:

(1) A comprehensive financial report of all funds for the preceding state fiscal year which shall include a report by independent certified public accountants, selected by the commissioner of the office of administration, attesting that the financial statements present fairly the financial position of the department in conformity with generally accepted government accounting principles. This report shall include amounts of:

(a) State revenues by sources, including all new state revenue derived from highway users which results from action of the general assembly or voter-approved measures taken after August 28, 2003, and projects funded in whole or in part from such new state revenue, and amounts of federal revenues by source;

(b) Any other revenues available to the department by source;

(c) Funds appropriated, the amount the department has budgeted and expended for the following: contracts, right-of-way purchases, preliminary and construction engineering, maintenance operations and administration;

(d) Total state and federal revenue compared to the revenue estimate in the fifteen-year highway plan as adopted in 1992.

All expenditures made by, or on behalf of, the department for personal services including fringe benefits, all categories of expense and equipment, real estate and capital improvements shall be assigned to the categories listed in this subdivision in conformity with generally accepted government accounting principles;

(2) A detailed explanation of the methods or criteria employed to select construction projects, including a listing of any new or reprioritized projects not mentioned in a previous report, and an explanation as to how the new or reprioritized projects meet the selection methods or criteria;

(3) The proposed allocation and expenditure of moneys and the proposed work plan for the current fiscal year, at least the next four years, and for any period of time expressed in any public transportation plan approved by either the general assembly or by the voters of Missouri. This proposed allocation and expenditure of moneys shall include the amounts of proposed allocation and expenditure of moneys in each of the categories listed in subdivision (1) of this subsection;

(4) The amounts which were planned, estimated and expended for projects in the state highway and bridge construction program or any other projects relating to other modes of transportation in the preceding state fiscal year and amounts which have been planned, estimated or expended by project for construction work in progress;

(5) The current status as to completion, by project, of the fifteen-year road and bridge program adopted in 1992. The first written report submitted pursuant to this section shall include the original cost estimate, updated estimate and final completed cost by project. Each written report submitted thereafter shall include the cost estimate at the time the project was placed on the most recent five-year highway and bridge construction plan and the final completed cost by project;

(6) The reasons for cost increases or decreases exceeding five million dollars or ten percent relative to cost estimates and final completed costs for projects in the state highway and bridge construction program or any other projects relating to other modes of transportation completed in the preceding state fiscal year. Cost increases or decreases shall be determined by comparing the cost estimate at the time the project was placed on the most recent five-year highway and bridge construction plan and the final completed cost by project. The reasons shall include the amounts resulting from inflation, department-wide design changes, changes in project scope, federal mandates, or other factors;

(7) Specific recommendations for any statutory or regulatory changes necessary for the efficient and effective operation of the department;

(8) An accounting of the total amount of state, federal and earmarked federal highway funds expended in each district of the department of transportation; and

(9) Any further information specifically requested by the joint committee on transportation oversight.

[4.**]** **3.** Prior to December first of each year, the committee shall hold an annual meeting and call before its members, officials or employees of the state highways and transportation commission or department of transportation, as determined by the committee, for the sole purpose of receiving and examining the report required pursuant to subsection **[**3**]** **2** of this section. **[**The joint committee may also call before its members at the annual meeting, the inspector general of the joint committee on transportation oversight for purposes authorized in this section.**]** The committee shall not have the power to modify projects or priorities of the state highways and transportation commission or department of transportation. The committee may

make recommendations to the state highways and transportation commission or the department of transportation. Disposition of those recommendations shall be reported by the commission or the department to the joint committee on transportation oversight.

[5.**]** **4.** In addition to the annual meeting required by subsection **[**4**]** **3** of this section, the committee shall meet two times each year. The co-chairs of the committee shall establish an agenda for each meeting that may include, but not be limited to, the following items to be discussed with the committee members throughout the year during the scheduled meeting:

(1) Presentation of a prioritized plan for all modes of transportation;

(2) Discussion of department efficiencies and expenditure of cost-savings within the department;

(3) Presentation of a status report on department of transportation revenues and expenditures, including a detailed summary of projects funded by new state revenue as provided in paragraph (a) of subdivision (1) of subsection **[**3**]** **2** of this section; **and**

(4) **[**Review of any report from the joint committee inspector general; and

(5)**]** Implementation of any actions as may be deemed necessary by the committee as authorized by law.

The co-chairs of the committee may call special meetings of the committee with ten days' notice to the members of the committee, the director of the department of transportation, and the department of transportation.

[6.**]** **5.** The committee shall also review for approval or denial all applications for the development of specialty plates submitted to it by the department of revenue. The committee shall approve such application by unanimous vote. The committee shall not approve any application if the committee receives a signed petition from five house members or two senators that they are opposed to the approval of the proposed license plate. The committee shall notify the director of the department of revenue upon approval or denial of an application for the development of a specialty plate.

[7.**]** **6.** The committee shall submit records of its meetings to the secretary of the senate and the chief clerk of the house of representatives in accordance with sections 610.020 and 610.023, RSMo.

226.030. NUMBER OF MEMBERS — QUALIFICATIONS — TERM — REMOVAL — COMPENSATION. — 1. The highways and transportation commission shall consist of six members, who shall be appointed by the governor, by and with the advice and consent of the senate, not more than three thereof to be members of the same political party. Each commissioner shall be a taxpayer and resident of state for at least five years prior to his appointment. Any commissioner may be removed by the governor if fully satisfied of his inefficiency, neglect of duty, or misconduct in office. Commissioners appointed pursuant to this section shall be appointed for terms of six years, except as otherwise provided in this subsection. Upon the expiration of each of the foregoing terms of these commissioners a successor shall be appointed for a term of six years or until his successor is appointed and qualified which term of six years shall thereafter be the length of term of each member of the commission unless removed as above provided. The members of the commission shall receive as compensation for their services twenty-five dollars per day for the time spent in the performance of their official duties, and also their necessary traveling and other expenses incurred while actually engaged in the discharge of their official duties. Members whose terms otherwise expire December 1, 2003, shall serve with terms expiring March 1, 2004, and new members or the members reappointed shall be appointed for terms expiring March 1, 2005; a member whose term otherwise expires December 1, 2005, shall serve with a term expiring March 1, 2007; a member whose term otherwise expires December 1, 2007, shall serve with a term expiring March 1, 2009; and one member whose term otherwise expires October 13, 2007, shall serve with a term expiring March 1, 2007; and one member whose term otherwise expires October 13, 2007, shall serve with a term expiring March 1, 2009. If a vacancy occurs in any term of a commissioner due to death,

resignation, or removal, a successor shall be appointed for only the remainder of the unexpired term.

2. The two members of the commission, one each from opposing political parties, who have the most seniority in commission service shall serve as commission leadership with one member as chair and the other member as vice chair, respectively, for terms ending March 1, 2005. The commission shall elect one of the members as chair and the other as vice chair. Effective March 1, 2005, the commission shall elect the two members of the commission, one from each opposing political party who has the most seniority in commission service, who shall serve as commission leadership with one member as chair and the other member as vice chair, respectively, for one year. At the end of such year, the **[**member**] members** currently serving as chair **[**shall then serve as**] and** vice chair **shall have the option to rotate positions**, and the member currently serving as vice chair **[**shall**] may** serve as chair, **[**each to serve in such position for one year**] and vice versa**. Thereafter, commission leadership shall continue to rotate accordingly with the two members from opposing political parties who have the most seniority in terms of commission service being elected by the commission to serve as commission leadership. If one of the commission leadership offices becomes vacant due to death, resignation, removal, or refuses to serve before the one-year leadership term expires, the commission shall elect one of its members that is of the same political party as the vacating officer to serve the remainder of the vacating officer's leadership term. Such election shall not prohibit that member from later serving as chair and vice chair when such member's seniority in commission service qualifies him or her for those offices as provided in this subsection.

3. No more than one-half of the members of the commission shall be of the same political party. The selection and removal of all employees of the department of transportation shall be without regard to political affiliation.

4. The present members of the commission shall continue to serve as members of the commission for the remainder of the terms for which they were appointed, except as provided in subsection 1 of this section.

5. The director of the department of transportation shall, by February fifteenth of each year, present an annual state of the state of transportation to a joint session of the general assembly. The six members of the commission shall be present and available at such presentations for questions by members. The transportation inspector general may also be present and report to the general assembly on any matter of concern within his or her statutory authority. The provisions of this subsection shall expire August 28, 2008.

6. Any member reappointed shall only be eligible to serve as chair or vice-chair during the final two years of such member's reappointment.

Approved July 9, 2009

HB 802 [HB 802]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Increases the adjusted gross income required for an owner-occupier to qualify for assistance from the Missouri Housing Development Commission under the Neighborhood Assistance Act

AN ACT to repeal section 32.105, RSMo, and to enact in lieu thereof one new section relating to neighborhood assistance act.

SECTION
A. Enacting clause.
32.105. Definitions.

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

SECTION A. ENACTING CLAUSE. — Section 32.105, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 32.105, to read as follows:

32.105. DEFINITIONS. — As used in sections 32.100 to 32.125, the following terms mean:

(1) "Affordable housing assistance activities", money, real or personal property, or professional services expended or devoted to the construction, or rehabilitation of affordable housing units;

(2) "Affordable housing unit", a residential unit generally occupied by persons and families with incomes at or below the levels described in this subdivision and bearing a cost to the occupant no greater than thirty percent of the maximum eligible household income for the affordable housing unit. In the case of owner-occupied units, the cost to the occupant shall be considered the amount of the gross monthly mortgage payment, including casualty insurance, mortgage insurance, and taxes. In the case of rental units, the cost to the occupant shall be considered the amount of the gross rent. The cost to the occupant shall include the cost of any utilities, other than telephone. If any utilities are paid directly by the occupant, the maximum cost that may be paid by the occupant is to be reduced by a utility allowance prescribed by the commission. **For rental units,** 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 for the geographic area in which the residential unit is located, or the median family income for the state of Missouri, whichever is larger; ("geographic area"**, as used in this subdivision,** 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):

Size of Household	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%

For owner-occupied units, 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 for the geographic area in which the residential unit is located, or the median family income for the state of Missouri, whichever is larger:

Size of Household	**Percent of State or Geographic Area Family Median Income**
One Person	**70%**
Two Persons	**80%**
Three Persons	**90%**

Four Persons	**100%**
Five Persons	**108%**
Six Persons	**116%**
Seven Persons	**124%**
Eight Persons	**132%**

(3) "Business firm", person, firm, a partner in a firm, corporation or a shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed by the provisions of chapter 143, RSMo, including any charitable organization that is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under such chapter, 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 pursuant to 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 medical care furnished to individuals or groups in the state of Missouri or transportation services at below-cost rates as provided in sections 208.250 to 208.275, RSMo;

(6) "Crime prevention", any activity which aids in the reduction of crime in the state of Missouri;

(7) "Defense industry contractor", a person, corporation or other entity which will be or has been negatively impacted as a result of its status as a prime contractor of the Department of Defense or as a second or third tier contractor. A "second tier contractor" means a person, corporation or other entity which contracts to perform manufacturing, maintenance or repair services for a prime contractor of the Department of Defense, and a "third tier contractor" means a person, corporation or other entity which contracts with a person, corporation or other entity which contracts with a prime contractor of the Department of Defense;

(8) "Doing business", among other methods of doing business in the state of Missouri, a partner in a firm or a shareholder in an S corporation shall be deemed to be doing business in the state of Missouri if such firm or S corporation, as the case may be, is doing business in the state of Missouri;

(9) "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 business development projects will result in the creation or retention of jobs within the state**[**; or, until June 30, 1996, a defense conversion pilot project located in a standard metropolitan statistical area which contains a city with a population of at least three hundred fifty thousand inhabitants, which will assist Missouri-based defense industry contractors in their conversion from predominately defense-related contracting to nondefense-oriented manufacturing**]**. Only neighborhood organizations, as defined in subdivision (13) of this section, may apply to conduct economic development projects. Prior to the approval of an economic development project, the neighborhood organization shall enter into a contractual agreement with the department of economic development. Credits approved for economic development projects may not exceed six million dollars from within any one fiscal year's allocation. Neighborhood assistance program tax credits for economic development projects and affordable housing assistance as defined in section 32.111 may be transferred, sold or assigned by a notarized endorsement thereof naming the transferee;

(10) "Education", any type of scholastic instruction or scholarship assistance to an individual who resides in the state of Missouri that enables the individual to prepare himself or herself for better opportunities or community awareness activities rendered by a statewide organization established for the purpose of archeological education and preservation;

(11) "Homeless assistance pilot project", the program established pursuant to section 32.117;

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

(13) "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 pursuant to the provisions of the Internal Revenue Code; or

(b) Incorporated in the state of Missouri as a not-for-profit corporation pursuant to the provisions of chapter 355, RSMo; or

(c) Designated as a community development corporation by the United States government pursuant to the provisions of Title VII of the Economic Opportunity Act of 1964;

(14) "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;

(15) "S corporation", a corporation described in Section 1361(a)(1) of the United States Internal Revenue Code and not subject to the taxes imposed by section 143.071, RSMo, by reason of section 143.471, RSMo;

(16) "Workfare renovation project", any project initiated pursuant to sections 215.340 to 215.355, RSMo.

Approved June 26, 2009

HB 811 [HB 811]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Requires an applicant for licensure as a dietitian to have a current registration with the Commission on Dietetic Registration

AN ACT to repeal section 324.210, RSMo, and to enact in lieu thereof one new section relating to dieticians.

SECTION

A. Enacting clause.

324.210. Qualifications of applicant for licensure — examination required, exception.

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

SECTION A. ENACTING CLAUSE. — Section 324.210, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 324.210, to read as follows:

324.210. QUALIFICATIONS OF APPLICANT FOR LICENSURE — EXAMINATION REQUIRED, EXCEPTION. — 1. An applicant for licensure as a dietitian shall be at least twenty-one years of age.

2. Each applicant shall furnish evidence to the committee that:

(1) The applicant has completed a didactic program in dietetics which is approved or accredited by the commission on accreditation for dietetics education and a minimum of a baccalaureate degree from an acceptable educational institution accredited by a regional accrediting body or accredited by an accrediting body which has been approved by the United States Department of Education. Applicants who have obtained their education outside of the United States and its territories must have their academic degrees validated as equivalent to the baccalaureate or master's degree conferred by a regionally accredited college or university in the United States. Validation of a foreign degree does not eliminate the need for a verification statement of completion of a didactic program in dietetics;

(2) The applicant has completed a supervised practice requirement from an institution that is certified by a nationally recognized professional organization as having a dietetics specialty or who meets criteria for dietetics education established by the committee. The committee may specify those professional organization certifications which are to be recognized and may set standards for education training and experience required for those without such specialty certification to become dietitians.

3. The applicant shall successfully pass an examination as determined by the committee **and possess a current registration with the Commission on Dietetic Registration**. The committee may waive the examination requirement and grant licensure to an applicant for a license as a dietitian who presents satisfactory evidence to the committee of current registration as a dietitian with the commission on dietetic registration.

4. Prior to July 1, 2000, a person may apply for licensure without examination and shall be exempt from the academic requirements of this section if the committee is satisfied that the applicant has a bachelor's degree in a program approved by the committee and has work experience approved by the committee.

5. The committee may determine the type of documentation needed to verify that an applicant meets the qualifications provided in subsection 3 of this section.

Approved July 7, 2009

HB 826 [HB 826]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Authorizes the Department of Mental Health to enter into agreements with county jails for the confinement of sexually violent predators

AN ACT to repeal sections 630.110, 632.489, and 632.495, RSMo, and to enact in lieu thereof three new sections relating to sexually violent predators.

SECTION

A. Enacting clause.
630.110. Patient's rights — limitations.
632.489. Probable cause determined — sexually violent predator taken into custody, when — hearing, procedure — examination by department of mental health.
632.495. Unanimous verdict required — offender committed to custody of department of mental health, when — contracting with county jails, when — release, when — mistrial procedures.

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

SECTION A. ENACTING CLAUSE. — Sections 630.110, 632.489, and 632.495, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 630.110, 632.489, and 632.495, to read as follows:

630.110. PATIENT'S RIGHTS — LIMITATIONS. — 1. Except as provided in subsection 5 of this section, each person admitted to a residential facility or day program and each person admitted on a voluntary or involuntary basis to any mental health facility or mental health program where people are civilly detained pursuant to chapter 632, RSMo, except to the extent that the head of the residential facility or day program determines that it is inconsistent with the person's therapeutic care, treatment, habilitation or rehabilitation and the safety of other facility or program clients and public safety, shall be entitled to the following:

(1) To wear his own clothes and to keep and use his own personal possessions;

(2) To keep and be allowed to spend a reasonable sum of his own money for canteen expenses and small purchases;

(3) To communicate by sealed mail or otherwise with persons including agencies inside or outside the facility;

(4) To receive visitors of his own choosing at reasonable times;

(5) To have reasonable access to a telephone both to make and receive confidential calls;

(6) To have access to his mental and medical records;

(7) To have opportunities for physical exercise and outdoor recreation;

(8) To have reasonable, prompt access to current newspapers, magazines and radio and television programming.

2. Any limitations imposed by the head of the residential facility or day program or his designee on the exercise of the rights enumerated in subsection 1 of this section by a patient, resident or client and the reasons for such limitations shall be documented in his clinical record.

3. Each patient, resident or client shall have an absolute right to receive visits from his attorney, physician or clergyman, in private, at reasonable times.

4. Notwithstanding any limitations authorized under this section on the right of communication, every patient, resident or client shall be entitled to communicate by sealed mail with the department, his legal counsel and with the court, if any, which has jurisdiction over the person.

5. Persons committed to a residential facility or day program operated, funded or licensed by the department pursuant to section 552.040, RSMo, **persons detained at a county jail or at a secure facility under section 632.484 or 632.489, RSMo, or persons committed to a secure facility under section 632.495, RSMo,** shall not be entitled to the rights enumerated in subdivisions (1), (3) and (5) of subsection 1 of this section unless the head of the residential facility or day program determines that these rights are necessary for the person's therapeutic care, treatment, habilitation or rehabilitation. In exercising the discretion to grant any of the rights enumerated in subsection 1 of this section to a patient, resident or client, the head of the residential facility or day program shall consider the safety of the public.

632.489. PROBABLE CAUSE DETERMINED — SEXUALLY VIOLENT PREDATOR TAKEN INTO CUSTODY, WHEN — HEARING, PROCEDURE — EXAMINATION BY DEPARTMENT OF MENTAL HEALTH. — 1. Upon filing a petition pursuant to section 632.484 or 632.486, the judge shall determine whether probable cause exists to believe that the person named in the petition is a sexually violent predator. If such probable cause determination is made, the judge shall direct that person be taken into custody and direct that the person be transferred to an appropriate secure facility, including, but not limited to, a county jail. If the person is ordered to the department of mental health, the director of the department of mental health shall determine the appropriate secure facility to house the person under the provisions of section 632.495.

2. Within seventy-two hours after a person is taken into custody pursuant to subsection 1 of this section, excluding Saturdays, Sundays and legal holidays, such person shall be provided

with notice of, and an opportunity to appear in person at, a hearing to contest probable cause as to whether the detained person is a sexually violent predator. At this hearing the court shall:

(1) Verify the detainee's identity; and

(2) Determine whether probable cause exists to believe that the person is a sexually violent predator. The state may rely upon the petition and supplement the petition with additional documentary evidence or live testimony.

3. At the probable cause hearing as provided in subsection 2 of this section, the detained person shall have the following rights in addition to the rights previously specified:

(1) To be represented by counsel;

(2) To present evidence on such person's behalf;

(3) To cross-examine witnesses who testify against such person; and

(4) To view and copy all petitions and reports in the court file, including the assessment of the multidisciplinary team.

4. If the probable cause determination is made, the court shall direct that the person be transferred to an appropriate secure facility, including, but not limited to, a county jail, for an evaluation as to whether the person is a sexually violent predator. If the person is ordered to the department of mental health, the director of the department of mental health shall determine the appropriate secure facility**, which may include a county jail as set forth in section 632.495,** to house the person. The court shall direct the director of the department of mental health to have the person examined by a psychiatrist or psychologist as defined in section 632.005 who was not a member of the multidisciplinary team that previously reviewed the person's records. In addition, such person may be examined by a consenting psychiatrist or psychologist of the person's choice at the person's own expense. Any examination shall be conducted in the facility in which the person is confined. Any examinations ordered shall be made at such time and under such conditions as the court deems proper; except that, if the order directs the director of the department of mental health to have the person examined, the director shall determine the time, place and conditions under which the examination shall be conducted. The psychiatrist or psychologist conducting such an examination shall be authorized to interview family and associates of the person being examined, as well as victims and witnesses of the person's offense or offenses, for use in the examination unless the court for good cause orders otherwise. The psychiatrist or psychologist shall have access to all materials provided to and considered by the multidisciplinary team and to any police reports related to sexual offenses committed by the person being examined. Any examination performed pursuant to this section shall be completed and filed with the court within sixty days of the date the order is received by the director or other evaluator unless the court for good cause orders otherwise. One examination shall be provided at no charge by the department. All costs of any subsequent evaluations shall be assessed to the party requesting the evaluation.

632.495. UNANIMOUS VERDICT REQUIRED — OFFENDER COMMITTED TO CUSTODY OF DEPARTMENT OF MENTAL HEALTH, WHEN — CONTRACTING WITH COUNTY JAILS, WHEN — RELEASE, WHEN — MISTRIAL PROCEDURES. — 1. The court or jury shall determine whether, by clear and convincing evidence, the person is a sexually violent predator. If such determination that the person is a sexually violent predator is made by a jury, such determination shall be by unanimous verdict of such jury. Any determination as to whether a person is a sexually violent predator may be appealed.

2. If the court or jury determines that the person is a sexually violent predator, the person shall be committed to the custody of the director of the department of mental health for control, care and treatment until such time as the person's mental abnormality has so changed that the person is safe to be at large. Such control, care and treatment shall be provided by the department of mental health.

3. At all times, persons ordered to the department of mental health after a determination by the court that such persons may meet the definition of a sexually violent predator, persons

ordered to the department of mental health after a finding of probable cause under section 632.489, and persons committed for control, care and treatment by the department of mental health pursuant to sections 632.480 to 632.513 shall be kept in a secure facility designated by the director of the department of mental health and such persons shall be segregated at all times from any other patient under the supervision of the director of the department of mental health. The department of mental health shall not place or house a person ordered to the department of mental health after a determination by the court that such person may meet the definition of a sexually violent predator, a person ordered to the department of mental health after a finding of probable cause under section 632.489, or a person committed for control, care, and treatment by the department of mental health, pursuant to sections 632.480 to 632.513, with other mental health patients. The provisions of this subsection shall not apply to a person who has been conditionally released under section 632.505.

4. The department of mental health is authorized to enter into an interagency agreement with the department of corrections for the confinement of such persons. Such persons who are in the confinement of the department of corrections pursuant to an interagency agreement shall be housed and managed separately from offenders in the custody of the department of corrections, and except for occasional instances of supervised incidental contact, shall be segregated from such offenders.

5. **The department of mental health is authorized to enter into a contract agreement with one or more county jails in Missouri for the confinement of persons ordered to the department of mental health after a determination by the court that such persons may meet the definition of a sexually violent predator or for the confinement of persons ordered to the department of mental health after a finding of probable cause under section 632.489. Such persons who are in the confinement of a county jail pursuant to a contract agreement shall be housed and managed separately from offenders in the custody of the county jail, and except for occasional instances of supervised incidental contact, shall be segregated from such offenders.**

6. If the court or jury is not satisfied by clear and convincing evidence that the person is a sexually violent predator, the court shall direct the person's release.

[6.**] 7.** Upon a mistrial, the court shall direct that the person be held at an appropriate secure facility, including, but not limited to, a county jail, until another trial is conducted. If the person is ordered to the department of mental health, the director of the department of mental health shall determine the appropriate secure facility to house the person. Any subsequent trial following a mistrial shall be held within ninety days of the previous trial, unless such subsequent trial is continued as provided in section 632.492.

Approved July 9, 2009

HB 836 [SCS HCS HB 836 & 753]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Prohibits any unlawful detainer action to be taken against a tenant until at least ten business days after the date of written notification of the foreclosure sale of the property

AN ACT to repeal section 534.030, RSMo, and to enact in lieu thereof one new section relating to notice that a foreclosure sale has occurred.

SECTION
A. Enacting clause.
534.030. Unlawful detainer defined — foreclosure, notice to tenants, procedure.

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

SECTION A. ENACTING CLAUSE. — Section 534.030, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 534.030, to read as follows:

534.030. UNLAWFUL DETAINER DEFINED — FORECLOSURE, NOTICE TO TENANTS, PROCEDURE. — 1. When any person willfully and without force holds over any lands, tenements or other possessions, after the termination of the time for which they were demised or let to the person, or the person under whom such person claims; or after a mortgage or deed of trust has been foreclosed and the person has received written notice of a foreclosure**; or at least ten business days have elapsed after the date of the notice described in subsection 3 of this section**; or when premises are occupied incident to the terms of employment and the employee holds over after the termination of such employment; or when any person wrongfully and without force, by disseisin, shall obtain and continue in possession of any lands, tenements or other possessions, and after demand made, in writing, for the delivery of such possession of the premises by the person having the legal right to such possession, or the person's agent or attorney, shall refuse or neglect to vacate such possession, such person is guilty of an "unlawful detainer".

2. In any case where a foreclosed property is occupied prior to the foreclosure by a person who was a residential tenant, known in this section as the occupant, not in violation of the provisions of section 441.020, RSMo, then after the foreclosure sale, the new owner of the property shall give the occupant notice, as described in subsection 3 of this section, that the sale has occurred, that they are the new owner, and if said owner seeks possession from the occupant that the occupant has not less than ten business days from the date of this notice to vacate the premises. No unlawful detainer action or any other action seeking possession may be commenced against the occupant within ten business days following the date of notice by the new owner that the foreclosure sale has occurred. Nothing in this section creates a tenancy between the new owner and the occupant. This section does not preclude the new owner from entering into an agreement with the occupant that allows the occupant to remain in the foreclosed property.

3. The notice required in subsection 2 of this section shall be sent by certified or registered mail if the name of the occupant is known to the new owner. If the name of the occupant is not known to the new owner then the notice shall be sent by regular mail and addressed to "occupant". The envelope containing such notice shall have the following words printed on the envelope face: "Notice to Occupant Following Foreclosure". A notice shall also be posted on the door of the premises where the occupant resides. The notices required in this subsection shall contain in substance the following text: "Attention Occupant: (name of the new owner of the foreclosed property) is now the owner of the property which you had been renting or leasing at (address of foreclosed property, including apartment number, if applicable) after purchasing it at a trustee's foreclosure sale on (date of foreclosure sale). Unless you agree with (new owner) to a rental or lease agreement for the premises, (new owner), on or after (number not less than ten) business days following the date of this notice, may seek a court order or judgment to have you removed from the premises. Remaining on the premises after the date of this notice does not make you a tenant of the new owner.
(Name of new owner)
(Address of new owner)
(Telephone number of new owner)

(Fax number of new owner, optional)
(E-mail address of new owner, optional)

Approved July 10, 2009

HB 842 [SCS HB 842]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Revises the definition of "commercial real estate" as it relates to licensed real estate brokers and agents and defines "boat dock" as real property with owners having riparian rights to the water it is in

AN ACT to repeal sections 339.503 and 339.710, RSMo, and to enact in lieu thereof two new sections relating to real estate.

SECTION
A. Enacting clause.
339.503. Definitions.
339.710. Definitions.

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

SECTION A. ENACTING CLAUSE. — Sections 339.503 and 339.710, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 339.503 and 339.710, to read as follows:

339.503. DEFINITIONS. — As used in sections 339.500 to 339.549, the following words and phrases mean, unless the context clearly indicates otherwise:

(1) "Appraisal" or "real estate appraisal", an objective analysis, evaluation, opinion, or conclusion relating to the nature, quality, value or utility of specified interests in, or aspects of, identified real estate. An appraisal may be classified by subject matter into either a valuation or an analysis;

(2) "Appraisal assignment", an engagement for which a person is employed or retained to act as a disinterested third party in rendering an objective appraisal;

(3) "Appraisal foundation", the organization of the same name that was incorporated as an Illinois not-for-profit corporation on November 20, 1987, whose operative boards are the appraisal standards board and the appraiser qualifications board;

(4) "Appraisal report", any communication, written or oral, of an appraisal. The purpose of an appraisal is immaterial, therefore valuation reports, real estate counseling reports, real estate tax counseling reports, real estate offering memoranda, mortgage banking offers, highest and best use studies, market demand and economic feasibility studies and all other reports communicating an appraisal analysis, opinion or conclusion are "appraisal reports", regardless of title;

(5) "Appraisal standards board (ASB)", the independent board of the appraisal foundation which promulgates the generally accepted standards of the appraisal profession and the uniform standards of professional appraisal practices;

(6) "Appraiser qualifications board (AQB)", the independent board of the appraisal foundation which establishes minimum experience, education and examination criteria for state licensing of appraisers;

(7) **"Boat dock", a structure for loading and unloading boats and connecting real property to water, public or private. A boat dock is real property and has riparian rights, provided:**

(a) The lender includes the boat dock as a fixture both in the lender's deed of trust and a uniform commercial code fixture filing under section 400.9-502, RSMo;

(b) The boat dock is attached to the real property by steel cable, bar, or chain that is permanently imbedded in concrete or rock, and otherwise securely attached to the dock; and

(c) The owner of the dock has riparian rights by means of real estate rights bordering the body of water, including such rights by license, grant, or other means allowing access to the body of water, which access may be seasonal because the water may be reduced for electric power production or flood control;

(8) "Broker price opinion", an opinion of value, prepared by a real estate licensee for a fee, that includes, but is not limited to, analysis of competing properties, comparable sold properties, recommended repairs and costs or suggested marketing techniques. A broker price opinion is not an appraisal and shall specifically state it is not an appraisal;

[(8)**]** **(9)** "Certificate", the document issued by the Missouri real estate appraisers commission evidencing that the person named therein has satisfied the requirements for certification as a state-certified real estate appraiser and bearing a certificate number assigned by the commission;

[(9)**]** **(10)** "Certificate holder", a person certified by the commission pursuant to the provisions of sections 339.500 to 339.549;

[(10)**]** **(11)** "Certified appraisal report", an appraisal prepared or signed by a state-certified real estate appraiser. A certified appraisal report represents to the public that it meets the appraisal standards defined in sections 339.500 to 339.549;

[(11)**]** **(12)** "Commission", the Missouri real estate appraisers commission, created in section 339.507;

[(12)**]** **(13)** "Comparative market analysis", the analysis of sales of similar recently sold properties in order to derive an indication of the probable sales price of a particular property undertaken by a licensed real estate broker or agent, for his or her principal. A comparative market analysis is not an appraisal and shall specifically state it is not an appraisal;

[(13)**]** **(14)** "Disinterested third party" shall not exclude any state-certified real estate appraiser or state-licensed real estate appraiser employed or retained by any bank, savings association, credit union, mortgage banker or other lender to perform appraisal assignments, provided that the appraisal assignments are rendered with respect to loans to be extended by the bank, savings association, credit union, mortgage banker or other lender, and provided further that the state-certified real estate appraiser or state-licensed real estate appraiser is not requested or required to report a predetermined analysis or opinion of value;

[(14)**]** **(15)** "License" or "licensure", a license or licensure issued pursuant to the provisions of sections 339.500 to 339.549 evidencing that the person named therein has satisfied the requirements for licensure as a state-licensed real estate appraiser and bearing a license number assigned by the commission;

[(15)**]** **(16)** "Real estate", an identified parcel or tract of land, including improvements, if any;

[(16)**]** **(17)** "Real estate appraiser" or "appraiser", a person who for a fee or valuable consideration develops and communicates real estate appraisals or otherwise gives an opinion of the value of real estate or any interest therein;

[(17)**]** **(18)** "Real estate appraising", the practice of developing and communicating real estate appraisals;

[(18)**]** **(19)** "Real property", the interests, benefits and rights inherent in the ownership of real estate;

[(19)**]** **(20)** "Residential real estate", any parcel of real estate, improved or unimproved, that is primarily residential in nature and that includes or is intended to include a residential structure containing not more than four dwelling units and no other improvements except those which are typical residential improvements that support the residential use for the location and property type. A residential unit is a condominium, town house or cooperative complex, or a planned unit development is considered to be residential real estate. Subdivisions are not considered residential real estate. Individual parcels of property located within a residential subdivision shall be considered residential property;

[(20)**]** **(21)** "Specialized appraisal services", appraisal services which do not fall within the definition of appraisal assignment. The term "specialized services" may include valuation work and analysis work. Regardless of the intention of the client or employer, if the appraiser is acting as a disinterested third party in rendering an unbiased analysis, opinion or conclusion, the work is classified as an appraisal assignment and not specialized services;

[(21)**]** **(22)** "State-certified general real estate appraiser", a person who holds a current, valid certificate as a state-certified general real estate appraiser issued pursuant to the provisions of sections 339.500 to 339.549;

[(22)**]** **(23)** "State-certified residential real estate appraiser", a person who holds a current, valid certificate as a state-certified residential real estate appraiser issued pursuant to the provisions of sections 339.500 to 339.549;

[(23)**]** **(24)** "State-licensed real estate appraiser", a person who holds a current, valid license as a state-licensed real estate appraiser pursuant to the provisions of sections 339.500 to 339.549;

[(24)**]** **(25)** "Subdivision", a tract of land that has been divided into blocks or plots with streets, roadways, open areas and other facilities appropriate to its development as residential, commercial or industrial sites;

[(25)**]** **(26)** "Temporary appraiser licensure or certification", the issuance of a temporary license or certificate by the commission to a person licensed or certified in another state who enters this state for the purpose of completing a particular appraisal assignment.

339.710. DEFINITIONS. — For purposes of sections 339.010 to 339.180, RSMo, and sections 339.710 to 339.860, the following terms mean:

(1) "Adverse material fact", a fact related to the property not reasonably ascertainable or known to a party which negatively affects the value of the property. Adverse material facts may include matters pertaining to:

(a) Environmental hazards affecting the property;

(b) Physical condition of the property which adversely affects the value of the property;

(c) Material defects in the property;

(d) Material defects in the title to the property;

(e) Material limitation of the party's ability to perform under the terms of the contract;

(2) "Affiliated licensee", any broker or salesperson who works under the supervision of a designated broker;

(3) "Agent", a person or entity acting pursuant to the provisions of this chapter;

(4) "Broker disclosure form", the current form prescribed by the commission for presentation to a seller, landlord, buyer or tenant who has not entered into a written agreement for brokerage services;

(5) "Brokerage relationship", the relationship created between a designated broker, the broker's affiliated licensees, and a client relating to the performance of services of a broker as defined in section 339.010, and sections 339.710 to 339.860. If a designated broker makes an appointment of an affiliated licensee or affiliated licensees pursuant to section 339.820, such brokerage relationships are created between the appointed licensee or licensees and the client. Nothing in this subdivision shall:

(a) Alleviate the designated broker from duties of supervision of the appointed licensee or licensees; or

(b) Alter the designated broker's underlying contractual agreement with the client;

(6) "Client", a seller, landlord, buyer, or tenant who has entered into a brokerage relationship with a licensee pursuant to sections 339.710 to 339.860;

(7) "Commercial real estate", any real estate other than real estate containing one to four residential units**[**, real estate on which no buildings or structures are located,**]** or real estate classified as agricultural and horticultural property for assessment purposes pursuant to section 137.016, RSMo. Commercial real estate does not include single family residential units including condominiums, townhouses, or homes in a subdivision when that real estate is sold, leased, or otherwise conveyed on a unit-by-unit basis even though the units may be part of a larger building or parcel of real estate containing more than four units;

(8) "Commission", the Missouri real estate commission;

(9) "Confidential information", information obtained by the licensee from the client and designated as confidential by the client, information made confidential by sections 339.710 to 339.860 or any other statute or regulation, or written instructions from the client unless the information is made public or becomes public by the words or conduct of the client to whom the information pertains or by a source other than the licensee;

(10) "Customer", an actual or potential seller, landlord, buyer, or tenant in a real estate transaction in which a licensee is involved but who has not entered into a brokerage relationship with the licensee;

(11) "Designated agent", a licensee named by a designated broker as the limited agent of a client as provided for in section 339.820;

(12) "Designated broker", any individual licensed as a broker who is operating pursuant to the definition of "real estate broker" as defined in section 339.010, or any individual licensed as a broker who is appointed by a partnership, association, limited liability corporation, or a corporation engaged in the real estate brokerage business to be responsible for the acts of the partnership, association, limited liability corporation, or corporation. Every real estate partnership, association, or limited liability corporation, or corporation shall appoint a designated broker;

(13) "Designated transaction broker", a licensee named by a designated broker or deemed appointed by a designated broker as the transaction broker for a client pursuant to section 339.820;

(14) "Dual agency", a form of agency which may result when an agent licensee or someone affiliated with the agent licensee represents another party to the same transaction;

(15) "Dual agent", a limited agent who, with the written consent of all parties to a contemplated real estate transaction, has entered into an agency brokerage relationship, and not a transaction brokerage relationship, with and therefore represents both the seller and buyer or both the landlord and tenant;

(16) "Exclusive brokerage agreement", means a written brokerage agreement which provides that the broker has the sole right, through the broker or through one or more affiliated licensees, to act as the exclusive limited agent, representative, or transaction broker of the client or customer that meets the requirements of section 339.780;

(17) "Licensee", a real estate broker or salesperson as defined in section 339.010;

(18) "Limited agent", a licensee whose duties and obligations to a client are those set forth in sections 339.730 to 339.750;

(19) "Ministerial acts", those acts that a licensee may perform for a person or entity that are informative in nature and do not rise to the level which requires the creation of a brokerage relationship. Examples of these acts include, but are not limited to:

(a) Responding to telephone inquiries by consumers as to the availability and pricing of brokerage services;

(b) Responding to telephone inquiries from a person concerning the price or location of property;

(c) Attending an open house and responding to questions about the property from a consumer;

(d) Setting an appointment to view property;

(e) Responding to questions of consumers walking into a licensee's office concerning brokerage services offered on particular properties;

(f) Accompanying an appraiser, inspector, contractor, or similar third party on a visit to a property;

(g) Describing a property or the property's condition in response to a person's inquiry;

(h) Showing a customer through a property being sold by an owner on his or her own behalf; or

(i) Referral to another broker or service provider;

(20) "Residential real estate", all real property improved by a structure that is used or intended to be used primarily for residential living by human occupants and that contains not more than four dwelling units or that contains single dwelling units owned as a condominium or in a cooperative housing association, and vacant land classified as residential property. The term "cooperative housing association" means an association, whether incorporated or unincorporated, organized for the purpose of owning and operating residential real property in Missouri, the shareholders or members of which, by reason of their ownership of a stock or membership certificate, a proprietary lease, or other evidence of membership, are entitled to occupy a dwelling unit pursuant to the terms of a proprietary lease or occupancy agreement;

(21) "Single agent", a licensee who has entered into a brokerage relationship with and therefore represents only one party in a real estate transaction. A single agent may be one of the following:

(a) "Buyer's agent", which shall mean a licensee who represents the buyer in a real estate transaction;

(b) "Landlord's agent", which shall mean a licensee who represents a landlord in a leasing transaction;

(c) "Seller's agent", which shall mean a licensee who represents the seller in a real estate transaction; and

(d) "Tenant's agent", which shall mean a licensee who represents the tenant in a leasing transaction;

(22) "Subagent", a designated broker, together with the broker's affiliated licensees, engaged by another designated broker, together with the broker's affiliated or appointed affiliated licensees, to act as a limited agent for a client, or a designated broker's unappointed affiliated licensees engaged by the designated broker, together with the broker's appointed affiliated licensees, to act as a limited agent for a client. A subagent owes the same obligations and responsibilities to the client pursuant to sections 339.730 to 339.740 as does the client's designated broker;

(23) "Transaction broker", any licensee acting pursuant to sections 339.710 to 339.860, who:

(a) Assists the parties to a transaction without an agency or fiduciary relationship to either party and is, therefore, neutral, serving neither as an advocate or advisor for either party to the transaction;

(b) Assists one or more parties to a transaction and who has not entered into a specific written agency agreement to represent one or more of the parties; or

(c) Assists another party to the same transaction either solely or through licensee affiliates. Such licensee shall be deemed to be a transaction broker and not a dual agent, provided that, notice of assumption of transaction broker status is provided to the buyer and seller immediately upon such default to transaction broker status, to be confirmed in writing prior to execution of the contract.

Approved July 7, 2009

HB 859 [HB 859]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Reduces from three to one the number of required copies that must be filed and kept in the clerk's office of building or technical codes adopted by counties, fire protection districts, and municipalities

AN ACT to repeal section 67.280, RSMo, and to enact in lieu thereof one new section relating to community codes.

SECTION
A. Enacting clause.
67.280. Communities may incorporate by reference certain technical codes — penalty provisions, requirements — definitions.

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

SECTION A. ENACTING CLAUSE. — Section 67.280, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 67.280, to read as follows:

67.280. COMMUNITIES MAY INCORPORATE BY REFERENCE CERTAIN TECHNICAL CODES — PENALTY PROVISIONS, REQUIREMENTS — DEFINITIONS. — 1. As used in this section, the following terms mean:

(1) **"Code", any published compilation of rules prepared by various technical trade associations, federal agencies, this state or any agency thereof, but shall be limited to: regulations concerning the construction of buildings and continued occupancy thereof; mechanical, plumbing, and electrical construction; and fire prevention;**

(2) "Community", any county, fire protection district or municipality;

[(2)**] (3)** "County", any county in the state;

[(3)**] (4)** "Fire protection district", any fire protection district in the state;

[(4)**] (5)** "Municipality", any incorporated city, town or village**[**;

(5) "Technical code", any published compilation of rules prepared by various technical trade associations, federal agencies, this state or any agency thereof, but shall be limited to: regulations concerning the construction of buildings and continued occupancy thereof; mechanical, plumbing and electrical construction; and fire prevention**]**.

2. Any community, if the community otherwise has the power under the law to adopt such an ordinance, may adopt or repeal an ordinance which incorporates by reference the provisions of any code or portions of any code, or any amendment thereof, **[**property**] properly** identified as to date and source, without setting forth the provisions of such code in full. At least **[**three copies**] one copy** of such code, portion or amendment which is incorporated or adopted by reference, shall be filed in the office of the clerk of the community and there kept available for public use, inspection, and examination. The filing requirements herein prescribed shall not be deemed to be complied with unless the required copies of such codes, portion, or amendment or public record are filed with the clerk of such community for a period of ninety days prior to the adoption of the ordinance which incorporates such code, portion, or amendment by reference.

3. Any ordinance adopting a code, portion, or amendment by reference shall state the penalty for violating such code, portion, or amendment, or any provisions thereof separately, and no part of any such penalty shall be incorporated by reference.

Approved July 10, 2009

HB 861 [SCS HB 861]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Allows the Adjutant General to assign the number of assistant adjutants general that are authorized by the rules and regulations of the National Guard Bureau of the United States

AN ACT to repeal section 41.150, RSMo, and to enact in lieu thereof one new section relating to assistant adjutants general.

SECTION
A. Enacting clause.
41.150. Assistant adjutants general — appointment — duties.

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

SECTION A. ENACTING CLAUSE. — Section 41.150, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 41.150, to read as follows:

41.150. ASSISTANT ADJUTANTS GENERAL — APPOINTMENT — DUTIES. — The adjutant general may assign **[**two**] the number of** assistant adjutants general **[**in the grade of brigadier general or below, one**] that are authorized by National Guard Bureau rules and regulations** from the ground forces and **[**the other from**]** the air forces of this state**[** however, general officers of the line federally recognized in the grade of major general may be reassigned as a state assistant adjutant general without change in grade or branch**]**. **The assistant adjutants general shall, if they qualify therefore, hold military rank as may be authorized and approved for the positions by the National Guard Bureau of the United States.** The assistant adjutants general, at the time of their appointment, shall have not less than ten years of military service as a commissioned officer with the military forces of this state, another state or territory, the District of Columbia or the United States, or in any or all such services combined, five years of the service being in field grade. The assistant adjutants general shall serve at the pleasure of the adjutant general and perform such duties as are assigned by the adjutant general. During any period when the adjutant general is unable to perform such duties, the senior assistant adjutant general may, under the direction of the governor, perform the duties of the adjutant general.

Approved June 15, 2009

HB 863 [HCS HB 863]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Establishes the Child Witness Protection Act that applies to certain children seventeen years of age or younger who are testifying in any judicial proceeding

AN ACT to amend chapter 491, RSMo, by adding thereto one new section relating to the child witness protection act.

SECTION
A. Enacting clause.
491.725. Citation of law — definitions — applicability.

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

SECTION A. ENACTING CLAUSE. — Chapter 491, RSMo, is amended by adding thereto one new section, to be known as section 491.725, to read as follows:

491.725. CITATION OF LAW — DEFINITIONS — APPLICABILITY. — 1. This section shall be known and may be cited as the "Child Witness Protection Act".

2. As used in this section, the following terms shall mean:

(1) "Child", a person fourteen years of age or under, or at the discretion of the court, a person fifteen to seventeen years of age, who is a witness in any judicial proceeding under chapter 452 or 453, RSMo, or the alleged victim or witness in any judicial proceeding under chapter 455, 565, 566, or 568, RSMo. The court shall make written findings on the record when a child fifteen to seventeen years of age is included under this subdivision. "Victim" or "witness" shall not include any child accused of committing a felony; however, these terms may, in the court's discretion, include:

(a) A child where such child's participation in a felony appears to have been induced, coerced, or unwilling; or

(b) A child who has participated in the felony, but who has subsequently and voluntarily agreed to testify on behalf of the state;

(2) "Support person", an adult, designated by the court to serve as a support person, who is known to the child victim or witness and who has no direct legal or pecuniary interest in the outcome of the judicial proceeding.

3. In order to facilitate testimony that is fair and accurate, for the benefit of all parties, and in order to protect all parties from the risks of a child becoming confused while testifying in a judicial proceeding, the following child witness protection act shall apply to all children testifying in court:

(1) Whether at a competency hearing or trial itself, the judge shall ensure that any oath that is required of a child shall be administered in such a manner that the child may fully understand his or her duty to tell the truth;

(2) The court shall take care to ensure that questions are stated in a form which is appropriate to the age of the child. The court shall explain to the child that if he or she does not understand a question, the child has the right to say that he or she does not understand the question and to have the question restated in a form that the child does understand;

(3) In the court's discretion, the taking of testimony from a child victim or witness may be limited in duration or limited to normal school hours. The court may order a recess when the energy, comfort, or attention span of the child warrants;

(4) Upon motion made by the child, his or her representative, or any party to the judicial proceeding, at least thirty days in advance of the judicial proceeding, the court may allow the child to have a toy, blanket, or similar item in his or her possession while testifying, but such item shall only be allowed if:

(a) All parties agree; or

(b) If the movant shows the court by a preponderance of evidence that:

a. The child in question cannot reliably testify without the item in his or her possession; and

b. Allowing the item is not likely to prejudice the trier of fact in hearing and evaluating the child's testimony;

(5) Upon motion made by the child, his or her representative, or any party to the judicial proceeding, at least thirty days in advance of the judicial proceeding, the court may designate a support person, who shall be present in the courtroom, in view of the child witness. The court may allow the support person to remain in close proximity to the child during the child's testimony, but such action shall only be allowed if:

(a) All parties agree; or

(b) If the movant shows the court by a preponderance of the evidence that:

a. The child in question cannot reliably testify without the support person in close proximity during the testimony; and

b. Allowing the support person to be in close proximity to the child during testimony is not likely to prejudice the trier of fact in hearing and evaluating the child's testimony.

The support person shall not obscure the child from the view of the defendant or the trier of fact. A support person shall not provide the child with an answer to any question directed to the child during the course of the child's testimony or otherwise prompt the child or otherwise influence the testimony of the child. If the support person attempts to influence or affect in any manner the testimony of the child victim or witness during the giving of testimony or at any other time, the court shall exclude that support person, refer the matter of misconduct of the support person to the prosecuting attorney, and designate an alternative support person;

(6) The court shall prevent intimidation or harassment of the child witness by the parties or their attorneys. Insofar as it is consistent with the constitutional rights of the parties to confront and cross-examine adverse witnesses, the judge may rephrase any questions in order to prevent any such intimidation or harassment; and

(7) Upon its own motion or the motion of any party to the judicial proceeding, at least thirty days in advance of the judicial proceeding, the court may order such accommodations as are appropriate under the circumstances to ensure the comfort of the child victim or witness, including the following measures:

(a) Adjusting the layout of the courtroom;

(b) Conducting the proceedings outside the normal courtroom; or

(c) Relaxing the formalities of the proceedings; provided that, such measures are consistent with the rights of all parties under the constitution and laws of the United States and the State of Missouri.

Approved July 9, 2009

HB 866 [SCS HB 866]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Certain unsubstantiated complaints by certain sexually violent predators against licensed social workers and physicians may be removed from regulating entity's records

AN ACT to repeal sections 334.098 and 337.649, RSMo, and to enact in lieu thereof two new sections relating to complaints against certain licensed professionals.

SECTION

A. Enacting clause.
334.098. Disposition of certain records.
337.649. Documentation and disciplinary action prohibited, when — request to destroy documentation permitted, when — disclosure of complaint not required, when.

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

SECTION A. ENACTING CLAUSE. — Sections 334.098 and 337.649, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 334.098 and 337.649, to read as follows:

334.098. DISPOSITION OF CERTAIN RECORDS. — 1. If the board finds merit to a complaint by an individual incarcerated or under the care and control of the department of corrections **or by an individual who has been ordered to be taken into custody, detained, or held under sections 632.480 to 632.513, RSMo,** and takes further investigative action, no documentation may appear on file or disciplinary action may be taken in regards to the licensee's license unless the provisions of subsection 2 of section 334.100 have been violated. Any case file documentation that does not result in the board filing an action pursuant to subsection 2 of section 334.100 shall be destroyed within three months after the final case disposition by the board. No notification to any other licensing board in another state or any national registry regarding any investigative action shall be made unless the provisions of subsection 2 of section 334.100 have been violated.

2. Upon written request of the physician subject to a complaint, prior to August 28, 1999, by an individual incarcerated or under the care and control of the department of corrections **or prior to August 28, 2009, by an individual who has been ordered to be taken into custody, detained, or held under sections 632.480 to 632.513, RSMo,** that did not result in the board filing an action pursuant to subsection 2 of section 334.100, the board and the division of professional registration, shall in a timely fashion:

(1) Destroy all documentation regarding the complaint;

(2) Notify any other licensing board in another state or any national registry regarding the board's actions if they have been previously notified of the complaint; and

(3) Send a letter to the licensee that clearly states that the board found the complaint to be unsubstantiated, that the board has taken the requested action, and notify the licensee of the provisions of subsection 3 of this section.

3. Any person who has been the subject of an unsubstantiated complaint as provided in subsection 1 or 2 of this section shall not be required to disclose the existence of such complaint in subsequent applications or representations relating to their medical practice.

337.649. DOCUMENTATION AND DISCIPLINARY ACTION PROHIBITED, WHEN — REQUEST TO DESTROY DOCUMENTATION PERMITTED, WHEN — DISCLOSURE OF COMPLAINT NOT REQUIRED, WHEN. — 1. If the **[**board**]** **committee** finds merit to a complaint by an individual incarcerated or under the care and control of the department of corrections **or by an individual who has been ordered to be taken into custody, detained, or held under sections 632.480 to 632.513, RSMo,** and takes further investigative action, no documentation may appear on file or disciplinary action may be taken in regards to the licensee's license unless the provisions of subsection 2 of section 337.630 **[**or subsection 2 of section 337.680**]** have been violated. Any case file documentation that does not result in the **[**board**]** **committee** filing an action under and pursuant to subsection 2 of section 337.630 **[**or subsection 2 of section 337.680**]** shall be destroyed within three months after the final case disposition by the **[**board**]** **committee**. No notification to any other licensing board in another state or any national registry regarding any investigative action shall be made unless the provisions of subsection 2 of section 337.630 **[**or subsection 2 of section 337.680**]** have been violated.

2. Upon written request of the social worker subject to a complaint, prior to August 28, 2007, by an individual incarcerated or under the care and control of the department of corrections **or prior to August 28, 2009, by an individual who has been ordered to be taken into custody, detained, or held under sections 632.480 to 632.513, RSMo,** that did not result in the **[**board**]** **committee** filing an action under and pursuant to subsection 2 of section 337.630 **[**or subsection 2 of section 337.680**]**, the **[**board**]** **committee** and the division of professional registration shall in a timely fashion:

(1) Destroy all documentation regarding the complaint;

(2) Notify any other licensing board in another state or any national registry regarding the board's actions if they have been previously notified of the complaint; and

(3) Send a letter to the licensee that clearly states that the **[**board**]** **committee** found the complaint to be unsubstantiated, that the **[**board**]** **committee** has taken the requested action, and notify the licensee of the provisions of subsection 3 of this section.

3. Any person who has been the subject of an unsubstantiated complaint as provided in subsection 1 or 2 of this section shall not be required to disclose the existence of such complaint in subsequent applications or representations relating to their social work professions.

Approved July 10, 2009

HB 867 [SCS HB 867]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Designates a portion of U. S. Highway 69 from the southern city limits of Cameron to its intersection with Interstate 35 as the "CW2 Matthew G. Kelley Memorial Highway"

AN ACT to amend chapter 227, RSMo, by adding thereto one new section relating to the designation of a memorial highway.

SECTION
A. Enacting clause.
227.406. CW2 Matthew G. Kelley Memorial Highway designated for portion of Highway 69 in city of Cameron.

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

SECTION A. ENACTING CLAUSE. — Chapter 227, RSMo, is amended by adding thereto one new section, to be known as section 227.406, to read as follows:

227.406. CW2 MATTHEW G. KELLEY MEMORIAL HIGHWAY DESIGNATED FOR PORTION OF HIGHWAY 69 IN CITY OF CAMERON. — The portion of U.S. Highway 69, from the southern city limits of Cameron to its intersection with Interstate 35, shall be designated the "CW2 Matthew G. Kelley Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway, with the costs to be paid for by private donations.

Approved July 10, 2009

HB 883 [HCS HB 883]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding the State Treasurer's asset allocation plan which limits the total amount of state moneys which may be invested in any particular investment

AN ACT to repeal sections 30.260, 30.270, 30.750, 30.753, 30.756, 30.758, 30.760, and 30.765, RSMo, and to enact in lieu thereof eight new sections relating to the state treasurer, with penalty provisions.

SECTION
A. Enacting clause.
30.260. Investment policy required — time and demand deposits — investments — interest rates.
30.270. Security for safekeeping of state funds.
30.750. Definitions.
30.753. Treasurer's authority to invest in linked deposits, limitations.
30.756. Lending institution receiving linked deposits, requirements and limitations — false statements as to use for loan, penalty — eligible student borrowers — eligibility, student renewal loans, repayment method — priority for reduced-rate loans.
30.758. Loan package acceptance or rejection — loan agreement requirements — linked deposit at reduced market interest rate, when.
30.760. Loans to be at fixed rate of interest set by rules — records of loans to be segregated — penalty for violations — state treasurer, powers and duties.
30.765. State and state treasurer not liable on loans — default on a loan not to affect deposit agreement with state.

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

SECTION A. ENACTING CLAUSE. — Sections 30.260, 30.270, 30.750, 30.753, 30.756, 30.758, 30.760, and 30.765, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 30.260, 30.270, 30.750, 30.753, 30.756, 30.758, 30.760, and 30.765, to read as follows:

30.260. INVESTMENT POLICY REQUIRED — TIME AND DEMAND DEPOSITS — INVESTMENTS — INTEREST RATES. — 1. The state treasurer shall prepare, maintain and adhere to a written investment policy which shall include an asset allocation plan which limits the total amount of state moneys which may be invested in any particular investment authorized by section 15, article IV of the Missouri Constitution. **Such asset allocation plan shall also set diversification limits, as applicable, which shall include a restriction limiting the total amount of time deposits of state moneys, not including linked deposits, placed with any one single banking institution to be no greater than ten percent of all time deposits of state moneys.** The state treasurer shall present a copy of such policy to the governor, commissioner of administration, state auditor and general assembly at the commencement of each regular session of the general assembly or at any time the written investment policy is amended.

2. The state treasurer shall determine by the exercise of the treasurer's best judgment the amount of state moneys that are not needed for current operating expenses of the state government and shall keep on demand deposit in banking institutions in this state selected by the treasurer and approved by the governor and state auditor the amount of state moneys which the treasurer has so determined are needed for current operating expenses of the state government and disburse the same as authorized by law.

3. Within the parameters of the state treasurer's written investment policy, the state treasurer shall place the state moneys which the treasurer has determined are not needed for current operations of the state government on time deposit drawing interest in banking institutions in this state selected by the treasurer and approved by the governor and the state auditor, or place them outright or, if applicable, by repurchase agreement in obligations described in section 15, article IV, Constitution of Missouri, as the treasurer in the exercise of the treasurer's best judgment determines to be in the best overall interest of the people of the state of Missouri, giving due consideration to:

(1) The preservation of such state moneys;

(2) The benefits to the economy and welfare of the people of Missouri when such state money is invested in banking institutions in this state that, in turn, provide additional loans and investments in the Missouri economy and generate state taxes from such initial investments and the loans and investments created by the banking institutions, compared to the removal or withholding from banking institutions in the state of all or some such state moneys and investing same in obligations authorized in section 15, article IV of the Missouri Constitution;

(3) The liquidity needs of the state;

(4) The aggregate return in earnings and taxes on the deposits and the investment to be derived therefrom; and

(5) All other factors which to the treasurer as a prudent state treasurer seem to be relevant to the general public welfare in the light of the circumstances at the time prevailing. The state treasurer may also place state moneys which are determined not needed for current operations of the state government in linked deposits as provided in sections 30.750 to 30.767.

4. Except for state moneys deposited in linked deposits as provided in sections 30.750 to **[**30.767**] 30.860**, the rate of interest payable by all banking institutions on time deposits of state moneys shall be **[**the same as the average rate paid during the week next preceding the week in which the deposit was made for United States of America treasury securities maturing and becoming payable closest to the time of termination of the deposit, as determined by the state treasurer, adjusted to the nearest one-tenth of a percent; except that**] set under subdivisions (1) to (5) of this subsection and subsections 6 and 7 of this section.** The rate shall never exceed the maximum rate of interest which by federal law or regulation a bank which is a member of the Federal Reserve System may from time to time pay on a time deposit of the same size and maturity. **The rate of interest payable by all banking institutions on time deposits of state moneys is as follows:**

(1) Beginning January 1, 2010, the rate of interest payable by a banking institution on up to seven million dollars of time deposits of state moneys shall be the same as the average rate paid during the week next preceding the week in which the deposit was made for United States of America treasury securities maturing and becoming payable closest to the time of termination of the deposit, as determined by the state treasurer, adjusted to the nearest one-tenth of a percent. In the case of a banking institution that holds more than seven million dollars of time deposits of state moneys, the rate of interest payable on deposits in excess of seven million dollars of time deposits of state moneys shall be set at the market rate as determined in subsection 6 of this section;

(2) Beginning January 1, 2011, the rate of interest payable by a banking institution on up to five million dollars of time deposits of state moneys shall be the same as the average rate paid during the week next preceding the week in which the deposit was made for United States of America treasury securities maturing and becoming payable closest to the time of termination of the deposit, as determined by the state treasurer, adjusted to the nearest one-tenth of a percent. In the case of a banking institution that holds more than five million dollars of time deposits of state moneys, the rate of interest payable on deposits in excess of five million dollars of time deposits of state moneys shall be set at the market rate as determined in subsection 6 of this section;

(3) Beginning January 1, 2012, the rate of interest payable by a banking institution on up to three million dollars of time deposits of state moneys shall be the same as the average rate paid during the week next preceding the week in which the deposit was made for United States of America treasury securities maturing and becoming payable closest to the time of termination of the deposit, as determined by the state treasurer, adjusted to the nearest one-tenth of a percent. In the case of a banking institution that holds more than three million dollars of time deposits of state moneys, the rate of interest payable on deposits in excess of three million dollars of time deposits of state moneys shall be set at the market rate as determined in subsection 6 of this section;

(4) Beginning January 1, 2013, the rate of interest payable by a banking institution on up to one million dollars of time deposits of state moneys shall be the same as the average rate paid during the week next preceding the week in which the deposit was made for United States of America treasury securities maturing and becoming payable closest to the time of termination of the deposit, as determined by the state treasurer, adjusted to the nearest one-tenth of a percent. In the case of a banking institution that holds more than one million dollars of time deposits of state moneys, the rate of interest payable on

deposits in excess of one million dollars of time deposits of state moneys shall be set at the market rate as determined in subsection 6 of this section;

(5) Beginning January 1, 2014, the rate of interest payable by a banking institution on all time deposits of state moneys shall be set at the market rate as determined in subsection 6 of this section.

5. Notwithstanding subdivisions (1) to (5) of subsection 4 of this section, for any new time deposits of state moneys placed after January 1, 2010, with a term longer than eighteen months, the rate of interest payable by a banking institution shall be set at the market rate as determined in subsection 6 of this section.

6. Market rate shall be determined no less frequently than once a month by the director of investments in the office of state treasurer. The process for determining a market rate shall include due consideration of prevailing rates offered for certificates of deposit by well-capitalized Missouri financial institutions, the advance rate established by the Federal Home Loan Bank of Des Moines for member institutions and the costs of collateralization, as well as an evaluation of the credit risk associated with other authorized securities under section 15, article IV, of the Missouri Constitution. Banking institutions may also offer a higher rate than the market rate for any time deposit placed with the state treasurer in excess of the total amount of state moneys set at the United States of America treasury securities maturing and becoming payable closest to the time of termination of the deposit indicated in subdivisions (1) to (5) of subsection 4 of this section.

[5.**]** **7.** Within the parameters of the state treasurer's written investment policy, the state treasurer may subscribe for or purchase outright or by repurchase agreement investments of the character described in subsection 3 of this section which the treasurer, in the exercise of the treasurer's best judgment, believes to be the best for investment of state moneys at the time and in payment therefor may withdraw moneys from any bank account, demand or time, maintained by the treasurer without having any supporting warrant of the commissioner of administration. The state treasurer may bid on subscriptions for such obligations in accordance with the treasurer's best judgment. The state treasurer shall provide for the safekeeping of all such obligations so acquired in the same manner that securities pledged to secure the repayment of state moneys deposited in banking institutions are kept by the treasurer pursuant to law. The state treasurer may hold any such obligation so acquired by the treasurer until its maturity or prior thereto may sell the same outright or by reverse repurchase agreement provided the state's security interest in the underlying security is perfected or temporarily exchange such obligation for cash or other authorized securities of at least equal market value with no maturity more than one year beyond the maturity of any of the traded obligations, for a negotiated fee as the treasurer, in the exercise of the treasurer's best judgment, deems necessary or advisable for the best interest of the people of the state of Missouri in the light of the circumstances at the time prevailing. The state treasurer may pay all costs and expenses reasonably incurred by the treasurer in connection with the subscription, purchase, sale, collection, safekeeping or delivery of all such obligations at any time acquired by the treasurer.

[6.**]** **8.** As used in this chapter, except as more particularly specified in section 30.270, obligations of the United States shall include securities of the United States Treasury, and United States agencies or instrumentalities as described in section 15, article IV, Constitution of Missouri. The word "temporarily" as used in this section shall mean no more than six months.

30.270. SECURITY FOR SAFEKEEPING OF STATE FUNDS. — 1. For the security of the moneys deposited by the state treasurer pursuant to the provisions of this chapter, the state treasurer shall, from time to time, submit a list of acceptable securities to be approved by the governor and state auditor if satisfactory to them, and the state treasurer shall require of the selected and approved banks or financial institutions as security for the safekeeping and payment of deposits, securities from the list provided for in this section, which list shall include only

securities of the following kind and character, unless it is determined by the state treasurer that the use of such securities as collateral may place state public funds at undue risk:

(1) Bonds or other obligations of the United States;

(2) Bonds or other obligations of the state of Missouri including revenue bonds issued by state agencies or by state authorities created by legislative enactment;

(3) Bonds **or other obligations** of any city in this state having a population of not less than two thousand;

(4) Bonds **or other obligations** of any county in this state;

(5) Approved registered bonds **or other obligations** of any school district**, including certificates of participation and leasehold revenue bonds,** situated in this state;

(6) Approved registered bonds **or other obligations** of any special road district in this state;

(7) State bonds **or other obligations** of any state;

(8) Notes, bonds, debentures or other similar obligations issued by the farm credit banks or agricultural credit banks or any other obligations issued pursuant to the provisions of an act of the Congress of the United States known as the Farm Credit Act of 1971, and acts amendatory thereto;

(9) Bonds of the federal home loan banks;

(10) Any bonds or other obligations guaranteed as to payment of principal and interest by the government of the United States or any agency or instrumentality thereof;

(11) Bonds of any political subdivision established pursuant to the provisions of section 30, article VI of the Constitution of Missouri;

(12) Tax anticipation notes issued by any county of the first classification;

(13) A surety bond issued by an insurance company licensed pursuant to the laws of the state of Missouri whose claims-paying ability is rated in the highest category by at least one nationally recognized statistical rating agency. The face amount of such surety bond shall be at least equal to the portion of the deposit to be secured by the surety bond;

(14) An irrevocable standby letter of credit issued by a Federal Home Loan Bank possessing the highest rating issued by at least one nationally recognized statistical rating agency;

(15) Out-of-state municipal bonds, **including certificates of participation and leasehold revenue bonds,** provided such bonds are rated in the highest category by at least one nationally recognized statistical rating agency;

(16) (a) Mortgage securities that are individual loans that include negotiable promissory notes and the first lien deeds of trust securing payment of such notes on one to four family real estate, on commercial real estate, or on farm real estate located in Missouri or states adjacent to Missouri, provided such loans:

a. Are underwritten to conform to standards established by the state treasurer, which are substantially similar to standards established by the Federal Home Loan Bank of Des Moines, Iowa, and any of its successors in interest that provide funding for financial institutions in Missouri;

b. Are offered by a financial institution in which a senior executive officer certifies under penalty of perjury that such loans are compliant with the requirements of the Federal Home Loan Bank of Des Moines, Iowa, when such loans are pledged by such bank;

c. Are offered by a financial institution that is well capitalized; and

d. Are not construction loans, are not more than ninety days delinquent, have not been classified as substandard, doubtful, or subject to loss, are one hundred percent owned by the financial institution, are otherwise unencumbered and are not being temporarily warehoused in the financial institution for sale to a third party. Any disqualified mortgage securities shall be removed as collateral within ninety days of disqualification or the state treasurer may disqualify such collateral as collateral for state funds;

(b) The state treasurer may promulgate regulations and provide such other forms or agreements to ensure the state maintains a first priority position on the deeds of trust and otherwise protect and preserve state funds. Any rule or portion of a rule, as that term is defined

in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2005, shall be invalid and void;

(c) A status report on all such mortgage securities shall be provided to the state treasurer on a calendar monthly basis in the manner and format prescribed by the state treasurer by the financial institutions pledging such mortgage securities and also shall certify their compliance with subsection 2 for such mortgage securities;

(d) In the alternative to paragraph (a) of this subdivision, a financial institution may provide a blanket lien on all loans secured by one to four family real estate, all loans secured by commercial real estate, all loans secured by farm real estate, or any combination of these categories, provided the financial institution secures such blanket liens with real estate located in Missouri and states adjacent to Missouri and otherwise complies with paragraphs (b) and (c) of this subdivision;

(e) The provisions of paragraphs (a) to (d) of this subdivision are not authorized for any Missouri political subdivision, notwithstanding the provisions of chapter 110, RSMo, to the contrary;

(f) As used in this subdivision, the term "unencumbered" shall mean mortgage securities pledged for state funds as provided in subsection 1 of this section, and not subject to any other express claims by any third parties, including but not limited to a blanket lien on the bank assets by the Federal Home Loan Bank, a depositary arrangement when securities are loaned and repurchased daily or otherwise, or the depositary has pledged its stock and assets for a loan to purchase another depositary or otherwise; and

(g) As used in this subdivision, the term "well capitalized" shall mean a banking institution that according to its most recent report of condition and income or thrift financial report, publicly available as applicable, qualifies as well capitalized under the uniform capital requirements established by the federal banking regulators or as determined by state banking regulators under substantially similar requirements;

(17) Any investment that the state treasurer may invest in as provided in article IV, section 15 of the Missouri Constitution, and subject to the state treasurer's written investment policy in section 30.260, that is not otherwise provided for in this section, provided the banking institution or eligible lending institution as defined in subdivision **[**(7)**] (10)** of section 30.750 is well capitalized, as defined in subdivision (16) of this subsection. The provisions of this subdivision are not authorized for political subdivisions, notwithstanding the provisions of chapter 110, RSMo, to the contrary.

2. Securities deposited shall be in an amount valued at market equal at least to one hundred percent of the aggregate amount on time deposit as well as on demand deposit with the particular financial institution less the amount, if any, which is insured either by the Federal Deposit Insurance Corporation or by the National Credit Unions Share Insurance Fund. Furthermore, for a well-capitalized banking institution, securities authorized in this section that are:

(1) Mortgage securities on loans secured on one to four family real estate appraised to reflect the market value at the time of the loan and deposited as collateral shall not exceed one hundred twenty-five percent of the aggregate amount of time deposits and demand deposits;

(2) Mortgage securities on loans secured on commercial real estate or on farm real estate appraised to reflect the market value at the time of the loan and deposited as collateral shall not exceed the collateral requirements of the Federal Home Loan Bank of Des Moines, Iowa;

(3) **[**Other securities**] United States Treasury securities and United States Federal Agency debentures issued by Fannie Mae, Freddie Mac, the Federal Home Loan Bank, or the Federal Farm Credit Bank** valued at market and deposited as collateral shall not exceed

one hundred five percent of the aggregate amount of time deposits and demand deposits**. All other securities, except as noted elsewhere in this section valued at market and deposited as collateral shall not exceed one hundred fifteen percent of the aggregated amount of the time deposits and demand deposits**; and

(4) Securities that are surety bonds and letters of credit authorized as collateral need only collateralize one hundred percent of the aggregate amount of time deposits and demand deposits.

3. The securities or book entry receipts shall be delivered to the state treasurer and receipted for by the state treasurer and retained by the treasurer or by financial institutions that the governor, state auditor and treasurer agree upon. The state treasurer shall from time to time inspect the securities and book entry receipts and see that they are actually held by the state treasury or by the financial institutions selected as the state depositaries. The governor and the state auditor may inspect or request an accounting of the securities or book entry receipts, and if in any case, or at any time, the securities are not satisfactory security for deposits made as provided by law, they may require additional security to be given that is satisfactory to them.

4. Any securities deposited pursuant to this section may from time to time be withdrawn and other securities described in the list provided for in subsection 1 of this section may be substituted in lieu of the withdrawn securities with the consent of the treasurer; but a sufficient amount of securities to secure the deposits shall always be held by the treasury or in the selected depositaries.

5. If a financial institution of deposit fails to pay a deposit, or any part thereof, pursuant to the terms of its contract with the state treasurer, the state treasurer shall forthwith convert the securities into money and disburse the same according to law.

6. Any financial institution making deposits of bonds with the state treasurer pursuant to the provisions of this chapter may cause the bonds to be endorsed or stamped as it deems proper, so as to show that they are deposited as collateral and are not transferable except upon the conditions of this chapter or upon the release by the state treasurer.

30.750. DEFINITIONS. — As used in sections 30.750 to 30.767, the following terms mean:

(1) "Eligible agribusiness", a person engaged in the processing or adding of value to agricultural products produced in Missouri;

(2) **"Eligible alternative energy consumer", an individual who wishes to borrow moneys for the purchase, installation, or construction of facilities or equipment related to the production of fuel or power primarily for their own use from energy sources other than fossil fuels, including but not limited to solar, hydroelectric, wind, and qualified biomass;**

(3) "Eligible alternative energy operation", a business enterprise engaged in the production **[**and sale**]** of fuel or power from energy sources other than fossil fuels, including but not limited to solar, hydroelectric, wind, and qualified biomass. Such business enterprise shall conform to the characteristics of paragraphs (a), (b), and (d) of subdivision **[**(5)**] (6)** of this section;

[(3)**] (4)** "Eligible beginning farmer",

(a) For any beginning farmer who seeks to participate in the linked deposit program alone, a farmer who:

a. Is a Missouri resident;

b. Wishes to borrow for a farm operation located in Missouri;

c. Is at least eighteen years old; and

d. In the preceding five years has not owned, either directly or indirectly, farm land greater than fifty percent of the average size farm in the county where the proposed farm operation is located or farm land with an appraised value greater than four hundred fifty thousand dollars. A farmer who qualifies as an eligible farmer under this provision may utilize the proceeds of a linked deposit loan to purchase agricultural land, farm buildings, new and used farm equipment, livestock and working capital;

(b) For any beginning farmer who is participating in both the linked deposit program and the beginning farmer loan program administered by the Missouri agriculture and small business development authority, a farmer who:

a. Qualifies under the definition of a beginning farmer utilized for eligibility for federal tax-exempt financing, including the limitations on the use of loan proceeds; and

b. Meets all other requirements established by the Missouri agriculture and small business development authority;

[(4)**] (5)** "Eligible facility borrower", a borrower qualified under section 30.860 to apply for a reduced-rate loan under sections 30.750 to 30.767;

[(5)**] (6)** "Eligible farming operation", any person engaged in farming in an authorized farm corporation, family farm, or family farm corporation as defined in section 350.010, RSMo, that has all of the following characteristics:

(a) Is headquartered in this state;

(b) Maintains offices, operating facilities, or farming operations and transacts business in this state;

(c) Employs less than ten employees;

(d) Is organized for profit;

[(e) Possesses not more than sixty percent equity, where "percent equity" is defined as total assets minus total liabilities divided by total assets, except that an otherwise eligible farming operation applying for a loan for the purpose of installing or improving a waste management practice in order to comply with environmental protection regulations shall be exempt from this eligibility requirement;**]**

(7) "Eligible governmental entity", any political subdivision of the state seeking to finance capital improvements, capital outlay, or other significant programs through an eligible lending institution;

[(6)**] (8)** "Eligible higher education institution", any approved public or private institution as defined in section 173.205, RSMo;

[(7)**] (9)** "Eligible job enhancement business", a new, existing, or expanding firm operating in Missouri, or as a condition of accepting the linked deposit, will locate a facility or office in Missouri associated with said linked deposit, which employs ten or more employees in Missouri on a yearly average and which, as nearly as possible, is able to establish or retain at least one job in Missouri for each fifty thousand dollars received from a linked deposit loan **except when the applicant can demonstrate significant costs for equipment, capital outlay, or capital improvements associated with the physical expansion, renovation, or modernization of a facility or equipment. In such cases, the maximum amount of the linked deposit shall not exceed fifty thousand dollars per job created or retained plus the initial cost of the physical expansion, renovation or capital outlay**;

[(8)**] (10)** "Eligible lending institution", a financial institution that is eligible to make commercial or agricultural or student loans or discount or purchase such loans, is a public depository of state funds or obtains its funds through the issuance of obligations, either directly or through a related entity, eligible for the placement of state funds under the provisions of section 15, article IV, Constitution of Missouri, and agrees to participate in the linked deposit program;

[(9)**] (11)** "Eligible livestock operation", any person engaged in production of livestock or poultry in an authorized farm corporation, family farm, or family farm corporation as defined in section 350.010, RSMo;

[(10)**] (12)** "Eligible locally owned business", any person seeking to establish a new firm, partnership, cooperative company, or corporation that shall retain at least fifty-one percent ownership by residents in a county in which the business is headquartered, that consists of the following characteristics:

(a) The county has a median population of twelve thousand five hundred or less; and

(b) The median income of residents in the county are equal to or less than the state median income; or

(c) The unemployment rate of the county is equal to or greater than the state's unemployment rate;

[(11)**] (13)** "Eligible marketing enterprise", a business enterprise operating in this state which is in the process of marketing its goods, products or services within or outside of this state or overseas, which marketing is designed to increase manufacturing, transportation, mining, communications, or other enterprises in this state, which has proposed its marketing plan and strategy to the department of economic development and which plan and strategy has been approved by the department for purposes of eligibility pursuant to sections 30.750 to 30.767. Such business enterprise shall conform to the characteristics of paragraphs (a), (b) and (d) of subdivision **[**(5)**] (6)** of this section and also employ less than twenty-five employees;

[(12)**] (14)** "Eligible multitenant development enterprise", a new enterprise that develops multitenant space for targeted industries as determined by the department of economic development and approved by the department for the purposes of eligibility pursuant to sections 30.750 to 30.767;

[(13)**] (15)** "Eligible residential property developer", an individual who purchases and develops a residential structure of either two or four units, if such residential property developer uses and agrees to continue to use, for at least the five years immediately following the date of issuance of the linked deposit loan, one of the units as his principal residence or if such person's principal residence is located within one-half mile from the developed structure and such person agrees to maintain the principal residence within one-half mile of the developed structure for at least the five years immediately following the date of issuance of the linked deposit loan;

[(14)**] (16)** "Eligible residential property owner", a person, firm or corporation who purchases, develops or rehabilitates a multifamily residential structure;

[(15)**] (17)** "Eligible small business", a person engaged in an activity with the purpose of obtaining, directly or indirectly, a gain, benefit or advantage and which conforms to the characteristics of paragraphs (a), (b) and (d) of subdivision **[**(5)**] (6)** of this section, and also employs less than **[**twenty-five**] one hundred** employees;

[(16)**] (18)** "Eligible student borrower", any person attending, or the parent of a dependent undergraduate attending, an eligible higher education institution in Missouri who may or may not qualify for need-based student financial aid calculated by the federal analysis called Congressional Methodology Formula pursuant to 20 U.S.C. 1078, as amended (the Higher Education Amendments of 1986);

[(17)**] (19)** "Eligible water supply system", a water system which serves fewer than fifty thousand persons and which is owned and operated by:

(a) A public water supply district established pursuant to chapter 247, RSMo; or

(b) A municipality or other political subdivision; or

(c) A water corporation; and which is certified by the department of natural resources in accordance with its rules and regulations to have suffered a significant decrease in its capacity to meet its service needs as a result of drought;

[(18)**] (20)** "Farming", using or cultivating land for the production of agricultural crops, livestock or livestock products, forest products, poultry or poultry products, milk or dairy products, or fruit or other horticultural products;

[(19)**] (21)** "Linked deposit", a certificate of deposit, or in the case of production credit associations, the subscription or purchase outright of obligations described in section 15, article IV, Constitution of Missouri, placed by the state treasurer with an eligible lending institution at rates otherwise provided by law in section 30.758, provided the institution agrees to lend the value of such deposit, according to the deposit agreement provided in sections 30.750 to 30.767, to **eligible multitenant development enterprises,** eligible small businesses, eligible alternative energy operations, **eligible alternative energy consumers,** eligible locally owned businesses, farming operations, eligible job enhancement businesses, eligible marketing enterprises, eligible

residential property developers, eligible residential property owners, **eligible governmental entities,** eligible agribusinesses, eligible beginning farmers, eligible livestock operations, eligible student borrowers, eligible facility borrowers, or eligible water supply systems at below the present borrowing rate applicable to each **multitenant development enterprise,** small business, **alternative energy operation, alternative energy consumer,** farming operation, eligible job enhancement business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, **eligible governmental entity,** eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower, or supply system at the time of the deposit of state funds in the institution;

[(20)**] (22)** "Market rate", the interest rate **[**tied to federal government securities and**]** more specifically described in subsection **[**4**] 6** of section 30.260;

[(21)**] (23)** "Professional forester", any individual who holds a bachelor of science degree in forestry from a regionally accredited college or university with a minimum of two years of professional forest management experience;

[(22)**] (24)** "Qualified biomass", any agriculture-derived organic material or any wood-derived organic material harvested in accordance with a site-specific forest management plan focused on long-term forest sustainability developed by a professional forester and qualified, in consultation with the conservation commission, by the agriculture and small business development authority;

[(23)**] (25)** "Water corporation", as such term is defined in section 386.020, RSMo;

[(24)**] (26)** "Water system", as such term is defined in section 386.020, RSMo.

30.753. TREASURER'S AUTHORITY TO INVEST IN LINKED DEPOSITS, LIMITATIONS. — 1. The state treasurer may invest in linked deposits; however, the total amount so deposited at any one time shall not exceed, in the aggregate, seven hundred twenty million dollars. No more than three hundred thirty million dollars of the aggregate deposit shall be used for linked deposits to eligible farming operations, eligible locally owned businesses, eligible agribusinesses, eligible beginning farmers, eligible livestock operations, and eligible facility borrowers, no more than one hundred ten million of the aggregate deposit shall be used for linked deposits to small businesses, no more than twenty million dollars shall be used for linked deposits to eligible multitenant development enterprises, and no more than twenty million dollars of the aggregate deposit shall be used for linked deposits to eligible residential property developers and eligible residential property owners, no more than two hundred twenty million dollars of the aggregate deposit shall be used for linked deposits to eligible job enhancement businesses and no more than twenty million dollars of the aggregate deposit shall be used for linked deposit loans to eligible water systems. Linked deposit loans may be made to eligible student borrowers **[**and**] ,** eligible alternative energy operations**, eligible alternative energy consumers, and eligible governmental entities** from the aggregate deposit. If demand for a particular type of linked deposit exceeds the initial allocation, and funds initially allocated to another type are available and not in demand, the state treasurer may commingle allocations among the types of linked deposits.

2. The minimum deposit to be made by the state treasurer to an eligible lending institution for eligible job enhancement business loans shall be ninety thousand dollars. Linked deposit loans for eligible job enhancement businesses may be made for the purposes of assisting with relocation expenses, working capital, interim construction, inventory, site development, machinery and equipment, or other expenses necessary to create or retain jobs in the recipient firm.

30.756. LENDING INSTITUTION RECEIVING LINKED DEPOSITS, REQUIREMENTS AND LIMITATIONS — FALSE STATEMENTS AS TO USE FOR LOAN, PENALTY — ELIGIBLE STUDENT BORROWERS — ELIGIBILITY, STUDENT RENEWAL LOANS, REPAYMENT METHOD — PRIORITY FOR REDUCED-RATE LOANS. — 1. An eligible lending institution that desires to

receive a linked deposit shall accept and review applications for linked deposit loans from eligible multitenant enterprises, eligible farming operations, **eligible alternative energy consumers,** eligible alternative energy operations, eligible locally owned businesses, eligible small businesses, eligible job enhancement businesses, eligible marketing enterprises, eligible agribusinesses, eligible beginning farmers, eligible livestock operations, eligible residential property developers, eligible residential property owners, **eligible governmental entities,** eligible student borrowers, eligible facility borrowers, and eligible water supply systems. An eligible residential property owner shall certify on his or her loan application that the reduced rate loan will be used exclusively to purchase, develop or rehabilitate a multifamily residential property. The lending institution shall apply all usual lending standards to determine the creditworthiness of each eligible multitenant enterprise, eligible farming operation, eligible alternative energy operation, **eligible alternative energy consumer,** eligible locally owned business, eligible small business, eligible job enhancement business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, **eligible governmental entities,** eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower, eligible facility borrower, or eligible water supply system. No linked deposit loan made to any **eligible multitenant development enterprise,** eligible farming operation, eligible alternative energy operation, **eligible alternative energy consumer,** eligible locally owned business, eligible livestock operation, eligible agribusiness **eligible beginning farmer, eligible job enhancement business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, eligible governmental entity, eligible student borrower, eligible water supply system,** or eligible small business shall exceed a dollar limit determined by the state treasurer in the state treasurer's best judgment, except as otherwise limited. Any link deposit loan made to an eligible facility borrower shall be in accordance with the loan amount and loan term requirements in section 30.860.

2. An eligible farming operation, small business or job enhancement business shall certify on its loan application that the reduced rate loan will be used exclusively for necessary production expenses or the expenses listed in subsection 2 of section 30.753 or the refinancing of an existing loan for production expenses or the expenses listed in subsection 2 of section 30.753 of an eligible farming operation, small business or job enhancement business. Whoever knowingly makes a false statement concerning such application is guilty of a class A misdemeanor. An eligible water supply system shall certify on its loan application that the reduced rate loan shall be used exclusively to pay the costs of upgrading or repairing an existing water system, constructing a new water system, or making other capital improvements to a water system which are necessary to improve the service capacity of the system.

3. In considering which eligible farming operations should receive reduced-rate loans, the eligible lending institution shall give priority to those farming operations which have suffered reduced yields due to drought or other natural disasters and for which the receipt of a reduced-rate loan will make a significant contribution to the continued operation of the recipient farming operation.

4. The eligible financial institution shall forward to the state treasurer a linked deposit loan package, in the form and manner as prescribed by the state treasurer. The package shall include such information as required by the state treasurer, including the amount of each loan requested. The institution shall certify that each applicant is an **eligible multitenant development enterprise,** eligible farming operation, eligible alternative energy operation, **eligible alternative energy consumer,** eligible locally owned business, eligible small business, eligible job enhancement business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, **eligible governmental entity,** eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower, eligible facility borrower, or eligible water supply system, and shall, for each **eligible multitenant development enterprise,** eligible farming operation, **eligible alternative energy operation, eligible alternative energy consumer, eligible** small business, eligible job enhancement business,

eligible marketing enterprise, eligible residential property developer, eligible residential property owner, **eligible governmental entity,** eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower, eligible facility borrower, or eligible water supply system, certify the present borrowing rate applicable.

5. The eligible lending institution shall be responsible for determining if a student borrower is an eligible student borrower. A student borrower shall be eligible for an initial or renewal reduced-rate loan only if, at the time of the application for the loan, the student is a citizen or permanent resident of the United States, a resident of the state of Missouri as defined by the coordinating board for higher education, is enrolled or has been accepted for enrollment in an eligible higher education institution, and establishes that the student has financial need. In considering which eligible student borrowers may receive reduced-rate loans, the eligible lending institution may give priority to those eligible student borrowers whose income, or whose family income, if the eligible student borrower is a dependent, is such that the eligible student borrower does not qualify for need-based student financial aid pursuant to 20 U.S.C. 1078, as amended (the Higher Education Amendments of 1986). The eligible lending institution shall require the eligible student borrower to document that the student has applied for and has obtained all need-based student financial aid for which the student is eligible prior to application for a reduced-rate loan pursuant to this section. In no case shall the combination of all financial aid awarded to any student in any particular enrollment period exceed the total cost of attendance at the institution in which the student is enrolled. No eligible lending institution shall charge any additional fees, including but not limited to an origination, service or insurance fee on any loan agreement under the provisions of sections 30.750 to 30.765.

6. The eligible lending institution making an initial loan to an eligible student borrower may make a renewal loan or loans to the student. The total of such reduced-rate loans from eligible lending institutions made pursuant to this section to any individual student shall not exceed the cumulative totals established by 20 U.S.C. 1078, as amended. An eligible student borrower shall certify on his or her loan application that the reduced rate loan shall be used exclusively to pay the costs of tuition, incidental fees, books and academic supplies, room and board and other fees directly related to enrollment in an eligible higher education institution. The eligible lending institution shall make the loan payable to the eligible student borrower and the eligible higher education institution as co-payees. The method of repayment of the loan shall be the same as for repayment of loans made pursuant to sections 173.095 to 173.186, RSMo.

7. Beginning August 28, 2005, in considering which eligible multitenant enterprise, eligible farming operation, eligible alternative energy operation, **eligible alternative energy consumer,** eligible locally owned business, eligible small business, eligible job enhancement business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, **eligible governmental entity,** eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower, eligible facility borrower, or eligible water supply system should receive reduced-rate loans, the eligible lending institution shall give priority to an eligible multitenant enterprise, eligible farming operation, eligible alternative energy operation, **eligible alternative energy consumer,** eligible locally owned business, eligible small business, eligible job enhancement business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, **eligible governmental entity,** eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower, eligible facility borrower, or eligible water supply system that has not previously received a reduced-rate loan through the linked deposit program. However, nothing shall prohibit an eligible lending institution from making a reduced-rate loan to any entity that previously has received such a loan, if such entity otherwise qualifies for such a reduced-rate loan.

30.758. LOAN PACKAGE ACCEPTANCE OR REJECTION — LOAN AGREEMENT REQUIREMENTS — LINKED DEPOSIT AT REDUCED MARKET INTEREST RATE, WHEN. — 1. The state treasurer may accept or reject a linked deposit loan package or any portion thereof.

2. The state treasurer shall make a good faith effort to ensure that the linked deposits are placed with eligible lending institutions to make linked deposit loans to minority- or female-owned eligible multitenant enterprises, eligible farming operations, eligible alternative energy operations, **eligible alternative energy consumers,** eligible locally owned businesses, eligible small businesses, eligible job enhancement businesses, eligible marketing enterprises, eligible residential property developers, eligible residential property owners, **eligible governmental entities,** eligible agribusinesses, eligible beginning farmers, eligible livestock operations, eligible student borrowers, eligible facility borrowers, or eligible water supply systems. Results of such effort shall be included in the linked deposit review committee's annual report to the governor.

3. Upon acceptance of the linked deposit loan package or any portion thereof, the state treasurer may place linked deposits with the eligible lending institution as follows: when market rates are five percent or above, the state treasurer shall reduce the market rate by up to three percentage points to obtain the linked deposit rate; when market rates are less than five percent, the state treasurer shall reduce the market rate by up to sixty percent to obtain the linked deposit rate**[**, provided that the linked deposit rate is not below one percent**]**. All linked deposit rates are determined and calculated by the state treasurer. When necessary, the treasurer may place linked deposits prior to acceptance of a linked deposit loan package.

4. The eligible lending institution shall enter into a deposit agreement with the state treasurer, which shall include requirements necessary to carry out the purposes of sections 30.750 to 30.767. The deposit agreement shall specify the length of time for which the lending institution will lend funds upon receiving a linked deposit, and the original deposit plus renewals shall not exceed five years, except as otherwise provided in this chapter. The agreement shall also include provisions for the linked deposit of a linked deposit for an eligible facility borrower, eligible multitenant enterprise, eligible farming operation, eligible alternative energy operation, **eligible alternative energy consumer,** eligible locally owned business, eligible small business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, **eligible governmental entity,** eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower or job enhancement business. Interest shall be paid at the times determined by the state treasurer.

5. The period of time for which such linked deposit is placed with an eligible lending institution shall be neither longer nor shorter than the period of time for which the linked deposit is used to provide loans at reduced interest rates. The agreement shall further provide that the state shall receive market interest rates on any linked deposit or any portion thereof for any period of time for which there is no corresponding linked deposit loan outstanding to an eligible multitenant enterprise, eligible farming operation, eligible alternative energy operation, **eligible alternative energy consumer,** eligible locally owned business, eligible small business, eligible job enhancement business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, **eligible governmental entity,** eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower, eligible facility borrower, or eligible water supply system, except as otherwise provided in this subsection. Within thirty days after the annual anniversary date of the linked deposit, the eligible lending institution shall repay the state treasurer any linked deposit principal received from borrowers in the previous yearly period and thereafter repay such principal within thirty days of the yearly anniversary date calculated separately for each linked deposit loan, and repaid at the linked deposit rate. Such principal payment shall be accelerated when more than thirty percent of the linked deposit loan is repaid within a single monthly period. Any principal received and not repaid, up to the point of the thirty percent or more payment, shall be repaid within thirty days of that payment at the linked deposit rate. Finally, when the linked deposit is tied to a revolving line of credit agreement between the banking institution and its borrower, the full amount of the line of credit shall be excluded from the repayment provisions of this subsection.

30.760. LOANS TO BE AT FIXED RATE OF INTEREST SET BY RULES — RECORDS OF LOANS TO BE SEGREGATED — PENALTY FOR VIOLATIONS — STATE TREASURER, POWERS AND DUTIES. — 1. Upon the placement of a linked deposit with an eligible lending institution, such institution is required to lend such funds to each approved eligible multitenant enterprise, eligible farm operation, eligible alternative energy operation, **eligible alternative energy consumer,** eligible locally owned business, eligible small business, eligible job enhancement business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, **eligible governmental entity,** eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower, eligible facility borrower, or eligible water supply system listed in the linked deposit loan package required by section 30.756 and in accordance with the deposit agreement required by section 30.758. The loan shall be at a fixed rate of interest reduced by the amount established under subsection 3 of section 30.758 to each eligible multitenant enterprise, eligible farming operation, eligible alternative energy operation, **eligible alternative energy consumer,** eligible locally owned business, eligible small business, eligible job enhancement business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, **eligible governmental entity,** eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower, eligible facility borrower, or eligible water supply system as determined pursuant to rules and regulations promulgated by the state treasurer under the provisions of chapter 536, RSMo, including emergency rules issued pursuant to section 536.025, RSMo. In addition, the loan agreement shall specify that the eligible multitenant enterprise, eligible farming operation, eligible alternative energy operation, **eligible alternative energy consumer,** eligible locally owned business, eligible small business, eligible job enhancement business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, **eligible governmental entity,** eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower, eligible facility borrower, or eligible water supply system shall use the proceeds as required by sections 30.750 to 30.765, and that in the event the loan recipient does not use the proceeds in the manner prescribed by sections 30.750 to 30.765, the remaining proceeds shall be immediately returned to the lending institution and that any proceeds used by the loan recipient shall be repaid to the lending institution as soon as practicable. All records and documents pertaining to the programs established by sections 30.750 to 30.765 shall be segregated by the lending institution for ease of identification and examination. A certification of compliance with this section in the form and manner as prescribed by the state treasurer shall be required of the eligible lending institution. Any lender or lending officer of an eligible lending institution who knowingly violates the provisions of sections 30.750 to 30.765 is guilty of a class A misdemeanor.

2. The state treasurer shall take any and all steps necessary to implement the linked deposit program and monitor compliance of eligible multitenant enterprises, eligible lending institutions, eligible farming operations, eligible alternative energy operations, **eligible alternative energy consumers,** eligible locally owned businesses, eligible small businesses, eligible job enhancement businesses, eligible marketing enterprises, eligible residential property developers, eligible residential property owners, **eligible governmental entities,** eligible agribusinesses, eligible beginning farmers, eligible livestock operations, eligible facility borrowers, or eligible water supply systems.

30.765. STATE AND STATE TREASURER NOT LIABLE ON LOANS — DEFAULT ON A LOAN NOT TO AFFECT DEPOSIT AGREEMENT WITH STATE. — The state and the state treasurer are not liable to any eligible lending institution in any manner for payment of the principal or interest on the loan to an eligible multitenant enterprise, eligible farm operation, eligible alternative energy operation, **eligible alternative energy consumer,** eligible locally owned business, eligible small business, eligible job enhancement business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, **eligible governmental entity,** eligible

agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower, eligible facility borrower, or eligible water supply system. Any delay in payments or default on the part of an eligible multitenant enterprise, eligible farming operation, eligible alternative energy operation, **eligible alternative energy consumer,** eligible locally owned business, eligible small business, eligible job enhancement business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, **eligible governmental entity,** eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower, eligible facility borrower, or eligible water supply system does not in any manner affect the deposit agreement between the eligible lending institution and the state treasurer.

Approved June 29, 2009

HB 895 [HCS HB 895]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Authorizes the Governor to convey all interest in an easement across state property in Macon County to certain private property owners for obtaining access to their property

AN ACT to authorize the conveyance of an easement for right of access over property owned by the state in Macon County.

SECTION
1. Governor authorized to grant an easement to private property owners in Macon County.

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

SECTION 1. GOVERNOR AUTHORIZED TO GRANT AN EASEMENT TO PRIVATE PROPERTY OWNERS IN MACON COUNTY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in an easement across property owned by the state in Macon County to the owners of certain private property for the purpose of obtaining access to the private property. The property over which the easement is to be conveyed is more particularly described as follows:

The centerline of a 30.00 foot wide easement for ingress and egress, being 15.00 feet wide on either side of said centerline, situated in the South Half of the Northeast Quarter of Section 13, Township 56N, Range 15W, Macon County, Missouri being more particularly described as follows:

Commencing at the Southeast corner of the Northeast Quarter of said Section 13, thence along the Half Section line of said Section 13, North 89 degrees, 59 minutes, 43 seconds West, a distance of 1324.55 feet to a point at the Southwest corner of the Southeast Fourth of the Northeast Quarter of said Section 13; thence continuing along said line, North 89 degrees, 59 minutes, 43 seconds West, a distance of 15 feet to the POINT OF BEGINNING of the description herein TO WIT: thence parallel with the East Quarter-Quarter line of said Section 13, North 01 degrees, 12 minutes, 39 seconds East, a distance of 400.25 feet; thence North 74 degrees, 08 minutes, 29 seconds West, a distance of 172.84 feet; thence North 56 degrees, 49 minutes, 48 seconds West, a distance of 47.58 feet; thence North 28 degrees, 15 minutes, 48 seconds West, a distance of 21.05 feet to the

terminus of this easement, also being at centerline of an existing road. This tract subject to any and all easements of record and any part in roads.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve the form of the instrument of conveyance.

Approved July 7, 2009

HB 909 [HCS HB 909]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Authorizes the Governor to convey state property located in Cape Girardeau County and St. Louis City

AN ACT to authorize the conveyance of property owned by the state.

SECTION

1. Governor authorized to quit claim to state highways and transportation commission property in Cape Girardeau.
2. Governor authorized to convey property in the City of St. Louis to Harris-Stowe State University.
3. Governor authorized to quit claim to state highways and transportation commission property in the City of St. Louis.

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

SECTION 1. GOVERNOR AUTHORIZED TO QUIT CLAIM TO STATE HIGHWAYS AND TRANSPORTATION COMMISSION PROPERTY IN CAPE GIRARDEAU. — 1. The governor is hereby authorized and empowered to grant, convey, remise, release and forever quitclaim to the state highways and transportation commission all interest of the state of Missouri in real property owned by the state. The property to be conveyed is more particularly described as follows:

A tract of land lying in part of the Northeast Quarter of the Northeast Quarter of Section 36, Township 30 North, Range 12 East of the Fifth Principal Meridian, County of Cape Girardeau, State of Missouri, being more particularly described as follows:

Commence at a found 4x4 Concrete Monument at the Northeast Corner of Section 36, Township 30 North, Range 12 East of the Fifth Principal Meridian; thence S 32 deg. 13 min. 47 sec. W a distance of 1261.14 feet to a found Iron Rod, 124.83 feet left of Missouri State Route 25 centerline station 271+27.51, said point being located on the existing Westerly Boundary line of Missouri State Route 25 and the Point of Beginning; thence along said Boundary line, N 82 deg. 29 min. 01 sec. W a distance of 192.60 feet to a found steel MO property line marker, 317.07 feet left of Missouri State Route 25 centerline station 271+16.05, said point being the beginning of a non-tangent curve to the right, having a radius of 8929.37 feet; thence along said Curve a distance of 250.04 feet (Chord Bears N 08 deg. 47 min. 48 sec. E a distance of 250.03 feet) to a set #5 Rebar w/cap left of

Missouri State Route 25 centerline station 273+56.69 at a offset of 330.09 feet, said point being the beginning of a non-tangent Curve to the right having a radius of 328.23 feet; thence departing from said existing Westerly Boundary line and along said Curve, a distance of 238.60 feet (Chord bears S 49 deg. 16 min. 16 sec. E a distance of 233.38 feet) to a set #5 Rebar w/cap left of Missouri State Route 25 centerline station 272+48.17 with an offset of 125.00 feet; thence S 11 deg. 22 min. 41 sec. W a distance of 122.41 feet to the Point of Beginning, containing 0.92 acres, more or less.

2. The commissioner of administration and the state highways and transportation commission shall set the terms and conditions for the conveyance, including the consideration, except that such consideration shall not exceed one dollar.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 2. GOVERNOR AUTHORIZED TO CONVEY PROPERTY IN CITY OF ST. LOUIS TO HARRIS-STOWE STATE UNIVERSITY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in fee simple absolute in property owned by the state in St. Louis City to Harris-Stowe State University. The property to be conveyed is more particularly described as follows:

Lots 29, 30, 31, 32, 33 and part of Lots 27 and 28 in Block 2 of CHELTENHAM, Lots 21, 22, 23, and part of Lot 20 of WIBLE'S EASTERN ADDITION to CHELTENHAM, together with Western 36 feet of former January Avenue vacated under the provisions of Ordinance No. 52058, and in Blocks 4022 and 4023 of the City of St. Louis, more particularly described as follows: Beginning at a point in the North line of Wilson Avenue, 40 feet wide, at its intersection with a line 36 feet East of and parallel to the West line of former January Avenue 60 feet wide, as vacated under the provisions of Ordinance No. 52058; thence North 82 degrees 57 minutes 15 seconds West along said North line of Wilson Avenue a distance of 355.20 feet to a point; thence North 8 degrees 15 minutes 30 seconds East a distance of 472.56 feet to a point in the Southerly Right-of-Way line of Interstate Highway I-44; thence in an Easterly direction along said Right-of-Way line North 87 degrees 03 minutes 45 seconds East a distance of 25.59 feet to an angle point being located in the Eastern line of Lot 20 of Wible's Eastern Addition to Cheltenham, said point being 477 feet North along the Eastern line of said Wible's Addition from the Northern Line of Wilson Avenue, 40 feet wide; thence South 87 degrees 53 minutes 03 seconds East and along said I-44 Right-of-Way line 295.71 feet to a point in the West line of said former January Avenue vacated as aforesaid at a point being 502.42 feet North along said line from the Northern line of Wilson Avenue thence North 74 degrees 42 minutes 01 seconds East along the South Right-of-Way line of I-44 a distance of 39.27 feet to a point in a line 36 feet East of and parallel to said West line of former January Avenue; vacated as aforesaid; thence South 8 degrees 15 minutes 30 seconds West along said line 36 feet East of the West line of former January Avenue, vacated as aforesaid, a distance of 517.36 feet to the point of beginning.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 3. GOVERNOR AUTHORIZED TO QUIT CLAIM TO STATE HIGHWAYS AND TRANSPORTATION COMMISSION PROPERTY IN THE CITY OF ST. LOUIS — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim to the state highways and transportation commission all interest of the state of Missouri in real property located in part of City Block Number 239 and 240 in the city of St. Louis. The property to be conveyed is more particularly described as follows:

Commencing at the Northwest corner of City Block Number 239; thence South 18 degrees 13 minutes 13 seconds East for a distance of 62.14 feet to centerline Station 68+00.00; thence South 62 degrees 38 minutes 07 seconds West for a distance of 241.54 feet to centerline P.T. Station 65+58.46; BEGINNING AGAIN at centerline Station 68+00.00; on the centerline of Interstate Highway 70; thence North 62 degrees 38 minutes 07 seconds East for a distance of 239.19 feet to centerline P.C. Station 70+39.19; thence Northeasterly along the arc of a curve to the right having a radius of 1,892.60 for a distance of 81.74 feet to centerline Station 71+20.93; thence Southeasterly leaving the centerline of said Interstate Route 70 to a point 4.87 feet Southeasterly of and radial to said centerline Station 71+20.93, BEING THE POINT OF BEGINNING; thence Southerly to a point 73.35 feet Southeasterly of and radial to centerline Station 71+08.40; thence Southwesterly along the arc of a curve to the left having a radius of 1910 feet a distance of 76.83 feet to a point 74.77 feet Southeasterly of and at a right angle to centerline Station 70+31.57; thence Southwesterly to a point 66.72 feet Southeasterly of and at a right angle to centerline Station 68+99.79; thence southwesterly to a point 79.31 feet southeasterly of and at right angle to centerline Station 68+04.62; thence southwesterly to a point 79.83 feet southeasterly of and at right angle to centerline station 67+78.62; thence Northerly to a point 61.35 feet Northwesterly of and at a right angle to centerline Station 68+09.88; thence Easterly to the point of BEGINNING, and containing 32,682 square feet, more or less.

Also, all of abutter's rights of direct access between the highway now known as Interstate Highway 70 and grantor's abutting land in City Block Number 239 and 240, St. Louis City, Missouri.

2. The governor is also hereby authorized and empowered to give, grant, bargain, and convey a permanent transmission easement for construction and maintenance of utilities to the state highways and transportation commission, and any successors or assigns as designated by the commission, which is located in part of City Block Number 239 and 240 in the city of St. Louis, Missouri. The permanent transmission easement is more particularly described as follows:

Commencing at the Northwest corner of City Block Number 239; thence South 18 degrees 13 minutes 13 seconds East for a distance of 62.14 feet to centerline Station 68+00.00; thence South 62 degrees 38 minutes 07 seconds West for a distance of 241.54 feet to centerline P.T. Station 65+58.46; BEGINNING AGAIN at centerline Station 68+00.00 on the centerline of Interstate Highway 70; thence North 62 degrees 38 minutes 07 seconds East for a distance of 4.62 feet to centerline Station 68+04.62; thence Southeasterly to a point 79.31 feet Southeasterly of and at a right angle to said centerline Station 68+04.62, BEING THE POINT OF BEGINNING; thence Southerly to a point 265.03 feet Southeasterly of and at a right angle to centerline Station 67+63.71; thence Southerly to a point 703.22 feet Southeasterly of and at a right angle to centerline Station 66+15.05; thence continuing Southerly to a point 759.86 feet Southeasterly of and at a right angle to centerline Station 65+66.31; thence Northerly to a point 278.24 feet Southeasterly of and at a right angle to centerline

Station 67+34.70; thence Northerly to a point 79.83 feet Southeasterly of and at a right angle to centerline Station 67+78.62; thence Northeasterly to the point of BEGINNING, and containing 17,333 square feet, more or less.

3. In addition, the instruments of conveyance noted in subsections 1 and 2 of this section shall contain such other restrictions, temporary easements, and any other conditions as are deemed necessary by the governor and the commission to construct a new Mississippi River bridge and necessary accompanying state highways.

4. Consideration for the conveyance shall be as negotiated by the commissioner of administration and the state highways and transportation commission.

5. The attorney general shall approve the form of the instrument of conveyance.

Approved July 7, 2009

HB 914 [HCS HB 914]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Removes a provision requiring the circuit court to approve the Director of Finance's appointment of the Federal Deposit Insurance Corporation as the liquidating agent for a failed bank

AN ACT to repeal section 361.340, RSMo, and to enact in lieu thereof one new section relating to the powers of the director of finance, with an emergency clause.

SECTION
A. Enacting clause.
361.340. Circumstances under which possession by director may terminate.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Section 361.340, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 361.340, to read as follows:

361.340. CIRCUMSTANCES UNDER WHICH POSSESSION BY DIRECTOR MAY TERMINATE. — When the director shall have duly taken possession of such corporation, under any provision of this chapter, he may hold such possession until its affairs are finally liquidated by him, unless

(1) He shall have permitted such corporation to resume business pursuant to the provisions of section 361.370;

(2) The director shall have been directed by order of court to surrender such possession, pursuant to the provisions of section 361.360;

(3) The director shall have appointed the Federal Deposit Insurance Corporation as the liquidating agent of a bank insured thereby and the Federal Deposit Insurance Corporation shall have accepted the appointment **[**subject to approval of the circuit court in the judicial district in which the principal office of such corporation is located, pursuant to the provisions of section 361.365**]**;

(4) The stockholders of such corporation, at a meeting called by the director pursuant to the provisions of section 361.580, shall have duly determined to appoint and shall have appointed an agent or agents to continue the liquidation of such corporation, and such agent or agents shall have qualified to take possession of its remaining assets as provided in section 361.600;

(5) The depositors and other creditors of such corporation and the expenses of such liquidation shall have been paid in full.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary for the immediate preservation of the public health, welfare, peace, and safety, section A of this act is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved June 25, 2009

HB 918 [HB 918]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Authorizes the Governor to convey state property located in Boone County, known as the Mid-Missouri Mental Health Center, to the Curators of the University of Missouri

AN ACT to authorize the conveyance of certain state property, with an emergency clause.

SECTION

1. Governor authorized to quit claim Mid-Missouri Mental Health Center in Columbia to the University of Missouri.
A. Emergency clause.

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

SECTION 1. GOVERNOR AUTHORIZED TO QUIT CLAIM MID-MISSOURI MENTAL HEALTH CENTER IN COLUMBIA TO THE UNIVERSITY OF MISSOURI. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in real property known as Mid-Missouri Mental Health Center, Columbia, Boone County, Missouri, to The Curators of the University of Missouri more particularly described as follows:

A tract of land all lying in the Southeast Quarter (SE 1/4) of Section Thirteen (Sec. 13), Township Forty-eight North (Twp. 48N), Range Thirteen West (R.13W), Boone County, Missouri, as follows:

Starting at a stone at the Southeast corner of Section Thirteen (13), Township Forty-eight (48) North, Range Thirteen (13) West (point No. 1); thence North one degree fifteen minutes East (N 1° 15' E) along the range line one hundred four and seventy-three hundredths (104.73) feet to an iron pin which is on the North right of way line of the proposed Missouri State Highway #740 (point No. 2); thence following the North right of way line of said Route #740 North eighty-eight degrees eighteen minutes West (N 88° 18' W) forty-seven and ten hundredths (47.10) feet to an iron pin (point No. 3); thence following the North right of way line of said Route #740 North eighty-eight degrees fifty-four minutes West (N 88° 54' W) two hundred nine and ninety-two hundredths (209.92) feet to an iron pin (point No. 4); thence following the North right of way line of said Route #740 North forty-four degrees ten minutes West (N 44° 10' W) eighty-five (85.00) feet to a nail (point No. 5); thence following the North right of way line of said Route #740 North eighty-nine degrees six minutes West (N 89° 6' W) fifteen and fifty hundredths (15.50) feet to an iron pin (point No. 6); thence following the East property line of the V A Hospital tract North one degree fifteen minutes

East (N 1° 15' E) seven hundred thirty-seven (737.00) feet to an iron pin (point No. 22); thence following the North property line of the V A Hospital tract North eighty — nine degrees five minutes West (N 89° 5' W) eight hundred eighty-eight and eighty-seven hundredths (888.87) feet to an iron pin (point No. 0); thence North zero degrees fifty-five minutes East (N 0° 55' E) sixty-five (65.00) feet to an iron pin (point No. 1A), the point of beginning: Thence North one degree twenty-two minutes East (N 1° 22' E) three hundred eighty (380.00) feet to an iron pin (point No. 2A); thence South eighty-eight degrees forty-seven minutes East (S 88° 47' E) one hundred ninety-seven (197.00) feet to an iron pin (point No. 3A); thence South one degree thirteen minutes West (S 1° 13' W) one hundred eleven and sixty-six hundredths (111.66) feet to a nail (point No. 4A); thence South eighty-eight degrees forty-seven minutes East (S 88° 47' E) sixteen and twenty-two hundredths (16.22) feet to an iron pin (point No. 5A) (said point No. 5A is against the West face of the University of Missouri Medical Center Hospital); thence following the face of said Hospital South one degree thirteen minutes West (S 1° 13' W) thirty-six (36.00) feet to an iron pin (point No. 6A) (said point No. 6A being against face of said Hospital); thence North eighty-eight degrees forty-seven minutes West (N 88° 47' W) sixteen and twenty-two hundredths (16.22) feet to a nail (point No. 7A); thence South one degree thirteen minutes West (S 1° 13' W) two hundred thirty-one and thirty-four hundredths (231.34) feet to an iron pin (point No. 8A); thence North eighty-nine degrees five minutes west (N 89° 5' W) one hundred ninety-eight and ten hundredths (198.10) feet to an iron pin (point No. 1A), the point of beginning. Subject to the easements and covenants hereinafter reserved and granted.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the time, place, and terms of the conveyance.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION A. EMERGENCY CLAUSE. — Because immediate action is necessary to continue economic development efforts, 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 June 18, 2009

HB 919 [HB 919]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Allows associations to provide group health insurance policies to sole proprietors and self-employed individuals

AN ACT to repeal section 376.421, RSMo, and to enact in lieu thereof one new section relating to group health insurance.

SECTION

A. Enacting clause.

376.421. Group health insurance, authorized categories.

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

SECTION A. ENACTING CLAUSE. — Section 376.421, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 376.421, to read as follows:

376.421. GROUP HEALTH INSURANCE, AUTHORIZED CATEGORIES. — 1. Except as provided in subsection 2 of this section, no policy of group health insurance shall be delivered in this state unless it conforms to one of the following descriptions:

(1) A policy issued to an employer, or to the trustees of a fund established by an employer, which employer or trustees shall be deemed the policyholder, to insure employees of the employer for the benefit of persons other than the employer, subject to the following requirements:

(a) The employees eligible for insurance under the policy shall be all of the employees of the employer, or all of any class or classes thereof. The policy may provide that the term "employees" shall include the employees of one or more subsidiary corporations, and the employees, individual proprietors, and partners of one or more affiliated corporations, proprietorships or partnerships, if the business of the employer and of such affiliated corporations, proprietorships or partnerships is under common control. The policy may provide that the term "employees" shall include the individual proprietor or partners if the employer is an individual proprietorship or partnership. The policy may provide that the term "employees" shall include retired employees, former employees and directors of a corporate employer. A policy issued to insure the employees of a public body may provide that the term "employees" shall include elected or appointed officials;

(b) The premium for the policy shall be paid either from the employer's funds or from funds contributed by the insured employees, or from both. Except as provided in paragraph (c) of this subdivision, a policy on which no part of the premium is to be derived from funds contributed by the insured employees must insure all eligible employees, except those who reject such coverage in writing; and

(c) An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer in a policy insuring fewer than ten employees and in a policy insuring ten or more employees if:

a. Application is not made within thirty-one days after the date of eligibility for insurance; or

b. The person voluntarily terminated the insurance while continuing to be eligible for insurance under the policy; or

c. After the expiration of an open enrollment period during which the person could have enrolled for the insurance or could have elected another level of benefits under the policy;

(2) A policy issued to a creditor or its parent holding company or to a trustee or trustees or agent designated by two or more creditors, which creditor, holding company, affiliate, trustee, trustees or agent shall be deemed the policyholder, to insure debtors of the creditor or creditors with respect to their indebtedness subject to the following requirements:

(a) The debtors eligible for insurance under the policy shall be all of the debtors of the creditor or creditors, or all of any class or classes thereof. The policy may provide that the term "debtors" shall include:

a. Borrowers of money or purchasers or lessees of goods, services, or property for which payment is arranged through a credit transaction;

b. The debtors of one or more subsidiary corporations; and

c. The debtors of one or more affiliated corporations, proprietorships or partnerships if the business of the policyholder and of such affiliated corporations, proprietorships or partnerships is under common control;

(b) The premium for the policy shall be paid either from the creditor's funds or from charges collected from the insured debtors, or from both. Except as provided in paragraph (c)

of this subdivision, a policy on which no part of the premium is to be derived from funds contributed by insured debtors specifically for their insurance must insure all eligible debtors;

(c) An insurer may exclude any debtors as to whom evidence of individual insurability is not satisfactory to the insurer in a policy insuring fewer than ten debtors and in a policy insuring ten or more debtors if:

a. Application is not made within thirty-one days after the date of eligibility for insurance; or

b. The person voluntarily terminated the insurance while continuing to be eligible for insurance under the policy; or

c. After the expiration of an open enrollment period during which the person could have enrolled for the insurance or could have elected another level of benefits under the policy;

(d) The total amount of insurance payable with respect to an indebtedness shall not exceed the greater of the scheduled or actual amount of unpaid indebtedness to the creditor. The insurer may exclude any payments which are delinquent on the date the debtor becomes disabled as defined in the policy;

(e) The insurance may be payable to the creditor or to any successor to the right, title, and interest of the creditor. Such payment or payments shall reduce or extinguish the unpaid indebtedness of the debtor to the extent of each such payment and any excess of insurance shall be payable to the insured or the estate of the insured;

(f) Notwithstanding the preceding provisions of this subdivision, insurance on agricultural credit transaction commitments may be written up to the amount of the loan commitment, and insurance on educational credit transaction commitments may be written up to the amount of the loan commitment less the amount of any repayments made on the loan;

(3) A policy issued to a labor union or similar employee organization, which shall be deemed to be the policyholder, to insure members of such union or organization for the benefit of persons other than the union or organization or any of its officials, representatives, or agents, subject to the following requirements:

(a) The members eligible for insurance under the policy shall be all of the members of the union or organization, or all of any class or classes thereof;

(b) The premium for the policy shall be paid either from funds of the union or organization or from funds contributed by the insured members specifically for their insurance, or from both. Except as provided in paragraph (c) of this subdivision, a policy on which no part of the premium is to be derived from funds contributed by the insured members specifically for their insurance must insure all eligible members, except those who reject such coverage in writing;

(c) An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer in a policy insuring fewer than ten members and in a policy insuring ten or more members if:

a. Application is not made within thirty-one days after the date of eligibility for insurance; or

b. The person voluntarily terminated the insurance while continuing to be eligible for insurance under the policy; or

c. After the expiration of an open enrollment period during which the person could have enrolled for the insurance or could have elected another level of benefits under the policy;

(4) A policy issued to a trust, or to the trustee of a fund, established or adopted by two or more employers, or by one or more labor unions or similar employee organizations, or by one or more employers and one or more labor unions or similar employee organizations, which trust or trustee shall be deemed the policyholder, to insure employees of the employers or members of the unions or organizations for the benefit of persons other than the employers or the unions or organizations, subject to the following requirements:

(a) The persons eligible for insurance shall be all of the employees of the employers or all of the members of the unions or organizations, or all of any class or classes thereof. The policy may provide that the term "employees" shall include the employees of one or more subsidiary

corporations, and the employees, individual proprietors, and partners of one or more affiliated corporations, proprietorships or partnerships if the business of the employer and of such affiliated corporations, proprietorships or partnerships is under common control. The policy may provide that the term "employees" shall include the individual proprietor or partners if the employer is an individual proprietorship or partnership. The policy may provide that the term "employees" shall include retired employees, former employees and directors of a corporate employer. The policy may provide that the term "employees" shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship;

(b) The premium for the policy shall be paid from funds contributed by the employer or employers of the insured persons or by the union or unions or similar employee organizations, or by both, or from funds contributed by the insured persons or from both the insured persons and the employer or union or similar employee organization. Except as provided in paragraph (c) of this subdivision, a policy on which no part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance, must insure all eligible persons except those who reject such coverage in writing;

(c) An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer;

(5) A policy issued to an association or to a trust or to the trustees of a fund established, created and maintained for the benefit of members of one or more associations. The association or associations shall have at the outset a minimum of fifty members; shall have been organized and maintained in good faith for purposes other than that of obtaining insurance; shall have been in active existence for at least two years; shall have a constitution and bylaws which provide that the association or associations shall hold regular meetings not less than annually to further the purposes of the members; shall, except for credit unions, collect dues or solicit contributions from members; and shall provide the members with voting privileges and representation on the governing board and committees. The policy shall be subject to the following requirements:

(a) The policy may insure members of such association or associations, employees thereof, or employees of members, or one or more of the preceding, or all of any class or classes thereof for the benefit of persons other than the employee's employer;

(b) The premium for the policy shall be paid from funds contributed by the association or associations or by employer members, or by both, or from funds contributed by the covered persons or from both the covered persons and the association, associations, or employer members;

(c) Except as provided in paragraph (d) of this subdivision, a policy on which no part of the premium is to be derived from funds contributed by the covered persons specifically for their insurance must insure all eligible persons, except those who reject such coverage in writing;

(d) An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer;

(e) If the health benefit plan, as defined in section 376.1350, is delivered, issued for delivery, continued or renewed, is providing coverage to any resident of this state, and is providing coverage to **[**both**]** **sole proprietors, self-employed persons,** small employers as defined in subsection 2 of section 379.930, RSMo, and large employers, the insurer providing the coverage to the association or trust or trustees of a fund established, created, and maintained for the benefit of members of one or more associations may be exempt from subdivision (1) of subsection 1 of section 379.936, RSMo, as it relates to the association plans established under this section. The director shall find that an exemption would be in the public interest and approved and that additional classes of business may be approved under subsection 4 of section 379.934, RSMo, if the director determines that the health benefit plan:

a. Is underwritten and rated as a single employer;

b. Has a uniform health benefit plan design option or options for all participating association members or employers;

c. Has guarantee issue to all association members and all eligible employees, as defined in subsection 2 of section 379.930, RSMo, of any participating association member company; and

d. Complies with all other federal and state insurance requirements, including but not limited to the small employer health insurance and availability act under sections 379.930 to 379.952, RSMo;

(6) A policy issued to a credit union or to a trustee or trustees or agent designated by two or more credit unions, which credit union, trustee, trustees or agent shall be deemed the policyholder, to insure members of such credit union or credit unions for the benefit of persons other than the credit union or credit unions, trustee or trustees, or agent or any of their officials, subject to the following requirements:

(a) The members eligible for insurance shall be all of the members of the credit union or credit unions, or all of any class or classes thereof;

(b) The premium for the policy shall be paid by the policyholder from the credit union's funds and, except as provided in paragraph (c) of this subdivision, must insure all eligible members;

(c) An insurer may exclude or limit the coverage on any member as to whom evidence of individual insurability is not satisfactory to the insurer;

(7) A policy issued to cover persons in a group where that group is specifically described by a law of this state as one which may be covered for group life insurance. The provisions of such law relating to eligibility and evidence of insurability shall apply.

2. Group health insurance offered to a resident of this state under a group health insurance policy issued to a group other than one described in subsection 1 of this section shall be subject to the following requirements:

(1) No such group health insurance policy shall be delivered in this state unless the director finds that:

(a) The issuance of such group policy is not contrary to the best interest of the public;

(b) The issuance of the group policy would result in economies of acquisition or administration; and

(c) The benefits are reasonable in relation to the premiums charged;

(2) No such group health insurance coverage may be offered in this state by an insurer under a policy issued in another state unless this state or another state having requirements substantially similar to those contained in subdivision (1) of this subsection has made a determination that such requirements have been met;

(3) The premium for the policy shall be paid either from the policyholder's funds, or from funds contributed by the covered persons, or from both;

(4) An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer.

3. As used in this section, insurer shall have the same meaning as the definition of health carrier under section 376.1350, and "class" means a predefined group of persons eligible for coverage under a group insurance policy where members of a class represent the same or essentially the same hazard; except that, an insurer may offer a policy to an employer that charges a reduced premium rate or deductible for employees who do not smoke or use tobacco products as authorized under section 290.145, RSMo, and such insurer shall not be considered to be in violation of any unfair trade practice, as defined in section 379.936, RSMo, even if only some employers elect to purchase such a policy and other employers do not.

Approved July 7, 2009

HB 922 [SCS HB 922]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Requires each school district to adopt a policy on allergy prevention and response with priority given to addressing potentially deadly food-borne allergies

AN ACT to amend chapter 167, RSMo, by adding thereto one new section relating to allergy prevention and response in schools.

SECTION
A. Enacting clause.
167.208. Allergy prevention and response policy required, contents — model policy authorized.

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

SECTION A. ENACTING CLAUSE. — Chapter 167, RSMo, is amended by adding thereto one new section, to be known as section 167.208, to read as follows:

167.208. ALLERGY PREVENTION AND RESPONSE POLICY REQUIRED, CONTENTS — MODEL POLICY AUTHORIZED. — 1. By July 1, 2011, each school district shall adopt a policy on allergy prevention and response, with priority given to addressing potentially deadly food-borne allergies. Such policy shall contain, but shall not be limited to, the following elements:

(1) Distinguishing between building-wide, classroom, and individual approaches to allergy prevention and management;

(2) Providing an age-appropriate response to building-level and classroom-level allergy education and prevention;

(3) Describing the role of both certificated and noncertificated school staff in determining how to manage an allergy problem, whether it is through a plan prepared for a student under Section 504 of the Rehabilitation Act of 1973 for a student with an allergy that has been determined to be a disability, an individualized health plan for a student who has allergies that are not disabling, or other allergy management plans;

(4) Describing the role of other students and parents in cooperating to prevent and mitigate allergies;

(5) Addressing confidentiality issues involved with sharing medical information, including specifying when parental permission is required to make medical information available; and

(6) Coordinating with the school health advisory council, local health authorities, and other appropriate entities to ensure efficient promulgation of accurate information and to ensure that existing school safety and environmental policies do not conflict.

Such policies may contain information from or links to school allergy prevention information furnished by the food allergy and anaphylaxis network or equivalent organization with a medical advisory board that has allergy specialists.

2. The department of elementary and secondary education shall, in cooperation with any appropriate professional association, develop a model policy or policies by July 1, 2010.

Approved July 8, 2009

HB 1075 [CCS SCS HCS HB 1075]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding unemployment compensation

AN ACT to repeal sections 288.062 and 288.330, RSMo, and to enact in lieu thereof three new sections relating to unemployment compensation, with an emergency clause.

SECTION

A. Enacting clause.
288.062. "On" and "Off" indicators, state and national, how determined — extended benefits, defined — amount and how computed, suspended after March 6, 1993, to January 1, 1995.
288.330. State liability for benefits limited, authority for application and repayment of federal advances — board of unemployment fund financing created, duties, requirements, powers — disposition of unobligated funds.
288.501. Extension of benefits — alternate base period defined — use of federal moneys.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 288.062 and 288.330, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 288.062, 288.330, and 288.501, to read as follows:

288.062. "ON" AND "OFF" INDICATORS, STATE AND NATIONAL, HOW DETERMINED — EXTENDED BENEFITS, DEFINED — AMOUNT AND HOW COMPUTED, SUSPENDED AFTER MARCH 6, 1993, TO JANUARY 1, 1995. — 1. As used in this section, unless the context clearly requires otherwise:

(1) "Extended benefit period" means a period which begins with the third week after a week for which there is a state "on" indicator, and ends with either of the following weeks, whichever occurs later:

(a) The third week after the first week for which there is a state "off" indicator; or

(b) The thirteenth consecutive week of such period; provided, that no extended benefit period may begin by reason of a state "on" indicator before the fourteenth week following the end of a prior extended benefit period which was in effect with respect to this state.

(2) There is a "state 'on' indicator" for this state for a week if the director determines, in accordance with the regulations of the United States Secretary of Labor, that for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (not seasonally adjusted) under this law:

(a) Equaled or exceeded one hundred twenty percent of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years; **[**and**]**

(b) Equaled or exceeded four percent for weeks beginning prior to or on September 25, 1982, or five percent for weeks beginning after September 25, 1982; except that, if the rate of insured unemployment as contemplated in this subdivision equals or exceeds five percent for weeks beginning prior to or on September 25, 1982, or six percent for weeks beginning after September 25, 1982, the determination of an "on" indicator shall be made under this subdivision as if this subdivision did not contain the provisions of paragraph (a) of this subdivision**; and**

(c) With respect to weeks of unemployment beginning on or after February 1, 2009, and ending on or before December 5, 2009:

a. The average rate of total unemployment in the state (seasonally adjusted), as determined by the United States Secretary of Labor, for the period consisting of the most

recent three months for which data for all states are published before the close of such week equals or exceeds six and one-half percent; and

b. The average rate of total unemployment in the state (seasonally adjusted), as determined by the United States Secretary of Labor, for the three-month period referred to in subparagraph a. of this paragraph, equals or exceeds one hundred and ten percent of such average for either or both of the corresponding three-month periods ending in the two preceding calendar years.

(3) There is a "state 'off' indicator" for this state for a week if the director determines, in accordance with the regulations of the United States Secretary of Labor, that for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (not seasonally adjusted) under this law:

(a) Was less than one hundred twenty percent of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years; or

(b) Was less than four percent (five percent for weeks beginning after September 25, 1982); except, there shall not be an "off" indicator for any week in which an "on" indicator as contemplated in paragraph (b) of subdivision (2) of this subsection exists.

(4) "Rate of insured unemployment", for the purposes of subdivisions (2) and (3) of this subsection, means the percentage derived by dividing:

(a) The average weekly number of individuals filing claims for regular compensation in this state for weeks of unemployment with respect to the most recent thirteen-consecutive-week period, as determined by the director on the basis of his **or her** reports to the United States Secretary of Labor, by

(b) The average monthly employment covered under this law for the first four of the most recent six completed calendar quarters ending before the end of such thirteen-week period.

(5) "Regular benefits" means benefits payable to an individual under this law or under any other state law (including benefits payable to federal civilian employees and ex-servicemen pursuant to 5 U.S.C. chapter 85) other than extended benefits.

(6) "Extended benefits" means benefits (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85) payable to an individual under the provisions of this section for weeks of unemployment in his **or her** eligibility period.

(7) "Eligibility period" of an individual means the period consisting of the weeks in his **or her** benefit year which begin in an extended benefit period and, if his **or her** benefit year ends within such extended benefit period, any weeks thereafter which begin in such period.

(8) "Exhaustee" means an individual who, with respect to any week of unemployment in his **or her** eligibility period:

(a) Has received, prior to such week, all of the regular benefits that were available to him **or her** under this law or any other state law (including dependents' allowances and benefits payable to federal civilian employees and ex-servicemen under 5 U.S.C. chapter 85) in his **or her** current benefit year that includes such week; provided, that, for the purposes of this paragraph, an individual shall be deemed to have received all of the regular benefits that were available to him **or her** although as a result of a pending appeal with respect to wages or employment, or both, that were not considered in the original monetary determination in his **or her** benefit year, he may subsequently be determined to be entitled to added regular benefits; or

(b) Has received, prior to such week, all the regular compensation available to him **or her** in his **or her** current benefit year that includes such week under the unemployment compensation law of the state in which he **or she** files a claim for extended compensation or the unemployment compensation law of any other state after a cancellation of some or all of his **or her** wage credits or the partial or total reduction of his **or her** right to regular compensation; or

(c) His **or her** benefit year having expired prior to such week, he **or she** has insufficient wages or employment, or both, on the basis of which he **or she** could establish in any state a new benefit year that would include such week, or having established a new benefit year that includes such week, he **or she** is precluded from receiving regular compensation by reason of

a state law provision which meets the requirement of section 3304(a)(7) of the Internal Revenue Code of 1954; and

(d) a. Has no right to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, the Automotive Products Trade Act of 1965 and such other federal laws as are specified in regulations issued by the United States Secretary of Labor; and

b. Has not received and is not seeking unemployment benefits under the unemployment compensation law of Canada; but if he **or she** is seeking such benefits and the appropriate agency finally determines that he **or she** is not entitled to benefits under such law he **or she** is considered an exhaustee.

(9) "State law" means the unemployment insurance law of any state, approved by the United States Secretary of Labor under section 3304 of the Internal Revenue Code of 1954.

2. Except when the result would be inconsistent with the other provisions of this section, as provided in the regulations of the director, the provisions of this law which apply to claims for, or the payment of, regular benefits shall apply to claims for, and the payment of, extended benefits.

3. An individual shall be eligible to receive extended benefits with respect to any week of unemployment in his **or her** eligibility period only if the deputy finds that with respect to such week:

(1) He **or she** is an "exhaustee" as defined in subdivision (8) of subsection 1 of this section;

(2) He **or she** has satisfied the requirements of this law for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification for the receipt of benefits; except that, in the case of a claim for benefits filed in another state, which is acting as an agent state under the Interstate Benefits Payment Plan as provided by regulation, which claim is based on benefit credits accumulated in this state, eligibility for extended benefits shall be limited to the first two compensable weeks unless there is an extended benefit period in effect in both this state and the agent state in which the claim was filed;

(3) The other provisions of this law notwithstanding, as to new extended benefit claims filed after September 25, 1982, an individual shall be eligible to receive extended benefits with respect to any week of unemployment in his **or her** eligibility period only if the deputy finds that the total wages in the base period of his **or her** benefit year equal at least one and one-half times the wages paid during that quarter of his **or her** base period in which his **or her** wages were highest.

4. A claimant shall not be eligible for extended benefits following any disqualification imposed under subsection 1 or 2 of section 288.050, unless subsequent to the effective date of the disqualification, the claimant has been employed during at least four weeks and has earned wages equal to at least four times his **or her** weekly benefit amount.

5. For the purposes of determining eligibility for extended benefits, the term "suitable work" means any work which is within such individual's capabilities except that, if the individual furnishes satisfactory evidence that the prospects for obtaining work in his **or her** customary occupation within a reasonably short period are good, the determination of what constitutes "suitable work" shall be made in accordance with the provisions of subdivision (3) of subsection 1 of section 288.050. If a deputy finds that a person who is claiming extended benefits has refused to accept or to apply for suitable work, as defined in this subsection, or has failed to actively engage in seeking work subsequent to the effective date of his **or her** claim for extended benefits, that person shall be ineligible for extended benefits for the period beginning with the first day of the week in which such refusal or failure occurred. That ineligibility shall remain in effect until the person has been employed for at least four weeks after the week in which the refusal or failure occurred and has earned wages equal to at least four times his **or her** weekly benefit amount.

6. Extended benefits shall not be denied under subsection 5 of this section to any individual for any week by reason of a failure to accept an offer of or apply for suitable work if:

(1) The gross average weekly remuneration for such work does not exceed the individual's weekly benefit amount plus the amount of any supplemental unemployment benefits, as defined in section 501(c)(17)(d) of the Internal Revenue Code, payable to such individual for such week; or

(2) The position was not offered to such individual in writing or was not listed with the state employment service; or

(3) If the remuneration for the work offered is less than the minimum wage provided by section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended, without regard to any exemption or any applicable state or local minimum wage, whichever is the greater.

7. For the purposes of this section, an individual shall be considered as actively engaged in seeking work during any week with respect to which the individual has engaged in a systematic and sustained effort to obtain work as indicated by tangible evidence which the individual provides to the division.

8. Extended benefits shall not be denied for failure to apply for or to accept suitable work if such failure would not result in a denial of benefits under subdivision (3) of subsection 1 of section 288.050 to the extent that the provisions of subdivision (3) of subsection 1 of section 288.050 are not inconsistent with the provisions of subsection 5 and subsection 6 of this section.

9. The division shall refer any claimant entitled to extended benefits under this law to any suitable work which meets the criteria established in subsections 5 and 6 of this section.

10. Notwithstanding other provisions of this chapter to the contrary, as to claims of extended benefits, subsections 4 to 9 of this section shall not apply to weeks of unemployment beginning after March 6, 1993, and before January 1, 1995. Entitlement to extended benefits for weeks beginning after March 6, 1993, and before January 1, 1995, shall be determined in accordance with provisions of this chapter not excluded by this subsection.

11. "Weekly extended benefit amount." The weekly extended benefit amount payable to an individual for a week of total unemployment in his **or her** eligibility period shall be an amount equal to the weekly benefit amount payable to him **or her** during his **or her** applicable benefit year, reduced by a percentage equal to the percentage of the reduction in federal payments to states under section 204 of the Federal State Extended Unemployment Compensation Act of 1970, in accord with any order issued under any law of the United States. Such weekly benefit amount, if not a multiple of one dollar, shall be reduced to the nearest lower full dollar amount.

12. (1) "Total extended benefit amount." The total extended benefit amount payable to any eligible individual with respect to his **or her** applicable benefit year shall be the lesser of the following amounts:

(a) Fifty percent of the total amount of regular benefits which were payable to him **or her** under this law in his **or her** applicable benefit year;

(b) Thirteen times his **or her** weekly benefit amount which was payable to him **or her** under this law for a week of total unemployment in the applicable benefit year.

(2) Notwithstanding subdivision (1) of this subsection, during any fiscal year in which federal payments to states under section 204 of the Federal State Extended Unemployment Compensation Act of 1970 are reduced under any order issued under any law of the United States, the total extended benefit amount payable to an individual with respect to his **or her** applicable benefit year shall be reduced by an amount equal to the aggregate of the reductions under subsection 11 of this section in the weekly amounts paid to the individual.

(3) Notwithstanding the other provisions of this subsection, if the benefit year of any individual ends within an extended benefit period, the remaining balance of extended benefits that such individual would, but for this subdivision, be entitled to receive in that extended benefit period, with respect to weeks of unemployment beginning after the end of the benefit year, shall be reduced, but not below zero, by the product of the number of weeks for which the individual

received trade readjustment allowances under the Trade Act of 1974, as amended, within that benefit year, multiplied by the individual's weekly benefit amount for extended benefits.

(4) (a) Effective with respect to weeks beginning in a high unemployment period, subdivision (1) of this subsection shall be applied by substituting:

a. Eighty percent for fifty percent in paragraph (a) of subdivision (1) of this subsection; and

b. Twenty times for thirteen times in paragraph (b) of subdivision (1) of this subsection.

(b) For purposes of paragraph (a) of this subdivision, the term "high unemployment period" means any period during which an extended benefit period would be in effect if subparagraph a. of paragraph (c) of subdivision (2) of subsection 1 of this section were applied by substituting eight percent for six and one-half percent.

13. (1) Whenever an extended benefit period is to become effective in this state as a result of a state "on" indicator, or an extended benefit period is to be terminated in this state as a result of a state "off" indicator, the director shall make an appropriate public announcement.

(2) Computations required by the provisions of subdivision (4) of subsection 1 of this section, shall be made by the director, in accordance with regulations prescribed by the United States Secretary of Labor.

288.330. STATE LIABILITY FOR BENEFITS LIMITED, AUTHORITY FOR APPLICATION AND REPAYMENT OF FEDERAL ADVANCES — BOARD OF UNEMPLOYMENT FUND FINANCING CREATED, DUTIES, REQUIREMENTS, POWERS — DISPOSITION OF UNOBLIGATED FUNDS. — 1. Benefits shall be deemed to be due and payable only to the extent that moneys are available to the credit of the unemployment compensation fund and neither the state nor the division shall be liable for any amount in excess of such sums. The governor is authorized to apply for an advance to the state unemployment fund and to accept the responsibility for the repayment of such advance in order to secure to this state and its citizens the advantages available under the provisions of federal law.

2. (1) The purpose of this subsection is to provide a method of providing funds for the payment of unemployment benefits or maintaining an adequate fund balance in the unemployment compensation fund, and as an alternative to borrowing or obtaining advances from the federal unemployment trust fund or for refinancing those loans or advances.

(2) For the purposes of this subsection, "credit instrument" means any type of borrowing obligation issued under this section, including any bonds, commercial line of credit note, tax anticipation note or similar instrument.

(3) (a) There is hereby created for the purposes of implementing the provisions of this subsection a body corporate and politic to be known as the "Board of Unemployment Fund Financing". The powers of the board shall be vested in five board members who shall be the governor, lieutenant governor, attorney general, director of the department of labor, and the commissioner of administration. The board shall have all powers necessary to effectuate its purposes including, without limitation, the power to provide a seal, keep records of its proceedings, and provide for professional services. The governor shall serve as chair, the lieutenant governor shall serve as vice chair, and the commissioner of administration shall serve as secretary. Staff support for the board shall be provided by the commissioner of administration;

(b) Notwithstanding the provisions of any other law to the contrary:

a. No officer or employee of this state shall be deemed to have forfeited or shall forfeit his or her office or employment by reason of his or her acceptance of an appointment as a board member or for his or her service to the board;

b. Board members shall receive no compensation for the performance of their duties under this subsection, but each commissioner shall be reimbursed from the funds of the commission for his or her actual and necessary expenses incurred in carrying out his or her official duties under this subsection.

(c) In the event that any of the board members or officers of the board whose signatures or facsimile signatures appear on any credit instrument shall cease to be board members or officers before the delivery of such credit instrument, their signatures or facsimile signatures shall be valid and sufficient for all purposes as if such board members or officers had remained in office until delivery of such credit instrument.

(d) Neither the board members executing the credit instruments of the board nor any other board members shall be subject to any personal liability or accountability by reason of the issuance of the credit instruments.

(4) The board is authorized, by offering for public negotiated sale, to issue, sell, and deliver credit instruments, bearing interest at a fixed or variable rate as shall be determined by the board, which shall mature no later than ten years after issuance, in the name of the board in an amount determined by the board**[**, provided that the unpaid principal amount of any outstanding credit instruments, combined with the unpaid principal amount of any financing agreement entered into under subdivision (17) of this subsection, shall not exceed four hundred fifty million dollars at any one time**]**. Such credit instruments may be issued, sold, and delivered for the purposes set forth in subdivision (1) of this subsection. Such credit instrument may only be issued upon the approval of a resolution authorizing such issuance by a simple majority of the members of the board, with no other proceedings required.

(5) The board shall provide for the payment of the principal of the credit instruments, any redemption premiums, the interest on the credit instruments, and the costs attributable to the credit instruments being issued or outstanding as provided in this chapter. Unless the board directs otherwise, the credit instrument shall be repaid in the same time frame and in the same amounts as would be required for loans issued pursuant to 42 U.S.C. Section 1321; however, in no case shall credit instruments be outstanding for more than ten years.

(6) The board may irrevocably pledge money received from the credit instrument and financing agreement repayment surcharge under subsection 3 of section 288.128, and other money legally available to it, which is deposited in an account authorized for credit instrument repayment in the special employment security fund, provided that the general assembly has first appropriated moneys received from such surcharge and other moneys deposited in such account for the payment of credit instruments.

(7) Credit instruments issued under this section shall not constitute debts of this state or of the board or any agency, political corporation, or political subdivision of this state and are not a pledge of the faith and credit of this state, the board or of any of those governmental entities and shall not constitute an indebtedness within the meaning of any constitutional or statutory limitation upon the incurring of indebtedness. The credit instruments are payable only from revenue provided for under this chapter. The credit instruments shall contain a statement to the effect that:

(a) Neither the state nor the board nor any agency, political corporation, or political subdivision of the state shall be obligated to pay the principal or interest on the credit instruments except as provided by this section; and

(b) Neither the full faith and credit nor the taxing power of the state nor the board nor any agency, political corporation, or political subdivision of the state is pledged to the payment of the principal, premium, if any, or interest on the credit instruments.

(8) The board pledges and agrees with the owners of any credit instruments issued under this section that the state will not limit or alter the rights vested in the board to fulfill the terms of any agreements made with the owners or in any way impair the rights and remedies of the owners until the credit instruments are fully discharged.

(9) The board may prescribe the form, details, and incidents of the credit instruments and make such covenants that in its judgment are advisable or necessary to properly secure the payment thereof. If such credit instruments shall be authenticated by the bank or trust company acting as registrar for such by the manual signature of a duly authorized officer or employee thereof, the duly authorized officers of the board executing and attesting such credit instruments

may all do so by facsimile signature provided such signatures have been duly filed as provided in the uniform facsimile signature of public officials law, sections 105.273 to 105.278, RSMo, when duly authorized by resolution of the board, and the provisions of section 108.175, RSMo, shall not apply to such credit instruments. The board may provide for the flow of funds and the establishment and maintenance of separate accounts within the special employment security fund, including the interest and sinking account, the reserve account, and other necessary accounts, and may make additional covenants with respect to the credit instruments in the documents authorizing the issuance of credit instruments including refunding credit instruments. The resolutions authorizing the issuance of credit instruments may also prohibit the further issuance of credit instruments or other obligations payable from appropriated moneys or may reserve the right to issue additional credit instruments to be payable from appropriated moneys on a parity with or subordinate to the lien and pledge in support of the credit instruments being issued and may contain other provisions and covenants as determined by the board, provided that any terms, provisions or covenants provided in any resolution of the board shall not be inconsistent with the provisions of this section.

(10) The board may issue credit instruments to refund all or any part of the outstanding credit instruments issued under this section including matured but unpaid interest. As with other credit instruments issued under this section, such refunding credit instruments may bear interest at a fixed or variable rate as determined by the board.

(11) The credit instruments issued by the board, any transaction relating to the credit instruments, and profits made from the sale of the credit instruments are free from taxation by the state or by any municipality, court, special district, or other political subdivision of the state.

(12) As determined necessary by the board the proceeds of the credit instruments less the cost of issuance shall be placed in the state's unemployment compensation fund and may be used for the purposes for which that fund may otherwise be used. If those net proceeds are not placed immediately in the unemployment compensation fund they shall be held in the special employment security fund in an account designated for that purpose until they are transferred to the unemployment compensation fund provided that the proceeds of refunding credit instruments may be placed in an escrow account or such other account or instrument as determined necessary by the board.

(13) The board may enter into any contract or agreement deemed necessary or desirable to effectuate cost-effective financing hereunder. Such agreements may include credit enhancement, credit support, or interest rate agreements including, but not limited to, arrangements such as municipal bond insurance; surety bonds; tax anticipation notes; liquidity facilities; forward agreements; tender agreements; remarketing agreements; option agreements; interest rate swap, exchange, cap, lock or floor agreements; letters of credit; and purchase agreements. Any fees or costs associated with such agreements shall be deemed administrative expenses for the purposes of calculating the credit instrument and financing agreement repayment surcharge under subsection 3 of section 288.128. The board, with consideration of all other costs being equal, shall give preference to Missouri-headquartered financial institutions, or those out-of-state-based financial institutions with at least one hundred Missouri employees.

(14) To the extent this section conflicts with other laws the provisions of this section prevail. This section shall not be subject to the provisions of sections 23.250 to 23.298, RSMo.

(15) If the United States Secretary of Labor holds that a provision of this subsection or of any provision related to the levy or use of the credit instrument and financial agreement repayment surcharge does not conform with a federal statute or would result in the loss to the state of any federal funds otherwise available to it the board, in cooperation with the department of labor and industrial relations, may administer this subsection, and other provisions related to the credit instrument and financial agreement repayment surcharge, to conform with the federal statute until the general assembly meets in its next regular session and has an opportunity to amend this subsection or other sections, as applicable.

(16) Nothing in this chapter shall be construed to prohibit the officials of the state from borrowing from the government of the United States in order to pay unemployment benefits under subsection 1 of this section or otherwise.

(17) (a) As used in this subdivision the term "lender" means any state or national bank.

(b) The board is authorized to enter financial agreements with any lender for the purposes set forth in subdivision (1) of this subsection, or to refinance other financial agreements in whole or in part, upon the approval of the simple majority of the members of the board of a resolution authorizing such financial agreements, with no other proceedings required. **[**The total amount of the outstanding obligation under all such agreements at any one time shall not exceed the difference of four hundred fifty million dollars and the principal amount of credit instruments outstanding under this subsection.**]** In no instance shall the outstanding obligation under any financial agreement continue for more than ten years. Repayment of obligations to lenders shall be made from the special employment security fund, section 288.310, subject to appropriation by the general assembly.

(c) Financial agreements entered into under this subdivision shall not constitute debts of this state or of the board or any agency, political corporation, or political subdivision of this state and are not a pledge of the faith and credit of this state, the board or of any of those governmental entities and shall not constitute an indebtedness within the meaning of any constitutional or statutory limitation upon the incurring of indebtedness. The financial agreements are payable only from revenue provided for under this chapter. The financial agreements shall contain a statement to the effect that:

a. Neither the state nor the board nor any agency, political corporation, or political subdivision of the state shall be obligated to pay the principal or interest on the financial agreements except as provided by this section; and

b. Neither the full faith and credit nor the taxing power of the state nor the board nor any agency, political corporation, or political subdivision of the state is pledged to the payment of the principal, premium, if any, or interest on the financial agreements.

(d) Neither the board members executing the financial agreements nor any other board members shall be subject to any personal liability or accountability by reason of the execution of such financial agreements.

(e) The board may prescribe the form, details and incidents of the financing agreements and make such covenants that in its judgment are advisable or necessary to properly secure the payment thereof provided that any terms, provisions or covenants provided in any such financing agreement shall not be inconsistent with the provisions of this section. If such financing agreements shall be authenticated by the bank or trust company acting as registrar for such by the manual signature of a duly authorized officer or employee thereof, the duly authorized officers of the board executing and attesting such financing agreements may all do so by facsimile signature provided such signatures have been duly filed as provided in the uniform facsimile signature of public officials law, sections 105.273 to 105.278, RSMo, when duly authorized by resolution of the board and the provisions of section 108.175, RSMo, shall not apply to such financing agreements.

(18) The commission may issue credit instruments to refund all or any part of the outstanding borrowing issued under this section including matured but unpaid interest.

(19) The credit instruments issued by the commission, any transaction relating to the credit instruments, and profits made from the issuance of credit are free from taxation by the state or by any municipality, court, special district, or other political subdivision of the state.

3. In event of the suspension of this law, any unobligated funds in the unemployment compensation fund, and returned by the United States Treasurer because such Federal Social Security Act is inoperative, shall be held in custody by the treasurer and under supervision of the division until the legislature shall provide for the disposition thereof. In event no disposition is made by the legislature at the next regular meeting subsequent to suspension of said law, then all unobligated funds shall be returned ratably to those who contributed thereto.

4. For purposes of this section, as contained in senate substitute no. 2 for senate committee substitute for house substitute for house committee substitute for house bill nos. 1268 and 1211, ninety-second general assembly, second regular session, the revisor of statutes shall renumber subdivision (16) of subsection 2 of such section as subdivision (17) of such subsection and renumber subdivision (17) of subsection 2 of such section as subdivision (16) of such subsection.

288.501. EXTENSION OF BENEFITS — ALTERNATE BASE PERIOD DEFINED — USE OF FEDERAL MONEYS. — Notwithstanding any other provision of law to the contrary:

(1) If a claimant does not have sufficient wages in the base period to be an insured worker, as those terms are defined in section 288.030, the individual's base period shall be the four most recently completed calendar quarters preceding the first day of the individual's benefit year. Such base period shall be known as the "alternate base period". If information as to wages for the most recent quarter of the alternate base period is not available to the deputy from the regular quarterly reports of wage information, which are systematically accessible, the deputy may base the determination of eligibility for benefits on the affidavit of the claimant with respect to wages for that calendar quarter. The claimant shall furnish payroll documentation, where available, in support of the affidavit. The determination based upon the alternate base period as it relates to the claimant's benefit rights shall be amended if the quarterly report of wage information from the employer is timely received and that information causes a change in the determination. No calendar quarter in a base period or alternate base period for a claimant's current benefit year shall be used to establish a subsequent benefit year.

(2) The claimant shall not be disqualified from unemployment compensation for separating from employment if that separation is for any compelling family reason. For the purposes of this section, the term "compelling family reason" shall mean:

(a) The illness or disability of a member of the claimant's immediate family, which shall include the claimant's spouse, parent, or minor child under the age of eighteen;

(b) The need for the claimant to accompany such claimant's spouse to a location from which it is impractical for the claimant to commute and due to a change in location of the spouse's employment;

(c) Domestic violence, verified by reasonable and confidential documentation, which causes the claimant reasonably to believe that the claimant's continued employment would jeopardize the safety of the claimant or of any member of the claimant's family, as defined by the United States Secretary of Labor.

(3) A claimant who has commenced training under the Workforce Investment Act of 1998, or director-approved training under section 288.055, and has exhausted the claimant's regular unemployment benefits shall be eligible for additional unemployment benefits, not to exceed twenty-six times the claimant's weekly benefit amount. The weekly benefit amount shall be the same as the claimant's regular weekly benefit amount and shall be paid under the same terms and conditions as regular benefits. These training benefits shall be paid after any extended benefits or any similar benefits paid by a federally funded program.

(4) Priority for training funds provided under subdivision (3) of this section shall be given to claimants laid off through no fault of their own from Missouri automobile manufacturing facilities.

(5) No charges shall be made against an employer's account in respect to benefits paid to a claimant under this section.

(6) The director shall separately track payments that were made under this section. Once the amount of payments exceeds the amount of federal incentive funds made available because of the enactment of this section, the unemployment compensation fund shall be reimbursed from general revenue for all subsequent payments to the claimants.

(7) The provisions of this section shall be subject to renewal in the second regular session of the ninety-fifth general assembly. If not renewed, the provisions of this section shall expire once the funds provided under the American Recovery and Reinvestment Act of 2009 are expended as provided in this section.

(8) The provisions of this section shall not take effect, and no benefits paid under this section, unless first certified by the United States Secretary of Labor under 42 U.S.C.1103, as amended by the American Recovery and Reinvestment Act of 2009.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to help Missourians during economic hardship, section A 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 A of this act shall be in full force and effect upon its passage and approval.

Approved June 12, 2009

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SB 1 [HCS SS SCS SB 1]

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

Establishes licensing and contract requirements for preneed funeral contract sellers, providers, and seller agents

AN ACT to repeal sections 333.011, 333.091, 333.101, 333.121, 333.151, 333.221, 333.241, 333.251, 436.005, 436.007, 436.011, 436.015, 436.021, 436.027, 436.031, 436.035, 436.038, 436.041, 436.045, 436.048, 436.051, 436.053, 436.055, 436.061, 436.063, 436.065, 436.067, 436.069, and 436.071, RSMo, and to enact in lieu thereof forty new sections relating to preneed funeral contracts, with penalty provisions.

SECTION

A. Enacting clause.
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436.067. Confidentiality of information given to board, division or attorney general — exceptions.
436.069. Annual reporting fee, amount.
436.071. Registration fee.

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

SECTION A. ENACTING CLAUSE. — Sections 333.011, 333.091, 333.101, 333.121, 333.151, 333.221, 333.241, 333.251, 436.005, 436.007, 436.011, 436.015, 436.021, 436.027, 436.031, 436.035, 436.038, 436.041, 436.045, 436.048, 436.051, 436.053, 436.055, 436.061, 436.063, 436.065, 436.067, 436.069, and 436.071, RSMo, are repealed and forty new sections enacted in lieu thereof, to be known as sections 333.011, 333.091, 333.101, 333.151, 333.221, 333.251, 333.310, 333.315, 333.320, 333.325, 333.330, 333.335, 333.340, 436.400, 436.405, 436.410, 436.412, 436.415, 436.420, 436.425, 436.430, 436.435, 436.440, 436.445, 436.450, 436.455, 436.456, 436.457, 436.458, 436.460, 436.465, 436.470, 436.480, 436.485, 436.490, 436.500, 436.505, 436.510, 436.520, and 1, to read as follows:

333.011. DEFINITIONS. — 1. As used in this chapter, unless the context requires otherwise, the following terms have the meanings indicated:

(1) "Board", the state board of embalmers and funeral directors created by this chapter;

(2) "Embalmer", any individual licensed to engage in the practice of embalming;

(3) "Funeral director", any individual licensed to engage in the practice of funeral directing;

(4) "Funeral establishment", a building, place, crematory, or premises devoted to or used in the care and preparation for burial or transportation of the human dead and includes every building, place or premises maintained for that purpose or held out to the public by advertising or otherwise to be used for that purpose;

(5) **"Funeral merchandise", caskets, grave vaults, receptacles, and other personal property incidental to the final disposition of a dead human body, including, grave markers, monuments, tombstones, and urns;**

(6) "Person" **[**includes a corporation, partnership or other type of business organization**], any individual, partnership, corporation, cooperative, association, or other entity**;

[(6)**] (7)** "Practice of embalming", the work of preserving, disinfecting and preparing by arterial embalming, including the chemical preparation of a dead human body for disposition. Practice of embalming includes all activities leading up to and including arterial and cavity embalming, including but not limited to raising of vessels and suturing of incisions of dead

human bodies for funeral services, transportation, burial or cremation, or the holding of oneself out as being engaged in such work;

[(7)**]** **(8)** "Practice of funeral directing", engaging by an individual in the business of preparing, otherwise than by embalming, for the burial, disposal or transportation out of this state of, and the directing and supervising of the burial or disposal of, dead human bodies or engaging in the general control, supervision or management of the operations of a funeral establishment**;**

(9) "Preneed agent", any person authorized to sell a preneed contract for or on behalf of a seller;

(10) "Provider", the person designated or obligated to provide the final disposition, funeral, or burial services or facilities, or funeral merchandise described in a preneed contract;

(11) "Seller", the person who executes a preneed contract with a purchaser and who is obligated under such preneed contract to remit payment to the provider.

2. All terms defined in sections 436.400 to 436.520, RSMo, shall be deemed to have the same meaning when used in this chapter.

333.091. LICENSE TO BE RECORDED, DISPLAYED. — Each establishment, funeral director or embalmer receiving a license under this chapter shall have **[**the**]** recorded in the office of the local registrar of vital statistics of the registration district in which the licensee practices. **[**The licenses or duplicates shall be displayed in the office(s) or place(s) of business.**]** **All licenses or registrations, or duplicates thereof, issued pursuant to this chapter shall be displayed at each place of business.**

333.101. PLACES OF BUSINESS MAY BE INSPECTED. — The board or any member thereof or any agent duly authorized by it may enter the office, premises, establishment or place of business of any **[**funeral service licensee in this state**]** **licensee or registrant,** or any office, premises, establishment or place where the practice of funeral directing **[**or**],** embalming**,** **preneed selling or providing** is carried on, or where such practice is advertised as being carried on for the purpose of inspecting said office, premises or establishment and for the purpose of inspecting the license and registration of any licensee **or registrant** and the manner and scope of training given by the licensee **or registrant** to the **[**intern**]** **apprentice** operating therein.

333.151. BOARD MEMBERS — QUALIFICATIONS — TERMS — VACANCIES. — 1. The state board of embalmers and funeral directors shall consist of **[**six**]** **ten** members, including one voting public member**[**,**]** appointed by the governor with the advice and consent of the senate. Each member, other than the public member, appointed shall possess either a license to practice embalming or a license to practice funeral directing in this state or both said licenses and shall have been actively engaged in the practice of embalming or funeral directing for a period of five years next before his or her appointment. Each member shall be a United States citizen, a resident of this state for a period of at least one year, a qualified voter of this state and shall be of good moral character. Not more than **[**three**]** **five** members of the board shall be of the same political party. **[**The president of the Missouri Funeral Directors Association in office at the time shall each, at least ninety days prior to the expiration of the term of a board member, other than the public member, or as soon as feasible after a vacancy on the board otherwise occurs, submit to the director of the division of professional registration a list of five persons qualified and willing to fill the vacancy in question, with the request and recommendation that the governor appoint one of the five persons so listed, and with the list so submitted, the president of the Missouri Funeral Directors Association shall each include in his or her letter of transmittal a description of the method by which the names were chosen by that association.**]** **The non-public members shall be appointed by the Governor, with the advice and consent of the senate, one from each of the state's congressional districts be of good moral character and submit an audited financial statement of their funeral establishment by an independent auditor**

for the previous five years. This audited financial statement must include all at-need and preneed business.

2. Each member of the board shall serve for a term of five years. Any vacancy on the board shall be filled by the governor and the person appointed to fill the vacancy shall possess the qualifications required by this chapter and shall serve until the end of the unexpired term of his or her predecessor**, if any**.

3. The public member shall be at the time of his or her appointment a person who is not and never was a member of any profession licensed or regulated pursuant to this chapter or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by this chapter, or an activity or organization directly related to any profession licensed or regulated pursuant to this chapter. All members, including public members, shall be chosen from lists submitted by the director of the division of professional registration. The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.

333.221. COMPENSATION OF BOARD MEMBERS — BOARD MAY EMPLOY PERSONNEL. — 1. Each member of the board shall receive as compensation an amount set by the board not to exceed fifty dollars for each day devoted to the affairs of the board, and shall be entitled to reimbursement of his expenses necessarily incurred in the discharge of his official duties.

2. The board may employ such board personnel, as defined in subdivision (4) of subsection **[**10**] 11** of section 324.001, RSMo, **including legal counsel,** as is necessary for the administration of this chapter.

333.251. APPLICATION OF LAW. — Nothing in this chapter shall apply to nor in any manner interfere with the duties of any officer of local or state institutions, nor shall this chapter apply to any person engaged simply in the furnishing of burial receptacles for the dead**[**, but shall only apply to persons engaged in the business of embalming or funeral directing**] at the time of need**.

333.310. APPLICABILITY OF LAW. — The provisions of sections 333.310 to 333.340 shall not apply to a cemetery operator who sells contracts or arrangements for services for which payments received by, or on behalf of, the purchaser are required to be placed in an endowed care fund or for which a deposit into a segregated account is required under chapter 214, RSMo; provided that a cemetery operator shall comply with sections 333.310 to 333.340 if the contract or arrangement sold by the operator includes services that may only be provided by a licensed funeral director or embalmer.

333.315. PROVIDER LICENSE REQUIRED — APPLICATION PROCEDURE — RENEWAL OF LICENSURE — EXPIRATION OF LICENSE. — 1. No person shall be designated as a provider, or agree to perform the obligations of a provider under a preneed contract unless, at the time of such agreement or designation, such person is licensed as a preneed provider by the board. Nothing in this section shall exempt any person from meeting the licensure requirements for a funeral establishment as provided in this chapter.

2. An applicant for a preneed provider license shall:

(1) File an application on a form established by the board and pay an application fee in an amount established by the board by rule;

(2) Be authorized and registered with the Missouri secretary of state to conduct business in Missouri;

(3) Identify the name and address of a custodian of records responsible for maintaining the books and records of the provider relating to preneed contracts;

(4) Identify the name and address of each seller authorized by the provider to sell preneed contracts in which the provider is designated or obligated as the provider;

(5) File with the state board, a written consent authorizing the state board to inspect or order an investigation, examination, or audit of the provider's books and records which contain information concerning preneed contracts sold for or on behalf of a seller or in which the applicant is named as a provider; and

(6) If the applicant is a corporation, each officer, director, manager, or controlling shareholder shall be eligible for licensure if they were applying for licensure as an individual.

3. Each preneed provider shall apply to renew his or her license on or before October thirty-first of each year or a date established by the division of professional registration pursuant to section 324.001, RSMo. A license which has not been renewed prior to the renewal date shall expire. Applicants for renewal shall:

(1) File an application for renewal on a form established by the board by rule;

(2) Pay a renewal fee in an amount established by the board by rule, however no renewal fee shall be required for any funeral establishment whose Missouri license is current and active;

(3) Be authorized and registered with the Missouri secretary of state to conduct business in Missouri;

(4) File an annual report with the state board which shall contain:

(a) The name and address of a custodian of records responsible for maintaining the books and records of the provider relating to preneed contracts;

(b) The business name or names used by the provider and all addresses from which it engages in the practice of its business;

(c) The name and address of each seller with whom it has entered into a written agreement since last filing an annual report with the board authorizing the seller to designate or obligate the licensee as the provider in a preneed contract; and

(d) Any information required by any other applicable statute or regulation enacted pursuant to state or federal law.

4. A license which has not been renewed as provided by this section shall expire. A licensee who fails to apply for renewal may apply for reinstatement within two years of the renewal date by satisfying the requirements of subsection 3 of this section and paying a delinquent fee as established by the board by rule.

333.320. SELLER LICENSE REQUIRED — APPLICATION PROCEDURE — RENEWAL OF LICENSURE — EXPIRATION OF LICENSE. — 1. No person shall sell, perform, or agree to perform the seller's obligations under, or be designated as the seller of, any preneed contract unless, at the time of the sale, performance, agreement, or designation, such person is licensed by the board as a seller and authorized and registered with the Missouri secretary of state to conduct business in Missouri.

2. An applicant for a preneed seller license shall:

(1) File an application on a form established by the board and pay an application fee in an amount established by the board by rule;

(2) Be an individual resident of Missouri who is eighteen years of age or older, or a business entity registered with the Missouri secretary of state to transact business in Missouri;

(3) If the applicant is a corporation, each officer, director, manager, or controlling shareholder, shall be eligible for licensure if they were applying for licensure as an individual;

(4) Meet all requirements for licensure;

(5) Identify the name and address of a custodian of records responsible for maintaining the books and records of the seller relating to preneed contracts;

(6) Identify the name and address of each licensed provider that has authorized the seller to designate such person as a provider under a preneed contract;

(7) Have established, as grantor, a preneed trust or an agreement to utilize a preneed trust with terms consistent with sections 436.400 to 436.520, RSMo. A trust shall not be required if the applicant certifies to the board that the seller will only sell insurance funded or joint account funded preneed contracts;

(8) Identify the name and address of a trustee or, if applicable, the financial institution where any preneed trust or joint accounts will be maintained; and

(9) File with the board, a written consent authorizing the state board to inspect or order an investigation, examination, or audit of the seller's books and records which contain information concerning preneed contracts sold by or on behalf of the seller.

3. Each seller shall apply to renew his or her license on or before October thirty-first of each year or a date established by the division of professional registration pursuant to section 324.001, RSMo. A license which has not been renewed prior to the renewal date shall expire. Applicants for renewal shall:

(1) File an application for renewal on a form established by the board by rule;

(2) Pay a renewal fee in an amount established by the board by rule; and

(3) File annually with the board, a signed and notarized annual report as required by section 436.460, RSMo.

4. Any license which has not been renewed as provided by this section shall expire. A licensee who fails to apply for renewal within two years of the renewal date may apply for reinstatement by satisfying the requirements of subsection 3 of this section and paying a delinquent fee as established by the board by rule.

333.325. REGISTRATION AS A PRENEED AGENT REQUIRED — APPLICATION PROCEDURE — RENEWAL OF REGISTRATION — EXPIRATION OF REGISTRATION. — 1. No person shall sell, negotiate, or solicit the sale of preneed contracts for, or on behalf of, a seller unless registered with the board as a preneed agent except for individuals who are licensed as funeral directors under this chapter. The board shall maintain a registry of all preneed agents registered with the board. The registry shall be deemed an open record and made available on the board's web site.

2. An applicant for a preneed agent registration shall be an individual who shall:

(1) File an application on a form established by the board and pay an application fee in an amount established by the board by rule which shall not exceed fifty percent of the application fee established by the board under this chapter for a funeral director license;

(2) Be eighteen years of age or older;

(3) Be otherwise eligible for registration under section 333.330;

(4) Have successfully passed the Missouri law examination as designated by the board;

(5) Provide the name and address of each seller for whom the applicant is authorized to sell, negotiate, or solicit the sale of preneed contracts for, or on behalf of.

3. Each preneed agent shall apply to renew his or her registration on or before October thirty-first of each year or a date established by the division of professional registration pursuant to section 324.001, RSMo. A registration which has not been renewed prior to the renewal date shall expire. Applicants for renewal shall:

(1) File an application for renewal on a form established by the board by rule;

(2) Pay a renewal fee in an amount established by the board by rule which shall not exceed fifty percent of the application fee established by the board under this chapter for a funeral director license renewal; and

(3) Provide the name and address of each seller for whom the preneed agent is authorized to sell, negotiate, or solicit the sale of preneed contracts for or on behalf of.

4. Any funeral director acting as a preneed agent shall be required to report the name and address of each preneed seller for whom the funeral director is authorized to sell, negotiate, or solicit the sale of preneed contracts as part of their biennial renewal form. Each funeral director preneed agent shall be included on the board's registry.

5. Any registration which has not been renewed as provided by this section shall expire and the registrant shall be immediately removed from the preneed agent registry by the board. A registrant who fails to apply for renewal may apply for reinstatement within two years of the renewal date by satisfying the requirements of subsection 3 of this section and paying a delinquent fee as established by the board.

333.330. REFUSAL OF REGISTRATION, WHEN — COMPLAINT PROCEDURE — INJUNCTIVE RELIEF AUTHORIZED, WHEN — REAPPLICATION AFTER REVOCATION, WHEN. — 1. The board may refuse to issue any certificate of registration or authority, permit, or license required under this chapter for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit, or license required by chapter 333, RSMo, or any person who has failed to renew or has surrendered his or her certificate of registration or authority, permit, or license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by this chapter;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions, or duties of any profession licensed or regulated under this chapter, for any offense involving a controlled substance, or for any offense an essential element of which is fraud, dishonesty, or an act of violence;

(3) Use of fraud, deception, misrepresentation, or bribery in securing any certificate of registration or authority, permit, or license issued under this chapter or in obtaining permission to take any examination given or required under this chapter;

(4) Obtaining or attempting to obtain any fee, charge, tuition, or other compensation by fraud, deception, or misrepresentation;

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation, or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant thereto;

(7) Impersonation of any person holding a certificate of registration or authority, permit, or license or allowing any person to use his or her certificate of registration or authority, permit, license, or diploma from any school;

(8) Disciplinary action against the holder of a license or other right to practice any profession regulated by this chapter granted by another state, territory, federal agency, or country upon grounds for which revocation or suspension is authorized in this state;

(9) A person is finally adjudged mentally incompetent by a court of competent jurisdiction;

(10) Misappropriation or theft of preneed funds;

(11) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by this chapter regulating preneed who is not licensed or registered and currently eligible to practice thereunder;

(12) Issuance of a certificate of registration or authority, permit, or license based upon a material mistake of fact;

(13) Failure to display a valid certificate or license if so required by this chapter regulating preneed or any rule established thereunder;

(14) Violation of any professional trust or confidence;

(15) Making or filing any report required by sections 436.400 to 436.520, RSMo, regulating preneed which the licensee knows to be false or knowingly failing to make or file a report required by such sections;

(16) Use of any advertisement or solicitation which is false, misleading, or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed; or

(17) Willfully and through undue influence selling a funeral;

(18) Willfully and through undue influence selling a preneed contract;

(19) Violation of any of the provisions of chapter 193, 194, 407, or 436, RSMo;

(20) Presigning a death certificate or signing a death certificate on a body not yet embalmed by, or under the personal supervision of, the licensee;

(21) Failure to execute and sign the death certificate on a body embalmed by, or under the personal supervision of, a licensee;

(22) Failure to refuse to properly guard against contagious, infectious, or communicable diseases or the spread thereof;

(23) Refusing to surrender a dead human body upon request by the next of kin, legal representative, or other person entitled to the custody and control of the body.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the board may, singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke any certificate of registration or authority, permit, or license issued under this chapter.

4. In addition to all other powers and authority granted by the board, the board may seek an injunction, restraining order or other order from the Circuit Court of Cole County to enjoin any seller from engaging in preneed sales upon a showing by the board that the seller has failed to make deposits into the preneed trust, has obtained funds out of the trust to which the seller is not entitled or has exercised influence or control over the trustee or has engaged in any other act that has resulted in a shortage in any preneed trust or joint account which exceeds twenty percent of the total amount required to be held or deposited into the trust or joint account under the provisions of sections 436.400 to 436.520, RSMo. In addition to the power to enjoin for this conduct, the Circuit Court of Cole County shall also be entitled to suspend or revoke the preneed seller's license and any other license issued pursuant to chapter 333 RSMo, held by the seller.

5. An individual whose certificate of registration or authority, permit, or license has been revoked shall wait three years from the date of revocation to apply for any certificate of registration or authority, permit, or license under this chapter, either as an individual or as a manager, director, shareholder, or partner of any business entity. Any certificate of registration or authority, permit, or license shall be issued at the discretion of the board after compliance with all the requirements of this chapter relative to the licensing or registration of the applicant for the first time.

6. Use of the procedures set out in this section shall not preclude the application of the provisions of subsection 2 of section 333.335.

333.335. INJUNCTION RELIEF AUTHORIZED, WHEN. — 1. Upon application by the board and the necessary burden having been met, a court of competent jurisdiction may grant an injunction, restraining order, or other order as may be appropriate to enjoin a person from:

(1) Offering to engage or engaging in the performance of any acts or practices for which a registration or authority, permit, or license is required by sections 333.310 to 333.340, upon a showing that such acts or practices were performed or offered to be performed without the required registration or authority, permit, or license; or

(2) Engaging in any practice or business authorized by a registration or authority, permit, or license issued under this chapter, that is in violation of this chapter or sections 436.400 to 436.520, RSMo, or upon a showing that the holder presents a substantial probability of serious danger to the health, safety, or welfare of any resident of this state or client or customer of the licensee or registrant; or

(3) Engaging in any practice or business that presents a substantial probability of serious danger to the solvency of any seller.

2. Any such action shall be commenced in the county in which such conduct occurred or in the county in which the defendant resides or, in the case of a firm or corporation, where the firm or corporation maintains its principal office or in Cole County.

3. Any action brought under this section shall be in addition to and not in lieu of any authority provided by this chapter, and may be brought concurrently with other actions to enforce this chapter or sections 436.400 to 436.520, RSMo.

333.340. RULEMAKING AUTHORITY — FEES. — 1. The board shall adopt and enforce rules for the transaction of its business and for standards of service and practice to be followed in the professions of embalming and funeral directing deemed by it necessary for the public good and consistent with the laws of this state. The board may also prescribe a standard of proficiency as to the qualifications and fitness of those engaging in the practice of embalming or funeral directing.

2. The board shall set the amount of the fees which this chapter authorizes and requires by rules promulgated under section 536.021, RSMo. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering this chapter.

3. The board shall promulgate and enforce rules for the transaction of its business and for standards of service and practice to be followed for the licensing and registration of providers, sellers, and preneed agents deemed necessary for the public good and consistent with the laws of this state.

4. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

436.400. CITATION OF LAW — APPLICABILITY. — The provisions of sections 436.400 to 436.520 shall be referenced as the "Missouri Preneed Funeral Contract Act" and shall apply only to preneed contracts entered into, and accounts created on or after, August 28, 2009, unless otherwise specified.

436.405. DEFINITIONS. — 1. As used in sections 436.400 to 436.520, unless the context otherwise requires, the following terms shall mean:

(1) "Beneficiary", the individual who is to be the subject of the disposition or who will receive funeral services, facilities, or merchandise described in a preneed contract;

(2) "Guaranteed contract", a preneed contract in which the seller promises, assures, or guarantees to the purchaser that all or any portion of the costs for the disposition, services, facilities, or merchandise identified in a preneed contract will be no greater than the amount designated in the contract upon the preneed beneficiary's death or that such costs will be otherwise limited or restricted;

(3) "Insurance-funded preneed contract", a preneed contract which is designated to be funded by payments or proceeds from an insurance policy or single premium annuity contract;

(4) "Joint account-funded preneed contract", a preneed contract which designates that payments for the preneed contract made by or on behalf of the purchaser will be deposited and maintained in a joint account in the names of the purchaser and seller, as provided in this chapter;

(5) "Market value", a fair market value:

(a) As to cash, the amount thereof;

(b) As to a security as of any date, the price for the security as of that date obtained from a generally recognized source, or to the extent no generally recognized source exists, the price to sell the security in an orderly transaction between unrelated market participants at the measurement date; and

(c) As to any other asset, the price to sell the asset in an orderly transaction between unrelated market participants at the measurement date consistent with statements of financial accounting standards;

(6) "Nonguaranteed contract", a preneed contract in which the seller does not promise, assure, or guarantee that all or any portion of the costs for the disposition, facilities, service, or merchandise identified in a preneed contract will be limited to the amount designated in the contract upon the preneed beneficiary's death or that such costs will be otherwise limited or restricted;

(7) "Preneed contract", any contract or other arrangement which provides for the final disposition in Missouri of a dead human body, funeral or burial services or facilities, or funeral merchandise, where such disposition, services, facilities, or merchandise are not immediately required. Such contracts include, but are not limited to, agreements providing for a membership fee or any other fee for the purpose of furnishing final disposition, funeral or burial services or facilities, or funeral merchandise at a discount or at a future date;

(8) "Preneed trust", a trust to receive deposits of, administer, and disburse payments received under preneed contracts, together with income thereon;

(9) "Purchaser", the person who is obligated to pay under a preneed contract;

(10) "Trustee", the trustee of a preneed trust, including successor trustees;

(11) "Trust-funded preneed contract", a preneed contract which provides that payments for the preneed contract shall be deposited and maintained in trust.

2. All terms defined in chapter 333, RSMo, shall be deemed to have the same meaning when used in sections 436.400 to 436.520.

436.410. APPLICABILITY EXCEPTIONS. — The provisions of sections 436.400 to 436.520 shall not apply to any contract or other arrangement sold by a cemetery operator for which payments received by or on behalf of the purchaser are required to be placed in an endowed care fund or for which a deposit into a segregated account is required under chapter 214, RSMo; provided that a cemetery operator shall comply with sections 436.400

to 436.520 if the contract or arrangement sold by the operator includes services that may only be provided by a licensed funeral director or embalmer.

436.412. VIOLATIONS, DISCIPLINARY ACTIONS AUTHORIZED — GOVERNING LAW FOR CONTRACTS. — Each preneed contract made before August 28, 2009, and all payments and disbursements under such contract shall continue to be governed by this chapter as the chapter existed at the time the contract was made. Any licensee or registrant of the board may be disciplined for violation of any provision of sections 436.005 to 436.071 within the applicable statute of limitations. In addition, the provisions of section 436.031, RSMo, as it existed on August 27, 2009, shall continue to govern disbursements to the seller from the trust and payment of trust expenses. Joint accounts in existence as of August 27, 2009, shall continue to be governed by the provisions of section 436.053, as that section existed on August 27, 2009.

436.415. PROVISION OF CERTAIN SERVICES REQUIRED BY PROVIDER — SELLER'S DUTIES. — 1. Except as otherwise provided in sections 436.400 to 436.520, the provider designated in a preneed contract shall be obligated to provide final disposition, funeral or burial services and facilities, and funeral merchandise as described in the preneed contract.

2. The seller designated in a preneed contract shall be obligated to collect and properly deposit and disburse all payments made by, or on behalf of, a purchaser of a preneed contract and ensure that is statutorily and contractual duties are met, in compliance with sections 436.400 to 436.520, RSMo.

436.420. WRITTEN CONTRACT REQUIRED, CONTENTS — NOTIFICATION TO BOARD OF PROVIDER AUTHORIZATION — SELLER TO PROVIDE COPY OF CONTRACT TO BOARD UPON REQUEST. — 1. No person shall be designated as a provider in a preneed contract unless the provider has a written contractual agreement with the seller. Any seller who designates a person as a provider in a preneed contract without a contractual relationship with such person is in violation of the provisions of sections 436.400 to 436.520. No contract is required if the seller and provider are the same legal entity.

2. The written agreement required by this section shall include:

(1) Written consent from the provider authorizing the seller to designate or obligate the provider under a preneed contract;

(2) Procedures for tracking preneed contract funds or payments received by the provider and for remitting such funds or payments to the seller, including, the time period authorized by the seller for the remittance of funds and payments; and

(3) The signatures of the seller and the provider or their authorized representatives and the date such signature was obtained.

3. A provider shall notify the board within fifteen days of authorizing or otherwise agreeing to allow a seller to designate himself or herself as the provider under any preneed contract.

4. Upon request of the board, a seller, provider, or preneed agent shall provide a copy of any preneed contract or any contract or agreement with a seller or provider to the board.

436.425. CONTRACT FORM, REQUIREMENTS — VOIDABILITY OF CONTRACT — WAIVER OF CONTRACT BENEFITS FOR PUBLIC ASSISTANCE RECIPIENTS. — 1. All preneed contracts shall be sequentially numbered and in writing and in a font type and size that are easily read, and shall clearly and conspicuously:

(1) Include the name, address and phone number of the purchaser, beneficiary, provider and seller;

(2) Identify the name, address, phone and license number of the provider and the seller;

(3) Set out in detail the disposition, funeral and burial services and facilities, and merchandise requested;

(4) Identify whether the contract is trust funded, insurance funded, or joint account funded;

(5) Include notice that the cancellation of the contract shall not cancel any life insurance funding the contract, and that insurance cancellation is required to be made in writing to the insurer;

(6) Include notice that the purchaser will only receive the cash surrender value of any insurance policy funding the contract if cancelled after a designated time, which may be less than the amount paid into the policy;

(7) Include notice that the board provides by rule that the purchaser has the right to transfer the provider designation to another provider;

(8) Prominently identify whether the contract is revocable or irrevocable;

(9) Set forth the terms for cancellation by the purchaser or by the seller;

(10) Identify any preneed trust or joint account into which contract payments shall be deposited, including the name and address of the corresponding trustee or financial institution;

(11) Include the name, address and phone number of any insurance company issuing an insurance policy used to fund the preneed contract;

(12) Include the name and signature of the purchaser, the provider or its authorized representative, the preneed agent responsible for the sale of the contract, and the seller or its authorized representative;

(13) Prominently identify whether the contract is a guaranteed or nonguaranteed contract;

(14) Include any applicable consumer disclosures required by the board by rule; and

(15) Include a disclosure on all guaranteed installment payment contracts informing the purchaser what will take place in the event the beneficiary dies before all installments have been paid, including an explanation of what will be owed by the purchaser for the funeral services in such an event.

(16) Comply with the provisions of sections 436.400 to 436.520 or any rule promulgated thereunder.

2. A preneed contract shall be voidable and unenforceable at the option of the purchaser, or the purchaser's legal representative, if it is determined in a court of competent jurisdiction that the contract is not in compliance with this section or not issued by a seller licensed under chapter 333, RSMo, or if the provider has not consented to serve as provider at the time the contract was executed. Upon exercising the option by written notice to the seller and provider, all payments made under such contract shall be recoverable by the purchaser, or the purchaser's legal representative, from the contract seller, trustee, or other payee thereof.

3. A beneficiary who seeks to become eligible to receive public assistance under chapter 208, RSMo, or any other applicable state or federal law may irrevocably waive their rights to receive any refund or payment of any monies from the funds or insurance used to fund their preneed contract. Such irrevocable waiver may be executed at any time and shall be in writing, signed and dated by the beneficiary and shall be delivered to the seller and any applicable trustee, financial institution or insurance company;

4. All purchasers shall have the right as provided in this chapter to cancel or rescind a revocable preneed contract and transfer any preneed contract with or without cause.

5. A preneed contract, shall not be changed from a trust-funded, insurance-funded, or joint account-funded preneed contract without the written consent of the purchaser.

436.430. TRUST-FUNDED PRENEED CONTRACT REQUIREMENTS. — 1. A trust-funded preneed contract shall comply with sections 436.400 to 436.520 and the specific requirements of this section.

2. A seller must deposit all payments received on a preneed contract into the designated preneed trust within sixty days of receipt of the funds by the seller, the preneed sales agent or designee. A seller may not require the consumer to pay any fees or other charges except as authorized by the provisions of chapter 333, RSMo, and this chapter or other state or federal law.

3. A seller may request the trustee to distribute to the seller an amount up to the first five percent of the total amount of any preneed contract as an origination fee. The seller may make this request at any time after five percent of the total amount of the preneed contract has been deposited into the trust. The trustee shall make this distribution to the seller within 15 days of the receipt of the request.

4. In addition to the origination fee, the trustee may distribute to the seller, an amount up to ten percent of the face value of the contract on a preneed contract at any time after the consumer payment has been deposited into the trust. The seller may make written request for this distribution and the trustee shall make this distribution to the seller within fifteen days of the receipt of the request or as may be provided in any written agreement between the seller and the trustee.

5. The trustee of a preneed trust shall be a state- or federally-chartered financial institution authorized to exercise trust powers in Missouri. The trustee shall accept all deposits made to it for a preneed contract and shall hold, administer, and distribute such deposits, in trust, as trust principal, under sections 436.400 to 436.520.

6. The financial institution referenced herein may neither control, be controlled by, nor be under common control with the seller or preneed agent. The terms "control", "controlled by" and "under common control with" means, the direct or indirect possession of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing ten percent or more of the voting securities. This presumption may be rebutted by a showing to the board that control does not in fact exist.

7. Payments regarding two or more preneed contracts may be deposited into and commingled in the same preneed trust, so long as the trustee maintains adequate records that individually and separately identify the payments, earnings, and distributions for each preneed contract.

8. Within a reasonable time after accepting a trusteeship or receiving trust assets, a trustee shall review the trust assets and make and implement decisions concerning the retention and disposition of assets in order to bring the trust portfolio into compliance with the purposes, terms, distribution requirements, other circumstances of the trust, and all other requirements of sections 436.400 to 436.520.

9. All expenses of establishing and administering a preneed trust, including trustee's fees, legal and accounting fees, investment expenses, and taxes may be paid from income generated from the investment of the trust assets. Principal of the trust shall not be used to pay the costs of administration. If the income of the trust is insufficient to pay the costs of administration, those costs shall be paid as per the written agreements between the seller, provider and the trustee.

10. The seller and provider of a trust funded guaranteed preneed contract shall be entitled to all income, including, but not limited to, interest, dividends, capital gains, and losses generated by the investment of preneed trust property regarding such contract as

stipulated in the contract between the seller and provider. Income of the trust, excluding expenses allowed under subsection 10 of this section, shall accrue through the life of the trust, except in instances when a contract is cancelled. The trustee of the trust may distribute market value of all income, net of losses, to the seller upon, but not before, the final disposition of the beneficiary and provision of the funeral and burial services and facilities, and merchandise to, or for, the benefit of the beneficiary. This subsection shall apply to trusts established on or after August 28, 2009.

11. Providers shall request payment by submitting a certificate of performance to the seller certifying that the provider has rendered services under the contract or as requested. The certificate shall be signed by both the provider and the person authorized to make arrangements on behalf of the beneficiary. If there is no written contract between the seller and provider, the provider shall be entitled to the market value of all trusts assets allocable to the preneed contract. Sellers shall remit payment to the provider within sixty days of receiving the certificate of performance.

12. If a seller fails to make timely payment of an amount due a provider under sections 436.400 to 436.520, the provider shall have the right, in addition to other rights and remedies against such seller, to make demand upon the trustee of the preneed trust for the contract to distribute to the provider from the trust all amounts to which the seller would be entitled to receive for the preneed contract.

13. The trustee of a preneed trust, including trusts established before August 28, 2009, shall maintain adequate books and records of all transactions administered over the life of the trust and pertaining to the trust generally. The trustee shall assist the seller who established the trust or its successor in interest in the preparation of the annual report described in section 436.460. The seller shall furnish to each contract purchaser, within thirty days after receipt of the purchaser's written request, a written statement of all deposits made to such trust regarding such purchaser's contract including the principal and interest paid to date.

14. A preneed trust, including trusts established before August 28, 2009, shall terminate when the trust principal no longer includes any payments made under any preneed contract, and upon such termination the trustee shall distribute all trust property, including principal and undistributed income, to the seller which established the trust.

436.435. COMPLIANCE OF CONTRACTS ENTERED INTO PRIOR TO EFFECTIVE DATE — INVESTMENT OF TRUST PROPERTY AND ASSETS — LOANS AGAINST ASSETS PROHIBITED. — 1. To the extent that any provisions in this chapter which come into effect on August 28, 2009, apply to trusts governed under this chapter which are in existence on August 28, 2009, such trusts shall be in compliance with this chapter no later than July 1, 2010.

2. All property held in a preneed trust, including principal and undistributed income, shall be invested and reinvested by the trustee thereof and shall only be invested and reinvested in investments which have reasonable potential for growth or producing income. Funds in, or belonging to, a preneed trust shall not be invested in any term life insurance product.

3. A trustee shall invest and manage trust assets as a prudent investor would, by considering the purposes, terms, distribution requirements, and other circumstances of the trust. In satisfying this standard, the trustee shall exercise reasonable care, skill, and caution. A trustee who has special skills or expertise, or is named trustee in reliance upon the trustee's representation that the trustee has special skills or expertise, has a duty to use those special skills or expertise when investing and managing trust assets.

4. A trustee shall diversify the investments of the trust unless the trustee reasonably determines that, because of special circumstances, the purpose of the trust is better served without diversification.

5. In investing and managing trust assets, a trustee shall consider the following as are relevant to the trust:

(1) General economic conditions;

(2) The possible effect of inflation or deflation;

(3) The expected tax consequences of investment decisions or strategies;

(4) The role that each investment or course of action plays within the overall trust portfolio;

(5) The expected total return from income and the appreciation of capital;

(6) Needs for liquidity, regularity of income, and preservation or appreciation of capital;

6. No seller, provider, or preneed agent shall procure or accept a loan against any investment or asset of or belonging to a preneed trust. As of August 29, 2009, no preneed seller, provider, or agent shall use any existing preneed contract as collateral or security pledged for a loan or take preneed funds of any existing preneed contract as a loan or for any purpose other than as authorized by this chapter.

436.440. PROVISIONS APPLICABLE TO ALL PRENEED TRUSTS. — 1. The provisions of this section shall apply to all preneed trusts, including trusts established before August 28, 2009.

2. A preneed trustee may delegate to an agent, duties and powers that a prudent trustee of comparable skills would reasonably delegate under the circumstances. The trustee shall exercise reasonable care, skill, and caution in:

(1) Selecting an agent;

(2) Establishing the scope and terms of the agency, consistent with the purposes and terms of the trust; and

(3) Periodically reviewing the agent's actions in order to monitor the agent's performance and compliance with the terms of the agency.

3. In performing a delegated function, an agent owes a duty to the trust to exercise reasonable care to comply with the terms of the agency.

4. By accepting a delegation of powers or duties from the trustee of a preneed trust, an agent submits to the jurisdiction of the courts of this state.

5. Delegation of duties and powers to an agent shall not relieve the trustee of any duty or responsibility imposed on the trustee by sections 436.400 to 436.520 or the trust agreement.

6. For trusts in existence as of August 28, 2009, it shall be permissible for those trusts to continue to utilize the services of an independent financial advisor, if said advisor was in place pursuant to section 436.031, RSMo, as of August 28, 2009.

436.445. TRUSTEE NOT TO MAKE DECISIONS, WHEN. — A trustee of any preneed trust, including trusts established before August 28, 2009, shall not after August 28, 2009, make any decisions to invest any trust fund with:

(1) The spouse of the trustee;

(2) The descendants, siblings, parents, or spouses of a seller or an officer, manager, director or employee of a seller, provider, or preneed agent;

(3) Agents or attorneys of a trustee, seller, or provider; or

(4) A corporation or other person or enterprise in which the trustee, seller, or provider owns a controlling interest or has an interest that might affect the trustee's judgment.

436.450. INSURANCE-FUNDED PRENEED CONTRACT REQUIREMENTS. — 1. An insurance-funded preneed contract shall comply with sections 436.400 to 436.520 and the specific requirements of this section.

2. A seller, provider, or any preneed agent shall not receive or collect from the purchaser of an insurance-funded preneed contract, any amount in excess of what is required to pay the premiums on the insurance policy as assessed or required by the insurer as premium payments for the insurance policy except for any amount required or authorized by this chapter or by rule. A seller shall not receive or collect any administrative or other fee from the purchaser for or in connection with an insurance-funded preneed contract, other than those fees or amounts assessed by the insurer. As of August 29, 2009, no preneed seller, provider, or agent shall use any existing preneed contract as collateral or security pledged for a loan or take preneed funds of any existing preneed contract as a loan for any purpose other than as authorized by this chapter.

3. Payments collected by or on behalf of a seller for an insurance-funded preneed contract shall be promptly remitted to the insurer or the insurer's designee as required by the insurer; provided that payments shall not be retained or held by the seller or preneed agent for more than thirty days from the date of receipt.

4. It is unlawful for a seller, provider, or preneed agent to procure or accept a loan against any insurance contract used to fund a preneed contract.

5. Laws regulating insurance shall not apply to preneed contracts, but shall apply to any insurance or single premium annuity sold with a preneed contract; provided, however, the provisions of this act shall not apply to single premium annuities or insurance polices regulated by chapters 374, 375, and 376, RSMo, used to fund preneed funeral agreements, contracts, or programs.

6. This section shall apply to all preneed contracts including those entered into before August 28, 2009.

7. For any insurance-funded preneed contract sold after August 28, 2009, the following shall apply:

(1) The purchaser or beneficiary shall be the owner of the insurance policy purchased to fund a preneed contract; and

(2) An insurance-funded preneed contract shall be valid and enforceable only if the seller or provider is named as the beneficiary or assignee of the life insurance policy funding the contract.

8. If the proceeds of the life insurance policy exceed the actual cost of the goods and services provided pursuant to the nonguaranteed preneed contract, any overage shall be paid to the estate of the beneficiary, or, if the beneficiary received public assistance, to the state of Missouri.

436.455. JOINT ACCOUNT-FUNDED PRENEED CONTRACT REQUIREMENTS. — 1. A joint account-funded preneed contract shall comply with sections 436.400 to 436.520 and the specific requirements of this section.

2. In lieu of a trust-funded or insurance-funded preneed contract, the seller and the purchaser may agree in writing that all funds paid by the purchaser or beneficiary for the preneed contract shall be deposited with a financial institution chartered and regulated by the federal or state government authorized to do business in Missouri in an account in the joint names and under the joint control of the seller and purchaser, beneficiary or party holding power of attorney over the beneficiary's estate. There shall be a separate joint account established for each preneed contract sold or arranged under this section. Funds shall only be withdrawn or paid from the account upon the signatures of both the seller and the purchaser or under a pay-on-death designation or as required to pay reasonable expenses of administering the account.

3. All consideration paid by the purchaser under a joint account-funded contract shall be deposited into a joint account as authorized by this section within ten days of receipt of payment by the seller.

4. The financial institution shall hold, invest, and reinvest funds deposited under this section in other accounts offered to depositors by the financial institutions as provided in the written agreement of the purchaser and the seller, provided the financial institution shall not invest or reinvest any funds deposited under this section in term life insurance or any investment that does not reasonably have the potential to gain income or increase in value.

5. Income generated by preneed funds deposited under this section shall be used to pay the reasonable expenses of administering the account as charged by the financial institution and the balance of the income shall be distributed or reinvested upon fulfillment of the contract, cancellation or transfer pursuant to the provisions of this chapter.

6. Within fifteen days after a provider and a witness certifies to the financial institution in writing that the provider has furnished the final disposition, funeral, and burial services and facilities, and merchandise as required by the preneed contract, or has provided alternative funeral benefits for the beneficiary under special arrangements made with the purchaser, the financial institution shall distribute the deposited funds to the seller if the certification has been approved by the purchaser. The seller shall pay the provider within ten days of receipt of funds.

7. Any seller, provider, or preneed agent shall not procure or accept a loan against any investment, or asset of, or belonging to a joint account. As of August 28, 2009, it shall be prohibited to use any existing preneed contract as collateral or security pledged for a loan, or take preneed funds of any existing preneed contract as a loan or for any purpose other than as authorized by this chapter.

436.456. CANCELLATION OF CONTRACT, WHEN, PROCEDURE. — At any time before final disposition, or before the funeral or burial services, facilities, or merchandise described in a preneed contract are furnished, the purchaser may cancel the contract, if designated as revocable, without cause. In order to cancel the contract the purchaser shall:

(1) In the case of a joint account-funded preneed contract, deliver written notice of the cancellation to the seller and the financial institution. Within fifteen days of receipt of notice of the cancellation, the financial institution shall distribute all deposited funds to the purchaser. Interest shall be distributed as provided in the agreement with the seller and purchaser;

(2) In the case of an insurance-funded preneed contract, deliver written notice of the cancellation to the seller. Within fifteen days of receipt of notice of the cancellation, the seller shall notify the purchaser that the cancellation of the contract shall not cancel any life insurance funding the contract and that insurance cancellation is required to be made in writing to the insurer;

(3) In the case of a trust-funded preneed contract, deliver written notice of the cancellation to the seller and trustee. Within fifteen days of receipt of notice of the cancellation, the trustee shall distribute one hundred percent of the trust property including any percentage of the total payments received on the trust-funded contract that have been withdrawn from the account under section 436.430.4 but excluding the income, to the purchaser of the contract;

(4) In the case of a guaranteed installment payment contract where the beneficiary dies before all installments have been paid, the purchaser shall pay the seller the amount remaining due under the contract in order to receive the goods and services set out in the contract, otherwise the purchaser or their estate will receive full credit for all payments the purchaser has made towards the cost of the beneficiary's funeral at the provider current prices.

436.457. SELLER'S RIGHT TO CANCEL, WHEN, PROCEDURE. — 1. A seller shall have the right to cancel a trust-funded or joint-account funded preneed contract if the purchaser is in default of any installment payment for over sixty days.

2. Prior to cancelling the contract, the seller shall notify the purchaser and provider in writing that the contract shall be cancelled if payment is not received within thirty days of the postmarked date of the notice. The notice shall include the amount of payments due, the date the payment is due, and the date of cancellation.

3. If the purchaser fails to remit the payments due within thirty days of the postmarked date of the notice, then the seller, at its option, may either cancel the contract or may continue the contract as a nonguaranteed contract where the purchaser will receive full credit for all payments the purchaser has made into the trust towards the cost of the beneficiary's funeral service or merchandise from the provider.

4. Upon cancellation by the seller under this section, eighty-five percent of the contract payments shall be refunded to the purchaser. All remaining funds shall be distributed to the seller.

436.458. ALTERNATIVE PROVIDER PERMITTED, WHEN. — 1. A purchaser may select an alternative provider as the designated provider under the original contract if the purchaser notifies the seller and original provider in writing of the purchaser's intent, stating the name of the alternative provider and the alternative provider consents to the new designation. Purchasers shall not be penalized or assessed any additional fee or cost for such transfer of the provider designation.

2. The seller shall pay the newly designated provider all payments owed to the original provider under the contract. The newly designated provider shall assume all rights, duties, obligations, and liabilities as the original provider under the contract. Interest shall continue to be allocated to the seller as provided under the contract.

3. In the case of a trust funded contract and upon written notice to the seller of the purchaser's intent to select an alternative provider under subsection 1 of this section, the seller shall either continue the trust with the new provider in place of, and to receive all payment owed to, the original provider under the original agreement, or pay to the new trust all of the trust property, including principal and income.

436.460. SELLER REPORT TO BOARD REQUIRED, CONTENTS — FEE — FILING OF REPORTS. — 1. Each seller shall file an annual report with the board which shall contain the following information:

(1) The contract number of each preened contract sold since the filing of the last report with an indication of, and whether it is funded by a trust, insurance or joint account;

(2) The total number and total face value of preneed contracts sold since the filing of the last report;

(3) The contract amount of each preneed contract sold since the filing of the last report, identified by contract;

(4) The name, address, and license number of all preneed agents authorized to sell preneed contracts on behalf of the seller;

(5) The date the report is submitted and the date of the last report;

(6) The list including the name, address, contract number and whether it is funded by a trust, insurance or joint account of all Missouri preneed contracts fulfilled, cancelled or transferred by the seller during the preceding calendar year;

(7) The name and address of each provider with whom it is under contract;

(8) The name and address of the person designated by the seller as custodian of the seller's books and records relating to the sale of preneed contracts;

(9) Written consent authorizing the board to order an investigation, examination and, if necessary, an audit of any joint or trust account established under sections 436.400 to 436.520, designated by depository or account number;

(10) Written consent authorizing the board to order an investigation, examination and if necessary an audit of its books and records relating to the sale of preneed contracts; and

(11) Certification under oath that the report is complete and correct attested to by an officer of the seller. The seller or officer shall be subject to the penalty of making a false affidavit or declaration.

2. A seller that sells or has sold trust-funded preneed contracts shall also include in the annual report required by section 1 of this section:

(1) The name and address of the financial institution in which it maintains a preneed trust account and the account numbers of such trust accounts;

(2) The trust fund balance as reported in the previous year's report;

(3) The current face value of the trust fund;

(4) Principal contributions received by the trustee since the previous report;

(5) Total trust earnings and total distributions to the seller since the previous report;

(6) Authorization of the board to request from the trustee a copy of any trust statement, as part of an investigation, examination or audit of the preneed seller;

(7) Total expenses, excluding distributions to the seller, since the previous report; and

(8) Certification under oath that the information required by subdivisions (1) to (7) of this subsection is complete and correct and attested to by a corporate officer of the trustee. The trustee shall be subject to the penalty of making a false affidavit or declaration.

3. A seller that sells or who has sold joint account-funded preneed contracts shall also include in the annual report required by subsection 1 of this section:

(1) The name and address of the financial institution in Missouri in which it maintains the joint account and the account numbers for each joint account;

(2) The amount on deposit in each joint account;

(3) The joint account balance as reported in the previous year's report;

(4) Principal contributions placed into each joint account since the filing of the previous report;

(5) Total earnings since the previous report;

(6) Total distributions to the seller from each joint account since the previous report;

(7) Total expenses deducted from the joint account, excluding distributions to the seller, since the previous report; and

(8) Certification under oath that the information required by subdivisions (1) to (7) of this subsection is complete and correct and attested to by an authorized representative of the financial institution. The affiant shall be subject to the penalty of making a false affidavit or declaration.

4. A seller that sells or who has sold any insurance-funded preneed contracts shall also include in the annual report required by subsection 1 of this section:

(1) The name and address of each insurance company issuing insurance to fund a preneed contract sold by the seller during the preceding year;

(2) The status and total face value of each policy;

(3) The amount of funds the seller directly received on each contract and the date the amount was forwarded to any insurance company; and

(4) Certification under oath that the information required by subsections 1 to 3 of this section is complete and correct attested to by an authorized representative of the insurer. The affiant shall be subject to the penalty of making a false affidavit or declaration.

5. Each seller shall remit an annual reporting fee in an amount established by the board by rule for each preneed contract sold in the year since the date the seller filed its

last annual report with the board. This reporting fee shall be paid annually and may be collected from the purchaser of the preneed contract as an additional charge or remitted to the board from the funds of the seller. The reporting fee shall be in addition to any other fees authorized under sections 436.400 to 436.520.

6. All reports required by this section shall be filed by the thirty-first day of October of each year or by the date established by the board by rule. Annual reports filed after the date provided herein shall be subject to a late fee in an amount established by rule of the board.

7. If a seller fails to file the annual report on or before its due date, his or her preneed seller license shall automatically be suspended until such time as the annual report is filed and all applicable fees have been paid.

8. This section shall apply to contracts entered into before August 28, 2009.

436.465. RECORD-KEEPING REQUIREMENTS OF SELLER. — A seller shall maintain:

(1) Adequate records of all preneed contracts and related agreements with providers, trustees of a preneed trust, and financial institutions holding a joint account established under sections 436.400 to 436.520;

(2) Records of preneed contracts, including financial institution statements and death certificates, shall be maintained by the seller for the duration of the contract and for no less than five years after the performance or cancellation of the contract.

436.470. COMPLAINT PROCEDURE — VIOLATION, ATTORNEY GENERAL MAY FILE COURT ACTION. — 1. Any person may file a complaint with the board to notify the board of an alleged violation of this chapter. The board shall investigate each such complaint.

2. The board shall have authority to conduct inspections and investigations of providers, sellers, and preneed agents and conduct financial examinations of the books and records of providers, sellers, and preneed agents and any trust or joint account to determine compliance with sections 436.400 to 436.520, or to determine whether grounds exist for disciplining a person licensed or registered under sections 333.310 to 333.340, RSMo, at the discretion of the board and with or without cause. The board shall conduct a financial examination of the books and records of each seller as authorized by this section at least once every five years, subject to available funding.

3. Upon determining that an inspection, investigation, examination, or audit shall be conducted, the board shall issue a notice authorizing an employee or other person appointed by the board to perform such inspection, investigation, examination, or audit. The notice shall instruct the person appointed by the board as to the scope of the inspection, investigation, examination or audit.

4. The board shall not appoint or authorize any person to conduct an inspection, investigation, examination, or audit under this section if the individual has a conflict of interest or is affiliated with the management of, or owns a pecuniary interest in, any person subject to inspection, investigation, examination, or audit under chapter 333, RSMo, or sections 436.400 to 436.520.

5. The board may request that the director of the division of professional registration, the director of the department of insurance, financial institutions and professional registration, or the office of the attorney general designate one or more investigators or financial examiners to assist in any investigation, examination, or audit, and such assistance shall not be unreasonably withheld.

6. The person conducting the inspection, investigation, or audit may enter the office, premises, establishment, or place of business of any seller or licensed provider of preneed contracts, or any office, premises, establishment, or place where the practice of selling or providing preneed funerals is conducted, or where such practice is advertised as being

conducted for the purpose of conducting the inspection, investigation, examination, or audit.

7. Upon request by the board, a licensee or registrant shall make the books and records of the licensee or registrant available to the board for inspection and copying at any reasonable time, including, any insurance, trust, joint account, or financial institution records deemed necessary by the board to determine compliance with sections 436.400 to 436.520.

8. The board shall have the power to issue subpoenas to compel the production of records and papers by any licensee, trustee or registrant of the board. Subpoenas issued under this section shall be served in the same manner as subpoenas in a criminal case.

9. All sellers, providers, preneed agents, and trustees shall cooperate with the board or its designee, the division of finance, the department of insurance, financial institutions and professional registration, and the office of the attorney general in any inspection, investigation, examination, or audit brought under this section.

10. This section shall not be construed to limit the board's authority to file a complaint with the administrative hearing commission charging a licensee or registrant with any actionable conduct or violation, regardless of whether such complaint exceeds the scope of acts charged in a preliminary public complaint filed with the board and whether any public complaint has been filed with the board.

11. The board, the division of finance, the department of insurance, financial institutions and professional registration, and the office of the attorney general may share information relating to any preneed inspection, investigation, examination, or audit.

12. If an inspection, investigation, examination, or audit reveals a violation of sections 436.400 to 436.520, the office of the attorney general may initiate a judicial proceeding to:

(1) Declare rights;

(2) Approve a nonjudicial settlement;

(3) Interpret or construe the terms of the trust;

(4) Determine the validity of a trust or of any of its terms;

(5) Compel a trustee to report or account;

(6) Enjoin a seller, provider, or preneed agent from performing a particular act;

(7) Enjoin a trustee from performing a particular act or grant to a trustee any necessary or desirable power;

(8) Review the actions of a trustee, including the exercise of a discretionary power;

(9) Appoint or remove a trustee;

(10) Determine trustee liability and grant any available remedy for a breach of trust;

(11) Approve employment and compensation of preneed agents;

(12) Determine the propriety of investments;

(13) Determine the timing and quantity of distributions and dispositions of assets; or

(14) Utilize any other power or authority vested in the attorney general by law.

436.480. DEATH OR INCAPACITY OF PURCHASER, TRANSFER OF RIGHTS AND REMEDIES, TO WHOM. — Upon the death or legal incapacity of a purchaser, all rights and remedies granted to the purchaser under sections 436.400 to 436.520 shall be enforceable by and accrue to the benefit of the purchaser's legal representative or his or her estate, and all payments otherwise payable to the purchaser shall be paid to that person.

436.485. VIOLATIONS, PENALTIES. — 1. Any person, including the officers, directors, partners, agents, or employees of such person, who shall knowingly and willfully violate or assist or enable any person to violate any provision of sections 436.400 to 436.520 by incompetence, misconduct, gross negligence, fraud, misrepresentation, or dishonesty is guilty of a class C felony. Each violation of any provision of sections 436.400 to 436.520 constitutes a separate offense and may be prosecuted individually. The attorney general

shall have concurrent jurisdiction with any local prosecutor to prosecute under this section.

2. Any violation of the provisions of sections 436.400 to 436.520 shall constitute a violation of the provisions of section 407.020, RSMo. In any proceeding brought by the attorney general for a violation of the provisions of sections 436.400 to 436.520, the court may order all relief and penalties authorized under chapter 407, RSMo, and, in addition to imposing the penalties provided for in sections 436.400 to 436.520, order the revocation or suspension of the license or registration of a defendant seller, provider, or preneed agent.

436.490. SALE OF BUSINESS ASSETS OF PROVIDER — REPORT TO BOARD REQUIRED, CONTENTS. — 1. A provider that intends to sell or otherwise dispose of all or a majority of its business assets, or its stock if a corporation, shall notify the board at least sixty days prior to selling or otherwise disposing of its business assets or stock, or ceasing to do business as a provider, and shall file a notification report on a form established by the board.

2. The report required by this section shall include:

(1) The name, phone number, and address of the purchasers of any outstanding preneed contract for which the licensee is the designated provider;

(2) The name and license numbers of all sellers authorized to designate the licensee as a provider in a preneed contract;

(3) The name, address, and license number of the provider assuming or agreeing to assume the licensee's obligations as a provider under a preneed contract, if any;

(4) The name, address, and phone number of a custodian who will maintain the books and records of the provider containing information about preneed contracts in which the licensee is or was formerly designated as provider;

(5) A final annual report containing the information required by section 436.460;

(6) The date the provider intends to sell or otherwise dispose of its business assets or stock, or cease doing business; and

(7) Any other information required by any other applicable statute or regulation enacted pursuant to state or federal law.

3. Within three days after the provider sells or disposes of its assets or stock or ceases doing business, the former provider shall notify each seller in writing that the former provider has sold or disposed of its assets or stock or has ceased doing business.

436.500. SALE OF BUSINESS ASSETS BY SELLER, REPORT TO BOARD REQUIRED, CONTENTS. — 1. A seller that intends to sell or otherwise dispose of all or a majority of its business assets or its stock shall notify the board at least sixty days prior to selling or otherwise disposing of its assets or stock, or ceasing to do business as a seller, and shall file a notification report on a form established by the board.

2. The report required by this section shall include:

(1) A notarized and signed statement from the person assuming or agreeing to assume the obligations of the seller indicating that the assuming seller has been provided with a copy of the seller's final annual report and has consented to assuming the outstanding obligations of the seller;

(2) In lieu of the notarized statement required by subdivision (1) of this subsection, the seller may file a plan detailing how the assets of the seller will be set aside and used to service all outstanding preneed contracts sold by the seller; and

(3) Any other information required by any other applicable statute or regulation enacted pursuant to state or federal law.

3. Within thirty days after assuming the obligations of a seller under this section, the assuming seller shall:

(1) Notify each provider in writing that the former seller has sold or disposed of its assets or stock or has ceased doing business; and

(2) Provide written notification to the purchasers of each preneed contract assumed by the seller indicating that the former seller has transferred ownership or has ceased doing business.

4. Nothing in this section shall be construed to require the board to audit, inspect, investigate, examine, or edit the books and records of a seller subject to the provisions of this section nor shall this section be construed to amend, rescind, or supersede any duty imposed on, or due diligence required of, an entity assuming the obligations of the seller.

5. The office of the attorney general shall have the authority to initiate legal action to compel or otherwise ensure compliance with this section by a former provider licensee.

436.505. CREDIT LIFE INSURANCE MAY BE OFFERED TO PURCHASER. — A preneed contract may offer the purchaser the option to acquire and maintain credit life insurance on the life of the purchaser. Such insurance shall provide for the payment of death benefits to the seller in an amount equal to the total of all contract payments unpaid as of the date of such purchaser's death, and shall be used solely to make those unpaid payments. Any such credit life insurance shall be provided by a duly authorized insurance company and the preneed contract shall clearly identify the name of the insurer and the amount of payment allocated to the premium payment for the credit life. No seller or provider may provide any form of self insured credit life.

436.510. SELLER'S FAILURE TO MAKE TIMELY PAYMENT, EFFECT OF — RIGHTS OF PURCHASER. — If a seller shall fail to make timely payment of an amount due a purchaser or a provider under the provisions of sections 436.400 to 436.520, the purchaser or provider, as appropriate, shall have the right, in addition to other rights and remedies against such seller, to make demand upon the trustee of the preneed trust for the contract to distribute to the purchaser or provider from the trust, as damages, an amount equal to all deposits made into the trust for the contract.

436.520. RULEMAKING AUTHORITY. — 1. The board shall promulgate and enforce rules for administration and enforcement of sections 436.400 to 436.520 including the establishment of the amount of any fees authorized thereunder for the transaction of its business and for standards of service and practice to be followed for the licensing and registration of providers, sellers, and preneed agents deemed necessary for the public good and consistent with the laws of this state. Such fees shall be set at a level to produce revenue which does not substantially exceed the cost and expense of administering this chapter.

2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly under chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

SECTION 1. BOARD TO MAINTAIN CERTAIN PERSONAL INFORMATION ABOUT PURCHASER — CONFIDENTIALITY OF INFORMATION. — The board shall maintain as a closed and confidential record, not subject to discovery unless the person provides written consent for disclosure, all personal information about any individual preneed purchaser or beneficiary, including but not limited to name, address, Social Security number,

financial institution account numbers, and any health information disclosed in the preneed contract or any document prepared in conjunction with the preneed contract; provided, however, that the board may disclose such confidential information without the consent of the person involved in the course of voluntary interstate exchange of information; or in the course of any litigation concerning that person or the provider, seller, or sales agent involved with the preneed contract; or pursuant to a lawful request or to other administrative or law enforcement agencies acting within the scope of their statutory authority. In any such litigation, the board and its attorneys shall take reasonable precautions to ensure the protection of such information from disclosure to the public.

[333.121. DENIAL, SUSPENSION, OR REVOCATION OF LICENSE, GROUNDS FOR. — 1. The board may refuse to issue any certificate of registration or authority, permit or license required pursuant to this chapter for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered his certificate of registration or authority, permit or license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by this chapter;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any certificate of registration or authority, permit or license issued pursuant to this chapter or in obtaining permission to take any examination given or required pursuant to this chapter;

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant to this chapter;

(7) Impersonation of any person holding a certificate of registration or authority, permit or license or allowing any person to use his or her certificate of registration or authority, permit, license or diploma from any school;

(8) Disciplinary action against the holder of a license or other right to practice any profession regulated by this chapter granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(9) A person is finally adjudged insane or incompetent by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by this chapter who is not registered and currently eligible to practice under this chapter;

(11) Issuance of a certificate of registration or authority, permit or license based upon a material mistake of fact;

(12) Failure to display a valid certificate or license if so required by this chapter or any rule promulgated hereunder;

(13) Violation of any professional trust or confidence;

(14) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(15) Violation of any of the provisions of chapter 193, RSMo, chapter 194, RSMo, or chapter 436, RSMo;

(16) Presigning a death certificate or signing a death certificate on a body not embalmed by, or under the personal supervision of, the licensee;

(17) Obtaining possession of or embalming a dead human body without express authority to do so from the person entitled to the custody or control of the body;

(18) Failure to execute and sign the death certificate on a body embalmed by, or under the personal supervision of, a licensee;

(19) Failure or refusal to properly guard against contagious, infectious or communicable diseases or the spread thereof;

(20) Willfully and through undue influence selling a funeral;

(21) Refusing to surrender a dead human body upon request by the next of kin, legal representative or other person entitled to the custody and control of the body.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2, for disciplinary action are met, the board may, singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke the license, certificate, or permit.**]**

[333.241. UNLAWFUL PRACTICES, INJUNCTIONS. — 1. Upon application by the board, and the necessary burden having been met, a court of general jurisdiction may grant an injunction, restraining order or other order as may be appropriate to enjoin a person from:

(1) Offering to engage or engaging in the performance of any acts or practices for which a certificate of registration or authority, permit or license is required upon a showing that such acts or practices were performed or offered to be performed without a certificate of registration or authority, permit or license; or

(2) Engaging in any practice or business authorized by a certificate of registration or authority, permit or license issued pursuant to this chapter upon a showing that the holder presents a substantial probability of serious danger to the health, safety or welfare of any resident of this state or client or patient of the licensee.

2. Any such action shall be commenced either in the county in which such conduct occurred or in the county in which the defendant resides.

3. Any action brought under this section shall be in addition to and not in lieu of any penalty provided by this chapter and may be brought concurrently with other actions to enforce this chapter.**]**

[436.005. DEFINITIONS. — As used in sections 436.005 to 436.071, unless the context otherwise requires, the following terms shall mean:

(1) "Beneficiary", the individual who is to be the subject of the disposition and who will receive funeral services, facilities or merchandise described in a preneed contract;

(2) "Division", the division of professional registration;

(3) "Funeral merchandise", caskets, grave vaults, or receptacles, and other personal property incidental to a funeral or burial service, and such term shall also include grave lots, grave space, grave markers, monuments, tombstones, crypts, niches or mausoleums if, but only if, such items are sold:

(a) By a companion agreement which is sold in contemplation of trade or barter for grave vaults or funeral or burial services and funeral merchandise; or

(b) At prices, in excess of prevailing market prices, intended to be offset by reductions in the costs of funeral or burial services or facilities which are not immediately required;

(4) "Person", any individual, partnership, corporation, cooperative, association, or other entity;

(5) "Preneed contract", any contract or other arrangement which requires the current payment of money or other property in consideration for the final disposition of a dead human body, or for funeral or burial services or facilities, or for funeral merchandise, where such disposition, services, facilities or merchandise are not immediately required, including, but not limited to, an agreement providing for a membership fee or any other fee having as its purpose the furnishing of burial or funeral services or merchandise at a discount, except for contracts of insurance, including payment of proceeds from contracts of insurance, unless the preneed seller or provider is named as the owner or beneficiary in the contract of insurance;

(6) "Preneed trust", a trust established by a seller, as grantor, to receive deposits of, administer, and disburse payments received under preneed contracts by such seller, together with income thereon;

(7) "Provider", the person obligated to provide the disposition and funeral services, facilities, or merchandise described in a preneed contract;

(8) "Purchaser", the person who is obligated to make payments under a preneed contract;

(9) "Seller", the person who sells a preneed contract to a purchaser and who is obligated to collect and administer all payments made under such preneed contract;

(10) "State board", the Missouri state board of embalmers and funeral directors;

(11) "Trustee", the trustee of a preneed trust, including successor trustees.**]**

[436.007. PRENEED CONTRACT VOIDABLE IF NOT IN COMPLIANCE WITH REQUIREMENTS — PAYMENT RECOVERABLE, WHEN — EXCEPTIONS TO REQUIREMENTS. — 1. Each preneed contract made after August 13, 1982, shall be void and unenforceable unless:

(1) It is in writing;

(2) It is executed by a seller who is in compliance with the provisions of section 436.021;

(3) It identifies the contract beneficiary and sets out in detail the final disposition of the dead body and funeral services, facilities, and merchandise to be provided;

(4) It identifies the preneed trust into which contract payments shall be deposited, including the name and address of the trustee thereof;

(5) The terms of such trust and related agreements among two or more of the contract seller, the contract provider, and the trustee of such trust are in compliance with the provisions of sections 436.005 to 436.071;

(6) It contains the name and address of the seller and the provider.

2. If a preneed contract does not comply with the provisions of sections 436.005 to 436.071, all payments made under such contract shall be recoverable by the purchaser, his heirs, or legal representative, from the contract seller or other payee thereof, together with interest at the rate of ten percent per annum and all reasonable costs of collection, including attorneys' fees.

3. Each preneed contract made before August 13, 1982, and all payments and disbursements under such contract shall continue to be governed by sections 436.010 to 436.080, as those sections existed at the time the contract was made; but, the provisions of subsection 2 of section 436.035 may be applied to all preneed contracts which are executory on August 13, 1982.

4. Subject to the provisions of subdivision (5) of section 436.005, the provisions of sections 436.005 to 436.071 shall apply to the assignment of proceeds of any contract of insurance for the purpose of funding a preneed contract or written in conjunction with a preneed contract. Laws regulating insurance shall not apply to preneed contracts, but shall apply to any insurance sold with a preneed contract.

5. No preneed contract shall become effective unless and until the purchaser thereof has placed his signature in a space provided on such contract, or application therefor, and the purchaser has received a copy of such contract signed by the seller.

6. The seller and the provider of a preneed contract may be the same person.**]**

[436.011. SELLER TO HAVE CONTRACT WITH PROVIDER, VIOLATION — KNOWLEDGE OF FALSE DESIGNATION AS PROVIDER, FAILURE TO ACT, EFFECT. — 1. Any seller who designates a person as a provider in a preneed contract without a contractual relationship with such person is in violation of the provisions of sections 436.005 to 436.071.

2. Any person who knowingly permits a seller to sell a preneed contract designating him as the provider or as one of two or more providers who will furnish the funeral merchandise and services described in the preneed contract shall provide the funeral merchandise and services described in the preneed contract for the beneficiary. Failure of any such person to do so shall be a violation of the provisions of sections 436.005 to 436.071 and shall be cause for suspension or revocation of that person's license under the provisions of section 333.061, RSMo.

3. If a provider has knowledge that a seller is designating him as the provider of funeral merchandise and services under any preneed contract and fails within thirty days after first obtaining such knowledge to take action to prevent the seller from so designating him as the provider, the provider shall be deemed to have consented to such designation.**]**

[436.015. REQUIREMENTS FOR PROVIDERS — SALE OF ASSETS OF PROVIDER, PROCEDURE, VIOLATIONS, EFFECT. — 1. No person shall perform or agree to perform the obligations of, or be designated as, the provider under a preneed contract unless, at the time of such performance, agreement or designation:

(1) Such person is licensed by the state board as a funeral establishment pursuant to the provisions of section 333.061, RSMo, but such person need not be licensed as a funeral establishment if he is the owner of real estate situated in Missouri which has been formally dedicated for the burial of dead human bodies and the contract only provides for the delivery of one or more grave vaults at a future time and is in compliance with the provisions of chapter 214, RSMo; and

(2) Such person is registered with the state board and files with the state board a written consent authorizing the state board to order an examination and if necessary an audit by the staff of the division of professional registration who are not connected with the board of its books and records which contain information concerning preneed contracts sold for, in behalf of, or in which he is named as provider of the described funeral merchandise or services.

2. Each provider under one or more preneed contracts shall:

(1) Furnish the state board in writing with the name and address of each seller authorized by the provider to sell preneed contracts in which the provider is named as such within fifteen days after the provider signs a written agreement or authorization permitting the seller to sell preneed contracts designating or obligating the provider as the "provider" under the contract. This notification requirement shall include a provider who, itself, acts as seller;

(2) File annually with the state board a report which shall contain:

(a) The business name or names of the provider and all addresses from which it engages in the practice of its business;

(b) The name and address of each seller with whom it has entered into a written agreement since last filing a report;

(c) The name and address of the custodian of its books and records containing information about preneed contract sales and services;

(3) Cooperate with the state board, the office of the attorney general of Missouri, and the division in any investigation, examination or audit brought under the provisions of sections 436.005 to 436.071;

(4) At least thirty days prior to selling or otherwise disposing of its business assets, or its stock if a corporation, or ceasing to do business, give written notification to the state board and to all sellers with whom it has one or more preneed contracts of its intent to engage in such sale or to cease doing business. In the case of a sale of assets or stock, the written notice shall also contain the name and address of the purchaser. Upon receipt of such written notification, the state board may take reasonable and necessary action to determine that any preneed contracts which the provider is obligated to service will be satisfied at the time of need. The state board may waive the requirements of this subsection, or may shorten the period of notification whenever in its discretion it determines that compliance with its provisions are not necessary. Failure of the state board to take action regarding such sale or termination of business within thirty days shall constitute such a waiver.

3. It is a violation of the provisions of sections 436.005 to 436.071 and subdivision (3) of section 333.121, RSMo, for any person to sell, transfer or otherwise dispose of the assets of a provider without first complying with the provisions of subdivision (4) of subsection 2 of this section. This violation shall be in addition to the provisions of section 436.061.

4. If any licensed embalmer, funeral director or licensed funeral establishment shall knowingly allow such licensee's name to be designated as the provider under, or used in conjunction with the sale of, any preneed contract, such licensee shall be liable for the provider's obligations under such contract.

5. With respect to a provider or seller licensed under the provisions of chapter 333, RSMo, any violation of the provisions of sections 436.005 to 436.071 shall constitute a violation of subdivision (3) of section 333.121, RSMo.**]**

[436.021. REQUIREMENTS FOR SELLERS — SALE OF ASSETS OR INTENT TO GO OUT OF BUSINESS, PROCEDURE, WAIVED WHEN, VIOLATION, EFFECT. — 1. No person, including without limitation a person who is a provider under one or more preneed contracts, shall sell, perform or agree to perform the seller's obligations under, or be designated as the seller of, any preneed contract unless, at the time of that sale, performance, agreement, or designation, that person shall:

(1) Be an individual resident of Missouri or a business entity duly authorized to transact business in Missouri;

(2) Have established, as grantor, a preneed trust or trusts with terms consistent with sections 436.005 to 436.071;

(3) Have registered with the state board.

2. Each seller under one or more preneed contracts shall:

(1) Maintain adequate records of all such contracts and related agreements with providers and the trustee of preneed trusts regarding such contracts, including copies of all such agreements;

(2) Notify the state board in writing of the name and address of each provider who has authorized the seller to sell one or more preneed contracts under which the provider is designated or obligated as the contract's "provider";

(3) File annually with the state board a signed and notarized report on forms provided by the state board. Such a report shall only contain:

(a) The date the report is submitted and the date of the last report;

(b) The name and address of each provider with whom it is under contract;

(c) The total number of preneed contracts sold in Missouri since the filing of the last report;

(d) The total face value of all preneed contracts sold in Missouri since the filing of the last report;

(e) The name and address of the financial institution in Missouri in which it maintains the trust accounts required under the provisions of sections 436.005 to 436.071 and the account numbers of such trust accounts;

(f) A consent authorizing the state board to order an examination and if necessary an audit by staff of the division of professional registration who are not connected with the board of the trust account, designated by depository and account number. The staff of the division of professional registration in conducting the audit shall not release a detailed accounting of the trust account to the board unless there exist circumstances indicating that the account does not comply with the requirements of sections 436.005 to 436.071, but shall provide the board with a summary of the examination or audit showing general compliance with the provisions of sections 436.005 to 436.071;

(4) File with the state board a consent authorizing the state board to order an examination and if necessary an audit by staff of the division of professional registration who are not connected with the board of its books and records relating to the sale of preneed contracts and the name and address of the person designated by the seller as custodian of these books and records. The staff of the division of professional registration in conducting the audit shall not release a detailed accounting of the trust account to the board unless there exist circumstances indicating that the account does not comply with the requirements of sections 436.005 to 436.071, but shall provide the board with a summary of the examination or audit showing general compliance with the provisions of sections 436.005 to 436.071;

(5) Cooperate with the state board, the office of the attorney general, and the division in any investigation, examination or audit brought under the provisions of sections 436.005 to 436.071.

3. Prior to selling or otherwise disposing of a majority of its business assets, or a majority of its stock if a corporation, or ceasing to do business as a seller, the seller shall provide written notification to the state board of its intent to engage in such sale at least sixty days prior to the date set for the closing of the sale, or of its intent to cease doing business at least sixty days prior to the date set for termination of its business. The written notice shall be sent, at the same time as it is provided to the state board, to all providers who are then obligated to provide funeral services or merchandise under preneed contracts sold by the seller. Upon receipt of the written notification, the state board may take reasonable and necessary action to determine that the seller has made proper plans to assure that the trust assets of the seller will be set aside and used to service outstanding preneed contracts sold by the seller. The state board may waive the requirements of this subsection or may shorten the period of notification whenever in its discretion it determines that compliance with its provisions are not necessary. Failure of the state board to take action regarding such sale or termination of business within sixty days shall constitute such a waiver.

4. It is a violation of the provisions of sections 436.005 to 436.071 for any person to sell, transfer or otherwise dispose of the assets of a seller without first complying with the provisions of subsection 3 of this section.**]**

[436.027. SELLER TO RETURN INITIAL PAYMENTS — PERCENTAGE AUTHORIZED. — The seller may retain as his own money, for the purpose of covering his selling expenses, servicing costs, and general overhead, the initial funds so collected or paid until he has received for his use and benefit an amount not to exceed twenty percent of the total amount agreed to be paid by the purchaser of such prepaid funeral benefits as such total amount is reflected in the contract.**]**

[436.031. TRUSTEE OF PRENEED TRUST TO BE CHARTERED FINANCIAL INSTITUTION — POWERS AND DUTIES — COST OF ADMINISTRATION — TERMINATION OF TRUST. — 1. The trustee of a preneed trust shall be a state or federally chartered financial institution authorized to exercise trust powers in Missouri. The trustee shall accept all deposits made to it by the seller of a preneed contract and shall hold, administer, and distribute such deposits, in trust, as trust principal, pursuant to the provisions of sections 436.005 to 436.071. Payments regarding two or more preneed contracts may be deposited into and commingled in the same preneed trust, so long as the trust's grantor is the seller of all such preneed contracts and the trustee maintains adequate records of all payments received.

2. All property held in a preneed trust, including principal and undistributed income, shall be invested and reinvested by the trustee thereof. The trustee shall exercise such judgment and care under circumstances then prevailing which men of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income therefrom as well as the probable safety of their capital. A preneed trust agreement may provide that when the principal and interest in a preneed trust exceeds two hundred fifty thousand dollars, investment decisions regarding the principal and undistributed income may be made by a federally registered or Missouri-registered independent qualified investment advisor designated by the seller who established the trust; provided, that title to all investment assets shall remain with the trustee and be kept by the trustee to be liquidated upon request of the advisor of the seller. In no case shall control of said assets be divested from the trustee nor shall said assets be placed in any investment which would be beyond the authority of a reasonably prudent trustee to invest in. The trustee shall be relieved of all liability regarding investment decisions made by such qualified investment advisor.

3. The seller of a preneed contract shall be entitled to all income, including, without limitation, interest, dividends, and capital gains, and losses generated by the investment of preneed trust property regarding such contract, and the trustee of the trust may distribute all income, net of losses, to the seller at least annually; but no such income distribution shall be made to the seller if, and to the extent that, the distribution would reduce the aggregate market value on the distribution date of all property held in the preneed trust, including principal and undistributed income, below the sum of all deposits made to such trust pursuant to subsection 1 of this section for all preneed contracts then administered through such trust.

4. All expenses of establishing and administering a preneed trust, including, without limitation, trustee's fees, legal and accounting fees, investment expenses, and taxes, shall be paid or reimbursed directly by the seller of the preneed contracts administered through such trust and shall not be paid from the principal of a preneed trust.

5. The trustee of a preneed trust shall maintain adequate books of account of all transactions administered through the trust and pertaining to the trust generally. The trustee shall assist seller who established the trust or its successor in interest in the preparation of the annual report described in subdivision (3) of subsection 2 of section 436.021. The seller shall furnish to each contract purchaser, within fifteen days after receipt of the purchaser's written request, a written statement of all deposits made to such trust regarding such purchaser's contract.

6. The trustee of a preneed trust shall, from time to time, distribute trust principal as provided by sections 436.005 to 436.071.

7. A preneed trust shall terminate when trust principal no longer includes any payments made under any preneed contract, and upon such termination the trustee shall distribute all trust property, including principal and undistributed income, to the seller which established the trust.**]**

[436.035. PURCHASER MAY CANCEL CONTRACT, PROCEDURE — SELLER TO RETURN ALL PAYMENTS MADE BY PURCHASER — CERTAIN RIGHTS OF PUBLIC AID RECIPIENTS. — 1. At any time before the final disposition of the dead body, or before funeral services, facilities, or merchandise described in a preneed contract are provided by the provider designated in the preneed contract, the purchaser may cancel the contract without cause by delivering written notice thereof to the seller and the provider. Within fifteen days after its receipt of such notice, the seller shall pay to the purchaser a net amount equal to all payments made into trust under the contract. Upon delivery of the purchaser's receipt for such payment to the trustee, the trustee shall distribute to the seller from the trust an amount equal to all deposits made into the trust for the contract.

2. Notwithstanding the provisions of subsection 1 of this section, if a purchaser is eligible, becomes eligible, or desires to become eligible, to receive public assistance under chapter 208, RSMo, or any other applicable state or federal law, the purchaser may irrevocably waive and

renounce his right to cancel the contract pursuant to the provisions of subsection 1 of this section, which waiver and renunciation shall be made in writing and delivered to the contract seller; but the purchaser may designate and redesignate the provider in the irrevocable agreement or plan where applicable by the terms of the contract.

3. Notwithstanding the provisions of subsection 1 of this section, any purchaser, within thirty days of receipt of the executed contract, may cancel the contract without cause by delivering written notice thereof to the seller and the provider, and receive a full refund of all payments made on the contract. Notice of this provision and the appropriate addresses for notice of cancellation shall be so designated on the face of the contract.**]**

[436.038. DEATH OF BENEFICIARY OUTSIDE AREA SERVED BY DESIGNATED PROVIDER. — If the death of the beneficiary occurs outside the general area served by the provider designated in a preneed contract, then the seller shall either provide for the furnishing of comparable funeral services and merchandise by a licensed mortuary selected by the next of kin of the purchaser or, at the seller's option, shall pay over to the purchaser in fulfillment of all obligations under the contract, an amount equal to all sums actually paid in cash by the purchaser under the preneed contract together with interest to be provided for in the contract. Upon seller's full performance under the provisions of this section, the trustee of the preneed trust for the contract shall distribute to the seller from the trust an amount equal to all deposits made into the trust for the contract.**]**

[436.041. DEFAULT BY PURCHASER, SELLER MAY CANCEL CONTRACT, WHEN, PROCEDURE. — If the payments payable under a preneed contract shall be more than three months in arrears, the seller may cancel the contract by delivering written notice thereof to the purchaser and the provider, and by making payment to the purchaser of a net amount equal to all payments made into trust under the contract. Upon delivery of the purchaser's receipt of such payment to the trustee, the trustee shall distribute to the seller from the trust an amount equal to all deposits made into the trust for the contract.**]**

[436.045. PAYMENT TO PROVIDER FOR SERVICES, WHEN — TRUSTEE TO DISTRIBUTE AMOUNT DEPOSITED ON CONTRACT TO SELLER. — Within thirty days after a provider and a witness shall certify in writing to the seller that the provider has provided the final disposition of the dead body, and funeral services, facilities, and merchandise described in the contract, or has provided alternative funeral benefits for the beneficiary pursuant to special arrangements made with the purchaser, the seller shall pay to the provider a net amount equal to all payments required to be made pursuant to the written agreement between the seller and the provider or all payments made under the contract. Upon delivery to the trustee of the provider's receipt for such payment, the trustee shall distribute to the seller from the trust an amount equal to all deposits made into the trust for the contract.**]**

[436.048. DEFAULT BY SELLER TO PAY PURCHASER OR PROVIDERS. — If a seller shall fail to make timely payment of an amount due a purchaser or a provider pursuant to the provisions of sections 436.005 to 436.071, the purchaser or provider, as appropriate, shall have the right, in addition to other rights and remedies against such seller, to make demand upon the trustee of the preneed trust for the contract to distribute to the purchaser or provider from the trust, as damages for its breach, an amount equal to all deposits made into the trust for the contract.**]**

[436.051. DEATH OR LEGAL INCAPACITY OF PURCHASER. — Upon the death or legal incapacity of a purchaser, all rights and remedies granted to the purchaser pursuant to the provisions of sections 436.005 to 436.071 shall be enforceable by and accrue to the benefit of

the purchaser's legal representative or his successor designated in such contract, and all payments otherwise payable to the purchaser shall be paid to that person.**]**

[436.053. CERTAIN FUNDS MAY BE IN JOINT ACCOUNT IN LIEU OF TRUST — REQUIREMENTS — WAIVER OF REPORTING FEE, WHEN — WAIVER OF RIGHT TO CANCEL, EFFECT. — 1. Notwithstanding the provisions of sections 436.021 to 436.048, the provider and the purchaser may agree that all funds paid the provider by the purchaser shall be deposited with financial institutions chartered and regulated by the federal or state government authorized to do business in Missouri in an account in the joint names and under the joint control of the provider and purchaser. If the purchaser has irrevocably waived and renounced his right to cancel the agreement between the provider and the purchaser pursuant to subdivision (5) of this subsection, such agreement may provide that all funds held in the account at the beneficiary's death shall be applied toward the purchase of funeral or burial services or facilities, or funeral merchandise, selected by the purchaser or the responsible party after the beneficiary's death, in lieu of the detailed identification of such items required by subdivision (3) of subsection 1 of section 436.007. The agreement between the provider and purchaser shall provide that:

(1) The total consideration to be paid by the purchaser under the contract shall be made in one or more payments into the joint account at the time the agreement is executed or, thereafter within five days of receipt, respectively;

(2) The financial institution shall hold, invest, and reinvest the deposited funds in savings accounts, certificates of deposit or other accounts offered to depositors by the financial institutions, as the agreement shall provide;

(3) The income generated by the deposited funds shall be used to pay the reasonable expenses of administering the agreement, and the balance of the income shall be distributed or reinvested as provided in the agreement;

(4) At any time before the final disposition, or before funeral services, facilities, and merchandise described in a preneed contract are furnished, the purchaser may cancel the contract without cause by delivering written notice thereof to the provider and the financial institution, and within fifteen days after its receipt of the notice, the financial institution shall distribute the deposited funds to the purchaser;

(5) Notwithstanding the provisions of subdivision (4) of this subsection, if a purchaser is eligible, becomes eligible, or desires to become eligible to receive public assistance under chapter 208, RSMo, or any other applicable state or federal law, the purchaser may irrevocably waive and renounce his right to cancel such agreement. The waiver and renunciation must be in writing and must be delivered to the provider and the financial institution;

(6) If the death of the beneficiary occurs outside the general area served by the provider, then the provider shall either provide for the furnishing of comparable funeral services and merchandise by a licensed mortuary selected by the purchaser or, at the provider's option, shall pay over to the purchaser in fulfillment of the obligation of the preneed contract, an amount equal to the sums actually paid in cash by such purchaser under such preneed contract together with interest to be provided for in the contract, in which event the financial institution shall distribute the deposited funds to the provider;

(7) Within fifteen days after a provider and a witness certifies in writing to the financial institution that he has furnished the final disposition, or funeral services, facilities, and merchandise described in a contract, or has provided alternative funeral benefits for the beneficiary pursuant to special arrangements made with the purchaser, if the certification has been approved by the purchaser, then the financial institution shall distribute the deposited funds to the provider.

2. There shall be a separate joint account as described in subsection 1 of this section for each preneed contract sold or arranged under this section.

3. If the total face value of the contracts sold by a provider operating solely under the provisions of this section does not exceed thirty-five thousand dollars in any one fiscal year, such

a provider shall not be required to pay the annual reporting fee for such year required under subsection 1 of section 436.069.**]**

[436.055. COMPLAINTS TO BOARD — INVESTIGATION, BY WHOM, PROCEDURE. — 1. All complaints received by the state board which allege a registrant's noncompliance with the provisions of sections 436.005 to 436.071 shall be forwarded to the division of professional registration for investigation, except minor complaints which the state board can mediate or otherwise dispose of by contacting the parties involved. A copy of each such complaint shall be forwarded to the subject registrant, except that each complaint in which the complainant alleges under oath that a registrant has misappropriated preneed contract payments may be forwarded to the division of professional registration without notice to the subject registrant.

2. The division shall investigate each complaint forwarded from the state board using staff who are not connected with the state board and shall forward the results of such investigation to the subject registrant and to the attorney general for evaluation. If the attorney general, after independent inquiry using staff of the attorney general's office who have not represented the board, determines that there is no probable cause to conclude that the registrant has violated sections 436.005 to 436.071, the registrant and the state board shall be so notified and the complaint shall be dismissed; but, if the attorney general determines that there is such probable cause the registrant shall be so notified and the results of such evaluation shall be transmitted to the state board for further action as provided in sections 436.061 and 436.063.**]**

[436.061. VIOLATIONS, PENALTIES. — 1. Each person who shall knowingly and willfully violate any provision of sections 436.005 to 436.071, and any officer, director, partner, agent, or employee of such person involved in such violation is guilty of a class D felony. Each violation of any provision of sections 436.005 to 436.071 constitutes a separate offense and may be prosecuted individually.

2. Any violation of the provisions of sections 436.005 to 436.071 shall constitute a violation of the provisions of section 407.020, RSMo. In any proceeding brought by the attorney general for a violation of the provisions of sections 436.005 to 436.071, the court may, in addition to imposing the penalties provided for in sections 436.005 to 436.071, order the revocation or suspension of the registration of a defendant seller.**]**

[436.063. REVOCATION OR SUSPENSION OF SELLER'S REGISTRATION — PROCEDURE. — Whenever the state board determines that a registered seller or provider has violated or is about to violate any provision of sections 436.005 to 436.071 following a meeting at which the registrant is given a reasonable opportunity to respond to charges of violations or prospective violations, it may request the attorney general to apply for the revocation or suspension of the seller's or provider's registration or the imposition of probation upon terms and conditions deemed appropriate by the state board in accordance with the procedure set forth in sections 621.100 to 621.205, RSMo. Use of the procedures set out in this section shall not preclude the application of the provisions of subsection 2 of section 436.061.**]**

[436.065. OPTION FOR CREDIT LIFE ON LIFE OF PURCHASER — AUTHORIZED. — A preneed contract may offer the purchaser the option to acquire and maintain credit life insurance on the life of the purchaser. Such insurance shall provide for the payment of death benefits to the seller in an amount equal to the total of all contract payments unpaid as of the date of such purchaser's death, and shall be used solely to make those unpaid payments.**]**

[436.067. CONFIDENTIALITY OF INFORMATION GIVEN TO BOARD, DIVISION OR ATTORNEY GENERAL — EXCEPTIONS. — No information given to the board, the division or the attorney general pursuant to the provisions of sections 436.005 to 436.071 shall, unless ordered by a court for good cause shown, be produced for inspection or copying by, nor shall the

contents thereof be disclosed to, any person other than the seller, or the provider who is the subject thereof, the authorized employee of the board, the attorney general or the division, without the consent of the person who produced such material. However, under such reasonable conditions and terms as the board, the division or the attorney general shall prescribe, such material shall be available for inspection and copying by the person who produced such material or any duly authorized representative of such person. The state board, the division or the attorney general, or his duly authorized assistant, may use such documentary material or copies thereof in the enforcement of the provisions of sections 436.005 to 436.071 by presentation before any court or the administrative hearing commission, but any such material which contains trade secrets shall not be presented except with the approval of the court, or the administrative hearing commission, in which the action is pending after adequate notice to the person furnishing such material. No documentary material provided the board, the division or the attorney general pursuant to the provisions of sections 436.005 to 436.071 shall be disclosed to any person for use in any criminal proceeding.**]**

[436.069. ANNUAL REPORTING FEE, AMOUNT. — 1. After July 16, 1985, each seller shall remit an annual reporting fee in an amount of two dollars for each preneed contract sold in the year since the date the seller filed its last annual report with the state board. This reporting fee shall be paid annually and may be collected from the purchaser of the preneed contract as an additional charge or remitted to the state board from the funds of the seller.

2. After July 16, 1985, each provider shall remit an annual reporting fee of thirty dollars.

3. The reporting fee authorized by subsections 1 and 2 of this section are in addition to the fees authorized by section 436.071.**]**

[436.071. REGISTRATION FEE. — Each application for registration under the provisions of section 436.015 or 436.021 shall be accompanied by a preneed registration fee as determined by the board pursuant to the provisions of section 333.111, subsection 2.**]**

Approved July 9, 2009

SB 15 [HCS SCS SB 15]

Authorizes the Governor to convey state property in Jasper County to Missouri Southern State University

AN ACT to authorize the conveyance of certain state properties, with an emergency clause.

SECTION

1. Governor authorized to convey Joplin Regional Center to Missouri Southern State University.
2. Governor authorized to convey property in City of St. Louis.
3. Governor authorized to convey property in Greene County to the Arc of the Ozarks.
4. Governor authorized to grant an easement to the City of Springfield.
5. Governor authorized to grant a temporary easement to the Arc of the Ozarks in Springfield.
6. Governor authorized to grant an easement to owners of private property in Macon County.
7. Governor authorized to quitclaim to state highways and transportation commission property in Cape Girardeau County.
8. Governor authorized to quitclaim Mid-Missouri Mental Health Center in Columbia to the University of Missouri.
9. Governor authorized to convey property in St. Louis City to Harris-Stowe State University.
10. Governor authorized to grant an easement to the City of Boonville.
11. Department of Natural Resources to lease property to Clinton County Public Water Supply District No. 3.

A. Emergency clause.

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

SECTION 1. GOVERNOR AUTHORIZED TO CONVEY JOPLIN REGIONAL CENTER TO MISSOURI SOUTHERN STATE UNIVERSITY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release, and forever quitclaim all interest of the state of Missouri in real property known as the Joplin Regional Center, located in Jasper County, Joplin, Missouri, to Missouri Southern State University. The property to be conveyed is more particularly described as follows:

A tract of land lying in the Southwest Quarter (1/4) of the Southeast Quarter (1/4) of Section 31, Township 28, Range 32, Jasper County, Missouri, and described by the following metes and bounds: beginning at the Southwest corner of the above described Southwest Quarter (1/4) of the Southeast (1/4) of Section 31; thence North along the West line thereof 670.0 Feet; thence East with an angle of 90 degrees with the said West line 450.0 Feet to a point; thence South parallel to said West line 140.0 Feet; thence South 56 degrees East for a distance of 415.0 Feet to a point; thence South 290.0 Feet to the South line of said Southwest Quarter (1/4) of the Southeast Quarter (1/4); thence West along said South line 800.0 Feet to point of beginning, containing ten and two-tenths (10.2) acres, more or less, except a strip of land fifty feet wide East and West off of the West side thereof, the same being reserved for road purposes.

2. The conveyance of the property described in this section shall not occur until the Joplin Regional Center is relocated from the property described in this section to different property.

3. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the time, place, and terms of the conveyance.

4. The attorney general shall approve the form of the instrument of conveyance.

SECTION 2. GOVERNOR AUTHORIZED TO CONVEY PROPERTY IN CITY OF ST. LOUIS. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim to the state highways and transportation commission all interest of the state of Missouri in real property located in part of City Block Number 239 and 240 in the city of St. Louis. The property to be conveyed is more particularly described as follows:

Commencing at the Northwest corner of City Block Number 239; thence South 18 degrees 13 minutes 13 seconds East for a distance of 62.14 feet to centerline Station 68+00.00; thence South 62 degrees 38 minutes 07 seconds West for a distance of 241.54 feet to centerline P.T. Station 65+58.46; BEGINNING AGAIN at centerline Station 68+00.00; on the centerline of Interstate Highway 70; thence North 62 degrees 38 minutes 07 seconds East for a distance of 239.19 feet to centerline P.C. Station 70+39.19; thence Northeasterly along the arc of a curve to the right having a radius of 1,892.60 for a distance of 81.74 feet to centerline Station 71+20.93; thence Southeasterly leaving the centerline of said Interstate Route 70 to a point 4.87 feet Southeasterly of and radial to said centerline Station 71+20.93, BEING THE POINT OF BEGINNING; thence Southerly to a point 73.35 feet Southeasterly of and radial to centerline Station 71+08.40; thence Southwesterly along the arc of a curve to the left having a radius of 1910 feet a distance of 76.83 feet to a point 74.77 feet Southeasterly of and at a right angle to centerline Station 70+31.57; thence Southwesterly to a point 66.72 feet Southeasterly of and at a right angle to centerline Station 68+99.79; thence southwesterly to a point 79.31 feet southeasterly of and at right angle to centerline Station 68+04.62; thence southwesterly to a point 79.83 feet southeasterly of and at right angle to centerline station 67+78.62; thence Northerly to a point 61.35 feet Northwesterly of and at a right angle to centerline

Station 68+09.88; thence Easterly to the point of BEGINNING, and containing 32,682 square feet, more or less.

Also, all of abutter's rights of direct access between the highway now known as Interstate Highway 70 and grantor's abutting land in City Block Number 239 and 240, St. Louis City, Missouri.

2. The governor is also hereby authorized and empowered to give, grant, bargain, and convey a permanent transmission easement for construction and maintenance of utilities to the state highways and transportation commission, and any successors or assigns as designated by the commission, which is located in part of City Block Number 239 and 240 in the city of St. Louis, Missouri. The permanent transmission easement is more particularly described as follows:

Commencing at the Northwest corner of City Block Number 239; thence South 18 degrees 13 minutes 13 seconds East for a distance of 62.14 feet to centerline Station 68+00.00; thence South 62 degrees 38 minutes 07 seconds West for a distance of 241.54 feet to centerline P.T. Station 65+58.46; BEGINNING AGAIN at centerline Station 68+00.00 on the centerline of Interstate Highway 70; thence North 62 degrees 38 minutes 07 seconds East for a distance of 4.62 feet to centerline Station 68+04.62; thence Southeasterly to a point 79.31 feet Southeasterly of and at a right angle to said centerline Station 68+04.62, BEING THE POINT OF BEGINNING; thence Southerly to a point 265.03 feet Southeasterly of and at a right angle to centerline Station 67+63.71; thence Southerly to a point 703.22 feet Southeasterly of and at a right angle to centerline Station 66+15.05; thence continuing Southerly to a point 759.86 feet Southeasterly of and at a right angle to centerline Station 65+66.31; thence Northerly to a point 278.24 feet Southeasterly of and at a right angle to centerline Station 67+34.70; thence Northerly to a point 79.83 feet Southeasterly of and at a right angle to centerline Station 67+78.62; thence Northeasterly to the point of BEGINNING, and containing 17,333 square feet, more or less.

3. In addition, the instruments of conveyance noted in subsections 1 and 2 of this section shall contain such other restrictions, temporary easements, and any other conditions as are deemed necessary by the governor and the commission to construct a new Mississippi River bridge and necessary accompanying state highways.

4. Consideration for the conveyance shall be as negotiated by the commissioner of administration and the state highways and transportation commission.

5. The attorney general shall approve the form of the instrument of conveyance.

SECTION 3. GOVERNOR AUTHORIZED TO CONVEY PROPERTY IN GREENE COUNTY TO THE ARC OF THE OZARKS. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in fee simple absolute in property owned by the state in Greene County to the Arc of the Ozarks. The property to be conveyed is more particularly described as follows:

Beginning at an iron pin on the North line of Pythian Street and 1118.30 feet West of the West line of Glenstone Avenue as it existed; thence North making an angle of 89 degrees 56 minutes to the right from the North line of Pythian a distance of 935.5 feet; thence West on an interior angle of 89 degrees 59 minutes a distance of 429.65 feet to the point of beginning of this description; thence continuing Westerly a distance of 407.0 feet; thence making an angle to the left of 90 degrees 05 minutes and continuing South a distance of 165.0 feet; thence making an angle to the left of 89 degrees 55 minutes and continuing East a distance of 407.0 feet; thence making an angle to the left of 90 degrees 05 minutes and continuing North a distance of 165.0 feet to the point of beginning of this description.

Said parcel all in Springfield, Greene County, Missouri containing in all 1.54 acres more or less. All being in the South half of the Northeast quarter of Section 18, Township 29 North, Range 21 West.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The instrument of conveyance shall contain the following provisions:

(1) The Arc of the Ozarks, nor its successors and assigns, shall not construct a building, driveway, parking lot, or other permanent structure over any existing utilities;

(2) Any relocation of existing utilities shall be approved by the Missouri department of mental health as to the new location, materials, construction methods, and other particulars. The cost of any relocation shall be the responsibility of the Arc of the Ozarks;

(3) The Arc of the Ozarks shall undertake to treat all Missouri individuals with disabilities who apply to it without regard to race, sex, color, or creed;

(4) An easement for maintenance purposes for each existing utility is hereby reserved by the grantor, which shall consist of a strip ten feet wide on each side of the center line of each existing utility.

4. The attorney general shall approve the form of the instrument of conveyance.

SECTION 4. GOVERNOR AUTHORIZED TO GRANT AN EASEMENT TO THE CITY OF SPRINGFIELD. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey a permanent storm water easement over, on, and under property owned by the state in Springfield, Greene County, Missouri, to the city of Springfield. The easement to be conveyed is more particularly described as follows:

A PERPETUAL DRAINAGE EASEMENT being a part of the Southwest Quarter of the Northeast Quarter of Section 18, Township 29 North, Range 21 West, Springfield, Greene County, Missouri, being described as follows:

COMMENCING at an iron pin on the North line of Pythian Street and 1118.30 feet West of the West line of Glenstone Avenue, as it existed; thence West along the North line of said Pythian street a distance of 173.3 feet; thence continuing west with said North line making an angle of 02 48' to the right of the last described course, a distance of 662.5 feet for a POINT OF BEGINNING, said point being Southwest Corner of a tract of land being described in Book 1333, Page15, Greene County Recorders office; THENCE North 00 05' 52" West, with the West line of said tract of land, a distance of 670.07 feet to a point for corner; THENCE North 89 58'55" East a distance of 20.41 feet to a point for corner; THENCE, South 02 35'35" West a distance of 78.24 feet to a point for corner; THENCE, South 00 04'12" West a distance of 592.68 feet to a point on said Northerly Right-of-way line for corner; THENCE North 87 04'22" West, with said Right-of-way line, a distance of 15.02 feet to the POINT OF BEGINNING, and containing 10,850 square feet square feet more or less.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the time, place, and terms of the conveyance.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 5. GOVERNOR AUTHORIZED TO GRANT A TEMPORARY EASEMENT TO THE ARC OF THE OZARKS IN SPRINGFIELD. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey a temporary construction easement over, on, and under property owned by the state in Springfield, Greene County, Missouri, to

the Arc of the Ozarks. The easement to be conveyed is more particularly described as follows:

A TEMPORARY CONSTRUCTION EASEMENT BEING A PART OF THE Southwest Quarter of the Northeast Quarter of Section 18, Township 29 North, Range 21 West, Springfield, Greene County, Missouri, being described as follows:

COMMENCING at an iron pin on the North line of Pythian Street and 1118.30 feet West line of Glenstone Avenue, as it existed; thence West along the North line of said Pythian street a distance of 173.3 feet; thence continuing west with said North line making an angle of 02 48' to the right of the last described course, a distance of 647.03 feet for a POINT OF BEGINNING, said point being 15.02 feet East of the Southwest Corner of a tract of land being described in Book 1333, Page 15, Greene County Recorders office; THENCE North 00 04'12" East a distance of 592.68 feet to a point for corner; THENCE North 02 35'35" East a distance of 78.24 feet to a point for corner; THENCE North 89 58'55" East a distance of 4.59 feet to a point for corner; THENCE South 00 05'52" East, parallel to the West line of said tract, a distance of 671.35 feet to a point on said Northerly Right-of-way line for corner; THENCE North 87 04'22" West, with said Northerly Right -of-way line, a distance of 10.01 feet to the POINT OF BEGINNING, and containing 5,917 square feet more or less.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the time, place, and terms of the conveyance.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 6. GOVERNOR AUTHORIZED TO GRANT AN EASEMENT TO OWNERS OF PRIVATE PROPERTY IN MACON COUNTY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in an easement across property owned by the state in Macon County to the owners of certain private property for the purpose of obtaining access to the private property. The property over which the easement is to be conveyed is more particularly described as follows:

The centerline of a 30.00 foot wide easement for ingress and egress, being 15.00 feet wide on either side of said centerline, situated in the South Half of the Northeast Quarter of Section 13, Township 56N, Range 15W, Macon County, Missouri being more particularly described as follows:

Commencing at the Southeast corner of the Northeast Quarter of said Section 13, thence along the Half Section line of said Section 13, North 89 degrees, 59 minutes, 43 seconds West, a distance of 1324.55 feet to a point at the Southwest corner of the Southeast Fourth of the Northeast Quarter of said Section 13; thence continuing along said line, North 89 degrees, 59 minutes, 43 seconds West, a distance of 15 feet to the POINT OF BEGINNING of the description herein TO WIT: thence parallel with the East Quarter-Quarter line of said Section 13, North 01 degrees, 12 minutes, 39 seconds East, a distance of 400.25 feet; thence North 74 degrees, 08 minutes, 29 seconds West, a distance of 172.84 feet; thence North 56 degrees, 49 minutes, 48 seconds West, a distance of 47.58 feet; thence North 28 degrees, 15 minutes, 48 seconds West, a distance of 21.05 feet to the terminus of this easement, also being at centerline of an existing road. This tract subject to any and all easements of record and any part in roads.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 7. GOVERNOR AUTHORIZED TO QUITCLAIM TO STATE HIGHWAYS AND TRANSPORTATION COMMISSION PROPERTY IN CAPE GIRARDEAU COUNTY. — 1. The governor is hereby authorized and empowered to grant, convey, remise, release and forever quitclaim to the state highways and transportation commission all interest of the state of Missouri in real property owned by the state in Cape Girardeau County. The property to be conveyed is more particularly described as follows:

A tract of land lying in part of the Northeast Quarter of the Northeast Quarter of Section 36, Township 30 North, Range 12 East of the Fifth Principal Meridian, County of Cape Girardeau, State of Missouri, being more particularly described as follows:

Commence at a found 4x4 Concrete Monument at the Northeast Corner of Section 36, Township 30 North, Range 12 East of the Fifth Principal Meridian; thence S 32 deg. 13 min. 47 sec. W a distance of 1261.14 feet to a found Iron Rod, 124.83 feet left of Missouri State Route 25 centerline station 271+27.51, said point being located on the existing Westerly Boundary line of Missouri State Route 25 and the Point of Beginning; thence along said Boundary line, N 82 deg. 29 min. 01 sec. W a distance of 192.60 feet to a found steel MO property line marker, 317.07 feet left of Missouri State Route 25 centerline station 271+16.05, said point being the beginning of a non-tangent curve to the right, having a radius of 8929.37 feet; thence along said Curve a distance of 250.04 feet (Chord Bears N 08 deg. 47 min. 48 sec. E a distance of 250.03 feet) to a set #5 Rebar w/cap left of Missouri State Route 25 centerline station 273+56.69 at a offset of 330.09 feet, said point being the beginning of a non-tangent Curve to the right having a radius of 328.23 feet; thence departing from said existing Westerly Boundary line and along said Curve, a distance of 238.60 feet (Chord bears S 49 deg. 16 min. 16 sec. E a distance of 233.38 feet) to a set #5 Rebar w/cap left of Missouri State Route 25 centerline station 272+48.17 with an offset of 125.00 feet; thence S 11 deg. 22 min. 41 sec. W a distance of 122.41 feet to the Point of Beginning, containing 0.92 acres, more or less.

2. The commissioner of administration and the state highways and transportation commission shall set the terms and conditions for the conveyance, including the consideration, except that such consideration shall not exceed one dollar.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 8. GOVERNOR AUTHORIZED TO QUITCLAIM MID-MISSOURI MENTAL HEALTH CENTER IN COLUMBIA TO THE UNIVERSITY OF MISSOURI. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in real property known as Mid-Missouri Mental Health Center, Columbia, Boone County, Missouri, to The Curators of the University of Missouri more particularly described as follows:

A tract of land all lying in the Southeast Quarter (SE 1/4) of Section Thirteen (Sec. 13), Township Forty-eight North (Twp. 48N), Range Thirteen West (R.13W), Boone County, Missouri, as follows:

Starting at a stone at the Southeast corner of Section Thirteen (13), Township Forty-eight (48) North, Range Thirteen (13) West (point No. 1); thence North one degree fifteen minutes East (N 1° 15' E) along the range line one hundred four and seventy-three hundredths (104.73) feet to an iron pin which is on the North right of way line of the proposed Missouri State Highway #740 (point No. 2); thence following the North right of way line of said Route #740 North eighty-eight degrees eighteen minutes West (N 88° 18' W) forty-seven and ten

hundredths (47.10) feet to an iron pin (point No. 3); thence following the North right of way line of said Route #740 North eighty-eight degrees fifty-four minutes West (N 88° 54' W) two hundred nine and ninety-two hundredths (209.92) feet to an iron pin (point No. 4); thence following the North right of way line of said Route #740 North forty-four degrees ten minutes West (N 44° 10' W) eighty-five (85.00) feet to a nail (point No. 5); thence following the North right of way line of said Route #740 North eighty-nine degrees six minutes West (N 89° 6' W) fifteen and fifty hundredths (15.50) feet to an iron pin (point No. 6); thence following the East property line of the V A Hospital tract North one degree fifteen minutes East (N 1° 15' E) seven hundred thirty-seven (737.00) feet to an iron pin (point No. 22); thence following the North property line of the V A Hospital tract North eighty — nine degrees five minutes West (N 89° 5' W) eight hundred eighty-eight and eighty-seven hundredths (888.87) feet to an iron pin (point No. 0); thence North zero degrees fifty-five minutes East (N 0° 55' E) sixty-five (65.00) feet to an iron pin (point No. 1A), the point of beginning:

Thence North one degree twenty-two minutes East (N 1° 22' E) three hundred eighty (380.00) feet to an iron pin (point No. 2A); thence South eighty-eight degrees forty-seven minutes East (S 88° 47' E) one hundred ninety-seven (197.00) feet to an iron pin (point No. 3A); thence South one degree thirteen minutes West (S 1° 13' W) one hundred eleven and sixty-six hundredths (111.66) feet to a nail (point No. 4A); thence South eighty-eight degrees forty-seven minutes East (S 88° 47' E) sixteen and twenty-two hundredths (16.22) feet to an iron pin (point No. 5A) (said point No. 5A is against the West face of the University of Missouri Medical Center Hospital); thence following the face of said Hospital South one degree thirteen minutes West (S 1° 13' W) thirty-six (36.00) feet to an iron pin (point No. 6A) (said point No. 6A being against face of said Hospital); thence North eighty-eight degrees forty-seven minutes West (N 88° 47' W) sixteen and twenty-two hundredths (16.22) feet to a nail (point No. 7A); thence South one degree thirteen minutes West (S 1° 13' W) two hundred thirty-one and thirty-four hundredths (231.34) feet to an iron pin (point No. 8A); thence North eighty-nine degrees five minutes west (N 89° 5' W) one hundred ninety-eight and ten hundredths (198.10) feet to an iron pin (point No. 1A), the point of beginning.

Subject to the easements and covenants hereinafter reserved and granted.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the time, place, and terms of the conveyance.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 9. GOVERNOR AUTHORIZED TO CONVEY PROPERTY IN ST. LOUIS CITY TO HARRIS-STOWE STATE UNIVERSITY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in fee simple absolute in property owned by the state in St. Louis City to Harris-Stowe State University. The property to be conveyed is more particularly described as follows:

Lots 29, 30, 31, 32, 33 and part of Lots 27 and 28 in Block 2 of CHELTENHAM, Lots 21, 22, 23, and part of Lot 20 of WIBLE'S EASTERN ADDITION to CHELTENHAM, together with Western 36 feet of former January Avenue vacated under the provisions of Ordinance No. 52058, and in Blocks 4022 and 4023 of the City of St. Louis, more particularly described as follows: Beginning at a point in the North line of Wilson Avenue, 40 feet wide, at its intersection with a line 36 feet East of and parallel to the West line of former January Avenue 60 feet wide, as vacated under the provisions of Ordinance No. 52058; thence North 82 degrees 57 minutes 15 seconds West along said North line of Wilson Avenue

a distance of 355.20 feet to a point; thence North 8 degrees 15 minutes 30 seconds East a distance of 472.56 feet to a point in the Southerly Right-of-Way line of Interstate Highway I-44; thence in an Easterly direction along said Right-of-Way line North 87 degrees degrees 03 minutes 45 seconds East a distance of 25.59 feet to an angle point being located in the Eastern line of Lot 20 of Wible's Eastern Addition to Cheltenham, said point being 477 feet North along the Eastern line of said Wible's Addition from the Northern Line of Wilson Avenue, 40 feet wide; thence South 87 degrees 53 minutes 03 seconds East and along said I-44 Right-of-Way line 295.71 feet to a point in the West line of said former January Avenue vacated as aforesaid at a point being 502.42 feet North along said line from the Northern line of Wilson Avenue thence North 74 degrees 42 minutes 01 seconds East along the South Right-of-Way line of I-44 a distance of 39.27 feet to a point in a line 36 feet East of and parallel to said West line of former January Avenue; vacated as aforesaid; thence South 8 degrees 15 minutes 30 seconds West along said line 36 feet East of the West line of former January Avenue, vacated as aforesaid, a distance of 517.36 feet to the point of beginning.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 10. GOVERNOR AUTHORIZED TO GRANT AN EASEMENT TO THE CITY OF BOONVILLE. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey easements on property owned by the state in Cooper County to the city of Boonville. The easements to be conveyed are more particularly described as follows:

PERMANENT EASEMENT:

A strip of land 30 (thirty) feet wide, located on the western side of Grantor's property described in a deed filed for record in Book 162, Page 208 of the Cooper County Records, said strip of land being located in the southwest quarter of the Southeast Quarter of Section 36, Township 49 North of the Base Line, Range 17 West of the Fifth Principal Meridian, City of Boonville, Cooper County, Missouri, the centerline of said strip of land is further described as follows:

Commencing at a "Type A" monument found at the Northwest Corner of the Northeast Quarter of Section 1, Township 48 North, Range 17 West; thence easterly, along the south line of "Trout Dale Subdivision", per subdivision plat filed for record in Plat Book "C", Page 70 of the Cooper County Records, N 85° 02' E, a distance of 1030.21 feet, per said plat of record, to the southeast corner of said subdivision, also being a point on the west line of the grantor's property above mentioned; thence N 02° 33' E, along the common line between said subdivision and grantor's property, a distance of 377.2 feet to the point of "Beginning" for this centerline of easement description; thence N 71° 04' E, 100.0 feet to the "End" point of this permanent easement, containing 0.0689 acres, (3,000 sq. ft.), and subject to easements and restrictions of record or not of record.

TEMPORARY EASEMENT:

Together with a temporary construction easement 50 (fifty) feet wide, said strip to be located adjacent to all sides of the above described permanent easement, containing 0.3788 acres, (16,500 sq. ft.), and subject to easements and restrictions of record or not of record.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 11. DEPARTMENT OF NATURAL RESOURCES TO LEASE PROPERTY TO CLINTON COUNTY PUBLIC WATER SUPPLY DISTRICT NO. 3. — 1. The director of the department of natural resources is hereby directed to lease property owned by the state in Clinton County to the Clinton County Public Water Supply District No. 3 for the purpose of constructing an elevated water storage tank. The property to be leased is more particularly described as follows:

A square shaped tract of land situated in the Southeast Quarter (SE¼) of Section Thirteen (13), Township Fifty-six (56) North, Range Thirty (30) West, Clinton County, Missouri, being more particularly described as follows:

Commencing at the Southeast corner of Section Thirteen (13), Township Fifty-six (56) North, Range Thirty (30) West; Thence N 00°11'01" E, along the East line of the aforesaid Section Thirteen (13), a distance of 182.61 feet; Thence S 89°52'59" W, a distance of 33.37 feet to an existing fence line, said point being the True point of beginning for the following described tract of land; Thence S 89°52'59" W, a distance of 100.00 feet to a set bar and cap; Thence N 00°07'01" W, parallel to the aforesaid existing fence line, a distance of 100.00 feet to a set bar and cap; Thence N 89°52'59" E, a distance of 100.00 feet to a set bar and cap; Thence S 00°07'01" E, along the meanders of the aforesaid existing fence line, a distance of 100.00 feet to the point of beginning containing within the above described boundaries 0.23 acres more or less, subject to public and private roads, easements, rights of way, covenants, reservations and restrictions of record and further subject to any zoning restrictions of record or use limitations applicable to the above described premises.

An irregular shaped strip of land situated in the Southeast Quarter (SE¼) of Section Thirteen (13), Township Fifty-six (56) North, Range Thirty (30) West, Clinton County, Missouri, being more particularly described as follows:

Commencing at the Southeast corner of Section Thirteen (13), Township Fifty-six (56) North, Range Thirty (30) West; Thence N 00°11'01" E, along the East line of the aforesaid Section Thirteen (13), a distance of 182.61 feet to the True point of beginning for the following described strip of ground; Thence S 89°52'59" W, a distance of 33.37 feet to an existing fence line; Thence N 00°07'01" W, along the meanders of the aforesaid existing fence line, a distance of 100.00 feet to a set bar and cap; Thence N 89°52'59" E, a distance of 20.84 feet to the Southwesterly right of way line of Missouri State Route HH Highway; Thence along a 09 25'27" curve to the left, with a radius of 607.96 feet, an arc distance of 38.24 feet, having a chord bearing of S 19°47'03" E, with a chord length of 38.23 feet to the East line of the aforesaid Section Thirteen (13); Thence S 00°11'01" W, a distance of 64.00 feet to the point of beginning.

2. The lease shall provide for a term not exceeding ninety-nine years, and may provide for renewal periods. The rental payment shall be as agreed by the parties. The lease shall provide that any improvements on the property shall become the property of the state upon termination of the lease.

SECTION A. EMERGENCY CLAUSE. — Because immediate action is necessary to continue economic development efforts, the enactment of sections 4, 5, and 8 of this act are deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and are

hereby declared to be an emergency act within the meaning of the constitution, and the enactment of sections 4, 5, and 8 of this act shall be in full force and effect upon its passage and approval.

Approved July 7, 2009

SB 26 [SB 26]

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

Modifies various provisions relating to crime

AN ACT to repeal section 578.255, RSMo, and to enact in lieu thereof one new section relating to alcohol beverage vaporizers.

SECTION
A. Enacting clause.
578.255. Inducing, or possession with intent to induce, symptoms by use of certain solvents and other substances, prohibited.

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

SECTION A. ENACTING CLAUSE. — Section 578.255, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 578.255, to read as follows:

578.255. INDUCING, OR POSSESSION WITH INTENT TO INDUCE, SYMPTOMS BY USE OF CERTAIN SOLVENTS AND OTHER SUBSTANCES, PROHIBITED. — 1. **As used in this section, "alcohol beverage vaporizer" means any device which, by means of heat, a vibrating element, or any other method, is capable of producing a breathable mixture containing one or more alcoholic beverages to be dispensed for inhalation into the lungs via the nose or mouth or both.**

2. No person shall intentionally or willfully induce the symptoms of intoxication, elation, euphoria, dizziness, excitement, irrational behavior, exhilaration, paralysis, stupefaction, or dulling of the senses or nervous system, distortion of audio, visual or mental processes by the use of any **[**solvent, particularly toluol**] of the following substances:**

(1) Solvents, particularly toluol; or

(2) Ethyl alcohol.

3. This section shall not apply to substances that have been approved by the United States Food and Drug Administration as therapeutic drug products or are contained in approved over-the-counter drug products or administered lawfully pursuant to the order of an authorized medical practitioner.

[2.**] 4.** No person shall intentionally possess any solvent, particularly toluol, for the purpose of using it in the manner prohibited by section 578.250 and this section.

5. No person shall possess or use an alcoholic beverage vaporizer.

6. Nothing in this section shall be construed to prohibit the legal consumption of intoxicating liquor, as defined by section 311.020, RSMo, or nonintoxicating beer, as defined by section 312.010, RSMo.

Approved July 7, 2009

SB 36 [HCS SCS SBs 36 & 112]

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

Modifies provisions relating to sexual offenses against children

AN ACT a1 To repeal sections 566.030 and 566.060, RSMo, and to enact in lieu thereof two new sections relating to the penalties for certain forcible sexual offenses committed against children, with penalty provisions.

SECTION
A. Enacting clause.
566.030. Forcible rape and attempted forcible rape, penalties — suspended sentences not granted, when.
566.060. Forcible sodomy, penalties — suspended sentence not granted, when.

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

SECTION A. ENACTING CLAUSE. — Sections 566.030 and 566.060, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 566.030 and 566.060, to read as follows:

566.030. FORCIBLE RAPE AND ATTEMPTED FORCIBLE RAPE, PENALTIES — SUSPENDED SENTENCES NOT GRANTED, WHEN. — 1. A person commits the crime of forcible rape if such person has sexual intercourse with another person by the use of forcible compulsion. Forcible compulsion includes the use of a substance administered without a victim's knowledge or consent which renders the victim physically or mentally impaired so as to be incapable of making an informed consent to sexual intercourse.

2. Forcible rape or an attempt to commit forcible rape is a felony for which the authorized term of imprisonment is life imprisonment or a term of years not less than five years, unless:

(1) In the course thereof the actor inflicts serious physical injury or displays a deadly weapon or dangerous instrument in a threatening manner or subjects the victim to sexual intercourse or deviate sexual intercourse with more than one person, in which case the authorized term of imprisonment is life imprisonment or a term of years not less than fifteen years; **[**or**]**

(2) The victim is a child less than twelve years of age, in which case the required term of imprisonment is life imprisonment without eligibility for probation or parole until the defendant has served not less than thirty years of such sentence or unless the defendant has reached the age of seventy-five years and has served at least fifteen years of such sentence**, unless such forcible rape is described under subdivision (3) of this subsection; or**

(3) The victim is a child less than twelve years of age and such forcible rape was outrageously or wantonly vile, horrible or inhumane, in that it involved torture or depravity of mind, in which case, the required term of imprisonment is life imprisonment without eligibility for probation, parole or conditional release.

3. Subsection 4 of section 558.019, RSMo, shall not apply to the sentence of a person who has pleaded guilty to or has been found guilty of forcible rape when the victim is under the age of twelve, and "life imprisonment" shall mean imprisonment for the duration of a person's natural life for the purposes of this section.

[3.**]** **4.** No person found guilty of or pleading guilty to forcible rape or an attempt to commit forcible rape shall be granted a suspended imposition of sentence or suspended execution of sentence.

566.060. FORCIBLE SODOMY, PENALTIES — SUSPENDED SENTENCE NOT GRANTED, WHEN. — 1. A person commits the crime of forcible sodomy if such person has deviate sexual

intercourse with another person by the use of forcible compulsion. Forcible compulsion includes the use of a substance administered without a victim's knowledge or consent which renders the victim physically or mentally impaired so as to be incapable of making an informed consent to sexual intercourse.

2. Forcible sodomy or an attempt to commit forcible sodomy is a felony for which the authorized term of imprisonment is life imprisonment or a term of years not less than five years, unless:

(1) In the course thereof the actor inflicts serious physical injury or displays a deadly weapon or dangerous instrument in a threatening manner or subjects the victim to sexual intercourse or deviate sexual intercourse with more than one person, in which case the authorized term of imprisonment is life imprisonment or a term of years not less than ten years; or

(2) The victim is a child less than twelve years of age, in which case the required term of imprisonment is life imprisonment without eligibility for probation or parole until the defendant has served not less than thirty years of such sentence or unless the defendant has reached the age of seventy-five years and has served at least fifteen years of such sentence**, unless such forcible sodomy is described under subdivision (3) of this subsection; or**

(3) The victim is a child less than twelve years of age and such forcible sodomy was outrageously or wantonly vile, horrible or inhumane, in that it involved torture or depravity of mind, in which case, the required term of imprisonment is life imprisonment without eligibility for probation, parole or conditional release.

3. Subsection 4 of section 558.019, RSMo, shall not apply to the sentence of a person who has pleaded guilty to or has been found guilty of forcible sodomy when the victim is under the age of twelve, and "life imprisonment" shall mean imprisonment for the duration of a person's natural life for the purposes of this section.

[3.**]** **4.** No person found guilty of or pleading guilty to forcible sodomy or an attempt to commit forcible sodomy shall be granted a suspended imposition of sentence or suspended execution of sentence.

Approved July 9, 2009

SB 44 [CCS#2 HCS SCS SB 44]

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

Creates new regulations for private jails

AN ACT to repeal sections 221.111, 221.353, 221.510, 575.210, 575.220, and 575.240, RSMo, and to enact in lieu thereof eight new sections relating to private jails, with penalty provisions.

SECTION

A. Enacting clause.
221.095. Private jails, defined — reports of possible criminal violations required — missing prisoners, requirements.
221.097. Private jails — prisoners to be confined separately, when — health care services, adequate care required — limitation on contracts with private jails.
221.111. Delivery or concealment on premises of narcotics, liquor, or prohibited articles, penalties — visitation denied, when — personal items permitted to be posted.
221.353. Damage to jail property, class D felony.
221.510. Pending outstanding warrants in MULES and NCIC systems, inquiry conducted, when (Jake's Law).
575.210. Escape or attempted escape from confinement — penalty.
575.220. Failure to return to confinement.
575.240. Permitting escape.

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

SECTION A. ENACTING CLAUSE. — Sections 221.111, 221.353, 221.510, 575.210, 575.220, and 575.240, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 221.095, 221.097, 221.111, 221.353, 221.510, 575.210, 575.220, and 575.240, to read as follows:

221.095. PRIVATE JAILS, DEFINED — REPORTS OF POSSIBLE CRIMINAL VIOLATIONS REQUIRED — MISSING PRISONERS, REQUIREMENTS. — 1. For the purposes of this section, "private jail" shall mean a facility not owned or operated by the state, a county, or a municipality that confines or detains prisoners who are awaiting trial, awaiting sentencing, or serving a sentence in a jail. Such private jails shall be subject to all applicable state laws and local ordinances.

2. Any written report regarding any violation of a state criminal law that would result in a punishment of at least one year in prison shall contain the name and address of the private jail, the name of the prisoner or person who may have committed the law violation, information regarding the nature of the law violation, the name of the complainant, and other information which might be relevant.

3. The administrator of the private jail shall, in a timely manner, refer all reports of such law violations to local, state, or county law enforcement having jurisdiction over the area in which the private jail is located. The administrator and employees of the private jail shall cooperate with law enforcement in the investigation of the facts alleged in the report insofar as is consistent with the constitutional rights of all parties involved.

4. In the event that a prisoner is missing, the private jail shall take prompt and reasonable action to discover whether the prisoner has escaped. Upon learning that an escape has occurred, the private jail shall promptly notify the police department of the municipality, if any, in which the escape occurred and shall promptly notify the sheriff's department of the county in which the escape occurred and the Missouri state highway patrol. The private jail shall also notify any court or government agency from which an escaped prisoner or offender was referred. The private jail shall provide to the law enforcement agencies all available information known about the escape and the escapee.

5. Any person who makes a report under this section or who testifies in any administrative or judicial proceeding arising from the report shall be immune from any civil or criminal liability for making such a report or for testifying, except for liability for perjury, unless such person acted with malice.

221.097. PRIVATE JAILS — PRISONERS TO BE CONFINED SEPARATELY, WHEN — HEALTH CARE SERVICES, ADEQUATE CARE REQUIRED — LIMITATION ON CONTRACTS WITH PRIVATE JAILS. — 1. Persons confined in private jails shall be separated and confined according to gender. Persons confined under civil process or for civil causes, except those persons confined awaiting a determination on whether probation or parole will be revoked or continued, shall be kept separate from persons confined awaiting trial for criminal charges, awaiting sentencing for criminal charges, awaiting determination on whether probation or parole will be revoked or continued, or serving a sentence on a criminal investigation.

2. The administrator shall arrange for necessary health care services for persons confined in the private jail.

3. The administrator shall ensure that persons confined in the private jail have adequate clothing, food, and bedding. Deprivation of adequate clothing, food, or bedding shall not be used as a disciplinary action against any confined person.

4. No person confined in a private jail shall be used in any manner for the profit, betterment, or personal gain of any employee of the county or of any employee of the private jail.

5. Nothing in section 221.095 and this section shall create any new civil cause of action under Missouri law nor shall it be interpreted so as to conflict with the civil rights and constitutional rights of due process accorded to any person in any investigation of a crime or potential crime.

6. Any investigation of a report made under subsection 2 or 3 of section 221.095 shall be concluded in a timely manner by law enforcement and a written report of the conclusions shall be provided to the private jail.

7. The state or its political subdivisions shall not contract with any private jail to provide services, unless such private jail provides written documentation of its ability to indemnify the state or political subdivision for any liability which attaches to the state or political subdivision as a result of the contract or services provided under the contract. Such documentation shall demonstrate an ability to indemnify the state or political subdivision in an amount acceptable to the state or political subdivision.

221.111. DELIVERY OR CONCEALMENT ON PREMISES OF NARCOTICS, LIQUOR, OR PROHIBITED ARTICLES, PENALTIES — VISITATION DENIED, WHEN — PERSONAL ITEMS PERMITTED TO BE POSTED. — 1. No person shall knowingly deliver, attempt to deliver, have in such person's possession, deposit or conceal in or about the premises of any county **or private** jail or other county correctional facility:

(1) Any controlled substance as that term is defined by law, except upon the written prescription of a licensed physician, dentist, or veterinarian;

(2) Any other alkaloid of any kind or any spiritous or malt liquor;

(3) Any article or item of personal property which a prisoner is prohibited by law or rule made pursuant to section 221.060 from receiving or possessing, except as herein provided;

(4) Any gun, knife, weapon, or other article or item of personal property that may be used in such manner as to endanger the safety or security of the institution or as to endanger the life or limb of any prisoner or employee thereof.

2. The violation of subdivision (1) of subsection 1 of this section shall be a class C felony; the violation of subdivision (2) of this section shall be a class D felony; the violation of subdivision (3) of this section shall be a class A misdemeanor; and the violation of subdivision (4) of this section shall be a class B felony.

3. The chief operating officer of a county jail or other county correctional facility **or the administrator of a private jail** may deny visitation privileges to or refer to the county prosecuting attorney for prosecution any person who knowingly delivers, attempts to deliver, has in such person's possession, deposits or conceals in or about the premises of such jail or facility any personal item which is prohibited by rule or regulation of such jail or facility. Such rules or regulations, including a list of personal items allowed in the jail or facility, shall be prominently posted for viewing both inside and outside such jail or facility in an area accessible to any visitor, and shall be made available to any person requesting such rule or regulation. Violation of this subsection shall be an infraction if not covered by other statutes.

221.353. DAMAGE TO JAIL PROPERTY, CLASS D FELONY. — 1. A person commits the crime of damage to jail property if such person knowingly damages any city **[**or**],** county**, or private** jail building or other jail property.

2. A person commits the crime of damage to jail property if such person knowingly starts a fire in any city **[**or**],** county**, or private** jail building or other jail property.

3. Damage to jail property is a class D felony.

221.510. PENDING OUTSTANDING WARRANTS IN MULES AND NCIC SYSTEMS, INQUIRY CONDUCTED, WHEN (JAKE'S LAW). — 1. Every chief law enforcement official, sheriff, jailer, **administrator of a private jail,** department of corrections official and regional jail district official shall conduct an inquiry of pending outstanding warrants for misdemeanors and felonies through the Missouri Uniform Law Enforcement System (MULES) and the National Crime Information Center (NCIC) System on all prisoners about to be released, whether convicted of a crime or being held on suspicion of charges.

2. No prisoner, whether convicted of a crime or being held on suspicion of any charge, shall be released or transferred from a correctional facility or jail to any other facility prior to having a local, state or federal warrant check conducted by a law enforcement official, sheriff **[**or**],** authorized member of a correctional facility or jail**, or administrator of a private jail**.

3. If any prisoner warrant check indicates outstanding charges or outstanding warrants from another jurisdiction, it shall be the duty of the official conducting the warrant check to inform the agency that issued the warrant that the correctional facility or jail has such prisoner in custody. That prisoner shall not be released except to the custody of the jurisdictional authority that had issued the warrant, unless the warrant has been satisfied or dismissed, or unless the warrant issuing agency has notified the correctional facility or jail holding the prisoner that the agency does not wish the prisoner to be transferred or the warrant to be pursued.

4. If any person has actual knowledge that a violation of this section is occurring or has occurred, such person may report the information to the attorney general of the state of Missouri, who may appoint a sheriff of another county to investigate the report.

5. If a law enforcement official, sheriff **[**or**],** authorized member of the correctional facility or jail**, or administrator of a private jail** purposely fails to perform a warrant check with the intent to release a prisoner with outstanding warrants and which results in the release of a prisoner with outstanding warrants, that individual shall be guilty of a class A misdemeanor.

6. A law enforcement official, sheriff **[**or**],** authorized member of the correctional facility or jail**, or administrator of a private jail** shall not be deemed to have purposely failed to perform a warrant check with the intent to release a prisoner in violation of this section, if he or she is unable to complete the warrant check because the MULES or NCIC computer systems were not accessible.

575.210. ESCAPE OR ATTEMPTED ESCAPE FROM CONFINEMENT — PENALTY. — 1. A person commits the crime of escape or attempted escape from confinement if, while being held in confinement after arrest for any crime, while serving a sentence after conviction for any crime, or while at an institutional treatment center operated by the department of corrections as a condition of probation or parole, **[**he**] such person** escapes or attempts to escape from confinement.

2. Escape or attempted escape from confinement in the department of corrections is a class B felony.

3. Escape or attempted escape from confinement in a county or **private jail or** city **or county** correctional facility is a class D felony except that it is:

(1) A class A felony if it is effected or attempted by means of a deadly weapon or dangerous instrument or by holding any person as hostage;

(2) A class C felony if the escape or attempted escape is facilitated by striking or beating any person.

575.220. FAILURE TO RETURN TO CONFINEMENT. — 1. A person commits the crime of failure to return to confinement if, while serving a sentence for any crime under a work-release program, or while under sentence of any crime to serve a term of confinement which is not continuous, or while serving any other type of sentence for any crime wherein he **or she** is temporarily permitted to go at large without guard, he **or she** purposely fails to return to confinement when he **or she** is required to do so.

2. This section does not apply to persons who are free on bond, bail or recognizance, personal or otherwise, nor to persons who are on probation or parole, temporary or otherwise.

3. Failure to return to confinement is a class C misdemeanor unless:

(1) The sentence being served is to the Missouri department of corrections and human resources, in which case failure to return to confinement is a class D felony; or

(2) The sentence being served is one of confinement in a county **or private** jail on conviction of a felony, in which case failure to return to confinement is a class A misdemeanor.

575.240. PERMITTING ESCAPE. — 1. A public servant**, contract employee of a county or private jail, or employee of a private jail,** who is authorized and required by law to have charge of any person charged with or convicted of any crime commits the crime of permitting escape if he knowingly:

(1) Suffers, allows or permits any deadly weapon or dangerous instrument, or anything adapted or designed for use in making an escape, to be introduced into or allowed to remain in any place of confinement, in violation of law, regulations or rules governing the operation of the place of confinement; or

(2) Suffers, allows or permits a person in custody or confinement to escape.

2. Permitting escape by suffering, allowing or permitting any deadly weapon or dangerous instrument to be introduced into a place of confinement is a class B felony; otherwise, permitting escape is a class D felony.

Approved July 13, 2009

SB 47 [CCS HCS SCS SB 47]

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

Modifies educational requirements for certain law enforcement personnel

AN ACT to repeal sections 43.060, 57.010, 306.227, and 590.030, RSMo, and to enact in lieu thereof four new sections relating to certain law enforcement personnel.

SECTION

A. Enacting clause.
43.060. Qualifications, patrol and radio personnel — limitations on activities, exceptions — school board membership permitted — secondary employment permitted.
57.010. Election — qualifications — certificate of election — sheriff to hold valid peace officer license, when.
306.227. Minimum age for water patrolmen and radio personnel — disqualifying criteria for patrolmen and the commissioner.
590.030. Basic training, minimum standards established — age, citizenship and education requirements established by director — issuance of a license.

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

SECTION A. ENACTING CLAUSE. — Sections 43.060, 57.010, 306.227, and 590.030, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 43.060, 57.010, 306.227, and 590.030, to read as follows:

43.060. QUALIFICATIONS, PATROL AND RADIO PERSONNEL — LIMITATIONS ON ACTIVITIES, EXCEPTIONS — SCHOOL BOARD MEMBERSHIP PERMITTED — SECONDARY EMPLOYMENT PERMITTED. — 1. Patrolmen and radio personnel shall not be less than twenty-one years of age. No person shall be appointed as superintendent or member of the patrol or as

a member of the radio personnel who has been convicted of a felony or any crime involving moral turpitude, or against whom any indictment or information may then be pending charging the person with having committed a crime, nor shall any person be appointed who is not of good character or who is not a citizen of the United States and who at the time of appointment is not a citizen of the state of Missouri; or who **[**is not a graduate of an accredited four-year high school or in lieu thereof**]** **has not completed a high school program of education under chapter 167, RSMo, or who** has not obtained a **General Educational Development (GED)** certificate **[**of equivalency from the state department of elementary and secondary education or other source recognized by that department**]**, **and who has not obtained advanced education and experience as approved by the superintendent,** or who does not possess ordinary physical strength, and who is not able to pass the physical and mental examination that the superintendent prescribes.

2. Except as provided in subsections 3 and 4 of this section, no member of the patrol shall hold any other commission or office, elective or appointive, while a member of the patrol, except that the superintendent may authorize specified members to accept federal commissions providing investigative and arrest authority to enforce federal statutes while working with or at the direction of a federal law enforcement agency. No member of the patrol shall accept any other employment, compensation, reward, or gift other than regular salary and expenses as herein provided except with the written permission of the superintendent. No member of the patrol shall perform any police duty connected with the conduct of any election, nor shall any member of the patrol at any time or in any manner electioneer for or against any party ticket, or any candidate for nomination or election to office on any party ticket, nor for or against any proposition of any kind or nature to be voted upon at any election.

3. Members of the patrol shall be permitted to be candidates for and members or directors of the school board in any school district where they meet the requirements for that position as set forth in chapter 162, RSMo. Members of the patrol who become school board directors or members within the state shall be permitted to receive benefits or compensation for their service to the school board as provided by chapter 162, RSMo.

4. The superintendent may, by general order, set forth the circumstances under which members of the patrol may, in addition to their duties as members of the patrol, be engaged in secondary employment.

57.010. ELECTION — QUALIFICATIONS — CERTIFICATE OF ELECTION — SHERIFF TO HOLD VALID PEACE OFFICER LICENSE, WHEN. — 1. At the general election to be held in 1948, and at each general election held every four years thereafter, the voters in every county in this state shall elect some suitable person sheriff. No person shall be eligible for the office of sheriff who has been convicted of a felony. Such person shall be a resident taxpayer and elector of said county, shall have resided in said county for more than one whole year next before filing for said office and shall be a person capable of efficient law enforcement. When any person shall be elected sheriff, such person shall enter upon the discharge of the duties of such person's office as chief law enforcement officer of that county on the first day of January next succeeding said election.

2. Beginning January 1, 2003, any sheriff who does not hold a valid peace officer license pursuant to chapter 590, RSMo, shall refrain from personally executing any of the police powers of the office of sheriff, including but not limited to participation in the activities of arrest, detention, vehicular pursuit, search and interrogation. Nothing in this section shall prevent any sheriff from administering the execution of police powers through duly commissioned deputy sheriffs. This subsection shall not apply:

(1) During the first twelve months of the first term of office of any sheriff who is eligible to become licensed as a peace officer and who intends to become so licensed within twelve months after taking office**, except this subdivision shall not be effective beginning January 1, 2010**; or

(2) To the sheriff of any county of the first classification with a charter form of government with a population over nine hundred thousand.

306.227. MINIMUM AGE FOR WATER PATROLMEN AND RADIO PERSONNEL — DISQUALIFYING CRITERIA FOR PATROLMEN AND THE COMMISSIONER. — Patrolmen and radio personnel of the water patrol shall not be less than twenty-one years of age. No person shall be appointed as commissioner or as a member of the patrol or as a member of the radio personnel who:

(1) Has been convicted of a felony or any crime involving moral turpitude, or against whom any indictment or information may then be pending charging the person with having committed a crime;

(2) Is not of good character;

(3) Is not a citizen of the United States;

(4) At the time of appointment is not a citizen of the state of Missouri;

(5) **[**Is not a graduate of an accredited four-year high school or in lieu thereof**] Has not completed a high school program of education under chapter 167, RSMo, or** has not obtained a **General Educational Development (GED)** certificate **[**of equivalency from the state department of elementary and secondary education or other source recognized by such department**], and who has not obtained advanced education and experience as approved by the commissioner**; or

(6) Does not possess ordinary physical strength, and who is not able to pass the physical and mental examination that the commissioner prescribes.

590.030. BASIC TRAINING, MINIMUM STANDARDS ESTABLISHED — AGE, CITIZENSHIP AND EDUCATION REQUIREMENTS ESTABLISHED BY DIRECTOR — ISSUANCE OF A LICENSE. — 1. The POST commission shall establish minimum standards for the basic training of peace officers. Such standards may vary for each class of license established pursuant to subsection 2 of section 590.020.

2. The director shall establish minimum age, citizenship, and general education requirements and may require a qualifying score on a certification examination as conditions of eligibility for a peace officer license. **Such general education requirements shall require completion of a high school program of education under chapter 167, RSMo, or obtainment of a General Education Development (GED) certificate.**

3. The director shall provide for the licensure, with or without additional basic training, of peace officers possessing credentials by other states or jurisdictions, including federal and military law enforcement officers.

4. The director shall establish a procedure for obtaining a peace officer license and shall issue the proper license when the requirements of this chapter have been met.

5. As conditions of licensure, all licensed peace officers shall:

(1) Obtain continuing law enforcement education pursuant to rules to be promulgated by the POST commission; and

(2) Maintain a current address of record on file with the director.

6. A peace officer license shall automatically expire if the licensee fails to hold a commission as a peace officer for a period of five consecutive years, provided that the POST commission shall provide for the relicensure of such persons and may require retraining as a condition of eligibility for relicensure, and provided that the director may provide for the continuing licensure, subject to restrictions, of persons who hold and exercise a law enforcement commission requiring a peace officer license but not meeting the definition of a peace officer pursuant to this chapter.

Approved July 8, 2009

SB 126 [SB 126]

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

Prohibits life insurers from taking underwriting actions or charging different rates based upon a person's past or future lawful travel destinations unless such action is based upon sound actuarial principles

AN ACT to amend chapter 376, RSMo, by adding thereto one new section relating to prohibiting discrimination in life insurance based on lawful travel destinations, with penalty provisions.

SECTION
A. Enacting clause.
376.502. Life insurers not to discriminate based on lawful travel destinations — violations, penalty.

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

SECTION A. ENACTING CLAUSE. — Chapter 376, RSMo, is amended by adding thereto one new section, to be known as section 376.502, to read as follows:

376.502. LIFE INSURERS NOT TO DISCRIMINATE BASED ON LAWFUL TRAVEL DESTINATIONS — VIOLATIONS, PENALTY. — 1. No life insurance company doing business within this state shall deny or refuse to accept an application for life insurance, refuse to renew, cancel, restrict, or otherwise terminate a policy of life insurance, or charge a different rate for the same life insurance coverage, based upon the applicant's or insured's past or future lawful travel destinations. Nothing in this section shall prohibit a life insurance company from denying an application for life insurance, or restricting or charging a different premium or rate for coverage under such a policy based on a specific travel destination where the denial, restriction, or rate differential is based upon sound actuarial principles or is related to actual or reasonably anticipated experience.

2. A violation of the provisions of this section shall be unfair trade practice as defined by sections 375.930 to 375.948, RSMo, and shall be governed by and subject to all of the provisions and penalties provided by such sections.

3. The provisions of this section shall apply to any life insurance policy issued or renewed on or after August 28, 2009.

Approved July 13, 2009

SB 140 [SCS SB 140]

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

Modifies provisions relating to criminal nonsupport

AN ACT to repeal section 568.040, RSMo, and to enact in lieu thereof two new sections relating to criminal nonsupport, with penalty provisions.

SECTION
A. Enacting clause.

478.495. Criminal nonsupport courts authorized — referral of cases — allocation of resources — fund created, use of moneys.
568.040. Criminal nonsupport, penalty — payment of support as a condition of parole — prosecuting attorneys to report cases to division of child support enforcement.

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

SECTION A. ENACTING CLAUSE. — Section 568.040, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 478.495 and 568.040, to read as follows:

478.495. CRIMINAL NONSUPPORT COURTS AUTHORIZED — REFERRAL OF CASES — ALLOCATION OF RESOURCES — FUND CREATED, USE OF MONEYS. — 1. Criminal nonsupport courts may be established by any circuit court to provide an alternative for the criminal justice system to dispose of cases which stem from criminal nonsupport. A criminal nonsupport court shall combine judicial supervision, substance abuse treatment, education including general education development certificate (GED) programs, vocational or employment training, work programs, and support payment plans for criminal nonsupport court participants. Except for good cause found by the court, a criminal nonsupport court making a referral for education, substance abuse treatment, vocational or employment training, or work programs, when such program will receive state or federal funds in connection with such referral, shall refer the person only to a program which is certified by a department of the state of Missouri, unless no appropriate certified program is located within the same county as the criminal nonsupport court. Upon successful completion of the education, substance abuse treatment, vocational or employment training program, work program, or support payment plan, the defendant becoming gainfully employed, or the defendant commencing payment of current and accrued support, the charges, petition, or penalty against a criminal nonsupport court participant may be dismissed, reduced, or modified. Any fees received by a court from a defendant as payment for education, substance abuse treatment, or training programs shall not be considered court costs, charges, or fines.

2. Each circuit court shall establish conditions for referral of proceedings to the criminal nonsupport court. The defendant in any criminal proceeding accepted by a criminal nonsupport court for disposition shall be a nonviolent person, as determined by the prosecuting attorney, and shall be subject to the conditions set forth in subsection 6 of section 568.040, RSMo. Any proceeding accepted by the criminal nonsupport court program for disposition shall be upon agreement of the parties.

3. Any report made by the staff of the program shall not be admissible as evidence against the participant in the underlying criminal nonsupport case. Notwithstanding the foregoing, termination from the criminal nonsupport court program and the reasons for termination may be considered in sentencing or disposition.

4. Notwithstanding any other provision of law, criminal nonsupport court staff shall be provided with access to all records of any state or local government agency relevant to the supervision of any program participant. Upon general request, employees of all such agencies shall fully inform criminal nonsupport court staff of all matters relevant to the supervision of the participant. All such records and reports and the contents thereof shall be treated as closed records and shall not be disclosed to any person outside of the criminal nonsupport court, and shall be maintained by the court in a confidential file not available to the public.

5. In order to coordinate the allocation of resources available to criminal nonsupport courts throughout the state, there is hereby established a "Criminal Nonsupport Courts Coordinating Commission" in the judicial department. The criminal nonsupport courts coordinating commission shall consist of one member selected by the director of the department of corrections; one member selected by the director of the department of

social services; one member selected by the director of the department of education; one member selected by the director of the department of public safety; one member selected by the state courts administrator; one member selected by the director of the department of labor and industrial relations; three members selected by the Missouri supreme court, one being a criminal defense attorney; and one member who is a prosecuting attorney selected by the office of prosecution services. The Missouri supreme court shall designate the chair of the commission. The commission shall periodically meet at the call of the chair; evaluate resources available for assessment and training of persons assigned to criminal nonsupport courts or for operation of criminal nonsupport courts; secure grants, funds, and other property and services necessary or desirable to facilitate criminal nonsupport court operation; and allocate such resources among the various criminal nonsupport courts operating within the state.

6. There is hereby established in the state treasury a "Criminal Nonsupport Court Resources Fund", which shall be administered by the criminal nonsupport courts coordinating commission. Funds available for allocation or distribution by the criminal nonsupport courts coordinating commission may be deposited into the criminal nonsupport court resources fund. The state treasurer shall be the custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo. Notwithstanding the provisions of section 33.080, RSMo, moneys in the criminal nonsupport court resources fund shall not be transferred or placed to the credit of the general revenue fund of the state at the end of each biennium, but shall remain deposited to the credit of the criminal nonsupport court resources fund.

568.040. CRIMINAL NONSUPPORT, PENALTY — PAYMENT OF SUPPORT AS A CONDITION OF PAROLE — PROSECUTING ATTORNEYS TO REPORT CASES TO DIVISION OF CHILD SUPPORT ENFORCEMENT. — 1. A person commits the crime of nonsupport if **[**he**]** **such person** knowingly fails to provide, without good cause, adequate support for his **or her** spouse; a parent commits the crime of nonsupport if such parent knowingly fails to provide, without good cause, adequate support which such parent is legally obligated to provide for his **or her** child or stepchild who is not otherwise emancipated by operation of law.

2. For purposes of this section:

(1) "Child" means any biological or adoptive child, or any child **[**legitimated by legal process**]** **whose paternity has been established under chapter 454, RSMo, or chapter 210, RSMo**, or any child whose relationship to the defendant has been determined, by a court of law in a proceeding for dissolution or legal separation, to be that of child to parent;

(2) "Good cause" means any substantial reason why the defendant is unable to provide adequate support. Good cause does not exist if the defendant purposely maintains his inability to support;

(3) "Support" means food, clothing, lodging, and medical or surgical attention;

(4) It shall not constitute a failure to provide medical and surgical attention, if nonmedical remedial treatment recognized and permitted under the laws of this state is provided.

3. **Inability to provide support for good cause shall be an affirmative defense under this section. A person who raises such affirmative defense has the burden of proving the defense by a preponderance of the evidence.**

4. The defendant shall have the burden of injecting the issues raised by subdivisions (2) and (4) of subsection 2 **and subsection 3 of this section**.

[4.**]** **5.** Criminal nonsupport is a class A misdemeanor, unless **[**the person obligated to pay child support commits the crime of nonsupport in each of six individual months within any twelve-month period, or**]** the total arrearage is in excess of **[**five thousand dollars**]** **an aggregate of twelve monthly payments due under any order of support issued by any court of competent jurisdiction or any authorized administrative agency**, in **[**either of**]** which case it is a class D felony.

6. If at any time a defendant convicted of criminal nonsupport is placed on probation or parole, there may be ordered as a condition of probation or parole that the defendant commence payment of current support as well as satisfy the arrearages. Arrearages may be satisfied first by making such lump sum payment as the defendant is capable of paying, if any, as may be shown after examination of defendant's financial resources or assets, both real, personal, and mixed, and second by making periodic payments. Periodic payments toward satisfaction of arrears when added to current payments due may be in such aggregate sums as is not greater than fifty percent of the defendant's adjusted gross income after deduction of payroll taxes, medical insurance that also covers a dependent spouse or children, and any other court or administrative ordered support, only. If the defendant fails to pay the current support and arrearages as ordered, the court may revoke probation or parole and then impose an appropriate sentence within the range for the class of offense that the defendant was convicted of as provided by law, unless the defendant proves good cause for the failure to pay as required under subsection 3 of this section.

7. During any period that a nonviolent defendant is incarcerated for criminal nonsupport, if the defendant is ready, willing, and able to be gainfully employed during said period of incarceration, the defendant, if he or she meets the criteria established by the department of corrections, may be placed on work release to allow the defendant to satisfy defendant's obligation to pay support. Arrearages shall be satisfied as outlined in the collection agreement.

8. Beginning August 28, 2009, every nonviolent first and second time offender then incarcerated for criminal nonsupport, who has not been previously placed on probation or parole, for conviction of criminal nonsupport, may be considered for parole, under the conditions set forth in subsection 6 of this section, or work release, under the conditions set forth in subsection 7 of this section.

[5.**]** **9.** Beginning January 1, 1991, every prosecuting attorney in any county which has entered into a cooperative agreement with the division of child support enforcement shall report to the division on a quarterly basis the number of charges filed and the number of convictions obtained under this section by the prosecuting attorney's office on all IV-D cases. The division shall consolidate the reported information into a statewide report by county and make the report available to the general public.

[6.**]** **10.** Persons accused of committing the offense of nonsupport of the child shall be prosecuted:

(1) In any county in which the child resided during the period of time for which the defendant is charged; or

(2) In any county in which the defendant resided during the period of time for which the defendant is charged.

Approved July 7, 2009

SB 141 [SS SCS SB 141]

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

Modifies the law on the establishment of paternity

AN ACT to repeal sections 210.826 and 210.828, RSMo, and to enact in lieu thereof three new sections relating to paternity determinations.

SECTION
A. Enacting clause.
210.826. Determination of father and child relationship, who may bring action, when action may be brought.
210.828. Statute of limitations, exception — notification form required, when.
210.854. Paternity and support, setting aside of judgment, criteria — division to track cases.

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

SECTION A. ENACTING CLAUSE. — Sections 210.826 and 210.828, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 210.826, 210.828, and 210.854, to read as follows:

210.826. DETERMINATION OF FATHER AND CHILD RELATIONSHIP, WHO MAY BRING ACTION, WHEN ACTION MAY BE BROUGHT. — 1. A child, his natural mother, a man presumed to be his father under subsection 1 of section 210.822, a man alleging himself to be a father, any person having physical or legal custody of a child for a period of more than sixty days or the **family support** division **[**of child support enforcement**]** may bring an action at any time for the purpose of declaring the existence or nonexistence of the father and child relationship presumed under subsection 1 of section 210.822.

2. An action to determine the existence of the father and child relationship with respect to a child who has no presumed father under section 210.822 may be brought by the child, the mother or the person who has legal custody of the child, any person having physical or legal custody of a child for a period of more than sixty days, the **family support** division **[**of child support enforcement**]**, the personal representative or a parent of the mother if the mother has died, a man alleging himself to be the father, or the personal representative or a parent of the alleged father if the alleged father has died or is a minor.

3. Regardless of its terms, an agreement, other than an agreement approved by the court in accordance with subsection 2 of section 210.838, between an alleged or presumed father and the mother or child, does not bar an action under this section.

4. If an action under this section is brought before the birth of the child, all proceedings shall be stayed until after the birth, except service of process and the taking of depositions to perpetuate testimony.

5. In an action to determine the existence of the father and child relationship under this section, a notification form, as specified in this subsection, shall be attached to the delivery of the petition through service of process. The notification form shall prominently state in bold face type as follows: "Important Notice. If you do not respond to this action, a judgment of paternity may be entered against you and you may be ordered to pay child support, medical support, or reimburse someone for support previously provided for the child. You have the right to contest that you are the father of the named child and you have the right to request genetic testing to prove whether or not you are the father.".

210.828. STATUTE OF LIMITATIONS, EXCEPTION — NOTIFICATION FORM REQUIRED, WHEN. — 1. An action to determine the existence of the father and child relationship as to a child who has no presumed father under section 210.822 may not be brought later than eighteen years after the birth of the child, except that an action to determine the existence of the father and child relationship as to a child who has no presumed father under the provisions of section 210.822 may be brought by the child within three years after such child attains the age of eighteen.

2. A parent's retroactive liability to another party for reimbursement of necessary support provided by that party to the child for whom a parent and child relationship is established under sections 210.817 to 210.852 is limited to a period of five years next preceding the commencement of the action.

3. Sections 210.826 and 210.828 do not extend the time within which a right of inheritance or a right to a succession may be asserted beyond the time provided by law relating to distribution and closing of decedents' estates or to the determination of heirship, or otherwise.

4. In an action to determine the existence of the father and child relationship under this section, a notification form, as specified in this subsection, shall be attached to the delivery of the petition through service of process. The notification form shall prominently state in bold face type as follows: "Important Notice. If you do not respond to this action, a judgment of paternity may be entered against you and you may be ordered to pay child support, medical support or reimburse someone for support previously provided for the child. You have the right to contest that you are the father of the named child and you have the right to request genetic testing to prove whether or not you are the father.".

210.854. PATERNITY AND SUPPORT, SETTING ASIDE OF JUDGMENT, CRITERIA — DIVISION TO TRACK CASES. — 1. In the event of the entry of a judgment or judgments of paternity and support, whether entered in one judgment or separately, a person against whom such a judgment or judgments have been entered may file a petition requesting a circuit court with jurisdiction over the subject child or children to set aside said judgment or judgments in the interests of justice and upon the grounds set forth in this section. Such a petition may be filed at any time prior to December 31, 2011. After that date, the petition shall be filed within two years of the entry of the original judgment of paternity and support or within two years of entry of the later judgment in the case of separate judgments of paternity and support and shall be filed in the county which entered the judgment or judgments of paternity and support. Any such petition shall be served upon the biological mother and any other legal guardian or custodian in the same manner provided for service of process in the rules of civil procedure. The child or children shall be made a party and shall have a guardian ad litem appointed for the child or children before any further proceedings are had. If the child or children are recipients of IV-D services as defined in subdivision (8) of section 454.460, RSMo, the family support division shall also be made a party and shall be duly served.

2. The petition shall include an affidavit executed by the petitioner alleging that evidence exists which was not considered before entry of judgment and either:

(1) An allegation that genetic testing was conducted within ninety days prior to the filing of such petition using DNA methodology to determine the probability or improbability of paternity, and performed by an expert as defined in section 210.834. The affidavit shall also allege that the test results, which are attached thereto, indicate that a person subject to the child support payment order has been excluded as the child's father; or

(2) A request to the court for an order of genetic paternity testing using DNA methodology.

3. The court, after a hearing wherein all interested parties have been given an opportunity to present evidence and be heard, and upon a finding of probable cause to believe said testing may result in a determination of non-paternity, shall order the relevant parties to submit to genetic paternity testing. The genetic paternity testing costs shall be paid by the petitioner.

4. Upon a finding that the genetic test referred to herein was properly conducted, accurate, and indicates that the person subject to the child support payment order has been excluded as the child's father, the court shall, unless it makes written findings of fact and conclusions of law that it is in the best interest of the parties not to do so:

(1) Grant relief on the petition and enter judgment setting aside the previous judgment or judgements of paternity and support, or acknowledgment of paternity under section 210.823 only as to the child or children found not to be the biological child or children of the petitioner;

(2) Extinguish any existing child support arrearage only as to the child or children found not to be the biological child or children of the petitioner; and

(3) Order the department of health and senior services to modify the child's birth certificate accordingly.

5. The provisions of this section shall not apply to grant relief to the parent of any adopted child.

6. A finding under subsection 4 of this section shall constitute a material mistake of fact under section 210.823.

7. The provisions of this section shall not be construed to create a cause of action to recover child support or state debt, under subdivision (2) of subsection 1 of section 454.465, RSMo, and subsection 10 of section 452.340, RSMo, that was previously paid pursuant to the order. The petitioner shall have no right for reimbursement for any moneys previously paid pursuant to said order.

8. Any petitioner who has pled guilty to or been found guilty of an offense for criminal nonsupport under section 568.040, RSMo, as to a child or children who have been found not to be the biological child or children of the petitioner, may apply to the court in which the petitioner pled guilty or was sentenced for an order to expunge from all official records all recordations of his arrest, plea, trial, or conviction. If the court determines, after hearing, that the petitioner has had a judgment or judgments of paternity and support set aside under this section, the court shall enter an order of expungement. Upon granting of the order of expungement under this subsection, the records and files maintained in any administrative or court proceeding in an associate or circuit division of the circuit court under this section shall be confidential and only available to the parties or by order of the court for good cause shown. The effect of such order shall be to restore such person to the status he or she occupied prior to such arrest, plea, or conviction and as if such event had never taken place. No person as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his failure to recite or acknowledge such arrest, plea, trial, conviction, or expungement in response to any inquiry made of him for any purpose whatsoever and no such inquiry shall be made for information relating to an expungement under this section.

9. Beginning in 2010, the family support division shall track and report to the general assembly the number of cases known to the division in which a court, within the calendar year, set aside a previous judgment or judgments of paternity and support under subsection 4 of this section. The family support division shall submit the report annually by December 31.

Approved July 7, 2009

SB 152 [HCS SCS SB 152]

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

Modifies definition of eligible student for nursing student loan program

AN ACT to repeal section 335.212, RSMo, and to enact in lieu thereof one new section relating to the nursing student loan program.

SECTION

A. Enacting clause.

335.212. Definitions.

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

SECTION A. ENACTING CLAUSE. — Section 335.212, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 335.212, to read as follows:

335.212. DEFINITIONS. — As used in sections 335.212 to 335.242, the following terms mean:

(1) "Board", the Missouri state board of nursing;

(2) "Department", the Missouri department of health and senior services;

(3) "Director", director of the Missouri department of health and senior services;

(4) "Eligible student", a resident who has been accepted as a full-time student in a formal course of instruction leading to an associate degree, a diploma, a bachelor of science, **[**or**]** a master of science in nursing **[**or leading to the completion of educational requirements for a licensed practical nurse**]** **(M.S.N.), a doctorate in nursing (Ph.D. or D.N.P.), or a student with a master of science in nursing seeking a doctorate in education (Ed.D.), or leading to the completion of educational requirements for a licensed practical nurse. The doctoral applicant may be a part-time student**;

(5) "Participating school", an institution within this state which is approved by the board for participation in the professional and practical nursing student loan program established by sections 335.212 to 335.242, having a nursing department and offering a course of instruction based on nursing theory and clinical nursing experience;

(6) "Qualified applicant", an eligible student approved by the board for participation in the professional and practical nursing student loan program established by sections 335.212 to 335.242;

(7) "Qualified employment", employment on a full-time basis in Missouri in a position requiring licensure as a licensed practical nurse or registered professional nurse in any hospital as defined in section 197.020, RSMo, or in any agency, institution, or organization located in an area of need as determined by the department of health and senior services. Any forgiveness of such principal and interest for any qualified applicant engaged in qualified employment on a less than full-time basis may be prorated to reflect the amounts provided in this section;

(8) "Resident", any person who has lived in this state for one or more years for any purpose other than the attending of an educational institution located within this state.

Approved July 9, 2009

SB 154 [HCS SB 154]

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

Authorizes nonprofit sewer companies to provide domestic water services in certain areas

AN ACT to repeal section 393.829, RSMo, and to enact in lieu thereof one new section relating to nonprofit sewer companies.

SECTION

A. Enacting clause.

393.829. Powers.

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

SECTION A. ENACTING CLAUSE. — Section 393.829, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 393.829, to read as follows:

393.829. POWERS. — A nonprofit sewer company shall have power:

(1) To sue and be sued, in its corporate name;

(2) To have succession by its corporate name for the period stated in its articles of incorporation or, if no period is stated in its articles of incorporation, to have such succession perpetually;

(3) To adopt a corporate seal and alter the same at pleasure;

(4) To provide wastewater disposal and wastewater treatment services to its members, to governmental agencies and political subdivisions;

(5) To make loans to persons to whom wastewater disposal or wastewater treatment is or will be supplied by the company for the purpose of, and otherwise to assist such persons in, installing therein plumbing fixtures, appliances, apparatus and equipment of any and all kinds and character, and in connection therewith, to purchase, acquire, lease, sell, distribute, install and repair such plumbing fixtures, appliances, apparatus and equipment, and to accept or otherwise acquire, and to sell, assign, transfer, endorse, pledge, hypothecate and otherwise dispose of notes, bonds and other evidences of indebtedness and any and all types of security therefor;

(6) To make loans to persons to whom wastewater disposal or wastewater treatment is or will be supplied by the company for the purpose of, and otherwise to assist such persons in, constructing, maintaining and operating commercial or industrial plants or facilities;

(7) To construct, purchase, take, receive, lease as lessee, or otherwise acquire, and to own, hold, use, equip, maintain, and operate, and to sell, assign, transfer, convey, exchange, lease as lessor, mortgage, pledge, or otherwise dispose of or encumber, wastewater provision or collection or treatment systems, plants, lands, buildings, structures, dams, and equipment, and any and all kinds and classes of real or personal property whatsoever, which shall be deemed necessary, convenient or appropriate to accomplish the purpose for which the company is organized;

(8) To purchase or otherwise acquire, and to own, hold, use and exercise and to sell, assign, transfer, convey, mortgage, pledge, hypothecate, or otherwise dispose of or encumber, franchises, rights, privileges, licenses, rights-of-way and easements;

(9) To borrow money and otherwise contract indebtedness, and to issue notes, bonds, and other evidences of indebtedness therefor, and to secure the payment thereof by mortgage, pledge, deed of trust, or any other encumbrance upon any or all of its then-owned or after-acquired real or personal property, assets, franchises, revenues or income;

(10) To construct, maintain and operate wastewater distribution and collection and treatment plants and lines along, upon, under and across all public thoroughfares, including without limitation, all roads, highways, streets, alleys, bridges and causeways, and upon, under and across all publicly owned lands;

(11) To exercise the power of eminent domain in the manner provided by the laws of this state for the exercise of that power by corporations constructing or operating electric transmission and distribution lines or systems;

(12) To conduct its business and exercise any or all of its powers within or without this state;

(13) To adopt, amend and repeal bylaws; **[**and**]**

(14) To do and perform any and all other acts and things, and to have and exercise any and all other powers which may be necessary, convenient or appropriate to accomplish the purpose for which the company is organized**; and**

(15) To provide all services and assume all responsibilities authorized to a nonprofit water company organized under sections 393.900 to 393.954, when approved by its members, provided that no domestic water services may be provided within the

boundaries of an existing public water supply district, municipal utility, or within the certificated area of a water corporation as defined in section 386.020, RSMo.

Approved June 25, 2009

SB 157 [HCS SCS SB 157]

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

Codifies into law the five regional autism projects currently serving persons with autism

AN ACT to amend chapter 633, RSMo, by adding thereto one new section relating to autism as addressed by the division of developmental disabilities.

SECTION

A. Enacting clause.
633.220. Definitions — programs for persons with autism to be established — state to be divided into regions, regional projects, purchase of services — regional councils — advisory committee, duties — rulemaking authority.

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

SECTION A. ENACTING CLAUSE. — Chapter 633, RSMo, is amended by adding thereto one new section, to be known as section 633.220, to read as follows:

633.220. DEFINITIONS — PROGRAMS FOR PERSONS WITH AUTISM TO BE ESTABLISHED — STATE TO BE DIVIDED INTO REGIONS, REGIONAL PROJECTS, PURCHASE OF SERVICES — REGIONAL COUNCILS — ADVISORY COMMITTEE, DUTIES — RULEMAKING AUTHORITY. — 1. For purposes of this section, the following terms shall mean:

(1) "Autism", a lifelong developmental disability that typically appears during the first three years of life resulting from a neurological disorder that affects brain functioning which interferes with communication, learning, behavior, and social development;

(2) "Division", the division of developmental disabilities;

(3) "Family support", services and helping relationships for the purpose of maintaining and enhancing family caregiving. Family support may be any combination of services that enable individuals with autism to reside within their family homes and remain integrated within their communities. Family support services shall be:

(a) Based on individual and family needs;

(b) Identified by the family;

(c) Easily accessible to the family;

(d) Family-centered and culturally sensitive;

(e) Flexible and varied to meet the changing needs of the family members; and

(f) Provided in a timely manner contingent upon the availability of resources;

(4) "Service provider", a person or entity which provides and receives reimbursement for autism programs and services as specified in this section.

2. The division of developmental disabilities shall establish programs and services for persons with autism. These programs and services shall be established in conjunction with persons with autism and with families of persons with autism. The division shall establish such programs and services in conjunction with the regional parent advisory councils and with the Missouri parent advisory committee on autism. The programs and services shall be designed to enhance persons with autism spectrum disorders and families' abilities to meet needs they identify and shall:

(1) Develop skills for persons with autism through supports, services, and teaching;

(2) Teach families to provide behavioral supports to members with autism; and

(3) Provide needed family support.

3. The division director, with input from the Missouri parent advisory council on autism, shall divide the state into at least five regions and establish autism programs and services which are responsive to the needs of persons with autism and families consistent with contemporary and emerging best practices. The boundaries of such regions, to the extent practicable, shall be contiguous with relevant boundaries of political subdivisions and health service areas.

4. The regional projects may provide or purchase, but shall not be limited to the following services in addition to other contemporary and emerging based practices:

(1) Assessment;

(2) Advocacy training;

(3) Behavior management training and supports;

(4) Communication and language therapy;

(5) Consultation on individualized education and habilitation plans;

(6) Crisis intervention;

(7) Information and referral assistance;

(8) Life skills;

(9) Music therapy;

(10) Occupational therapy, sensory integration therapy, and consultation;

(11) Parent or caregiver training;

(12) Public education and information dissemination;

(13) Respite care; and

(14) Staff training.

5. Each regional project shall have a regional parent advisory council composed of persons with autism and persons that have family members with autism, including family members that are young children, school-age children, and adults, and who have met the division's eligibility requirements to be a client as defined under section 630.005, RSMo. Members of a regional parent advisory council shall be Missouri residents. No member shall be a service provider, a member of a service provider's board of directors, or an employee of a service provider or the division.

6. The responsibilities of each regional parent advisory council shall include, but not be limited to, the following:

(1) Advocacy;

(2) Contract monitoring;

(3) Review of annual audits of projects by the department of mental health;

(4) Recommendation of services to be provided based on input from families;

(5) Recommendation of policy, budget, and service priorities;

(6) Monthly review of service delivery;

(7) Planning;

(8) Public education and awareness;

(9) Recommendation of service providers to the division for administration of the project; and

(10) Recommendation of contract cancellation.

7. The division shall establish the Missouri parent advisory committee on autism. The committee shall be appointed by the division director. A chair of the committee shall be selected by members of the committee. It shall be composed of:

(1) Two representatives and one alternate from each of the regional parent advisory committees established in subsection 3 of this section;

(2) One person with autism and his or her alternate.

8. The division director shall make every effort to appoint members nominated by the regional parent advisory councils. The membership should represent the cultural diversity of the state and represent persons with autism of all ages and capabilities.

9. The responsibilities of the Missouri parent advisory committee on autism shall include, but not be limited to, the following:

(1) Serve as a liaison with the regional parent advisory councils and provide current information to them and the persons and families they serve;

(2) Determine project outcomes for autism services;

(3) Plan and sponsor statewide activities;

(4) Recommend service providers to the division director in the event a regional parent advisory committee and the district administrator cannot reach consensus; and

(5) Provide an annual report to the Missouri commission on autism spectrum disorders, the governor, the director of the department of mental health, and director of the division of developmental disabilities.

10. The director of the department of mental health shall promulgate rules and regulations to implement this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

Approved July 8, 2009

SB 161 [SB 161]

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

Removes certain limitations on investments made by boards of trustees of police and firemen's retirement systems

AN ACT to repeal sections 86.107 and 86.590, RSMo, and to enact in lieu thereof two new sections relating to investments by the board of trustees of police and firemen's pension systems.

SECTION
A. Enacting clause.
86.107. Trustees to manage funds.
86.590. Board of trustees authorized to invest funds, how.

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

SECTION A. ENACTING CLAUSE. — Sections 86.107 and 86.590, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 86.107 and 86.590, to read as follows:

86.107. TRUSTEES TO MANAGE FUNDS. — The board of trustees shall be the trustees of the several funds created by sections 86.010 to 86.193 as provided in section 86.123 and shall

have full power to invest and reinvest such funds **[**subject to all the terms, conditions, limitations and restrictions imposed by law upon life insurance companies in the state of Missouri in making and disposing of their investments, and subject to like terms, conditions, limitations and restrictions said trustees**] and** shall have full power to hold, purchase, sell, assign, transfer or dispose of any of the securities and investments in which any of the funds created herein shall have been invested, as well as of the proceeds of said investments and any moneys belonging to said funds. **The board shall invest the funds of the system as permitted by sections 105.687 to 105.690, RSMo.**

86.590. BOARD OF TRUSTEES AUTHORIZED TO INVEST FUNDS, HOW. — The board of trustees of police and firemen's pension systems, established under the provisions of section 86.583, may invest and reinvest the moneys of the system, and may hold, purchase, sell, assign, transfer or dispose of any of the securities and investments in which such moneys shall have been invested, as well as the proceeds of such investments and such moneys**[**; except that such investment and reinvestments shall be subject to all the terms, conditions, limitations, and restrictions imposed by law upon life insurance or casualty companies in the state of Missouri in making and disposing of their investments, except that the percentage limitations of subsection 2 of section 376.305, RSMo, shall not apply**]**. The board of trustees of police and firemen's pension systems, established under the provisions of section 86.583, shall **[**comply with the prudent investor standard for investment fiduciaries as provided in section 105.688, RSMo, when investing the assets of the system**] invest the funds of the system as permitted by sections 105.687 to 105.690, RSMo**.

Approved June 26, 2009

SB 179 [HCS SCS SB 179]

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

Authorizes the Governor to convey a parcel of real property to the Missouri Highways and Transportation Commission for the new Mississippi River Bridge project

AN ACT to authorize the conveyance of certain state properties, with an emergency clause for certain sections.

SECTION

1. Governor authorized to quitclaim Joplin Regional Center to Missouri Southern State University.
2. Governor authorized to quitclaim to state highways and transportation commission property in City of St. Louis.
3. Governor authorized to convey property in Greene County to the Arc of the Ozarks.
4. Governor authorized to grant an easement to the City of Springfield.
5. Governor authorized to grant a temporary easement in Greene County to the Arc of the Ozarks.
6. Governor authorized to grant an easement to private property owners in Macon County.
7. Governor authorized to quitclaim property in Cape Girardeau County.
8. Governor authorized to quitclaim Mid-Missouri Mental Health Center in Boone County to the University of Missouri.
9. Governor authorized to convey property in St. Louis City to Harris-Stowe State University.
10. Governor authorized to grant easements on property in Cooper County to the City of Boonville.
11. Department of Natural Resources to lease property to Clinton County Public Water District No. 3.

A. Emergency clause.

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

SECTION 1. GOVERNOR AUTHORIZED TO QUITCLAIM JOPLIN REGIONAL CENTER TO MISSOURI SOUTHERN STATE UNIVERSITY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release, and forever quitclaim all interest of the state of Missouri in real property known as the Joplin Regional Center, located in Jasper County, Joplin, Missouri, to Missouri Southern State University. The property to be conveyed is more particularly described as follows:

A tract of land lying in the Southwest Quarter (1/4) of the Southeast Quarter (1/4) of Section 31, Township 28, Range 32, Jasper County, Missouri, and described by the following metes and bounds: beginning at the Southwest corner of the above described Southwest Quarter (1/4) of the Southeast (1/4) of Section 31; thence North along the West line thereof 670.0 Feet; thence East with an angle of 90 degrees with the said West line 450.0 Feet to a point; thence South parallel to said West line 140.0 Feet; thence South 56 degrees East for a distance of 415.0 Feet to a point; thence South 290.0 Feet to the South line of said Southwest Quarter (1/4) of the Southeast Quarter (1/4); thence West along said South line 800.0 Feet to point of beginning, containing ten and two-tenths (10.2) acres, more or less, except a strip of land fifty feet wide East and West off of the West side thereof, the same being reserved for road purposes.

2. The conveyance of the property described in this section shall not occur until the Joplin Regional Center is relocated from the property described in this section to different property.

3. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the time, place, and terms of the conveyance.

4. The attorney general shall approve the form of the instrument of conveyance.

SECTION 2. GOVERNOR AUTHORIZED TO QUITCLAIM TO STATE HIGHWAYS AND TRANSPORTATION COMMISSION PROPERTY IN CITY OF ST. LOUIS. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim to the state highways and transportation commission all interest of the state of Missouri in real property located in part of City Block Number 239 and 240 in the city of St. Louis. The property to be conveyed is more particularly described as follows:

Commencing at the Northwest corner of City Block Number 239; thence South 18 degrees 13 minutes 13 seconds East for a distance of 62.14 feet to centerline Station 68+00.00; thence South 62 degrees 38 minutes 07 seconds West for a distance of 241.54 feet to centerline P.T. Station 65+58.46; BEGINNING AGAIN at centerline Station 68+00.00; on the centerline of Interstate Highway 70; thence North 62 degrees 38 minutes 07 seconds East for a distance of 239.19 feet to centerline P.C. Station 70+39.19; thence Northeasterly along the arc of a curve to the right having a radius of 1,892.60 for a distance of 81.74 feet to centerline Station 71+20.93; thence Southeasterly leaving the centerline of said Interstate Route 70 to a point 4.87 feet Southeasterly of and radial to said centerline Station 71+20.93, BEING THE POINT OF BEGINNING; thence Southerly to a point 73.35 feet Southeasterly of and radial to centerline Station 71+08.40; thence Southwesterly along the arc of a curve to the left having a radius of 1910 feet a distance of 76.83 feet to a point 74.77 feet Southeasterly of and at a right angle to centerline Station 70+31.57; thence Southwesterly to a point 66.72 feet Southeasterly of and at a right angle to centerline Station 68+99.79; thence southwesterly to a point 79.31 feet southeasterly of and at right angle to centerline Station 68+04.62; thence southwesterly to a point 79.83 feet southeasterly of and at right angle to centerline station 67+78.62; thence Northerly to a point 61.35 feet Northwesterly of and at a right angle to centerline

Station 68+09.88; thence Easterly to the point of BEGINNING, and containing 32,682 square feet, more or less.

Also, all of abutter's rights of direct access between the highway now known as Interstate Highway 70 and grantor's abutting land in City Block Number 239 and 240, St. Louis City, Missouri.

2. The governor is also hereby authorized and empowered to give, grant, bargain, and convey a permanent transmission easement for construction and maintenance of utilities to the state highways and transportation commission, and any successors or assigns as designated by the commission, which is located in part of City Block Number 239 and 240 in the City of St. Louis, Missouri. The permanent transmission easement is more particularly described as follows:

Commencing at the Northwest corner of City Block Number 239; thence South 18 degrees 13 minutes 13 seconds East for a distance of 62.14 feet to centerline Station 68+00.00; thence South 62 degrees 38 minutes 07 seconds West for a distance of 241.54 feet to centerline P.T. Station 65+58.46; BEGINNING AGAIN at centerline Station 68+00.00 on the centerline of Interstate Highway 70; thence North 62 degrees 38 minutes 07 seconds East for a distance of 4.62 feet to centerline Station 68+04.62; thence Southeasterly to a point 79.31 feet Southeasterly of and at a right angle to said centerline Station 68+04.62, BEING THE POINT OF BEGINNING; thence Southerly to a point 265.03 feet Southeasterly of and at a right angle to centerline Station 67+63.71; thence Southerly to a point 703.22 feet Southeasterly of and at a right angle to centerline Station 66+15.05; thence continuing Southerly to a point 759.86 feet Southeasterly of and at a right angle to centerline Station 65+66.31; thence Northerly to a point 278.24 feet Southeasterly of and at a right angle to centerline Station 67+34.70; thence Northerly to a point 79.83 feet Southeasterly of and at a right angle to centerline Station 67+78.62; thence Northeasterly to the point of BEGINNING, and containing 17,333 square feet, more or less.

3. In addition, the instruments of conveyance noted in subsections 1 and 2 of this section shall contain such other restrictions, temporary easements, and any other conditions as are deemed necessary by the governor and the commission to construct a new Mississippi River bridge and necessary accompanying state highways.

4. Consideration for the conveyance shall be as negotiated by the commissioner of administration and the state highways and transportation commission.

5. The attorney general shall approve the form of the instrument of conveyance.

SECTION 3. GOVERNOR AUTHORIZED TO CONVEY PROPERTY IN GREENE COUNTY TO THE ARC OF THE OZARKS. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in fee simple absolute in property owned by the state in Greene County to the Arc of the Ozarks. The property to be conveyed is more particularly described as follows:

Beginning at an iron pin on the North line of Pythian Street and 1118.30 feet West of the West line of Glenstone Avenue as it existed; thence North making an angle of 89 degrees 56 minutes to the right from the North line of Pythian a distance of 935.5 feet; thence West on an interior angle of 89 degrees 59 minutes a distance of 429.65 feet to the point of beginning of this description; thence continuing Westerly a distance of 407.0 feet; thence making an angle to the left of 90 degrees 05 minutes and continuing South a distance of 165.0 feet; thence making an angle to the left of 89 degrees 55 minutes and continuing East a distance of 407.0 feet; thence making an angle to the left of 90 degrees 05 minutes and continuing North a distance of 165.0 feet to the point of beginning of this description.

Said parcel all in Springfield, Greene County, Missouri containing in all 1.54 acres more or less. All being in the South half of the Northeast quarter of Section 18, Township 29 North, Range 21 West.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The instrument of conveyance shall contain the following provisions:

(1) The Arc of the Ozarks, nor its successors and assigns, shall not construct a building, driveway, parking lot, or other permanent structure over any existing utilities;

(2) Any relocation of existing utilities shall be approved by the Missouri department of mental health as to the new location, materials, construction methods, and other particulars. The cost of any relocation shall be the responsibility of the Arc of the Ozarks;

(3) The Arc of the Ozarks shall undertake to treat all Missouri individuals with disabilities who apply to it without regard to race, sex, color, or creed;

(4) An easement for maintenance purposes for each existing utility is hereby reserved by the grantor, which shall consist of a strip ten feet wide on each side of the center line of each existing utility.

4. The attorney general shall approve the form of the instrument of conveyance.

SECTION 4. GOVERNOR AUTHORIZED TO GRANT AN EASEMENT TO THE CITY OF SPRINGFIELD. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey a permanent storm water easement over, on, and under property owned by the state in Springfield, Greene County, Missouri, to the city of Springfield. The easement to be conveyed is more particularly described as follows:

A PERPETUAL DRAINAGE EASEMENT being a part of the Southwest Quarter of the Northeast Quarter of Section 18, Township 29 North, Range 21 West, Springfield, Greene County, Missouri, being described as follows:

COMMENCING at an iron pin on the North line of Pythian Street and 1118.30 feet West of the West line of Glenstone Avenue, as it existed; thence West along the North line of said Pythian street a distance of 173.3 feet; thence continuing west with said North line making an angle of 02 48' to the right of the last described course, a distance of 662.5 feet for a POINT OF BEGINNING, said point being Southwest Corner of a tract of land being described in Book 1333, Page15, Greene County Recorders office; THENCE North 00 05' 52" West, with the West line of said tract of land, a distance of 670.07 feet to a point for corner; THENCE North 89 58'55" East a distance of 20.41 feet to a point for corner; THENCE, South 02 35'35" West a distance of 78.24 feet to a point for corner; THENCE, South 00 04'12" West a distance of 592.68 feet to a point on said Northerly Right-of-way line for corner; THENCE North 87 04'22" West, with said Right-of-way line, a distance of 15.02 feet to the POINT OF BEGINNING, and containing 10,850 square feet square feet more or less.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the time, place, and terms of the conveyance.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 5. GOVERNOR AUTHORIZED TO GRANT A TEMPORARY EASEMENT IN GREENE COUNTY TO THE ARC OF THE OZARKS. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey a temporary construction easement over, on, and under property owned by the state in Springfield, Greene County, Missouri, to

the Arc of the Ozarks. The easement to be conveyed is more particularly described as follows:

A TEMPORARY CONSTRUCTION EASEMENT BEING A PART OF THE Southwest Quarter of the Northeast Quarter of Section 18, Township 29 North, Range 21 West, Springfield, Greene County, Missouri, being described as follows:

COMMENCING at an iron pin on the North line of Pythian Street and 1118.30 feet West line of Glenstone Avenue, as it existed; thence West along the North line of said Pythian street a distance of 173.3 feet; thence continuing west with said North line making an angle of 02 48' to the right of the last described course, a distance of 647.03 feet for a POINT OF BEGINNING, said point being 15.02 feet East of the Southwest Corner of a tract of land being described in Book 1333, Page 15, Greene County Recorders office; THENCE North 00 04'12" East a distance of 592.68 feet to a point for corner; THENCE North 02 35'35" East a distance of 78.24 feet to a point for corner; THENCE North 89 58'55" East a distance of 4.59 feet to a point for corner; THENCE South 00 05'52" East, parallel to the West line of said tract, a distance of 671.35 feet to a point on said Northerly Right-of-way line for corner; THENCE North 87 04'22" West, with said Northerly Right -of-way line, a distance of 10.01 feet to the POINT OF BEGINNING, and containing 5,917 square feet more or less.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the time, place, and terms of the conveyance.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 6. GOVERNOR AUTHORIZED TO GRANT AN EASEMENT TO PRIVATE PROPERTY OWNERS IN MACON COUNTY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in an easement across property owned by the state in Macon County to the owners of certain private property for the purpose of obtaining access to the private property. The property over which the easement is to be conveyed is more particularly described as follows:

The centerline of a 30.00 foot wide easement for ingress and egress, being 15.00 feet wide on either side of said centerline, situated in the South Half of the Northeast Quarter of Section 13, Township 56N, Range 15W, Macon County, Missouri being more particularly described as follows:

Commencing at the Southeast corner of the Northeast Quarter of said Section 13, thence along the Half Section line of said Section 13, North 89 degrees, 59 minutes, 43 seconds West, a distance of 1324.55 feet to a point at the Southwest corner of the Southeast Fourth of the Northeast Quarter of said Section 13; thence continuing along said line, North 89 degrees, 59 minutes, 43 seconds West, a distance of 15 feet to the POINT OF BEGINNING of the description herein TO WIT: thence parallel with the East Quarter-Quarter line of said Section 13, North 01 degrees, 12 minutes, 39 seconds East, a distance of 400.25 feet; thence North 74 degrees, 08 minutes, 29 seconds West, a distance of 172.84 feet; thence North 56 degrees, 49 minutes, 48 seconds West, a distance of 47.58 feet; thence North 28 degrees, 15 minutes, 48 seconds West, a distance of 21.05 feet to the terminus of this easement, also being at centerline of an existing road. This tract subject to any and all easements of record and any part in roads.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 7. GOVERNOR AUTHORIZED TO QUITCLAIM PROPERTY IN CAPE GIRARDEAU COUNTY. — 1. The governor is hereby authorized and empowered to grant, convey, remise, release and forever quitclaim to the state highways and transportation commission all interest of the state of Missouri in real property owned by the state in Cape Girardeau County. The property to be conveyed is more particularly described as follows:

A tract of land lying in part of the Northeast Quarter of the Northeast Quarter of Section 36, Township 30 North, Range 12 East of the Fifth Principal Meridian, County of Cape Girardeau, State of Missouri, being more particularly described as follows:

Commence at a found 4x4 Concrete Monument at the Northeast Corner of Section 36, Township 30 North, Range 12 East of the Fifth Principal Meridian; thence S 32 deg. 13 min. 47 sec. W a distance of 1261.14 feet to a found Iron Rod, 124.83 feet left of Missouri State Route 25 centerline station 271+27.51, said point being located on the existing Westerly Boundary line of Missouri State Route 25 and the Point of Beginning; thence along said Boundary line, N 82 deg. 29 min. 01 sec. W a distance of 192.60 feet to a found steel MO property line marker, 317.07 feet left of Missouri State Route 25 centerline station 271+16.05, said point being the beginning of a non-tangent curve to the right, having a radius of 8929.37 feet; thence along said Curve a distance of 250.04 feet (Chord Bears N 08 deg. 47 min. 48 sec. E a distance of 250.03 feet) to a set #5 Rebar w/cap left of Missouri State Route 25 centerline station 273+56.69 at a offset of 330.09 feet, said point being the beginning of a non-tangent Curve to the right having a radius of 328.23 feet; thence departing from said existing Westerly Boundary line and along said Curve, a distance of 238.60 feet (Chord bears S 49 deg. 16 min. 16 sec. E a distance of 233.38 feet) to a set #5 Rebar w/cap left of Missouri State Route 25 centerline station 272+48.17 with an offset of 125.00 feet; thence S 11 deg. 22 min. 41 sec. W a distance of 122.41 feet to the Point of Beginning, containing 0.92 acres, more or less.

2. The commissioner of administration and the state highways and transportation commission shall set the terms and conditions for the conveyance, including the consideration, except that such consideration shall not exceed one dollar.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 8. GOVERNOR AUTHORIZED TO QUITCLAIM MID-MISSOURI MENTAL HEALTH CENTER IN BOONE COUNTY TO THE UNIVERSITY OF MISSOURI. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in real property known as Mid-Missouri Mental Health Center, Columbia, Boone County, Missouri, to The Curators of the University of Missouri more particularly described as follows:

A tract of land all lying in the Southeast Quarter (SE 1/4) of Section Thirteen (Sec. 13), Township Forty-eight North (Twp. 48N), Range Thirteen West (R.13W), Boone County, Missouri, as follows:

Starting at a stone at the Southeast corner of Section Thirteen (13), Township Forty-eight (48) North, Range Thirteen (13) West (point No. 1); thence North one degree fifteen minutes East (N 1° 15' E) along the range line one hundred four and seventy-three hundredths (104.73) feet to an iron pin which is on the North right of way line of the proposed Missouri State Highway #740 (point No. 2); thence following the North right of way line of said Route #740 North eighty-eight degrees eighteen minutes West (N 88° 18' W) forty-seven and ten hundredths (47.10) feet to an iron pin (point No. 3); thence following the North

right of way line of said Route #740 North eighty-eight degrees fifty-four minutes West (N 88° 54' W) two hundred nine and ninety-two hundredths (209.92) feet to an iron pin (point No. 4); thence following the North right of way line of said Route #740 North forty-four degrees ten minutes West (N 44° 10' W) eighty-five (85.00) feet to a nail (point No. 5); thence following the North right of way line of said Route #740 North eighty-nine degrees six minutes West (N 89° 6' W) fifteen and fifty hundredths (15.50) feet to an iron pin (point No. 6); thence following the East property line of the V A Hospital tract North one degree fifteen minutes East (N 1° 15' E) seven hundred thirty-seven (737.00) feet to an iron pin (point No. 22); thence following the North property line of the V A Hospital tract North eighty — nine degrees five minutes West (N 89° 5' W) eight hundred eighty-eight and eighty-seven hundredths (888.87) feet to an iron pin (point No. 0); thence North zero degrees fifty-five minutes East (N 0° 55' E) sixty-five (65.00) feet to an iron pin (point No. 1A), the point of beginning:

Thence North one degree twenty-two minutes East (N 1° 22' E) three hundred eighty (380.00) feet to an iron pin (point No. 2A); thence South eighty-eight degrees forty-seven minutes East (S 88° 47' E) one hundred ninety-seven (197.00) feet to an iron pin (point No. 3A); thence South one degree thirteen minutes West (S 1° 13' W) one hundred eleven and sixty-six hundredths (111.66) feet to a nail (point No. 4A); thence South eighty-eight degrees forty-seven minutes East (S 88° 47' E) sixteen and twenty-two hundredths (16.22) feet to an iron pin (point No. 5A) (said point No. 5A is against the West face of the University of Missouri Medical Center Hospital); thence following the face of said Hospital South one degree thirteen minutes West (S 1° 13' W) thirty-six (36.00) feet to an iron pin (point No. 6A) (said point No. 6A being against face of said Hospital); thence North eighty-eight degrees forty-seven minutes West (N 88° 47' W) sixteen and twenty-two hundredths (16.22) feet to a nail (point No. 7A); thence South one degree thirteen minutes West (S 1° 13' W) two hundred thirty-one and thirty-four hundredths (231.34) feet to an iron pin (point No. 8A); thence North eighty-nine degrees five minutes west (N 89° 5' W) one hundred ninety-eight and ten hundredths (198.10) feet to an iron pin (point No. 1A), the point of beginning.

Subject to the easements and covenants hereinafter reserved and granted.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the time, place, and terms of the conveyance.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 9. GOVERNOR AUTHORIZED TO CONVEY PROPERTY IN ST. LOUIS CITY TO HARRIS-STOWE STATE UNIVERSITY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in fee simple absolute in property owned by the state in St. Louis City to Harris-Stowe State University. The property to be conveyed is more particularly described as follows:

Lots 29, 30, 31, 32, 33 and part of Lots 27 and 28 in Block 2 of CHELTENHAM, Lots 21, 22, 23, and part of Lot 20 of WIBLE'S EASTERN ADDITION to CHELTENHAM, together with Western 36 feet of former January Avenue vacated under the provisions of Ordinance No. 52058, and in Blocks 4022 and 4023 of the City of St. Louis, more particularly described as follows: Beginning at a point in the North line of Wilson Avenue, 40 feet wide, at its intersection with a line 36 feet East of and parallel to the West line of former January Avenue 60 feet wide, as vacated under the provisions of Ordinance No. 52058; thence North 82 degrees 57 minutes 15 seconds West along said North line of Wilson Avenue a distance of 355.20 feet to a point; thence North 8 degrees 15 minutes 30

seconds East a distance of 472.56 feet to a point in the Southerly Right-of-Way line of Interstate Highway I-44; thence in an Easterly direction along said Right-of-Way line North 87 degrees degrees 03 minutes 45 seconds East a distance of 25.59 feet to an angle point being located in the Eastern line of Lot 20 of Wible's Eastern Addition to Cheltenham, said point being 477 feet North along the Eastern line of said Wible's Addition from the Northern Line of Wilson Avenue, 40 feet wide; thence South 87 degrees 53 minutes 03 seconds East and along said I-44 Right-of-Way line 295.71 feet to a point in the West line of said former January Avenue vacated as aforesaid at a point being 502.42 feet North along said line from the Northern line of Wilson Avenue thence North 74 degrees 42 minutes 01 seconds East along the South Right-of-Way line of I-44 a distance of 39.27 feet to a point in a line 36 feet East of and parallel to said West line of former January Avenue; vacated as aforesaid; thence South 8 degrees 15 minutes 30 seconds West along said line 36 feet East of the West line of former January Avenue, vacated as aforesaid, a distance of 517.36 feet to the point of beginning.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 10. GOVERNOR AUTHORIZED TO GRANT EASEMENTS ON PROPERTY IN COOPER COUNTY TO THE CITY OF BOONVILLE. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey easements on property owned by the state in Cooper County to the city of Boonville. The easements to be conveyed are more particularly described as follows:

PERMANENT EASEMENT:

A strip of land 30 (thirty) feet wide, located on the western side of Grantor's property described in a deed filed for record in Book 162, Page 208 of the Cooper County Records, said strip of land being located in the southwest quarter of the Southeast Quarter of Section 36, Township 49 North of the Base Line, Range 17 West of the Fifth Principal Meridian, City of Boonville, Cooper County, Missouri, the centerline of said strip of land is further described as follows:

Commencing at a "Type A" monument found at the Northwest Corner of the Northeast Quarter of Section 1, Township 48 North, Range 17 West; thence easterly, along the south line of "Trout Dale Subdivision", per subdivision plat filed for record in Plat Book "C", Page 70 of the Cooper County Records, N 85° 02' E, a distance of 1030.21 feet, per said plat of record, to the southeast corner of said subdivision, also being a point on the west line of the grantor's property above mentioned; thence N 02° 33' E, along the common line between said subdivision and grantor's property, a distance of 377.2 feet to the point of "Beginning" for this centerline of easement description; thence N 71° 04' E, 100.0 feet to the "End" point of this permanent easement, containing 0.0689 acres, (3,000 sq. ft.), and subject to easements and restrictions of record or not of record.

TEMPORARY EASEMENT:

Together with a temporary construction easement 50 (fifty) feet wide, said strip to be located adjacent to all sides of the above described permanent easement, containing 0.3788 acres, (16,500 sq. ft.), and subject to easements and restrictions of record or not of record.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 11. DEPARTMENT OF NATURAL RESOURCES TO LEASE PROPERTY TO CLINTON COUNTY PUBLIC WATER DISTRICT NO. 3. — 1. The director of the department of natural resources is hereby directed to lease property owned by the state in Clinton County to the Clinton County Public Water Supply District No. 3 for the purpose of constructing an elevated water storage tank. The property to be leased is more particularly described as follows:

A square shaped tract of land situated in the Southeast Quarter (SE¼) of Section Thirteen (13), Township Fifty-six (56) North, Range Thirty (30) West, Clinton County, Missouri, being more particularly described as follows:

Commencing at the Southeast corner of Section Thirteen (13), Township Fifty-six (56) North, Range Thirty (30) West; Thence N 00°11'01" E, along the East line of the aforesaid Section Thirteen (13), a distance of 182.61 feet; Thence S 89°52'59" W, a distance of 33.37 feet to an existing fence line, said point being the True point of beginning for the following described tract of land; Thence S 89°52'59" W, a distance of 100.00 feet to a set bar and cap; Thence N 00°07'01" W, parallel to the aforesaid existing fence line, a distance of 100.00 feet to a set bar and cap; Thence N 89°52'59" E, a distance of 100.00 feet to a set bar and cap; Thence S 00°07'01" E, along the meanders of the aforesaid existing fence line, a distance of 100.00 feet to the point of beginning containing within the above described boundaries 0.23 acres more or less, subject to public and private roads, easements, rights of way, covenants, reservations and restrictions of record and further subject to any zoning restrictions of record or use limitations applicable to the above described premises.

An irregular shaped strip of land situated in the Southeast Quarter (SE¼) of Section Thirteen (13), Township Fifty-six (56) North, Range Thirty (30) West, Clinton County, Missouri, being more particularly described as follows:

Commencing at the Southeast corner of Section Thirteen (13), Township Fifty-six (56) North, Range Thirty (30) West; Thence N 00°11'01" E, along the East line of the aforesaid Section Thirteen (13), a distance of 182.61 feet to the True point of beginning for the following described strip of ground; Thence S 89°52'59" W, a distance of 33.37 feet to an existing fence line; Thence N 00°07'01" W, along the meanders of the aforesaid existing fence line, a distance of 100.00 feet to a set bar and cap; Thence N 89°52'59" E, a distance of 20.84 feet to the Southwesterly right of way line of Missouri State Route HH Highway; Thence along a 09 25'27" curve to the left, with a radius of 607.96 feet, an arc distance of 38.24 feet, having a chord bearing of S 19°47'03" E, with a chord length of 38.23 feet to the East line of the aforesaid Section Thirteen (13); Thence S 00°11'01" W, a distance of 64.00 feet to the point of beginning.

2. The lease shall provide for a term not exceeding ninety-nine years, and may provide for renewal periods. The rental payment shall be as agreed by the parties. The lease shall provide that any improvements on the property shall become the property of the state upon termination of the lease.

SECTION A. EMERGENCY CLAUSE. — Because immediate action is necessary to continue economic development efforts, the enactment of sections 4, 5, and 8 of this act are deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and are

hereby declared to be an emergency act within the meaning of the constitution, and the enactment of sections 4, 5, and 8 of this act shall be in full force and effect upon its passage and approval.

Approved July 7, 2009

SB 196 [HCS SB 196]

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

Modifies the procedure for detaching territory from a public water supply district

AN ACT to repeal section 247.031, RSMo, and to enact in lieu thereof one new section relating to detachment from public water supply districts.

SECTION
A. Enacting clause.
247.031. Detachment from district, when — procedure — costs — petition form.

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

SECTION A. ENACTING CLAUSE. — Section 247.031, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 247.031, to read as follows:

247.031. DETACHMENT FROM DISTRICT, WHEN — PROCEDURE — COSTS — PETITION FORM. — 1. Territory included in a district that is not being served by such district may be detached from such district provided that there are no outstanding general obligation or special obligation bonds and no contractual obligations of greater than twenty-five thousand dollars for debt that pertains to infrastructure, fixed assets or obligations for the purchase of water. If any such bonds or debt is outstanding, and the written consent of the holders of such bonds or the creditors to such debt is obtained, then such territory may be detached in spite of the existence of such bonds or debt, except such consent shall not be required for special obligation bonds if the district has no water lines or other facilities located within any of the territory detached. Detachment may be made by the filing of a petition with the circuit court in which the district was incorporated. The petition shall contain a description of the tract to be detached and a statement that the detachment is in the best interest of the district or the inhabitants and property owners of the territory to be detached, together with the facts supporting such allegation. The petition may be submitted by the district acting through its board of directors, in which case the petition shall be signed by a majority of the board of directors of the district. The petition may also be submitted by voters residing in or by landowners owning land in the territory sought to be detached. If there are more than ten voters and landowners in such territory, the petition shall be signed by five or more voters or landowners within the territory; if there are less than ten voters and landowners within such territory, the petition shall be signed by fifty percent or more of the voters and landowners within the territory. In the event there are no voters living within such territory proposed to be detached, then the petition may be submitted by owners of more than fifty percent of the land in the territory proposed to be detached, in which case said petition shall be signed by the owners so submitting the petition. **In the event the petition is not submitted by the district acting through its board of directors, the petitioner shall name the district as a defendant and serve a copy of the petition upon the district by certified or registered mail with a return receipt requested at least thirty-five days before the date of the hearing of the petition.**

2. Such petition shall be filed in the circuit court having jurisdiction and the court shall set a date for hearing on the proposed detachment and the clerk **of the circuit court** shall give notice **[**thereof**]** **of the filing of the petition and the hearing to the district by certified or registered mail with a return receipt requested if the district is not the petitioner, and in a newspaper of general circulation in the county in which the proceedings are pending and in a newspaper of general circulation in the territory proposed to be detached. Such notice shall be published** in three consecutive issues of a weekly newspaper **[**in each county in which any portion of the territory proposed to be detached lies**]**, or in lieu thereof, in twenty consecutive issues of a daily newspaper **[**in each county in which any portion of the tract proposed to be detached lies;**].** The last insertion of the notice **[**to**]** **shall** be made not less than seven nor more than twenty-one days before the hearing **date**. Such notice shall be substantially as follows:

IN THE CIRCUIT COURT OF
..... COUNTY, MISSOURI
NOTICE OF THE FILING OF A PETITION FOR
TERRITORIAL DETACHMENT FROM
PUBLIC WATER SUPPLY DISTRICT NO.....
OF ..... COUNTY, MISSOURI.

To all voters and landowners of land within the boundaries of the above-described district:

You are hereby notified:

1. That a petition has been filed in this court for the detachment of the following tracts of land from the above-named public water supply district, as provided by law:
(Describe tracts of land).

2. That a hearing on said petition will be held before this court **in .....** on the ..... day of ....., 20 ..., at ...., ...m.

3. Exceptions or objections to the detachment of said tracts from said public water supply district may be made by **the district or** any voter or landowner of land within the district from which territory is sought to be detached, provided such exceptions or objections are in writing**, specify the grounds on which they are made, and are filed with the court** not **[**less**]** **later** than five days prior to the date **[**set for**]** **of the** hearing **[**on**]** **of** the petition.

4. The names and addresses of the attorneys for the petitioner are:

.....
Clerk of the Circuit Court of
..... County, Missouri

3. The court, for good cause shown, may continue the case or the hearing thereon from time to time until final disposition thereof.

4. Exceptions or objections to the detachment of such territory may be made by any voter or landowner within the boundaries of the district, including the territory to be detached. **[**The**]** **In the event the petition is not submitted by the district acting through its board of directors, the district may file exceptions or objections.** Exceptions or objections shall be in writing **[**and**],** shall specify the grounds upon which they are made**,** and shall be filed not later than five days before the date set for hearing the petition. **[**If any such exceptions or objections are filed, the court shall take them into consideration when considering the petition for detachment and the evidence in support of detachment**]** **In considering the petition for detachment, the court shall take into consideration the evidence in support of and opposition to the petition, including such exceptions and objections**. If the court finds that the detachment will be in the best interest of the district and the inhabitants and landowners of the area to be detached will not be adversely affected or if the court finds that the detachment will be in the best interest of the inhabitants and landowners of the territory to be detached and will not adversely affect the remainder of the district, it shall approve the detachment and grant the petition.

5. If the court approves the detachment, it shall make its order detaching the territory described in the petition from the remainder of the district, or in the event it shall find that only a portion of said territory should be detached, the court shall order such portion detached from the district. The court shall also make any changes in subdistrict boundary lines it deems necessary to meet the requirements of sections 247.010 to 247.220. Any subdistrict line changes shall not become effective until the next annual election of a member of the board of directors.

6. A certified copy of the court's order shall be filed in the office of the recorder **of deeds** and in the office of the county clerk in each county in which any of the territory of the district prior to detachment is located, and in the office of the secretary of state. Costs of the proceeding shall be borne by the petitioner or petitioners.

Approved June 25, 2009

SB 217 [SB 217]

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

Allows remote participation in certain corporate shareholders' meetings and allows limited liability companies and limited partnerships to administratively cancel certain documents

AN ACT to repeal sections 347.183, 351.225, and 359.681, RSMo, and to enact in lieu thereof three new sections relating to corporate shareholders' meetings.

SECTION
A. Enacting clause.
347.183. Additional duties of secretary.
351.225. Shareholders' meetings prescribed by bylaws.
359.681. Powers and authority of secretary of state — examination of books and records — failure to exhibit, penalty — cancellation or disapproval of certificate, when, notice, appeal in circuit court — petition for appeal, filed when — rescission of cancellation — late filing fees, penalty.

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

SECTION A. ENACTING CLAUSE. — Sections 347.183, 351.225, and 359.681, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 347.183, 351.225, and 359.681, to read as follows:

347.183. ADDITIONAL DUTIES OF SECRETARY. — In addition to the other powers of the secretary established in sections 347.010 to 347.187, the secretary shall, as is reasonably necessary to enable the secretary to administer sections 347.010 to 347.187 efficiently and to perform the secretary's duties, have the following powers including, but not limited to:

(1) The power to examine the books and records of any limited liability company to which sections 347.010 to 347.187 apply, and it shall be the duty of any manager, member or agent of such limited liability company having possession or control of such books and records, to produce such books and records for examination on demand of the secretary or his designated employee; except that no person shall be subject to any criminal prosecution on account of any matter or thing which may be disclosed by examination of any limited liability company books and records, which they may produce or exhibit for examination; or on account of any other matter or thing concerning which they may make any voluntary and truthful statement in writing to the secretary or his designated employee. All facts obtained in the examination of the books and records of any limited liability company, or through the voluntary sworn statement of any

manager, member, agent or employee of any limited liability company, shall be treated as confidential, except insofar as official duty may require the disclosure of same, or when such facts are material to any issue in any legal proceeding in which the secretary or his designated employee may be a party or called as witness, and, if the secretary or his designated employee shall, except as provided in this subdivision, disclose any information relative to the private accounts, affairs, and transactions of any such limited liability company, he shall be guilty of a class C misdemeanor. If any manager, member or registered agent in possession or control of such books and records of any such limited liability company shall refuse a demand of the secretary or his designated employee, to exhibit the books and records of such limited liability company for examination, such person shall be guilty of a class B misdemeanor;

(2) The power to cancel or disapprove any articles of organization or other filing required under sections 347.010 to 347.187, if the limited liability company fails to comply with the provisions of sections 347.010 to 347.187 by failing to file required documents under sections 347.010 to 347.187, by failing to maintain a registered agent, by failing to pay the required filing fees, by using fraud or deception in effecting any filing, by filing a required document containing a false statement, or by violating any section or sections of the criminal laws of Missouri, the federal government or any other state of the United States. Thirty days before such cancellation shall take effect, the secretary shall notify the limited liability company with written notice, either personally or by certified mail, deposited in the United States mail in a sealed envelope addressed to such limited liability company's last registered agent in office, or to one of the limited liability company's members or managers. Written notice of the secretary's proposed cancellation to the limited liability company, domestic or foreign, shall specify the reasons for such action. The limited liability company may appeal this notice of proposed cancellation to the circuit court of the county in which the registered office of such limited liability company is or is proposed to be situated by filing with the clerk of such court a petition setting forth a copy of the articles of organization or other relevant documents and a copy of the proposed written cancellation thereof by the secretary, such petition to be filed within thirty days after notice of such cancellation shall have been given, and the matter shall be tried by the court, and the court shall either sustain the action of the secretary or direct him to take such action as the court may deem proper. An appeal from the circuit court in such a case shall be allowed as in civil action. The limited liability company may provide information to the secretary that would allow the secretary to withdraw the notice of proposed cancellation. This information may consist of, but need not be limited to, corrected statements and documents, new filings, affidavits and certified copies of other filed documents;

(3) The power to rescind cancellation provided for in subdivision (2) of this section upon compliance with either of the following:

(a) The affected limited liability company provides the necessary documents and affidavits indicating the limited liability company has corrected the conditions causing the proposed cancellation or the cancellation; or

(b) The limited liability company provides the correct statements or documentation that the limited liability company is not in violation of any section of the criminal code; and

(4) The power to charge late filing fees for any filing fee required under sections 347.010 to 347.187 and the power to impose civil penalties as provided in section 347.053. Late filing fees shall be assessed at a rate of ten dollars for each thirty-day period of delinquency**;**

(5) (a) The power to administratively cancel an articles of organization if the limited liability company's period of duration stated in articles of organization expires.

(b) Not less than thirty days before such administrative cancellation shall take effect, the secretary shall notify the limited liability company with written notice, either personally or by mail. If mailed, the notice shall be deemed delivered five days after it is deposited in the United States mail in a sealed envelope addressed to such limited liability company's last registered agent and office or to one of the limited liability company's managers or members.

(c) If the limited liability company does not timely file an articles of amendment in accordance with section 347.041 to extend the duration of the limited liability company, which may be any number of years or perpetual, or demonstrate to the reasonable satisfaction of the secretary that the period of duration determined by the secretary is incorrect, within sixty days after service of the notice is perfected by posting with the United States Postal Service, then the secretary shall cancel the articles of organization by signing an administrative cancellation that recites the grounds for cancellation and its effective date. The secretary shall file the original of the administrative cancellation and serve a copy on the limited liability company as provided in section 347.051.

(d) A limited liability company whose articles of organization has been administratively cancelled continues its existence but may not carry on any business except that necessary to wind up and liquidate its business and affairs under section 347.147 and notify claimants under section 347.141.

(e) The administrative cancellation of an articles of organization does not terminate the authority of its registered agent.

(6) (a) The power to rescind an administrative cancellation and reinstate the articles of organization.

(b) Except as otherwise provided in the operating agreement, a limited liability company whose articles of organization has been administratively cancelled under subdivision (5) of this section may file an articles of amendment in accordance with section 347.041 to extend the duration of the limited liability company, which may be any number or perpetual.

(c) A limited liability company whose articles of organization has been administratively cancelled under subdivision (5) of this section may apply to the secretary for reinstatement. The applicant shall:

a. Recite the name of the limited liability company and the effective date of its administrative cancellation;

b. State that the grounds for cancellation either did not exist or have been eliminated, as applicable, and be accompanied by documentation satisfactory to the secretary evidencing the same;

c. State that the limited liability company's name satisfies the requirements of section 347.020;

d. Be accompanied by a reinstatement fee in the amount of one hundred dollars, or such greater amount as required by state regulation, plus any delinquent fees, penalties, and other charges as determined by the secretary to then be due.

(d) If the secretary determines that the application contains the information and is accompanied by the fees required in paragraph (c) of this subdivision and that the information and fees are correct, the secretary shall rescind the cancellation and prepare a certificate of reinstatement that recites his or her determination and the effective date of reinstatement, file the original articles of organization, and serve a copy on the limited liability company as provided in section 347.051.

(e) When the reinstatement is effective, it shall relate back to and take effect as of the effective date of the administrative cancellation of the articles of organization and the limited liability company may continue carrying on its business as if the administrative cancellation had never occurred.

(f) In the event the name of the limited liability company was reissued by the secretary to another entity prior to the time application for reinstatement was filed, the limited liability company applying for reinstatement may elect to reinstate using a new name that complies with the requirements of section 347.020 and that has been approved by appropriate action of the limited liability company for changing the name thereof.

(g) If the secretary denies a limited liability company's application for reinstatement following administrative cancellation of the articles of organization, he or she shall serve

the limited liability company as provided in section 347.051 with a written notice that explains the reason or reasons for denial.

(h) The limited liability company may appeal a denial of reinstatement as provided for in subdivision (2) of this section.

(7) Subdivision (6) of this section shall apply to any limited liability company whose articles of organization was cancelled because such limited liability company's period of duration stated in the articles of organization expired on or after August 28, 2003.

351.225. SHAREHOLDERS' MEETINGS PRESCRIBED BY BYLAWS. — 1. **(1)** Meetings of shareholders may be held at such place, either within or without this state, as may be provided in the bylaws. In the absence of any such provisions, all meetings shall be held at the registered office of the corporation in this state.

(2) If authorized by the board of directors in its sole discretion, and subject to such guidelines and procedures as the board of directors may adopt, shareholders and proxyholders not physically present at a meeting of shareholders may, by means of remote communication:

(a) Participate in a meeting of shareholders; and

(b) Be deemed present in person and vote at a meeting of shareholders, whether such meeting is to be held at a designated place or solely by means of remote communication, provided that:

a. The corporation shall implement reasonable measures to verify that each person deemed present and permitted to vote at the meeting by means of remote communication is a shareholder or proxyholder;

b. The corporation shall implement reasonable measures to provide such shareholders and proxyholders a reasonable opportunity to participate in the meeting and to vote on matters submitted to the shareholders, including an opportunity to read or hear the proceedings of the meeting substantially concurrently with such proceedings; and

c. If any shareholder or proxyholder votes or takes other action at the meeting by means of remote communication, a record of such vote or other action shall be maintained by the corporation.

2. An annual meeting of shareholders for the election of directors shall be held on a day which each corporation shall fix by its bylaws; and if no day be so provided, then on the second Monday in the month of January. Failure to hold the annual meeting at the designated time shall not work a forfeiture or dissolution of the corporation.

3. Special meetings of the shareholders may be called by the board of directors or by such other person or persons as may be authorized by the articles of incorporation or the bylaws.

359.681. POWERS AND AUTHORITY OF SECRETARY OF STATE — EXAMINATION OF BOOKS AND RECORDS — FAILURE TO EXHIBIT, PENALTY — CANCELLATION OR DISAPPROVAL OF CERTIFICATE, WHEN, NOTICE, APPEAL IN CIRCUIT COURT — PETITION FOR APPEAL, FILED WHEN — RESCISSION OF CANCELLATION — LATE FILING FEES, PENALTY. — In addition to the power and authority given the secretary of state by this chapter, the secretary of state or his designee shall have such further authority as is reasonably necessary to enable the secretary of state to administer this chapter efficiently and to perform the secretary of state's duties. This authority shall consist of, but is not limited to, the following powers:

(1) (a) The power to examine the books and records of any limited partnership to which this chapter applies, and it shall be the duty of any general partner or agent of such limited partnership to produce such books and records for examination on demand of the secretary of state or designated employee; provided, that no person shall be subject to any criminal prosecution on account of any matter or thing which may be disclosed by the examination of any limited partnership books, or records, which they may produce or exhibit for examination; or on account of any matter or thing concerning which they may make any voluntary and truthful

statement in writing to the secretary of state, or designated employee. All facts obtained in the examination of the books and records of any limited partnership, or through voluntary sworn statement of any partner, agent, or employee of any limited partnership, shall be treated as confidential, except insofar as official duty may require the disclosure of same; or when such facts are material to any issue in any legal proceeding in which the secretary of state or designated employee may be a party or called as a witness, and, if the secretary of state or designated employee shall, except as herein provided, disclose any information relative to the private accounts, affairs, and transactions of any such limited partnership, he shall be deemed guilty of a class C misdemeanor.

(b) If any general partner, or registered agent, of any such limited partnership shall refuse the demand of the secretary of state, or designated employee, to exhibit the books and records of such limited partnership for examination, he, or they, shall be deemed guilty of a class B misdemeanor.

(2) (a) The power to cancel or disapprove any certificate of limited partnership or other filing required under this chapter, if the limited partnership fails to comply with the provisions of this chapter by failing to file required documents under this chapter by failing to maintain a registered agent, by failing to pay the required filing fees, by using fraud or deception in effecting any filing, by filing a required document containing a false statement, or by violating any section or sections of the criminal laws of Missouri, the federal government or any other state of the United States. Thirty days before such cancellation shall take effect, the secretary of state shall notify the limited partnership with written notice, either personally or by mail. If mailed, the notice shall be deemed delivered five days after it is deposited in the United States mail in a sealed envelope addressed to such limited partnership's last registered agent and office or to one of the limited partnership's general partners. The written notice of the secretary of state's proposed cancellation to the limited partnership, domestic or foreign, will specify the reasons for such action.

(b) The limited partnership may appeal this notice of proposed cancellation to the circuit court of the county in which the registered office of such limited partnership is or is proposed to be situated by filing with the clerk of such court a petition setting forth a copy of the certificate of limited partnership or other relevant documents and a copy of the proposed written cancellation thereof by the secretary of state, such petition to be filed within thirty days after notice of such cancellation shall have been given, and the matter shall be tried by the court, and the court shall either sustain the action of the secretary of state or direct him to take such action as the court may deem proper. An appeal from the circuit court in such a case shall be allowed as in civil action.

(c) The limited partnership may provide information to the secretary of state that would allow the secretary of state to withdraw the notice of proposed cancellation. This information may consist of, but need not be limited to, corrected statements and documents, new filings, affidavits and certified copies of other filed documents.

(3) The power to rescind a cancellation provided for in subsection 2 of this section upon compliance with either of the following:

(a) The affected limited partnership provides the necessary documents and affidavits indicating the limited partnership has corrected the conditions causing the proposed cancellation or the cancellation;

(b) The limited partnership provides the correct statements or documentation that the limited partnership is not in violation of any section of the criminal code.

(4) The power to charge late filing fees for any filing fee required under this chapter. Late filing fees shall be assessed at a rate of ten dollars for each thirty-day period of delinquency.

(5) (a) The power to administratively cancel a certificate of limited partnership if the limited partnership's period of duration stated in the certificate of limited partnership expires.

(b) Not less than thirty days before such administrative cancellation shall take effect, the secretary of state shall notify the limited partnership with written notice, either personally or by mail. If mailed, the notice shall be deemed delivered five days after it is deposited in the United States mail in a sealed envelope addressed to such limited partnership's last registered agent and office or to one of the limited partnership's general partners.

(c) If the limited partnership does not timely file a certificate of amendment in accordance with section 359.101 to extend the duration of the limited partnership, which may be any number of years or perpetual, or demonstrate to the reasonable satisfaction of the secretary of state that the period of duration determined by the secretary of state is incorrect, within sixty days after service of the notice is perfected by posting with the United States Postal Service, then the secretary of state shall cancel the certificate of limited partnership by signing a certificate of administrative cancellation that recites the grounds for cancellation and its effective date. The secretary of state shall file the original of the certificate and serve a copy on the limited partnership as provided in section 359.141.

(d) A limited partnership whose certificate of limited partnership has been administratively cancelled continues its existence but may not carry on any business except that necessary to wind up and liquidate its business and affairs under section 359.471 and notify claimants under section 359.481.

(e) The administrative cancellation of a certificate of limited partnership does not terminate the authority of its registered agent.

(6) (a) The power to rescind an administrative cancellation and reinstate the certificate of limited partnership.

(b) Except as otherwise provided in the partnership agreement, a limited partnership whose certificate of limited partnership has been administratively cancelled under subdivision (5) of this section may file a certificate of amendment in accordance with section 359.101 to extend the duration of the limited partnership, which may be any number or perpetual.

(c) A limited partnership whose certificate of limited partnership has been administratively cancelled under subdivision (5) of this section may apply to the secretary of state for reinstatement. The applicant shall:

a. Recite the name of the limited partnership and the effective date of its administrative cancellation;

b. State that the grounds for cancellation either did not exist or have been eliminated, as applicable, and be accompanied by documentation satisfactory to the secretary of state evidencing the same;

c. State that the limited partnership's name satisfies the requirements of section 359.021;

d. Be accompanied by a reinstatement fee in the amount of one hundred dollars, or such greater amount as required by state regulation, plus any delinquent fees, penalties, and other charges as determined by the secretary of state to then be due.

(d) If the secretary of state determines that the application contains the information and is accompanied by the fees required in paragraph (c) of this subdivision and that the information and fees are correct, the secretary of state shall rescind the certificate of administrative cancellation and prepare a certificate of reinstatement that recites his or her determination and the effective date of reinstatement, file the original of the certificate, and serve a copy on the limited partnership as provided in section 359.141.

(e) When the reinstatement is effective, it shall relate back to and take effect as of the effective date of the administrative cancellation of the certificate of limited partnership and the limited partnership may continue carrying on its business as if the administrative cancellation had never occurred.

(f) In the event the name of the limited partnership was reissued by the secretary of state to another entity prior to the time application for reinstatement was filed, the limited partnership applying for reinstatement may elect to reinstate using a new name that complies with the requirements of section 359.021 and that has been approved by appropriate action of the limited partnership for changing the name thereof.

(g) If the secretary of state denies a limited partnership's application for reinstatement following administrative cancellation of the certificate of limited partnership, he or she shall serve the limited partnership as provided in section 359.141 with a written notice that explains the reason or reasons for denial.

(h) The limited partnership may appeal a denial of reinstatement as provided for in paragraph (b) of subdivision (2) of this section.

(7) Subdivision (6) of this section shall apply to any limited partnership whose certificate of limited partnership was cancelled because such limited partnership's period of duration stated in the certificate of limited partnership expired on or after August 28, 2003.

Approved July 7, 2009

SB 224 [SB 224]

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

Modifies the requirements of a restated articles of incorporation

AN ACT to repeal sections 351.085, 351.106, and 355.576, RSMo, and to enact in lieu thereof three new sections relating to articles of incorporation.

SECTION
A. Enacting clause.
351.085. Amendment of articles of incorporation permitted.
351.106. Restatement of articles of incorporation.
355.576. Restatement of articles of incorporation.

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

SECTION A. ENACTING CLAUSE. — Sections 351.085, 351.106, and 355.576, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 351.085, 351.106, and 355.576, to read as follows:

351.085. AMENDMENT OF ARTICLES OF INCORPORATION PERMITTED. — A corporation may amend its articles of incorporation at any time to add or change a provision that is required or permitted in the articles of incorporation or to delete a provision not required in the articles of incorporation**[**, provided that the name of an incorporator shall not be changed**]**. Whether a provision is required or permitted in the articles of incorporation is determined as of the effective date of the amendment.

351.106. RESTATEMENT OF ARTICLES OF INCORPORATION. — A domestic corporation may at any time restate its articles of incorporation as theretofore amended, in the following manner:

(1) The board of directors of the corporation may at any time adopt a resolution setting forth restated articles of incorporation correctly setting forth without change the corresponding

provisions of the articles of incorporation as theretofore amended and, upon the approval of a majority of the directors, adopting the same on behalf of the corporation;

(2) Proposed restated articles of incorporation need not be adopted by the directors and may be submitted directly to any annual or special meeting of the shareholders. Written or printed notice stating that the purpose, or one of the purposes, of the meeting is to consider the restatement of the articles of incorporation shall be given to each shareholder of record entitled to vote at the meeting within the time and in the manner and upon the conditions provided in this chapter for the giving of notice of meetings of shareholders. The proposed restated articles of incorporation need not be included in the notice of the meeting;

(3) If the restatement of the articles is proposed to be adopted by the shareholders, such restated articles shall be adopted upon receiving the affirmative vote of a majority of the outstanding shares entitled to vote, but dissenting shareholders shall not have the rights provided for in this chapter;

(4) Upon such approval, restated articles of incorporation shall be executed by an officer of the corporation, and shall contain a statement that the restated articles of incorporation correctly set forth without change the corresponding provisions of the articles of incorporation as theretofore amended, and that the restated articles of incorporation supersede the original articles of incorporation and all amendments thereto;

(5) The original copy of the restated articles of incorporation shall be delivered to the secretary of state. If the secretary of state finds that the restated articles of incorporation conform to this chapter he or she shall, when the required taxes or fees have been paid, file the same, and the original shall be retained by the secretary of state as a permanent record;

(6) The secretary of state shall then issue a restated certificate of incorporation under the seal of the state that the articles of incorporation of the corporation as amended have been duly restated; the certificate shall set forth the name of the corporation. The secretary of state shall attach the certificate to the other copy of the restated articles of incorporation so filed with him and shall deliver them to the corporation or its representative;

(7) Upon the issuance of the restated certificate of incorporation by the secretary of state, the restated articles of incorporation shall become effective and shall supersede the original articles of incorporation and all amendments**;**

(8) A restated articles of incorporation may omit:

(a) Such provisions of the original articles of incorporation which named the incorporator or incorporators, and the names and addresses of the initial board of directors; and

(b) Such provisions contained in any amendment to the articles of incorporation as were necessary to effect a change, exchange, reclassification, subdivision, combination or cancellation of stock, if such change, exchange, reclassification, subdivision, combination, or cancellation has become effective.

Any such omission shall not be deemed a further amendment.

355.576. RESTATEMENT OF ARTICLES OF INCORPORATION. — 1. A corporation's board of directors may restate its articles of incorporation at any time with or without approval by members or any other person.

2. The restatement may include one or more amendments to the articles. If the restatement includes an amendment requiring approval by the members or any other person, it must be adopted as provided in section 355.561.

3. If the restatement includes an amendment requiring approval by members, the board must submit the restatement to the members for their approval.

4. If the board seeks to have the restatement approved by the members at a membership meeting, the corporation shall notify each of its members of the proposed membership meeting in writing in accordance with section 355.251. The notice must also state that the purpose, or one of the purposes, of the meeting is to consider the proposed restatement and contain or be

accompanied by a copy or summary of the restatement that identifies any amendments or other change it would make in the articles.

5. A restatement requiring approval by the members must be approved by the same vote as an amendment to articles under section 355.561.

6. If the restatement includes an amendment requiring approval pursuant to section 355.606, the board must submit the restatement for such approval.

7. **A restated articles of incorporation may omit:**

(1) Such provisions of the original articles of incorporation which named the incorporator or incorporators, and the names and addresses of the initial board of directors; and

(2) Such provisions contained in any amendment to the articles of incorporation as were necessary to effect a change, exchange, reclassification, subdivision, combination or cancellation of stock, if such change, exchange, reclassification, subdivision, combination, or cancellation has become effective.

Any such omission shall not be deemed a further amendment.

8. A corporation restating its articles shall deliver to the secretary of state articles of restatement setting forth the name of the corporation and the text of the restated articles of incorporation together with a certificate setting forth:

(1) Whether the restatement contains an amendment to the articles requiring approval by the members or any other person other than the board of directors and, if it does not, that the board of directors adopted the restatement; or

(2) If the restatement contains an amendment to the articles requiring approval by the members, the information required by section 355.571; and

(3) If the restatement contains an amendment to the articles requiring approval by a person whose approval is required pursuant to section 355.606, a statement that such approval was obtained.

[8.**]** **9.** Duly adopted restated articles of incorporation supersede the original articles of incorporation and all amendments to them.

[9.**]** **10.** The secretary of state may certify restated articles of incorporation, as the articles of incorporation currently in effect, without including the certificate information required by subsection **[**7**]** **8** of this section.

Approved July 8, 2009

SB 231 [SCS SB 231]

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

Exempts landlords from liability for loss or damage to tenants' personal property when executing an order for possession of premises

AN ACT to repeal section 535.040, RSMo, and to enact in lieu thereof one new section relating to landlord-tenant actions.

SECTION

A. Enacting clause.

535.040. Upon return of summons, cause to be heard — landlord not liable, when — landlord notification of property left by tenant.

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

SECTION A. ENACTING CLAUSE. — Section 535.040, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 535.040, to read as follows:

535.040. UPON RETURN OF SUMMONS, CAUSE TO BE HEARD — LANDLORD NOT LIABLE, WHEN — LANDLORD NOTIFICATION OF PROPERTY LEFT BY TENANT. — 1. Upon the return of the summons executed, the judge shall set the case on the first available court date and shall proceed to hear the cause, and if it shall appear that the rent which is due has been demanded of the tenant, lessee or persons occupying the property, and that payment has not been made, and if the payment of such rent, with all costs, shall not be tendered before the judge, on the hearing of the cause, the judge shall render judgment that the landlord recover the possession of the premises so rented or leased, and also the debt for the amount of the rent then due, with all court costs and shall issue an execution upon such judgment, commanding the officer to put the landlord into immediate possession of the property leased or rented, and to make the debt and costs of the goods and chattels of the defendant. No money judgment shall be granted to the plaintiff if the defendant is in default and service was by the posting procedure provided in section 535.030 unless the defendant otherwise enters an appearance. The officer shall deliver possession of the property to the landlord within five days from the time of receiving the execution, and the officer shall proceed upon the execution to collect the debt and costs, and return the writ, as in the case of other executions. If the plaintiff so elects, the plaintiff may sue for possession alone, without asking for recovery of the rent due.

2. Except for willful, wanton, or malicious acts or omissions, neither the landlord, nor his or her successors, assigns, agents, nor representatives shall be liable to any tenant or subtenant for loss or damage to any household goods, furnishings, fixtures, or any other personal property left in or at the dwelling by the tenant or subtenant of such dwelling, by the reason of the landlord's removal or disposal of the property under a court-ordered execution for possession of the premises.

3. Notwithstanding the provisions of subsection 2 of this section, if, after the sheriff has completed the court-ordered execution, property is left by the tenant in or at the dwelling bearing a conspicuous permanent label or marking identifying it as the property of a third party, the landlord shall notify the third party by certified mail with a return receipt requested. The third party shall be given an opportunity to recover such property within five business days of the date such notice is received. If the landlord is unable to notify the third party, the landlord may remove or dispose of such property and shall incur no liability for any loss or damage thereto.

Approved July 8, 2009

SB 232 [SB 232]

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

Prohibits certain public agencies and political subdivisions from discrimination based on an individual's elementary and secondary education program

AN ACT to amend chapter 167, RSMo, by adding thereto one new section relating to education requirements for public employees.

SECTION
A. Enacting clause.
167.043. Discrimination in hiring based on educational programs prohibited, when.

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

SECTION A. ENACTING CLAUSE. — Chapter 167, RSMo, is amended by adding thereto one new section, to be known as section 167.043, to read as follows:

167.043. DISCRIMINATION IN HIRING BASED ON EDUCATIONAL PROGRAMS PROHIBITED, WHEN. — 1. No municipal fire department, municipal police department, state agency, state department, or political subdivision of the state shall discriminate in hiring, placement, treatment, or prerequisite requirements for any employment or services of an individual based on the elementary or secondary education program that the individual is completing or has completed, provided that such elementary or secondary education program is permitted under Missouri law.

2. Nothing in this section shall prohibit an employer from requiring an individual to have other abilities or skills applicable to the duties of a position.

3. This section shall not apply to any private employer.

Approved July 8, 2009

SB 265 [SCS SB 265]

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

Extends the collection of the Statewide Court Automation fee until 2013

AN ACT to repeal section 476.055, RSMo, and to enact in lieu thereof one new section relating to statewide court automation, with penalty provisions and an expiration date.

SECTION

A. Enacting clause.

476.055. Statewide court automation fund created, administration, committee, members — powers, duties, limitation — unauthorized release of information, penalty — report, committee, costs — expiration date.

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

SECTION A. ENACTING CLAUSE. — Section 476.055, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 476.055, to read as follows:

476.055. STATEWIDE COURT AUTOMATION FUND CREATED, ADMINISTRATION, COMMITTEE, MEMBERS — POWERS, DUTIES, LIMITATION — UNAUTHORIZED RELEASE OF INFORMATION, PENALTY — REPORT, COMMITTEE, COSTS — EXPIRATION DATE. — 1. There is hereby established in the state treasury the "Statewide Court Automation Fund". All moneys collected pursuant to section 488.027, RSMo, as well as gifts, contributions, devises, bequests, and grants received relating to automation of judicial record keeping, and moneys received by the judicial system for the dissemination of information and sales of publications developed relating to automation of judicial record keeping, shall be credited to the fund. Moneys credited to this fund may only be used for the purposes set forth in this section and as appropriated by the general assembly. Any unexpended balance remaining in the statewide court automation fund at the end of each biennium shall not be subject to the provisions of section 33.080, RSMo, requiring the transfer of such unexpended balance to general revenue; except that, any unexpended balance remaining in the fund on September 1, **[**2009**]** **2013**, shall be transferred to general revenue.

2. The statewide court automation fund shall be administered by a court automation committee consisting of the following: the chief justice of the supreme court, a judge from the court of appeals, four circuit judges, four associate circuit judges, four employees of the circuit court, the commissioner of administration, two members of the house of representatives appointed by the speaker of the house, two members of the senate appointed by the president pro tem of the senate and two members of the Missouri Bar. The judge members and employee members shall be appointed by the chief justice. The commissioner of administration shall serve ex officio. The members of the Missouri Bar shall be appointed by the board of governors of the Missouri Bar. Any member of the committee may designate another person to serve on the committee in place of the committee member.

3. The committee shall develop and implement a plan for a statewide court automation system. The committee shall have the authority to hire consultants, review systems in other jurisdictions and purchase goods and services to administer the provisions of this section. The committee may implement one or more pilot projects in the state for the purposes of determining the feasibility of developing and implementing such plan. The members of the committee shall be reimbursed from the court automation fund for their actual expenses in performing their official duties on the committee.

4. Any purchase of computer software or computer hardware that exceeds five thousand dollars shall be made pursuant to the requirements of the office of administration for lowest and best bid. Such bids shall be subject to acceptance by the office of administration. The court automation committee shall determine the specifications for such bids.

5. The court automation committee shall not require any circuit court to change any operating system in such court, unless the committee provides all necessary personnel, funds and equipment necessary to effectuate the required changes. No judicial circuit or county may be reimbursed for any costs incurred pursuant to this subsection unless such judicial circuit or county has the approval of the court automation committee prior to incurring the specific cost.

6. Any court automation system, including any pilot project, shall be implemented, operated and maintained in accordance with strict standards for the security and privacy of confidential judicial records. Any person who knowingly releases information from a confidential judicial record is guilty of a class B misdemeanor. Any person who, knowing that a judicial record is confidential, uses information from such confidential record for financial gain is guilty of a class D felony.

7. On the first day of February, May, August and November of each year, the court automation committee shall file a report on the progress of the statewide automation system with the joint legislative committee on court automation. Such committee shall consist of the following:

(1) The chair of the house budget committee;

(2) The chair of the senate appropriations committee;

(3) The chair of the house judiciary committee;

(4) The chair of the senate judiciary committee;

(5) One member of the minority party of the house appointed by the speaker of the house of representatives; and

(6) One member of the minority party of the senate appointed by the president pro tempore of the senate.

8. The members of the joint legislative committee shall be reimbursed from the court automation fund for their actual expenses incurred in the performance of their official duties as members of the joint legislative committee on court automation.

9. Section 488.027, RSMo, shall expire on September 1, **[**2009**]** **2013**. The court automation committee established pursuant to this section may continue to function until completion of its duties prescribed by this section, but shall complete its duties prior to September 1, **[**2011**]** **2015**.

10. This section shall expire on September 1, **[**2011**]** **2015**.

Approved July 8, 2009

SB 277 [SB 277]

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

Authorizes financial institutions to assign fiduciary obligations relating to irrevocable life insurance trusts

AN ACT to amend chapters 362 and 369, RSMo, by adding thereto two new sections relating to irrevocable life insurance trusts.

SECTION
A. Enacting clause.
362.333. Irrevocable life insurance trusts, banks and trust companies may transfer fiduciary obligations to the Missouri trust office or out-of-state bank or company.
369.162. Irrevocable life insurance trusts — savings and loan associations may transfer fiduciary duty, when.

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

SECTION A. ENACTING CLAUSE. — Chapters 362 and 369, RSMo, are amended by adding thereto two new sections, to be known as sections 362.333 and 369.162, to read as follows:

362.333. IRREVOCABLE LIFE INSURANCE TRUSTS, BANKS AND TRUST COMPANIES MAY TRANSFER FIDUCIARY OBLIGATIONS TO THE MISSOURI TRUST OFFICE OR OUT-OF-STATE BANK OR COMPANY. — In addition to the powers authorized in section 362.332, a bank or trust company with authorized trust authority and created under the laws of this state may transfer by assignment, for consideration or no consideration, some or all of its fiduciary obligations that consist only of irrevocable life insurance trusts to the Missouri trust office of an out-of-state bank with trust powers or an out-of-state trust company. The transfer of such irrevocable life insurance trusts shall be subject to the provisions of this section and to all regulatory procedures described in subsections 2 to 7 of section 362.332. On the effective date of the transfer of fiduciary obligations under this section, the transferring bank or trust company shall be released from all transferred fiduciary obligations and shall cease to act as a fiduciary, except that such transferring bank or trust company shall not be relieved of any obligations arising out of a breach of fiduciary duty occurring prior to such effective date.

369.162. IRREVOCABLE LIFE INSURANCE TRUSTS — SAVINGS AND LOAN ASSOCIATIONS MAY TRANSFER FIDUCIARY DUTY, WHEN. — In addition to any other banking authority, a savings and loan association or a savings bank with authorized trust authority and created under the laws of this state may transfer by assignment, for consideration or no consideration, some or all of its fiduciary obligations that consist only of irrevocable life insurance trusts in the same way as permitted a Missouri bank or trust company under section 362.333, RSMo.

Approved June 24, 2009

SB 291 [HCS#2 SS SB 291]

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

Modifies provisions relating to education

AN ACT to repeal sections 115.121, 160.011, 160.041, 160.254, 160.400, 160.405, 160.410, 160.534, 160.730, 161.072, 161.122, 162.431, 162.492, 163.011, 163.031, 163.043, 167.031, 167.126, 167.275, 168.021, 168.133, 168.221, 168.251, 171.031, 171.033, 177.088, 313.775, 313.778, and 313.822, RSMo, and to enact in lieu thereof fifty-five new sections relating to education, with an effective date for a certain section and an emergency clause for certain sections.

SECTION

A. Enacting clause.
115.121. General election, when held — primary election, when held — general municipal election day defined — special election to incur debt for certain purposes.
160.011. Definitions, certain chapters.
160.041. Minimum school day, school month, school year, defined — reduction of required number of hours and days, when.
160.254. General assembly joint committee on education created — appointment, meetings, chairman, quorum, duties, expenses.
160.263. Confinement of a student prohibited, when — policy on restrictive behavioral interventions required — model policy to be developed.
160.375. Program established, purpose — mentor qualifications — rulemaking authority — fund established, use of moneys — sunset provision.
160.400. Charter schools, defined, St. Louis City and Kansas City school districts — sponsors — use of public school buildings — organization of charter schools — affiliations with college or university — criminal background check required.
160.405. Proposed charter, how submitted, requirements, submission to state board, powers and duties — approval, revocation, termination — definitions — lease of public school facilities, when — unlawful reprisal, defined, prohibited.
160.410. Admission, preferences for admission permitted, when — study of performance to be commissioned by department, costs, contents, results to be made public.
160.534. Excursion gambling boat proceeds, transfer to certain education funds.
160.539. School flex program established — eligible students, requirements — annual report.
160.800. Governor may name council — public hearing required.
160.805. Articles of incorporation and bylaws — members, terms, staff — annual report.
160.810. Powers and duties.
160.815. Debts not debt of the state.
160.820. Departments may contract with corporation for activities.
160.950. Fund created, use of moneys — grants to be awarded, procedure — rulemaking authority — report — sunset provision.
161.072. Meetings of board — records, electronic availability, when.
161.122. Duties of the commissioner.
161.380. Standards for teaching required.
161.800. Program established — definitions — reimbursement of volunteers and parents donating time — rulemaking authority — fund established — sunset provision.
161.850. Publication to be produced, purpose, content — copy to be provided to parents — rulemaking authority.
162.083. Special administrative board, additional members authorized — term of office — return to local governance, when.
162.204. Permanent records, digital or electronic format permitted.
162.215. School officers may be commissioned to enforce certain criminal laws (City of Blue Springs).
162.431. Boundary change — procedure — arbitration — compensation of arbitrators — resubmission of changes restricted.
162.492. Director districts, candidates from districts and at large — terms — declaration of candidacy — vacancy, how filled (urban districts).
162.1168. Pilot program created — grants to be awarded — definitions — program requirements — rulemaking authority — fund created — sunset provision.
162.1250. State funding for resident students enrolled in virtual program — calculation of funding — standards for virtual courses.
163.011. Definitions — method of calculating state aid.

163.031. State aid — amount, how determined — categorical add-on revenue, determination of amount — district apportionment, determination of — waiver of rules — deposits to teachers' fund and incidental fund, when.
163.043. Classroom trust fund created, distribution of moneys — use of moneys by districts.
163.095. Erroneously set levy in capital projects fund, department to revise state aid calculation (St. Louis County).
167.018. Foster care education bill of rights — school district liaisons to be designated, duties.
167.019. Placement decisions, agencies to consider foster child's school attendance area — right to remain in certain districts — course work to be accepted — graduation requirements — rulemaking authority.
167.031. School attendance compulsory, who may be excused — nonattendance, penalty — home school, definition, requirements — school year defined — daily log, defense to prosecution — compulsory attendance age for the district defined.
167.126. Children admitted to certain programs or facilities, right to educational services — school district, per pupil cost, payment — inclusion in average daily attendance, payments in lieu of taxes, when.
167.275. Dropouts to be reported to state literacy hot line — availability of information on web site.
167.720. Physical education required — definitions.
168.021. Issuance of teachers' licenses — effect of certification in another state and subsequent employment in this state.
168.133. Criminal background checks required for school personnel, when, procedure — rulemaking authority.
168.221. Probationary period for teachers — removal of probationary and permanent personnel — hearing — demotions — reduction of personnel (metropolitan districts).
168.251. Noncertificated employees — appointment, promotion, removal, suspension (metropolitan districts).
168.745. Compensation package created — fund created.
168.747. Eligibility for compensation package.
168.749. Eligibility for stipends, criteria.
168.750. Rulemaking authority.
170.400. Supplemental educational services, equipment and educational materials not deemed an incentive for certification purposes.
171.029. Four-day school week authorized — calendar to be filed with department.
171.031. Board to prepare calendar — minimum term — opening dates — exemptions — hour limitation.
171.033. Make-up of days lost or canceled, number required — exemption, when — waiver for schools in session twelve months of year, granted when.
177.088. Facilities and equipment may be obtained by agreements with not-for-profit corporation, procedure.
210.1050. Full school day defined — foster child entitled to full school day of education — commissioner of education to be ombudsman.
313.822. Adjusted gross receipts, tax on, rate, collection procedures — portion to home dock city or county, procedure — gaming proceeds for education fund, created, purpose — audit of certain education funds.
1. Study on governance in urban school districts — report.
160.730. Policy goals, meeting required to discuss ways to achieve — list of goals — report to general assembly and governor.
313.775. Citation of law.
313.778. Fund created — state treasurer's duties.
B. Effective date.
C. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 115.121, 160.011, 160.041, 160.254, 160.400, 160.405, 160.410, 160.534, 160.730, 161.072, 161.122, 162.431, 162.492, 163.011, 163.031, 163.043, 167.031, 167.126, 167.275, 168.021, 168.133, 168.221, 168.251, 171.031, 171.033, 177.088, 313.775, 313.778, and 313.822, RSMo, are repealed and fifty-five new sections enacted in lieu thereof, to be known as sections 115.121, 160.011, 160.041, 160.254, 160.263, 160.375, 160.400, 160.405, 160.410, 160.534, 160.539, 160.800, 160.805, 160.810, 160.815, 160.820, 160.950, 161.072, 161.122, 161.380, 161.800, 161.850, 162.083, 162.204, 162.215, 162.431, 162.492, 162.1168, 162.1250, 163.011, 163.031, 163.043, 163.095, 167.018, 167.019, 167.031, 167.126, 167.275, 167.720, 168.021, 168.133, 168.221, 168.251, 168.745, 168.747, 168.749, 168.750, 170.400, 171.029, 171.031, 171.033, 177.088, 210.1050, 313.822, and 1, to read as follows:

115.121. GENERAL ELECTION, WHEN HELD — PRIMARY ELECTION, WHEN HELD — GENERAL MUNICIPAL ELECTION DAY DEFINED — SPECIAL ELECTION TO INCUR DEBT FOR

CERTAIN PURPOSES. — 1. The general election day shall be the first Tuesday after the first Monday in November of even-numbered years.

2. The primary election day shall be the first Tuesday after the first Monday in August of even-numbered years.

3. The election day for the election of political subdivision and special district officers shall be the first Tuesday after the first Monday in April each year; and shall be known as the "general municipal election day".

4. In addition to the primary election day provided for in subsection 2 of this section, for the year 2003, the first Tuesday after the first Monday in August, 2003, also shall be a primary election day for the purpose of permitting school districts and other political subdivisions of Missouri to incur debt in accordance with the provisions of article VI, section 26(a) through 26(g) of the Missouri Constitution, with the approval of four-sevenths of the eligible voters of such school district or other political subdivision voting thereon, to provide funds for the acquisition, construction, equipping, improving, restoration, and furnishing of facilities to replace, repair, reconstruct, reequip, restore, and refurnish facilities damaged, destroyed, or lost due to severe weather, including, without limitation, windstorms, hail storms, flooding, tornadic winds, rainstorms and the like which occurred during the month of April or May, 2003.

5. Notwithstanding the provisions of subsection 1 of section 115.125, the officer or agency calling an election on the first Tuesday after the first Monday of August, 2003, shall notify the election authorities responsible for conducting the election not later than 5:00 p.m. on the sixth Tuesday prior to the election. For purposes of any such election, all references in section 115.125 to the tenth Tuesday prior to such election shall be deemed to refer to the sixth Tuesday prior to such election.

6. In addition to the general election day provided for in subsection 1 of this section, for the year 2009 the first Tuesday after the first Monday in November shall be a general election day for the purpose of permitting school districts to incur debt in accordance with the provisions of article VI, section 26(a) through 26(g) of the Missouri Constitution, with the approval of four-sevenths of the eligible voters of such school district, to provide funds for school districts to acquire, construct, equip, improve, restore, and furnish public school facilities in accordance with the provisions of Section 54F of the Internal Revenue Code of 1986, as amended, which provides for qualified school construction bonds and the provisions of Section 54AA of the Internal Revenue Code of 1986, as amended, which provides for build America bonds, as well as in accordance with the provisions of Section 103 of the Internal Revenue Code of 1986, as amended, which provides for traditional government bonds.

160.011. DEFINITIONS, CERTAIN CHAPTERS. — As used in chapters 160, 161, 162, 163, 164, 165, 167, 168, 170, 171, 177 and 178, RSMo, the following terms mean:

(1) "District" or "school district", when used alone, may include seven-director, urban, and metropolitan school districts;

(2) "Elementary school", a public school giving instruction in a grade or grades not higher than the eighth grade;

(3) "Family literacy programs", services of sufficient intensity in terms of hours, and of sufficient duration, to make sustainable changes in families that include:

(a) Interactive literacy activities between parents and their children;

(b) Training of parents regarding how to be the primary teacher of their children and full partners in the education of their children;

(c) Parent literacy training that leads to high school completion and economic self sufficiency; and

(d) An age-appropriate education to prepare children of all ages for success in school;

(4) "Graduation rate", the quotient of the number of graduates in the current year as of June thirtieth divided by the sum of the number of graduates in the current year as of June thirtieth

plus the number of twelfth graders who dropped out in the current year plus the number of eleventh graders who dropped out in the preceding year plus the number of tenth graders who dropped out in the second preceding year plus the number of ninth graders who dropped out in the third preceding year;

(5) "High school", a public school giving instruction in a grade or grades not lower than the ninth nor higher than the twelfth grade;

(6) "Metropolitan school district", any school district the boundaries of which are coterminous with the limits of any city which is not within a county;

(7) "Public school" includes all elementary and high schools operated at public expense;

(8) "School board", the board of education having general control of the property and affairs of any school district;

(9) "School term", a minimum of one hundred seventy-four school days, as that term is defined in section 160.041, **for schools with a five-day school week or a minimum of one hundred forty-two school days, as that term is defined in section 160.041, for schools with a four-day school week,** and one thousand forty-four hours of actual pupil attendance as scheduled by the board pursuant to section 171.031, RSMo, during a twelve-month period in which the academic instruction of pupils is actually and regularly carried on for a group of students in the public schools of any school district. A "school term" may be within a school year or may consist of parts of two consecutive school years, but does not include summer school. A district may choose to operate two or more terms for different groups of children**. A school term for students participating in a school flex program as established in section 160.539 may consist of a combination of actual pupil attendance and attendance at college or technical career education or approved employment aligned with the student's career academic plan for a total of one thousand forty-four hours**;

(10) "Secretary", the secretary of the board of a school district;

(11) "Seven-director district", any school district which has seven directors and includes urban districts regardless of the number of directors an urban district may have unless otherwise provided by law;

(12) "Taxpayer", any individual who has paid taxes to the state or any subdivision thereof within the immediately preceding twelve-month period or the spouse of such individual;

(13) "Town", any town or village, whether or not incorporated, the plat of which has been filed in the office of the recorder of deeds of the county in which it is situated;

(14) "Urban school district", any district which includes more than half of the population or land area of any city which has not less than seventy thousand inhabitants, other than a city which is not within a county.

160.041. MINIMUM SCHOOL DAY, SCHOOL MONTH, SCHOOL YEAR, DEFINED — REDUCTION OF REQUIRED NUMBER OF HOURS AND DAYS, WHEN. — 1. The "minimum school day" consists of three hours **for schools with a five-day school week or four hours for schools with a four-day school week** in which the pupils are under the guidance and direction of teachers in the teaching process. A "school month" consists of four weeks of five days each **for schools with a five-day school week or four weeks of four days each for schools with a four-day school week**. The "school year" commences on the first day of July and ends on the thirtieth day of June following.

2. Notwithstanding the provisions of subsection 1 of this section, the commissioner of education is authorized to reduce the required number of hours and days in which the pupils are under the guidance and direction of teachers in the teaching process if:

(1) There is damage to or destruction of a public school facility which requires the dual utilization of another school facility; or

(2) Flooding or other inclement weather as defined in subsection 1 of section 171.033, RSMo, prevents students from attending the public school facility.

Such reduction shall not extend beyond two calendar years in duration.

160.254. GENERAL ASSEMBLY JOINT COMMITTEE ON EDUCATION CREATED — APPOINTMENT, MEETINGS, CHAIRMAN, QUORUM, DUTIES, EXPENSES. — 1. There is hereby established a joint committee of the general assembly, which shall be known as the "Joint Committee on Education", which shall be composed of seven members of the senate and seven members of the house of representatives. The senate members of the committee shall be appointed by the president pro tem of the senate and the house members by the speaker of the house.

2. The committee shall meet at least twice a year. In the event of three consecutive absences on the part of any member, such member may be removed from the committee.

3. The committee shall select either a chairman or cochairmen, one of whom shall be a member of the senate and one a member of the house. A majority of the members shall constitute a quorum. Meetings of the committee may be called at such time and place as the chairman or chairmen designate.

4. The committee shall:

(1) Review and monitor the progress of education in the state's public schools and institutions of higher education;

(2) Receive reports from the commissioner of education concerning the public schools and from the commissioner of higher education concerning institutions of higher education;

(3) Conduct a study and analysis of the public school system;

(4) Make recommendations to the general assembly for legislative action;

(5) Conduct an in-depth study concerning all issues relating to the equity and adequacy of the distribution of state school aid, teachers' salaries, funding for school buildings, and overall funding levels for schools and any other education funding-related issues the committee deems relevant;

(6) Monitor the establishment of performance measures as required by section 173.1006, RSMo, and report on their establishment to the governor and the general assembly;

(7) Conduct studies and analysis regarding:

(a) The higher education system, including financing public higher education and the provision of financial aid for higher education; and

(b) The feasibility of including students enrolled in proprietary schools, as that term is defined in section 173.600, RSMo, in all state-based financial aid programs;

(8) Annually review the collection of information under section 173.093, RSMo, to facilitate a more accurate comparison of the actual costs at public and private higher education institutions;

(9) Within three years of August 28, 2007, review a new model for the funding of public higher education institutions upon submission of such model by the coordinating board for higher education;

(10) Within three years of August 28, 2007, review the impact of the higher education student funding act established in sections 173.1000 to 173.1006;

(11) Beginning August 28, 2008, upon review, approve or deny any expenditures made by the commissioner of education pursuant to section 160.530, as provided in subsection 5 of section 160.530.

5. **During the legislative interim between the first regular session of the ninety-fifth general assembly through January 29, 2010, of the second regular session of the ninety-fifth general assembly, the joint committee on education shall study the issue of open enrollment for public school students across school district boundary lines in this state. In studying this issue, the joint committee may solicit input and information necessary to fulfill its obligation, including but not limited to soliciting input and information from any state department, state agency, school district, political subdivisions of this state, teachers, and the general public. The joint committee shall prepare a final report, together with its recommendations for any legislative action deemed necessary for submission to the general assembly by December 31, 2009.**

6. The committee may make reasonable requests for staff assistance from the research and appropriations staffs of the house and senate and the committee on legislative research, as well as the department of elementary and secondary education, the department of higher education, the coordinating board for higher education, the state tax commission, the department of economic development, all school districts and other political subdivisions of this state, teachers and teacher groups, business and other commercial interests and any other interested persons.

[6.**]** **7.** Members of the committee shall receive no compensation but may be reimbursed for reasonable and necessary expenses associated with the performance of their official duties.

160.263. CONFINEMENT OF A STUDENT PROHIBITED, WHEN — POLICY ON RESTRICTIVE BEHAVIORAL INTERVENTIONS REQUIRED — MODEL POLICY TO BE DEVELOPED. — 1. The school discipline policy under section 160.261 shall prohibit confining a student in an unattended, locked space except for an emergency situation while awaiting the arrival of law enforcement personnel.

2. By July 1, 2011, the local board of education of each school district shall adopt a written policy that comprehensively addresses the use of restrictive behavioral interventions as a form of discipline or behavior management technique. The policy shall be consistent with professionally accepted practices and standards of student discipline, behavior management, health and safety, including the Safe Schools Act. The policy shall include but not be limited to:

(1) Definitions of "restraint", "seclusion", and "time-out" and any other terminology necessary to describe the continuum of restrictive behavioral interventions available for use or prohibited in the district;

(2) Description of circumstances under which a restrictive behavioral intervention is allowed and prohibited and any unique application requirements for specific groups of students such as differences based on age, disability, or environment in which the educational services are provided;

(3) Specific implementation requirements associated with a restrictive behavioral intervention such as time limits, facility specifications, training requirements or supervision requirements; and

(4) Documentation, notice and permission requirements associated with use of a restrictive behavioral intervention.

3. The department of elementary and secondary education shall, in cooperation with appropriate associations, organizations, agencies and individuals with specialized expertise in behavior management, develop a model policy that satisfies the requirements of subsection 2 of this section by July 1, 2010.

160.375. PROGRAM ESTABLISHED, PURPOSE — MENTOR QUALIFICATIONS — RULEMAKING AUTHORITY — FUND ESTABLISHED, USE OF MONEYS — SUNSET PROVISION. — 1. There is hereby established the "Missouri Senior Cadets Program", which shall be administered by the department of elementary and secondary education. The program shall encourage high school seniors to mentor kindergarten through eighth grade students in their respective school districts for a minimum of ten hours per week during the school year.

2. In order to be a mentor in the program, a student must:

(1) Be a Missouri resident who attends a Missouri high school;

(2) Possess a cumulative grade point average of at least three on a four-point scale or equivalent; and

(3) Plan to attend college.

3. The department of elementary and secondary education shall promulgate rules to implement this section, which shall include, but may not be limited to, guidelines for school districts and mentors in the program. Any rule or portion of a rule, as that term is

defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

4. The mentor shall work with the school principal, classroom teachers, and other applicable school personnel in planning and implementing the mentoring plan. Such mentoring may occur before, during, or after school.

5. If a mentor in the program successfully provides mentoring services for an average of at least ten hours per week during a school year, the following shall apply, subject to appropriations:

(1) The mentor shall receive one hour of elective class credit, which may satisfy graduation requirements; and

(2) Should the mentor attend college with the stated intention of becoming a teacher, the mentor shall be reimbursed, subject to appropriation, by the department of elementary and secondary education for the costs of three credit hours per semester for a total of no more than eight semesters.

6. There is hereby established in the state treasury a fund to be known as the "Missouri Senior Cadets Fund", which shall consist of all moneys that may be appropriated to it by the general assembly, and in addition may include any gifts, contributions, grants, or bequests received from federal, state, private, or other sources. The fund shall be administered by the department of elementary and secondary education. The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo. Upon appropriation, moneys in the fund shall be used solely for the administration of the Missouri senior cadets program. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

7. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

(1) Any new program authorized under this section shall automatically sunset six years after the effective date of this section unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which a program authorized under this section is sunset.

160.400. CHARTER SCHOOLS, DEFINED, ST. LOUIS CITY AND KANSAS CITY SCHOOL DISTRICTS — SPONSORS — USE OF PUBLIC SCHOOL BUILDINGS — ORGANIZATION OF CHARTER SCHOOLS — AFFILIATIONS WITH COLLEGE OR UNIVERSITY — CRIMINAL BACKGROUND CHECK REQUIRED. — 1. A charter school is an independent public school.

2. Charter schools may be operated only in a metropolitan school district or in an urban school district containing most or all of a city with a population greater than three hundred fifty thousand inhabitants and may be sponsored by any of the following:

(1) The school board of the district;

(2) A public four-year college or university with its primary campus in the school district or in a county adjacent to the county in which the district is located, with an approved teacher education program that meets regional or national standards of accreditation;

(3) A community college located in the district; or

(4) Any private four-year college or university located in a city not within a county with an enrollment of at least one thousand students, and with an approved teacher preparation program.

3. The mayor of a city not within a county may request a sponsor under subdivision (2), (3), or (4) of subsection 2 of this section to consider sponsoring a workplace charter school, which is defined for purposes of sections 160.400 to 160.420 as a charter school with the ability to target prospective students whose parent or parents are employed in a business district, as defined in the charter, which is located in the city.

4. No sponsor shall receive from an applicant for a charter school any fee of any type for the consideration of a charter, nor may a sponsor condition its consideration of a charter on the promise of future payment of any kind.

5. The charter school shall be a Missouri nonprofit corporation incorporated pursuant to chapter 355, RSMo. The charter provided for herein shall constitute a contract between the sponsor and the charter school.

6. As a nonprofit corporation incorporated pursuant to chapter 355, RSMo, the charter school shall select the method for election of officers pursuant to section 355.326, RSMo, based on the class of corporation selected. Meetings of the governing board of the charter school shall be subject to the provisions of sections 610.010 to 610.030, RSMo, the open meetings law.

7. A sponsor of a charter school, its agents and employees are not liable for any acts or omissions of a charter school that it sponsors, including acts or omissions relating to the charter submitted by the charter school, the operation of the charter school and the performance of the charter school.

8. A charter school may affiliate with a four-year college or university, including a private college or university, or a community college as otherwise specified in subsection 2 of this section when its charter is granted by a sponsor other than such college, university or community college. Affiliation status recognizes a relationship between the charter school and the college or university for purposes of teacher training and staff development, curriculum and assessment development, use of physical facilities owned by or rented on behalf of the college or university, and other similar purposes. The primary campus of the college or university must be located within the county in which the school district lies wherein the charter school is located or in a county adjacent to the county in which the district is located. A university, college or community college may not charge or accept a fee for affiliation status.

9. The expenses associated with sponsorship of charter schools shall be defrayed by the department of elementary and secondary education retaining one and five-tenths percent of the amount of state and local funding allocated to the charter school under section 160.415, not to exceed one hundred twenty-five thousand dollars, adjusted for inflation. Such amount shall not be withheld when the sponsor is a school district or the state board of education. The department of elementary and secondary education shall remit the retained funds for each charter school to the school's sponsor, provided the sponsor remains in good standing by fulfilling its sponsorship obligations under sections 160.400 to 160.420 and 167.349, RSMo, with regard to each charter school it sponsors**, including appropriate demonstration of the following:**

(1) Expends no less than ninety percent of its charter school sponsorship funds in support of its charter school sponsorship program, or as a direct investment in the sponsored schools;

(2) Maintains a comprehensive application process that follows fair procedures and rigorous criteria and grants charters only to those developers who demonstrate strong capacity for establishing and operating a quality charter school;

(3) Negotiates contracts with charter schools that clearly articulate the rights and responsibilities of each party regarding school autonomy, expected outcomes, measures for evaluating success or failure, performance consequences, and other material terms;

(4) Conducts contract oversight that evaluates performance, monitors compliance, informs intervention and renewal decisions, and ensures autonomy provided under applicable law; and

(5) Designs and implements a transparent and rigorous process that uses comprehensive data to make merit-based renewal decisions.

10. No university, college or community college shall grant a charter to a nonprofit corporation if an employee of the university, college or community college is a member of the corporation's board of directors.

11. No sponsor shall grant a charter under sections 160.400 to 160.420 and 167.349, RSMo, without ensuring that a criminal background check and child abuse registry check are conducted for all members of the governing board of the charter schools or the incorporators of the charter school if initial directors are not named in the articles of incorporation, nor shall a sponsor renew a charter without ensuring a criminal background check and child abuse registry check are conducted for each member of the governing board of the charter school.

12. No member of the governing board of a charter school shall hold any office or employment from the board or the charter school while serving as a member, nor shall the member have any substantial interest, as defined in section 105.450, RSMo, in any entity employed by or contracting with the board. No board member shall be an employee of a company that provides substantial services to the charter school. All members of the governing board of the charter school shall be considered decision-making public servants as defined in section 105.450, RSMo, for the purposes of the financial disclosure requirements contained in sections 105.483, 105.485, 105.487, and 105.489, RSMo.

13. A sponsor shall provide timely submission to the state board of education of all data necessary to demonstrate that the sponsor is in material compliance with all requirements of sections 160.400 to 160.420 and 167.349, RSMo.

14. The state board of education shall ensure each sponsor is in compliance with all requirements under sections 160.400 to 160.420 and 167.349, RSMo, for each charter school sponsored by any sponsor. The state board shall notify each sponsor of the standards for sponsorship of charter schools, delineating both what is mandated by statute and what best practices dictate. The state board, after a public hearing, may require remedial action for a sponsor that it finds has not fulfilled its obligations of sponsorship, such remedial actions including withholding the sponsor's funding and suspending for a period of up to one year the sponsor's authority to sponsor a school that it currently sponsors or to sponsor any additional school. If the state board removes the authority to sponsor a currently operating charter school, the state board shall become the interim sponsor of the school for a period of up to three years until the school finds a new sponsor or until the charter contract period lapses.

160.405. PROPOSED CHARTER, HOW SUBMITTED, REQUIREMENTS, SUBMISSION TO STATE BOARD, POWERS AND DUTIES — APPROVAL, REVOCATION, TERMINATION — DEFINITIONS — LEASE OF PUBLIC SCHOOL FACILITIES, WHEN — UNLAWFUL REPRISAL, DEFINED, PROHIBITED. — 1. A person, group or organization seeking to establish a charter school shall submit the proposed charter, as provided in this section, to a sponsor. If the sponsor is not a school board, the applicant shall give a copy of its application to the school board of the district in which the charter school is to be located and to the state board of education, within five business days of the date the application is filed with the proposed sponsor. The school board may file objections with the proposed sponsor, and, if a charter is granted, the school board may file objections with the state board of education. The charter shall include a mission statement for the charter school, a description of the charter school's organizational structure and bylaws of the governing body, which will be responsible for the policy and operational decisions of the

charter school, a financial plan for the first three years of operation of the charter school including provisions for annual audits, a description of the charter school's policy for securing personnel services, its personnel policies, personnel qualifications, and professional development plan, a description of the grades or ages of students being served, the school's calendar of operation, which shall include at least the equivalent of a full school term as defined in section 160.011, and an outline of criteria specified in this section designed to measure the effectiveness of the school. The charter shall also state:

(1) The educational goals and objectives to be achieved by the charter school;

(2) A description of the charter school's educational program and curriculum;

(3) The term of the charter, which shall be not less than five years, nor greater than ten years and shall be renewable;

(4) A description of the charter school's pupil performance standards, which must meet the requirements of subdivision (6) of subsection 5 of this section. The charter school program must be designed to enable each pupil to achieve such standards;

(5) A description of the governance and operation of the charter school, including the nature and extent of parental, professional educator, and community involvement in the governance and operation of the charter school; and

(6) A description of the charter school's policies on student discipline and student admission, which shall include a statement, where applicable, of the validity of attendance of students who do not reside in the district but who may be eligible to attend under the terms of judicial settlements.

2. Proposed charters shall be subject to the following requirements:

(1) A charter may be approved when the sponsor determines that the requirements of this section are met and determines that the applicant is sufficiently qualified to operate a charter school. The sponsor's decision of approval or denial shall be made within ninety days of the filing of the proposed charter;

(2) If the charter is denied, the proposed sponsor shall notify the applicant in writing as to the reasons for its denial and forward a copy to the state board of education within five business days following the denial;

(3) If a proposed charter is denied by a sponsor, the proposed charter may be submitted to the state board of education, along with the sponsor's written reasons for its denial. If the state board determines that the applicant meets the requirements of this section, that the applicant is sufficiently qualified to operate the charter school, and that granting a charter to the applicant would be likely to provide educational benefit to the children of the district, the state board may grant a charter and act as sponsor of the charter school. The state board shall review the proposed charter and make a determination of whether to deny or grant the proposed charter within sixty days of receipt of the proposed charter, provided that any charter to be considered by the state board of education under this subdivision shall be submitted no later than March first prior to the school year in which the charter school intends to begin operations. The state board of education shall notify the applicant in writing as the reasons for its denial, if applicable; and

(4) The sponsor of a charter school shall give priority to charter school applicants that propose a school oriented to high-risk students and to the reentry of dropouts into the school system. If a sponsor grants three or more charters, at least one-third of the charters granted by the sponsor shall be to schools that actively recruit dropouts or high-risk students as their student body and address the needs of dropouts or high-risk students through their proposed mission, curriculum, teaching methods, and services. For purposes of this subsection, a "high-risk" student is one who is at least one year behind in satisfactory completion of course work or obtaining credits for graduation, pregnant or a parent, homeless or has been homeless sometime within the preceding six months, has limited English proficiency, has been suspended from school three or more times, is eligible for free or reduced-price school lunch, or has been referred by the school district for enrollment in an alternative program. "Dropout" shall be defined

through the guidelines of the school core data report. The provisions of this subsection do not apply to charters sponsored by the state board of education.

3. If a charter is approved by a sponsor, the charter application shall be submitted to the state board of education, along with a statement of finding that the application meets the requirements of sections 160.400 to 160.420 and section 167.439, RSMo, and a monitoring plan under which the charter sponsor will evaluate the academic performance of students enrolled in the charter school. The state board of education may, within sixty days, disapprove the granting of the charter. The state board of education may disapprove a charter on grounds that the application fails to meet the requirements of sections 160.400 to 160.420 and section 167.349, RSMo, or that a charter sponsor previously failed to meet the statutory responsibilities of a charter sponsor.

4. Any disapproval of a charter pursuant to subsection 3 of this section shall be subject to judicial review pursuant to chapter 536, RSMo.

5. A charter school shall, as provided in its charter:

(1) Be nonsectarian in its programs, admission policies, employment practices, and all other operations;

(2) Comply with laws and regulations of the state, county, or city relating to health, safety, and state minimum educational standards, as specified by the state board of education, including the requirements relating to student discipline under sections 160.261, 167.161, 167.164, and 167.171, RSMo, notification of criminal conduct to law enforcement authorities under sections 167.115 to 167.117, RSMo, academic assessment under section 160.518, transmittal of school records under section 167.020, RSMo, and the minimum number of school days and hours required under section 160.041;

(3) Except as provided in sections 160.400 to 160.420, be exempt from all laws and rules relating to schools, governing boards and school districts;

(4) Be financially accountable, use practices consistent with the Missouri financial accounting manual, provide for an annual audit by a certified public accountant, publish audit reports and annual financial reports as provided in chapter 165, RSMo, provided that the annual financial report may be published on the department of elementary and secondary education's Internet web site in addition to other publishing requirements, and provide liability insurance to indemnify the school, its board, staff and teachers against tort claims. A charter school that receives local educational agency status under subsection 6 of this section shall meet the requirements imposed by the Elementary and Secondary Education Act for audits of such agencies. For purposes of an audit by petition under section 29.230, RSMo, a charter school shall be treated as a political subdivision on the same terms and conditions as the school district in which it is located. For the purposes of securing such insurance, a charter school shall be eligible for the Missouri public entity risk management fund pursuant to section 537.700, RSMo. A charter school that incurs debt must include a repayment plan in its financial plan;

(5) Provide a comprehensive program of instruction for at least one grade or age group from kindergarten through grade twelve, which may include early childhood education if funding for such programs is established by statute, as specified in its charter;

(6) (a) Design a method to measure pupil progress toward the pupil academic standards adopted by the state board of education pursuant to section 160.514, collect baseline data during at least the first three years for determining how the charter school is performing and to the extent applicable, participate in the statewide system of assessments, comprised of the essential skills tests and the nationally standardized norm-referenced achievement tests, as designated by the state board pursuant to section 160.518, complete and distribute an annual report card as prescribed in section 160.522, which shall also include a statement that background checks have been completed on the charter school's board members, report to its sponsor, the local school district, and the state board of education as to its teaching methods and any educational innovations and the results thereof, and provide data required for the study of charter schools pursuant to subsection 4 of section 160.410. No charter school will be considered in the

Missouri school improvement program review of the district in which it is located for the resource or process standards of the program.

(b) For proposed high risk or alternative charter schools, sponsors shall approve performance measures based on mission, curriculum, teaching methods, and services. Sponsors shall also approve comprehensive academic and behavioral measures to determine whether students are meeting performance standards on a different time frame as specified in that school's charter. Student performance shall be assessed comprehensively to determine whether a high risk or alternative charter school has documented adequate student progress. Student performance shall be based on sponsor-approved comprehensive measures as well as standardized public school measures. Annual presentation of charter school report card data to the department of elementary and secondary education, the state board, and the public shall include comprehensive measures of student progress.

(c) Nothing in this paragraph shall be construed as permitting a charter school to be held to lower performance standards than other public schools within a district; however, the charter of a charter school may permit students to meet performance standards on a different time frame as specified in its charter;

(7) Assure that the needs of special education children are met in compliance with all applicable federal and state laws and regulations;

(8) Provide along with any request for review by the state board of education the following:

(a) Documentation that the applicant has provided a copy of the application to the school board of the district in which the charter school is to be located, except in those circumstances where the school district is the sponsor of the charter school; and

(b) A statement outlining the reasons for approval or disapproval by the sponsor, specifically addressing the requirements of sections 160.400 to 160.420 and 167.349, RSMo.

6. The charter of a charter school may be amended at the request of the governing body of the charter school and on the approval of the sponsor. The sponsor and the governing board and staff of the charter school shall jointly review the school's performance, management and operations at least once every two years or at any point where the operation or management of the charter school is changed or transferred to another entity, either public or private. The governing board of a charter school may amend the charter, if the sponsor approves such amendment, or the sponsor and the governing board may reach an agreement in writing to reflect the charter school's decision to become a local educational agency for the sole purpose of seeking direct access to federal grants. In such case the sponsor shall give the department of elementary and secondary education written notice no later than March first of any year, with the agreement to become effective July first. The department may waive the March first notice date in its discretion. The department shall identify and furnish a list of its regulations that pertain to local educational agencies to such schools within thirty days of receiving such notice.

7. (1) A sponsor **[**may**]** **shall** revoke a charter **or take other appropriate remedial action, which may include placing the charter school on probationary status,** at any time if the charter school commits a serious breach of one or more provisions of its charter or on any of the following grounds: failure to meet academic performance standards as set forth in its charter, failure to meet generally accepted standards of fiscal management, failure to provide information necessary to confirm compliance with all provisions of the charter and sections 160.400 to 160.420 and 167.349, RSMo, within forty-five days following receipt of written notice requesting such information, or violation of law.

(2) The sponsor may place the charter school on probationary status to allow the implementation of a remedial plan, which may require a change of methodology, a change in leadership, or both, after which, if such plan is unsuccessful, the charter may be revoked.

(3) At least sixty days before acting to revoke a charter, the sponsor shall notify the governing board of the charter school of the proposed action in writing. The notice shall state the grounds for the proposed action. The school's governing board may request in writing a hearing before the sponsor within two weeks of receiving the notice.

(4) The sponsor of a charter school shall establish procedures to conduct administrative hearings upon determination by the sponsor that grounds exist to revoke a charter. Final decisions of a sponsor from hearings conducted pursuant to this subsection are subject to judicial review pursuant to chapter 536, RSMo.

(5) A termination shall be effective only at the conclusion of the school year, unless the sponsor determines that continued operation of the school presents a clear and immediate threat to the health and safety of the children.

(6) A charter sponsor shall make available the school accountability report card information as provided under section 160.522 and the results of the academic monitoring required under subsection 3 of this section.

8. A sponsor shall take all reasonable steps necessary to confirm that each charter school sponsored by such sponsor is in material compliance and remains in material compliance with all material provisions of the charter and sections 160.400 to 160.420 and 167.349, RSMo. Every charter school shall provide all information necessary to confirm ongoing compliance with all provisions of its charter and sections 160.400 to 160.420 and 167.349, RSMo, in a timely manner to its sponsor.

9. A school district may enter into a lease with a charter school for physical facilities.

10. A governing board or a school district employee who has control over personnel actions shall not take unlawful reprisal against another employee at the school district because the employee is directly or indirectly involved in an application to establish a charter school. A governing board or a school district employee shall not take unlawful reprisal against an educational program of the school or the school district because an application to establish a charter school proposes the conversion of all or a portion of the educational program to a charter school. As used in this subsection, "unlawful reprisal" means an action that is taken by a governing board or a school district employee as a direct result of a lawful application to establish a charter school and that is adverse to another employee or an educational program.

11. Charter school board members shall be subject to the same liability for acts while in office as if they were regularly and duly elected members of school boards in any other public school district in this state. The governing board of a charter school may participate, to the same extent as a school board, in the Missouri public entity risk management fund in the manner provided under sections 537.700 to 537.756, RSMo.

12. Any entity, either public or private, operating, administering, or otherwise managing a charter school shall be considered a quasi-public governmental body and subject to the provisions of sections 610.010 to 610.035, RSMo.

13. The chief financial officer of a charter school shall maintain**:**

(1) A surety bond in an amount determined by the sponsor to be adequate based on the cash flow of the school**; or**

(2) An insurance policy issued by an insurance company licensed to do business in Missouri on all employees in the amount of five hundred thousand dollars or more that provides coverage in the event of employee theft.

160.410. ADMISSION, PREFERENCES FOR ADMISSION PERMITTED, WHEN — STUDY OF PERFORMANCE TO BE COMMISSIONED BY DEPARTMENT, COSTS, CONTENTS, RESULTS TO BE MADE PUBLIC. — 1. A charter school shall enroll:

(1) All pupils resident in the district in which it operates;

(2) Nonresident pupils eligible to attend a district's school under an urban voluntary transfer program; and

(3) In the case of a workplace charter school, any student eligible to attend under subdivision (1) or (2) of this subsection whose parent is employed in the business district, who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level or building. The configuration of a business district shall be set forth

in the charter and shall not be construed to create an undue advantage for a single employer or small number of employers.

2. If capacity is insufficient to enroll all pupils who submit a timely application, the charter school shall have an admissions process that assures all applicants of an equal chance of gaining admission except that:

(1) A charter school may establish a geographical area around the school whose residents will receive a preference for enrolling in the school, provided that such preferences do not result in the establishment of racially or socioeconomically isolated schools and provided such preferences conform to policies and guidelines established by the state board of education; and

(2) A charter school may also give a preference for admission of children whose siblings attend the school or whose parents are employed at the school or in the case of a workplace charter school, a child whose parent is employed in the business district or at the business site of such school.

3. A charter school shall not limit admission based on race, ethnicity, national origin, disability, gender, income level, proficiency in the English language or athletic ability, but may limit admission to pupils within a given age group or grade level.

4. The department of elementary and secondary education shall commission a study of the performance of students at each charter school in comparison with **[**a comparable**] an equivalent** group **of district students representing an equivalent demographic and geographic population** and a study of the impact of charter schools upon **the constituents they serve in** the districts in which they are located, to be conducted by **[**a contractor selected through a request for proposal**] the joint committee on education**. **[**The department of elementary and secondary education shall reimburse the contractor from funds appropriated by the general assembly for the purpose.**] The charter school study shall include analysis of the administrative and instructional practices of each charter school and shall include findings on innovative programs that illustrate best practices and lend themselves to replication or incorporation in other schools. The joint committee on education shall coordinate with individuals representing charter public schools and the districts in which charter schools are located in conducting the study.** The study of a charter school's student performance in relation to a comparable group shall be designed to provide information that would allow parents and educators to make valid comparisons of academic performance between the charter school's students and **[**a**] an equivalent** group of **district** students **[**comparable to the students enrolled in the charter school**] representing an equivalent demographic and geographic population. The student performance assessment and comparison shall include, but may not be limited to:**

(1) Missouri assessment program test performance and aggregate growth over several years;

(2) Student reenrollment rates;

(3) Educator, parent, and student satisfaction data;

(4) Graduation rates in secondary programs; and

(5) Performance of students enrolled in the same public school for three or more consecutive years.

The impact study shall be undertaken every two years to determine the **[**effect**] impact** of charter schools on **[**education stakeholders**] the constituents they serve** in the districts where charter schools are operated. The impact study **[**may**] shall** include, but is not limited to, determining if changes have been made in district policy or procedures attributable to the charter school and to perceived changes in attitudes and expectations on the part of district personnel, school board members, parents, students, the business community and other education stakeholders. The department of elementary and secondary education shall make the results of the studies public and shall deliver copies to the governing boards of the charter schools, the sponsors of the charter schools, the school board and superintendent of the districts in which the charter schools are operated.

5. A charter school shall make available for public inspection, and provide upon request, to the parent, guardian, or other custodian of any school-age pupil resident in the district in which the school is located the following information:

(1) The school's charter;

(2) The school's most recent annual report card published according to section 160.522; and

(3) The results of background checks on the charter school's board members.

The charter school may charge reasonable fees, not to exceed the rate specified in section 610.026, RSMo, for furnishing copies of documents under this subsection.

160.534. EXCURSION GAMBLING BOAT PROCEEDS, TRANSFER TO CERTAIN EDUCATION FUNDS. — 1. For fiscal year 1996 and each subsequent fiscal year, any amount of the excursion gambling boat proceeds deposited in the gaming proceeds for education fund in excess of the amount transferred to the school district bond fund as provided in section 164.303, RSMo, shall be transferred to the classroom trust fund. Such moneys shall be distributed in the manner provided in section 163.043, RSMo.

2. Starting in fiscal year 2009, and for each subsequent fiscal year, all excursion gambling boat proceeds deposited in the gaming proceeds for education fund in excess of the amount transferred to the classroom trust fund for fiscal year 2008 plus the amount appropriated to the school district bond fund in accordance with section 164.303, RSMo, shall be deposited into the schools first elementary and secondary education improvement fund. **The provisions of this subsection shall terminate on July 1, 2010.**

3. The amounts deposited in the schools first elementary and secondary education improvement fund pursuant to this section shall constitute new and additional funding for elementary and secondary education and shall not be used to replace existing funding provided for elementary and secondary education. **The provisions of this subsection shall terminate on July 1, 2009.**

160.539. SCHOOL FLEX PROGRAM ESTABLISHED — ELIGIBLE STUDENTS, REQUIREMENTS — ANNUAL REPORT. — 1. The "School Flex Program" is established to allow eligible students to pursue a timely graduation from high school. The term "eligible students" includes students in grades 11 or 12 who have been identified by the student's principal and the student's parent or guardian to benefit by participating in the school flex program.

2. An eligible student who participates in a school flex program shall:

(1) Attend school a minimum of two instructional hours per school day within the district of residence;

(2) Pursue a timely graduation;

(3) Provide evidence of college or technical career education enrollment and attendance, or proof of employment and labor that is aligned with the student's career academic plan which has been developed by the school district;

(4) Refrain from being expelled or suspended while participating in a school flex program;

(5) Pursue course and credit requirements for a diploma; and

(6) Maintain a ninety-five percent attendance rate.

3. Eligible students participating in the school flex program shall be considered full-time students of the school district and shall be counted in the school's average daily attendance for state basic aid purposes.

4. School districts participating in the school flex program shall submit, on forms provided by the department of elementary and secondary education, an annual report to the department which shall include information required by the department, including but not limited to student participation, dropout, and graduation rates for students

participating in the program. The department shall annually report to the joint committee on education under section 160.254 on the effectiveness of the program.

160.800. GOVERNOR MAY NAME COUNCIL — PUBLIC HEARING REQUIRED. — The governor may, on behalf of the state and in accordance with chapter 355, RSMo, establish a private not-for-profit corporation named the "P-20 Council", to carry out the provisions of sections 160.800 to 160.820. As used in this section, the word "corporation" means the P-20 council authorized by this section. Before certification by the governor, the corporation shall conduct a public hearing for the purpose of giving all interested parties an opportunity to review and comment upon the articles of incorporation, bylaws, and method of operation of the corporation. Notice of hearing shall be given at least fourteen days prior to the hearing.

160.805. ARTICLES OF INCORPORATION AND BYLAWS — MEMBERS, TERMS, STAFF — ANNUAL REPORT. — 1. The articles of incorporation and bylaws of the corporation shall provide that the purpose of the corporation is to create a more efficient and effective education system that more adequately prepares students for the challenges of entering the workforce.

2. The board of directors of the corporation shall be composed of thirteen members. The governor shall annually appoint one of its members, who shall be employed in the private sector, as chairperson. The board shall consist of the following members:

(1) The director of the department of economic development;

(2) The commissioner of higher education;

(3) The chairperson of the coordinating board for higher education;

(4) The president of the state board of education;

(5) The chairperson of the coordinating board of early childhood;

(6) The commissioner of education;

(7) Seven members appointed by the governor. Two members shall represent higher education institutions, one two-year institution and one four-year institution; two members shall represent elementary and secondary schools; two members shall represent the private, for-profit business sector; and one member shall represent an early childhood education provider.

3. Each member of the board of directors of the corporation appointed by the governor shall serve for a term of four years. Of the directors initially appointed to the board of directors by the governor, two directors shall be designated by the governor to serve a term of four years, two directors shall be designated to serve a term of three years, two directors shall be designated to serve a term of two years, and one director shall be designated to serve a term of one year. Thereafter, directors shall serve a term of four years. Each director shall continue to serve until a successor is duly appointed by the governor.

4. The corporation may receive money from any source, may borrow money, may enter into contracts, and may expend money for any activities appropriate to its purpose.

5. The corporation may appoint staff and do all other things necessary or incidental to carrying out the functions listed in sections 160.800 to 160.820.

6. Any changes in the articles of incorporation or bylaws shall be approved by the governor.

7. The corporation shall submit an annual report to the governor and to the Missouri general assembly by the first day of November and shall include detailed information on the structure, operation, and financial status of the corporation. The corporation shall conduct an annual public hearing to receive comments from interested parties regarding the report, and notice of the hearing shall be given at least fourteen days prior to the hearing.

8. The corporation shall be subject to an annual audit by the state auditor. The corporation shall bear the full cost of the audit.

160.810. POWERS AND DUTIES. — The corporation, after being certified by the governor as provided by section 160.800, may:

(1) Study the potential for a state-coordinated economic and educational policy that addresses all levels of education;

(2) Determine where obstacles make state support of programs that cross institutional or jurisdictional boundaries difficult and suggest remedies;

(3) Create programs that:

(a) Intervene at known critical transition points, such as middle school to high school and the freshman year of college, to help ensure student success at the next level;

(b) Foster higher education faculty spending time in elementary and secondary classrooms and private workplaces, and elementary and secondary faculty spending time in general education level higher education courses and private workplaces, with particular emphasis on secondary school faculty working with general education higher education faculty;

(c) Allow education stakeholders to collaborate with members of business and industry to foster policy alignment, professional interaction, and information systems across sectors;

(d) Regularly provide feedback to schools, colleges, and employers concerning the number of students requiring postsecondary remediation, whether in educational institutions or the workplace;

(4) Explore ways to better align academic content, particularly between secondary school and first-year courses at public colleges and universities, which may include alignment between:

(a) Elementary and secondary assessments and public college and university admission and placement standards; and

(b) Articulation agreements for programs across sectors and educational levels.

160.815. DEBTS NOT DEBT OF THE STATE. — 1. Debts incurred by the corporation established pursuant to the authority of sections 160.800 to 160.820 do not represent or constitute a debt of this state within the meaning of the provisions of the constitution or statutes of this state.

2. The corporation established pursuant to sections 160.800 to 160.820 shall be subject to all provisions of chapter 355, RSMo, which do not conflict with the provisions of sections 160.800 to 160.820.

160.820. DEPARTMENTS MAY CONTRACT WITH CORPORATION FOR ACTIVITIES. — In order to assist the corporation in achieving the objectives identified in section 160.810, the department of economic development, department of elementary and secondary education, and department of higher education may contract with the corporation for activities consistent with the corporation's purpose, as specified in section 160.805, including but not limited to the employment of any personnel of the corporation, administrative services, and provision of office space. When contracting with the corporation under the provisions of this section, the departments may directly enter into agreements with the corporation and shall not be bound by the provisions of chapter 34, RSMo.

160.950. FUND CREATED, USE OF MONEYS — GRANTS TO BE AWARDED, PROCEDURE — RULEMAKING AUTHORITY — REPORT — SUNSET PROVISION. — 1. There is hereby created in the state treasury the "Persistence to Graduation Fund", which shall consist of

money collected under this section. The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo. Upon appropriation, money in the fund shall be used solely for the administration of this section. Any moneys remaining in the fund at the end of the biennium shall revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund. The fund shall be administered by the department of elementary and secondary education.

2. The department of elementary and secondary education shall establish a procedure whereby seven-director, urban, and metropolitan school districts may apply for grant awards from the persistence to graduation fund in order for such districts to implement drop-out prevention strategies. Successful applicants under this section shall be awarded grants for one to five consecutive years. Upon expiration of the initial grant, the district may reapply for an extension of the grant award for a period of time deemed appropriate by both the district and the department. The department of elementary and secondary education shall give preference to school districts that propose a holistic approach to drop-out prevention, directed at a broad array of students, from the pre-kindergarten level through early adulthood, including the following characteristics:

(1) A collaborative approach between the school district and various community organizations, including nonprofit organizations, local governmental organizations, law enforcement agencies, "approved public institutions" and "approved private institutions" as such terms are defined in section 173.1102, RSMo, and institutions able to deliver proven, research-based intervention services;

(2) Early intervention strategies, including family engagement, early childhood education, early literacy development, family literacy, and mental health detection and treatment;

(3) Increased accountability measures that track at-risk students that leave the district;

(4) The implementation or augmentation of the following basic core strategies for drop-out prevention:

(a) Mentoring;

(b) Tutoring;

(c) Alternative schooling;

(d) Career and technical education; and

(e) Before or after school programs;

(5) The implementation of early intervention strategies for students who display strong indicators that they will not persist to graduation.

3. Subject to appropriation, grants awarded under this section shall be available to school districts that have a student population of which sixty percent or greater is eligible for a free and reduced lunch on the last Wednesday in January for the preceding school year who were enrolled as students of the district, as approved by the department of elementary and secondary education in accordance with applicable federal regulations.

4. The department of elementary and secondary education shall promulgate rules, no later than January 15, 2010, for the implementation of this section, including:

(1) A procedure by which funds shall be allocated to the applying school districts; and

(2) A means to judge the effectiveness of the drop-out prevention programs of the districts that receive grants under this program.

Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable

and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

5. The department of elementary and secondary education may cease award payments to any district at any time if the department determines that such funds are being misused or if the district's drop-out prevention program is deemed to be ineffectual. Any decision to discontinue payments of such funds shall be presented to the applicable district in writing at least thirty days prior to the cessation of fund payments.

6. The department of elementary and secondary education shall report to the general assembly and to the governor, no later than January fifteenth annually:

(1) The recipients and amounts of the grants awarded under this section; and

(2) The persistence to graduation data from the preceding five years for each district awarded grants under this section.

7. Subject to appropriation, the general assembly shall annually appropriate an amount sufficient to fund the provisions of this section.

8. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall sunset automatically six years after the effective date of this section unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall sunset automatically twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

161.072. MEETINGS OF BOARD — RECORDS, ELECTRONIC AVAILABILITY, WHEN. — The state board of education shall meet semiannually in December and in June in Jefferson City. Other meetings may be called by the president of the board on **[**five**]** **seven** days' written notice to the members. In the absence of the president, the commissioner of education shall call a meeting on request of **[**four**]** **three** members of the board, and if both the president and the commissioner of education are absent or refuse to call a meeting, any **[**four**]** **three** members of the board may call a meeting by similar notices in writing. **The business to come before the board shall be available by free electronic record at least seven business days prior to the start of each meeting. All records of any decisions, votes, exhibits, or outcomes shall be available by free electronic media within forty-eight hours following the conclusion of every meeting. Any materials prepared for the members of the board by the staff shall be delivered to the members at least five days before the meeting, and to the extent such materials are public records as defined in section 610.010, RSMo, and are not permitted to be closed under section 610.021, RSMo, shall be made available by free electronic media at least five business days in advance of the meeting.**

161.122. DUTIES OF THE COMMISSIONER. — The commissioner of education shall supervise the department of elementary and secondary education. Either in person or by deputy, he **or she** shall confer with and advise county and school district officers, teachers, and patrons of the public schools on all matters pertaining to the school law; visit and supervise schools, and make suggestions in regard to the subject matter and methods of instruction, the control and government of the schools, and the care and keeping of all school property; attend and assist in meetings of teachers, directors, and patrons of the public schools; and seek in every way to elevate the standards and efficiency of the instruction given in the public schools of the state. **The commissioner shall study and evaluate and test the progress, or lack thereof, in achieving these objectives and shall promptly make public by free electronic media the**

results of all studies and evaluations and tests insofar as consistent with student or parental privacy rights contained in federal or state law.

161.380. STANDARDS FOR TEACHING REQUIRED. — 1. Each public school shall develop standards for teaching no later than June 30, 2010. The standards shall be applicable to all public schools, including public charter schools operated by the board of a school district.

2. Teaching standards shall include, but not be limited to, the following:

(1) Students actively participate and are successful in the learning process;

(2) Various forms of assessment are used to monitor and manage student learning;

(3) The teacher is prepared and knowledgeable of the content and effectively maintains students' on-task behavior;

(4) The teacher uses professional communication and interaction with the school community;

(5) The teacher keeps current on instructional knowledge and seeks and explores changes in teaching behaviors that will improve student performance; and

(6) The teacher acts as a responsible professional in the overall mission of the school.

3. The department may provide assistance to public schools in developing these standards upon request.

161.800. PROGRAM ESTABLISHED — DEFINITIONS — REIMBURSEMENT OF VOLUNTEERS AND PARENTS DONATING TIME — RULEMAKING AUTHORITY — FUND ESTABLISHED — SUNSET PROVISION. — 1. This section establishes a program for public elementary and secondary schools to increase volunteer and parental involvement. The program shall be known and may be cited as the "Volunteer and Parents Incentive Program". The department of elementary and secondary education shall implement and administer the program.

2. For purposes of this section, the following terms shall mean:

(1) "At risk student":

(a) A student who is still of school age but whose continued education is in jeopardy because the student is experiencing academic deficits, including but not limited to:

a. Being one or more years behind their age or grade level in mathematics or reading skills through eighth grade or three or more credits behind in the number of credits toward graduation from the ninth grade through twelfth grade;

b. Having low scores on tests of academic achievement and scholastic aptitude;

c. Having low grades and academic deficiencies;

d. Having a history of failure and being held back in school;

e. Having language problems or being from a non-English speaking home; or

f. Not having access to appropriate educational programs.

(b) A student may also be considered "at risk" if the student has any of the following:

a. A parent or sibling who dropped out of school;

b. Experienced numerous family relocations;

c. Poor social adjustment, or deviant social behavior;

d. Employment of more than twenty hours per week while school is in session;

e. Been the victim of racial or ethnic prejudice;

f. Low self-esteem and expectations of teachers, parents, and the community;

g. A poorly educated mother or father;

h. Children of their own;

i. A deprived environment that slows economic and social development;

j. A fatherless home;

k. Been the victim of personal or family abuse, including substance abuse, emotional abuse, and sexual abuse;

(2) "Department", the department of elementary and secondary education;

(3) "Institution of higher education", a four year college or university located in the state of Missouri;

(4) "Program", the volunteer and parents incentive program;

(5) "Qualifying public school", a school located in Missouri that:

(a) Is located in a school district that has been classified by the state board of education as unaccredited or provisionally accredited; or

(b) That has a student population of more than fifty percent at-risk students.

3. The department shall, subject to appropriation, provide a reimbursement to parents or volunteers who donate time at a qualifying public school. For every one hundred hours that a parent or volunteer donates to a qualifying public school, the department shall provide a reimbursement of up to five hundred dollars towards the cost of three credit hours of education from a public institution of higher education located in Missouri. The reimbursement shall occur after completion of the three credit hours of education. The reimbursement amount shall not exceed five hundred dollars every two years.

4. A school district that participates in the program shall verify to the department the time donated by a parent or volunteer.

5. If a school district that participates in the program becomes classified as accredited by the state board of education, the school district may continue to participate in the program for an additional two years.

6. The department of elementary and secondary education shall promulgate rules and regulations to implement this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

7. There is hereby created in the state treasury the "Volunteer and Parents Incentive Program Fund", which shall consist of general revenue appropriated to the program, funds received from the federal government, and voluntary contributions to support or match program activities. The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo. Upon appropriation, money in the fund shall be used solely for the administration of the volunteer and parents incentive program. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

8. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset six years after the effective date of this section unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

161.850. PUBLICATION TO BE PRODUCED, PURPOSE, CONTENT — COPY TO BE PROVIDED TO PARENTS — RULEMAKING AUTHORITY. — 1. By January 1, 2010, the department of elementary and secondary education shall develop and produce a publication entitled "The Parents' Bill of Rights" that shall be designed to inform parents of children with an individualized education program of their educational rights provided under federal and state law. The content of the publication shall not confer any right or rights beyond those conferred by federal or state law and shall state that it is for informational purposes only. The department shall post a copy of this publication on its web site. The publication shall contain the department's contact information.

2. The publication shall contain, but may not be limited to, the following general information presented in a clear and concise manner and the department shall ensure the content is consistent with legal interpretations of existing federal and state law and provides equitable treatment of all disability groups and interests:

(1) The right of parents to attend individualized education program meetings and represent their child's interests;

(2) The right of parents to have an advocate or expert present at an individualized education program meeting;

(3) The right of parents to receive a copy of the child's evaluation and to disagree with its results and request one independent educational evaluation at public expense;

(4) The right of parents to provide a written report from outside sources as part of the evaluation process;

(5) The right of parents to examine all school records pertaining to the child and be provided with a copy of the individualized education program;

(6) The right of parents to disagree with the decision of the school district and the individualized education program team and to pursue complaint procedures, including a child complaint filed with the department of elementary and secondary education, state-paid mediation, and other due process rights;

(7) The right of parents with a child with an individualized education program to participate in reviews of such program, participate in any decision to change any aspects of the individualized education program, and meet with school officials whenever a change occurs in their child's education program or classroom placement;

(8) The right of a child to be placed in the least restrictive environment and be placed in a general education classroom, to the greatest extent appropriate;

(9) The right of parents with limited English language proficiency to request an accommodation to provide effective communications;

(10) The right of parents to have a free appropriate public education for their child with an individualized education program designed to meet their child's unique needs, which may include, but not be limited to, special education and related services such as assistive technology devices and services, transportation, speech pathology services, audiology services, interpreting services, psychological services, including behavioral interventions, physical therapy, occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and mobility services, school health services, school nurse services, social work services, parent counseling and training, and medical services for diagnostic or evaluation purposes.

3. Each school district shall provide the parent or parents of a child with a copy of this publication upon determining that a student qualifies for an individualized education program, and at any such time as a school district is required under state or federal law to provide the parent or parents with notice of procedural safeguards.

4. The department of elementary and secondary education shall review and revise the content of the publication as necessary to ensure the content accurately summarizes current federal and state law and shall promulgate rules and regulations necessary to

implement the provisions of this section, including but not limited to, the manner in which the publication described in this section shall be distributed.

5. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

162.083. SPECIAL ADMINISTRATIVE BOARD, ADDITIONAL MEMBERS AUTHORIZED — TERM OF OFFICE — RETURN TO LOCAL GOVERNANCE, WHEN. — 1. The state board of education may appoint additional members to any special administrative board appointed under section 162.081.

2. The state board of education may set a final term of office for any member of a special administrative board, after which a successor member shall be elected by the voters of the district.

(1) All final terms of office for members of the special administrative board established under this section shall expire on June thirtieth.

(2) The election of a successor member shall occur on the general municipal election day immediately prior to the expiration of the final term of office.

(3) The election shall be conducted in a manner consistent with the election laws applicable to the school district.

3. Nothing in this section shall be construed as barring an otherwise qualified member of the special administrative board from standing for an elected term on the board.

4. If the state board of education appoints a successor member to replace the chair of the special administrative board, the serving members of the special administrative board shall be authorized to appoint a superintendent of schools and contract for his or her services.

5. On a date set by the state board of education, any district operating under the governance of a special administrative board shall return to local governance, and continue operation as a school district as otherwise authorized by law.

162.204. PERMANENT RECORDS, DIGITAL OR ELECTRONIC FORMAT PERMITTED. — Notwithstanding any provision of law to the contrary, a school district may fulfill its statutory responsibility to maintain permanent records by maintaining or storing such records in a digital or electronic format. A school district that maintains or stores records in a digital or electronic format shall follow all guidelines, suggestions, or recommendations set forth by the manufacturer of the digital or electronic storage media. A school district shall not use or maintain digital or electronic storage media beyond the manufacturer suggested or recommended period of time.

162.215. SCHOOL OFFICERS MAY BE COMMISSIONED TO ENFORCE CERTAIN CRIMINAL LAWS (CITY OF BLUE SPRINGS). — 1. The school board of a district with its administrative headquarters located within a home rule city with more than forty-eight thousand but fewer than forty-nine thousand inhabitants may authorize and commission school officers to enforce laws relating to crimes committed on school premises, at school activities, and on school buses operating within the school district only upon the execution of a memorandum of understanding with each municipal law enforcement agency and county sheriff's office which has law enforcement jurisdiction over the school district's

premises and location of school activities, provided that the memorandum shall not grant statewide arrest authority. School officers shall be licensed peace officers, as defined in section 590.010, RSMo, and shall comply with the provisions of chapter 590, RSMo. The powers and duties of a peace officer shall continue throughout the employee's tenure as a school officer.

2. School officers shall abide by district school board policies, all terms and conditions defined within the executed memorandum of understanding with each municipal law enforcement agency and county sheriff's office which has law enforcement jurisdiction over the school district's premises and location of school activities, and shall consult with and coordinate activities through the school superintendent or the superintendent's designee. School officers' authority shall be limited to crimes committed on school premises, at school activities, and on school buses operating within the jurisdiction of the executed memorandum of understanding. All crimes involving any sexual offense or any felony involving the threat or use of force shall remain under the authority of the local jurisdiction where the crime occurred. School officers may conduct any justified stop on school property and enforce any local violation that occurs on school grounds. School officers shall have the authority to stop, detain, and arrest for crimes committed on school property, at school activities, and on school buses.

162.431. BOUNDARY CHANGE — PROCEDURE — ARBITRATION — COMPENSATION OF ARBITRATORS — RESUBMISSION OF CHANGES RESTRICTED. — 1. When it is necessary to change the boundary lines between seven-director school districts, in each district affected, ten percent of the voters by number of those voting for school board members in the last annual school election in each district may petition the district boards of education in the districts affected, regardless of county lines, for a change in boundaries. The question shall be submitted at the next election, as the term "election" is referenced and defined in section 115.123, RSMo.

2. The voters shall decide the question by a majority vote of those who vote upon the question. If assent to the change is given by each of the various districts voting, each voting separately, the boundaries are changed from that date.

3. If one of the districts votes against the change and the other votes for the change, the matter may be appealed to the state board of education, in writing, within fifteen days of the submission of the question by either one of the districts affected, or in the above event by a majority of the signers of the petition requesting a vote on the proposal. At the first meeting of the state board following the appeal, a board of arbitration composed of three members, none of whom shall be a resident of any district affected, shall be appointed. In determining whether it is necessary to change the boundary line between seven-director districts, the board of arbitration shall base its decision upon the following:

(1) The presence of school-aged children in the affected area;

(2) The presence of actual educational harm to school-aged children, either due to a significant difference in the time involved in transporting students or educational deficiencies in the district which would have its boundary adversely affected; and

(3) The presence of an educational necessity, not of a commercial benefit to landowners or to the district benefitting for the proposed boundary adjustment. **For purposes of subdivision (2) of this subsection, "significant difference in the time involved in transporting students" shall mean a difference of forty-five minutes or more per trip in travel time. "Travel time" is the period of time required to transport a pupil from the pupil's place of residence or other designated pickup point to the site of the pupil's educational placement.**

4. **[**If the potential receiving district obtained a score consistent with the criteria for classification of the district as accredited on its most recent annual performance report and the potential sending district obtained a score consistent with the criteria for classification of the district as unaccredited on its most recent annual performance report, the board shall approve the

proposed boundary change for the educational well-being of the children enrolled in the potential sending district.

5.**]** Within twenty days after notification of appointment, the board of arbitration shall meet and consider the necessity for the proposed changes and shall decide whether the boundaries shall be changed as requested in the petition or be left unchanged, which decision shall be final. The decision by the board of arbitration shall be rendered not more than thirty days after the matter is referred to the board. The chairman of the board of arbitration shall transmit the decision to the secretary of each district affected who shall enter the same upon the records of his district and the boundaries shall thereafter be in accordance with the decision of the board of arbitration. The members of the board of arbitration shall be allowed a fee of fifty dollars each, to be paid at the time the appeal is made by the district taking the appeal or by the petitioners should they institute the appeal.

[6.**]** **5.** If the board of arbitration decides that the boundaries shall be left unchanged, no new petition for the same, or substantially the same, boundary change between the same districts shall be filed until after the expiration of two years from the date of the municipal election at which the question was submitted to the voters of the districts.

162.492. DIRECTOR DISTRICTS, CANDIDATES FROM DISTRICTS AND AT LARGE — TERMS — DECLARATION OF CANDIDACY — VACANCY, HOW FILLED (URBAN DISTRICTS). — 1. In all urban districts containing the greater part of the population of a city which has more than three hundred thousand inhabitants the terms of the members of the board of directors in office in 1967 shall continue until the end of the respective terms to which each of them has been elected to office and in each case thereafter until the next school election be held and until their successors, then elected, are duly qualified as provided in this section.

2. In each urban district designated in subsection 1, the election authority of the city in which the greater portion of the school district lies, and of the county if the district includes territory not within the city limits, shall serve ex officio as a redistricting commission. The commission shall on or before November 1, 1969, divide the school district into six subdistricts, all subdistricts being of compact and contiguous territory and as nearly equal in the number of inhabitants as practicable and thereafter the board shall redistrict the district into subdivisions as soon as practicable after each United States decennial census. In establishing the subdistricts each member shall have one vote and a majority vote of the total membership of the commission is required to make effective any action of the commission.

3. School elections for the election of directors shall be held on municipal election days in each even-numbered year. At the election in 1970, one member of the board of directors shall be elected by the voters of each subdistrict. The seven candidates, one from each of the subdistricts, who receive a plurality of the votes cast by the voters of that subdistrict shall be elected and the at-large candidate receiving a plurality of the at-large votes shall be elected. In addition to other qualifications prescribed by law, each member elected from a subdistrict must be a resident of the subdistrict from which he is elected. The subdistricts shall be numbered from one to six and the directors elected from subdistricts one, three and five shall hold office for terms of two years and until their successors are elected and qualified, and the directors elected from subdistricts two, four and six shall hold office for terms of four years and until their successors are elected and qualified. Every two years thereafter a member of the board of directors shall be elected for a term of four years and until his successor is elected and qualified from each of the three subdistricts having a member on the board of directors whose term expires in that year. Those members of the board of directors who were in office in 1967 shall, when their terms of office expire, be succeeded by the members of the board of directors elected from subdistricts. In addition to the directors elected by the voters of each subdistrict, additional directors shall be elected at large by the voters of the entire school district as follows: In 1970 one director at large shall be elected for a two-year term. In 1972 one director at large shall be elected for a four-year term. In 1974 two at-large directors shall be elected for a four-year term

and thereafter in alternative elections one director shall be elected for a four-year term and then two directors shall be elected for a four-year term, so that from and after the 1970 election the board of directors not including those members who were in office in 1967 shall consist of seven members until the 1974 election and thereafter the board shall consist of nine members. In those years in which one at-large director is to be elected each voter may vote for one candidate and the candidate receiving a plurality of votes cast shall be elected. In those years in which two at-large directors are to be elected each voter may vote for two candidates and the two receiving the largest number of votes cast shall be elected.

4. The six candidates, one from each of the subdistricts, who receive a plurality of the votes cast by the voters of that subdistrict and the at-large candidates receiving a plurality of the at-large votes shall be elected. The name of no candidate for nomination shall be printed on the ballot unless the candidate has at least sixty days prior to the election filed a declaration of candidacy with the secretary of the board of directors containing the signatures of at least two hundred fifty registered voters who are residents of the subdistrict within which the candidate for nomination to a subdistrict office resides, and in case of at-large candidates the signatures of at least five hundred registered voters. The election authority shall determine the validity of all signatures on declarations of candidacy.

5. In any election either for at-large candidates or candidates elected by the voters of subdistricts, if there are more than two candidates, a majority of the votes are not required to elect but the candidate having a plurality of the votes if there is only one office to be filled and the candidates having the highest number of votes, if more than one office is to be filled, shall be elected.

6. The names of all candidates shall appear upon the ballot without party designation and in the order of the priority of the times of filing their petitions of nomination. No candidate may file both at large and from a subdistrict and the names of all candidates shall appear only once on the ballot, nor may any candidate file more than one declaration of candidacy. All declarations shall designate the candidate's residence and whether the candidate is filing at large or from a subdistrict and the numerical designation of the subdistrict or at-large area.

7. The provisions of all sections relating to seven-director school districts shall also apply to and govern urban districts in cities of more than three hundred thousand inhabitants, to the extent applicable and not in conflict with the provisions of those sections specifically relating to such urban districts.

8. Vacancies which occur on the school board between the dates of election shall be filled by **[**majority vote of the remaining members of the school board to serve until the time of the next regular school board election. Subdistrict director vacancies shall be filled by appointment of a resident of the subdistrict in which the vacancy occurs**]** **special election if such vacancy happens more than six months prior to the time of holding a general municipal election, as provided in section 115.121, RSMo. The state board of education shall order a special election to fill such a vacancy. A letter from the commissioner of education, delivered by certified mail to the election authority or authorities that would normally conduct an election for school board members shall be the authority for the election authority or authorities to proceed with election procedures. If a vacancy occurs less than six months prior to the time of holding a general municipal election, no special election shall occur and the vacancy shall be filled at the next general municipal election.**

162.1168. PILOT PROGRAM CREATED — GRANTS TO BE AWARDED — DEFINITIONS — PROGRAM REQUIREMENTS — RULEMAKING AUTHORITY — FUND CREATED — SUNSET PROVISION. — 1. There is hereby established a pilot program within the Missouri preschool project to be known as the "Missouri Preschool Plus Grant Program", which shall serve up to one thousand two hundred fifty students with high quality early childhood educational services in order to improve school readiness outcomes. The program shall be administered by the department of elementary and secondary education

in collaboration with the coordinating board for early childhood. Grants shall be awarded in this section for three years and shall be renewable. The program shall be funded through appropriations to the Missouri preschool plus grant program fund. Funds from the gaming commission fund created in section 313.835, RSMo, shall not be used to fund the program.

2. For purposes of this section, the following terms shall mean:

(1) "Department", the department of elementary and secondary education;

(2) "Program", the Missouri preschool plus grant program.

3. Grantees shall include the following:

(1) School districts classified as unaccredited by the state board of education; or

(2) Nonsectarian community-based organizations located within a school district classified as unaccredited by the state board of education.

4. If a school district becomes classified as provisionally accredited or accredited by the state board of education, the school district may complete the length of an existing grant and shall be eligible for one additional renewal for three years.

5. To receive a preschool placement under this section, a child shall be one or two years away from kindergarten entry.

6. The Missouri preschool plus grant program shall comply with the standards developed under section 161.213, RSMo. Public school grantees shall employ teachers with a bachelor's degree. Nonsectarian community-based organizations may employ teachers with at least an associate's degree provided such teachers demonstrate they are on the path to obtaining a bachelor's degree within five years.

7. Families with incomes less than one hundred thirty percent of the federal poverty guidelines shall receive free services through eligible grantees. Families with incomes at or above one hundred thirty percent of the federal poverty guidelines may be charged a co-pay on a sliding scale, as established by the department.

8. At least fifty percent of the preschool placements funded by the program shall be offered through nonsectarian community-based organizations.

9. The department shall develop standards for teacher-pupil ratios, classroom size, teacher training and educational attainment, and curriculum.

10. Grantees participating in the program shall give admission preference to dependents of active duty military personnel.

11. School districts in which such pilot programs exist shall collect data about short-term and long-term student performance so that the program may be evaluated on quantitative measurements developed by the department. For purposes of this subsection, "long-term" shall mean from point of entry to graduation from high school.

12. Grantees shall coordinate preschool programs with the nearest parents as teachers site to ensure a continuum of care.

13. The department shall accept applications in a competitive bid process to begin implementation of the program for the 2010-2011 school year.

14. The department shall promulgate rules and regulations necessary to implement this section by January 1, 2010. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

15. The grants awarded under this section are subject to appropriation.

16. There is hereby created in the state treasury the "Missouri Preschool Plus Grant Program Fund" which shall consist of general revenue appropriated to the program, funds received from the federal government, and voluntary contributions to support or match program activities. The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo. Upon appropriation, money in the fund shall be used solely for the administration of this section. Any moneys remaining in the fund at the end of the biennium shall revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

17. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset six years after the effective date of this section unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

162.1250. STATE FUNDING FOR RESIDENT STUDENTS ENROLLED IN VIRTUAL PROGRAM — CALCULATION OF FUNDING — STANDARDS FOR VIRTUAL COURSES. — 1. School districts shall receive state school funding under sections 163.031, 163.043, and 163.087, RSMo, for resident students who are enrolled in the school district and who are taking a virtual course or full-time virtual program offered by the school district. The school district may offer instruction in a virtual setting using technology, intranet, and Internet methods of communications that could take place outside of the regular school district facility. The school district may develop a virtual program for any grade level, kindergarten through twelfth grade, with the courses available in accordance with district policy to any resident student of the district who is enrolled in the school district. Nothing in this section shall preclude a private, parochial, or home school student residing within a school district offering virtual courses or virtual programs from enrolling in the school district in accordance with the combined enrollment provisions of section 167.031, RSMo, for the purposes of participating in the virtual courses or virtual programs.

2. Charter schools shall receive state school funding under section 160.415, RSMo, for students enrolled in the charter school who are completing a virtual course or full-time virtual program offered by the charter school. Charter schools may offer instruction in a virtual setting using technology, intranet, and Internet methods of communications. The charter school may develop a virtual program for any grade level, kindergarten through twelfth grade, with the courses available in accordance with school policy and the charter school's charter to any student enrolled in the charter school.

3. For purposes of calculation and distribution of state school funding, attendance of a student enrolled in a district or charter school virtual class shall equal, upon course completion, ninety-four percent of the hours of attendance possible for such class delivered in the non-virtual program in the student's resident district or charter school. Course completion shall be calculated in two increments, fifty percent completion and one hundred percent completion, based on the student's completion of defined assignments and assessments, with distribution of state funding to a school district or charter school at each increment equal to forty-seven percent of hours of attendance possible for such course delivered in the non-virtual program in a student's school district of residence or charter school.

4. When courses are purchased from an outside vendor, the district or charter school shall ensure that they are aligned with the show-me curriculum standards and comply with state requirements for teacher certification. The state board of education reserves the right to request information and materials sufficient to evaluate the online course. Online classes should be considered like any other class offered by the school district or charter school.

5. Any school district or charter school that offers instruction in a virtual setting, develops a virtual course or courses, or develops a virtual program of instruction shall ensure that the following standards are satisfied:

(1) The virtual course or virtual program utilizes appropriate content-specific tools and software;

(2) Orientation training is available for teachers, instructors, and students as needed;

(3) Privacy policies are stated and made available to teachers, instructors, and students;

(4) Academic integrity and Internet etiquette expectations regarding lesson activities, discussions, electronic communications, and plagiarism are stated to teachers, instructors, and students prior to the beginning of the virtual course or virtual program;

(5) Computer system requirements, including hardware, web browser, and software, are specified to participants;

(6) The virtual course or virtual program architecture, software, and hardware permit the online teacher or instructor to add content, activities, and assessments to extend learning opportunities;

(7) The virtual course or virtual program makes resources available by alternative means, including but not limited to, video and podcasts;

(8) Resources and notes are available for teachers and instructors in addition to assessment and assignment answers and explanations;

(9) Technical support and course management are available to the virtual course or virtual program teacher and school coordinator;

(10) The virtual course or virtual program includes assignments, projects, and assessments that are aligned with students' different visual, auditory, and hands-on learning styles;

(11) The virtual course or virtual program demonstrates the ability to effectively use and incorporate subject-specific and developmentally appropriate software in an online learning module; and

(12) The virtual course or virtual program arranges media and content to help transfer knowledge most effectively in the online environment.

6. Any special school district shall count any student's completion of a virtual course or program in the same manner as the district counts completion of any other course or program for credit.

7. A school district or charter school may contract with multiple providers of virtual courses or virtual programs, provided they meet the criteria for virtual courses or virtual programs under this section.

163.011. DEFINITIONS — METHOD OF CALCULATING STATE AID. — As used in this chapter unless the context requires otherwise:

(1) "Adjusted operating levy", the sum of tax rates for the current year for teachers' and incidental funds for a school district as reported to the proper officer of each county pursuant to section 164.011, RSMo;

(2) "Average daily attendance", the quotient or the sum of the quotients obtained by dividing the total number of hours attended in a term by resident pupils between the ages of five and twenty-one by the actual number of hours school was in session in that term. To the average daily attendance of the following school term shall be added the full-time equivalent average

daily attendance of summer school students. "Full-time equivalent average daily attendance of summer school students" shall be computed by dividing the total number of hours, except for physical education hours that do not count as credit toward graduation for students in grades nine, ten, eleven, and twelve, attended by all summer school pupils by the number of hours required in section 160.011, RSMo, in the school term. For purposes of determining average daily attendance under this subdivision, the term "resident pupil" shall include all children between the ages of five and twenty-one who are residents of the school district and who are attending kindergarten through grade twelve in such district. If a child is attending school in a district other than the district of residence and the child's parent is teaching in the school district or is a regular employee of the school district which the child is attending, then such child shall be considered a resident pupil of the school district which the child is attending for such period of time when the district of residence is not otherwise liable for tuition. Average daily attendance for students below the age of five years for which a school district may receive state aid based on such attendance shall be computed as regular school term attendance unless otherwise provided by law;

(3) "Current operating expenditures":

(a) For the fiscal year 2007 calculation, "current operating expenditures" shall be calculated using data from fiscal year 2004 and shall be calculated as all expenditures for instruction and support services except capital outlay and debt service expenditures minus the revenue from federal categorical sources; food service; student activities; categorical payments for transportation costs pursuant to section 163.161; state reimbursements for early childhood special education; the career ladder entitlement for the district, as provided for in sections 168.500 to 168.515, RSMo; the vocational education entitlement for the district, as provided for in section 167.332, RSMo; and payments from other districts;

(b) In every fiscal year subsequent to fiscal year 2007, current operating expenditures shall be the amount in paragraph (a) **of this subdivision** plus any increases in state funding pursuant to sections 163.031 and 163.043 subsequent to fiscal year 2005, not to exceed five percent, per recalculation, of the state revenue received by a district in the 2004-05 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payments for any district from the first preceding calculation of the state adequacy target**. Beginning on July 1, 2010, current operating expenditures shall be the amount in paragraph (a) of this subdivision plus any increases in state funding pursuant to sections 163.031 and 163.043 subsequent to fiscal year 2005 received by a district in the 2004-05 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payments for any district from the first preceding calculation of the state adequacy target**;

(4) "District's tax rate ceiling", the highest tax rate ceiling in effect subsequent to the 1980 tax year or any subsequent year. Such tax rate ceiling shall not contain any tax levy for debt service;

(5) "Dollar-value modifier", an index of the relative purchasing power of a dollar, calculated as one plus fifteen percent of the difference of the regional wage ratio minus one, provided that the dollar value modifier shall not be applied at a rate less than 1.0:

(a) "County wage per job", the total county wage and salary disbursements divided by the total county wage and salary employment for each county and the city of St. Louis as reported by the Bureau of Economic Analysis of the United States Department of Commerce for the fourth year preceding the payment year;

(b) "Regional wage per job":

a. The total Missouri wage and salary disbursements of the metropolitan area as defined by the Office of Management and Budget divided by the total Missouri metropolitan wage and salary employment for the metropolitan area for the county signified in the school district number or the city of St. Louis, as reported by the Bureau of Economic Analysis of the United States Department of Commerce for the fourth year preceding the payment year and recalculated upon

every decennial census to incorporate counties that are newly added to the description of metropolitan areas; or if no such metropolitan area is established, then:

b. The total Missouri wage and salary disbursements of the micropolitan area as defined by the Office of Management and Budget divided by the total Missouri micropolitan wage and salary employment for the micropolitan area for the county signified in the school district number, as reported by the Bureau of Economic Analysis of the United States Department of Commerce for the fourth year preceding the payment year, if a micropolitan area for such county has been established and recalculated upon every decennial census to incorporate counties that are newly added to the description of micropolitan areas; or

c. If a county is not part of a metropolitan or micropolitan area as established by the Office of Management and Budget, then the county wage per job, as defined in paragraph (a) of this subdivision, shall be used for the school district, as signified by the school district number;

(c) "Regional wage ratio", the ratio of the regional wage per job divided by the state median wage per job;

(d) "State median wage per job", the fifty-eighth highest county wage per job;

(6) "Free and reduced lunch pupil count", the number of pupils eligible for free and reduced lunch on the last Wednesday in January for the preceding school year who were enrolled as students of the district, as approved by the department in accordance with applicable federal regulations;

(7) "Free and reduced lunch threshold" shall be calculated by dividing the total free and reduced lunch pupil count of every performance district that falls entirely above the bottom five percent and entirely below the top five percent of average daily attendance, when such districts are rank-ordered based on their current operating expenditures per average daily attendance, by the total average daily attendance of all included performance districts;

(8) "Limited English proficiency pupil count", the number in the preceding school year of pupils aged three through twenty-one enrolled or preparing to enroll in an elementary school or secondary school who were not born in the United States or whose native language is a language other than English or are Native American or Alaskan native, or a native resident of the outlying areas, and come from an environment where a language other than English has had a significant impact on such individuals' level of English language proficiency, or are migratory, whose native language is a language other than English, and who come from an environment where a language other than English is dominant; and have difficulties in speaking, reading, writing, or understanding the English language sufficient to deny such individuals the ability to meet the state's proficient level of achievement on state assessments described in Public Law 107-10, the ability to achieve successfully in classrooms where the language of instruction is English, or the opportunity to participate fully in society;

(9) "Limited English proficiency threshold" shall be calculated by dividing the total limited English proficiency pupil count of every performance district that falls entirely above the bottom five percent and entirely below the top five percent of average daily attendance, when such districts are rank-ordered based on their current operating expenditures per average daily attendance, by the total average daily attendance of all included performance districts;

(10) "Local effort":

(a) For the fiscal year 2007 calculation, "local effort" shall be computed as the equalized assessed valuation of the property of a school district in calendar year 2004 divided by one hundred and multiplied by the performance levy less the percentage retained by the county assessor and collector plus one hundred percent of the amount received in fiscal year 2005 for school purposes from intangible taxes, fines, escheats, payments in lieu of taxes and receipts from state-assessed railroad and utility tax, one hundred percent of the amount received for school purposes pursuant to the merchants' and manufacturers' taxes under sections 150.010 to 150.370, RSMo, one hundred percent of the amounts received for school purposes from federal properties under sections 12.070 and 12.080, RSMo, except when such amounts are used in the calculation of federal impact aid pursuant to P.L. 81-874, fifty percent of Proposition C revenues

received for school purposes from the school district trust fund under section 163.087, and one hundred percent of any local earnings or income taxes received by the district for school purposes. Under this paragraph, for a special district established under sections 162.815 to 162.940, RSMo, in a county with a charter form of government and with more than one million inhabitants, a tax levy of zero shall be utilized in lieu of the performance levy for the special school district;

(b) In every year subsequent to fiscal year 2007, "local effort" shall be the amount calculated under paragraph (a) of this subdivision plus any increase in the amount received for school purposes from fines. If a district's assessed valuation has decreased subsequent to the calculation outlined in paragraph (a) of this subdivision, the district's local effort shall be calculated using the district's current assessed valuation in lieu of the assessed valuation utilized in **the** calculation outlined in paragraph (a) of this subdivision;

(11) "Membership" shall be the average of:

(a) The number of resident full-time students and the full-time equivalent number of part-time students who were enrolled in the public schools of the district on the last Wednesday in September of the previous year and who were in attendance one day or more during the preceding ten school days; and

(b) The number of resident full-time students and the full-time equivalent number of part-time students who were enrolled in the public schools of the district on the last Wednesday in January of the previous year and who were in attendance one day or more during the preceding ten school days, plus the full-time equivalent number of summer school pupils. "Full-time equivalent number of part-time students" is determined by dividing the total number of hours for which all part-time students are enrolled by the number of hours in the school term. "Full-time equivalent number of summer school pupils" is determined by dividing the total number of hours for which all summer school pupils were enrolled by the number of hours required pursuant to section 160.011, RSMo, in the school term. Only students eligible to be counted for average daily attendance shall be counted for membership;

(12) "Operating levy for school purposes", the sum of tax rates levied for teachers' and incidental funds plus the operating levy or sales tax equivalent pursuant to section 162.1100, RSMo, of any transitional school district containing the school district, in the payment year, not including any equalized operating levy for school purposes levied by a special school district in which the district is located;

(13) "Performance district", any district that has met all performance standards and indicators as established by the department of elementary and secondary education for purposes of accreditation under section 161.092, RSMo, and as reported on the final annual performance report for that district each year;

(14) "Performance levy", three dollars and forty-three cents;

(15) "School purposes" pertains to teachers' and incidental funds;

(16) "Special education pupil count", the number of public school students with a current individualized education program **or services plan** and receiving services from the resident district as of December first of the preceding school year, except for special education services provided through a school district established under sections 162.815 to 162.940, RSMo, in a county with a charter form of government and with more than one million inhabitants, in which case the sum of the students in each district within the county exceeding the special education threshold of each respective district within the county shall be counted within the special district and not in the district of residence for purposes of distributing the state aid derived from the special education pupil count;

(17) "Special education threshold" shall be calculated by dividing the total special education pupil count of every performance district that falls entirely above the bottom five percent and entirely below the top five percent of average daily attendance, when such districts are rank-ordered based on their current operating expenditures per average daily attendance, by the total average daily attendance of all included performance districts;

(18) "State adequacy target", the sum of the current operating expenditures of every performance district that falls entirely above the bottom five percent and entirely below the top five percent of average daily attendance, when such districts are rank-ordered based on their current operating expenditures per average daily attendance, divided by the total average daily attendance of all included performance districts **[**plus the total amount of funds placed in the schools first elementary and secondary education improvement fund in the preceding fiscal year divided by the total average daily attendance of all school districts for the preceding fiscal year**]**. The department of elementary and secondary education shall first calculate the state adequacy target for fiscal year 2007 and recalculate the state adequacy target every two years using the most current available data**[**; provided that the state adequacy target shall be recalculated every year to reflect the per-pupil amount of funds placed in the schools first elementary and secondary education improvement fund in the preceding fiscal year**]**. The recalculation shall never result in a decrease from the previous state adequacy target amount. Should a recalculation result in an increase in the state adequacy target amount, fifty percent of that increase shall be included in the state adequacy target amount in the year of recalculation, and fifty percent of that increase shall be included in the state adequacy target amount in the subsequent year. The state adequacy target may be adjusted to accommodate available appropriations;

(19) "Teacher", any teacher, teacher-secretary, substitute teacher, supervisor, principal, supervising principal, superintendent or assistant superintendent, school nurse, social worker, counselor or librarian who shall, regularly, teach or be employed for no higher than grade twelve more than one-half time in the public schools and who is certified under the laws governing the certification of teachers in Missouri;

(20) "Weighted average daily attendance", the average daily attendance plus the product of twenty-five hundredths multiplied by the free and reduced lunch pupil count that exceeds the free and reduced lunch threshold, plus the product of seventy-five hundredths multiplied by the number of special education pupil count that exceeds the special education threshold, **[**and**]** plus the product of six-tenths multiplied by the number of limited English proficiency pupil count that exceeds the limited English proficiency threshold. For special districts established under sections 162.815 to 162.940, RSMo, in a county with a charter form of government and with more than one million inhabitants, weighted average daily attendance shall be the average daily attendance plus the product of twenty-five hundredths multiplied by the free and reduced lunch pupil count that exceeds the free and reduced lunch threshold, plus the product of seventy-five hundredths multiplied by the sum of the special education pupil count that exceeds the threshold for each county district, plus the product of six-tenths multiplied by the limited English proficiency pupil count that exceeds the limited English proficiency threshold. None of the districts comprising a special district established under sections 162.815 to 162.940, RSMo, in a county with a charter form of government and with more than one million inhabitants, shall use any special education pupil count in calculating their weighted average daily attendance.

163.031. STATE AID — AMOUNT, HOW DETERMINED — CATEGORICAL ADD-ON REVENUE, DETERMINATION OF AMOUNT — DISTRICT APPORTIONMENT, DETERMINATION OF — WAIVER OF RULES — DEPOSITS TO TEACHERS' FUND AND INCIDENTAL FUND, WHEN. — 1. The department of elementary and secondary education shall calculate and distribute to each school district qualified to receive state aid under section 163.021 an amount determined by multiplying the district's weighted average daily attendance by the state adequacy target, multiplying this product by the dollar value modifier for the district, and subtracting from this product the district's local effort and, in years not governed under subsection 4 of this section, subtracting payments from the classroom trust fund under section 163.043.

2. Other provisions of law to the contrary notwithstanding:

(1) For districts with an average daily attendance of more than three hundred fifty in the school year preceding the payment year:

(a) For the 2006-07 school year, the state revenue per weighted average daily attendance received by a district from the state aid calculation under subsections 1 and 4 of this section, as applicable, and the classroom trust fund under section 163.043 shall not be less than the state revenue received by a district in the 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payment amounts multiplied by the sum of one plus the product of one-third multiplied by the remainder of the dollar value modifier minus one, and dividing this product by the weighted average daily attendance computed for the 2005-06 school year;

(b) For the 2007-08 school year, the state revenue per weighted average daily attendance received by a district from the state aid calculation under subsections 1 and 4 of this section, as applicable, and the classroom trust fund under section 163.043 shall not be less than the state revenue received by a district in the 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payment amounts multiplied by the sum of one plus the product of two-thirds multiplied by the remainder of the dollar value modifier minus one, and dividing this product by the weighted average daily attendance computed for the 2005-06 school year;

(c) For the 2008-09 school year, the state revenue per weighted average daily attendance received by a district from the state aid calculation under subsections 1 and 4 of this section, as applicable, and the classroom trust fund under section 163.043 shall not be less than the state revenue received by a district in the 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payment amounts multiplied by the dollar value modifier, and dividing this product by the weighted average daily attendance computed for the 2005-06 school year;

(d) For each year subsequent to the 2008-09 school year, the amount shall be no less than that computed in paragraph (c) of this subdivision, multiplied by the weighted average daily attendance pursuant to section 163.036, less any increase in revenue received from the classroom trust fund under section 163.043;

(2) For districts with an average daily attendance of three hundred fifty or less in the school year preceding the payment year:

(a) For the 2006-07 school year, the state revenue received by a district from the state aid calculation under subsections 1 and 4 of this section, as applicable, and the classroom trust fund under section 163.043 shall not be less than the greater of state revenue received by a district in the 2004-05 or 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payment amounts multiplied by the sum of one plus the product of one-third multiplied by the remainder of the dollar value modifier minus one;

(b) For the 2007-08 school year, the state revenue received by a district from the state aid calculation under subsections 1 and 4 of this section, as applicable, and the classroom trust fund under section 163.043 shall not be less than the greater of state revenue received by a district in the 2004-05 or 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payment amounts multiplied by the sum of one plus the product of two-thirds multiplied by the remainder of the dollar value modifier minus one;

(c) For the 2008-09 school year, the state revenue received by a district from the state aid calculation under subsections 1 and 4 of this section, as applicable, and the classroom trust fund under section 163.043 shall not be less than the greater of state revenue received by a district in the 2004-05 or 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payment amounts multiplied by the dollar value modifier;

(d) For each year subsequent to the 2008-09 school year, the amount shall be no less than that computed in paragraph (c) of this subdivision;

(3) The department of elementary and secondary education shall make an addition in the payment amount specified in subsection 1 of this section to assure compliance with the provisions contained in this subsection.

3. School districts that meet the requirements of section 163.021 shall receive categorical add-on revenue as provided in this subsection. The categorical add-on for the district shall be the sum of: seventy-five percent of the district allowable transportation costs under section 163.161; the career ladder entitlement for the district, as provided for in sections 168.500 to 168.515, RSMo; the vocational education entitlement for the district, as provided for in section 167.332, RSMo; and the district educational and screening program entitlements as provided for in sections 178.691 to 178.699, RSMo. The categorical add-on revenue amounts may be adjusted to accommodate available appropriations.

4. In the 2006-07 school year and each school year thereafter for five years, those districts entitled to receive state aid under the provisions of subsection 1 of this section shall receive state aid in an amount as provided in this subsection.

(1) For the 2006-07 school year, the amount shall be fifteen percent of the amount of state aid calculated for the district for the 2006-07 school year under the provisions of subsection 1 of this section, plus eighty-five percent of the total amount of state revenue received by the district for the 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payments less any amounts received under section 163.043.

(2) For the 2007-08 school year, the amount shall be thirty percent of the amount of state aid calculated for the district for the 2007-08 school year under the provisions of subsection 1 of this section, plus seventy percent of the total amount of state revenue received by the district for the 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payments less any amounts received under section 163.043.

(3) For the 2008-09 school year, the amount of state aid shall be forty-four percent of the amount of state aid calculated for the district for the 2008-09 school year under the provisions of subsection 1 of this section plus fifty-six percent of the total amount of state revenue received by the district for the 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payments less any amounts received under section 163.043.

(4) For the 2009-10 school year, the amount of state aid shall be fifty-eight percent of the amount of state aid calculated for the district for the 2009-10 school year under the provisions of subsection 1 of this section plus forty-two percent of the total amount of state revenue received by the district for the 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payments less any amounts received under section 163.043.

(5) For the 2010-11 school year, the amount of state aid shall be seventy-two percent of the amount of state aid calculated for the district for the 2010-11 school year under the provisions of subsection 1 of this section plus twenty-eight percent of the total amount of state revenue received by the district for the 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payments less any amounts received under section 163.043.

(6) For the 2011-12 school year, the amount of state aid shall be eighty-six percent of the amount of state aid calculated for the district for the 2011-12 school year under the provisions of subsection 1 of this section plus fourteen percent of the total amount of state revenue received by the district for the 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payments less any amounts received under section 163.043.

(7) (a) Notwithstanding subdivision (18) of section 163.011, the state adequacy target may not be adjusted downward to accommodate available appropriations in any year governed by this subsection.

(b) a. For the 2006-07 school year, if a school district experiences a decrease in summer school average daily attendance of more than twenty percent from the district's 2005-06 summer school average daily attendance, an amount equal to the product of the percent reduction that is in excess of twenty percent of the district's summer school average daily attendance multiplied by the funds generated by the district's summer school program in the 2005-06 school year shall be subtracted from the district's current year payment amount.

b. For the 2007-08 school year, if a school district experiences a decrease in summer school average daily attendance of more than thirty percent from the district's 2005-06 summer school average daily attendance, an amount equal to the product of the percent reduction that is in excess of thirty percent of the district's summer school average daily attendance multiplied by the funds generated by the district's summer school program in the 2005-06 school year shall be subtracted from the district's payment amount.

c. For the 2008-09 school year **[**through the 2011-12 school year**]**, if a school district experiences a decrease in summer school average daily attendance of more than thirty-five percent from the district's 2005-06 summer school average daily attendance, an amount equal to the product of the percent reduction that is in excess of thirty-five percent of the district's summer school average daily attendance multiplied by the funds generated by the district's summer school program in the 2005-06 school year shall be subtracted from the district's payment amount.

d. Notwithstanding the provisions of this paragraph, no such reduction shall be made in the case of a district that is receiving a payment under section 163.044 or any district whose regular school term average daily attendance for the preceding year was three hundred fifty or less.

e. This paragraph shall not be construed to permit any reduction applied under this paragraph to result in any district receiving a current-year payment that is less than the amount calculated for such district under subsection 2 of this section.

(c) If a school district experiences a decrease in its gifted program enrollment of more than twenty percent from its 2005-06 gifted program enrollment in any year governed by this subsection, an amount equal to the product of the percent reduction in the district's gifted program enrollment multiplied by the funds generated by the district's gifted program in the 2005-06 school year shall be subtracted from the district's current year payment amount.

5. For any school district meeting the eligibility criteria for state aid as established in section 163.021, but which is considered an option district under section 163.042 and therefore receives no state aid, the commissioner of education shall present a plan to the superintendent of the school district for the waiver of rules and the duration of said waivers, in order to promote flexibility in the operations of the district and to enhance and encourage efficiency in the delivery of instructional services as provided in section 163.042.

6. (1) No less than seventy-five percent of the state revenue received under the provisions of subsections 1, 2, and 4 of this section shall be placed in the teachers' fund, and the remaining percent of such moneys shall be placed in the incidental fund. No less than seventy-five percent of one-half of the funds received from the school district trust fund distributed under section 163.087 shall be placed in the teachers' fund. One hundred percent of revenue received under the provisions of section 163.161 shall be placed in the incidental fund. One hundred percent of revenue received under the provisions of sections 168.500 to 168.515, RSMo, shall be placed in the teachers' fund.

(2) A school district shall spend for certificated compensation and tuition expenditures each year:

(a) An amount equal to at least seventy-five percent of the state revenue received under the provisions of subsections 1, 2, and 4 of this section;

(b) An amount equal to at least seventy-five percent of one-half of the funds received from the school district trust fund distributed under section 163.087 during the preceding school year; and

(c) Beginning in fiscal year 2008, as much as was spent per the second preceding year's weighted average daily attendance for certificated compensation and tuition expenditures the previous year from revenue produced by local and county tax sources in the teachers' fund, plus the amount of the incidental fund to teachers' fund transfer calculated to be local and county tax sources by dividing local and county tax sources in the incidental fund by total revenue in the incidental fund. In the event a district fails to comply with this provision, the amount by which the district fails to spend funds as provided herein shall be deducted from the district's state revenue received under the provisions of subsections 1, 2, and 4 of this section for the following year, provided that the state board of education may exempt a school district from this provision if the state board of education determines that circumstances warrant such exemption.

7. If a school district's annual audit discloses that students were inappropriately identified as eligible for free and reduced lunch, special education, or limited English proficiency and the district does not resolve the audit finding, the department of elementary and secondary education shall require that the amount of aid paid pursuant to the weighting for free and reduced lunch, special education, or limited English proficiency in the weighted average daily attendance on the inappropriately identified pupils be repaid by the district in the next school year and shall additionally impose a penalty of one hundred percent of such aid paid on such pupils, which penalty shall also be paid within the next school year. Such amounts may be repaid by the district through the withholding of the amount of state aid.

163.043. CLASSROOM TRUST FUND CREATED, DISTRIBUTION OF MONEYS — USE OF MONEYS BY DISTRICTS. — 1. For fiscal year 2007 and each subsequent fiscal year, the "Classroom Trust Fund", which is hereby created in the state treasury, shall be distributed by the state board of education to each school district in this state qualified to receive state aid pursuant to section 163.021 on an average daily attendance basis.

2. The moneys distributed pursuant to this section shall be spent at the discretion of the local school district. The moneys may be used by the district for:

(1) Teacher recruitment, retention, salaries, or professional development;

(2) School construction, renovation, or leasing;

(3) Technology enhancements or textbooks or instructional materials;

(4) School safety; or

(5) Supplying additional funding for required programs, both state and federal.

3. The classroom trust fund shall consist of all moneys transferred to it under section 160.534, RSMo, all moneys otherwise appropriated or donated to it, and, notwithstanding any other provision of law to the contrary, all unclaimed lottery prize money.

4. The provisions of this section shall not apply to any option district as defined in section 163.042.

5. For the 2010-2011 school year and for each subsequent year, all proceeds a school district receives from the classroom trust fund in excess of the amount the district received from the classroom trust fund in the 2009-2010 school year shall be placed to the credit of the district's teachers' and incidental funds.

163.095. ERRONEOUSLY SET LEVY IN CAPITAL PROJECTS FUND, DEPARTMENT TO REVISE STATE AID CALCULATION (ST. LOUIS COUNTY). — For any district in the county with a charter form of government and with more than one million inhabitants that in calendar year 2005 (school year 2005-2006) erroneously set a levy in the capital projects fund rather than the incidental fund and reported the capital projects amount to the county for which the county issued tax notices and the district received taxes for calendar year 2005, the department of elementary and secondary education shall calculate the

amount the district would have received in state school aid for fiscal year 2006 had the district placed the levy in the incidental fund rather than the capital projects fund and use this revised 2005-2006 calculated funding amount in the distribution of state school aid for fiscal year 2007 and subsequent years. The sum of the amounts due to the school district in state school aid after recalculation for fiscal years 2007, 2008, 2009, and 2010, shall be divided and distributed to the school district in equal amounts in fiscal years 2010, 2011, 2012, and 2013. The calculation shall not change the actual funding due the district for the 2005-2006 school year.

167.018. FOSTER CARE EDUCATION BILL OF RIGHTS — SCHOOL DISTRICT LIAISONS TO BE DESIGNATED, DUTIES. — 1. Sections 167.018 and 167.019 shall be known and may be cited as the "Foster Care Education Bill of Rights".

2. Each school district shall designate a staff person as the educational liaison for foster care children. The liaison shall do all of the following in an advisory capacity:

(1) Ensure and facilitate the proper educational placement, enrollment in school, and checkout from school of foster children;

(2) Assist foster care pupils when transferring from one school to another or from one school district to another, by ensuring proper transfer of credits, records, and grades;

(3) Request school records, as provided in section 167.022, within two business days of placement of a foster care pupil in a school; and

(4) Submit school records of foster care pupils within three business days of receiving a request for school records, under subdivision (3) of this subsection.

167.019. PLACEMENT DECISIONS, AGENCIES TO CONSIDER FOSTER CHILD'S SCHOOL ATTENDANCE AREA — RIGHT TO REMAIN IN CERTAIN DISTRICTS — COURSE WORK TO BE ACCEPTED — GRADUATION REQUIREMENTS — RULEMAKING AUTHORITY. — 1. A child placing agency, as defined under section 210.481, RSMo, shall promote educational stability for foster care children by considering the child's school attendance area when making placement decisions. The foster care pupil shall have the right to remain enrolled in and attend his or her school of origin or to return to a previously attended school in an adjacent district.

2. Each school district shall accept for credit full or partial course work satisfactorily completed by a pupil while attending a public school, nonpublic school, or nonsectarian school in accordance with district policies or regulations.

3. If a pupil completes the graduation requirements of his or her school district of residence while under the jurisdiction of the juvenile court as described in chapter 211, RSMo, the school district of residence shall issue a diploma to the pupil.

4. School districts shall ensure that if a pupil in foster care is absent from school due to a decision to change the placement of a pupil made by a court or child placing agency, or due to a verified court appearance or related court-ordered activity, the grades and credits of the pupil shall be calculated as of the date the pupil left school, and no lowering of his or her grades shall occur as a result of the absence of the pupil under these circumstances.

5. School districts, subject to federal law, shall be authorized to permit access of pupil school records to any child placing agency for the purpose of fulfilling educational case management responsibilities required by the juvenile officer or by law and to assist with the school transfer or placement of a pupil.

6. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,

to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

167.031. SCHOOL ATTENDANCE COMPULSORY, WHO MAY BE EXCUSED — NONATTENDANCE, PENALTY — HOME SCHOOL, DEFINITION, REQUIREMENTS — SCHOOL YEAR DEFINED — DAILY LOG, DEFENSE TO PROSECUTION — COMPULSORY ATTENDANCE AGE FOR THE DISTRICT DEFINED. — 1. Every parent, guardian or other person in this state having charge, control or custody of a child not enrolled in a public, private, parochial, parish school or full-time equivalent attendance in a combination of such schools and between the ages of seven years and the compulsory attendance age for the district is responsible for enrolling the child in a program of academic instruction which complies with subsection 2 of this section. Any parent, guardian or other person who enrolls a child between the ages of five and seven years in a public school program of academic instruction shall cause such child to attend the academic program on a regular basis, according to this section. Nonattendance by such child shall cause such parent, guardian or other responsible person to be in violation of the provisions of section 167.061, except as provided by this section. A parent, guardian or other person in this state having charge, control, or custody of a child between the ages of seven years of age and the compulsory attendance age for the district shall cause the child to attend regularly some public, private, parochial, parish, home school or a combination of such schools not less than the entire school term of the school which the child attends; except that:

(1) A child who, to the satisfaction of the superintendent of public schools of the district in which he resides, or if there is no superintendent then the chief school officer, is determined to be mentally or physically incapacitated may be excused from attendance at school for the full time required, or any part thereof;

(2) A child between fourteen years of age and the compulsory attendance age for the district may be excused from attendance at school for the full time required, or any part thereof, by the superintendent of public schools of the district, or if there is none then by a court of competent jurisdiction, when legal employment has been obtained by the child and found to be desirable, and after the parents or guardian of the child have been advised of the pending action; or

(3) A child between five and seven years of age shall be excused from attendance at school if a parent, guardian or other person having charge, control or custody of the child makes a written request that the child be dropped from the school's rolls.

2. (1) As used in sections 167.031 to 167.071, a "home school" is a school, whether incorporated or unincorporated, that:

(a) Has as its primary purpose the provision of private or religious-based instruction;

(b) Enrolls pupils between the ages of seven years and the compulsory attendance age for the district, of which no more than four are unrelated by affinity or consanguinity in the third degree; and

(c) Does not charge or receive consideration in the form of tuition, fees, or other remuneration in a genuine and fair exchange for provision of instruction.

(2) As evidence that a child is receiving regular instruction, the parent shall, except as otherwise provided in this subsection:

(a) Maintain the following records:

a. A plan book, diary, or other written record indicating subjects taught and activities engaged in; and

b. A portfolio of samples of the child's academic work; and

c. A record of evaluations of the child's academic progress; or

d. Other written, or credible evidence equivalent to subparagraphs a., b. and c.; and

(b) Offer at least one thousand hours of instruction, at least six hundred hours of which will be in reading, language arts, mathematics, social studies and science or academic courses that

are related to the aforementioned subject areas and consonant with the pupil's age and ability. At least four hundred of the six hundred hours shall occur at the regular home school location.

(3) The requirements of subdivision (2) of this subsection shall not apply to any pupil above the age of sixteen years.

3. Nothing in this section shall require a private, parochial, parish or home school to include in its curriculum any concept, topic, or practice in conflict with the school's religious doctrines or to exclude from its curriculum any concept, topic, or practice consistent with the school's religious doctrines. Any other provision of the law to the contrary notwithstanding, all departments or agencies of the state of Missouri shall be prohibited from dictating through rule, regulation or other device any statewide curriculum for private, parochial, parish or home schools.

4. A school year begins on the first day of July and ends on the thirtieth day of June following.

5. The production by a parent of a daily log showing that a home school has a course of instruction which satisfies the requirements of this section or, in the case of a pupil over the age of sixteen years who attended a metropolitan school district the previous year, a written statement that the pupil is attending home school in compliance with this section shall be a defense to any prosecution under this section and to any charge or action for educational neglect brought pursuant to chapter 210, RSMo.

6. As used in sections 167.031 to 167.051, the term "compulsory attendance age for the district" shall mean:

(1) Seventeen years of age for any metropolitan school district for which the school board adopts a resolution to establish such compulsory attendance age; provided that such resolution shall take effect no earlier than the school year next following the school year during which the resolution is adopted; and

(2) **[**Sixteen**]** **Seventeen** years of age **or having successfully completed sixteen credits towards high school graduation** in all other cases. The school board of a metropolitan school district for which the compulsory attendance age is seventeen years may adopt a resolution to lower the compulsory attendance age to sixteen years; provided that such resolution shall take effect no earlier than the school year next following the school year during which the resolution is adopted.

7. For purposes of subsection 2 of this section as applied in subsection 6 herein, a completed credit towards high school graduation shall be defined as one hundred hours or more of instruction in a course. Home school education enforcement and records pursuant to this section, and sections 210.167 and 211.031, RSMo, shall be subject to review only by the local prosecuting attorney.

167.126. CHILDREN ADMITTED TO CERTAIN PROGRAMS OR FACILITIES, RIGHT TO EDUCATIONAL SERVICES — SCHOOL DISTRICT, PER PUPIL COST, PAYMENT — INCLUSION IN AVERAGE DAILY ATTENDANCE, PAYMENTS IN LIEU OF TAXES, WHEN. — 1. Children who are admitted to programs or facilities of the department of mental health or whose domicile is one school district in Missouri but who reside in another school district in Missouri as a result of placement arranged by or approved by the department of mental health, the department of social services or placement arranged by or ordered by a court of competent jurisdiction shall have a right to be provided the educational services as provided by law and shall not be denied admission to any appropriate regular public school or special school district program or program operated by the state board of education, as the case may be, where the child actually resides because of such admission or placement; provided, however, that nothing in this section shall prevent the department of mental health, the department of social services or a court of competent jurisdiction from otherwise providing or procuring educational services for such child.

2. Each school district or special school district constituting the domicile of any child for whom educational services are provided or procured under this section shall pay toward the per-

pupil costs for educational services for such child. A school district which is not a special school district shall pay an amount equal to the average sum produced per child by the local tax effort of the district of domicile. A special school district shall pay an amount not to exceed the average sum produced per child by the local tax efforts of the domiciliary districts.

3. When educational services have been provided by the school district or special school district in which a child actually resides, **including a child who temporarily resides in a children's hospital licensed under chapter 197, RSMo, for rendering health care services to children under the age of eighteen for more than three days,** other than the district of domicile, the amounts as provided in subsection 2 **of this section** for which the domiciliary school district or special school district is responsible shall be paid by such district directly to the serving district. The school district, or special school district, as the case may be, shall send a written voucher for payment to the regular or special district constituting the domicile of the child served and the domiciliary school district or special school district receiving such voucher shall pay the district providing or procuring the services an amount not to exceed the average sum produced per child by the local tax efforts of the domiciliary districts. In the event the responsible district fails to pay the appropriate amount to the district within ninety days after a voucher is submitted, the state department of elementary and secondary education shall deduct the appropriate amount due from the next payments of any state financial aid due that district and shall pay the same to the appropriate district.

4. In cases where a child whose domicile is in one district is placed in programs or facilities operated by the department of mental health or resides in another district pursuant to assignment by that department or is placed by the department of social services or a court of competent jurisdiction into any type of publicly contracted residential site in Missouri, the department of elementary and secondary education shall, as soon as funds are appropriated, pay the serving district from funds appropriated for that purpose the amount by which the per-pupil costs of the educational services exceeds the amounts received from the domiciliary district except that any other state money received by the serving district by virtue of rendering such service shall reduce the balance due.

5. Institutions providing a place of residence for children whose parents or guardians do not reside in the district in which the institution is located shall have authority to enroll such children in a program in the district or special district in which the institution is located and such enrollment shall be subject to the provisions of subsections 2 and 3 of this section. The provisions of this subsection shall not apply to placement authorized pursuant to subsection 1 of this section or if the placement occurred for the sole purpose of enrollment in the district or special district. "Institution" as used in this subsection means a facility organized under the laws of Missouri for the purpose of providing care and treatment of juveniles.

6. Children residing in institutions providing a place of residence for three or more such children whose domicile is not in the state of Missouri may be admitted to schools or programs provided on a contractual basis between the school district, special district or state department or agency and the proper department or agency, or persons in the state where domicile is maintained. Such contracts shall not be permitted to place any financial burden whatsoever upon the state of Missouri, its political subdivisions, school districts or taxpayers.

7. For purposes of this section the domicile of the child shall be the school district where the child would have been educated if the child had not been placed in a different school district. No provision of this section shall be construed to deny any child domiciled in Missouri appropriate and necessary, gratuitous public services.

8. For the purpose of distributing state aid under section 163.031, RSMo, a child receiving educational services provided by the district in which the child actually resides, other than the district of domicile, shall be included in average daily attendance, as defined under section 163.011, RSMo, of the district providing the educational services for the child.

9. Each school district or special school district where the child actually resides, other than the district of domicile, may receive payment from the department of elementary and secondary

education, in lieu of receiving the local tax effort from the domiciliary school district. Such payments from the department shall be subject to appropriation and shall only be made for children that have been placed in a school other than the domiciliary school district by a state agency or a court of competent jurisdiction and from whom excess educational costs are billed to the department of elementary and secondary education.

167.275. DROPOUTS TO BE REPORTED TO STATE LITERACY HOT LINE — AVAILABILITY OF INFORMATION ON WEB SITE. — 1. Effective January 1, 1991, all public and nonpublic secondary schools shall report to the state literacy hot line office in Jefferson City the name, mailing address and telephone number of all students sixteen years of age or older who drop out of school for any reason other than to attend another school, college or university, or enlist in the armed services. Such reports shall be made either by using the telephone hot line number or on forms developed by the department of elementary and secondary education. Upon such notification, the state literacy hot line office shall contact the student who has been reported and refer that student to the nearest location that provides adult basic education instruction leading to the completion of a general educational development certificate.

2. All records and reports from or based upon the reports required by this section shall be made available by free electronic record on the department's web site or otherwise on the first business day of each month. The names of the students who drop out and any other information which might identify such students shall not be included in the records and reports made available by free electronic media.

167.720. PHYSICAL EDUCATION REQUIRED — DEFINITIONS. — 1. As used in this section, the following terms shall mean:

(1) "Moderate physical activity", low to medium impact physical exertion designed to increase an individual's heart rate to rise to at least seventy-five percent of his or her maximum heart rate. Activities in this category may include, but are not limited to, running, calisthenics, aerobic exercise, etc.;

(2) "Physical education", instruction in healthy active living by a teacher certificated to teach physical education structured in such a way that it is a regularly scheduled class for students;

(3) "Recess", a structured play environment outside of regular classroom instructional activities, where students are allowed to engage in supervised safe active free play.

2. Beginning with the school year 2010-2011:

(1) School districts shall ensure that students in elementary schools participate in moderate physical activity for the entire school year, including students in alternative education programs. Students in the elementary schools shall participate in moderate physical activity for an average of one hundred fifty minutes per five-day school week, or an average of thirty minutes per day. Students with disabilities shall participate in moderate physical activity to the extent appropriate as determined by the provisions of the Individuals with Disabilities Education Act, or Section 504 of the Rehabilitation Act;

(2) Each year the commissioner of education shall select for recognition students, schools and school districts that are considered to have achieved improvement in fitness;

(3) Students in middle schools may at the school's discretion participate in at least two hundred twenty-five minutes of physical activity per school week;

(4) A minimum of one recess period of twenty minutes per day shall be provided for children in elementary schools, which may be incorporated into the lunch period.

Any requirement of this section above the state minimum physical education requirement may be met by additional physical education instruction, or by other activities approved by the individual school district under the direction of any certificated teacher or

administrator or other school employee under the supervision of a certificated teacher or administrator.

168.021. ISSUANCE OF TEACHERS' LICENSES — EFFECT OF CERTIFICATION IN ANOTHER STATE AND SUBSEQUENT EMPLOYMENT IN THIS STATE. — 1. Certificates of license to teach in the public schools of the state shall be granted as follows:

(1) By the state board, under rules and regulations prescribed by it:

(a) Upon the basis of college credit;

(b) Upon the basis of examination;

(2) By the state board, under rules and regulations prescribed by the state board with advice from the advisory council established by section 168.015 to any individual who presents to the state board a valid doctoral degree from an accredited institution of higher education accredited by a regional accrediting association such as North Central Association. Such certificate shall be limited to the major area of postgraduate study of the holder, shall be issued only after successful completion of the examination required for graduation pursuant to rules adopted by the state board of education, and shall be restricted to those certificates established pursuant to subdivision (1) of subsection 3 of this section;

(3) By the state board, which shall issue the professional certificate classification in both the general and specialized areas most closely aligned with the current areas of certification approved by the state board, commensurate with the years of teaching experience of the applicant, and based upon the following criteria:

(a) Recommendation of a state-approved baccalaureate-level teacher preparation program;

(b) Successful attainment of the Missouri qualifying score on the exit assessment for teachers or administrators designated by the state board of education. Applicants who have not successfully achieved a qualifying score on the designated examinations will be issued a two-year nonrenewable provisional certificate; and

(c) Upon completion of a background check and possession of a valid teaching certificate in the state from which the applicant's teacher preparation program was completed; **[**or**]**

(4) **By the state board, under rules prescribed by it, on the basis of a relevant bachelor's degree, or higher degree, and a passing score for the designated exit examination, for individuals whose academic degree and professional experience are suitable to provide a basis for instruction solely in the subject matter of banking or financial responsibility, at the discretion of the state board. Such certificate shall be limited to the major area of study of the holder and shall be restricted to those certificates established under subdivision (1) of subsection 3 of this section. Holders of certificates granted under this subdivision shall be exempt from the teacher tenure act under sections 168.102 to 168.130 and each school district shall have the decision-making authority on whether to hire the holders of such certificates; or**

(5) By the state board, under rules and regulations prescribed by it, on the basis of certification by the American Board for Certification of Teacher Excellence (ABCTE) and verification of ability to work with children as demonstrated by sixty contact hours in any one of the following areas as validated by the school principal: sixty contact hours in the classroom, of which at least forty-five must be teaching; sixty contact hours as a substitute teacher, with at least thirty consecutive hours in the same classroom; sixty contact hours of teaching in a private school; or sixty contact hours of teaching as a paraprofessional, for an initial four-year ABCTE certificate of license to teach, except that such certificate shall not be granted for the areas of early childhood education, elementary education, or special education. Upon the completion of the requirements listed in paragraphs (a), (b), (c), and (d) of this subdivision, an applicant shall be eligible to apply for a career continuous professional certificate under subdivision (2) of subsection 3 of this section:

(a) Completion of thirty contact hours of professional development within four years, which may include hours spent in class in an appropriate college curriculum;

(b) Validated completion of two years of the mentoring program of the American Board for Certification of Teacher Excellence or a district mentoring program approved by the state board of education;

(c) Attainment of a successful performance-based teacher evaluation; and

(d) Participate in a beginning teacher assistance program.

2. All valid teaching certificates issued pursuant to law or state board policies and regulations prior to September 1, 1988, shall be exempt from the professional development requirements of this section and shall continue in effect until they expire, are revoked or suspended, as provided by law. When such certificates are required to be renewed, the state board or its designee shall grant to each holder of such a certificate the certificate most nearly equivalent to the one so held. Anyone who holds, as of August 28, 2003, a valid PC-I, PC-II, or continuous professional certificate shall, upon expiration of his or her current certificate, be issued the appropriate level of certificate based upon the classification system established pursuant to subsection 3 of this section.

3. Certificates of license to teach in the public schools of the state shall be based upon minimum requirements prescribed by the state board of education. The state board shall provide for the following levels of professional certification: an initial professional certificate and a career continuous professional certificate.

(1) The initial professional certificate shall be issued upon completion of requirements established by the state board of education and shall be valid based upon verification of actual teaching within a specified time period established by the state board of education. The state board shall require holders of the four-year initial professional certificate to:

(a) Participate in a mentoring program approved and provided by the district for a minimum of two years;

(b) Complete thirty contact hours of professional development, which may include hours spent in class in an appropriate college curriculum**, or for holders of a certificate under subdivision (4) of subsection 1 of this section, an amount of professional development in proportion to the certificate holder's hours in the classroom, if the certificate holder is employed less than full time**; and

(c) Participate in a beginning teacher assistance program;

(2) (a) The career continuous professional certificate shall be issued upon verification of completion of four years of teaching under the initial professional certificate and upon verification of the completion of the requirements articulated in paragraphs (a), (b), and (c) of subdivision (1) of this subsection or paragraphs (a), (b), (c), and (d) of subdivision **[**(4)**]** **(5)** of subsection 1 of this section.

(b) The career continuous professional certificate shall be continuous based upon verification of actual employment in an educational position as provided for in state board guidelines and completion of fifteen contact hours of professional development per year which may include hours spent in class in an appropriate college curriculum. Should the possessor of a valid career continuous professional certificate fail, in any given year, to meet the fifteen-hour professional development requirement, the possessor may, within two years, make up the missing hours. In order to make up for missing hours, the possessor shall first complete the fifteen-hour requirement for the current year and then may count hours in excess of the current year requirement as make-up hours. Should the possessor fail to make up the missing hours within two years, the certificate shall become inactive. In order to reactivate the certificate, the possessor shall complete twenty-four contact hours of professional development which may include hours spent in the classroom in an appropriate college curriculum within the six months prior to or after reactivating his or her certificate. The requirements of this paragraph shall be monitored and verified by the local school district which employs the holder of the career continuous professional certificate.

(c) A holder of a career continuous professional certificate shall be exempt from the professional development contact hour requirements of paragraph (b) of this subdivision if such

teacher has a local professional development plan in place within such teacher's school district and meets two of the three following criteria:

a. Has ten years of teaching experience as defined by the state board of education;

b. Possesses a master's degree; or

c. Obtains a rigorous national certification as approved by the state board of education.

4. Policies and procedures shall be established by which a teacher who was not retained due to a reduction in force may retain the current level of certification. There shall also be established policies and procedures allowing a teacher who has not been employed in an educational position for three years or more to reactivate his or her last level of certification by completing twenty-four contact hours of professional development which may include hours spent in the classroom in an appropriate college curriculum within the six months prior to or after reactivating his or her certificate.

5. The state board shall, upon an appropriate background check, issue a professional certificate classification in the areas most closely aligned with an applicant's current areas of certification, commensurate with the years of teaching experience of the applicant, to any person who is hired to teach in a public school in this state and who possesses a valid teaching certificate from another state **or certification under subdivision (4) of subsection 1 of this section**, provided that the certificate holder shall annually complete the state board's requirements for such level of certification, and shall establish policies by which residents of states other than the state of Missouri may be assessed a fee for a certificate license to teach in the public schools of Missouri. Such fee shall be in an amount sufficient to recover any or all costs associated with the issuing of a certificate of license to teach. The board shall promulgate rules to authorize the issuance of a provisional certificate of license, which shall allow the holder to assume classroom duties pending the completion of a criminal background check under section 168.133, for any applicant who:

(1) Is the spouse of a member of the armed forces stationed in Missouri;

(2) Relocated from another state within one year of the date of application;

(3) Underwent a criminal background check in order to be issued a teaching certificate of license from another state; and

(4) Otherwise qualifies under this section.

6. The state board may assess to holders of an initial professional certificate a fee, to be deposited into the excellence in education revolving fund established pursuant to section 160.268, RSMo, for the issuance of the career continuous professional certificate. However, such fee shall not exceed the combined costs of issuance and any criminal background check required as a condition of issuance. Applicants for the initial ABCTE certificate shall be responsible for any fees associated with the program leading to the issuance of the certificate, but nothing in this section shall prohibit a district from developing a policy that permits fee reimbursement.

7. Any member of the public school retirement system of Missouri who entered covered employment with ten or more years of educational experience in another state or states and held a certificate issued by another state and subsequently worked in a school district covered by the public school retirement system of Missouri for ten or more years who later became certificated in Missouri shall have that certificate dated back to his or her original date of employment in a Missouri public school.

8. The provisions of subdivision **[**(4)**]** **(5)** of subsection 1 of this section, as well as any other provision of this section relating to the American Board for Certification of Teacher Excellence, shall terminate on August 28, 2014.

168.133. CRIMINAL BACKGROUND CHECKS REQUIRED FOR SCHOOL PERSONNEL, WHEN, PROCEDURE — RULEMAKING AUTHORITY. — 1. The school district shall ensure that a criminal background check is conducted on any person employed after January 1, 2005, authorized to have contact with pupils and prior to the individual having contact with any pupil. Such persons

include, but are not limited to, administrators, teachers, aides, paraprofessionals, assistants, secretaries, custodians, cooks, and nurses. The school district shall also ensure that a criminal background check is conducted for school bus drivers. The district may allow such drivers to operate buses pending the result of the criminal background check. For bus drivers, the background check shall be conducted on drivers employed by the school district or employed by a pupil transportation company under contract with the school district.

2. In order to facilitate the criminal history background check on any person employed after January 1, 2005, the applicant shall submit two sets of fingerprints collected pursuant to standards determined by the Missouri highway patrol. One set of fingerprints shall be used by the highway patrol to search the criminal history repository and the family care safety registry pursuant to sections 210.900 to 210.936, RSMo, and the second set shall be forwarded to the Federal Bureau of Investigation for searching the federal criminal history files.

3. The applicant shall pay the fee for the state criminal history record information pursuant to section 43.530, RSMo, and sections 210.900 to 210.936, RSMo, and pay the appropriate fee determined by the Federal Bureau of Investigation for the federal criminal history record when he or she applies for a position authorized to have contact with pupils pursuant to this section. The department shall distribute the fees collected for the state and federal criminal histories to the Missouri highway patrol.

4. The school district may adopt a policy to provide for reimbursement of expenses incurred by an employee for state and federal criminal history information pursuant to section 43.530, RSMo.

5. If, as a result of the criminal history background check mandated by this section, it is determined that the holder of a certificate issued pursuant to section 168.021 has pled guilty or nolo contendere to, or been found guilty of a crime or offense listed in section 168.071, or a similar crime or offense committed in another state, the United States, or any other country, regardless of imposition of sentence, such information shall be reported to the department of elementary and secondary education.

6. Any school official making a report to the department of elementary and secondary education in conformity with this section shall not be subject to civil liability for such action.

7. For any teacher who is employed by a school district on a substitute or part-time basis within one year of such teacher's retirement from a Missouri school, the state of Missouri shall not require such teacher to be subject to any additional background checks prior to having contact with pupils. Nothing in this subsection shall be construed as prohibiting or otherwise restricting a school district from requiring additional background checks for such teachers employed by the school district.

8. **A criminal background check and fingerprint collection conducted under subsections 1 and 2 of this section shall be valid for at least a period of one year and transferrable from one school district to another district. A teacher's change in type of certification shall have no effect on the transferability or validity of such records.**

9. Nothing in this section shall be construed to alter the standards for suspension, denial, or revocation of a certificate issued pursuant to this chapter.

[9.**]** **10.** The state board of education may promulgate rules for criminal history background checks made pursuant to this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after January 1, 2005, shall be invalid and void.

168.221. PROBATIONARY PERIOD FOR TEACHERS — REMOVAL OF PROBATIONARY AND PERMANENT PERSONNEL — HEARING — DEMOTIONS — REDUCTION OF PERSONNEL (METROPOLITAN DISTRICTS). — 1. The first five years of employment of all teachers entering the employment of the metropolitan school district shall be deemed a period of probation during which period all appointments of teachers shall expire at the end of each school year. During the probationary period any probationary teacher whose work is unsatisfactory shall be furnished by the superintendent of schools with a written statement setting forth the nature of his incompetency. If improvement satisfactory to the superintendent is not made within one semester after the receipt of the statement, the probationary teacher shall be dismissed. The semester granted the probationary teacher in which to improve shall not in any case be a means of prolonging the probationary period beyond five years and six months from the date on which the teacher entered the employ of the board of education. The superintendent of schools on or before the fifteenth day of April in each year shall notify probationary teachers who will not be retained by the school district of the termination of their services. Any probationary teacher who is not so notified shall be deemed to have been appointed for the next school year. Any principal who prior to becoming a principal had attained permanent employee status as a teacher shall upon ceasing to be a principal have a right to resume his or her permanent teacher position with the time served as a principal being treated as if such time had been served as a teacher for the purpose of calculating seniority and pay scale. The rights and duties and remuneration of a teacher who was formerly a principal shall be the same as any other teacher with the same level of qualifications and time of service.

2. After completion of satisfactory probationary services, appointments of teachers shall become permanent, subject to removal for any one or more causes herein described and to the right of the board to terminate the services of all who attain the age of compulsory retirement fixed by the retirement system. In determining the duration of the probationary period of employment in this section specified, the time of service rendered as a substitute teacher shall not be included.

3. No teacher whose appointment has become permanent may be removed except for one or more of the following causes: immorality, inefficiency in line of duty, violation of the published regulations of the school district, violation of the laws of Missouri governing the public schools of the state, or physical or mental condition which incapacitates him for instructing or associating with children, and then only by a vote of not less than a majority of all the members of the board, upon written charges presented by the superintendent of schools, to be heard by the board after thirty days' notice, with copy of the charges served upon the person against whom they are preferred, who shall have the privilege of being present, together with counsel, offering evidence and making defense thereto. Notifications received by an employee during a vacation period shall be considered as received on the first day of the school term following. At the request of any person so charged the hearing shall be public. The action and decision of the board upon the charges shall be final. Pending the hearing of the charges, the person charged may be suspended if the rules of the board so prescribe, but in the event the board does not by a majority vote of all the members remove the teacher upon charges presented by the superintendent, the person shall not suffer any loss of salary by reason of the suspension. Inefficiency in line of duty is cause for dismissal only after the teacher has been notified in writing at least one semester prior to the presentment of charges against him by the superintendent. The notification shall specify the nature of the inefficiency with such particularity as to enable the teacher to be informed of the nature of his inefficiency.

4. No teacher whose appointment has become permanent shall be demoted nor shall his salary be reduced unless the same procedure is followed as herein stated for the removal of the teacher because of inefficiency in line of duty, and any teacher whose salary is reduced or who is demoted may waive the presentment of charges against him by the superintendent and a hearing thereon by the board. The foregoing provision shall apply only to permanent teachers prior to the compulsory retirement age under the retirement system. Nothing herein contained

shall in any way restrict or limit the power of the board of education to make reductions in the number of teachers or principals, or both, because of insufficient funds, decrease in pupil enrollment, or abolition of particular subjects or courses of instruction, except that the abolition of particular subjects or courses of instruction shall not cause those teachers who have been teaching the subjects or giving the courses of instruction to be placed on leave of absence as herein provided who are qualified to teach other subjects or courses of instruction, if positions are available for the teachers in the other subjects or courses of instruction.

5. Whenever it is necessary to decrease the number of teachers because of insufficient funds or a substantial decrease of pupil population within the school district, the board of education upon recommendation of the superintendent of schools may cause the necessary number of teachers beginning with those serving probationary periods to be placed on leave of absence without pay, but only in the inverse order of their appointment. Nothing herein stated shall prevent a readjustment by the board of education of existing salary schedules. No teacher placed on a leave of absence shall be precluded from securing other employment during the period of the leave of absence. Each teacher placed on leave of absence shall be reinstated in inverse order of his placement on leave of absence. Such reemployment shall not result in a loss of status or credit for previous years of service. No new appointments shall be made while there are available teachers on leave of absence who are seventy years of age or less and who are adequately qualified to fill the vacancy unless the teachers fail to advise the superintendent of schools within thirty days from the date of notification by the superintendent of schools that positions are available to them that they will return to employment and will assume the duties of the position to which appointed not later than the beginning of the school year next following the date of the notice by the superintendent of schools.

6. If any regulation which deals with the promotion of **[**either**]** teachers is amended by increasing the qualifications necessary to be met before a teacher is eligible for promotion, the amendment shall fix an effective date which shall allow a reasonable length of time within which teachers may become qualified for promotion under the regulations.

7. A teacher whose appointment has become permanent may give up the right to a permanent appointment to participate in the teacher choice compensation package under sections 168.745 to 168.750.

168.251. NONCERTIFICATED EMPLOYEES — APPOINTMENT, PROMOTION, REMOVAL, SUSPENSION (METROPOLITAN DISTRICTS). — 1. All employees of a metropolitan school district shall be appointed and promoted under rules and regulations prescribed by the board of education of the school district. The rules shall be complementary to the provisions of sections 168.251 to 168.291 as to the removal, discharge, suspension without pay or demotion of permanent employees and not in derogation thereof. The word "employee" or "employees" as used in this section means all employees, male or female, except certificated employees.

2. All appointments and promotions of noncertificated employees shall be made in the case of appointment by examination, and in case of promotion by length and character of service. Examinations for appointments shall be conducted by the director of personnel under regulations to be made by the board.

3. Sections 168.251 to 168.291 shall not apply to employees hired after August 28, 2009.

168.745. COMPENSATION PACKAGE CREATED — FUND CREATED. — 1. There is hereby created the "Teacher Choice Compensation Package" to permit performance-based salary stipends upon the decision of the teacher in a metropolitan school district as described in section 168.747, to reward teachers for objectively demonstrated superior performance.

2. There is hereby created the "Teacher Choice Compensation Fund" in the state treasury. The fund shall be administered by the department of elementary and secondary

education. The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo.

3. The teacher choice compensation fund shall consist of all moneys transferred to it under this section, and all moneys otherwise appropriated to or donated to it. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

4. The general assembly shall annually appropriate five million dollars to the fund created in this section.

168.747. ELIGIBILITY FOR COMPENSATION PACKAGE. — 1. To be eligible for the teacher choice compensation package, all classroom personnel in a metropolitan school district reported as a code forty, fifty, or sixty through the core data system of the department of elementary and secondary education shall opt out of his or her indefinite contract under section 168.221 for the duration of employment with the district. A teacher may decide to end his or her eligibility for the teacher choice stipend but may not resume permanent teacher status with that district. A probationary teacher may opt out of consideration for a permanent contract in the second or subsequent years of employment by the district to participate in the teacher choice compensation package but may not return to permanent status in that district or resume the process for qualification for an indefinite contract in that district. A teacher who has chosen the teacher choice compensation package and changes employment to another district may choose to resume the process for qualification for an indefinite contract in that district. The teacher choice compensation package shall only be available for teachers in a metropolitan school district.

2. Teachers shall qualify annually in October for the stipends described in section 168.749. Stipends shall be offered in five thousand dollar increments, up to fifteen thousand dollars, but shall not exceed fifty percent of a teacher's base salary, before deductions for retirement but including designated pay for additional duties such as coaching, sponsoring, or mentoring. Any stipend received under section 168.749 shall be in addition to the base salary to which the teacher would otherwise be entitled. Teachers receiving the stipend shall receive any pay and benefits received by teachers of similar training, experience, and duties. Such stipends shall not be considered compensation for retirement purposes.

3. Subject to appropriation, the department of elementary and secondary education shall make a payment to the district in the amount of the stipend, to be delivered as a lump sum in January following the October of qualification. If the amount appropriated is not enough to fund the total of five thousand dollar increment payments, the department may prorate the payments.

4. Every person employed by the district in a teaching position, regardless of the certification status of the person, who qualifies under any of the indicators listed in section 168.749 is eligible for the teacher choice compensation package. Teachers who are employed less than full-time are eligible for teacher choice stipends on a pro-rated basis. Any teacher who is dismissed for cause who has otherwise qualified for a teacher choice stipend shall forfeit the stipend for that year.

168.749. ELIGIBILITY FOR STIPENDS, CRITERIA. — 1. Beginning with school year 2010-2011, teachers who elect to participate in the teacher choice compensation package shall be eligible for stipends based on the following criteria:

(1) Score on a value-added test instrument or instruments. Such instruments shall be defined as those which give a reliable measurement of the skills and knowledge transferred to students during the time they are in a teacher's classroom and shall be selected by the school district from one or more of the following assessments:

(a) A list of recognized value-added instruments developed by the department of elementary and secondary education;

(b) Scores on the statewide assessments established under section 160.518, RSMo, may be used for this purpose, and the department of elementary and secondary education shall develop a procedure for identifying the value added by teachers that addresses the fact that not all subjects are tested at all grade levels each year under the state assessment program;

(c) Scores on annual tests required by the federal Elementary and Secondary Education Act reauthorization of 2002 for third through eighth grade may be used as value-added instruments if found appropriate after consideration and approval by the state board of education;

(d) A district may choose an instrument after a public hearing of the district board of education on the matter, with the reasons for the selection entered upon the minutes of the meeting; provided, however, that this option shall not be available to districts after scores are established for paragraphs (a), (b), and (c) of this subdivision;

(2) Evaluations by principals or other administrators with expertise to evaluate classroom performance;

(3) Evaluations by parents and by students at their appropriate developmental level. Model instruments for these evaluations shall be developed or identified by the department of elementary and secondary education. Districts may use such models, may use other existing models, or may develop their own instruments. A district that develops its own instrument shall not use that instrument as its sole method of evaluation.

2. The department of elementary and secondary education shall develop criteria for determining eligibility for stipend increments, including a range of target scores on assessments for use by the districts. The test-score options listed in subdivision (1) of subsection 1 of this section shall be given higher weight than the evaluation options listed in subdivisions (2) and (3) of subsection 1 of this section. The decision of individual districts about the qualifications for each increment based on the evaluations listed in subdivisions (2) and (3) of subsection 1 of this section and for value-added instruments for which target scores have not been developed by the department of elementary and secondary education may address the district's unique characteristics but shall require demonstrably superior performance on the part of the teacher, based primarily on improved student achievement while taking into account classroom demographics including but not limited to students' abilities, special needs, and class size.

168.750. RULEMAKING AUTHORITY. — Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in sections 168.745 to 168.749 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

170.400. SUPPLEMENTAL EDUCATIONAL SERVICES, EQUIPMENT AND EDUCATIONAL MATERIALS NOT DEEMED AN INCENTIVE FOR CERTIFICATION PURPOSES. — Any and all equipment and educational materials necessary for successful participation in

supplemental educational services programming shall not be deemed an incentive for the purposes of compliance with department of elementary and secondary education rules and regulations for supplemental educational services provider certification. The department of elementary and secondary education shall not prohibit providers of supplemental and educational services from allowing students to retain instructional equipment, including computers, used by them upon successful completion of supplemental and educational services.

171.029. FOUR-DAY SCHOOL WEEK AUTHORIZED — CALENDAR TO BE FILED WITH DEPARTMENT. — 1. The school board of any school district in the state, upon adoption of a resolution by the vote of a majority of all its members to authorize such action, may establish a four-day school week or other calendar consisting of less than one hundred seventy-four days in lieu of a five-day school week. Upon adoption of a four-day school week or other calendar consisting of less than one hundred seventy-four days, the school shall file a calendar with the department of elementary and secondary education in accordance with section 171.031. Such calendar shall include, but not be limited to, a minimum term of one hundred forty-two days and one thousand forty-four hours of actual pupil attendance.

2. If a school district that attends less than one hundred seventy-four days meets at least two fewer performance standards on two successive annual performance reports than it met on its last annual performance report received prior to implementing a calendar year of less than one hundred seventy-four days, it shall be required to revert to a one hundred seventy-four-day school year in the school year following the report of the drop in the number of performance standards met. When the number of performance standards met reaches the earlier number, the district may return to the four-day week or other calendar consisting of less than one hundred seventy-four days in the next school year.

171.031. BOARD TO PREPARE CALENDAR — MINIMUM TERM — OPENING DATES — EXEMPTIONS — HOUR LIMITATION. — 1. Each school board shall prepare annually a calendar for the school term, specifying the opening date and providing a minimum term of at least one hundred seventy-four days **for schools with a five-day school week or one hundred forty-two days for schools with a four-day school week,** and one thousand forty-four hours of actual pupil attendance. In addition, such calendar shall include six make-up days for possible loss of attendance due to inclement weather as defined in subsection 1 of section 171.033.

2. Each local school district may set its opening date each year, which date shall be no earlier than ten calendar days prior to the first Monday in September. No public school district shall select an earlier start date unless the district follows the procedure set forth in subsection 3 of this section.

3. A district may set an opening date that is more than ten calendar days prior to the first Monday in September only if the local school board first gives public notice of a public meeting to discuss the proposal of opening school on a date more than ten days prior to the first Monday in September, and the local school board holds said meeting and, at the same public meeting, a majority of the board votes to allow an earlier opening date. If all of the previous conditions are met, the district may set its opening date more than ten calendar days prior to the first Monday in September. The condition provided in this subsection must be satisfied by the local school board each year that the board proposes an opening date more than ten days before the first Monday in September.

4. If any local district violates the provisions of this section, the department of elementary and secondary education shall withhold an amount equal to one quarter of the state funding the district generated under section 163.031, RSMo, for each date the district was in violation of this section.

5. The provisions of subsections 2 to 4 of this section shall not apply to school districts in which school is in session for twelve months of each calendar year.

6. The state board of education may grant an exemption from this section to a school district that demonstrates highly unusual and extenuating circumstances justifying exemption from the provisions of subsections 2 to 4 of this section. Any exemption granted by the state board of education shall be valid for one academic year only.

7. No school day **for schools with a five-day school week** shall be longer than seven hours except for vocational schools which may adopt an eight-hour day in a metropolitan school district and a school district in a first class county adjacent to a city not within a county**, and any school that adopts a four-day school week in accordance with section 171.029**.

171.033. MAKE-UP OF DAYS LOST OR CANCELED, NUMBER REQUIRED — EXEMPTION, WHEN — WAIVER FOR SCHOOLS IN SESSION TWELVE MONTHS OF YEAR, GRANTED WHEN. — 1. "Inclement weather", for purposes of this section, shall be defined as ice, snow, extreme cold, flooding, or a tornado, but such term shall not include excessive heat.

2. A district shall be required to make up the first six days of school lost or canceled due to inclement weather and half the number of days lost or canceled in excess of six days **if the makeup of the days is necessary to ensure that the district's students will attend a minimum of one hundred forty-two days and a minimum of one thousand forty-four hours for the school year**. **Schools with a four-day school week may schedule such make-up days on Fridays.**

3. **[**In the 2005-06 school year, a school district may be exempt from the requirement to make up days of school lost or canceled due to inclement weather occurring after April 1, 2006, in the school district, but such reduction of the minimum number of school days shall not exceed five days when a district has missed more than seven days overall, such reduction to be taken as follows: one day for eight days missed, two days for nine days missed, three days for ten days missed, four days for eleven days missed, and five days for twelve or more days missed. The requirement for scheduling two-thirds of the missed days into the next year's calendar pursuant to subsection 1 of this section shall be waived for the 2006-07 school year.**] In the 2008-09 school year a school district may be exempt from the requirement to make up days of school lost or canceled due to inclement weather in the school district when the school district has made up the six days required under subsection 2 of this section and half the number of additional lost or canceled days up to eight days, resulting in no more than ten total make-up days required by this section.**

4. **In the 2009-2010 school year and subsequent years, a school district may be exempt from the requirement to make up days of school lost or canceled due to inclement weather in the school district when the school district has made up the six days required under subsection 2 of this section and half the number of additional lost or canceled days up to eight days, resulting in no more than ten total make-up days required by this section.**

5. The commissioner of education may provide, for any school district in which schools are in session for twelve months of each calendar year that cannot meet the minimum school calendar requirement of at least one hundred seventy-four days **for schools with a five-day school week or one hundred forty-two days for schools with a four-day school week** and one thousand forty-four hours of actual pupil attendance, upon request, a waiver to be excused from such requirement. This waiver shall be requested from the commissioner of education and may be granted if the school was closed due to circumstances beyond school district control, including inclement weather, flooding or fire.

177.088. FACILITIES AND EQUIPMENT MAY BE OBTAINED BY AGREEMENTS WITH NOT-FOR-PROFIT CORPORATION, PROCEDURE. — 1. As used in this section, the following terms shall mean:

(1) "Board", the board of education, board of trustees, board of regents, or board of governors of an educational institution;

(2) "Educational institution", any school district, including all community college districts, and any state college or university organized under chapter 174, RSMo.

2. The board of any educational institution may enter into agreements as authorized in this section with a not-for-profit corporation formed under the general not-for-profit corporation law of Missouri, chapter 355, RSMo, in order to provide for the acquisition, construction, improvement, extension, repair, remodeling, renovation and financing of sites, buildings, facilities, furnishings and equipment for the use of the educational institution for educational purposes.

3. The board may on such terms as it shall approve:

(1) Lease from the corporation sites, buildings, facilities, furnishings and equipment which the corporation has acquired or constructed; or

(2) Notwithstanding the provisions of this chapter or any other provision of law to the contrary, sell or lease at fair market value, which may be determined by appraisal, to the corporation any existing sites owned by the educational institution, together with any existing buildings and facilities thereon, in order for the corporation to acquire, construct, improve, extend, repair, remodel, renovate, furnish and equip buildings and facilities thereon, and then lease back or purchase such sites, buildings and facilities from the corporation; provided that upon selling or leasing the sites, buildings or facilities, the corporation agrees to enter into a lease for not more than one year but with not more than twenty-five successive options by the educational institution to renew the lease under the same conditions; and provided further that the corporation agrees to convey or sell the sites, buildings or facilities, including any improvements, extensions, renovations, furnishings or equipment, back to the educational institution with clear title at the end of the period of successive one-year options or at any time bonds, notes or other obligations issued by the corporation to pay for the improvements, extensions, renovations, furnishings or equipment have been paid and discharged.

4. Any consideration, promissory note or deed of trust which an educational institution receives for selling or leasing property to a not-for-profit corporation pursuant to this section shall be placed in a separate fund or in escrow, and neither the principal or any interest thereon shall be commingled with any other funds of the educational institutions. At such time as the title or deed for property acquired, constructed, improved, extended, repaired, remodeled or renovated under this section is conveyed to the educational institution, the consideration shall be returned to the corporation.

5. The board may make rental payments to the corporation under such leases out of its general funds or out of any other available funds, provided that in no event shall the educational institution become indebted in an amount exceeding in any year the income and revenue of the educational institution for such year plus any unencumbered balances from previous years.

6. Any bonds, notes and other obligations issued by a corporation to pay for the acquisition, construction, improvements, extensions, repairs, remodeling or renovations of sites, buildings and facilities, pursuant to this section, may be secured by a mortgage, pledge or deed of trust of the sites, buildings and facilities and a pledge of the revenues received from the rental thereof to the educational institution. Such bonds, notes and other obligations issued by a corporation shall not be a debt of the educational institution and the educational institution shall not be liable thereon, and in no event shall such bonds, notes or other obligations be payable out of any funds or properties other than those acquired for the purposes of this section, and such bonds, notes and obligations shall not constitute an indebtedness of the educational institution within the meaning of any constitutional or statutory debt limitation or restriction.

7. The interest on such bonds, notes and other obligations of the corporation and the income therefrom shall be exempt from taxation by the state and its political subdivisions, except for death and gift taxes on transfers. Sites, buildings, facilities, furnishings and equipment owned

by a corporation in connection with any project pursuant to this section shall be exempt from taxation.

8. The board may make all other contracts or agreements with the corporation necessary or convenient in connection with any project pursuant to this section. The corporation shall comply with sections 290.210 to 290.340, RSMo.

9. Notice that the board is considering a project pursuant to this section shall be given by publication in a newspaper published within the county in which all or a part of the educational institution is located which has general circulation within the area of the educational institution, once a week for two consecutive weeks, the last publication to be at least seven days prior to the date of the meeting of the board at which such project will be considered and acted upon.

10. Provisions of other law to the contrary notwithstanding, the board may refinance any lease purchase agreement that satisfies at least one of the conditions specified in subsection 6 of section 165.011, RSMo, for the purpose of payment on any lease with the corporation under this section for sites, buildings, facilities, furnishings or equipment which the corporation has acquired or constructed, but such refinance shall not extend the date of maturity of any obligation, and the refinancing obligation shall not exceed the amount necessary to pay or provide for the payment of the principal of the outstanding obligations to be refinanced, together with the interest accrued thereon to the date of maturity or redemption of such obligations and any premium which may be due under the terms of such obligations and any amounts necessary for the payments of costs and expenses related to issuing such refunding obligations and to fund a capital projects reserve fund for the obligations.

11. Provisions of other law to the contrary notwithstanding, payments made from any source by a school district, after the latter of July 1, 1994, or July 12, 1994, that result in the transfer of the title of real property to the school district, other than those payments made from the capital projects fund, shall be deducted as an adjustment to the funds payable to the district pursuant to section 163.031, RSMo, beginning in the year following the transfer of title to the district, as determined by the department of elementary and secondary education. No district with modular buildings leased in fiscal year 2004, with the lease payments made from the incidental fund and that initiates the transfer of title to the district after fiscal year 2007, shall have any adjustment to the funds payable to the district under section 163.031, RSMo, as a result of the transfer of title.

12. Notwithstanding provisions of this section to the contrary, the board of education of any school district may enter into agreements with the county in which the school district is located, or with a city, town, or village wholly or partially located within the boundaries of the school district, in order to provide for the acquisition, construction, improvement, extension, repair, remodeling, renovation, and financing of sites, buildings, facilities, furnishings, and equipment for the use of the school district for educational purposes. Such an agreement may provide for the present or future acquisition of an ownership interest in such facilities by the school district, by lease, lease purchase agreement, option to purchase agreement, or similar provisions, and may provide for a joint venture between the school district and other entity or entities that are parties to such an agreement providing for the sharing of the costs of acquisition, construction, repair, maintenance, and operation of such facilities. The school district may wholly own such facilities, or may acquire a partial ownership interest along with the county, city, town, or village with which the agreement was executed.

210.1050. FULL SCHOOL DAY DEFINED — FOSTER CHILD ENTITLED TO FULL SCHOOL DAY OF EDUCATION — COMMISSIONER OF EDUCATION TO BE OMBUDSMAN. — 1. For purposes of this section, for pupils in foster care or children placed for treatment in a licensed residential care facility by the department of social services, "full school day" shall mean six hours in which the child is under the guidance and direction of teachers in the educational process.

2. Each pupil in foster care or child placed for treatment in a licensed residential care facility by the department of social services shall be entitled to a full school day of education unless the school district determines that fewer hours are warranted.

3. The commissioner of education, or his or her designee, shall be an ombudsman to assist the family support team and the school district as they work together to meet the needs of children placed for treatment in a licensed residential care facility by the department of social services. The ombudsman shall have the final decision over discrepancies regarding school day length. A full school day of education shall be provided pending the ombudsman's final decision.

4. Nothing in this section shall be construed to infringe upon the rights or due process provisions of the federal Individuals with Disabilities Education Act. The provisions of the Individuals with Disabilities Education Act shall apply and control in decisions regarding school day. Nothing in this section shall be construed to deny any child domiciled in Missouri appropriate and necessary free public education services.

313.822. ADJUSTED GROSS RECEIPTS, TAX ON, RATE, COLLECTION PROCEDURES — PORTION TO HOME DOCK CITY OR COUNTY, PROCEDURE — GAMING PROCEEDS FOR EDUCATION FUND, CREATED, PURPOSE — AUDIT OF CERTAIN EDUCATION FUNDS. — A tax is imposed on the adjusted gross receipts received from gambling games authorized pursuant to sections 313.800 to 313.850 at the rate of twenty-one percent. The taxes imposed by this section shall be returned to the commission in accordance with the commission's rules and regulations who shall transfer such taxes to the director of revenue. All checks and drafts remitted for payment of these taxes and fees shall be made payable to the director of revenue. If the commission is not satisfied with the return or payment made by any licensee, it is hereby authorized and empowered to make an assessment of the amount due based upon any information within its possession or that shall come into its possession. Any licensee against whom an assessment is made by the commission may petition for a reassessment. The request for reassessment shall be made within twenty days from the date the assessment was mailed or delivered to the licensee, whichever is earlier. Whereupon the commission shall give notice of a hearing for reassessment and fix the date upon which the hearing shall be held. The assessment shall become final if a request for reassessment is not received by the commission within the twenty days. Except as provided in this section, on and after April 29, 1993, all functions incident to the administration, collection, enforcement, and operation of the tax imposed by sections 144.010 to 144.525, RSMo, shall be applicable to the taxes and fees imposed by this section.

(1) Each excursion gambling boat shall designate a city or county as its home dock. The home dock city or county may enter into agreements with other cities or counties authorized pursuant to subsection 10 of section 313.812 to share revenue obtained pursuant to this section. The home dock city or county shall receive ten percent of the adjusted gross receipts tax collections, as levied pursuant to this section, for use in providing services necessary for the safety of the public visiting an excursion gambling boat. Such home dock city or county shall annually submit to the commission a shared revenue agreement with any other city or county. All moneys owed the home dock city or county shall be deposited and distributed to such city or county in accordance with rules and regulations of the commission. All revenues provided for in this section to be transferred to the governing body of any city not within a county and any city with a population of over three hundred fifty thousand inhabitants shall not be considered state funds and shall be deposited in such city's general revenue fund to be expended as provided for in this section.

(2) The remaining amount of the adjusted gross receipts tax shall be deposited in the state treasury to the credit of the "Gaming Proceeds for Education Fund" which is hereby created in the state treasury. Moneys deposited in this fund shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury, shall be used solely for

education pursuant to the Missouri Constitution and shall be considered the proceeds of excursion boat gambling and state funds pursuant to article IV, section 15 of the Missouri Constitution. All interest received on the gaming proceeds for education fund shall be credited to the gaming proceeds for education fund. Appropriation of the moneys deposited into the gaming proceeds for education fund shall be pursuant to state law.

(3) The state auditor shall perform an annual audit of the gaming proceeds for education fund **[**and the schools first elementary and secondary education improvement fund**]**, which shall include the evaluation of whether appropriations for elementary and secondary education have increased and are being used as intended **[**by this act**]**. The state auditor shall make copies of each audit available to the public and to the general assembly.

SECTION 1. STUDY ON GOVERNANCE IN URBAN SCHOOL DISTRICTS — REPORT. — During the legislative interim between the first regular session of the ninety-fifth general assembly through December 31, 2009, the joint committee on education shall study the issue of governance in urban school districts containing most or all of a home rule city with more than four hundred thousand inhabitants and located in more than one county. In studying this issue, the joint committee may solicit input and information necessary to fulfill its obligation, including but not limited to soliciting input and information from any state department, state agency, school district, political subdivision of the state, teachers, administrators, school board members, all interested parties concerned about governance within the school districts identified in this section, and the general public. The joint committee shall prepare a final report, together with its recommendations for any legislative action deemed necessary for submission to the general assembly by December 31, 2009.

[160.730. POLICY GOALS, MEETING REQUIRED TO DISCUSS WAYS TO ACHIEVE — LIST OF GOALS — REPORT TO GENERAL ASSEMBLY AND GOVERNOR. — 1. Not less than twice each calendar year, the commissioner of higher education, the chair of the coordinating board for higher education, the commissioner of education, the president of the state board of education, and the director of the department of economic development shall meet and discuss ways in which their respective departments may collaborate to achieve the policy goals as outlined in this section.

2. In order to create a more efficient and effective education system that more adequately prepares students for the challenges of entering the workforce, the persons and agencies outlined in subsection 1 of this section shall be responsible for accomplishing the following goals:

(1) Studying the potential for a state-coordinated economic/educational policy that addresses all levels of education;

(2) Determining where obstacles make state support of programs that cross institutional or jurisdictional boundaries difficult and suggesting remedies;

(3) Creating programs that:

(a) Intervene at known critical transition points, such as middle school to high school and the freshman year of college to help assure student success at the next level;

(b) Foster higher education faculty spending time in elementary and secondary classrooms and private workplaces, and elementary and secondary faculty spending time in general education-level higher education courses and private workplaces, with particular emphasis on secondary school faculty working with general education higher education faculty;

(c) Allow education stakeholders to collaborate with members of business and industry to foster policy alignment, professional interaction, and information systems across sectors;

(d) Regularly provide feedback to schools, colleges, and employers concerning the number of students requiring postsecondary remediation, whether in educational institutions or the workplace;

(4) Exploring ways to better align academic content, particularly between secondary school and first-year courses at public colleges and universities, which may include alignment between:

(a) Elementary and secondary assessments and public college and university admission and placement standards; and

(b) Articulation agreements of programs across sectors and educational levels.

3. No later than the first Wednesday after the first Monday of January each year, the persons outlined in subsection 1 of this section shall report jointly to the general assembly and to the governor the actions taken by their agencies and their recommendations for policy initiatives and legislative alterations to achieve the policy goals as outlined in this section.**]**

[313.775. CITATION OF LAW. — This act shall be known and may be cited as "The Schools First Elementary and Secondary Education Funding Initiative".**]**

[313.778. FUND CREATED — STATE TREASURER'S DUTIES. — There is hereby created in the state treasury the "Schools First Elementary and Secondary Education Improvement Fund", which shall consist of taxes on excursion gambling boat proceeds as provided in subsection 2 of section 160.534, RSMo, to be used solely for the purpose of increasing funding for elementary and secondary education. The schools first elementary and secondary education improvement fund shall be state revenues collected from gaming activities for purposes of article III, section 39(d) of the constitution. Moneys in the schools first elementary and secondary education improvement fund shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury. The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.**]**

SECTION B. EFFECTIVE DATE. — The repeal of section 313.778 of section A of this act shall become effective on July 1, 2010.

SECTION C. EMERGENCY CLAUSE. — Because of the need to ensure adequate funding for our public schools, the repeal of section 313.775 and the repeal and reenactment of sections 115.121, 160.534, 163.011, 163.031, 163.043, and 313.822 of section A of this act are 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 the repeal of section 313.775 and the repeal and reenactment of sections 115.121, 160.534, 163.011, 163.031, 163.043, and 313.822 of section A of this act shall be in full force and effect on July 1, 2009, or upon their passage and approval, whichever occurs later.

Approved July 13, 2009

SB 294 [SB 294]

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

Restricts corporate name reservation

AN ACT to repeal section 355.151, RSMo, and to enact in lieu thereof one new section relating to corporate name reservation.

SECTION
A. Enacting clause.
355.151. Reservation of name.

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

SECTION A. ENACTING CLAUSE. — Section 355.151, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 355.151, to read as follows:

355.151. RESERVATION OF NAME. — 1. A person may reserve the exclusive use of a corporate name, including a fictitious name for a foreign corporation whose corporate name is not available, by delivering an application to the secretary of state for filing. Upon finding that the corporate name applied for is available, the secretary of state shall reserve the name for the applicant's exclusive use for a sixty-day period. **A name reservation shall not exceed a period of one hundred eighty days from the date of the first name reservation application. Upon the hundred eighty-first day, the name shall cease reserve status and shall not be placed back in reserve status.**

2. The owner of a reserved corporate name may transfer the reservation to another person by delivering to the secretary of state a signed notice of the transfer that states the name and address of the transferee.

Approved July 10, 2009

SB 296 [CCS HCS SB 296]

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

Authorizes the Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects to conduct disciplinary hearings for licensees convicted of certain felonies

AN ACT to repeal sections 105.711, 195.070, 195.100, 214.270, 214.280, 214.330, 214.385, 214.387, 324.001, 324.065, 324.068, 324.071, 324.077, 324.080, 324.086, 324.089, 324.139, 324.141, 324.212, 324.247, 324.415, 324.481, 324.487, 328.030, 328.040, 328.050, 328.060, 328.115, 328.140, 328.150, 328.160, 329.180, 329.190, 329.191, 329.200, 329.210, 329.220, 329.230, 329.240, 334.735, 334.850, 337.712, 337.715, 337.718, 337.727, 337.730, 337.733, 338.010, 338.013, 338.057, 338.220, 338.337, 346.015, 346.045, 346.050, 346.070, 346.075, 346.080, 346.090, 346.095, 346.100, 346.105, 346.115, 346.125, and 376.811, RSMo, and to enact in lieu thereof sixty-eight new sections relating to regulation of certain professions, with penalty provisions.

SECTION
A. Enacting clause.
105.711. Legal expense fund created — officers, employees, agencies, certain health care providers covered, procedure — rules regarding contract procedures and documentation of care — certain claims, limitations — funds not transferable to general revenue — rules.
195.070. Who may prescribe.
195.100. Labeling requirements.
214.270. Definitions.
214.280. Election to operate as endowed care cemetery filing with division of registration, form — fee — deposit of fee — division's powers and duties — rules authorized.
214.330. Endowed care fund held in trust or segregated account — requirements — duties of trustee or independent investment advisor — operator's duties — endowed care fund agreement.
214.385. Moving of grave marker, replacement — delivery of item of burial merchandise.

214.387. Burial merchandise, deferral of delivery, when — authorized withdrawals.
324.001. Division of professional registration established, duties — boards and commissions assigned to — reference to division in statutes.
324.065. Board duties, meetings, compensation — rules, procedure.
324.068. Division of professional registration duties.
324.071. Application for a license — certification, when.
324.077. Limited permit issued, when.
324.080. Renewal notice sent, when — inactive status granted, when.
324.086. Refusal to issue license, when — notification of applicant — complaint procedure.
324.089. Violations of sections 324.050 to 324.089.
324.139. Competency examination, notification of results.
324.141. License displayed prominently at location of practice.
324.212. Applications for licensure, fees — renewal notices — dietitian fund established.
324.247. Massage business, license required, application, fee, discipline for failure to obtain.
324.415. Applications for registration, form — penalties.
324.481. Duties of board — rulemaking authority — acupuncturist fund created, use of.
324.487. Qualifications for licensure.
327.442. Disciplinary hearing for censure of license to be held, when.
328.115. Barber establishments, licensure requirements — sanitary regulations, noncompliance, effect — renewal of license, fee — delinquent fee.
328.150. Denial, revocation, or suspension of certificate, grounds for.
328.160. Penalty for violation of provisions of chapter.
332.112. Volunteer license, requirements — renewal — limitation on practice — no application fee.
332.113. Volunteer dental hygienist license, requirements — renewal — limitation on practice — no application fee.
334.735. Definitions — rules — scope of practice — prohibited activities — board of healing arts to administer licensing program — supervision agreements — duties and liability of physicians.
334.747. Prescribing controlled substances authorized, when — supervising physicians — certification.
334.850. Personnel provided through division of professional registration, duties — rulemaking.
335.300. Findings and declaration of purpose.
335.305. Definitions.
335.310. General provisions and jurisdiction.
335.315. Applications for licensure in a party state.
335.320. Adverse actions.
335.325. Additional authorities invested in party state nurse licensing boards.
335.330. Coordinated licensure information system.
335.335. Compact administration and interchange of information.
335.340. Immunity.
335.345. Entry into force, withdrawal and amendment.
335.350. Construction and severability.
335.355. Applicability of compact.
337.712. Licenses, application, oath, fee — lost certificates — fund.
337.715. Qualifications for licensure, exceptions.
337.718. License expiration, renewal fee — temporary permits.
337.727. Rulemaking authority.
337.730. Refusal to issue or renew, grounds, notice, rights of applicant — complaints filed with administrative hearing commission.
337.733. Violations of marital and family therapists law, penalty — attorney general, duties — injunctions — venue.
338.010. Practice of pharmacy defined — auxiliary personnel — written protocol required, when — nonprescription drugs — rulemaking authority — therapeutic plan requirements.
338.013. Pharmacy technician to register with board of pharmacy, fees, application, renewal — refusal to issue, when — employee disqualification list maintained, use.
338.220. Operation of pharmacy without permit or license unlawful — application for permit, classifications, fee — duration of permit.
338.337. Out-of-state distributors, licenses required, exception.
346.015. License required — exception — penalty for violation.
346.045. Registration, when, fee — license issued, when.
346.050. Licensing of persons meeting equivalent or stricter requirements of other states, authorized.
346.070. Temporary permit issued, when.
346.075. Fee for temporary permit — supervision and training required for temporary permit holder.
346.080. Temporary permit renewed, when — temporary license issued, when — bond required for temporary licensee.
346.090. Licensee to report address of business to board, record to be kept — notices, sent where.
346.095. Renewal, fee, completion of educational program and calibration of equipment required — late renewal, fee, limit.

346.100. Complaints against licensees, how made, hearing — sanctions — records.
346.105. Denial, revocation, or suspension of license, grounds for.
346.115. Powers and duties of division.
346.125. Board, duties.
376.811. Coverage required for chemical dependency by all insurance and health service corporations — minimum standards — offer of coverage may be accepted or rejected by policyholders, companies may offer as standard coverage — mental health benefits provided, when — exclusions.
1. Teeth-whitening services deemed practice of dentistry.
328.030. Board of examiners, appointment, qualifications — terms — oath — vacancies.
328.040. Officers, election, powers, headquarters — employees, expenses limited — quorum of board.
328.050. Compensation of board members — board fund transferred to general revenue, when.
328.060. Rules and fees prescribed by board, procedure.
328.140. Board to keep register.
329.180. Establishment of board — powers — duties.
329.190. State board — appointment — term — compensation — qualifications.
329.191. Compensation of state board of cosmetology.
329.200. Governor to fill vacancies.
329.210. Powers of board, rulemaking.
329.220. Quorum — majority vote.
329.230. Officers of board — employees — expenses.
329.240. Fees, collection and disposition — board fund established, transferred to general revenue, when.
338.057. List of nonacceptable substitutions — preparation — publication.

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

SECTION A. ENACTING CLAUSE. — Sections 105.711, 195.070, 195.100, 214.270, 214.280, 214.330, 214.385, 214.387, 324.001, 324.065, 324.068, 324.071, 324.077, 324.080, 324.086, 324.089, 324.139, 324.141, 324.212, 324.247, 324.415, 324.481, 324.487, 328.030, 328.040, 328.050, 328.060, 328.115, 328.140, 328.150, 328.160, 329.180, 329.190, 329.191, 329.200, 329.210, 329.220, 329.230, 329.240, 334.735, 334.850, 337.712, 337.715, 337.718, 337.727, 337.730, 337.733, 338.010, 338.013, 338.057, 338.220, 338.337, 346.015, 346.045, 346.050, 346.070, 346.075, 346.080, 346.090, 346.095, 346.100, 346.105, 346.115, 346.125, and 376.811, RSMo, are repealed and sixty-eight new sections enacted in lieu thereof, to be known as sections 105.711, 195.070, 195.100, 214.270, 214.280, 214.330, 214.385, 214.387, 324.001, 324.065, 324.068, 324.071, 324.077, 324.080, 324.086, 324.089, 324.139, 324.141, 324.212, 324.247, 324.415, 324.481, 324.487, 327.442, 328.115, 328.150, 328.160, 332.112, 332.113, 334.735, 334.747, 334.850, 335.300, 335.305, 335.310, 335.315, 335.320, 335.325, 335.330, 335.335, 335.340, 335.345, 335.350, 335.355, 337.712, 337.715, 337.718, 337.727, 337.730, 337.733, 338.010, 338.013, 338.220, 338.337, 346.015, 346.045, 346.050, 346.070, 346.075, 346.080, 346.090, 346.095, 346.100, 346.105, 346.115, 346.125, 376.811, and 1, to read as follows:

105.711. LEGAL EXPENSE FUND CREATED — OFFICERS, EMPLOYEES, AGENCIES, CERTAIN HEALTH CARE PROVIDERS COVERED, PROCEDURE — RULES REGARDING CONTRACT PROCEDURES AND DOCUMENTATION OF CARE — CERTAIN CLAIMS, LIMITATIONS — FUNDS NOT TRANSFERABLE TO GENERAL REVENUE — RULES. — 1. There is hereby created a "State Legal Expense Fund" which shall consist of moneys appropriated to the fund by the general assembly and moneys otherwise credited to such fund pursuant to section 105.716.

2. Moneys in the state legal expense fund shall be available for the payment of any claim or any amount required by any final judgment rendered by a court of competent jurisdiction against:

(1) The state of Missouri, or any agency of the state, pursuant to section 536.050 or 536.087, RSMo, or section 537.600, RSMo;

(2) Any officer or employee of the state of Missouri or any agency of the state, including, without limitation, elected officials, appointees, members of state boards or commissions, and members of the Missouri national guard upon conduct of such officer or employee arising out

of and performed in connection with his or her official duties on behalf of the state, or any agency of the state, provided that moneys in this fund shall not be available for payment of claims made under chapter 287, RSMo;

(3) (a) Any physician, psychiatrist, pharmacist, podiatrist, dentist, nurse, or other health care provider licensed to practice in Missouri under the provisions of chapter 330, 332, 334, 335, 336, 337 or 338, RSMo, who is employed by the state of Missouri or any agency of the state under formal contract to conduct disability reviews on behalf of the department of elementary and secondary education or provide services to patients or inmates of state correctional facilities on a part-time basis, and any physician, psychiatrist, pharmacist, podiatrist, dentist, nurse, or other health care provider licensed to practice in Missouri under the provisions of chapter 330, 332, 334, 335, 336, 337, or 338, RSMo, who is under formal contract to provide services to patients or inmates at a county jail on a part-time basis;

(b) Any physician licensed to practice medicine in Missouri under the provisions of chapter 334, RSMo, and his professional corporation organized pursuant to chapter 356, RSMo, who is employed by or under contract with a city or county health department organized under chapter 192, RSMo, or chapter 205, RSMo, or a city health department operating under a city charter, or a combined city-county health department to provide services to patients for medical care caused by pregnancy, delivery, and child care, if such medical services are provided by the physician pursuant to the contract without compensation or the physician is paid from no other source than a governmental agency except for patient co-payments required by federal or state law or local ordinance;

(c) Any physician licensed to practice medicine in Missouri under the provisions of chapter 334, RSMo, who is employed by or under contract with a federally funded community health center organized under Section 315, 329, 330 or 340 of the Public Health Services Act (42 U.S.C. 216, 254c) to provide services to patients for medical care caused by pregnancy, delivery, and child care, if such medical services are provided by the physician pursuant to the contract or employment agreement without compensation or the physician is paid from no other source than a governmental agency or such a federally funded community health center except for patient co-payments required by federal or state law or local ordinance. In the case of any claim or judgment that arises under this paragraph, the aggregate of payments from the state legal expense fund shall be limited to a maximum of one million dollars for all claims arising out of and judgments based upon the same act or acts alleged in a single cause against any such physician, and shall not exceed one million dollars for any one claimant;

(d) Any physician licensed pursuant to chapter 334, RSMo, who is affiliated with and receives no compensation from a nonprofit entity qualified as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, which offers a free health screening in any setting or any physician, nurse, physician assistant, dental hygienist, dentist, or other health care professional licensed or registered under chapter 330, 331, 332, 334, 335, 336, 337, or 338, RSMo, who provides health care services within the scope of his or her license or registration at a city or county health department organized under chapter 192, RSMo, or chapter 205, RSMo, a city health department operating under a city charter, or a combined city-county health department, or a nonprofit community health center qualified as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, if such services are restricted to primary care and preventive health services, provided that such services shall not include the performance of an abortion, and if such health services are provided by the health care professional licensed or registered under chapter 330, 331, 332, 334, 335, 336, 337, or 338, RSMo, without compensation. MO HealthNet or Medicare payments for primary care and preventive health services provided by a health care professional licensed or registered under chapter 330, 331, 332, 334, 335, 336, 337, or 338, RSMo, who volunteers at a free health clinic is not compensation for the purpose of this section if the total payment is assigned to the free health clinic. For the purposes of the section, "free health clinic" means a nonprofit community health center qualified as exempt from federal taxation under Section 501 (c)(3) of the Internal

Revenue Code of 1987, as amended, that provides primary care and preventive health services to people without health insurance coverage for the services provided without charge. In the case of any claim or judgment that arises under this paragraph, the aggregate of payments from the state legal expense fund shall be limited to a maximum of five hundred thousand dollars, for all claims arising out of and judgments based upon the same act or acts alleged in a single cause and shall not exceed five hundred thousand dollars for any one claimant, and insurance policies purchased pursuant to the provisions of section 105.721 shall be limited to five hundred thousand dollars. Liability or malpractice insurance obtained and maintained in force by or on behalf of any health care professional licensed or registered under chapter 330, 331, 332, 334, 335, 336, 337, or 338, RSMo, shall not be considered available to pay that portion of a judgment or claim for which the state legal expense fund is liable under this paragraph;

(e) Any physician, nurse, physician assistant, dental hygienist, or dentist licensed or registered to practice medicine, nursing, or dentistry or to act as a physician assistant or dental hygienist in Missouri under the provisions of chapter 332, RSMo, chapter 334, RSMo, or chapter 335, RSMo, **or lawfully practicing,** who provides medical, nursing, or dental treatment within the scope of his license or registration to students of a school whether a public, private, or parochial elementary or secondary school **or summer camp**, if such physician's treatment is restricted to primary care and preventive health services and if such medical, dental, or nursing services are provided by the physician, dentist, physician assistant, dental hygienist, or nurse without compensation. In the case of any claim or judgment that arises under this paragraph, the aggregate of payments from the state legal expense fund shall be limited to a maximum of five hundred thousand dollars, for all claims arising out of and judgments based upon the same act or acts alleged in a single cause and shall not exceed five hundred thousand dollars for any one claimant, and insurance policies purchased pursuant to the provisions of section 105.721 shall be limited to five hundred thousand dollars; or

(f) Any physician licensed under chapter 334, RSMo, or dentist licensed under chapter 332, RSMo, providing medical care without compensation to an individual referred to his or her care by a city or county health department organized under chapter 192 or 205, RSMo, a city health department operating under a city charter, or a combined city-county health department, or nonprofit health center qualified as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or a federally funded community health center organized under Section 315, 329, 330, or 340 of the Public Health Services Act, 42 U.S.C. Section 216, 254c; provided that such treatment shall not include the performance of an abortion. In the case of any claim or judgment that arises under this paragraph, the aggregate of payments from the state legal expense fund shall be limited to a maximum of one million dollars for all claims arising out of and judgments based upon the same act or acts alleged in a single cause and shall not exceed one million dollars for any one claimant, and insurance policies purchased under the provisions of section 105.721 shall be limited to one million dollars. Liability or malpractice insurance obtained and maintained in force by or on behalf of any physician licensed under chapter 334, RSMo, or any dentist licensed under chapter 332, RSMo, shall not be considered available to pay that portion of a judgment or claim for which the state legal expense fund is liable under this paragraph;

(4) Staff employed by the juvenile division of any judicial circuit;

(5) Any attorney licensed to practice law in the state of Missouri who practices law at or through a nonprofit community social services center qualified as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or through any agency of any federal, state, or local government, if such legal practice is provided by the attorney without compensation. In the case of any claim or judgment that arises under this subdivision, the aggregate of payments from the state legal expense fund shall be limited to a maximum of five hundred thousand dollars for all claims arising out of and judgments based upon the same act or acts alleged in a single cause and shall not exceed five hundred thousand

dollars for any one claimant, and insurance policies purchased pursuant to the provisions of section 105.721 shall be limited to five hundred thousand dollars; or

(6) Any social welfare board created under section 205.770, RSMo, and the members and officers thereof upon conduct of such officer or employee while acting in his or her capacity as a board member or officer, and any physician, nurse, physician assistant, dental hygienist, dentist, or other health care professional licensed or registered under chapter 330, 331, 332, 334, 335, 336, 337, or 338, RSMo, who is referred to provide medical care without compensation by the board and who provides health care services within the scope of his or her license or registration as prescribed by the board.

3. The department of health and senior services shall promulgate rules regarding contract procedures and the documentation of care provided under paragraphs (b), (c), (d), (e), and (f) of subdivision (3) of subsection 2 of this section. The limitation on payments from the state legal expense fund or any policy of insurance procured pursuant to the provisions of section 105.721, provided in subsection 7 of this section, shall not apply to any claim or judgment arising under paragraph (a), (b), (c), (d), (e), or (f) of subdivision (3) of subsection 2 of this section. Any claim or judgment arising under paragraph (a), (b), (c), (d), (e), or (f) of subdivision (3) of subsection 2 of this section shall be paid by the state legal expense fund or any policy of insurance procured pursuant to section 105.721, to the extent damages are allowed under sections 538.205 to 538.235, RSMo. Liability or malpractice insurance obtained and maintained in force by any health care professional licensed or registered under chapter 330, 331, 332, 334, 335, 336, 337, or 338, RSMo, for coverage concerning his or her private practice and assets shall not be considered available under subsection 7 of this section to pay that portion of a judgment or claim for which the state legal expense fund is liable under paragraph (a), (b), (c), (d), (e), or (f) of subdivision (3) of subsection 2 of this section. However, a health care professional licensed or registered under chapter 330, 331, 332, 334, 335, 336, 337, or 338, RSMo, may purchase liability or malpractice insurance for coverage of liability claims or judgments based upon care rendered under paragraphs (c), (d), (e), and (f) of subdivision (3) of subsection 2 of this section which exceed the amount of liability coverage provided by the state legal expense fund under those paragraphs. Even if paragraph (a), (b), (c), (d), (e), or (f) of subdivision (3) of subsection 2 of this section is repealed or modified, the state legal expense fund shall be available for damages which occur while the pertinent paragraph (a), (b), (c), (d), (e), or (f) of subdivision (3) of subsection 2 of this section is in effect.

4. The attorney general shall promulgate rules regarding contract procedures and the documentation of legal practice provided under subdivision (5) of subsection 2 of this section. The limitation on payments from the state legal expense fund or any policy of insurance procured pursuant to section 105.721 as provided in subsection 7 of this section shall not apply to any claim or judgment arising under subdivision (5) of subsection 2 of this section. Any claim or judgment arising under subdivision (5) of subsection 2 of this section shall be paid by the state legal expense fund or any policy of insurance procured pursuant to section 105.721 to the extent damages are allowed under sections 538.205 to 538.235, RSMo. Liability or malpractice insurance otherwise obtained and maintained in force shall not be considered available under subsection 7 of this section to pay that portion of a judgment or claim for which the state legal expense fund is liable under subdivision (5) of subsection 2 of this section. However, an attorney may obtain liability or malpractice insurance for coverage of liability claims or judgments based upon legal practice rendered under subdivision (5) of subsection 2 of this section that exceed the amount of liability coverage provided by the state legal expense fund under subdivision (5) of subsection 2 of this section. Even if subdivision (5) of subsection 2 of this section is repealed or amended, the state legal expense fund shall be available for damages that occur while the pertinent subdivision (5) of subsection 2 of this section is in effect.

5. All payments shall be made from the state legal expense fund by the commissioner of administration with the approval of the attorney general. Payment from the state legal expense fund of a claim or final judgment award against a health care professional licensed or registered

under chapter 330, 331, 332, 334, 335, 336, 337, or 338, RSMo, described in paragraph (a), (b), (c), (d), (e), or (f) of subdivision (3) of subsection 2 of this section, or against an attorney in subdivision (5) of subsection 2 of this section, shall only be made for services rendered in accordance with the conditions of such paragraphs. In the case of any claim or judgment against an officer or employee of the state or any agency of the state based upon conduct of such officer or employee arising out of and performed in connection with his or her official duties on behalf of the state or any agency of the state that would give rise to a cause of action under section 537.600, RSMo, the state legal expense fund shall be liable, excluding punitive damages, for:

(1) Economic damages to any one claimant; and

(2) Up to three hundred fifty thousand dollars for noneconomic damages. The state legal expense fund shall be the exclusive remedy and shall preclude any other civil actions or proceedings for money damages arising out of or relating to the same subject matter against the state officer or employee, or the officer's or employee's estate. No officer or employee of the state or any agency of the state shall be individually liable in his or her personal capacity for conduct of such officer or employee arising out of and performed in connection with his or her official duties on behalf of the state or any agency of the state. The provisions of this subsection shall not apply to any defendant who is not an officer or employee of the state or any agency of the state in any proceeding against an officer or employee of the state or any agency of the state. Nothing in this subsection shall limit the rights and remedies otherwise available to a claimant under state law or common law in proceedings where one or more defendants is not an officer or employee of the state or any agency of the state.

6. The limitation on awards for noneconomic damages provided for in this subsection shall be increased or decreased on an annual basis effective January first of each year in accordance with the Implicit Price Deflator for Personal Consumption Expenditures as published by the Bureau of Economic Analysis of the United States Department of Commerce. The current value of the limitation shall be calculated by the director of the department of insurance, financial institutions and professional registration, who shall furnish that value to the secretary of state, who shall publish such value in the Missouri Register as soon after each January first as practicable, but it shall otherwise be exempt from the provisions of section 536.021, RSMo.

7. Except as provided in subsection 3 of this section, in the case of any claim or judgment that arises under sections 537.600 and 537.610, RSMo, against the state of Missouri, or an agency of the state, the aggregate of payments from the state legal expense fund and from any policy of insurance procured pursuant to the provisions of section 105.721 shall not exceed the limits of liability as provided in sections 537.600 to 537.610, RSMo. No payment shall be made from the state legal expense fund or any policy of insurance procured with state funds pursuant to section 105.721 unless and until the benefits provided to pay the claim by any other policy of liability insurance have been exhausted.

8. The provisions of section 33.080, RSMo, notwithstanding, any moneys remaining to the credit of the state legal expense fund at the end of an appropriation period shall not be transferred to general revenue.

9. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated under the authority delegated in sections 105.711 to 105.726 shall become effective only if it has been promulgated pursuant to the provisions of chapter 536, RSMo. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with the provisions of chapter 536, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

195.070. WHO MAY PRESCRIBE. — 1. A physician, podiatrist, dentist, **[**or**]** a registered optometrist certified to administer pharmaceutical agents as provided in section 336.220, RSMo,

or a physician assistant in accordance with section 334.747, RSMo, in good faith and in the course of his or her professional practice only, may prescribe, administer, and dispense controlled substances or he or she may cause the same to be administered or dispensed by an individual as authorized by statute.

2. An advanced practice registered nurse, as defined in section 335.016, RSMo, but not a certified registered nurse anesthetist as defined in subdivision (8) of section 335.016, RSMo, who holds a certificate of controlled substance prescriptive authority from the board of nursing under section 335.019, RSMo, and who is delegated the authority to prescribe controlled substances under a collaborative practice arrangement under section 334.104, RSMo, may prescribe any controlled substances listed in Schedules III, IV, and V of section 195.017. However, no such certified advanced practice registered nurse shall prescribe controlled substance for his or her own self or family. Schedule III narcotic controlled substance prescriptions shall be limited to a one hundred twenty-hour supply without refill.

3. A veterinarian, in good faith and in the course of **[**his**]** **the veterinarian's** professional practice only, and not for use by a human being, may prescribe, administer, and dispense controlled substances and **[**he**]** **the veterinarian** may cause them to be administered by an assistant or orderly under his **or her** direction and supervision.

4. A practitioner shall not accept any portion of a controlled substance unused by a patient, for any reason, if such practitioner did not originally dispense the drug.

5. An individual practitioner **[**may**]** **shall** not prescribe or dispense a controlled substance for such practitioner's personal use except in a medical emergency.

195.100. LABELING REQUIREMENTS. — 1. It shall be unlawful to distribute any controlled substance in a commercial container unless such container bears a label containing an identifying symbol for such substance in accordance with federal laws.

2. It shall be unlawful for any manufacturer of any controlled substance to distribute such substance unless the labeling thereof conforms to the requirements of federal law and contains the identifying symbol required in subsection 1 of this section.

3. The label of a controlled substance in Schedule II, III or IV shall, when dispensed to or for a patient, contain a clear, concise warning that it is a criminal offense to transfer such narcotic or dangerous drug to any person other than the patient.

4. Whenever a manufacturer sells or dispenses a controlled substance and whenever a wholesaler sells or dispenses a controlled substance in a package prepared by him **or her**, **[**he**]** **the manufacturer or wholesaler** shall securely affix to each package in which that drug is contained a label showing in legible English the name and address of the vendor and the quantity, kind, and form of controlled substance contained therein. No person except a pharmacist for the purpose of filling a prescription under sections 195.005 to 195.425, shall alter, deface, or remove any label so affixed.

5. Whenever a pharmacist or practitioner sells or dispenses any controlled substance on a prescription issued by a physician, **physician assistant,** dentist, podiatrist, veterinarian, or advanced practice registered nurse, **[**he**]** **the pharmacist or practitioner** shall affix to the container in which such drug is sold or dispensed a label showing his **or her** own name and address of the pharmacy or practitioner for whom he **or she** is lawfully acting; the name of the patient or, if the patient is an animal, the name of the owner of the animal and the species of the animal; the name of the physician, **physician assistant,** dentist, podiatrist, advanced practice registered nurse, or veterinarian by whom the prescription was written; the name of the collaborating physician if the prescription is written by an advanced practice registered nurse **or the supervising physician if the prescription is written by a physician assistant**, and such directions as may be stated on the prescription. No person shall alter, deface, or remove any label so affixed.

214.270. DEFINITIONS. — As used in sections 214.270 to 214.410, the following terms mean:

(1) "Agent" or "authorized agent", any person empowered by the cemetery operator to represent the operator in dealing with the general public, including owners of the burial space in the cemetery;

(2) "Burial space", one or more than one plot, grave, mausoleum, crypt, lawn, surface lawn crypt, niche or space used or intended for the interment of the human dead;

(3) **"Burial merchandise", a monument, marker, memorial, tombstone, headstone, urn, outer burial container, or similar article which may contain specific lettering, shape, color, or design as specified by the purchaser;**

(4) "Cemetery", property restricted in use for the interment of the human dead by formal dedication or reservation by deed but shall not include any of the foregoing held or operated by the state or federal government or any political subdivision thereof, any incorporated city or town, any county or any religious organization, cemetery association or fraternal society holding the same for sale solely to members and their immediate families;

[(4)**]** **(5)** "Cemetery association", any number of persons who shall have associated themselves by articles of agreement in writing as a not-for-profit association or organization, whether incorporated or unincorporated, formed for the purpose of ownership, preservation, care, maintenance, adornment and administration of a cemetery. Cemetery associations shall be governed by a board of directors. Directors shall serve without compensation;

[(5)**]** **(6)** "Cemetery operator" or "operator", any person who owns, controls, operates or manages a cemetery;

[(6)**]** **(7) "Cemetery prearranged contract", any contract with a cemetery operator for goods and services covered by this chapter which includes a sale of burial merchandise in which delivery of merchandise or a valid warehouse receipt under sections 214.270 to 214.550 is deferred pursuant to written instructions from the purchaser. It shall also mean any contract for goods and services covered by sections 214.270 to 214.550 which includes a sale of burial services to be performed at a future date;**

(8) "Cemetery service**" or "burial service**", those services performed by a cemetery owner or operator licensed **[**pursuant to this chapter**]** as an endowed care **or nonendowed** cemetery including setting a monument **or marker**, setting a tent, excavating a grave, **[**or**]** **interment, entombment, inurnment,** setting a vault**, or other related services within the cemetery**;

[(7)**]** **(9)** "Columbarium", a building or structure for the inurnment of cremated human remains;

[(8)**]** **(10)** "Community mausoleum", a mausoleum containing a substantial area of enclosed space and having either a heating, ventilating or air conditioning system;

[(9)**]** **(11)** "Department", department of insurance, financial institutions and professional registration;

[(10)**]** **(12)** "Developed acreage", the area which has been platted into grave spaces and has been developed with roads, paths, features, or ornamentations and in which burials can be made;

[(11)**]** **(13)** "Director", director of the division of professional registration;

[(12)**]** **(14)** "Division", division of professional registration;

[(13)**]** **(15)** "Endowed care", the maintenance, repair and care of all burial space subject to the endowment within a cemetery, including any improvements made for the benefit of such burial space. Endowed care shall include the general overhead expenses needed to accomplish such maintenance, repair, care and improvements. Endowed care shall include the terms perpetual care, permanent care, continual care, eternal care, care of duration, or any like term;

[(14)**]** **(16)** "Endowed care cemetery", a cemetery, or a section of a cemetery, which represents itself as offering endowed care and which complies with the provisions of sections 214.270 to 214.410;

[(15)**]** **(17)** "Endowed care fund", "endowed care trust", or "trust", any cash or cash equivalent, to include any income therefrom, impressed with a trust by the terms of any gift,

grant, contribution, payment, devise or bequest to an endowed care cemetery, or its endowed care trust, or funds to be delivered to an endowed care cemetery's trust received pursuant to a contract and accepted by any endowed care cemetery operator or his agent. This definition includes the terms endowed care funds, maintenance funds, memorial care funds, perpetual care funds, or any like term;

(18) "Escrow account", an account established in lieu of an endowed care fund as provided under section 214.330 or an account used to hold deposits under section 214.387;

(19) "Escrow agent", an attorney, title company, certified public accountant or other person authorized by the division to exercise escrow powers under the laws of this state;

(20) "Escrow agreement", an agreement subject to approval by the office between an escrow agent and a cemetery operator or its agent or related party with common ownership, to receive and administer payments under cemetery prearranged contracts sold by the cemetery operator;

[(16)**]** **(21)** "Family burial ground", a cemetery in which no burial space is sold to the public and in which interments are restricted to persons related by blood or marriage;

[(17)**]** **(22)** "Fraternal cemetery", a cemetery owned, operated, controlled or managed by any fraternal organization or auxiliary organizations thereof, in which the sale of burial space is restricted solely to its members and their immediate families;

[(18)**]** **(23)** "Garden mausoleum", a mausoleum without a substantial area of enclosed space and having its crypt and niche fronts open to the atmosphere. Ventilation of the crypts by forced air or otherwise does not constitute a garden mausoleum as a community mausoleum;

[(19)**]** **(24)** "Government cemetery", or "municipal cemetery", a cemetery owned, operated, controlled or managed by the federal government, the state or a political subdivision of the state, including a county or municipality or instrumentality thereof;

[(20)**]** **(25)** "Grave" or "plot", a place of ground in a cemetery, used or intended to be used for burial of human remains;

[(21)**]** **(26)** "Human remains", the body of a deceased person in any state of decomposition, as well as cremated remains;

[(22)**]** **(27)** "Inurnment", placing an urn containing cremated remains in a burial space;

[(23)**]** **(28)** "Lawn crypt", a burial vault or other permanent container for a casket which is permanently installed below ground prior to the time of the actual interment. A lawn crypt may permit single or multiple interments in a grave space;

[(24)**]** **(29)** "Mausoleum", a structure or building for the entombment of human remains in crypts;

[(25)**]** **(30)** "Niche", a space in a columbarium used or intended to be used for inurnment of cremated remains;

[(26)**]** **(31)** "Nonendowed care cemetery", or "nonendowed cemetery", a cemetery or a section of a cemetery for which no endowed care **trust** fund has been established in accordance with sections 214.270 to 214.410;

(32) "Office", the office of endowed care cemeteries within the division of professional registration;

[(27)**]** **(33)** "Owner of burial space", a person to whom the cemetery operator or his authorized agent has transferred the right of use of burial space;

[(28)**]** **(34)** "Person", an individual, corporation, partnership, joint venture, association, trust or any other legal entity;

[(29)**]** **(35)** "Registry", the list of cemeteries maintained in the division office for public review. The division may charge a fee for copies of the registry;

[(30)**]** **(36)** "Religious cemetery", a cemetery owned, operated, controlled or managed by any church, convention of churches, religious order or affiliated auxiliary thereof in which the sale of burial space is restricted solely to its members and their immediate families;

[(31)**]** **(37)** "Surface lawn crypt", a sealed burial chamber whose lid protrudes above the land surface;

[(32)**]** **(38)** "Total acreage", the entire tract which is dedicated to or reserved for cemetery purposes;

[(33)**]** **(39)** "Trustee of an endowed care fund", the separate legal entity appointed as trustee of an endowed care fund.

214.280. ELECTION TO OPERATE AS ENDOWED CARE CEMETERY FILING WITH DIVISION OF REGISTRATION, FORM — FEE — DEPOSIT OF FEE — DIVISION'S POWERS AND DUTIES — RULES AUTHORIZED. — 1. Operators of all existing cemeteries shall, prior to August twenty-eighth following August 28, 1994, elect to operate each cemetery as an endowed care cemetery as defined in subdivision **[**(12)**]** **(16)** of section 214.270 and shall register such intention with the division and remit the required registration fee or, failing such election, shall operate each cemetery for which such election is not made as a nonendowed cemetery without regard to registration fees or penalties. Operators of all cemeteries hereafter established shall, within ninety days from the establishment thereof, elect to operate each cemetery as an "endowed care cemetery", or as a "nonendowed cemetery". Such election for newly established cemeteries shall be filed with the division, on a form provided by the division. Any such election made subsequent to August 28, 1994, shall be accompanied by a filing fee set by the division, and such fee shall be deposited in the endowed care cemetery audit fund as defined in section 193.265, RSMo. The fee authorized in this subsection shall not be required from an existing nonendowed cemetery.

2. The division may adopt rules establishing the conditions and procedures governing the circumstances where an endowed care cemetery elects to operate as a nonendowed care cemetery. In the event an endowed care cemetery elects to operate as a nonendowed care cemetery, the division shall make every effort to require such cemetery to meet all contractual obligations for the delivery of services entered into prior to it reverting to the status of a nonendowed cemetery.

214.330. ENDOWED CARE FUND HELD IN TRUST OR SEGREGATED ACCOUNT — REQUIREMENTS — DUTIES OF TRUSTEE OR INDEPENDENT INVESTMENT ADVISOR — OPERATOR'S DUTIES — ENDOWED CARE FUND AGREEMENT. — 1. The endowed care fund required by sections 214.270 to 214.410 shall be permanently set aside in trust or in accordance with the provisions of subsection 2 of this section. The trustee of the endowed care trust shall be a state- or federally chartered financial institution authorized to exercise trust powers in Missouri and located in this state. The income from the endowed care fund shall be distributed to the cemetery operator at least annually or in other convenient installments. The cemetery operator shall have the duty and responsibility to apply the income to provide care and maintenance only for that part of the cemetery in which burial space shall have been sold and with respect to which sales the endowed care fund shall have been established and not for any other purpose. The principal of such funds shall be kept intact and appropriately invested by the trustee, or the independent investment advisor. An endowed care trust agreement may provide that when the principal in an endowed care trust exceeds two hundred fifty thousand dollars, investment decisions regarding the principal and undistributed income may be made by a federally registered or Missouri-registered independent qualified investment advisor designated by the cemetery owner, relieving the trustee of all liability regarding investment decisions made by such qualified investment advisor. It shall be the duty of the trustee, or the investment advisor, in the investment of such funds to exercise the diligence and care men of ordinary prudence, intelligence and discretion would employ, but with a view to permanency of investment considering probable safety of capital investment, income produced and appreciation of capital investment. The trustee's duties shall be the maintenance of records and the accounting for and investment of moneys deposited by the operator to the endowed care fund. For the purposes of sections 214.270 to 214.410, the trustee or investment advisor shall not be deemed to be responsible for the care, the maintenance, or the operation of the cemetery, or for any other matter relating to the

cemetery, including, but not limited to, compliance with environmental laws and regulations. With respect to cemetery property maintained by cemetery care funds, the cemetery operator shall be responsible for the performance of the care and maintenance of the cemetery property owned by the cemetery operator and for the opening and closing of all graves, crypts, or niches for human remains in any cemetery property owned by the cemetery operator.

2. If the endowed care cemetery fund is not permanently set aside in a trust fund as required by subsection 1 of this section then the funds shall be permanently set aside in a segregated bank account which requires the signature of the cemetery owner and either the administrator of the office of endowed care cemeteries, or the signature of a licensed practicing attorney with escrow powers in this state as joint signatories for any distribution from the trust fund. No funds shall be expended without the signature of either the administrator of the office of endowed care cemeteries, or a licensed practicing attorney with escrow powers in this state. The account shall be insured by the Federal Deposit Insurance Corporation or comparable deposit insurance and held in the state- or federally chartered financial institution authorized to do business in Missouri and located in this state. The income from the endowed care fund shall be distributed to the cemetery operator at least in annual or semiannual installments. The cemetery operator shall have the duty and responsibility to apply the income to provide care and maintenance only for that part of the cemetery in which burial space shall have been sold and with respect to which sales the endowed care fund shall have been established and not for any other purpose. The principal of such funds shall be kept intact and appropriately invested by the cemetery operator with written approval of either the administrator of the office of endowed care cemeteries or a licensed practicing attorney with escrow powers in this state. It shall be the duty of the cemetery owner in the investment of such funds to exercise the diligence and care a person of reasonable prudence, intelligence and discretion would employ, but with a view to permanency of investment considering probable safety of capital investment, income produced and appreciation of capital investment. The cemetery owner's duties shall be the maintenance of records and the accounting for an investment of moneys deposited by the operator to the endowed care fund. For purposes of sections 214.270 to 214.410, the administrator of the office of endowed care cemeteries or the licensed practicing attorney with escrow powers in this state shall not be deemed to be responsible for the care, maintenance, or operation of the cemetery. With respect to cemetery property maintained by cemetery care funds, the cemetery operator shall be responsible for the performance of the care and maintenance of the cemetery property owned by the cemetery operator and for the opening and closing of all graves, crypts, or niches for human remains in any cemetery property owned by the cemetery operator.

3. The cemetery operator shall be accountable to the owners of burial space in the cemetery for compliance with sections 214.270 to 214.410.

4. All endowed care funds shall be administered in accordance with an endowed care fund agreement. The endowed care fund agreement shall be subject to review and approval by the office of endowed care cemeteries or by a licensed practicing attorney with escrow powers in this state. The endowed care cemetery shall be notified in writing by the office of endowed care cemeteries or by a licensed practicing attorney with escrow powers in this state regarding the approval or disapproval of the endowed care fund agreement and regarding any changes required to be made for compliance with this chapter and the rules and regulations promulgated thereunder. A copy of the proposed endowed care fund agreement shall be submitted to the office of endowed care cemeteries. The office of endowed care cemeteries or a licensed practicing attorney with escrow powers in this state shall notify the endowed care cemetery in writing of approval and of any required change. Any amendment or change to the endowed care fund agreement shall be submitted to the office of endowed care cemeteries or to a licensed practicing attorney with escrow powers in this state for review and approval. Said amendment or change shall not be effective until approved by the office of endowed care cemeteries or by a licensed practicing attorney with escrow powers in this state. All endowed care cemeteries shall be under a continuing duty to file with the office of endowed care cemeteries or with a licensed

practicing attorney with escrow powers in this state and to submit for approval any and all changes, amendment, or revisions of the endowed care fund agreement.

5. No principal shall be distributed from an endowed care trust fund except to the extent that a unitrust election is in effect with respect to such trust under the provisions of section 469.411, RSMo.

214.385. MOVING OF GRAVE MARKER, REPLACEMENT — DELIVERY OF ITEM OF BURIAL MERCHANDISE. — 1. If the operator of any cemetery or another authorized person moves a grave marker, memorial or monument in the cemetery for any reason, the operator or other authorized person shall replace the grave marker, memorial or monument to its original position within a reasonable time.

2. When the purchase price of **[**a monument, marker or memorial**]** **an item of burial merchandise** sold by a cemetery operator or its agent is paid in full, the cemetery operator shall make delivery of such property within a reasonable time. A cemetery operator may comply with this section by delivering to the purchaser of such property a valid warehouse receipt which may be presented to the cemetery operator at a later date for actual delivery.

214.387. BURIAL MERCHANDISE, DEFERRAL OF DELIVERY, WHEN — AUTHORIZED WITHDRAWALS. — 1. Upon written instructions from the purchaser of **[**a monument, marker or memorial, a cemetery may defer delivery of such property to a date designated by the purchaser, provided the cemetery operator, within forty-five days of the date the property is paid in full, deposits from its own funds an amount equal to one hundred ten percent of such property's wholesale cost into a segregated account. Funds deposited in a segregated account pursuant to this section and section 214.385 shall be maintained in such account until delivery of the property is made or the contract for the purchase of such property is canceled. No withdrawals may be made from the cemetery operator's segregated account established pursuant to this section and section 214.385 except as provided herein. The cemetery operator shall not commingle any other of its funds with the deposits made to the segregated account. Money in this account shall be invested utilizing the "prudent man theory" and is subject to audit by the division. Names and addresses of depositories of such money shall be submitted with the annual report.**] burial merchandise or burial services set forth in a cemetery prearranged contract, a cemetery may defer delivery of such burial merchandise or a warehouse receipt for the same under section 214.385, or performance of services, to a date designated by the purchaser, provided the cemetery operator, after deducting sales and administrative costs not to exceed twenty percent of the purchase price, deposits the remaining portion of the purchase price into an escrow or trust account as herein provided, within sixty days following receipt of payment from the purchaser. Funds so deposited pursuant to this section shall be maintained in such account until delivery of the property or the performance of services is made or the contract for the purchase of such property or services is cancelled. The account is subject to inspection, examination or audit by the division. No withdrawals may be made from the escrow or trust account established pursuant to this section except as herein provided**.

2. **[**If at the end of a calendar year the market value of the cemetery operator's segregated account exceeds the then current wholesale cost of all paid-in-full property which has not been delivered, the cemetery operator may withdraw from the segregated account all realized income earned by such account. If at the end of a calendar year the market value of the cemetery operator's segregated account is less than the then current wholesale cost of all paid-in-full property which has not been delivered, the cemetery operator shall only withdraw the realized income in excess of (i) the segregated account's market value at year end, plus (ii) all realized income accrued to the segregated account minus (iii) the wholesale cost of all paid-in-full property which has not been delivered.

3. Upon the delivery of a monument, marker or memorial sold by the cemetery or its agent, or the cancellation of the contract for the purchase of such property, the cemetery operator may withdraw from the segregated account an amount equal to (i) the market value of the segregated account based on the most recent account statement issued to the cemetery operator, times (ii) the ratio the delivered property's deposit in the account bears to the aggregate deposit of all property which is paid in full but not delivered. The segregated account may be inspected or audited by the division.

4.**]** Upon written instructions from the purchaser of an interment, entombment, or inurnment cemetery service, a cemetery may defer performance of such service to a date designated by the purchaser, provided the cemetery operator, within forty-five days of the date the agreement is paid in full, deposits from its own funds an amount equal to **[**forty**]** **eighty** percent of the published retail price into a trusteed account. Funds deposited in a trusteed account pursuant to this section and section 214.385 shall be maintained in such account until delivery of the service is made or the agreement for the purchase of the service is canceled. No withdrawals may be made from the trusteed account established pursuant to this section and section 214.385 except as provided herein. Money in this account shall be invested utilizing the "prudent man theory" and is subject to audit by the division. Names and addresses of depositories of such money shall be submitted with the annual report.

[5.**]** **3.** Upon the delivery of the internment, entombment, or inurnment cemetery service agreed upon by the cemetery or its agent, or the cancellation of the agreement for the purchase of such service, the cemetery operator may withdraw from the trusteed account an amount equal to (i) the market value of the trusteed account based on the most recent account statement issued to the cemetery operator, times (ii) the ratio the service's deposit in the account bears to the aggregate deposit of all services which are paid in full but not delivered. The trusteed account may be inspected or audited by the division.

[6.**]** **4.** The provisions of this section shall apply to all agreements entered into after August 28, 2002.

324.001. DIVISION OF PROFESSIONAL REGISTRATION ESTABLISHED, DUTIES — BOARDS AND COMMISSIONS ASSIGNED TO — REFERENCE TO DIVISION IN STATUTES. — 1. For the purposes of this section, the following terms mean:

(1) "Department", the department of insurance, financial institutions and professional registration;

(2) "Director", the director of the division of professional registration; and

(3) "Division", the division of professional registration.

2. There is hereby established a "Division of Professional Registration" assigned to the department of insurance, financial institutions and professional registration as a type III transfer, headed by a director appointed by the governor with the advice and consent of the senate. All of the general provisions, definitions and powers enumerated in section 1 of the Omnibus State Reorganization Act of 1974 and Executive Order 06-04 shall apply to this department and its divisions, agencies, and personnel.

3. The director of the division of professional registration shall promulgate rules and regulations which designate for each board or commission assigned to the division the renewal date for licenses or certificates. After the initial establishment of renewal dates, no director of the division shall promulgate a rule or regulation which would change the renewal date for licenses or certificates if such change in renewal date would occur prior to the date on which the renewal date in effect at the time such new renewal date is specified next occurs. Each board or commission shall by rule or regulation establish licensing periods of one, two, or three years. Registration fees set by a board or commission shall be effective for the entire licensing period involved, and shall not be increased during any current licensing period. Persons who are required to pay their first registration fees shall be allowed to pay the pro rata share of such fees for the remainder of the period remaining at the time the fees are paid. Each board or

commission shall provide the necessary forms for initial registration, and thereafter the director may prescribe standard forms for renewal of licenses and certificates. Each board or commission shall by rule and regulation require each applicant to provide the information which is required to keep the board's records current. **Each board or commission shall have the authority to collect and analyze information required to support workforce planning and policy development. Such information shall not be publicly disclosed so as to identify a specific health care provider, as defined in section 376.1350, RSMo.** Each board or commission shall issue the original license or certificate.

4. The division shall provide clerical and other staff services relating to the issuance and renewal of licenses for all the professional licensing and regulating boards and commissions assigned to the division. The division shall perform the financial management and clerical functions as they each relate to issuance and renewal of licenses and certificates. "Issuance and renewal of licenses and certificates" means the ministerial function of preparing and delivering licenses or certificates, and obtaining material and information for the board or commission in connection with the renewal thereof. It does not include any discretionary authority with regard to the original review of an applicant's qualifications for licensure or certification, or the subsequent review of licensee's or certificate holder's qualifications, or any disciplinary action contemplated against the licensee or certificate holder. The division may develop and implement microfilming systems and automated or manual management information systems.

5. The director of the division shall maintain a system of accounting and budgeting, in cooperation with the director of the department, the office of administration, and the state auditor's office, to ensure proper charges are made to the various boards for services rendered to them. The general assembly shall appropriate to the division and other state agencies from each board's funds moneys sufficient to reimburse the division and other state agencies for all services rendered and all facilities and supplies furnished to that board.

6. For accounting purposes, the appropriation to the division and to the office of administration for the payment of rent for quarters provided for the division shall be made from the "Professional Registration Fees Fund", which is hereby created, and is to be used solely for the purpose defined in subsection 5 of this section. The fund shall consist of moneys deposited into it from each board's fund. Each board shall contribute a prorated amount necessary to fund the division for services rendered and rent based upon the system of accounting and budgeting established by the director of the division as provided in subsection 5 of this section. Transfers of funds to the professional registration fees fund shall be made by each board on July first of each year; provided, however, that the director of the division may establish an alternative date or dates of transfers at the request of any board. Such transfers shall be made until they equal the prorated amount for services rendered and rent by the division. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue.

7. The director of the division shall be responsible for collecting and accounting for all moneys received by the division or its component agencies. Any money received by a board or commission shall be promptly given, identified by type and source, to the director. The director shall keep a record by board and state accounting system classification of the amount of revenue the director receives. The director shall promptly transmit all receipts to the department of revenue for deposit in the state treasury to the credit of the appropriate fund. The director shall provide each board with all relevant financial information in a timely fashion. Each board shall cooperate with the director by providing necessary information.

8. All educational transcripts, test scores, complaints, investigatory reports, and information pertaining to any person who is an applicant or licensee of any agency assigned to the division of professional registration by statute or by the department are confidential and may not be disclosed to the public or any member of the public, except with the written consent of the person whose records are involved. The agency which possesses the records or information shall disclose the records or information if the person whose records or information is involved has

consented to the disclosure. Each agency is entitled to the attorney-client privilege and work-product privilege to the same extent as any other person. Provided, however, that any board may disclose confidential information without the consent of the person involved in the course of voluntary interstate exchange of information, or in the course of any litigation concerning that person, or pursuant to a lawful request, or to other administrative or law enforcement agencies acting within the scope of their statutory authority. Information regarding identity, including names and addresses, registration, and currency of the license of the persons possessing licenses to engage in a professional occupation and the names and addresses of applicants for such licenses is not confidential information.

9. Any deliberations conducted and votes taken in rendering a final decision after a hearing before an agency assigned to the division shall be closed to the parties and the public. Once a final decision is rendered, that decision shall be made available to the parties and the public.

10. A compelling governmental interest shall be deemed to exist for the purposes of section 536.025, RSMo, for licensure fees to be reduced by emergency rule, if the projected fund balance of any agency assigned to the division of professional registration is reasonably expected to exceed an amount that would require transfer from that fund to general revenue.

11. (1) The following boards and commissions are assigned by specific type transfers to the division of professional registration: Missouri state board of accountancy, chapter 326, RSMo; board of cosmetology and barber examiners, chapters 328 and 329, RSMo; **[**state board of registration**]** **Missouri board** for architects, professional engineers **[**and**],** professional land surveyors and landscape architects, chapter 327, RSMo; **Missouri** state board of chiropractic examiners, chapter 331, RSMo; state board of registration for the healing arts, chapter 334, RSMo; Missouri dental board, chapter 332, RSMo; state board of embalmers and funeral directors, chapter 333, RSMo; state board of optometry, chapter 336, RSMo; **Missouri** state board of nursing, chapter 335, RSMo; board of pharmacy, chapter 338, RSMo; state board of **[**podiatry**]** **podiatric medicine**, chapter 330, RSMo; Missouri real estate **appraisers** commission, chapter 339, RSMo; and Missouri veterinary medical board, chapter 340, RSMo. The governor shall appoint members of these boards by and with the advice and consent of the senate.

(2) The boards and commissions assigned to the division shall exercise all their respective statutory duties and powers, except those clerical and other staff services involving collecting and accounting for moneys and financial management relating to the issuance and renewal of licenses, which services shall be provided by the division, within the appropriation therefor. Nothing herein shall prohibit employment of professional examining or testing services from professional associations or others as required by the boards or commissions on contract. Nothing herein shall be construed to affect the power of a board or commission to expend its funds as appropriated. However, the division shall review the expense vouchers of each board. The results of such review shall be submitted to the board reviewed and to the house and senate appropriations committees annually.

(3) Notwithstanding any other provisions of law, the director of the division shall exercise only those management functions of the boards and commissions specifically provided in the Reorganization Act of 1974, and those relating to the allocation and assignment of space, personnel other than board personnel, and equipment.

(4) "Board personnel", as used in this section or chapters 317, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, and 345, RSMo, shall mean personnel whose functions and responsibilities are in areas not related to the clerical duties involving the issuance and renewal of licenses, to the collecting and accounting for moneys, or to financial management relating to issuance and renewal of licenses; specifically included are executive secretaries (or comparable positions), consultants, inspectors, investigators, counsel, and secretarial support staff for these positions; and such other positions as are established and authorized by statute for a particular board or commission. Boards and commissions may employ legal counsel, if authorized by law, and temporary personnel if the board is unable to meet its responsibilities with the employees authorized above. Any board or commission which hires temporary employees

shall annually provide the division director and the appropriation committees of the general assembly with a complete list of all persons employed in the previous year, the length of their employment, the amount of their remuneration, and a description of their responsibilities.

(5) Board personnel for each board or commission shall be employed by and serve at the pleasure of the board or commission, shall be supervised as the board or commission designates, and shall have their duties and compensation prescribed by the board or commission, within appropriations for that purpose, except that compensation for board personnel shall not exceed that established for comparable positions as determined by the board or commission pursuant to the job and pay plan of the department of insurance, financial institutions and professional registration. Nothing herein shall be construed to permit salaries for any board personnel to be lowered except by board action.

12. All the powers, duties, and functions of the division of athletics, chapter 317, RSMo, and others, are assigned by type I transfer to the division of professional registration.

13. Wherever the laws, rules, or regulations of this state make reference to the "division of professional registration of the department of economic development", such references shall be deemed to refer to the division of professional registration.

324.065. BOARD DUTIES, MEETINGS, COMPENSATION — RULES, PROCEDURE. — 1. The board shall elect annually a chairperson and a vice chairperson from their number.

2. **(1)** The **[**division, in collaboration with the**]** board**[**,**]** shall adopt, implement, rescind, amend and administer such rules and regulations as may be necessary to carry out the provisions of sections 324.050 to 324.089. The **[**division, in collaboration with the**]** board**[**,**]** may promulgate necessary rules compatible with sections 324.050 to 324.089, including, but not limited to, rules relating to professional conduct, continuing competency requirements for renewal of licenses, approval of continuing competency programs and to the establishment of ethical standards of practice for persons holding a license or permit to practice occupational therapy in this state.

(2) The board shall establish all applicable fees and set an amount which shall not substantially exceed the cost of administering sections 324.050 to 324.089.

(3) The board shall approve or disapprove certifying entities for the profession of occupational therapy included in the scope of sections 324.050 to 324.089.

(4) The board may terminate recognition of any certifying entity included in the scope of sections 324.050 to 324.089 following a subsequent review of the certification of registration procedures of a certifying entity.

3. The board shall convene at the request of the director or as the board shall determine. The board shall hold regular meetings at least four times per year.

4. Each member of the board shall receive as compensation, an amount set by the division not to exceed fifty dollars per day, for each day devoted to the affairs of the board and may be reimbursed for actual and necessary expenses incurred in the performance of the member's official duties.

5. No rule or portion of a rule promulgated pursuant to the authority of sections 324.050 to 324.089 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

324.068. DIVISION OF PROFESSIONAL REGISTRATION DUTIES. — For the purpose of sections 324.050 to 324.089, the division shall:

(1) Employ, within the limits of the appropriations for that purpose, employees as are necessary to carry out the provisions of sections 324.050 to 324.089;

(2) Exercise all administrative functions; **and**

(3) **[**Establish all applicable fees; set at an amount which shall not substantially exceed the cost of administering sections 324.050 to 324.089;

(4)**]** Deposit all fees collected pursuant to sections 324.050 to 324.089, by transmitting such funds to the department of revenue for deposit to the state treasury to the credit of the Missouri board of occupational therapy fund**[**;

(5) Approve or disapprove certifying entities for the profession of occupational therapy included in the scope of sections 324.050 to 324.089; and

(6) The division may terminate recognition of any certifying entity included in the scope of sections 324.050 to 324.089 following a subsequent review of the certification of registration procedures of a certifying entity**]**.

324.071. APPLICATION FOR A LICENSE — CERTIFICATION, WHEN. — 1. The applicant applying for a license to practice occupational therapy shall provide evidence of being initially certified by a certifying entity and has completed an application for licensure and all applicable fees have been paid.

2. The certification requirement shall be waived for those persons who hold a current registration by the **[**division**]** **board** as an occupational therapist or occupational therapy assistant on August 28, 1997, provided that this application is made on or before October 31, 1997, and all applicable fees have been paid. All other requirements of sections 324.050 to 324.089 must be satisfied.

3. The person shall have no violations, suspensions, revocation or pending complaints for violation of regulations from a certifying entity or any governmental regulatory agency in the past five years.

4. The **[**division, in collaboration with the**]** board**[**,**]** may negotiate reciprocal contracts with other states, the District of Columbia, or territories of the United States which require standards for licensure, registration or certification considered to be equivalent or more stringent than the requirements for licensure pursuant to sections 324.050 to 324.089.

324.077. LIMITED PERMIT ISSUED, WHEN. — The **[**division, in collaboration with the**]** board**[**,**]** may issue a limited permit, upon the payment of applicable fees and completion of the required application, to a person who sufficiently provides proof of eligibility to set for the first available examination upon completion of all other necessary requirements for certification by the certifying entity. The limited permit shall allow the person to practice occupational therapy under the supervision of a person currently licensed pursuant to sections 324.050 to 324.089. A limited permit shall only be effective up to but not to exceed the time the results of the second available examination are received by the board unless the person successfully passes the examination in which instance the limited permit shall remain valid for an additional sixty days.

324.080. RENEWAL NOTICE SENT, WHEN — INACTIVE STATUS GRANTED, WHEN. — 1. The division shall mail a renewal notice to the last known address of each licensee prior to the renewal date. Failure to provide the division with the information required for renewal or to pay the required fee after such notice shall result in the license being declared inactive and the licensee shall not practice occupational therapy until he or she applies for reinstatement and pays the required fees. The license shall be restored if the application is received within two years of the renewal date.

2. Upon request, the division, in collaboration with the board, may grant inactive status to a licensee, if the person:

(1) Does not practice occupational therapy in the state of Missouri;

(2) Does not hold himself or herself out as an occupational therapist or an occupational therapy assistant in the state of Missouri;

(3) Maintains any continuing competency requirements established by the **[**division, in collaboration with the**]** board; and

(4) Remits any fee that may be required.

324.086. REFUSAL TO ISSUE LICENSE, WHEN — NOTIFICATION OF APPLICANT — COMPLAINT PROCEDURE. — 1. The board may refuse to issue or renew any certificate of registration or authority, permit or license required pursuant to sections 324.050 to 324.089 for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by sections 324.050 to 324.089 or any person who has failed to renew or has surrendered his or her certificate of registration or authority, permit or license for any one or any combination of the following causes:

(1) Use or unlawful possession of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of an occupational therapist or occupational therapy assistant;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated by sections 324.050 to 324.089, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any certificate of registration or authority, permit or license issued pursuant to sections 324.050 to 324.089 or in obtaining permission to take any examination given or required pursuant to sections 324.050 to 324.089;

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions and duties of any profession licensed or regulated by sections 324.050 to 324.089;

(6) Violation of, or assisting or enabling any person to violate, any provision of sections 324.050 to 324.089 or any lawful rule or regulation adopted pursuant to sections 324.050 to 324.089;

(7) Impersonation of any person holding a certificate of registration or authority, permit or license or allowing any person to use his or her certificate of registration or authority, permit, license or diploma from any school;

(8) Disciplinary action against the holder of a license or other right to practice any profession regulated by sections 324.050 to 324.089 granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(9) A person is finally adjudged insane or incompetent by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by sections 324.050 to 324.089 who is not registered and currently eligible to practice pursuant to sections 324.050 to 324.089;

(11) Issuance of a certificate of registration or authority, permit or license based upon a material mistake of fact;

(12) Violation of any professional trust or confidence;

(13) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(14) Unethical conduct as defined in the ethical standards for occupational therapists and occupational therapy assistants adopted by the **[**division**]** **board** and filed with the secretary of state;

(15) Violation of the drug laws or rules and regulations of this state, any other state or federal government.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds provided in subsection 2 of this section for disciplinary action are met, the board may, singly or in combination, censure or place the person named in the complaint on probation with such terms and conditions as the board deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or may revoke the license, certificate or permit.

4. An individual whose license has been revoked shall wait at least one year from the date of revocation to apply for relicensure. Relicensure shall be at the discretion of the board after compliance with all requirements of sections 324.050 to 324.089 relative to the licensing of the applicant for the first time.

324.089. VIOLATIONS OF SECTIONS 324.050 TO 324.089. — 1. Any person or corporation who knowingly violates any provision of sections 324.050 to 324.089 is guilty of a class B misdemeanor.

2. Any officer or agent of a corporation or member or agent of a partnership or association, who knowingly and personally participates in, or is an accessory to, any violation of sections 324.050 to 324.089 is guilty of a class B misdemeanor.

3. The provisions of this section shall not be construed to release any person from civil liability or criminal prosecution pursuant to any other law of this state.

4. The **[**division, in collaboration with the**]** board**[**,**]** may cause a complaint to be filed for any violation of sections 324.050 to 324.089 in any court of competent jurisdiction and perform such other acts as may be necessary to enforce the provisions of sections 324.050 to 324.089.

324.139. COMPETENCY EXAMINATION, NOTIFICATION OF RESULTS. — 1. To qualify for a license, an applicant shall pass a competency examination given by the American Board of Cardiovascular Perfusion or its successor organization.

2. Not later than forty-five days after the date on which a licensing examination is administered pursuant to sections 324.125 to 324.183, the **[**division**] board** shall notify each examinee of the results of the examination.

3. The board by rule shall establish:

(1) A limit on the number of times an applicant who fails an examination may retake the examination; and

(2) The requirements for reexamination and the amount of any reexamination fee.

324.141. LICENSE DISPLAYED PROMINENTLY AT LOCATION OF PRACTICE. — A person licensed pursuant to the provisions of sections 324.125 to 324.183 shall display the license certificate issued pursuant to sections 324.125 to 324.183 in a prominent place at the site, location or office from which such person practices such person's profession or such license holder shall maintain on file at all times during which the license holder provides services in a health care facility a true and correct copy of the license certificate in the appropriate records of the facility. A license holder shall inform the **[**division**] board** of any change of address for the license holder. A license certificate issued by the board is the property of the board and shall be surrendered upon demand.

324.212. APPLICATIONS FOR LICENSURE, FEES — RENEWAL NOTICES — DIETITIAN FUND ESTABLISHED. — 1. Applications for licensure as a dietitian shall be in writing, submitted to the committee on forms prescribed by the **[**division**] committee** and furnished to the applicant. The application shall contain the applicant's statements showing the applicant's education, experience and such other information as the committee may require. Each application shall

contain a statement that it is made under oath or affirmation and that the information contained therein is true and correct to the best knowledge and belief of the applicant, subject to the penalties provided for the making of a false affidavit or declaration. Each application shall be accompanied by the fees required by the committee.

2. The division shall mail a renewal notice to the last known address of each licensee prior to the renewal date. Failure to provide the committee with the information required for renewal, or to pay the renewal fee after such notice shall effect a noncurrent license. The license shall be reinstated if, within two years of the renewal date, the applicant submits the required documentation and pays the applicable fees as approved by the committee.

3. A new license to replace any license lost, destroyed or mutilated may be issued subject to the rules of the committee upon payment of a fee.

4. The committee shall set by rule the appropriate amount of fees authorized herein. The fees shall be set at a level to produce revenue which shall not exceed the cost and expense of administering the provisions of sections 324.200 to 324.225. All fees provided for in sections 324.200 to 324.225 shall be collected by the director who shall transmit the funds to the director of revenue to be deposited in the state treasury to the credit of the "Dietitian Fund" which is hereby created.

5. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds three times the amount of the appropriation from the dietitian fund for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the dietitian fund for the preceding fiscal year.

324.247. MASSAGE BUSINESS, LICENSE REQUIRED, APPLICATION, FEE, DISCIPLINE FOR FAILURE TO OBTAIN. — A person desiring to receive a license to operate a massage business in the state of Missouri shall file a written application with the board on a form prescribed by the **[**division**]** **board** and pay the appropriate required fee. It shall be unlawful for a business to employ or contract with any person in this state to provide massage therapy as defined in subdivision (7) of section 324.240 unless such person has obtained a license as provided by this chapter. Failure to comply with the provisions of this section shall be cause to discipline the licensee.

324.415. APPLICATIONS FOR REGISTRATION, FORM — PENALTIES. — Applications for registration as a registered interior designer shall be typewritten on forms prescribed by the **[**division**]** **council** and furnished to the applicant. The application shall contain the applicant's statements showing the applicant's education, experience, results of previous interior design certification, registration or licensing examinations, if any, and such other pertinent information as the council may require, or architect's registration number and such other pertinent information as the council may require. Each application shall contain a statement that is made under oath or affirmation and that the representations are true and correct to the best knowledge and belief of the person signing the application. The person shall be subject to the penalties for making a false affidavit or declaration and shall be accompanied by the required fee.

324.481. DUTIES OF BOARD — RULEMAKING AUTHORITY — ACUPUNCTURIST FUND CREATED, USE OF. — 1. The board shall upon recommendation of the committee license applicants who meet the qualifications for acupuncturists, who file for licensure, and who pay all fees required for this licensure.

2. **[**The division shall:

(1) Prescribe the design of all forms to be furnished to all persons seeking licensure pursuant to sections 324.475 to 324.499;

(2) Prescribe the form and design of the license to be issued pursuant to sections 324.475 to 324.499.

3.**]** The board shall:

(1) Maintain a record of all board and committee proceedings regarding sections 324.475 to 324.499 and of all acupuncturists licensed in this state;

(2) Annually prepare a roster of the names and addresses of all acupuncturists licensed in this state, copies of which shall be made available upon request to any person paying the fee therefor;

(3) Set the fee for the roster at an amount sufficient to cover the actual cost of publishing and distributing the roster;

(4) Adopt an official seal;

(5) **Prescribe the design of all forms to be furnished to all persons seeking licensure under sections 324.475 to 324.499;**

(6) Prescribe the form and design of the license to be issued under sections 324.475 to 324.499;

(7) Inform licensees of any changes in policy, rules or regulations;

[(6)**]** **(8)** Upon the recommendation of the committee, set all fees, by rule, necessary to administer the provisions of sections 324.475 to 324.499.

[4.**]** **3.** The board may with the approval of the advisory committee:

(1) Issue subpoenas to compel witnesses to testify or produce evidence in proceedings to deny, suspend or revoke licensure;

(2) Promulgate rules pursuant to chapter 536, RSMo, in order to carry out the provisions of sections 324.475 to 324.499 including, but not limited to, regulations establishing:

(a) Standards for the practice of acupuncture;

(b) Standards for ethical conduct in the practice of acupuncture;

(c) Standards for continuing professional education;

(d) Standards for the training and practice of auricular detox technicians, including specific enumeration of points which may be used.

[5.**]** **4.** Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated to administer and enforce sections 324.475 to 324.499, shall become effective only if the agency has fully complied with all of the requirements of chapter 536, RSMo, including but not limited to, section 536.028, RSMo, if applicable, after August 28, 1998. If the provisions of section 536.028, RSMo, apply, the provisions of this section are nonseverable and if any of the powers vested with the general assembly pursuant to section 536.028, RSMo, to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule are held unconstitutional or invalid, the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void, except that nothing in this section shall affect the validity of any rule adopted and promulgated prior to August 28, 1998.

[6.**]** **5.** All funds received by the board pursuant to the provisions of sections 324.240 to 324.275 shall be collected by the director who shall transmit the funds to the department of revenue for deposit in the state treasury to the credit of the "Acupuncturist Fund" which is hereby created.

[7.**]** **6.** Notwithstanding the provisions of section 33.080, RSMo, to the contrary, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds three times the amount of the appropriation from the acupuncturist fund for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the acupuncturist fund for the preceding fiscal year.

324.487. QUALIFICATIONS FOR LICENSURE. — 1. It is unlawful for any person to practice acupuncture in this state, unless such person:

(1) Possesses a valid license issued by the board pursuant to sections 324.475 to 324.499; or

(2) Is engaged in a supervised course of study that has been authorized by the committee approved by the board, and is designated and identified by a title that clearly indicates status as a trainee, and is under the supervision of a licensed acupuncturist.

2. A person may be licensed to practice acupuncture in this state if the applicant:

(1) Is twenty-one years of age or older and meets one of the following requirements:

(a) Is actively certified as a Diplomate in Acupuncture by the National Commission for the Certification of Acupuncture and Oriental Medicine; or

(b) Is actively licensed, certified or registered in a state or jurisdiction of the United States which has eligibility and examination requirements that are at least equivalent to those of the National Commission for the Certification of Acupuncture and Oriental Medicine, as determined by the committee and approved by the board; and

(2) Submits to the committee an application on a form prescribed by the **[**division**]** **committee**; and

(3) Pays the appropriate fee.

3. The board shall issue a certificate of licensure to each individual who satisfies the requirements of subsection 2 of this section, certifying that the holder is authorized to practice acupuncture in this state. The holder shall have in his or her possession at all times while practicing acupuncture, the license issued pursuant to sections 324.475 to 324.499.

327.442. DISCIPLINARY HEARING FOR CENSURE OF LICENSE TO BE HELD, WHEN. — 1. At such time as the final trial proceedings are concluded whereby a licensee, or any person who has failed to renew or has surrendered his or her certificate of licensure or authority, has been adjudicated and found guilty, or has entered a plea of guilty or nolo contendere, in a felony prosecution pursuant to the laws of this state, the laws of any other state, territory, or the laws of the United States of America for any offense reasonably related to the qualifications, functions, or duties of a licensee pursuant to this chapter or any felony offense, an essential element of which is fraud, dishonesty, or an act of violence, or for any felony offense involving moral turpitude, whether or not sentence is imposed, the board for architects, professional engineers, professional land surveyors and landscape architects may hold a disciplinary hearing to singly or in combination censure or place the licensee named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke the license or certificate.

2. Anyone who has been revoked or denied a license or certificate to practice in another state may automatically be denied a license or certificate to practice in this state. However, the board for architects, professional engineers, professional land surveyors and landscape architects may establish other qualifications by which a person may ultimately be qualified and licensed to practice in Missouri.

328.115. BARBER ESTABLISHMENTS, LICENSURE REQUIREMENTS — SANITARY REGULATIONS, NONCOMPLIANCE, EFFECT — RENEWAL OF LICENSE, FEE — DELINQUENT FEE. — 1. The owner of every **[**shop or**]** establishment in which the occupation of barbering is practiced shall obtain a license for such **[**shop or**]** establishment issued by the board before barbering is practiced therein. A new license shall be obtained for a barber establishment within forty-five days when the establishment changes ownership or location. The state inspector shall inspect the sanitary conditions required for licensure, established under subsection 2 of this section, for an establishment that has changed ownership or location without requiring the owner to close business or deviate in any way from the establishment's regular hours of operation.

2. The board shall issue a license for a **[**shop or**]** establishment upon receipt of the license fee from the applicant if the board finds that the **[**shop or**]** establishment complies with the

sanitary regulations adopted pursuant to section **[**328.060**]** **329.025, RSMo**. All barber establishments shall continue to comply with the sanitary regulations. Failure of a barber establishment to comply with the sanitary regulations shall be grounds for the board to file a complaint with the administrative hearing commission to revoke, suspend, or censure the establishment's license or place the establishment's license on probation.

3. The license for a barber establishment shall be renewable. The applicant for renewal of the license shall on or before the renewal date submit the completed renewal application accompanied by the required renewal fee. If the renewal application and fee are not submitted within thirty days following the renewal date, a penalty fee plus the renewal fee shall be paid to renew the license. If a new establishment opens any time during the licensing period and does not register a license before opening, there shall be a delinquent fee in addition to the regular fee. The license shall be kept posted in plain view within the barber establishment at all times.

328.150. DENIAL, REVOCATION, OR SUSPENSION OF CERTIFICATE, GROUNDS FOR. — 1. The board may refuse to issue any certificate of registration or authority, permit or license required pursuant to this chapter for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter **[**161**]** **621**, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered his certificate of registration or authority, permit or license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by this chapter;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any certificate of registration or authority, permit or license issued pursuant to this chapter or in obtaining permission to take any examination given or required pursuant to this chapter;

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant to this chapter;

(7) Impersonation of any person holding a certificate of registration or authority, permit or license or allowing any person to use his or her certificate of registration or authority, permit, license or diploma from any school;

(8) Disciplinary action against the holder of a license or other right to practice any profession regulated by this chapter granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(9) A person is finally adjudged insane or incompetent by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by this chapter who is not registered and currently eligible to practice under this chapter;

(11) Issuance of a certificate of registration or authority, permit or license based upon a material mistake of fact;

(12) Failure to display a valid certificate or license if so required by this chapter or any rule promulgated hereunder;

(13) Violation of any professional trust or confidence;

(14) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(15) Failure or refusal to properly guard against contagious, infectious or communicable diseases or the spread thereof.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2, for disciplinary action are met, the board may, singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke the license, certificate, or permit.

328.160. PENALTY FOR VIOLATION OF PROVISIONS OF CHAPTER. — Any person practicing the occupation of barbering without having obtained a license as provided in this chapter, or willfully employing a barber who does not hold a valid license issued by the board, managing or conducting a barber school or college without first securing a license from the board, or falsely pretending to be qualified to practice as a barber or instructor or teacher of such occupation under this chapter, or failing to keep any license required by this chapter properly displayed or for any extortion or overcharge practiced, and any barber college, firm, corporation or person operating or conducting a barber college without first having secured the license required by this chapter, or failing to comply with such sanitary rules as the board**[**, in conjunction with the department of health and senior services,**]** prescribes, or for the violation of any of the provisions of this chapter, shall be deemed guilty of a class C misdemeanor. Prosecutions under this chapter shall be initiated and carried on in the same manner as other prosecutions for misdemeanors in this state.

332.112. VOLUNTEER LICENSE, REQUIREMENTS — RENEWAL — LIMITATION ON PRACTICE — NO APPLICATION FEE. — 1. A person desiring to obtain a volunteer license to practice dentistry shall:

(1) Submit to the board a verified affidavit stating that he or she has been licensed to practice dentistry in Missouri or in any state or territory of the United States or the District of Columbia for at least ten years and has not allowed that license to lapse or expire for a period of time greater than four years immediately preceding the date of application for a volunteer license, is retired from the practice of dentistry, and that his or her license was in good standing at retirement; and

(2) Meet the requirements in section 332.151.

2. Effective with the licensing period beginning on December 1, 2010, a volunteer license to practice dentistry shall be renewed every two years. To renew a license, each dentist shall submit satisfactory evidence of current certification in the American Heart Association's Basic Life Support (BLS), Advanced Cardiac Life Support (ACLS), or certification equivalent to BLS or ACLS and completion of forty hours of board-approved continuing education during the two-year period immediately preceding the renewal period. Continuing education hours earned towards certification in BLS or ACLS may be applied towards the forty hours of continuing education required for renewal. Each dentist shall maintain documentation of completion of the required continuing education hours for a minimum of six years after the reporting period in which the continuing education was completed. The board, solely in its discretion, may allow a dentist working at a facility outlined in subsection 3 of section 332.112 to credit time spent working in that

facility towards the forty hour continuing education requirement for renewal. The board, solely in its discretion, may waive or extend the time requirements for completion of continuing education for reasons related to health, military service, foreign residency, or for other good cause. All requests for credit for continuing education hours and requests for waivers or extensions of time shall be made in writing and submitted to the board before the renewal date.

3. A dentist with a volunteer license may only provide without compensation dental care and preventative care services to family members or at facilities operated by city or county health departments organized under chapter 192, RSMo, or chapter 205, RSMo, city health departments operating under city charters, combined city-county health centers, public elementary or secondary schools, federally funded community health centers, or nonprofit community health centers.

4. The board shall not charge a fee for any application for a volunteer license to practice dentistry nor to renew a volunteer license to practice dentistry.

332.113. VOLUNTEER DENTAL HYGIENIST LICENSE, REQUIREMENTS — RENEWAL — LIMITATION ON PRACTICE — NO APPLICATION FEE. — 1. A person desiring to obtain a volunteer license to practice as a dental hygienist shall:

(1) Submit to the board a verified affidavit stating that he or she has been licensed to practice as a dental hygienist in Missouri or in any state or territory of the United States or the District of Columbia for at least ten years, and has not allowed that license to lapse or expire for a period of time greater than four years immediately preceding the date of application for a volunteer license is retired from practicing as a dental hygienist, and that his or her license was in good standing at retirement; and

(2) Meet the requirements in sections 332.251 or 332.281 and 332.231.

2. Effective with the licensing period beginning on December 1, 2010, a volunteer license to practice dental hygiene shall be renewed every two years. To renew a license, each dental hygienist shall submit satisfactory evidence of current certification in the American Heart Association's Basic Life Support (BLS), Advanced Cardiac Life Support (ACLS), or certification equivalent to BLS or ACLS and completion of twenty- five hours of board-approved continuing education during the two-year period immediately preceding the renewal period. Continuing education hours earned towards certification in BLS or ACLS may be applied towards the twenty-five hours of continuing education required for renewal. Each dental hygienist shall maintain documentation of completion of the required continuing education hours for a minimum of six years after the reporting period in which the continuing education was completed. The board, solely in its discretion, may allow a dental hygienist working at a facility outlined in subsection 3 of this section to credit time spent working in that facility towards the twenty five hour continuing education requirement for renewal. The board, solely in its discretion, may waive or extend the time requirements for completion of continuing education for reasons related to health, military service, foreign residency, or for other good cause. All requests for credit for continuing education hours and requests for waivers or extensions of time shall be made in writing and submitted to the board before the renewal date.

3. A dental hygienist with a volunteer license may only provide without compensation dental hygiene care and preventative care services to family members or at facilities operated by city or county health departments organized under chapter 192, RSMo, or chapter 205, RSMo, city health departments operating under city charters, combined city-county health centers, public elementary or secondary schools, federally funded community health centers, or nonprofit community health centers.

4. The board shall not charge a fee for any application for a volunteer license to practice dental hygiene nor to renew a volunteer license to practice dental hygiene.

334.735. DEFINITIONS — RULES — SCOPE OF PRACTICE — PROHIBITED ACTIVITIES — BOARD OF HEALING ARTS TO ADMINISTER LICENSING PROGRAM — SUPERVISION AGREEMENTS — DUTIES AND LIABILITY OF PHYSICIANS. — 1. As used in sections 334.735 to 334.749, the following terms mean:

(1) "Applicant", any individual who seeks to become licensed as a physician assistant;

(2) "Certification" or "registration", a process by a certifying entity that grants recognition to applicants meeting predetermined qualifications specified by such certifying entity;

(3) "Certifying entity", the nongovernmental agency or association which certifies or registers individuals who have completed academic and training requirements;

(4) "Department", the department of insurance, financial institutions and professional registration or a designated agency thereof;

(5) "License", a document issued to an applicant by the board acknowledging that the applicant is entitled to practice as a physician assistant;

(6) "Physician assistant", a person who has graduated from a physician assistant program accredited by the American Medical Association's Committee on Allied Health Education and Accreditation or by its successor agency, who has passed the certifying examination administered by the National Commission on Certification of Physician Assistants and has active certification by the National Commission on Certification of Physician Assistants who provides health care services delegated by a licensed physician. A person who has been employed as a physician assistant for three years prior to August 28, 1989, who has passed the National Commission on Certification of Physician Assistants examination, and has active certification of the National Commission on Certification of Physician Assistants;

(7) "Recognition", the formal process of becoming a certifying entity as required by the provisions of sections 334.735 to 334.749;

(8) "Supervision", control exercised over a physician assistant working within the same facility as the supervising physician sixty-six percent of the time a physician assistant provides patient care, except a physician assistant may make follow-up patient examinations in hospitals, nursing homes, patient homes, and correctional facilities, each such examination being reviewed, approved and signed by the supervising physician, except as provided by subsection 2 of this section. For the purposes of this section, the percentage of time a physician assistant provides patient care with the supervising physician on-site shall be measured each calendar quarter. The supervising physician must be readily available in person or via telecommunication during the time the physician assistant is providing patient care. The board shall promulgate rules pursuant to chapter 536, RSMo, for documentation of joint review of the physician assistant activity by the supervising physician and the physician assistant. The physician assistant shall be limited to practice at locations where the supervising physician is no further than thirty miles by road using the most direct route available, or in any other fashion so distanced as to create an impediment to effective intervention and supervision of patient care or adequate review of services. Any other provisions of this chapter notwithstanding, for up to ninety days following the effective date of rules promulgated by the board to establish the waiver process under subsection 2 of this section, any physician assistant practicing in a health professional shortage area as of April 1, 2007, shall be allowed to practice under the on-site requirements stipulated by the supervising physician on the supervising physician form that was in effect on April 1, 2007.

2. The board shall promulgate rules under chapter 536, RSMo, to direct the advisory commission on physician assistants to establish a formal waiver mechanism by which an individual physician-physician assistant team may apply for alternate minimum amounts of on-site supervision and maximum distance from the supervising physician. After review of an application for a waiver, the advisory commission on physician assistants shall present its recommendation to the board for its advice and consent on the approval or denial of the application. The rule shall establish a process by which the public is invited to comment on the application for a waiver, and shall specify that a waiver may only be granted if a supervising

physician and physician assistant demonstrate to the board's satisfaction in accordance with its uniformly applied criteria that:

(1) Adequate supervision will be provided by the physician for the physician assistant, given the physician assistant's training and experience and the acuity of patient conditions normally treated in the clinical setting;

(2) The physician assistant shall be limited to practice at locations where the supervising physician is no further than fifty miles by road using the most direct route available, or in any other fashion so distanced as to create an impediment to effective intervention and supervision of patient care or adequate review of services;

(3) The community or communities served by the supervising physician and physician assistant would experience reduced access to health care services in the absence of a waiver; **[**and**]**

(4) The applicant will practice in an area designated at the time of application as a health professional shortage area;

(5) Nothing in this section shall be construed to require a physician-physician assistant team to increase their on-site requirement allowed in their initial waiver in order to qualify for renewal of such waiver**;**

(6) If a waiver has been granted by the board of healing arts to a physician assistant working in a rural health clinic under the federal Rural Health Clinic Services Act, P.L. 95-210, as amended, no additional waiver shall be required, so long as the rural health clinic maintains its status as a rural health clinic under such federal act, and such physician assistant and supervising physician comply with federal supervision requirements;

(7) A physician assistant shall only be required to seek a renewal of a waiver every five years or when his or her supervising physician is a different physician than the physician shown on the waiver application or they move their primary practice location more than ten miles from the location shown on the waiver application.

3. The scope of practice of a physician assistant shall consist only of the following services and procedures:

(1) Taking patient histories;

(2) Performing physical examinations of a patient;

(3) Performing or assisting in the performance of routine office laboratory and patient screening procedures;

(4) Performing routine therapeutic procedures;

(5) Recording diagnostic impressions and evaluating situations calling for attention of a physician to institute treatment procedures;

(6) Instructing and counseling patients regarding mental and physical health using procedures reviewed and approved by a licensed physician;

(7) Assisting the supervising physician in institutional settings, including reviewing of treatment plans, ordering of tests and diagnostic laboratory and radiological services, and ordering of therapies, using procedures reviewed and approved by a licensed physician;

(8) Assisting in surgery;

(9) Performing such other tasks not prohibited by law under the supervision of a licensed physician as the physician's assistant has been trained and is proficient to perform;

(10) Physician assistants shall not perform abortions.

4. Physician assistants shall not prescribe nor dispense any drug, medicine, device or therapy independent of consultation with the supervising physician, nor prescribe lenses, prisms or contact lenses for the aid, relief or correction of vision or the measurement of visual power or visual efficiency of the human eye, nor administer or monitor general or regional block anesthesia during diagnostic tests, surgery or obstetric procedures. Prescribing and dispensing of drugs, medications, devices or therapies by a physician assistant shall be pursuant to a

physician assistant supervision agreement which is specific to the clinical conditions treated by the supervising physician and the physician assistant shall be subject to the following:

(1) A physician assistant shall **[**not**] only** prescribe controlled substances **in accordance with section 334.747**;

(2) The types of drugs, medications, devices or therapies prescribed or dispensed by a physician assistant shall be consistent with the scopes of practice of the physician assistant and the supervising physician;

(3) All prescriptions shall conform with state and federal laws and regulations and shall include the name, address and telephone number of the physician assistant and the supervising physician;

(4) A physician assistant or advanced practice nurse as defined in section 335.016, RSMo, may request, receive and sign for noncontrolled professional samples and may distribute professional samples to patients;

(5) A physician assistant shall not prescribe any drugs, medicines, devices or therapies the supervising physician is not qualified or authorized to prescribe; and

(6) A physician assistant may only dispense starter doses of medication to cover a period of time for seventy-two hours or less.

5. A physician assistant shall clearly identify himself or herself as a physician assistant and shall not use or permit to be used in the physician assistant's behalf the terms "doctor", "Dr." or "doc" nor hold himself or herself out in any way to be a physician or surgeon. No physician assistant shall practice or attempt to practice without physician supervision or in any location where the supervising physician is not immediately available for consultation, assistance and intervention, except as otherwise provided in this section, and in an emergency situation, nor shall any physician assistant bill a patient independently or directly for any services or procedure by the physician assistant.

6. For purposes of this section, the licensing of physician assistants shall take place within processes established by the state board of registration for the healing arts through rule and regulation. The board of healing arts is authorized to establish rules pursuant to chapter 536, RSMo, establishing licensing and renewal procedures, supervision, supervision agreements, fees, and addressing such other matters as are necessary to protect the public and discipline the profession. An application for licensing may be denied or the license of a physician assistant may be suspended or revoked by the board in the same manner and for violation of the standards as set forth by section 334.100, or such other standards of conduct set by the board by rule or regulation. Persons licensed pursuant to the provisions of chapter 335, RSMo, shall not be required to be licensed as physician assistants. All applicants for physician assistant licensure who complete a physician assistant training program after January 1, 2008, shall have a master's degree from a physician assistant program.

7. "Physician assistant supervision agreement" means a written agreement, jointly agreed-upon protocols or standing order between a supervising physician and a physician assistant, which provides for the delegation of health care services from a supervising physician to a physician assistant and the review of such services.

8. When a physician assistant supervision agreement is utilized to provide health care services for conditions other than acute self-limited or well-defined problems, the supervising physician or other physician designated in the supervision agreement shall see the patient for evaluation and approve or formulate the plan of treatment for new or significantly changed conditions as soon as practical, but in no case more than two weeks after the patient has been seen by the physician assistant.

9. At all times the physician is responsible for the oversight of the activities of, and accepts responsibility for, health care services rendered by the physician assistant.

10. It is the responsibility of the supervising physician to determine and document the completion of at least a one-month period of time during which the licensed physician assistant

shall practice with a supervising physician continuously present before practicing in a setting where a supervising physician is not continuously present.

11. No contract or other agreement shall require a physician to act as a supervising physician for a physician assistant against the physician's will. A physician shall have the right to refuse to act as a supervising physician, without penalty, for a particular physician assistant. No contract or other agreement shall limit the supervising physician's ultimate authority over any protocols or standing orders or in the delegation of the physician's authority to any physician assistant, but this requirement shall not authorize a physician in implementing such protocols, standing orders, or delegation to violate applicable standards for safe medical practice established by hospital's medical staff.

12. Physician assistants shall file with the board a copy of their supervising physician form.

13. No physician shall be designated to serve as supervising physician for more than three full-time equivalent licensed physician assistants. This limitation shall not apply to physician assistant agreements of hospital employees providing inpatient care service in hospitals as defined in chapter 197, RSMo.

334.747. PRESCRIBING CONTROLLED SUBSTANCES AUTHORIZED, WHEN — SUPERVISING PHYSICIANS — CERTIFICATION. — 1. A physician assistant with a certificate of controlled substance prescriptive authority as provided in this section may prescribe any controlled substance listed in schedule III, IV, or V of section 195.017, RSMo, when delegated the authority to prescribe controlled substances in a supervision agreement. Such authority shall be listed on the supervision verification form on file with the state board of healing arts. The supervising physician shall maintain the right to limit a specific scheduled drug or scheduled drug category that the physician assistant is permitted to prescribe. Any limitations shall be listed on the supervision form. Physician assistants shall not prescribe controlled substances for themselves or members of their families. Schedule III controlled substances shall be limited to a five-day supply without refill. Physician assistants who are authorized to prescribe controlled substances under this section shall register with the federal Drug Enforcement Administration and the state bureau of narcotics and dangerous drugs, and shall include such registration numbers on prescriptions for controlled substances.

2. The supervising physician shall be responsible to determine and document the completion of at least one hundred twenty hours in a four-month period by the physician assistant during which the physician assistant shall practice with the supervising physician on-site prior to prescribing controlled substances when the supervising physician is not on-site. Such limitation shall not apply to physician assistants of population-based public health services as defined in 20 CSR 2150-5.100 as of April 30, 2009.

3. A physician assistant shall receive a certificate of controlled substance prescriptive authority from the board of healing arts upon verification of the completion of the following educational requirements:

(1) Successful completion of an advanced pharmacology course that includes clinical training in the prescription of drugs, medicines, and therapeutic devices. A course or courses with advanced pharmacological content in a physician assistant program accredited by the Accreditation Review Commission on Education for the Physician Assistant (ARC-PA) or its predecessor agency shall satisfy such requirement;

(2) Completion of a minimum of three hundred clock hours of clinical training by the supervising physician in the prescription of drugs, medicines, and therapeutic devices;

(3) Completion of a minimum of one year of supervised clinical practice or supervised clinical rotations. One year of clinical rotations in a program accredited by the Accreditation Review Commission on Education for the Physician Assistant (ARC-PA) or its predecessor agency, which includes pharmacotherapeutics as a component of its

clinical training, shall satisfy such requirement. Proof of such training shall serve to document experience in the prescribing of drugs, medicines, and therapeutic devices;

(4) A physician assistant previously licensed in a jurisdiction where physician assistants are authorized to prescribe controlled substances may obtain a state bureau of narcotics and dangerous drugs registration if a supervising physician can attest that the physician assistant has met the requirements of subdivisions (1) to (3) of this subsection and provides documentation of existing federal Drug Enforcement Agency registration.

334.850. PERSONNEL PROVIDED THROUGH DIVISION OF PROFESSIONAL REGISTRATION, DUTIES — RULEMAKING. — The division of professional registration shall provide all necessary personnel to carry out the provisions of sections 334.800 to 334.930. The division shall:

(1) Exercise all budgeting, purchasing, reporting and other related management functions;

(2) **[**Establish application and licensure fees, in cooperation with the board, and collect such fees;

(3)**]** Deposit all fees collected pursuant to sections 334.800 to 334.930 by transmitting such funds to the department of revenue for deposit to the state treasury to the credit of the "Respiratory Care Practitioners Fund", which is hereby created. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriations from the fund for the preceding fiscal year, or three times the amount if the board requires renewal of licenses less often than annually. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the fund for the preceding fiscal year;

[(4)**] (3)** Process applications and notify licensees when a license is to expire;

[(5)**] (4)** Establish the amount the board shall receive as per diem for each day devoted to the member's official duties on the board and reimburse any actual and necessary expenses a board member incurs in the performance of the member's official duties;

[(6)**] (5)** Promulgate, in cooperation with the board, such rules and regulations as are necessary to administer the provisions of sections 334.800 to 334.930. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in sections 334.800 to 334.930 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions of law. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

NURSE LICENSURE COMPACT
ARTICLE I

335.300. FINDINGS AND DECLARATION OF PURPOSE. —1. The party states find that:

(1) The health and safety of the public are affected by the degree of compliance with and the effectiveness of enforcement activities related to state nurse licensure laws;

(2) Violations of nurse licensure and other laws regulating the practice of nursing may result in injury or harm to the public;

(3) The expanded mobility of nurses and the use of advanced communication technologies as part of our nation's healthcare delivery system require greater coordination and cooperation among states in the areas of nurse licensure and regulation;

(4) New practice modalities and technology make compliance with individual state nurse licensure laws difficult and complex;

(5) The current system of duplicative licensure for nurses practicing in multiple states is cumbersome and redundant to both nurses and states.

2. The general purposes of this compact are to:

(1) Facilitate the states' responsibility to protect the public's health and safety;

(2) Ensure and encourage the cooperation of party states in the areas of nurse licensure and regulation;

(3) Facilitate the exchange of information between party states in the areas of nurse regulation, investigation, and adverse actions;

(4) Promote compliance with the laws governing the practice of nursing in each jurisdiction;

(5) Invest all party states with the authority to hold a nurse accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered through the mutual recognition of party state licenses.

ARTICLE II

335.305. DEFINITIONS. — As used in this compact, the following terms shall mean:

(1) "Adverse action", a home or remote state action;

(2) "Alternative program", a voluntary, non-disciplinary monitoring program approved by a nurse licensing board;

(3) "Coordinated licensure information system", an integrated process for collecting, storing, and sharing information on nurse licensure and enforcement activities related to nurse licensure laws, which is administered by a non-profit organization composed of and controlled by state nurse licensing boards;

(4) "Current significant investigative information":

(a) Investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the nurse to respond if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or

(b) Investigative information that indicates that the nurse represents an immediate threat to public health and safety regardless of whether the nurse has been notified and had an opportunity to respond;

(5) "Home state", the party state that is the nurse's primary state of residence;

(6) "Home state action", any administrative, civil, equitable, or criminal action permitted by the home state's laws that are imposed on a nurse by the home state's licensing board or other authority including actions against an individual's license such as: revocation, suspension, probation, or any other action affecting a nurse's authorization to practice;

(7) "Licensing board", a party state's regulatory body responsible for issuing nurse licenses;

(8) "Multistate licensing privilege", current, official authority from a remote state permitting the practice of nursing as either a registered nurse or a licensed practical/vocational nurse in such party state. All party states have the authority, in accordance with existing state due process law, to take actions against the nurse's privilege such as: revocation, suspension, probation, or any other action that affects a nurse's authorization to practice;

(9) "Nurse", a registered nurse or licensed/vocational nurse, as those terms are defined by each state's practice laws;

(10) "Party state", any state that has adopted this compact;

(11) "Remote state", a party state, other than the home state:

(a) Where a patient is located at the time nursing care is provided; or

(b) In the case of the practice of nursing not involving a patient, in such party state where the recipient of nursing practice is located;

(12) "Remote state action":

(a) Any administrative, civil, equitable, or criminal action permitted by a remote state's laws which are imposed on a nurse by the remote state's licensing board or other authority including actions against an individual's multistate licensure privilege to practice in the remote state; and

(b) Cease and desist and other injunctive or equitable orders issued by remote states or the licensing boards thereof;

(13) "State", a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico;

(14) "State practice laws", those individual party's state laws and regulations that govern the practice of nursing, define the scope of nursing practice, and create the methods and grounds for imposing discipline. State practice laws does not include the initial qualifications for licensure or requirements necessary to obtain and retain a license, except for qualifications or requirements of the home state.

ARTICLE III

335.310. GENERAL PROVISIONS AND JURISDICTION. — 1. A license to practice registered nursing issued by a home state to a resident in that state will be recognized by each party state as authorizing a multistate licensure privilege to practice as a registered nurse in such party state. A license to practice licensed practical/vocational nursing issued by a home state to a resident in that state will be recognized by each party state as authorizing a multistate licensure privilege to practice as a licensed practical/vocational nurse in such party state. In order to obtain or retain a license, an applicant must meet the home state's qualifications for licensure and license renewal as well as all other applicable state laws.

2. Party states may, in accordance with state due process laws, limit or revoke the multistate licensure privilege of any nurse to practice in their state and may take any other actions under their applicable state laws necessary to protect the health and safety of their citizens. If a party state takes such action, it shall promptly notify the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the home state of any such actions by remote states.

3. Every nurse practicing in a party state must comply with the state practice laws of the state in which the patient is located at the time care is rendered. In addition, the practice of nursing is not limited to patient care, but shall include all nursing practice as defined by the state practice laws of a party state. The practice of nursing will subject a nurse to the jurisdiction of the nurse licensing board and the courts, as well as the laws, in that party state.

4. This compact does not affect additional requirements imposed by states for advanced practice registered nursing. However, a multistate licensure privilege to practice registered nursing granted by a party state shall be recognized by other party states as a license to practice registered nursing if one is required by state law as a precondition for qualifying for advanced practice registered nurse authorization.

5. Individuals not residing in a party state shall continue to be able to apply for nurse licensure as provided for under the laws of each party state. However, the license granted to these individuals will not be recognized as granting the privilege to practice nursing in any other party state unless explicitly agreed to by that party state.

ARTICLE IV

335.315. APPLICATIONS FOR LICENSURE IN A PARTY STATE. — 1. Upon application for a license, the licensing board in a party state shall ascertain, through the coordinated licensure information system, whether the applicant has ever held, or is the holder of, a

license issued by any other state, whether there are any restrictions on the multistate licensure privilege, and whether any other adverse action by any state has been taken against the license.

2. A nurse in a party state shall hold licensure in only one party state at a time, issued by the home state.

3. A nurse who intends to change primary state of residence may apply for licensure in the new home state in advance of such change. However, new licenses will not be issued by a party state until after a nurse provides evidence of change in primary state of residence satisfactory to the new home state's licensing board.

4. When a nurse changes primary state of residence by:

(1) Moving between two party states, and obtains a license from the new home state, the license from the former home state is no longer valid;

(2) Moving from a non-party state to a party state, and obtains a license from the new home state, the individual state license issued by the non-party state is not affected and will remain in full force if so provided by the laws of the non-party state;

(3) Moving from a party state to a non-party state, the license issued by the prior home state converts to an individual state license, valid only in the former home state, without the multistate licensure privilege to practice in other party states.

ARTICLE V

335.320. ADVERSE ACTIONS. — In addition to the general provisions described in article III of this compact, the following provisions apply:

(1) The licensing board of a remote state shall promptly report to the administrator of the coordinated licensure information system any remote state actions including the factual and legal basis for such action, if known. The licensing board of a remote state shall also promptly report any significant current investigative information yet to result in a remote state action. The administrator of the coordinated licensure information system shall promptly notify the home state of any such reports;

(2) The licensing board of a party state shall have the authority to complete any pending investigations for a nurse who changes primary state of residence during the course of such investigations. It shall also have the authority to take appropriate actions, and shall promptly report the conclusions of such investigations to the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any such actions;

(3) A remote state may take adverse action affecting the multistate licensure privilege to practice within that party state. However, only the home state shall have the power to impose adverse action against the license issued by the home state;

(4) For purposes of imposing adverse action, the licensing board of the home state shall give the same priority and effect to reported conduct received from a remote state as it would if such conduct had occurred within the home state, in so doing, it shall apply its own state laws to determine appropriate action;

(5) The home state may take adverse action based on the factual findings of the remote state, so long as each state follows its own procedures for imposing such adverse action;

(6) Nothing in this compact shall override a party state's decision that participation in an alternative program may be used in lieu of licensure action and that such participation shall remain non-public if required by the party state's laws. Party states must require nurses who enter any alternative programs to agree not to practice in any other party state during the term of the alternative program without prior authorization from such other party state.

ARTICLE VI

335.325. ADDITIONAL AUTHORITIES INVESTED IN PARTY STATE NURSE LICENSING BOARDS. — Notwithstanding any other powers, party state nurse licensing boards shall have the authority to:

(1) If otherwise permitted by state law, recover from the affected nurse the costs of investigations and disposition of cases resulting from any adverse action taken against that nurse;

(2) Issue subpoenas for both hearings and investigations which require the attendance and testimony of witnesses, and the production of evidence. Subpoenas issued by a nurse licensing board in a party state for the attendance and testimony of witnesses, and/or the production of evidence from another party state, shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the witnesses and evidence are located;

(3) Issue cease and desist orders to limit or revoke a nurse's authority to practice in their state;

(4) Promulgate uniform rules and regulations as provided for in subsection 3 of section 335.335.

ARTICLE VII

335.330. COORDINATED LICENSURE INFORMATION SYSTEM. — 1. All party states shall participate in a cooperative effort to create a coordinated database of all licensed registered nurses and licensed practical/vocational nurses. This system will include information on the licensure and disciplinary history of each nurse, as contributed by party states, to assist in the coordination of nurse licensure and enforcement efforts.

2. Notwithstanding any other provision of law, all party states' licensing boards shall promptly report adverse actions, actions against multistate licensure privileges, any current significant investigative information yet to result in adverse action, denials of applications, and the reasons for such denials to the coordinated licensure information system.

3. Current significant investigative information shall be transmitted through the coordinated licensure information system only to party state licensing boards.

4. Notwithstanding any other provision of law, all party states' licensing boards contributing information to the coordinated licensure information system may designate information that may not be shared with non-party states or disclosed to other entities or individuals without the express permission of the contributing state.

5. Any personally identifiable information obtained by a party states' licensing board from the coordinated licensure information system may not be shared with non-party states or disclosed to other entities or individuals except to the extent permitted by the laws of the party state contributing the information.

6. Any information contributed to the coordinated licensure information system that is subsequently required to be expunged by the laws of the party state contributing that information shall also be expunged from the coordinated licensure information system.

7. The compact administrators, acting jointly with each other and in consultation with the administrator of the coordinated licensure information system, shall formulate necessary and proper procedures for the identification, collection, and exchange of information under this compact.

ARTICLE VIII

335.335. COMPACT ADMINISTRATION AND INTERCHANGE OF INFORMATION. — 1. The head of the nurse licensing board, or his/her designee, of each party state shall be the administrator of this compact for his/her state.

2. The compact administrator of each party shall furnish to the compact administrator of each other party state any information and documents including, but not limited to, a uniform data set of investigations, identifying information, licensure data, and disclosable alternative program participation information to facilitate the administration of this compact.

3. Compact administrators shall have the authority to develop uniform rules to facilitate and coordinate implementation of this compact. These uniform rules shall be adopted by party states, under the authority invested under subsection 4 of section 335.325.

ARTICLE IX

335.340. IMMUNITY. — No party state or the officers or employees or agents of a party state's nurse licensing board who acts in accordance with the provisions of this compact shall be liable on account of any act or omission in good faith while engaged in the performance of their duties under this compact. Good faith in this article shall not include willful misconduct, gross negligence, or recklessness.

ARTICLE X

335.345. ENTRY INTO FORCE, WITHDRAWAL AND AMENDMENT. — 1. This compact shall enter into force and become effective as to any state when it has been enacted into the laws of that state. Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until six months after the withdrawing state has given notice of the withdrawal to the executive heads of all other party states.

2. No withdrawal shall affect the validity or applicability by the licensing boards of states remaining party to the compact of any report of adverse action occurring prior to the withdrawal.

3. Nothing contained in this compact shall be construed to invalidate or prevent any nurse licensure agreement or other cooperative arrangement between a party state and a non-party state that is made in accordance with the other provisions of this compact.

4. This compact may be amended by the party states. No amendment to this compact shall become effective and binding upon the party states unless and until it is enacted into the laws of all party states.

ARTICLE XI

335.350. CONSTRUCTION AND SEVERABILITY. — 1. This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

2. In the event party states find a need for settling disputes arising under this compact:

(1) The party states may submit the issues in dispute to an arbitration panel which will be comprised of an individual appointed by the compact administrator in the home state, an individual appointed by the compact administrator in the remote states involved, and an individual mutually agreed upon by the compact administrators of all the party states involved in the dispute;

(2) The decision of a majority of the arbitrators shall be final and binding.

335.355. APPLICABILITY OF COMPACT. — 1. The term "head of the nurse licensing board" as referred to in article VIII of this compact shall mean the executive director of the Missouri state board of nursing.

2. A person who is extended the privilege to practice in this state pursuant to the nurse licensure compact is subject to discipline by the board, as set forth in this chapter, for violation of this chapter or the rules and regulations promulgated herein. A person extended the privilege to practice in this state pursuant to the nurse licensure compact shall be subject to adhere to all requirements of this chapter, as if such person were originally licensed in this state.

3. Sections 335.300 to 335.355 are applicable only to nurses whose home states are determined by the Missouri state board of nursing to have licensure requirements that are substantially equivalent or more stringent than those of Missouri.

4. This compact is designed to facilitate the regulation of nurses, and does not relieve employers from complying with statutorily imposed obligations.

5. This compact does not supercede existing state labor laws.

337.712. LICENSES, APPLICATION, OATH, FEE — LOST CERTIFICATES — FUND. — 1. Applications for licensure as a marital and family therapist shall be in writing, submitted to the **[**division**]** **committee** on forms prescribed by the **[**division**]** **committee** and furnished to the applicant. The application shall contain the applicant's statements showing the applicant's education, experience and such other information as the **[**division**]** **committee** may require. Each application shall contain a statement that it is made under oath or affirmation and that the information contained therein is true and correct to the best knowledge and belief of the applicant, subject to the penalties provided for the making of a false affidavit or declaration. Each application shall be accompanied by the fees required by the division.

2. The division shall mail a renewal notice to the last known address of each licensee prior to the licensure renewal date. Failure to provide the division with the information required for license, or to pay the licensure fee after such notice shall effect a revocation of the license after a period of sixty days from the **[**licensure**]** **license** renewal date. The license shall be restored if, within two years of the licensure date, the applicant provides written application and the payment of the licensure fee and a delinquency fee.

3. A new certificate to replace any certificate lost, destroyed or mutilated may be issued subject to the rules of the division upon payment of a fee.

4. The **[**division**]** **committee** shall set the amount of the fees authorized. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering the provisions of sections 337.700 to 337.739. All fees provided for in sections 337.700 to 337.739 shall be collected by the director who shall deposit the same with the state treasurer to a fund to be known as the "Marital and Family Therapists' Fund".

5. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriations from the marital and family therapists' fund for the preceding fiscal year or, if the division requires by rule renewal less frequently than yearly then three times the appropriation from the fund for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the marital and family therapists' fund for the preceding fiscal year.

337.715. QUALIFICATIONS FOR LICENSURE, EXCEPTIONS. — 1. Each applicant for licensure as a marital and family therapist shall furnish evidence to the **[**division**]** **committee** that:

(1) The applicant has a master's degree or a doctoral degree in marital and family therapy, or its equivalent, from an acceptable educational institution accredited by a regional accrediting body or accredited by an accrediting body which has been approved by the United States Department of Education;

(2) The applicant has twenty-four months of postgraduate supervised clinical experience acceptable to the division, as the division determines by rule;

(3) After August 28, 2008, the applicant shall have completed a minimum of three semester hours of graduate-level course work in diagnostic systems either within the curriculum leading to a degree as defined in subdivision (1) of this subsection or as post-master's graduate-level course work. Each applicant shall demonstrate supervision of diagnosis as a core component of the postgraduate supervised clinical experience as defined in subdivision (2) of this subsection;

(4) Upon examination, the applicant is possessed of requisite knowledge of the profession, including techniques and applications research and its interpretation and professional affairs and ethics;

(5) The applicant is at least eighteen years of age, is of good moral character, is a United States citizen or has status as a legal resident alien, and has not been convicted of a felony during the ten years immediately prior to application for licensure.

2. Any person otherwise qualified for licensure holding a current license, certificate of registration, or permit from another state or territory of the United States or the District of Columbia to practice marriage and family therapy may be granted a license without examination to engage in the practice of marital and family therapy in this state upon application to the state committee, payment of the required fee as established by the state committee, and satisfaction of the following:

(1) Determination by the state committee that the requirements of the other state or territory are substantially the same as Missouri;

(2) Verification by the applicant's licensing entity that the applicant has a current license; and

(3) Consent by the applicant to examination of any disciplinary history in any state.

3. The state committee shall issue a license to each person who files an application and fee as required by the provisions of sections 337.700 to 337.739.

337.718. LICENSE EXPIRATION, RENEWAL FEE — TEMPORARY PERMITS. — 1. Each license issued pursuant to the provisions of sections 337.700 to 337.739 shall expire on a renewal date established by the director. The term of licensure shall be twenty-four months; however, the director may establish a shorter term for the first licenses issued pursuant to sections 337.700 to 337.739. The division shall renew any license upon application for a renewal and upon payment of the fee established by the division pursuant to the provisions of section 337.712. Effective August 28, 2008, as a prerequisite for renewal, each licensee shall furnish to the committee satisfactory evidence of the completion of the requisite number of hours of continuing education as defined by rule, which shall be no more than forty contact hours biennially. The continuing education requirements may be waived by the committee upon presentation to the committee of satisfactory evidence of illness or for other good cause.

2. The **[**division**]** **committee** may issue temporary permits to practice under extenuating circumstances as determined by the **[**division**]** **committee** and defined by rule.

337.727. RULEMAKING AUTHORITY. — **[**1.**]** The **[**division**]** **committee** shall promulgate rules and regulations pertaining to:

(1) The form and content of license applications required by the provisions of sections 337.700 to 337.739 and the procedures for filing an application for an initial or renewal license in this state;

(2) Fees required by the provisions of sections 337.700 to 337.739;

(3) The content, conduct and administration of the licensing examination required by section 337.715;

(4) The characteristics of supervised clinical experience as that term is used in section 337.715;

(5) The equivalent of the basic educational requirements set forth in section 337.715;

(6) The standards and methods to be used in assessing competency as a licensed marital and family therapist;

(7) Establishment and promulgation of procedures for investigating, hearing and determining grievances and violations occurring under the provisions of sections 337.700 to 337.739;

(8) Development of an appeal procedure for the review of decisions and rules of administrative agencies existing under the constitution or laws of this state;

(9) Establishment of a policy and procedure for reciprocity with other states, including states which do not have marital and family therapist licensing laws or states whose licensing laws are not substantially the same as those of this state; and

(10) Any other policies or procedures necessary to the fulfillment of the requirements of sections 337.700 to 337.739.

[2. No rule or portion of a rule promulgated under the authority of sections 337.700 to 337.739 shall become effective until it has been approved by the joint committee on administrative rules in accordance with the procedures provided in this section, and the delegation of the legislative authority to enact law by the adoption of such rules is dependent upon the power of the joint committee on administrative rules to review and suspend rules pending ratification by the senate and the house of representatives as provided in this section.

3. Upon filing any proposed rule with the secretary of state, the division shall concurrently submit such proposed rule to the committee, which may hold hearings upon any proposed rule or portion thereof at any time.

4. A final order of rulemaking shall not be filed with the secretary of state until thirty 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 thirty-day period. If the committee does not disapprove such order of rulemaking within the thirty-day period, the division may file such order of rulemaking with the secretary of state and the order of rulemaking shall be deemed approved.

5. The committee may, by majority vote of the members, suspend the order of rulemaking or portion thereof by action taken prior to the filing of the final order of rulemaking only for one or more of the following grounds:

(1) An absence of statutory authority for the proposed rule;

(2) An emergency relating to public health, safety or welfare;

(3) The proposed rule is in conflict with state law;

(4) A substantial change in circumstance since enactment of the law upon which the proposed rule is based.

6. If the committee disapproves any rule or portion thereof, the division shall not file such disapproved portion of any rule with the secretary of state and the secretary of state shall not publish in the Missouri Register any final order of rulemaking containing the disapproved portion.

7. If the committee disapproves any rule or portion thereof, the committee shall report its findings to the senate and the house of representatives. No rule or portion thereof disapproved by the committee shall take effect so long as the senate and the house of representatives ratify the act of the joint committee by resolution adopted in each house within thirty legislative days after such rule or portion thereof has been disapproved by the joint committee.

8. Upon adoption of a rule as provided in this section, any such rule or portion thereof may be suspended or revoked by the general assembly either by bill or, pursuant to section 8, article IV of the Constitution of Missouri, by concurrent resolution upon recommendation of the joint

committee on administrative rules. The committee shall be authorized to hold hearings and make recommendations pursuant to the provisions of section 536.037, RSMo. The secretary of state shall publish in the Missouri Register, as soon as practicable, notice of the suspension or revocation.**]**

337.730. REFUSAL TO ISSUE OR RENEW, GROUNDS, NOTICE, RIGHTS OF APPLICANT — COMPLAINTS FILED WITH ADMINISTRATIVE HEARING COMMISSION. — 1. The **[**division**]** **committee** may refuse to issue or renew any license required by the provisions of sections 337.700 to 337.739 for one or any combination of causes stated in subsection 2 of this section. The **[**division**]** **committee** shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The **[**division**]** **committee** may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any license required by sections 337.700 to 337.739 or any person who has failed to renew or has surrendered the person's license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to engage in the occupation of marital and family therapist; except the fact that a person has undergone treatment for past substance or alcohol abuse or has participated in a recovery program, shall not by itself be cause for refusal to issue or renew a license;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of a marital and family therapist; for any offense an essential element of which is fraud, dishonesty or an act of violence; or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any license issued pursuant to the provisions of sections 337.700 to 337.739 or in obtaining permission to take any examination given or required pursuant to the provisions of sections 337.700 to 337.739;

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(5) Incompetency, misconduct, fraud, misrepresentation or dishonesty in the performance of the functions or duties of a marital and family therapist;

(6) Violation of, or assisting or enabling any person to violate, any provision of sections 337.700 to 337.739 or of any lawful rule or regulation adopted pursuant to sections 337.700 to 337.739;

(7) Impersonation of any person holding a license or allowing any person to use the person's license or diploma from any school;

(8) Revocation or suspension of a license or other right to practice marital and family therapy granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(9) Final adjudication as incapacitated by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice marital and family therapy who is not licensed and is not currently eligible to practice under the provisions of sections 337.700 to 337.739;

(11) Obtaining a license based upon a material mistake of fact;

(12) Failure to display a valid license if so required by sections 337.700 to 337.739 or any rule promulgated hereunder;

(13) Violation of any professional trust or confidence;

(14) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(15) Being guilty of unethical conduct as defined in the ethical standards for marital and family therapists adopted by the committee by rule and filed with the secretary of state.

3. Any person, organization, association or corporation who reports or provides information to the **[**division pursuant to the provisions of**]** **committee under** sections 337.700 to 337.739 and who does so in good faith shall not be subject to an action for civil damages as a result thereof.

4. After filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds provided in subsection 2 of this section for disciplinary action are met, the division may censure or place the person named in the complaint on probation on such terms and conditions as the **[**division**]** **committee** deems appropriate for a period not to exceed five years, or may suspend for a period not to exceed three years, or revoke the license.

337.733. VIOLATIONS OF MARITAL AND FAMILY THERAPISTS LAW, PENALTY — ATTORNEY GENERAL, DUTIES — INJUNCTIONS — VENUE. — 1. Violation of any provision of sections 337.700 to 337.739 is a class B misdemeanor.

2. All fees or other compensation received for services which are rendered in violation of sections 337.700 to 337.739 shall be refunded.

3. The department on behalf of the division may sue in its own name in any court in this state. The department shall inquire as to any violations of sections 337.700 to 337.739, may institute actions for penalties prescribed, and shall enforce generally the provisions of sections 337.700 to 337.739.

4. Upon application by the **[**division**]** **committee**, the attorney general may on behalf of the division request that a court of competent jurisdiction grant an injunction, restraining order or other order as may be appropriate to enjoin a person from:

(1) Offering to engage or engaging in the performance of any acts or practices for which a certificate of registration or authority, permit or license is required upon a showing that such acts or practices were performed or offered to be performed without a certificate of registration or authority, permit or license;

(2) Engaging in any practice of business authorized by a certificate of registration or authority, permit or license issued pursuant to sections 337.700 to 337.739, upon a showing that the holder presents a substantial probability of serious harm to the health, safety or welfare of any resident of this state or client or patient of the licensee.

5. Any action brought pursuant to the provisions of this section shall be commenced either in the county in which such conduct occurred or in the county in which the defendant resides.

6. Any action brought under this section may be in addition to or in lieu of any penalty provided by sections 337.700 to 337.739 and may be brought concurrently with other actions to enforce the provisions of sections 337.700 to 337.739.

338.010. PRACTICE OF PHARMACY DEFINED — AUXILIARY PERSONNEL — WRITTEN PROTOCOL REQUIRED, WHEN — NONPRESCRIPTION DRUGS — RULEMAKING AUTHORITY — THERAPEUTIC PLAN REQUIREMENTS. — 1. The "practice of pharmacy" means the interpretation, implementation, and evaluation of medical prescription orders, including receipt, transmission, or handling of such orders or facilitating the dispensing of such orders; the designing, initiating, implementing, and monitoring of a medication therapeutic plan as defined by the prescription order so long as the prescription order is specific to each patient for care by a **[**specific**]** pharmacist; the compounding, dispensing, labeling, and administration of drugs and devices pursuant to medical prescription orders and administration of viral influenza**, pneumonia, shingles and meningitis** vaccines by written protocol authorized by a physician for persons twelve years of age or older as authorized by rule **or the administration of pneumonia, shingles, and meningitis vaccines by written protocol authorized by a physician for a specific patient as authorized by rule**; the participation in drug selection according to state law and participation in drug utilization reviews; the proper and safe storage

of drugs and devices and the maintenance of proper records thereof; consultation with patients and other health care practitioners about the safe and effective use of drugs and devices; and the offering or performing of those acts, services, operations, or transactions necessary in the conduct, operation, management and control of a pharmacy. No person shall engage in the practice of pharmacy unless he is licensed under the provisions of this chapter. This chapter shall not be construed to prohibit the use of auxiliary personnel under the direct supervision of a pharmacist from assisting the pharmacist in any of his duties. This assistance in no way is intended to relieve the pharmacist from his responsibilities for compliance with this chapter and he will be responsible for the actions of the auxiliary personnel acting in his assistance. This chapter shall also not be construed to prohibit or interfere with any legally registered practitioner of medicine, dentistry, podiatry, or veterinary medicine, or the practice of optometry in accordance with and as provided in sections 195.070 and 336.220, RSMo, in the compounding or dispensing of his own prescriptions.

2. Any pharmacist who accepts a prescription order for a medication therapeutic plan shall have a written protocol from the physician who refers the patient for medication therapy services. The written protocol and the prescription order for a medication therapeutic plan shall come from the physician only, and shall not come from a nurse engaged in a collaborative practice arrangement under section 334.104, RSMo, or from a physician assistant engaged in a supervision agreement under section 334.735, RSMo.

3. Nothing in this section shall be construed as to prevent any person, firm or corporation from owning a pharmacy regulated by sections 338.210 to 338.315, provided that a licensed pharmacist is in charge of such pharmacy.

4. Nothing in this section shall be construed to apply to or interfere with the sale of nonprescription drugs and the ordinary household remedies and such drugs or medicines as are normally sold by those engaged in the sale of general merchandise.

5. No health carrier as defined in chapter 376, RSMo, shall require any physician with which they contract to enter into a written protocol with a pharmacist for medication therapeutic services.

6. This section shall not be construed to allow a pharmacist to diagnose or independently prescribe pharmaceuticals.

7. The state board of registration for the healing arts, under section 334.125, RSMo, and the state board of pharmacy, under section 338.140, shall jointly promulgate rules regulating the use of protocols for prescription orders for medication therapy services and administration of viral influenza vaccines. Such rules shall require protocols to include provisions allowing for timely communication between the pharmacist and the referring physician, and any other patient protection provisions deemed appropriate by both boards. In order to take effect, such rules shall be approved by a majority vote of a quorum of each board. Neither board shall separately promulgate rules regulating the use of protocols for prescription orders for medication therapy services and administration of viral influenza vaccines. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

8. The state board of pharmacy may grant a certificate of medication therapeutic plan authority to a licensed pharmacist who submits proof of successful completion of a board-approved course of academic clinical study beyond a bachelor of science in pharmacy, including but not limited to clinical assessment skills, from a nationally accredited college or university, or a certification of equivalence issued by a nationally recognized professional organization and approved by the board of pharmacy.

9. Any pharmacist who has received a certificate of medication therapeutic plan authority may engage in the designing, initiating, implementing, and monitoring of a medication therapeutic plan as defined by a prescription order from a physician that is specific to each patient for care by a **[**specific**]** pharmacist.

10. Nothing in this section shall be construed to allow a pharmacist to make a therapeutic substitution of a pharmaceutical prescribed by a physician unless authorized by the written protocol or the physician's prescription order.

338.013. PHARMACY TECHNICIAN TO REGISTER WITH BOARD OF PHARMACY, FEES, APPLICATION, RENEWAL — REFUSAL TO ISSUE, WHEN — EMPLOYEE DISQUALIFICATION LIST MAINTAINED, USE. — 1. Any person desiring to assist a pharmacist in the practice of pharmacy as defined in this chapter shall apply to the board of pharmacy for registration as a pharmacy technician. Such applicant shall be, at a minimum, legal working age and shall forward to the board the appropriate fee and written application on a form provided by the board. Such registration shall be the sole authorization permitted to allow persons to assist licensed pharmacists in the practice of pharmacy as defined in this chapter.

2. The board may refuse to issue a certificate of registration as a pharmacy technician to an applicant that has been adjudicated and found guilty, or has entered a plea of guilty or nolo contendere, of a violation of any state, territory or federal drug law, or to any felony or has violated any provision of subsection 2 of section 338.055. Alternately, the board may issue such person a registration, but may authorize the person to work as a pharmacy technician provided that person adheres to certain terms and conditions imposed by the board. The board shall place on the employment disqualification list the name of an applicant who the board has refused to issue a certificate of registration as a pharmacy technician, or the name of a person who the board has issued a certificate of registration as a pharmacy technician but has authorized to work under certain terms and conditions. The board shall notify the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

3. If an applicant has submitted the required fee and an application for registration to the board of pharmacy, the applicant for registration as a pharmacy technician may assist a licensed pharmacist in the practice of pharmacy as defined in this chapter **[**for a period of up to ninety days prior to the issuance of a certificate of registration**]**. The applicant shall keep a copy of the submitted application on the premises where the applicant is employed. **[**When**] If** the board refuses to issue a certificate of registration as a pharmacy technician to an applicant, the applicant shall immediately cease assisting a licensed pharmacist in the practice of pharmacy.

4. A certificate of registration issued by the board shall be conspicuously displayed in the pharmacy or place of business where the registrant is employed.

5. Every pharmacy technician who desires to continue to be registered as provided in this section shall, within thirty days before the registration expiration date, file an application for the renewal, accompanied by the fee prescribed by the board. **[**No registration as provided in this section shall be valid if the registration has expired and has not been renewed as provided in this subsection**] The registration shall lapse and become null and void thirty days after the expiration date**.

6. The board shall maintain an employment disqualification list. No person whose name appears on the employment disqualification list shall work as a pharmacy technician, except as otherwise authorized by the board. The board may authorize a person whose name appears on the employment disqualification list to work or continue to work as a pharmacy technician provided the person adheres to certain terms and conditions imposed by the board.

7. The board may place on the employment disqualification list the name of a pharmacy technician who has been adjudicated and found guilty, or has entered a plea of guilty or nolo contendere, of a violation of any state, territory **[**of**] or** federal drug law, or to any felony or has violated any provision of subsection 2 of section 338.055.

8. After an investigation and a determination has been made to place a person's name on the employment disqualification list, the board shall notify such person in writing mailed to the person's last known address **[**that**]**:

(1) **That** an allegation has been made against the person, the substance of the allegation and that an investigation has been conducted which tends to substantiate the allegation;

(2) **That** such person's name has been added in the employment disqualification list of the board;

(3) The consequences to the person of being listed and the length of time the person's name will be on the list; and

(4) The person's right to file a complaint with the administrative hearing commission as provided in chapter 621, RSMo.

9. The length of time a person's name shall remain on the disqualification list shall be determined by the board.

10. No hospital or licensed pharmacy shall knowingly employ any person whose name appears on the employee disqualification list, except that a hospital or licensed pharmacy may employ a person whose name appears on the employment disqualification list but the board has authorized to work under certain terms and conditions. Any hospital or licensed pharmacy shall report to the board any final disciplinary action taken against a pharmacy technician or the voluntary resignation of a pharmacy technician against whom any complaints or reports have been made which might have led to final disciplinary action that can be a cause of action for discipline by the board as provided for in subsection 2 of section 338.055. Compliance with the foregoing sentence may be interposed as an affirmative defense by the employer. Any hospital or licensed pharmacy which reports to the board in good faith shall not be liable for civil damages.

338.220. OPERATION OF PHARMACY WITHOUT PERMIT OR LICENSE UNLAWFUL — APPLICATION FOR PERMIT, CLASSIFICATIONS, FEE — DURATION OF PERMIT. — 1. It shall be unlawful for any person, copartnership, association, corporation or any other business entity to open, establish, operate, or maintain any pharmacy as defined by statute without first obtaining a permit or license to do so from the Missouri board of pharmacy. **A permit shall not be required for an individual licensed pharmacist to perform nondispensing activities outside of a pharmacy, as provided by the rules of the board. A permit shall not be required for an individual licensed pharmacist to administer drugs, vaccines, and biologicals by protocol, as permitted by law, outside of a pharmacy.** The following classes of pharmacy permits or licenses are hereby established:

(1) Class A: Community/ambulatory;
(2) Class B: Hospital outpatient pharmacy;
(3) Class C: Long-term care;
(4) Class D: Nonsterile compounding;
(5) Class E: Radio pharmaceutical;
(6) Class F: Renal dialysis;
(7) Class G: Medical gas;
(8) Class H: Sterile product compounding;
(9) Class I: Consultant services;
(10) Class J: Shared service;
(11) Class K: Internet;
(12) Class L: Veterinary.

2. Application for such permit or license shall be made upon a form furnished to the applicant; shall contain a statement that it is made under oath or affirmation and that its representations are true and correct to the best knowledge and belief of the person signing same, subject to the penalties of making a false affidavit or declaration; and shall be accompanied by a permit or license fee. The permit or license issued shall be renewable upon payment of a

renewal fee. Separate applications shall be made and separate permits or licenses required for each pharmacy opened, established, operated, or maintained by the same owner.

3. All permits, licenses or renewal fees collected pursuant to the provisions of sections 338.210 to 338.370 shall be deposited in the state treasury to the credit of the Missouri board of pharmacy fund, to be used by the Missouri board of pharmacy in the enforcement of the provisions of sections 338.210 to 338.370, when appropriated for that purpose by the general assembly.

4. Class L: veterinary permit shall not be construed to prohibit or interfere with any legally registered practitioner of veterinary medicine in the compounding or dispensing of their own prescriptions.

5. Notwithstanding any other law to the contrary, the provisions of this section shall not apply to the sale, dispensing, or filling of a pharmaceutical product or drug used for treating animals.

338.337. OUT-OF-STATE DISTRIBUTORS, LICENSES REQUIRED, EXCEPTION. — It shall be unlawful for any out-of-state wholesale drug distributor or out-of-state pharmacy acting as a distributor to do business in this state without first obtaining a license to do so from the board of pharmacy and paying the required fee. Application for an out-of-state wholesale drug distributor's license under this section shall be made on a form furnished by the board. The issuance of a license under sections 338.330 to 338.370 shall not change or affect tax liability imposed by the Missouri department of revenue on any out-of-state wholesale drug distributor or out-of-state pharmacy. Any out-of-state wholesale drug distributor that is a drug manufacturer and which produces and distributes from a facility which has been inspected and approved by the Food and Drug Administration **[**within the last two years**], maintains current approval by the Food and Drug Administration, has provided a copy of the most recent Food and Drug Administration Establishment Inspection Report to the board,** and which is licensed by the state in which the distribution facility is located**, or if located within a foreign jurisdiction, is authorized and in good standing to operate as a drug manufacturer within such jurisdiction,** need not be licensed as provided in this section but such out-of-state distributor shall register its business name and address with the board of pharmacy and pay a filing fee **[**of ten dollars**] in an amount established by the board**.

346.015. LICENSE REQUIRED — EXCEPTION — PENALTY FOR VIOLATION. — 1. No person shall engage in the practice of fitting hearing instruments or display a sign or in any other way advertise or represent such person by any other words, letters, abbreviations or insignia indicating or implying that the person practices the fitting of hearing instruments unless the person holds a valid license issued by the **[**division**] board** as provided in this chapter. The license shall be conspicuously posted in the person's office or place of business. Duplicate licenses shall be issued by the department to valid license holders operating more than one office, without additional payment. A license under this chapter shall confer upon the holder the right to select, fit and sell hearing instruments.

2. Each person licensed pursuant to sections 346.010 to 346.250 shall display the license in an appropriate and public manner and shall keep the board informed of the licensee's current address. A license issued pursuant to sections 346.010 to 346.250 is the property of the **[**division**] board** and must be surrendered on demand in the event of expiration or after a final determination is made with respect to revocation, suspension or probation.

3. Nothing in this chapter shall prohibit a corporation, partnership, trust, association or other like organization maintaining an established business address from engaging in the business of selling or offering for sale hearing instruments at retail, provided that it employ only properly licensed hearing instrument specialists or properly licensed audiologists in the direct sale and fitting of such instruments. Each corporation, partnership, trust, association or other like organization shall file annually with the board on a form provided by the board, a list of all

licensed hearing instrument specialists employed by it. Each organization shall also file with the **[**division**] board** a statement, on a form provided by the **[**division**] board**, that it agrees to comply with the rules and regulations of the **[**division**] board** and the provisions of this chapter.

4. Any person who violates any provision of this section is guilty of a class B misdemeanor.

346.045. REGISTRATION, WHEN, FEE — LICENSE ISSUED, WHEN. — The **[**division**] board** shall license each qualified applicant, without discrimination, who passes an examination as provided in this chapter and upon the applicant's payment of the examination fee and the license fee, shall issue to the applicant a license.

346.050. LICENSING OF PERSONS MEETING EQUIVALENT OR STRICTER REQUIREMENTS OF OTHER STATES, AUTHORIZED. — Whenever the board determines that another state or jurisdiction has requirements equivalent to or higher than those in effect pursuant to sections 346.010 to 346.250 and that such state or jurisdiction has a program equivalent to or stricter than the program for determining whether an applicant, pursuant to sections 346.010 to 346.250 is qualified to engage in the practice of fitting hearing instruments, **[**the division upon recommendation by**]** the board shall issue a license to applicants who hold current, unsuspended and unrevoked certificates or licenses to fit hearing instruments in such other state or jurisdiction provided that such jurisdiction extends like privileges for reciprocal licensing or certification to persons licensed by this state with similar qualifications. No such applicant for licensure shall be required to submit to or undergo a qualifying examination other than the payment of fees pursuant to sections 346.045 and 346.095. Such applicant shall be registered in the same manner as licensees in this state. The fee for an initial license issued pursuant to this section shall be the same as the fee for an initial license issued pursuant to section 346.045. Fees, grounds for renewal, and procedures for the suspension and revocation of licenses granted pursuant to this section shall be the same as for renewal, suspension and revocation of an initial license issued pursuant to section 346.045.

346.070. TEMPORARY PERMIT ISSUED, WHEN. — An applicant who fulfills the requirements regarding age, character, and education as set forth in section 346.055, may obtain a temporary permit upon application to the board, as defined by **[**division**] board** rule.

346.075. FEE FOR TEMPORARY PERMIT — SUPERVISION AND TRAINING REQUIRED FOR TEMPORARY PERMIT HOLDER. — 1. Upon receiving an application as provided under section 346.070 and accompanied by a temporary permit fee, the **[**division**] board** shall issue a temporary permit which shall entitle the applicant to engage in supervised training for a period of one year. A holder of a temporary permit who is engaged in supervised training under a supervisor is authorized to use only the title "hearing instrument specialist in-training", or its equivalent, as defined by **[**division**] board** rule. A hearing instrument specialist in-training shall not hold himself out to the public by any title, term, or words that give the impression that the permit holder is a licensed hearing instrument specialist. The division, upon recommendation of the board, shall have the power to suspend or revoke the temporary permit of any person who violates the provisions of this subsection.

2. A licensed hearing instrument specialist shall be responsible for the supervised training of no more than two holders of a temporary permit and shall maintain adequate supervision, as defined by **[**division**] board** rule. The **[**division, upon recommendation of the**]** board**[**,**]** shall issue a certificate of registration to a hearing instrument specialist who has qualified himself **or herself** to provide supervised training to permit holders. The qualifications for a supervisor shall be established by **[**division**] board** rule**[**, with the advice of the board**]**. A fee shall be charged for any registration of supervision, as defined by **[**division**] board** rule. The division may withdraw the certificate of authority from any supervisor who violates any provision of sections 346.010 to 346.250 or any rule promulgated pursuant thereto.

346.080. TEMPORARY PERMIT RENEWED, WHEN — TEMPORARY LICENSE ISSUED, WHEN — BOND REQUIRED FOR TEMPORARY LICENSEE. — If a hearing instrument specialist in-training under this section or section 346.075 has not successfully passed the licensing examination within one year from the date of issuance of the temporary permit, the temporary permit may be renewed by the **[**division**]** **board** once for a period of six months upon payment by the applicant of a fee, as defined by **[**division**]** **board** rule.

346.090. LICENSEE TO REPORT ADDRESS OF BUSINESS TO BOARD, RECORD TO BE KEPT — NOTICES, SENT WHERE. — 1. A licensee shall notify the board in writing of the regular address of the place or places where the licensee engages or intends to engage in the practice of fitting hearing instruments, and the board shall keep a record of the place of business of licensees.

2. Any notice required to be given by the board **[**or division**]** to a person who holds a license shall be mailed to the licensee at the address of the last known place of business.

346.095. RENEWAL, FEE, COMPLETION OF EDUCATIONAL PROGRAM AND CALIBRATION OF EQUIPMENT REQUIRED — LATE RENEWAL, FEE, LIMIT. — Each person who engages in the practice of fitting hearing instruments shall, on or before the renewal date, pay to the **[**division**]** **board** the required fee, present written evidence to the board of annual calibration of all audiometers, and furnish to the board satisfactory evidence of having successfully completed an educational program approved by the board. The licensee shall keep such license conspicuously posted in licensee's office or place of business at all times. Where more than one office is operated by the licensee, duplicate licenses shall be issued by the **[**division**]** **board** for posting in each location. After the expiration date of a license, the **[**division**]** **board** may renew a license upon payment of the required penalty fee to the **[**division**]** **board**. No person whose license has expired shall be required to submit to any examination as a condition of renewal, provided such renewal application is made within two years from the date of such expiration and all renewal requirements have been met as set forth in this section.

346.100. COMPLAINTS AGAINST LICENSEES, HOW MADE, HEARING — SANCTIONS — RECORDS. — 1. Any person wishing to make a complaint against a licensee under sections 346.010 to 346.250 shall reduce the same to writing and file the complaint with the board, setting forth the details thereof upon which the complaint is based. If the board, following an investigation, determines the charges made in the complaint are sufficient to warrant a hearing to determine whether the license issued under sections 346.010 to 346.250 shall be suspended or revoked, the board shall **[**request the division to**]** file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of section 346.105, for disciplinary action are met, the **[**division in collaboration with the**]** board may, singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the **[**division in collaboration with the**]** board deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke the license or certificate.

3. The board shall maintain an information file containing each complaint filed with the board relating to a licensee. The board, at least quarterly, shall notify the complainant and licensee of the complaint's status until final disposition.

346.105. DENIAL, REVOCATION, OR SUSPENSION OF LICENSE, GROUNDS FOR. — 1. The **[**division**]** **board** may refuse to issue any certificate of registration or authority, permit or license required pursuant to this chapter, upon recommendation of the board, for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing

of the reasons for the refusal and shall advise the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The division may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or against any person who has failed to renew or has surrendered such person's certificate of registration or authority, permit or license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by this chapter;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualification, functions or duties of any profession licensed or regulated under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any certificate of registration or authority, permit or license issued pursuant to this chapter or in obtaining permission to take any examination given or required pursuant to this chapter;

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant to this chapter;

(7) Impersonation of any person holding a certificate of registration or authority, permit or license or allowing any person to use his or her certificate of registration or authority, permit, license or diploma from any school;

(8) Disciplinary action against the holder of a license or other right to practice any profession regulated by this chapter granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(9) A person is finally adjudged insane or incompetent by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by this chapter who is not registered and currently eligible to practice under this chapter;

(11) Issuance of a certificate of registration or authority, permit or license based upon a material mistake of fact;

(12) Failure to display a valid certificate or license if so required by this chapter or any rule promulgated hereunder;

(13) Violation of any professional trust or confidence;

(14) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(15) Representing that the service or advice of a person licensed as a physician pursuant to chapter 334, RSMo, will be used or made available in the selection, fitting, adjustment, maintenance or repair of hearing instruments when that is not true, or using the words "doctor", "clinic", "clinical audiologist", "state-licensed clinic", "state registered", "state certified", or "state approved" or any other term, abbreviation, or symbol when it would falsely give the impression that service is being provided by physicians licensed pursuant to chapter 334, RSMo, or by audiologists licensed pursuant to chapter 345, RSMo, or that the licensee's service has been recommended by the state when such is not the case.

346.115. POWERS AND DUTIES OF DIVISION. — [1.**]** The powers and duties of the division are as follows:

(1) To exercise all budgeting, purchasing, reporting and other related management functions;

(2) **[**To supervise the issuance and renewal of permits, licenses and certificates of registration or authority;

(3) To license persons who apply to the board and who are qualified to engage in the practice of fitting hearing instruments;

(4) To assist the board in obtaining facilities necessary to carry out the examination of applicants as provided in section 346.035;

(5)**]** To employ, within the funds appropriated, such staff as are necessary to carry out the provisions of sections 346.010 to 346.250**[**;

(6) To recommend for prosecution any person who has violated any provisions of sections 346.010 to 346.250 to an appropriate prosecuting or circuit attorney;

(7) To make and publish rules and regulations, in collaboration with the board, not inconsistent with the laws of this state which are necessary to carry out the provisions of sections 346.010 to 346.250. These rules and regulations shall be filed in the office of the secretary of state in accordance with chapter 536, RSMo;

(8) To set the amount of the fees which this chapter authorizes and requires by rules and regulations promulgated pursuant to section 536.021, RSMo. The division shall set fees which reflect the cost and expense of administering this chapter.

2. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo**]**.

346.125. BOARD, DUTIES. — 1. The board shall**[**, in collaboration with the division**]**:

(1) **[**Provide advice to the division on all matters pertaining to licensure pursuant to sections 346.010 to 346.250;

(2)**] Issue and renew permits, licenses, and certificates of registration or authority;**

(2) License persons who apply to the board and who are qualified to engage in the practice of fitting hearing instruments;

(3) Obtain facilities necessary to carry out the examination of applicants as provided in section 346.035;

(4) Receive and process complaints;

[(3)**] (5)** Review all complaints, authorize investigations wherein there is a possible violation of sections 346.010 to 346.250 or regulations promulgated pursuant thereto, and make recommendations to the division regarding any filing with the administrative hearing commission;

(6) Recommend for prosecution any person who has violated any provisions of sections 346.010 to 346.250 to an appropriate prosecuting attorney or circuit attorney;

(7) Make and publish rules not inconsistent with the laws of this state which are necessary to carry out the provisions of sections 346.010 to 346.250. Such rules shall be filed in the office of the secretary of state in accordance with chapter 536, RSMo. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void;

[(4)**] (8)** Adopt and publish a code of ethics;

(9) Set the amount of the fees authorized under this chapter and required by rules promulgated under chapter 536, RSMo. The board shall set fees which reflects the cost and expense of administering this chapter;

[(5)**]** **(10)** Establish an official seal;

[(6)**]** **(11)** Provide an examination for applicants. The board may obtain the services of specially trained and qualified persons or organizations to assist in developing or conducting examinations;

[(7)**]** **(12)** Review the examination results of applicants for licensure;

[(8)**]** **(13)** Determine the appropriate educational requirements, as defined by division rule, for any applicant desiring to be registered as a permit holder, a hearing instrument specialist, or a supervisor;

[(9)**]** **(14)** Follow the provisions of the division's administrative practices and procedures in conducting all official duties.

2. The chairperson or vice chairperson shall have power to administer oaths and to subpoena witnesses to require attendance and testimony and to require production of documents and records, and to that end the board may invoke the aid of the circuit court of any county of the state having jurisdiction over the witness, and any failure to obey the order of the court may be punished by the court as a contempt thereof.

376.811. COVERAGE REQUIRED FOR CHEMICAL DEPENDENCY BY ALL INSURANCE AND HEALTH SERVICE CORPORATIONS — MINIMUM STANDARDS — OFFER OF COVERAGE MAY BE ACCEPTED OR REJECTED BY POLICYHOLDERS, COMPANIES MAY OFFER AS STANDARD COVERAGE — MENTAL HEALTH BENEFITS PROVIDED, WHEN — EXCLUSIONS. — 1. Every insurance company and health services corporation doing business in this state shall offer in all health insurance policies benefits or coverage for chemical dependency meeting the following minimum standards:

(1) Coverage for outpatient treatment through a nonresidential treatment program, or through partial- or full-day program services, of not less than twenty-six days per policy benefit period;

(2) Coverage for residential treatment program of not less than twenty-one days per policy benefit period;

(3) Coverage for medical or social setting detoxification of not less than six days per policy benefit period;

(4) The coverages set forth in this subsection may be subject to a separate lifetime frequency cap of not less than ten episodes of treatment, except that such separate lifetime frequency cap shall not apply to medical detoxification in a life-threatening situation as determined by the treating physician and subsequently documented within forty-eight hours of treatment to the reasonable satisfaction of the insurance company or health services corporation; and

(5) The coverages set forth in this subsection:

(a) Shall be subject to the same coinsurance, co-payment and deductible factors as apply to physical illness;

(b) May be administered pursuant to a managed care program established by the insurance company or health services corporation; and

(c) May deliver covered services through a system of contractual arrangements with one or more providers, hospitals, nonresidential or residential treatment programs, or other mental health service delivery entities certified by the department of mental health, or accredited by a nationally recognized organization, or licensed by the state of Missouri.

2. In addition to the coverages set forth in subsection 1 of this section, every insurance company, health services corporation and health maintenance organization doing business in this state shall offer in all health insurance policies, benefits or coverages for recognized mental illness, excluding chemical dependency, meeting the following minimum standards:

(1) Coverage for outpatient treatment, including treatment through partial- or full-day program services, for mental health services for a recognized mental illness rendered by a licensed professional to the same extent as any other illness;

(2) Coverage for residential treatment programs for the therapeutic care and treatment of a recognized mental illness when prescribed by a licensed professional and rendered in a psychiatric residential treatment center licensed by the department of mental health or accredited by the Joint Commission on Accreditation of Hospitals to the same extent as any other illness;

(3) Coverage for inpatient hospital treatment for a recognized mental illness to the same extent as for any other illness, not to exceed ninety days per year;

(4) The coverages set forth in this subsection shall be subject to the same coinsurance, co-payment, deductible, annual maximum and lifetime maximum factors as apply to physical illness; and

(5) The coverages set forth in this subsection may be administered pursuant to a managed care program established by the insurance company, health services corporation or health maintenance organization, and covered services may be delivered through a system of contractual arrangements with one or more providers, community mental health centers, hospitals, nonresidential or residential treatment programs, or other mental health service delivery entities certified by the department of mental health, or accredited by a nationally recognized organization, or licensed by the state of Missouri.

3. The offer required by sections 376.810 to 376.814 may be accepted or rejected by the group or individual policyholder or contract holder and, if accepted, shall fully and completely satisfy and substitute for the coverage under section 376.779. Nothing in sections 376.810 to 376.814 shall prohibit an insurance company, health services corporation or health maintenance organization from including all or part of the coverages set forth in sections 376.810 to 376.814 as standard coverage in their policies or contracts issued in this state.

4. Every insurance company, health services corporation and health maintenance organization doing business in this state shall offer in all health insurance policies mental health benefits or coverage as part of the policy or as a supplement to the policy. Such mental health benefits or coverage shall include at least two sessions per year to a licensed psychiatrist, licensed psychologist, licensed professional counselor, **[**or**]** licensed clinical social worker**, or, subject to contractual provisions, a licensed marital and family therapist,** acting within the scope of such license and under the following minimum standards:

(1) Coverage and benefits in this subsection shall be for the purpose of diagnosis or assessment, but not dependent upon findings; and

(2) Coverage and benefits in this subsection shall not be subject to any conditions of preapproval, and shall be deemed reimbursable as long as the provisions of this subsection are satisfied; and

(3) Coverage and benefits in this subsection shall be subject to the same coinsurance, co-payment and deductible factors as apply to regular office visits under coverages and benefits for physical illness.

5. If the group or individual policyholder or contract holder rejects the offer required by this section, then the coverage shall be governed by the mental health and chemical dependency insurance act as provided in sections 376.825 to 376.836.

6. This section shall not apply to a supplemental insurance policy, including a life care contract, accident-only policy, specified disease policy, hospital policy providing a fixed daily benefit only, Medicare supplement policy, long-term care policy, hospitalization-surgical care policy, short-term major medical policy of six months or less duration, or any other supplemental policy as determined by the director of the department of insurance, financial institutions and professional registration.

SECTION 1. TEETH-WHITENING SERVICES DEEMED PRACTICE OF DENTISTRY. — Any person who provides teeth whitening services to another person by use of products not

readily available to the public through over-the-counter purchase shall be deemed to be engaging in the practice of dentistry. Licensed dental hygienists or dental assistants may apply teeth whitening formulations, but only under the appropriate level of supervision of a licensed dentist as established by rule. Any individual who take the dental impression of another person or who performs any phase of any operation incident to teeth whitening, including but not limited to the instruction or application of on-site teeth whitening materials or procedures, except under the appropriate level of supervision of a licensed dentist, shall be deemed to be engaging in the practice of dentistry.

[328.030. BOARD OF EXAMINERS, APPOINTMENT, QUALIFICATIONS — TERMS — OATH — VACANCIES. — A board of examiners consisting of four members, including one voting public member, shall be appointed by the governor, by and with the advice and consent of the senate. Each member of the board shall be a United States citizen, shall have been a resident of Missouri for one year and, except for the public member, shall have been a registered and practicing barber for the five years immediately preceding his or her initial appointment. The public member shall be a registered voter and a person who is not and never was a member of any profession licensed or regulated pursuant to this chapter or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by this chapter, or an activity or organization directly related to any profession licensed or regulated pursuant to this chapter. All members, including public members, shall be chosen from lists submitted by the director of the division of professional registration. The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure. Each member shall serve for a term of four years and until his or her successor is appointed and qualified, except that the successors to the members whose terms expire in 1981 shall consist of one member whose term shall be for two years, one member whose term shall be for three years, and one member whose term shall be for four years. Each member shall take the oath provided by law for public officers. Vacancies on the board shall be filled by appointment by the governor.**]**

[328.040. OFFICERS, ELECTION, POWERS, HEADQUARTERS — EMPLOYEES, EXPENSES LIMITED — QUORUM OF BOARD. — The board shall annually elect from its number a president, vice president, and secretary-treasurer, shall have its headquarters in Jefferson City, Missouri, may employ such board personnel, as defined in subdivision (4) of subsection 16 of section 620.010, RSMo, as it shall deem necessary within the appropriation therefor. The board shall not create any expense exceeding the sum received from time to time as fees as provided by law, shall have a common seal, and the president and vice president shall have the power to administer oaths. A majority of the board, in meeting duly assembled, may perform the duties and exercise the powers devolving upon the board under the provisions of this chapter.**]**

[328.050. COMPENSATION OF BOARD MEMBERS — BOARD FUND TRANSFERRED TO GENERAL REVENUE, WHEN. — 1. Each member of the board shall receive as compensation an amount set by the board not to exceed fifty dollars for each day devoted to the affairs of the board, and shall be entitled to reimbursement of his expenses necessarily incurred in the discharge of his official duties. All money payable under this chapter shall be collected by the division of professional registration in the department of insurance, financial institutions and professional registration which shall transmit them to the department of revenue for deposit in the state treasury to the credit of a "Board of Barbers Fund". Warrants shall be drawn upon the treasurer out of this fund only for the payment of the salaries, office and other necessary expenses of the board. A detailed statement of the expenses incurred by the board, approved by the

secretary-treasurer of the board, shall be filed with the commissioner of administration before warrants are drawn for their payment.

2. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the board's funds for the preceding fiscal year or, if the board requires by rule permit renewal less frequently than yearly, then three times the appropriation from the board's funds for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the board's funds for the preceding fiscal year.**]**

[328.060. RULES AND FEES PRESCRIBED BY BOARD, PROCEDURE. — 1. The board shall set the amount of the fees which this chapter authorizes and requires by rules and regulations promulgated pursuant to section 536.021, RSMo. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering this chapter.

2. The board shall, with the approval of the department of health and senior services, prescribe such sanitary rules as it may deem necessary to prevent the creation and spread of infectious and contagious diseases. A copy of such rules shall be posted in a conspicuous place in every barber shop and barber school or college in this state.**]**

[328.140. BOARD TO KEEP REGISTER. — There shall be kept a register, in which shall be entered the names of all persons to whom certificates are issued, and to whom permits for serving apprenticeship, or as students, under this chapter, and said register shall, at all reasonable times, be open to the public inspection.**]**

[329.180. ESTABLISHMENT OF BOARD — POWERS — DUTIES. — There is hereby created and established a "State Board of Cosmetology" for the purpose of licensing all persons engaged in the practice of hair dressing, cosmetology and manicuring in this state. The board shall have control and supervision of the licensed occupations, and enforcement of the terms and provisions of this chapter.**]**

[329.190. STATE BOARD — APPOINTMENT — TERM — COMPENSATION — QUALIFICATIONS. — 1. The state board of cosmetology shall be composed of seven members, including one voting public member and one member who is a licensed school owner pursuant to subsection 1 of section 329.040, appointed by the governor with the advice and consent of the senate. The term of office of each member shall be four years.

2. The members of the board shall receive as compensation for their services the sum set by the board not to exceed fifty dollars for each day actually spent in attendance at meetings of the board, within the state, not to exceed forty-eight days in any calendar year, and in addition thereto they shall be reimbursed for all necessary expenses incurred in the performance of their duties as members of the board.

3. All members, except the public member, shall be cosmetologists and manicurists duly registered as such and licensed pursuant to the laws of this state, and shall be United States citizens and shall have been residents of this state for at least one year next preceding their appointments and shall have been actively engaged in the lawful practice of cosmetology for a period of at least five years. The public member shall be at the time of the person's appointment a citizen of the United States; a resident of this state for a period of one year and a registered voter; a person who is not and never was a member of any profession licensed or regulated pursuant to this chapter or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by this chapter, or an activity or organization directly related to any profession licensed or regulated pursuant to this chapter. All members, including public members, shall be chosen from

lists submitted by the director of the division of professional registration. The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure. Any member who is a school owner shall not be allowed access to the testing and examination materials nor to attend the administration of the examinations, except when such member is being examined for licensure.**]**

[329.191. COMPENSATION OF STATE BOARD OF COSMETOLOGY. — Notwithstanding the provisions of section 329.190, to the contrary, compensation of the state board of cosmetology shall not exceed seventy dollars for each day actually spent in attendance at meetings plus actual and necessary expenses.**]**

[329.200. GOVERNOR TO FILL VACANCIES. — The governor shall, by and with the advice and consent of the senate, fill any vacancies caused by the expiration of the term of office of any member of the board, and the governor shall also fill any vacancy caused by death, resignation or removal which may occur when the general assembly is not in session, but all such appointees shall continue in office only until the meeting of the general assembly next following such appointment and until their successors shall be appointed and qualified. All vacancies which may exist at or during the meeting of the general assembly caused by death, resignation or removal shall be filled in like manner as those created by the expiration of official terms and shall be only for the unexpired term of the person whose vacancy is to be filled.**]**

[329.210. POWERS OF BOARD, RULEMAKING. — 1. The board shall have power to:

(1) Prescribe by rule for the examinations of applicants for licensure to practice the classified occupation of cosmetology and issue licenses;

(2) Prescribe by rule for the inspection of cosmetology establishments and schools and appoint the necessary inspectors and examining assistants;

(3) Prescribe by rule for the inspection of establishments and schools of cosmetology as to their sanitary conditions and to appoint the necessary inspectors and, if necessary, examining assistants; and set the amount of the fees which this chapter authorizes and requires, by rules and regulations promulgated pursuant to section 536.021, RSMo. The fees shall be set at a level sufficient to produce revenue which shall not substantially exceed the cost and expense of administering this chapter;

(4) Employ and remove board personnel, as defined in subdivision (4) of subsection 10 of section 324.001, RSMo, as may be necessary for the efficient operation of the board, within the limitations of its appropriation;

(5) Elect one of its members president, one vice president and one secretary;

(6) Determine the sufficiency of the qualifications of applicants; and

(7) Prescribe by rule the minimum standards and methods of accountability for the schools of cosmetology licensed pursuant to this chapter.

2. The board shall create no expense exceeding the sum received from time to time from fees imposed pursuant to this chapter.

3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this chapter shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.**]**

[329.220. QUORUM — MAJORITY VOTE. — At all meetings of the board two members shall be necessary to constitute a quorum for the transaction of business but no official action may be taken unless a majority of the whole board may vote therefor.**]**

[329.230. OFFICERS OF BOARD — EMPLOYEES — EXPENSES. — The board shall elect one of its members president, one vice president and one secretary, and shall have power to employ and remove such board personnel, as defined in subdivision (4) of subsection 16 of section 620.010, RSMo, as may be necessary for the efficient operation of the board, within the limitations of its appropriation, and to formulate rules and regulations governing its actions; provided, however, the board shall create no expense exceeding the sum received from time to time as fees as provided by law.**]**

[329.240. FEES, COLLECTION AND DISPOSITION — BOARD FUND ESTABLISHED, TRANSFERRED TO GENERAL REVENUE, WHEN. — 1. All fees provided for in this chapter shall be payable to the director of the division of professional registration in the department of economic development who shall keep a record of the account showing the total payments received and shall immediately thereafter transmit them to the department of revenue for deposit in the state treasury to the credit of a fund to be known as the "State Board of Cosmetology Fund". All the salaries and expenses for the operation of the board shall be appropriated and paid from such fund.

2. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the board's funds for the preceding fiscal year or, if the board requires by rule permit renewal less frequently than yearly, then three times the appropriation from the board's funds for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the board's funds for the preceding fiscal year.**]**

[338.057. LIST OF NONACCEPTABLE SUBSTITUTIONS — PREPARATION — PUBLICATION. — The board of pharmacy shall publish a list of drug products for which substitution as provided in section 338.056 shall not be permitted. The list of drug products to be included on this list shall be based upon a joint determination made by the department of health and senior services, the state board of registration for the healing arts, and the state board of pharmacy. The board of pharmacy shall publish the list not less often than semiannually, and shall publish amendments to the list as required.**]**

Approved July 10, 2009

SB 307 [CCS HCS SS SB 307]

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

Imposes a gross receipts tax on certain ambulance service providers

AN ACT to amend chapters 190, 205, 633, and 660, RSMo, by adding thereto twenty-six new sections relating to provider assessments, with an emergency clause for a certain section.

SECTION

A. Enacting clause.
190.800. Imposition of tax — definitions.
190.803. Formula for tax based on gross receipts — maximum rate — challenge of validity of rules.
190.806. Record-keeping requirements, confidentiality.
190.809. Amount due, determination — notification procedure — offset permitted, when — quarterly adjustment of tax permitted.
190.812. Determination of tax final, when — timely protest permitted.
190.815. Rulemaking authority.
190.818. Remittance of tax — fund created, use of moneys.
190.821. Tax period — failure to pay, delinquency, enforcement procedures.
190.824. Tax-exempt status of ambulance service not affected.
190.827. Payments to ambulance services, when.
190.830. Federal financial participation required.
190.833. No tax imposed prior to effective date.
190.836. Rules requirements, authority.
190.839. Expiration date.
205.202. Certain districts may impose sales tax instead of property tax — vote required — fund created, use of moneys (Ripley County).
633.402. Definitions — provider certification fee required, formula — fund created, use of moneys — rulemaking authority.
660.425. Home services providers tax imposed, definitions.
660.430. Amount of tax, formula — rulemaking authority — appeals.
660.435. List of vendors to be provided — record-keeping requirements — report of total payments.
660.440. Effective date of tax.
660.445. Determination of tax amount — notification to provider — quarterly tax adjustments permitted.
660.450. Offset of tax permitted, when.
660.455. Remittance of tax — fund created — record-keeping requirements.
660.460. Notification of taxes due — unpaid or delinquent amounts, effect of — failure to pay, penalty.
660.465. Expiration date.
1. Reimbursement for ambulance service to be based on mileage.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Chapters 190, 205, 633, and 660, RSMo, are amended by adding thereto twenty-six new sections, to be known as sections 190.800, 190.803, 190.806, 190.809, 190.812, 190.815, 190.818, 190.821, 190.824, 190.827, 190.830, 190.833, 190.836, 190.839, 205.202, 633.402, 660.425, 660.430, 660.435, 660.440, 660.445, 660.450, 660.455, 660.460, 660.465, and 1, to read as follows:

190.800. IMPOSITION OF TAX — DEFINITIONS. — 1. Each ground ambulance service, except for any ambulance service owned and operated by an entity owned and operated by the state of Missouri, including but not limited to any hospital owned or operated by the board of curators, as defined in chapter 172, RSMo, or any department of the state, shall, in addition to all other fees and taxes now required or paid, pay an ambulance service reimbursement allowance tax for the privilege of engaging in the business of providing ambulance services in this state.

2. For the purpose of this section, the following terms shall mean:

(1) "Ambulance", the same meaning as such term is defined in section 190.100;

(2) "Ambulance service", the same meaning as such term is defined in section 190.100;

(3) "Engaging in the business of providing ambulance services in this state", accepting payment for such services;

(4) "Gross receipts", all amounts received by an ambulance service licensed under section 190.109 for its own account from the provision of all emergency services, as defined in section 190.100, to the public in the state of Missouri, but shall not include revenue from taxes collected under law, grants, subsidies received from governmental agencies, or the value of charity care.

190.803. FORMULA FOR TAX BASED ON GROSS RECEIPTS — MAXIMUM RATE — CHALLENGE OF VALIDITY OF RULES. — 1. Each ambulance service's reimbursement allowance shall be based on its gross receipts using a formula established by the department of social services by rule. The determination of tax due shall be the monthly gross receipts reported to the department of social services multiplied by the tax rate established by rule by the department of social services. Such tax rate may be a graduated rate based on gross receipts and shall not exceed a rate of six percent per annum of gross receipts.

2. Notwithstanding any other provision of law to the contrary, any action respecting the validity of the rules promulgated under this section or section 190.815 or 190.833 shall be filed in the circuit court of Cole County. The circuit court of Cole County shall hear the matter as the court of original jurisdiction.

190.806. RECORD-KEEPING REQUIREMENTS, CONFIDENTIALITY. — Each ambulance service shall keep such records as may be necessary to determine the amount of its reimbursement allowance. On or before the first day of October of each year, every ambulance service shall submit to the department of social services a statement that accurately reflects such information as is necessary to determine such ambulance service's reimbursement allowance tax. Each licensed ambulance service shall report gross receipts to the department of social services. The information obtained by the department of social services shall be confidential.

190.809. AMOUNT DUE, DETERMINATION — NOTIFICATION PROCEDURE — OFFSET PERMITTED, WHEN — QUARTERLY ADJUSTMENT OF TAX PERMITTED. — 1. The director of the department of social services shall make a determination as to the amount of ambulance service reimbursement allowance tax due from each ambulance service.

2. The director of the department of social services shall notify each ambulance service of the annual amount of its reimbursement allowance tax on or before the first day of October each year. Such amount may be paid in monthly increments over the balance of the reimbursement allowance tax period, as set forth in subsection 1 of section 190.821.

3. The department of social services is authorized to offset the federal reimbursement allowance tax owed by an ambulance service against any MO HealthNet payment due such ambulance service, if the ambulance service requests such an offset. The amounts to be offset shall result, so far as practicable, in withholding from the ambulance service an amount substantially equivalent to the assessment to be due from the ambulance service. The office of administration and state treasurer are authorized to make any fund transfers necessary to execute the offset.

4. The department of social services may adjust the tax rate quarterly on a prospective basis. The department of social services may adjust more frequently for individual ambulance services if there is a substantial and statistically significant change in their service provider characteristics. The department of social services may define such adjustment criteria by rule.

190.812. DETERMINATION OF TAX FINAL, WHEN — TIMELY PROTEST PERMITTED. — 1. Each ambulance service reimbursement allowance tax determination shall be final after receipt of written notice from the department of social services, unless the ambulance service files a protest with the director of the department of social services setting forth the grounds on which the protest is based, within thirty days from the date of receipt of written notice from the department of social services to the ambulance service.

2. If a timely protest is filed, the director of the department of social services shall reconsider the determination and, if the ambulance service has so requested, the director or the director's designee shall grant the ambulance service a hearing to be held within

forty-five days after the protest is filed, unless extended by agreement between the ambulance service and the director. The director shall issue a final decision within forty-five days of the completion of the hearing. After reconsideration of the reimbursement allowance determination and a final decision by the director of the department of social services, an ambulance service's appeal of the director's final decision shall be to the administrative hearing commission in accordance with section 208.156, RSMo, and section 621.055, RSMo.

190.815. RULEMAKING AUTHORITY. — The director of the department of social services shall prescribe by rule the form and content of any document required to be filed under sections 190.800 to 190.836. No later than November 30, 2009, the department of social services shall promulgate rules to implement the provisions of sections 190.830 to 190.836.

190.818. REMITTANCE OF TAX — FUND CREATED, USE OF MONEYS. — 1. The ambulance service reimbursement allowance tax owed or, if an offset has been requested, the balance, if any, after such offset shall be remitted by the ambulance service to the department of social services. The remittance shall be made payable to the director of the department of revenue. The amount remitted shall be deposited in the state treasury to the credit of the "Ambulance Service Reimbursement Allowance Fund", which is hereby created for the sole purpose of providing payments to ambulance services. All investment earnings of the ambulance service reimbursement allowance fund shall be credited to the ambulance service reimbursement allowance fund. The unexpended balance in the ambulance service reimbursement allowance fund at the end of the biennium is exempt from the provisions of section 33.080, RSMo. The unexpended balance shall not revert to the general revenue fund, but shall accumulate in the ambulance service reimbursement allowance fund from year to year.

2. An offset as authorized by this section or a payment to the ambulance service reimbursement allowance fund shall be accepted as payment of the ambulance service's obligation imposed by section 190.800.

3. The state treasurer shall maintain records that show the amount of money in the ambulance service reimbursement allowance fund at any time and the amount of any investment earnings on that amount. The department of social services shall disclose such information to any interested party upon written request.

190.821. TAX PERIOD — FAILURE TO PAY, DELINQUENCY, ENFORCEMENT PROCEDURES. — 1. An ambulance service reimbursement allowance tax period as provided in sections 190.800 to 190.836 shall be from the first day of October to the thirtieth day of September. The department shall notify each ambulance service with a balance due on the thirtieth day of September of each year the amount of such balance due. If any ambulance service fails to pay its ambulance service reimbursement allowance tax within thirty days of such notice, the reimbursement allowance shall be delinquent. The reimbursement allowance tax may remain unpaid during an appeal as provided in section 190.812.

2. Except as otherwise provided in this section, if any reimbursement allowance tax imposed under section 190.800 is unpaid and delinquent, the department of social services may proceed to enforce the state's lien against the property of the ambulance service and to compel the payment of such reimbursement allowance tax in the circuit court having jurisdiction in the county where the ambulance service is located. In addition, the director of the department of social services or the director's designee may cancel or refuse to issue, extend, or reinstate a MO HealthNet participation agreement to any ambulance service which fails to pay such delinquent reimbursement allowance tax required by section 190.800 unless under appeal as allowed in section 190.812.

3. Except as otherwise provided in this section, failure to pay a delinquent reimbursement allowance tax imposed under section 190.800 shall be grounds for denial, suspension, or revocation of a license granted under this chapter. The director of the department of social services may notify the department of health and senior services to deny, suspend, or revoke the license of any ambulance service which fails to pay a delinquent reimbursement allowance tax unless under appeal as provided in section 190.812.

190.824. TAX-EXEMPT STATUS OF AMBULANCE SERVICE NOT AFFECTED. — Nothing in sections 190.800 to 190.836 shall be deemed to affect or in any way limit the tax-exempt or nonprofit status of any ambulance service granted by state or federal law.

190.827. PAYMENTS TO AMBULANCE SERVICES, WHEN. — The department of social services shall make payments to those ambulance services that have a valid MO HealthNet participation agreement with the department. The ambulance service reimbursement allowance shall not be used to supplant, and shall be in addition to, general revenue payments to ambulance services.

190.830. FEDERAL FINANCIAL PARTICIPATION REQUIRED. — The requirements of sections 190.800 to 190.830 shall apply only so long as the revenues generated under section 190.800 are eligible for federal financial participation as provided in sections 190.800 to 190.836 and payments are made under section 190.800. For the purpose of this section, "federal financial participation" means the federal government's share of Missouri's expenditures under the MO HealthNet program. Notwithstanding any other provision of this section to the contrary, in the event federal financial participation is either denied, discontinued, reduced in excess of five percent per year, or no longer available for the revenues generated under section 190.800, the director of the department of social services shall cause disbursement of all moneys held in the ambulance service reimbursement allowance fund to be made to all ambulance services in accordance with rules promulgated by the department of social services, along with a full accounting of such disbursements, within forty-five days of receipt of notice thereof by the department of social services.

190.833. NO TAX IMPOSED PRIOR TO EFFECTIVE DATE. — The ambulance service reimbursement allowance tax provided in section 190.800 shall not be imposed prior to the effective date of rules promulgated by the department of social services, but in no event prior to October 1, 2009.

190.836. RULES REQUIREMENTS, AUTHORITY. — No rules implementing sections 190.800 to 190.836 may be filed with the secretary of state without first being provided to interested parties registered on a list of such parties to be maintained by the director of the department of social services. Rules shall be provided to all interested parties seventy-two hours prior to being filed with the secretary of state. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in sections 190.800 to 190.836 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. Sections 190.800 to 190.836 and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

190.839. EXPIRATION DATE. — Sections 190.800 to 190.839 shall expire on September 30, 2011.

205.202. CERTAIN DISTRICTS MAY IMPOSE SALES TAX INSTEAD OF PROPERTY TAX — VOTE REQUIRED — FUND CREATED, USE OF MONEYS (RIPLEY COUNTY). — 1. The governing body of any hospital district established under sections 205.160 to 205.379 in any county of the third classification without a township form of government and with more than thirteen thousand five hundred but fewer than thirteen thousand six hundred inhabitants may, by resolution, abolish the property tax levied in such district under this chapter and impose a sales tax on all retail sales made within the district which are subject to sales tax under chapter 144, RSMo. The tax authorized in this section shall be not more than one percent, and shall be imposed solely for the purpose of funding the hospital district. The tax authorized in this section shall be in addition to all other sales taxes imposed by law, and shall be stated separately from all other charges and taxes.

2. No such resolution adopted under this section shall become effective unless the governing body of the hospital district submits to the voters residing within the district at a state general, primary, or special election a proposal to authorize the governing body of the district to impose a tax under this section. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the second calendar quarter after the director of revenue receives notification of adoption of the local sales tax. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the tax shall not become effective unless and until the question is resubmitted under this section to the qualified voters and such question is approved by a majority of the qualified voters voting on the question.

3. All revenue collected under this section by the director of the department of revenue on behalf of the hospital district, except for one percent for the cost of collection which shall be deposited in the state's general revenue fund, shall be deposited in a special trust fund, which is hereby created and shall be known as the "Hospital District Sales Tax Fund", and shall be used solely for the designated purposes. Moneys in the fund shall not be deemed to be state funds, and shall not be commingled with any funds of the state. The director may make refunds from the amounts in the fund and credited to the district for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such district. Any funds in the special fund which are not needed for current expenditures shall be invested in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

4. The governing body of any hospital district that has adopted the sales tax authorized in this section may submit the question of repeal of the tax to the voters on any date available for elections for the district. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the sales tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

5. Whenever the governing body of any hospital district that has adopted the sales tax authorized in this section receives a petition, signed by a number of registered voters of the district equal to at least ten percent of the number of registered voters of the district voting in the last gubernatorial election, calling for an election to repeal the sales tax imposed under this section, the governing body shall submit to the voters of the district a proposal to repeal the tax. If a majority of the votes cast on the question by the qualified

voters voting thereon are in favor of the repeal, the repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the sales tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

6. If the tax is repealed or terminated by any means, all funds remaining in the special trust fund shall continue to be used solely for the designated purposes, and the hospital district shall notify the director of the department of revenue of the action at least ninety days before the effective date of the repeal and the director may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such district, the director shall remit the balance in the account to the district and close the account of that district. The director shall notify each district of each instance of any amount refunded or any check redeemed from receipts due the district.

633.402. DEFINITIONS — PROVIDER CERTIFICATION FEE REQUIRED, FORMULA — FUND CREATED, USE OF MONEYS — RULEMAKING AUTHORITY. — 1. For purposes of this section, the following terms mean:

(1) "Certification fee", a fee to be paid by providers of health benefit services, which in the aggregate for all providers shall not exceed the overall cost of the department of mental health's operation of its certification programs for residential habilitation, individualized supported living, and day habilitation services provided to developmentally disabled individuals;

(2) "Home and community-based waiver services for persons with developmental disabilities", a department of mental health program which admits persons who are developmentally disabled for residential habilitation, individualized supported living, or day habilitation services under chapter 630, RSMo;

(3) "Provider of health benefit services", publicly and privately operated programs providing residential habilitation, individualized supported living, or day habilitation services to developmentally disabled individuals that have been certified to meet department of mental health certification standards.

2. Beginning July 1, 2009, each provider of health benefit services accepting payment shall pay a certification fee.

3. Each provider's fee shall be based on a formula set forth in rules and regulations promulgated by the department of mental health.

4. The fee imposed under this section shall be determined based on the reasonable costs incurred by the department of mental health in its programs of certification of providers of health benefit services. Imposition of the fee shall be contingent upon receipt of all necessary federal approvals under federal law and regulation to assure that the collection of the fee will not adversely affect the receipt of federal financial participation in medical assistance under Title XIX of the federal Social Security Act.

5. Fees shall be determined annually and prorated monthly by the director of the department of mental health or his or her designee and shall be made payable to the director of the department of revenue.

6. In the alternative, a provider may direct that the director of the department of social services offset, from the amount of any payment to be made by the state to the provider, the amount of the fee payment owed for any month.

7. Fee payments shall be deposited in the state treasury to the credit of the "Home and Community-Based Developmental Disabilities Waiver Reimbursement Allowance

Fund", which is hereby created in the state treasury. All investment earnings of this fund shall be credited to the fund. The state treasurer shall be custodian and may approve disbursement. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any unexpended balance in the home and community-based developmental disabilities waiver reimbursement allowance fund at the end of the biennium shall not revert to the general revenue fund but shall accumulate from year to year. The state treasurer shall maintain records that show the amount of money in the fund at any time and the amount of any investment earnings on that amount.

8. Every provider of residential habilitation, individualized supported living, and day habilitation services to developmentally disabled individuals, shall submit annually an acknowledgment of certification for the purpose of paying its certification fee. The report shall be in such form as may be prescribed by rule by the director of the department of mental health.

9. The director of the department of mental health shall prescribe by rule the form and content of any document required to be filed under the provisions of this section.

10. Upon receipt of notification from the director of the department of mental health of a provider's delinquency in paying fees required under this section, the director of the department of social services shall withhold, and shall remit to the director of the department of revenue, the fee amount estimated by the director of the department of mental health from any payment to be made by the state to the provider.

11. In the event a provider objects to the estimate described in subsection 10 of this section, or any other decision of the department of mental health related to this section, the provider of services may request a hearing. If a hearing is requested, the director of the department of mental health shall provide the provider of services an opportunity to be heard and to present evidence bearing on the amount due for an assessment or other issue related to this section within thirty days after collection of an amount due or receipt of a request for a hearing, whichever is later. The director of the department of mental health shall issue a final decision within forty-five days of the completion of the hearing. After reconsideration of the fee determination and a final decision by the director of the department of mental health, a residential habilitation, individualized supported living, and day habilitation services to developmentally disabled individuals provider's appeal of the director of the department of mental health's final decision shall be to the administrative hearing commission in accordance with section 208.156, RSMo, and section 621.055, RSMo.

12. Notwithstanding any other provision of law to the contrary, appeals regarding this assessment shall be to the circuit court of Cole County or the circuit court in the county in which the provider is located. The circuit court shall hear the matter as the court of original jurisdiction.

13. Nothing in this section shall be deemed to affect or in any way limit the tax-exempt or nonprofit status of any provider of residential habilitation, individualized supported living, and day habilitation services to developmentally disabled individuals, granted by state law.

14. The director of the department of mental health shall promulgate rules and regulations to implement this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

15. The provisions of this section shall expire on September 30, 2011.

660.425. HOME SERVICES PROVIDERS TAX IMPOSED, DEFINITIONS. — 1. In addition to all other fees and taxes required or paid, a tax is hereby imposed upon in-home services providers for the privilege of providing in-home services under chapter 208, RSMo. The tax is imposed upon payments received by an in-home services provider for the provision of in-home services under chapter 208, RSMo.

2. For purposes of sections 660.425 to 660.465, the following terms shall mean:

(1) "Engaging in the business of providing in-home services", all payments received by an in-home services provider for the provision of in-home services under chapter 208, RSMo;

(2) "In-home services", homemaker services, personal care services, chore services, respite services, consumer-directed services, and services, when provided in the individual's home and under a plan of care created by a physician, necessary to keep children out of hospitals. In-home services shall not include home health services as defined by federal and state law;

(3) "In-home services provider", any provider or vendor, as defined in section 208.900, RSMo, of compensated in-home services under chapter 208, RSMo, and under a provider agreement or contracted with the department of social services or the department of health and senior services.

660.430. AMOUNT OF TAX, FORMULA — RULEMAKING AUTHORITY — APPEALS. — 1. Each in-home services provider in this state providing in-home services under chapter 208, RSMo, shall, in addition to all other fees and taxes now required or paid, pay an in-home services gross receipts tax, not to exceed six and one-half percent of gross receipts, for the privilege of engaging in the business of providing in-home services in this state.

2. Each in-home services provider's tax shall be based on a formula set forth in rules promulgated by the department of social services. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

3. The director of the department of social services or the director's designee may prescribe the form and contents of any forms or other documents required by sections 660.425 to 660.465.

4. Notwithstanding any other provision of law to the contrary, appeals regarding the promulgation of rules under this section shall be made to the circuit court of Cole County. The circuit court of Cole County shall hear the matter as the court of original jurisdiction.

660.435. LIST OF VENDORS TO BE PROVIDED — RECORD-KEEPING REQUIREMENTS — REPORT OF TOTAL PAYMENTS. — 1. For purposes of assessing the tax under sections 660.425 to 660.465, the department of health and senior services shall make available to the department of social services a list of all providers and vendors under this section.

2. Each in-home services provider subject to sections 660.425 to 660.465 shall keep such records as may be necessary to determine the total payments received for the provision of in-home services under chapter 208, RSMo, by the in-home services provider. Every in-home services provider shall submit to the department of social services a statement that accurately reflects such information as is necessary to determine such in-home services provider's tax due.

3. The director of the department of social services may prescribe the form and contents of any forms or other documents required by this section.

4. Each in-home services provider shall report the total payments received for the provision of in-home services under chapter 208, RSMo, to the department of social services.

660.440. EFFECTIVE DATE OF TAX. — 1. The tax imposed by sections 660.425 to 660.465 shall become effective upon authorization by the federal Centers for Medicare & Medicaid Services for a gross receipts tax for in-home services.

2. If the federal Centers for Medicare & Medicaid Services determines that their authorization is not necessary for the tax imposed under sections 660.425 to 660.465, the tax shall become effective sixty days after the date of such determination.

660.445. DETERMINATION OF TAX AMOUNT — NOTIFICATION TO PROVIDER — QUARTERLY TAX ADJUSTMENTS PERMITTED. — 1. The determination of the amount of tax due shall be the total amount of payments reported to the department multiplied by the tax rate established by rule by the department of social services.

2. The department of social services shall notify each in-home services provider of the amount of tax due. Such amount may be paid in increments over the balance of the assessment period.

3. The department of social services may adjust the tax due quarterly on a prospective basis. The department of social services may adjust the tax due more frequently for individual providers if there is a substantial and statistically significant change in the in-home services provided or in the payments received for such services provided under chapter 208, RSMo. The department of social services may define such adjustment criteria by rule.

660.450. OFFSET OF TAX PERMITTED, WHEN. — The director of the department of social services may offset the tax owed by an in-home services provider against any Missouri Medicaid payment due such in-home services provider, if the in-home services provider requests such an offset. The amounts to be offset shall result, so far as practicable, in withholding from the in-home services provider an amount substantially equal to the assessment due from the in-home services provider. The office of administration and the state treasurer may make any fund transfers necessary to execute the offset.

660.455. REMITTANCE OF TAX — FUND CREATED — RECORD-KEEPING REQUIREMENTS. — 1. The in-home services tax owed or, if an offset has been made, the balance after such offset, if any, shall be remitted by the in-home services provider to the department of social services. The remittance shall be made payable to the director of the department of social services and shall be deposited in the state treasury to the credit of the "In-home Services Gross Receipts Tax Fund" which is hereby created to provide payments for in-home services provided under chapter 208, RSMo. All investment earnings of the fund shall be credited to the fund.

2. An offset authorized by section 660.450 or a payment to the in-home services gross receipts tax fund shall be accepted as payment of the obligation set forth in section 660.425.

3. The state treasurer shall maintain records showing the amount of money in the in-home services gross receipts tax fund at any time and the amount of investment earnings on such amount.

4. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any unexpended balance in the in-home services gross receipts tax fund at the end of the biennium shall not revert to the credit of the general revenue fund.

660.460. NOTIFICATION OF TAXES DUE — UNPAID OR DELINQUENT AMOUNTS, EFFECT OF — FAILURE TO PAY, PENALTY. — 1. The department of social services shall notify each in-home services provider with a tax due of more than ninety days of the amount of such balance. If any in-home services provider fails to pay its in-home services tax within thirty days of such notice, the in-home services tax shall be delinquent.

2. If any tax imposed under sections 660.425 to 660.465 is unpaid and delinquent, the department of social services may proceed to enforce the state's lien against the property of the in-home services provider and compel the payment of such assessment in the circuit court having jurisdiction in the county where the in-home services provider is located. In addition, the department of social services may cancel or refuse to issue, extend, or reinstate a Medicaid provider agreement to any in-home services provider that fails to pay the tax imposed by section 660.425.

3. Failure to pay the tax imposed under section 660.425 shall be grounds for failure to renew a provider agreement for services under chapter 208, RSMo, or failure to renew a provider contract. The department of social services may revoke the provider agreement of any in-home services provider that fails to pay such tax, or notify the department of health and senior services to revoke the provider contract.

660.465. EXPIRATION DATE. — 1. The in-home services tax required by sections 660.425 to 660.465 shall expire:

(1) Ninety days after any one or more of the following conditions are met:

(a) The aggregate in-home services fee as appropriated by the general assembly paid to in-home services providers for in-home services provided under chapter 208, RSMo, is less than the fiscal year 2010 in-home services fees reimbursement amount; or

(b) The formula used to calculate the reimbursement as appropriated by the general assembly for in-home services provided is changed resulting in lower reimbursement to in-home services providers in the aggregate than provided in fiscal year 2010; or

(2) September 1, 2011. The director of the department of social services shall notify the revisor of statutes of the expiration date as provided in this subsection.

2. Sections 660.425 to 660.465 shall expire on September 1, 2011.

SECTION 1. REIMBURSEMENT FOR AMBULANCE SERVICE TO BE BASED ON MILEAGE. — Reimbursement for ambulance services provided under chapter 208, RSMo, shall be made based on mileage calculations from the point of pick up to the destination.

SECTION B. EMERGENCY CLAUSE. — Because of the need to preserve state revenue and promote safety and quality in mental health community programs, the enactment of section 633.402 of section A 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 the enactment of section 633.402 of section A of this act shall be in full force and effect upon its passage and approval.

Approved June 26, 2009

SB 313 [HCS SCS SB 313]

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

Creates two separate funds within the state treasury to receive and retain funds provided under the American Recovery and Reinvestment Act of 2009

AN ACT to amend chapter 30, RSMo, by adding thereto three new sections relating to the receipt of federal economic stimulus funds, with an emergency clause.

SECTION
A. Enacting clause.
30.1010. Fund created, moneys to be deposited in fund.
30.1014. Fund created, moneys to be deposited in fund.
1. Federal funds, authority of state treasurer to create and redesignate funds.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Chapter 30, RSMo, is amended by adding thereto three new sections, to be known as sections 30.1010, 30.1014, and 1, to read as follows:

30.1010. FUND CREATED, MONEYS TO BE DEPOSITED IN FUND. — There is hereby created in the state treasury the "Federal Budget Stabilization Fund", which, provisions of law to the contrary notwithstanding, shall consist of all moneys, except those specifically allocable to the funds established under the provisions of sections 288.290, 288.300, and 644.122, RSMo, received in the state treasury due to the American Recovery and Reinvestment Act of 2009 as enacted by the 111th United States Congress, which are intended to assist states in budget stabilization. The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

30.1014. FUND CREATED, MONEYS TO BE DEPOSITED IN FUND. — There is hereby created in the state treasury the "Federal Stimulus Fund", which, provisions of law to the contrary notwithstanding, shall consist of all moneys except those specifically allocable to the funds established under the provisions of sections 288.290, 288.300, and 644.122, RSMo, received in the state treasury pursuant to the American Recovery and Reinvestment Act of 2009, as enacted by the 111th United States Congress, which are intended to stimulate the economy and are not otherwise allocable to the federal budget stabilization fund under section 30.1010. The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

SECTION 1. FEDERAL FUNDS, AUTHORITY OF STATE TREASURER TO CREATE AND REDESIGNATE FUNDS. — The state treasurer is hereby authorized to create or redesignate funds as necessary to avoid conflict with provisions of federal law prohibiting commingling of certain funds derived from the American Recovery and Reinvestment Act of 2009, as enacted by the 111th United States Congress.

SECTION B. EMERGENCY CLAUSE. — Because of the need to ensure the proper receipt and accounting of moneys resulting from the enactment of the American Recovery and Reinvestment Act of 2009, section A 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 A of this act shall be in full force and effect upon its passage and approval.

Approved March 26, 2009

SB 338 [HCS SCS SB 338]

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

Transfers administration of the Crime Victims' Compensation Fund and payment of certain forensic examination charges to the Department of Public Safety

AN ACT to repeal sections 191.225, 595.010, 595.015, 595.020, 595.025, 595.030, 595.035, 595.037, 595.040, 595.045, 595.060, and 595.209, RSMo, and to enact in lieu thereof thirteen new sections relating to crime victims, with a penalty provision.

SECTION

A. Enacting clause.
217.439. Photograph of offender to be taken prior to release, when — provided to victim upon request.
595.010. Definitions.
595.015. Compensation claims, department of public safety to administer, method — application filed with department, form, contents — additional items, notice — amended application — cooperation with law enforcement — information to be made available to department.
595.020. Eligibility for compensation.
595.025. Claims, filing and hearing, procedure, who may file — time limitation — amount of compensation, considerations — attorney's fees — examination, report by physician, when — exemption from collection.
595.030. Compensation, out-of-pocket loss requirement, maximum amount for counseling expenses — award, computation — medical care, requirements — counseling, requirements — maximum award — joint claimants, distribution — method, timing of payment determined by department.
595.035. Award standards to be established — amount of award, factors to be considered — purpose of fund, reduction for other compensation received by victim, exceptions — time limitation.
595.037. Open records, exceptions — department or division order to close records.
595.040. Subrogation, state's right, when — attorney general to bring action — lien for injuries, proceeding by claimant to recover damages, department may intervene — department may receive restitution.
595.045. Funding — costs for certain violations, amount, distribution of funds, audit — judgments in certain cases, amount — failure to pay, effect, notice — court cost deducted — insufficient funds to pay claims, procedure — interest earned, disposition.
595.060. Rules, authority — procedure.
595.209. Rights of victims and witnesses — written notification, requirements.
595.220. Forensic examinations, department of public safety to pay medical providers, when — minor may consent to examination, when — attorney general to develop forms — collection kits — definitions — rulemaking authority.
191.225. Costs of medical examination of certain crime victims payable by department of health and senior services, when, conditions — evidentiary collection kits to be developed — definitions.

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

SECTION A. ENACTING CLAUSE. — Sections 191.225, 595.010, 595.015, 595.020, 595.025, 595.030, 595.035, 595.037, 595.040, 595.045, 595.060, and 595.209, RSMo, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 217.439, 595.010, 595.015, 595.020, 595.025, 595.030, 595.035, 595.037, 595.040, 595.045, 595.060, 595.209, and 595.220, to read as follows:

217.439. PHOTOGRAPH OF OFFENDER TO BE TAKEN PRIOR TO RELEASE, WHEN — PROVIDED TO VICTIM UPON REQUEST. — Upon the victim's request, a photograph shall be

taken of the incarcerated individual prior to release from incarceration and a copy of the photograph shall be provided to the crime victim.

595.010. DEFINITIONS. — 1. As used in sections 595.010 to 595.075, unless the context requires otherwise, the following terms shall mean:

(1) "Child", a dependent, unmarried person who is under eighteen years of age and includes a posthumous child, stepchild, or an adopted child;

(2) "Claimant", a victim or a dependent, relative, survivor, or member of the family, of a victim eligible for compensation pursuant to sections 595.010 to 595.075;

(3) "Conservator", a person or corporation appointed by a court to have the care and custody of the estate of a minor or a disabled person, including a limited conservator;

(4) "Counseling", problem-solving and support concerning emotional issues that result from criminal victimization licensed pursuant to section 595.030. Counseling is a confidential service provided either on an individual basis or in a group. Counseling has as a primary purpose to enhance, protect and restore a person's sense of well-being and social functioning after victimization. Counseling does not include victim advocacy services such as crisis telephone counseling, attendance at medical procedures, law enforcement interviews or criminal justice proceedings;

(5) "Crime", an act committed in this state which, if committed by a mentally competent, criminally responsible person who had no legal exemption or defense, would constitute a crime; provided that, such act involves the application of force or violence or the threat of force or violence by the offender upon the victim but shall include the crime of driving while intoxicated, vehicular manslaughter and hit and run; and provided, further, that no act involving the operation of a motor vehicle except driving while intoxicated, vehicular manslaughter and hit and run which results in injury to another shall constitute a crime for the purpose of sections 595.010 to 595.075, unless such injury was intentionally inflicted through the use of a motor vehicle. A crime shall also include an act of terrorism, as defined in 18 U.S.C. section 2331, which has been committed outside of the United States against a resident of Missouri;

(6) "Crisis intervention counseling", helping to reduce psychological trauma where victimization occurs;

(7) "Department", the department of public safety;

(8) "Dependent", mother, father, spouse, spouse's mother, spouse's father, child, grandchild, adopted child, illegitimate child, niece or nephew, who is wholly or partially dependent for support upon, and living with, but shall include children entitled to child support but not living with, the victim at the time of his injury or death due to a crime alleged in a claim pursuant to sections 595.010 to **[**595.070**]** **595.075**;

(9) "Direct service", providing physical services to a victim of crime including, but not limited to, transportation, funeral arrangements, child care, emergency food, clothing, shelter, notification and information;

(10) "Director", the director of public safety of this state or a person designated by him for the purposes of sections 595.010 to **[**595.070**]** **595.075**;

(11) "Disabled person", one who is unable by reason of any physical or mental condition to receive and evaluate information or to communicate decisions to such an extent that the person lacks ability to manage his financial resources, including a partially disabled person who lacks the ability, in part, to manage his financial resources;

(12) **[**"Division", the division of workers' compensation of the state of Missouri;

(13)**]** "Emergency service", those services provided within thirty days to alleviate the immediate effects of the criminal act or offense, and may include cash grants of not more than one hundred dollars;

[(14)**]** **(13)** "Earnings", net income or net wages;

[(15)**]** **(14)** "Family", the spouse, parent, grandparent, stepmother, stepfather, child, grandchild, brother, sister, half brother, half sister, adopted children of parent, or spouse's parents;

[(16)**]** **(15)** "Funeral expenses", the expenses of the funeral, burial, cremation or other chosen method of interment, including plot or tomb and other necessary incidents to the disposition of the remains;

[(17)**]** **(16)** "Gainful employment", engaging on a regular and continuous basis, up to the date of the incident upon which the claim is based, in a lawful activity from which a person derives a livelihood;

[(18)**]** **(17)** "Guardian", one appointed by a court to have the care and custody of the person of a minor or of an incapacitated person, including a limited guardian;

[(19)**]** **(18)** "Hit and run", the crime of leaving the scene of a motor vehicle accident as defined in section 577.060, RSMo;

[(20)**]** **(19)** "Incapacitated person", one who is unable by reason of any physical or mental condition to receive and evaluate information or to communicate decisions to such an extent that he lacks capacity to meet essential requirements for food, clothing, shelter, safety or other care such that serious physical injury, illness, or disease is likely to occur, including a partially incapacitated person who lacks the capacity to meet, in part, such essential requirements;

[(21)**]** **(20)** "Injured victim", a person:

(a) Killed or receiving a personal physical injury in this state as a result of another person's commission of or attempt to commit any crime;

(b) Killed or receiving a personal physical injury in this state while in a good faith attempt to assist a person against whom a crime is being perpetrated or attempted;

(c) Killed or receiving a personal physical injury in this state while assisting a law enforcement officer in the apprehension of a person who the officer has reason to believe has perpetrated or attempted a crime;

[(22)**]** **(21)** "Law enforcement official", a sheriff and his regular deputies, municipal police officer or member of the Missouri state highway patrol and such other persons as may be designated by law as peace officers;

[(23)**]** **(22)** "Offender", a person who commits a crime;

[(24)**]** **(23)** "Personal physical injury", actual bodily harm only with respect to the victim. Personal physical injury may include mental or nervous shock resulting from the specific incident upon which the claim is based;

[(25)**]** **(24)** "Private agency", a not-for-profit corporation, in good standing in this state, which provides services to victims of crime and their dependents;

[(26)**]** **(25)** "Public agency", a part of any local or state government organization which provides services to victims of crime;

[(27)**]** **(26)** "Relative", the spouse of the victim or a person related to the victim within the third degree of consanguinity or affinity as calculated according to civil law;

[(28)**]** **(27)** "Survivor", the spouse, parent, legal guardian, grandparent, sibling or child of the deceased victim of the victim's household at the time of the crime;

[(29)**]** **(28)** "Victim", a person who suffers personal physical injury or death as a direct result of a crime, as defined in subdivision (5) of this subsection;

[(30)**]** **(29)** "Victim advocacy", assisting the victim of a crime and his dependents to acquire services from existing community resources.

2. As used in sections 565.024 and 565.060, RSMo, and sections 595.010 to 595.075, the term "alcohol-related traffic offense" means those offenses defined by sections 577.001, 577.010, and 577.012, RSMo, and any county or municipal ordinance which prohibits operation of a motor vehicle while under the influence of alcohol.

595.015. COMPENSATION CLAIMS, DEPARTMENT OF PUBLIC SAFETY TO ADMINISTER, METHOD — APPLICATION FILED WITH DEPARTMENT, FORM, CONTENTS — ADDITIONAL ITEMS, NOTICE — AMENDED APPLICATION — COOPERATION WITH LAW ENFORCEMENT — INFORMATION TO BE MADE AVAILABLE TO DEPARTMENT. — 1. The **[**division of workers' compensation**]** **department of public safety** shall, pursuant to the provisions of sections 595.010

to 595.075, have jurisdiction to determine and award compensation to, or on behalf of, victims of crimes. **In making such determinations and awards, the department shall ensure the compensation sought is reasonable and consistent with the limitations described in sections 595.010 to 595.075. Additionally, if compensation being sought includes medical expenses, the department shall further ensure that such expenses are medically necessary.** The **[**division of workers' compensation**]** **department of public safety** may pay directly to the provider of the services compensation for medical or funeral expenses, or expenses for other services as described in section 595.030, incurred by the claimant. The **[**division**]** **department** is not required to provide compensation in any case, nor is it required to award the full amount claimed. The **[**division**]** **department** shall make its award of compensation based upon independent verification obtained during its investigation.

2. Such claims shall be made by filing an application for compensation with the **[**division of workers' compensation**]** **department of public safety**. The application form shall be furnished by the **[**division**]** **department** and the signature shall be notarized. The application shall include:

(1) The name and address of the victim;

(2) If the claimant is not the victim, the name and address of the claimant and relationship to the victim, the names and addresses of the victim's dependents, if any, and the extent to which each is so dependent;

(3) The date and nature of the crime or attempted crime on which the application for compensation is based;

(4) The date and place where, and the law enforcement officials to whom, notification of the crime was given;

(5) The nature and extent of the injuries sustained by the victim, the names and addresses of those giving medical and hospital treatment to the victim and whether death resulted;

(6) The loss to the claimant or a dependent resulting from the injury or death;

(7) The amount of benefits, payments or awards, if any, payable from any source which the claimant or dependent has received or for which the claimant or dependent is eligible as a result of the injury or death;

(8) Releases authorizing the surrender to the **[**division**]** **department** of reports, documents and other information relating to the matters specified under this section; and

(9) Such other information as the **[**division**]** **department** determines is necessary.

3. In addition to the application, the **[**division**]** **department** may require that the claimant submit materials substantiating the facts stated in the application.

4. If the **[**division**]** **department** finds that an application does not contain the required information or that the facts stated therein have not been substantiated, it shall notify the claimant in writing of the specific additional items of information or materials required and that the claimant has thirty days from the date of mailing in which to furnish those items to the **[**division**]** **department**. Unless a claimant requests and is granted an extension of time by the **[**division**]** **department**, the **[**division**]** **department** shall reject with prejudice the claim of the claimant for failure to file the additional information or materials within the specified time.

5. The claimant may file an amended application or additional substantiating materials to correct inadvertent errors or omissions at any time before the **[**division**]** **department** has completed its consideration of the original application.

6. The claimant, victim or dependent shall cooperate with law enforcement officials in the apprehension and prosecution of the offender in order to be eligible, or the **[**division**]** **department** has found that the failure to cooperate was for good cause.

7. Any state or local agency, including a prosecuting attorney or law enforcement agency, shall make available without cost to the fund, all reports, files and other appropriate information which the **[**division**]** **department** requests in order to make a determination that a claimant is eligible for an award pursuant to sections 595.010 to 595.075.

595.020. ELIGIBILITY FOR COMPENSATION. — 1. Except as hereinafter provided, the following persons shall be eligible for compensation pursuant to sections 595.010 to 595.075:

(1) A victim of a crime;

(2) In the case of a sexual assault victim:

(a) A relative of the victim requiring counseling in order to better assist the victim in his recovery; and

(3) In the case of the death of the victim as a direct result of the crime:

(a) A dependent of the victim;

(b) Any member of the family who legally assumes the obligation, or who pays the medical or burial expenses incurred as a direct result thereof; and

(c) A survivor of the victim requiring counseling as a direct result of the death of the victim.

2. An offender or an accomplice of an offender shall in no case be eligible to receive compensation with respect to a crime committed by the offender. No victim or dependent shall be denied compensation solely because he is a relative of the offender or was living with the offender as a family or household member at the time of the injury or death. However, the **[**division**]** **department** may award compensation to a victim or dependent who is a relative, family or household member of the offender only if the **[**division**]** **department** can reasonably determine the offender will receive no substantial economic benefit or unjust enrichment from the compensation.

3. No compensation of any kind may be made to a victim or intervenor injured while confined in any federal, state, county, or municipal jail, prison or other correctional facility, including house arrest **or electronic monitoring**.

4. No compensation of any kind may be made to a victim who has been finally adjudicated and found guilty, in a criminal prosecution under the laws of this state, of two felonies within the past ten years, of which one or both involves illegal drugs or violence. The **[**division**]** **department** may waive this restriction if it determines that the interest of justice would be served otherwise.

5. In the case of a claimant who is not otherwise ineligible pursuant to subsection 4 of this section, who is incarcerated as a result of a conviction of a crime not related to the incident upon which the claim is based at the time of application, or at any time following the filing of the application:

(1) The **[**division**]** **department** shall suspend all proceedings and payments until such time as the claimant is released from incarceration;

(2) The **[**division**]** **department** shall notify the applicant at the time the proceedings are suspended of the right to reactivate the claim within six months of release from incarceration. The notice shall be deemed sufficient if mailed to the applicant at the applicant's last known address;

(3) The claimant shall file an application to request that the case be reactivated not later than six months after the date the claimant is released from incarceration. Failure to file such request within the six-month period shall serve as a bar to any recovery.

6. Victims of crime who are not residents of the state of Missouri may be compensated only when federal funds are available for that purpose. Compensation for nonresident victims shall terminate when federal funds for that purpose are no longer available.

7. A Missouri resident who suffers personal physical injury or, in the case of death, a dependent of the victim or any member of the family who legally assumes the obligation, or who pays the medical or burial expenses incurred as a direct result thereof, in another state, possession or territory of the United States may make application for compensation in Missouri if:

(1) The victim of the crime would be compensated if the crime had occurred in the state of Missouri;

(2) The place that the crime occurred is a state, possession or territory of the United States, or location outside of the United States that is covered and defined in 18 U.S.C. section 2331, that does not have a crime victims' compensation program for which the victim is eligible and

which provides at least the same compensation that the victim would have received if he had been injured in Missouri.

595.025. CLAIMS, FILING AND HEARING, PROCEDURE, WHO MAY FILE — TIME LIMITATION — AMOUNT OF COMPENSATION, CONSIDERATIONS — ATTORNEY'S FEES — EXAMINATION, REPORT BY PHYSICIAN, WHEN — EXEMPTION FROM COLLECTION. — 1. A claim for compensation may be filed by a person eligible for compensation or, if the person is an incapacitated or disabled person, or a minor, by the person's spouse, parent, conservator, or guardian.

2. A claim shall be filed not later than two years after the occurrence of the crime or the discovery of the crime upon which it is based.

3. Each claim shall be filed in person or by mail. The **[**division of workers' compensation**]** **department of public safety** shall investigate such claim, prior to the opening of formal proceedings. The claimant shall be notified of the date and time of any hearing on such claim. In determining the amount of compensation for which a claimant is eligible, the **[**division**]** **department** shall consider the facts stated on the application filed pursuant to section 595.015, and:

(1) Need not consider whether or not the alleged assailant has been apprehended or brought to trial or the result of any criminal proceedings against that person; however, if any person is convicted of the crime which is the basis for an application for compensation, proof of the conviction shall be conclusive evidence that the crime was committed;

(2) Shall determine the amount of the loss to the claimant, or the victim's survivors or dependents;

(3) Shall determine the degree or extent to which the victim's acts or conduct provoked, incited, or contributed to the injuries or death of the victim.

4. The claimant may present evidence and testimony on his own behalf or may retain counsel. The **[**division of workers' compensation**]** **department of public safety** may, as part of any award entered under sections 595.010 to 595.075, determine and allow reasonable attorney's fees, which shall not exceed fifteen percent of the amount awarded as compensation under sections 595.010 to 595.075, which fee shall be paid out of, but not in addition to, the amount of compensation, to the attorney representing the claimant. No attorney for the claimant shall ask for, contract for or receive any larger sum than the amount so allowed.

5. The person filing a claim shall, prior to any hearing thereon, submit reports, if available, from all hospitals, physicians or surgeons who treated or examined the victim for the injury for which compensation is sought. If, in the opinion of the **[**division of workers' compensation**]** **department of public safety**, an examination of the injured victim and a report thereon, or a report on the cause of death of the victim, would be of material aid, the **[**division of workers' compensation**]** **department of public safety** may appoint a duly qualified, impartial physician to make such examination and report.

6. Each and every payment shall be exempt from attachment, garnishment or any other remedy available to creditors for the collection of a debt.

7. Payments of compensation shall not be made directly to any person legally incompetent to receive them but shall be made to the parent, guardian or conservator for the benefit of such minor, disabled or incapacitated person.

595.030. COMPENSATION, OUT-OF-POCKET LOSS REQUIREMENT, MAXIMUM AMOUNT FOR COUNSELING EXPENSES — AWARD, COMPUTATION — MEDICAL CARE, REQUIREMENTS — COUNSELING, REQUIREMENTS — MAXIMUM AWARD — JOINT CLAIMANTS, DISTRIBUTION — METHOD, TIMING OF PAYMENT DETERMINED BY DEPARTMENT. — 1. No compensation shall be paid unless the claimant has incurred an out-of-pocket loss of at least fifty dollars or has lost two continuous weeks of earnings or support from gainful employment. "Out-of-pocket

loss" shall mean unreimbursed or unreimbursable expenses or indebtedness reasonably incurred:

(1) For medical care or other services, including psychiatric, psychological or counseling expenses, necessary as a result of the crime upon which the claim is based, except that the amount paid for psychiatric, psychological or counseling expenses per eligible claim shall not exceed two thousand five hundred dollars; or

(2) As a result of personal property being seized in an investigation by law enforcement. Compensation paid for an out-of-pocket loss under this subdivision shall be in an amount equal to the loss sustained, but shall not exceed two hundred fifty dollars.

2. No compensation shall be paid unless the **[**division of workers' compensation**]** **department of public safety** finds that a crime was committed, that such crime directly resulted in personal physical injury to, or the death of, the victim, and that police records show that such crime was promptly reported to the proper authorities. In no case may compensation be paid if the police records show that such report was made more than forty-eight hours after the occurrence of such crime, unless the **[**division of workers' compensation**]** **department of public safety** finds that the report to the police was delayed for good cause. If the victim is under eighteen years of age such report may be made by the victim's parent, guardian or custodian; by a physician, a nurse, or hospital emergency room personnel; by the division of family services personnel; or by any other member of the victim's family. In the case of a sexual offense, filing a report of the offense to the proper authorities may include, but not be limited to, the filing of the report of the forensic examination by the appropriate medical provider, as defined in section **[**191.225, RSMo**]** **595.220**, with the prosecuting attorney of the county in which the alleged incident occurred.

3. No compensation shall be paid for medical care if the service provider is not a medical provider as that term is defined in section 595.027, and the individual providing the medical care is not licensed by the state of Missouri or the state in which the medical care is provided.

4. No compensation shall be paid for psychiatric treatment or other counseling services, including psychotherapy, unless the service provider is a:

(1) Physician licensed pursuant to chapter 334, RSMo, or licensed to practice medicine in the state in which the service is provided;

(2) Psychologist licensed pursuant to chapter 337, RSMo, or licensed to practice psychology in the state in which the service is provided;

(3) Clinical social worker licensed pursuant to chapter 337, RSMo; or

(4) Professional counselor licensed pursuant to chapter 337, RSMo.

5. Any compensation paid pursuant to sections 595.010 to 595.075 for death or personal injury shall be in an amount not exceeding out-of-pocket loss, together with loss of earnings or support from gainful employment, not to exceed two hundred dollars per week, resulting from such injury or death. In the event of death of the victim, an award may be made for reasonable and necessary expenses actually incurred for preparation and burial not to exceed five thousand dollars.

6. Any compensation for loss of earnings or support from gainful employment shall be in an amount equal to the actual loss sustained not to exceed two hundred dollars per week; provided, however, that no award pursuant to sections 595.010 to 595.075 shall exceed twenty-five thousand dollars. If two or more persons are entitled to compensation as a result of the death of a person which is the direct result of a crime or in the case of a sexual assault, the compensation shall be apportioned by the **[**division of workers' compensation**]** **department of public safety** among the claimants in proportion to their loss.

7. The method and timing of the payment of any compensation pursuant to sections 595.010 to 595.075 shall be determined by the **[**division**]** **department**.

595.035. AWARD STANDARDS TO BE ESTABLISHED — AMOUNT OF AWARD, FACTORS TO BE CONSIDERED — PURPOSE OF FUND, REDUCTION FOR OTHER COMPENSATION

RECEIVED BY VICTIM, EXCEPTIONS — TIME LIMITATION. — 1. For the purpose of determining the amount of compensation payable pursuant to sections 595.010 to 595.075, the **[**division of workers' compensation**]** **department of public safety** shall, insofar as practicable, formulate standards for the uniform application of sections 595.010 to 595.075, taking into consideration the provisions of sections 595.010 to 595.075, the rates and amounts of compensation payable for injuries and death pursuant to other laws of this state and of the United States, excluding pain and suffering, and the availability of funds appropriated for the purpose of sections 595.010 to 595.075. All decisions of the **[**division of workers' compensation**]** **department of public safety** on claims **[**heard**]** pursuant to sections 595.010 to 595.075 shall be in writing, setting forth the name of the claimant, the amount of compensation and the reasons for the decision. The **[**division of workers' compensation**]** **department of public safety** shall immediately notify the claimant in writing of the decision and shall forward to the state treasurer a certified copy of the decision and a warrant for the amount of the claim. The state treasurer, upon certification by the commissioner of administration, shall, if there are sufficient funds in the crime victims' compensation fund, pay to or on behalf of the claimant the amount determined by the **[**division**]** **department**.

2. The crime victims' compensation fund is not a state health program and is not intended to be used as a primary payor to other health care assistance programs, but is a public, quasi-charitable fund whose fundamental purpose is to assist victims of violent crimes through a period of financial hardship, as a payor of last resort. Accordingly, any compensation paid pursuant to sections 595.010 to 595.075 shall be reduced by the amount of any payments, benefits or awards received or to be received as a result of the injury or death:

(1) From or on behalf of the offender;

(2) Under private or public insurance programs, including champus, Medicare, Medicaid and other state or federal programs, but not including any life insurance proceeds; or

(3) From any other public or private funds, including an award payable pursuant to the workers' compensation laws of this state.

3. In determining the amount of compensation payable, the **[**division of workers' compensation**]** **department of public safety** shall determine whether, because of the victim's consent, provocation, incitement or negligence, the victim contributed to the infliction of the victim's injury or death, and shall reduce the amount of the compensation or deny the claim altogether, in accordance with such determination; provided, however, that the **[**division of workers' compensation**]** **department of public safety** may disregard the responsibility of the victim for his or her own injury where such responsibility was attributable to efforts by the victim to aid a victim, or to prevent a crime or an attempted crime from occurring in his or her presence, or to apprehend a person who had committed a crime in his or her presence or had in fact committed a felony.

4. In determining the amount of compensation payable pursuant to sections 595.010 to **[**595.070**]** **595.075**, monthly Social Security disability or retirement benefits received by the victim shall not be considered by the **[**division**]** **department** as a factor for reduction of benefits.

5. The **[**division**]** **department** shall not be liable for payment of compensation for any out-of-pocket expenses incurred more than three years following the date of the occurrence of the crime upon which the claim is based.

595.037. OPEN RECORDS, EXCEPTIONS — DEPARTMENT OR DIVISION ORDER TO CLOSE RECORDS. — 1. All information submitted to the **department or** division **of workers' compensation** and any hearing of the division **of workers' compensation** on a claim filed pursuant to sections 595.010 to **[**595.070**]** **595.075** shall be open to the public except for the following claims which shall be deemed closed and confidential:

(1) A claim in which the alleged assailant has not been brought to trial and disclosure of the information or a public hearing would adversely affect either the apprehension, or the trial, of the alleged assailant;

(2) A claim in which the offense allegedly perpetrated against the victim is rape, sodomy or sexual abuse and it is determined by the **department or** division **of workers' compensation** to be in the best interest of the victim or of the victim's dependents that the information be kept confidential or that the public be excluded from the hearing;

(3) A claim in which the victim or alleged assailant is a minor; or

(4) A claim in which any record or report obtained by the **department or** division **of workers' compensation**, the confidentiality of which is protected by any other law, shall remain confidential subject to such law.

2. The **department and** division **of workers' compensation**, by separate order, may close any record, report or hearing if it determines that the interest of justice would be frustrated rather than furthered if such record or report was disclosed or if the hearing was open to the public.

595.040. SUBROGATION, STATE'S RIGHT, WHEN — ATTORNEY GENERAL TO BRING ACTION — LIEN FOR INJURIES, PROCEEDING BY CLAIMANT TO RECOVER DAMAGES, DEPARTMENT MAY INTERVENE — DEPARTMENT MAY RECEIVE RESTITUTION. — 1. Acceptance of any compensation under sections 595.010 to 595.075 shall subrogate this state, to the extent of such compensation paid, to any right or right of action accruing to the claimant or to the victim to recover payments on account of losses resulting from the crime with respect to which the compensation has been paid. The attorney general may enforce the subrogation, and he shall bring suit to recover from any person to whom compensation is paid, to the extent of the compensation actually paid under sections 595.010 to 595.075, any amount received by the claimant from any source exceeding the actual loss to the victim.

2. The **[**division**]** **department** shall have a lien on any compensation received by the claimant, in addition to compensation received under provisions of sections 595.010 to 595.075, for injuries or death resulting from the incident upon which the claim is based. The claimant shall retain, as trustee for the **[**division**]** **department**, so much of the recovered funds as necessary to reimburse the Missouri crime victims' compensation fund to the extent that compensation was awarded to the claimant from that fund.

3. If a claimant initiates any legal proceeding to recover restitution or damages related to the crime upon which the claim is based, or if the claimant enters into negotiations to receive any proceeds in settlement of a claim for restitution or damages related to the crime, the claimant shall give the **[**division**]** **department** written notice within fifteen days of the filing of the action or entering into negotiations. The **[**division**]** **department** may intervene in the proceeding of a complainant to recover the compensation awarded. If a claimant fails to give such written notice to the **[**division**]** **department** within the stated time period, or prior to any attempt by claimant to reach a negotiated settlement of claims for recovery of damages related to the crime upon which the claim is based, the **[**division's**]** **department's** right of subrogation to receive or recover funds from claimant, to the extent that compensation was awarded by the **[**division**]** **department**, shall not be reduced in any amount or percentage by the costs incurred by claimant attributable to such legal proceedings or settlement, including, but not limited to, attorney's fees, investigative cost or cost of court. If such notice is given, attorney fees may be awarded in an amount not to exceed fifteen percent of the amount subrogated to the **[**division**]** **department**.

4. Whenever compensation is awarded to a claimant who is entitled to restitution from a criminal defendant, the **[**division**]** **department** may initiate restitution hearings in such criminal proceedings or intervene in the same. The **[**division**]** **department** shall be entitled to receive restitution in such proceedings to the extent compensation was awarded; provided, however, the **[**division**]** **department** shall be exempt from the payment of any fees or other charges for the recording of restitution orders in the offices of the judges of probate. The claimant shall notify this **[**division**]** **department** when restitution is ordered. Failure to notify the **[**division**]** **department** will result in possible forfeiture of any amount already received from the **[**division**]** **department**.

5. Whenever the **[**division**]** **department** shall deem it necessary to protect, maintain or enforce the **[**division's**]** **department's** right to subrogation or to exercise any of its powers or to carry out any of its duties or responsibilities, the attorney general may initiate legal proceedings or intervene in legal proceedings as the **[**division's**]** **department's** legal representative.

595.045. FUNDING — COSTS FOR CERTAIN VIOLATIONS, AMOUNT, DISTRIBUTION OF FUNDS, AUDIT — JUDGMENTS IN CERTAIN CASES, AMOUNT — FAILURE TO PAY, EFFECT, NOTICE — COURT COST DEDUCTED — INSUFFICIENT FUNDS TO PAY CLAIMS, PROCEDURE — INTEREST EARNED, DISPOSITION. — 1. There is established in the state treasury the "Crime Victims' Compensation Fund". A surcharge of seven dollars and fifty cents shall be assessed as costs in each court proceeding filed in any court in the state in all criminal cases including violations of any county ordinance or any violation of criminal or traffic laws of the state, including an infraction and violation of a municipal ordinance; except that no such fee shall be collected in any proceeding in any court when the proceeding or the defendant has been dismissed by the court or when costs are to be paid by the state, county, or municipality. A surcharge of seven dollars and fifty cents shall be assessed as costs in a juvenile court proceeding in which a child is found by the court to come within the applicable provisions of subdivision (3) of subsection 1 of section 211.031, RSMo.

2. Notwithstanding any other provision of law to the contrary, the moneys collected by clerks of the courts pursuant to the provisions of subsection 1 of this section shall be collected and disbursed in accordance with sections 488.010 to 488.020, RSMo, and shall be payable to the director of the department of revenue.

3. The director of revenue shall deposit annually the amount of two hundred fifty thousand dollars to the state forensic laboratory account administered by the department of public safety to provide financial assistance to defray expenses of crime laboratories if such analytical laboratories are registered with the federal Drug Enforcement Agency or the Missouri department of health and senior services. Subject to appropriations made therefor, such funds shall be distributed by the department of public safety to the crime laboratories serving the courts of this state making analysis of a controlled substance or analysis of blood, breath or urine in relation to a court proceeding.

4. The remaining funds collected under subsection 1 of this section shall be denoted to the payment of an annual appropriation for the administrative and operational costs of the office for victims of crime and, if a statewide automated crime victim notification system is established pursuant to section 650.310, RSMo, to the monthly payment of expenditures actually incurred in the operation of such system. Additional remaining funds shall be subject to the following provisions:

(1) On the first of every month, the director of revenue or the director's designee shall determine the balance of the funds in the crime victims' compensation fund available to satisfy the amount of compensation payable pursuant to sections 595.010 to 595.075, excluding sections 595.050 and 595.055;

(2) Beginning on September 1, 2004, and on the first of each month, the director of revenue or the director's designee shall deposit fifty percent of the balance of funds available to the credit of the crime victims' compensation fund and fifty percent to the services to victims' fund established in section 595.100.

5. The director of revenue or such director's designee shall at least monthly report the moneys paid pursuant to this section into the crime victims' compensation fund and the services to victims fund to the **[**division of workers' compensation and the**]** department of public safety**[**, respectively**]**.

6. The moneys collected by clerks of municipal courts pursuant to subsection 1 of this section shall be collected and disbursed as provided by sections 488.010 to 488.020, RSMo. Five percent of such moneys shall be payable to the city treasury of the city from which such funds were collected. The remaining ninety-five percent of such moneys shall be payable to the

director of revenue. The funds received by the director of revenue pursuant to this subsection shall be distributed as follows:

(1) On the first of every month, the director of revenue or the director's designee shall determine the balance of the funds in the crime victims' compensation fund available to satisfy the amount of compensation payable pursuant to sections 595.010 to 595.075, excluding sections 595.050 and 595.055;

(2) Beginning on September 1, 2004, and on the first of each month the director of revenue or the director's designee shall deposit fifty percent of the balance of funds available to the credit of the crime victims' compensation fund and fifty percent to the services to victims' fund established in section 595.100.

7. These funds shall be subject to a biennial audit by the Missouri state auditor. Such audit shall include all records associated with crime victims' compensation funds collected, held or disbursed by any state agency.

8. In addition to the moneys collected pursuant to subsection 1 of this section, the court shall enter a judgment in favor of the state of Missouri, payable to the crime victims' compensation fund, of sixty-eight dollars upon a plea of guilty or a finding of guilt for a class A or B felony; forty-six dollars upon a plea of guilty or finding of guilt for a class C or D felony; and ten dollars upon a plea of guilty or a finding of guilt for any misdemeanor under Missouri law except for those in chapter 252, RSMo, relating to fish and game, chapter 302, RSMo, relating to drivers' and commercial drivers' license, chapter 303, RSMo, relating to motor vehicle financial responsibility, chapter 304, RSMo, relating to traffic regulations, chapter 306, RSMo, relating to watercraft regulation and licensing, and chapter 307, RSMo, relating to vehicle equipment regulations. Any clerk of the court receiving moneys pursuant to such judgments shall collect and disburse such crime victims' compensation judgments in the manner provided by sections 488.010 to 488.020, RSMo. Such funds shall be payable to the state treasury and deposited to the credit of the crime victims' compensation fund.

9. The clerk of the court processing such funds shall maintain records of all dispositions described in subsection 1 of this section and all dispositions where a judgment has been entered against a defendant in favor of the state of Missouri in accordance with this section; all payments made on judgments for alcohol-related traffic offenses; and any judgment or portion of a judgment entered but not collected. These records shall be subject to audit by the state auditor. The clerk of each court transmitting such funds shall report separately the amount of dollars collected on judgments entered for alcohol-related traffic offenses from other crime victims' compensation collections or services to victims collections.

10. The department of revenue shall maintain records of funds transmitted to the crime victims' compensation fund by each reporting court and collections pursuant to subsection 16 of this section and shall maintain separate records of collection for alcohol-related offenses.

11. The state courts administrator shall include in the annual report required by section 476.350, RSMo, the circuit court caseloads and the number of crime victims' compensation judgments entered.

12. All awards made to injured victims under sections 595.010 to 595.105 and all appropriations for administration of sections 595.010 to 595.105, except sections 595.050 and 595.055, shall be made from the crime victims' compensation fund. Any unexpended balance remaining in the crime victims' compensation fund at the end of each biennium shall not be subject to the provision of section 33.080, RSMo, requiring the transfer of such unexpended balance to the ordinary revenue fund of the state, but shall remain in the crime victims' compensation fund. In the event that there are insufficient funds in the crime victims' compensation fund to pay all claims in full, all claims shall be paid on a pro rata basis. If there are no funds in the crime victims' compensation fund, then no claim shall be paid until funds have again accumulated in the crime victims' compensation fund. When sufficient funds become available from the fund, awards which have not been paid shall be paid in chronological order with the oldest paid first. In the event an award was to be paid in installments and some

remaining installments have not been paid due to a lack of funds, then when funds do become available that award shall be paid in full. All such awards on which installments remain due shall be paid in full in chronological order before any other postdated award shall be paid. Any award pursuant to this subsection is specifically not a claim against the state, if it cannot be paid due to a lack of funds in the crime victims' compensation fund.

13. When judgment is entered against a defendant as provided in this section and such sum, or any part thereof, remains unpaid, there shall be withheld from any disbursement, payment, benefit, compensation, salary, or other transfer of money from the state of Missouri to such defendant an amount equal to the unpaid amount of such judgment. Such amount shall be paid forthwith to the crime victims' compensation fund and satisfaction of such judgment shall be entered on the court record. Under no circumstances shall the general revenue fund be used to reimburse court costs or pay for such judgment. The director of the department of corrections shall have the authority to pay into the crime victims' compensation fund from an offender's compensation or account the amount owed by the offender to the crime victims' compensation fund, provided that the offender has failed to pay the amount owed to the fund prior to entering a correctional facility of the department of corrections.

14. All interest earned as a result of investing funds in the crime victims' compensation fund shall be paid into the crime victims' compensation fund and not into the general revenue of this state.

15. Any person who knowingly makes a fraudulent claim or false statement in connection with any claim hereunder is guilty of a class A misdemeanor.

16. **[**Any gifts, contributions, grants or federal funds specifically given to the division for the benefit of victims of crime shall be credited to the crime victims' compensation fund. Payment or expenditure of moneys in such funds shall comply with any applicable federal crime victims' compensation laws, rules, regulations or other applicable federal guidelines**] The department may receive gifts and contributions for the benefit of crime victims. Such gifts and contributions shall be credited to the crime victims' compensation fund as used solely for compensating victims under the provisions of sections 595.010 to 595.075**.

595.060. RULES, AUTHORITY — PROCEDURE. — The director shall promulgate rules and regulations necessary to implement the provisions of sections 595.010 to **[**595.070**] 595.220** as provided in this section and chapter 536, RSMo. In the performance of its functions under **[**sections 595.010 to 595.070**] section 595.036**, the division **of workers' compensation** is authorized to promulgate rules pursuant to chapter 536, RSMo, prescribing the procedures to be followed in the **[**filing of applications and the**]** proceedings under **[**sections 595.010 to 595.070**] section 595.036**. **[**No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.**] Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.**

595.209. RIGHTS OF VICTIMS AND WITNESSES — WRITTEN NOTIFICATION, REQUIREMENTS. — 1. The following rights shall automatically be afforded to victims of dangerous felonies, as defined in section 556.061, RSMo, victims of murder in the first degree, as defined in section 565.020, RSMo, victims of voluntary manslaughter, as defined in section 565.023, RSMo, and victims of an attempt to commit one of the preceding crimes, as defined

in section 564.011, RSMo; and, upon written request, the following rights shall be afforded to victims of all other crimes and witnesses of crimes:

(1) For victims, the right to be present at all criminal justice proceedings at which the defendant has such right, including juvenile proceedings where the offense would have been a felony if committed by an adult, even if the victim is called to testify or may be called to testify as a witness in the case;

(2) For victims, the right to information about the crime, as provided for in subdivision (5) of this subsection;

(3) For victims and witnesses, to be informed, in a timely manner, by the prosecutor's office of the filing of charges, preliminary hearing dates, trial dates, continuances and the final disposition of the case. Final disposition information shall be provided within five days;

(4) For victims, the right to confer with and to be informed by the prosecutor regarding bail hearings, guilty pleas, pleas under chapter 552, RSMo, or its successors, hearings, sentencing and probation revocation hearings and the right to be heard at such hearings, including juvenile proceedings, unless in the determination of the court the interests of justice require otherwise;

(5) The right to be informed by local law enforcement agencies, the appropriate juvenile authorities or the custodial authority of the following:

(a) The status of any case concerning a crime against the victim, including juvenile offenses;

(b) The right to be informed by local law enforcement agencies or the appropriate juvenile authorities of the availability of victim compensation assistance, assistance in obtaining documentation of the victim's losses, including, but not limited to and subject to existing law concerning protected information or closed records, access to copies of complete, unaltered, unedited investigation reports of motor vehicle, pedestrian, and other similar accidents upon request to the appropriate law enforcement agency by the victim or the victim's representative, and emergency crisis intervention services available in the community;

(c) Any release of such person on bond or for any other reason;

(d) Within twenty-four hours, any escape by such person from a municipal detention facility, county jail, a correctional facility operated by the department of corrections, mental health facility, or the division of youth services or any agency thereof, and any subsequent recapture of such person;

(6) For victims, the right to be informed by appropriate juvenile authorities of probation revocation hearings initiated by the juvenile authority and the right to be heard at such hearings or to offer a written statement, video or audio tape, **counsel** or a **[**statement by counsel or a**]** representative designated by the victim **[**on behalf of the victim**]** in lieu of a personal appearance, the right to be informed by the board of probation and parole of probation revocation hearings initiated by the board and of parole hearings, the right to be present at each and every phase of parole hearings, the right to be heard at probation revocation and parole hearings or to offer a written statement, video or audio tape**, counsel or a representative designated by the victim** in lieu of a personal appearance, and the right to have, upon written request of the victim, a partition set up in the probation or parole hearing room in such a way that the victim is shielded from the view of the probationer or parolee, and the right to be informed by the custodial mental health facility or agency thereof of any hearings for the release of a person committed pursuant to the provisions of chapter 552, RSMo, the right to be present at such hearings, the right to be heard at such hearings or to offer a written statement, video or audio tape, **counsel** or a **[**statement by counsel or a**]** representative designated by the victim in lieu of personal appearance;

(7) For victims and witnesses, upon their written request, the right to be informed by the appropriate custodial authority, including any municipal detention facility, juvenile detention facility, county jail, correctional facility operated by the department of corrections, mental health facility, division of youth services or agency thereof if the offense would have been a felony if

committed by an adult, postconviction or commitment pursuant to the provisions of chapter 552, RSMo, of the following:

(a) The projected date of such person's release from confinement;

(b) Any release of such person on bond;

(c) Any release of such person on furlough, work release, trial release, electronic monitoring program, or to a community correctional facility or program or release for any other reason, in advance of such release;

(d) Any scheduled parole or release hearings, including hearings under section 217.362, RSMo, regarding such person and any changes in the scheduling of such hearings. No such hearing shall be conducted without thirty days' advance notice;

(e) Within twenty-four hours, any escape by such person from a municipal detention facility, county jail, a correctional facility operated by the department of corrections, mental health facility, or the division of youth services or any agency thereof, and any subsequent recapture of such person;

(f) Any decision by a parole board, by a juvenile releasing authority or by a circuit court presiding over releases pursuant to the provisions of chapter 552, RSMo, or by a circuit court presiding over releases under section 217.362, RSMo, to release such person or any decision by the governor to commute the sentence of such person or pardon such person;

(g) Notification within thirty days of the death of such person;

(8) For witnesses who have been summoned by the prosecuting attorney and for victims, to be notified by the prosecuting attorney in a timely manner when a court proceeding will not go on as scheduled;

(9) For victims and witnesses, the right to reasonable protection from the defendant or any person acting on behalf of the defendant from harm and threats of harm arising out of their cooperation with law enforcement and prosecution efforts;

(10) For victims and witnesses, on charged cases or submitted cases where no charge decision has yet been made, to be informed by the prosecuting attorney of the status of the case and of the availability of victim compensation assistance and of financial assistance and emergency and crisis intervention services available within the community and information relative to applying for such assistance or services, and of any final decision by the prosecuting attorney not to file charges;

(11) For victims, to be informed by the prosecuting attorney of the right to restitution which shall be enforceable in the same manner as any other cause of action as otherwise provided by law;

(12) For victims and witnesses, to be informed by the court and the prosecuting attorney of procedures to be followed in order to apply for and receive any witness fee to which they are entitled;

(13) When a victim's property is no longer needed for evidentiary reasons or needs to be retained pending an appeal, the prosecuting attorney or any law enforcement agency having possession of the property shall, upon request of the victim, return such property to the victim within five working days unless the property is contraband or subject to forfeiture proceedings, or provide written explanation of the reason why such property shall not be returned;

(14) An employer may not discharge or discipline any witness, victim or member of a victim's immediate family for honoring a subpoena to testify in a criminal proceeding, attending a criminal proceeding, or for participating in the preparation of a criminal proceeding, or require any witness, victim, or member of a victim's immediate family to use vacation time, personal time, or sick leave for honoring a subpoena to testify in a criminal proceeding, attending a criminal proceeding, or participating in the preparation of a criminal proceeding;

(15) For victims, to be provided with creditor intercession services by the prosecuting attorney if the victim is unable, as a result of the crime, temporarily to meet financial obligations;

(16) For victims and witnesses, the right to speedy disposition of their cases, and for victims, the right to speedy appellate review of their cases, provided that nothing in this

subdivision shall prevent the defendant from having sufficient time to prepare such defendant's defense. The attorney general shall provide victims, upon their written request, case status information throughout the appellate process of their cases. The provisions of this subdivision shall apply only to proceedings involving the particular case to which the person is a victim or witness;

(17) For victims and witnesses, to be provided by the court, a secure waiting area during court proceedings and to receive notification of the date, time and location of any hearing conducted by the court for reconsideration of any sentence imposed, modification of such sentence or recall and release of any defendant from incarceration**;**

(18) For victims, the right to receive upon request from the department of corrections a photograph taken of the defendant prior to release from incarceration.

2. The provisions of subsection 1 of this section shall not be construed to imply any victim who is incarcerated by the department of corrections or any local law enforcement agency has a right to be released to attend any hearing or that the department of corrections or the local law enforcement agency has any duty to transport such incarcerated victim to any hearing.

3. Those persons entitled to notice of events pursuant to the provisions of subsection 1 of this section shall provide the appropriate person or agency with their current addresses and telephone numbers or the addresses or telephone numbers at which they wish notification to be given.

4. Notification by the appropriate person or agency utilizing the statewide automated crime victim notification system as established in section 650.310, RSMo, shall constitute compliance with the victim notification requirement of this section. If notification utilizing the statewide automated crime victim notification system cannot be used, then written notification shall be sent by certified mail to the most current address provided by the victim.

5. Victims' rights as established in section 32 of article I of the Missouri Constitution or the laws of this state pertaining to the rights of victims of crime shall be granted and enforced regardless of the desires of a defendant and no privileges of confidentiality shall exist in favor of the defendant to exclude victims or prevent their full participation in each and every phase of parole hearings or probation revocation hearings. The rights of the victims granted in this section are absolute and the policy of this state is that the victim's rights are paramount to the defendant's rights. The victim has an absolute right to be present at any hearing in which the defendant is present before a probation and parole hearing officer.

595.220. FORENSIC EXAMINATIONS, DEPARTMENT OF PUBLIC SAFETY TO PAY MEDICAL PROVIDERS, WHEN — MINOR MAY CONSENT TO EXAMINATION, WHEN — ATTORNEY GENERAL TO DEVELOP FORMS — COLLECTION KITS — DEFINITIONS — RULEMAKING AUTHORITY. — 1. The department of public safety shall make payments to appropriate medical providers, out of appropriations made for that purpose, to cover the reasonable charges of the forensic examination of persons who may be a victim of a sexual offense if:

(1) The victim or the victim's guardian consents in writing to the examination; and

(2) The report of the examination is made on a form approved by the attorney general with the advice of the department of public safety.

2. A minor may consent to examination under this section. Such consent is not subject to disaffirmance because of minority, and consent of parent or guardian of the minor is not required for such examination. The appropriate medical provider making the examination shall give written notice to the parent or guardian of a minor that such an examination has taken place.

3. The attorney general, with the advice of the department of public safety, shall develop the forms and procedures for gathering evidence during the forensic examination under the provisions of this section. The department of health and senior services shall develop a checklist, protocols, and procedures for appropriate medical providers to refer

to while providing medical treatment to victims of a sexual offense, including those specific to victims who are minors.

4. Evidentiary collection kits shall be developed and made available, subject to appropriation, to appropriate medical providers by the highway patrol or its designees and eligible crime laboratories. Such kits shall be distributed with the forms and procedures for gathering evidence during forensic examinations of victims of a sexual offense to appropriate medical providers upon request of the provider, in the amount requested, and at no charge to the medical provider. All appropriate medical providers shall, with the written consent of the victim, perform a forensic examination using the evidentiary collection kit, or other collection procedures developed for victims who are minors, and forms and procedures for gathering evidence following the checklist for any person presenting as a victim of a sexual offense.

5. In reviewing claims submitted under this section, the department shall first determine if the claim was submitted within ninety days of the examination. If the claim is submitted within ninety days, the department shall, at a minimum, use the following criteria in reviewing the claim: examination charges submitted shall be itemized and fall within the definition of "forensic examination" as defined in subdivision (3) of subsection 7 of this section.

6. All appropriate medical provider charges for eligible forensic examinations shall be billed to and paid by the department of public safety. No appropriate medical provider conducting forensic examinations and providing medical treatment to victims of sexual offenses shall charge the victim for the forensic examination. For appropriate medical provider charges related to the medical treatment of victims of sexual offenses, if the victim is an eligible claimant under the crime victims' compensation fund, the victim shall seek compensation under sections 595.010 to 595.075.

7. For purposes of this section, the following terms mean:

(1) "Appropriate medical provider", any licensed nurse, physician, or physician assistant, and any institution employing licensed nurses, physicians, or physician assistants, provided that such licensed professionals are the only persons at such institution to perform tasks under the provisions of this section;

(2) "Evidentiary collection kit", a kit used during a forensic examination that includes materials necessary for appropriate medical providers to gather evidence in accordance with the forms and procedures developed by the attorney general for forensic examinations;

(3) "Forensic examination", an examination performed by an appropriate medical provider on a victim of an alleged sexual offense to gather evidence for the evidentiary collection kit or using other collection procedures developed for victims who are minors;

(4) "Medical treatment", the treatment of all injuries and health concerns resulting directly from a patient's sexual assault or victimization.

8. The department shall have authority to promulgate rules and regulations necessary to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

[191.225. COSTS OF MEDICAL EXAMINATION OF CERTAIN CRIME VICTIMS PAYABLE BY DEPARTMENT OF HEALTH AND SENIOR SERVICES, WHEN, CONDITIONS — EVIDENTIARY

COLLECTION KITS TO BE DEVELOPED — DEFINITIONS. — 1. The department of health and senior services shall make payments to appropriate medical providers, out of appropriations made for that purpose, to cover the charges of the forensic examination of persons who may be a victim of a sexual offense if:

(1) The victim or the victim's guardian consents in writing to the examination;

(2) The report of the examination is made on a form approved by the attorney general with the advice of the department of health and senior services; and

(3) The report of the examination is filed with the prosecuting attorney of the county in which the alleged incident occurred.

The appropriate medical provider shall file the report of the examination within three business days of completion of the forensic exam.

2. A minor may consent to examination under this section. Such consent is not subject to disaffirmance because of minority, and consent of parent or guardian of the minor is not required for such examination. The appropriate medical provider making the examination shall give written notice to the parent or guardian of a minor that such an examination has taken place.

3. The attorney general, with the advice of the department of health and senior services, shall develop the forms and procedures for gathering evidence during the forensic examination under the provisions of this section. The department of health and senior services shall develop a checklist for appropriate medical providers to refer to while providing medical treatment to victims of a sexual offense.

4. Evidentiary collection kits shall be developed and made available, subject to appropriation, to appropriate medical providers by the highway patrol or its designees and eligible crime laboratories. Such kits shall be distributed with the forms and procedures for gathering evidence during forensic examinations of victims of a sexual offense to appropriate medical providers upon request of the provider, in the amount requested, and at no charge to the medical provider. All appropriate medical providers shall, with the written consent of the victim, perform a forensic examination using the evidentiary collection kit and forms and procedures for gathering evidence following the checklist for any person presenting as a victim of a sexual offense.

5. All appropriate medical provider charges for eligible forensic examinations shall be billed to and paid by the department of health and senior services. No appropriate medical provider conducting forensic examinations and providing medical treatment to victims of sexual offenses shall charge the victim for the forensic examination. For appropriate medical provider charges related to the medical treatment of victims of sexual offenses, if the victim is an eligible claimant under the crime victims' compensation fund, the appropriate medical provider shall seek compensation under sections 595.010 to 595.075, RSMo.

6. For purposes of this section, the following terms mean:

(1) "Appropriate medical provider", any licensed nurse, physician, or physician assistant, and any institution employing licensed nurses, physicians, or physician assistants; provided that such licensed professionals are the only persons at such institution to perform tasks under the provisions of this section;

(2) "Evidentiary collection kit", a kit used during a forensic examination that includes materials necessary for appropriate medical providers to gather evidence in accordance with the forms and procedures developed by the attorney general for forensic examinations;

(3) "Forensic examination", an examination performed by an appropriate medical provider on a victim of an alleged sexual offense to gather evidence for the evidentiary collection kit;

(4) "Medical treatment", the treatment of all injuries and health concerns resulting directly from a patient's sexual assault or victimization.**]**

Approved July 10, 2009

SB 355 [SCS SB 355]

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

Allows motor vehicle dealers, boat dealers, and powersport dealers to charge administrative fees associated with the sale or lease of certain vehicles and vessels under certain conditions

AN ACT to amend chapter 301, RSMo, by adding thereto one new section relating to certain administrative fees associated with the sale of motor vehicles, vessels, and other types of vehicles.

SECTION
A. Enacting clause.
301.558. Dealer may fill in blanks on standardized forms, when — fee authorized — preliminary worksheet on computation of sale price, requirements.

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

SECTION A. ENACTING CLAUSE. — Chapter 301, RSMo, is amended by adding thereto one new section, to be known as section 301.558, to read as follows:

301.558. DEALER MAY FILL IN BLANKS ON STANDARDIZED FORMS, WHEN — FEE AUTHORIZED — PRELIMINARY WORKSHEET ON COMPUTATION OF SALE PRICE, REQUIREMENTS. — 1. A motor vehicle dealer, boat dealer, or powersport dealer may fill in the blanks on standardized forms in connection with the sale or lease of a new or used motor vehicle, vessel, or vessel trailer if the motor vehicle dealer, boat dealer, or powersport dealer does not charge for the services of filling in the blanks or otherwise charge for preparing documents.

2. A motor vehicle dealer, boat dealer, or powersport dealer may charge an administrative fee in connection with the sale or lease of a new or used motor vehicle, vessel, or vessel trailer for the storage of documents or any other administrative or clerical services not prohibited by this section. A portion of the administrative fee may result in profit to the motor vehicle dealer, boat dealer, or powersport dealer.

3. No motor vehicle dealer, boat dealer, or powersport dealer that sells or leases new or used motor vehicles, vessels, or vessel trailers and imposes an administrative fee of less than two hundred dollars in connection with the sale or lease of a new or used vehicle, vessel, or vessel trailer for the storage of documents or any other administrative or clerical services shall be deemed to be engaging in the unauthorized practice of law.

4. If an administrative fee is charged under this section, the administrative fee shall be charged to all retail customers and disclosed on the retail buyer's order form as a separate itemized charge.

5. A preliminary worksheet on which a sale price is computed and that is shown to the purchaser, a retail buyer's order form from the purchaser, or a retail installment contract shall include, in reasonable proximity to the place on the document where the administrative fee authorized by this section is disclosed, the amount of the administrative fee and the following notice in type that is bold-faced, capitalized, underlined, or otherwise conspicuously set out from the surrounding written material:

"AN ADMINISTRATIVE FEE IS NOT AN OFFICIAL FEE AND IS NOT REQUIRED BY LAW BUT MAY BE CHARGED BY A DEALER. THIS ADMINISTRATIVE FEE MAY RESULT IN A PROFIT TO DEALER. NO

PORTION OF THIS ADMINISTRATIVE FEE IS FOR THE DRAFTING, PREPARATION, OR COMPLETION OF DOCUMENTS OR THE PROVIDING OF LEGAL ADVICE. THIS NOTICE IS REQUIRED BY LAW."

6. The general assembly believes that an administrative fee charged in compliance with this section is not the unauthorized practice of law or the unauthorized business of law so long as the activity or service for which the fee is charged is in compliance with the provisions of this section and does not result in the waiver of any rights or remedies. Recognizing, however, that the judiciary is the sole arbitrator of what constitutes the practice of law, in the event that a court determines that an administrative fee charged in compliance with this section, and that does not waive any rights or remedies of the buyer, is the unauthorized practice of law or the unauthorized business of law, then no person who paid that administrative fee may recover said fee or treble damages, as permitted under section 484.020, RSMo, and no person who charged that fee shall be guilty of a misdemeanor, as provided under section 484.020, RSMo.

Approved July 8, 2009

SB 368 [SB 368]

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

Provides an affirmative defense to bicyclists and motorcyclists who run red lights under certain conditions

AN ACT to amend chapter 304, RSMo, by adding thereto one new section relating to providing an affirmative defense for certain red light violations.

SECTION
A. Enacting clause.
304.285. Red light violations by motorcycles or bicycles, affirmative defense, when.

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

SECTION A. ENACTING CLAUSE. — Chapter 304, RSMo, is amended by adding thereto one new section, to be known as section 304.285, to read as follows:

304.285. RED LIGHT VIOLATIONS BY MOTORCYCLES OR BICYCLES, AFFIRMATIVE DEFENSE, WHEN. — Any person operating a motorcycle or bicycle who violates the provisions of section 304.281 or section 304.301 by entering or crossing an intersection controlled by a traffic control signal against a red light shall have an affirmative defense to that charge if the person establishes all of the following conditions:

(1) The motorcycle or bicycle has been brought to a complete stop;

(2) The traffic control signal continues to show a red light for an unreasonable time;

(3) The traffic control is apparently malfunctioning or, if programmed or engineered to change to a green light only after detecting the approach of a motor vehicle, the signal has apparently failed to detect the arrival of the motorcycle; and

(4) No motor vehicle or person is approaching on the street or highway to be crossed or entered or is so far away from the intersection that it does not constitute an immediate hazard. The affirmative defense of this section applies only to a violation for entering or

crossing an intersection controlled by a traffic control signal against a red light and does not provide a defense to any other civil or criminal action.

Approved July 8, 2009

SB 376 [SS SCS SB 376]

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

Directs the Public Service Commission to allow electric companies to recover costs associated with energy efficiency programs

AN ACT to repeal section 386.120, RSMo, and to enact in lieu thereof three new sections relating to energy efficiency investments by electric corporations, with an expiration date for a certain section and a penalty provision.

SECTION

A. Enacting clause.
8.305. Appliances purchased shall be energy star under federal program — exemptions, when — expiration date.
386.120. Office of commission, hours — meetings — official seal — equipment, supplies — commissioners to reside where — service upon commission, what constitutes, how made.
393.1124. Citation of law — definitions — policy to value demand-side investments equal to traditional investments — development of cost recovery mechanisms — costs not to be assigned to customers, when — rulemaking authority — annual report.

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

SECTION A. ENACTING CLAUSE. — Section 386.120, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 8.305, 386.120, and 393.1124, to read as follows:

8.305. APPLIANCES PURCHASED SHALL BE ENERGY STAR UNDER FEDERAL PROGRAM — EXEMPTIONS, WHEN — EXPIRATION DATE. — 1. Any appliance purchased with state moneys or a portion of state moneys shall be an appliance that has earned the Energy Star under the Energy Star program co-sponsored by the United States Department of Energy and the United States Environmental Protection Agency. For purposes of this section, the term "appliance" shall have the same meaning as in section 144.526, RSMo.

2. The commissioner of the office of administration may exempt any appliance from the requirements of subsection 1 of this section when the cost of compliance is expected to exceed the projected energy cost savings gained.

3. The provisions of this section shall expire on August 28, 2011.

386.120. OFFICE OF COMMISSION, HOURS — MEETINGS — OFFICIAL SEAL — EQUIPMENT, SUPPLIES — COMMISSIONERS TO RESIDE WHERE — SERVICE UPON COMMISSION, WHAT CONSTITUTES, HOW MADE. — 1. The principal office of the commission shall be at the state capital at the city of Jefferson City. **[**The commissioners shall reside within a forty-mile radius of the city of Jefferson City during their respective terms of office.**]** The office required by this subsection shall be provided and assigned by the board of public buildings.

2. The commission shall at all times, except Saturdays, Sundays and legal holidays, be open and in session for the transaction of business and the commissioners shall devote their entire time to the duties of their office.

3. The commission shall have an official seal bearing the following inscription: "Public Service Commission of the State of Missouri". The seal shall be affixed to all writs and authentications of copies of records and to such other instruments as the commission shall direct. All courts shall take judicial notice of such seal.

4. The commission may sue and be sued in its official name. The offices of said commission shall be supplied with all necessary books, maps, charts, stationery, office furniture, telephone and telegraph connections, and all other necessary appliances and incidentals, to be paid for in the same manner as other expenses authorized by this chapter.

5. The offices of the commission shall be open during business hours on all days except Saturdays, Sundays and legal holidays, and one or more responsible persons, designated by the commission or by the secretary, under the direction of the commission, shall be on duty at all times, in immediate charge thereof.

6. Any summons or other writ issued by any court of this state or of the federal government shall be served upon the secretary of the commission or on any commissioner at the principal office of the commission in Jefferson City. Service of any summons or other writ upon the secretary of the commission, or upon any single commissioner, shall constitute service upon the entire commission.

393.1124. CITATION OF LAW — DEFINITIONS — POLICY TO VALUE DEMAND-SIDE INVESTMENTS EQUAL TO TRADITIONAL INVESTMENTS — DEVELOPMENT OF COST RECOVERY MECHANISMS — COSTS NOT TO BE ASSIGNED TO CUSTOMERS, WHEN — RULEMAKING AUTHORITY — ANNUAL REPORT. — 1. This section shall be known as the "Missouri Energy Efficiency Investment Act".

2. As used in this section, the following terms shall mean:

(1) "Commission", the Missouri public service commission;

(2) "Demand response", measures that decrease peak demand or shift demand to off-peak periods;

(3) "Demand-side program", any program conducted by the utility to modify the net consumption of electricity on the retail customer's side of the electric meter, including, but not limited to energy efficiency measures, load management, demand response, and interruptible or curtailable load;

(4) "Energy efficiency", measures that reduce the amount of electricity required to achieve a given end use;

(5) "Interruptible or curtailable rate", a rate under which a customer receives a reduced charge in exchange for agreeing to allow the utility to withdraw the supply of electricity under certain specified conditions;

(6) "Total resource cost test", a test that compares the sum of avoided utility costs and avoided probable environmental compliance costs to the sum of all incremental costs of end-use measures that are implemented due to the program, as defined by the commission in rules.

3. It shall be the policy of the state to value demand-side investments equal to traditional investments in supply and delivery infrastructure and allow recovery of all reasonable and prudent costs of delivering cost-effective demand-side programs. In support of this policy, the commission shall:

(1) Provide timely cost recovery for utilities;

(2) Ensure that utility financial incentives are aligned with helping customers use energy more efficiently and in a manner that sustains or enhances utility customers' incentives to use energy more efficiently; and

(3) Provide timely earnings opportunities associated with cost-effective measurable and verifiable efficiency savings.

4. The commission shall permit electric corporations to implement commission-approved demand-side programs proposed pursuant to this section with a goal of achieving all cost-effective demand-side savings. Recovery for such programs shall not be permitted unless the programs are approved by the commission, result in energy or demand savings and are beneficial to all customers in the customer class in which the programs are proposed, regardless of whether the programs are utilized by all customers. The commission shall consider the total resource cost test a preferred cost-effectiveness test. Programs targeted to low-income customers or general education campaigns do not need to meet a cost-effectiveness test, so long as the commission determines that the program or campaign is in the public interest. Nothing herein shall preclude the approval of demand-side programs that do not meet the test if the costs of the program above the level determined to be cost-effective are funded by the customers participating in the program or through tax or other governmental credits or incentives specifically designed for that purpose.

5. To comply with this section the commission may develop cost recovery mechanisms to further encourage investments in demand-side programs including, in combination and without limitation: capitalization of investments in and expenditures for demand-side programs, rate design modifications, accelerated depreciation on demand-side investments, and allowing the utility to retain a portion of the net benefits of a demand-side program for its shareholders. In setting rates the commission shall fairly apportion the costs and benefits of demand-side programs to each customer class except as provided for in subsection 6 of this section. Prior to approving a rate design modification associated with demand-side cost recovery, the commission shall conclude a docket studying the effects thereof and promulgate an appropriate rule.

6. The commission may reduce or exempt allocation of demand-side expenditures to low income classes, as defined in an appropriate rate proceeding, as a subclass of residential service.

7. Provided that the customer has notified the electric corporation that the customer elects not to participate in demand-side measures offered by an electrical corporation, none of the costs of demand-side measures of an electric corporation offered under this section or by any other authority, and no other charges implemented in accordance with this section, shall be assigned to any account of any customer, including its affiliates and subsidiaries, meeting one or more of the following criteria:

(1) The customer has one or more accounts within the service territory of the electrical corporation that has a demand of five thousand kilowatts or more;

(2) The customer operates an interstate pipeline pumping station, regardless of size; or

(3) The customer has accounts within the service territory of the electrical corporation that have, in aggregate, a demand of two thousand five hundred kilowatts or more, and the customer has a comprehensive demand-side or energy efficiency program and can demonstrate an achievement of savings at least equal to those expected from utility-provided programs.

8. Customers that have notified the electrical corporation that they do not wish to participate in demand-side programs under this section shall not subsequently be eligible to participate in demand-side programs except under guidelines established by the commission in rulemaking.

9. Customers who participate in demand-side programs initiated after August 1, 2009, shall be required to participate in program funding for a period of time to be established by the commission in rulemaking.

10. Customers electing not to participate in an electric corporation's demand-side programs under this section shall still be allowed to participate in interruptible or curtailable rate schedules or tariffs offered by the electric corporation.

11. The commission shall provide oversight and may adopt rules and procedures and approve corporation-specific settlements and tariff provisions, independent evaluation of demand-side programs, as necessary, to ensure that electric corporations can achieve the goals of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

12. Each electric corporation shall submit an annual report to the commission describing the demand-side programs implemented by the utility in the previous year. The report shall document program expenditures, including incentive payments, peak demand and energy savings impacts and the techniques used to estimate those impacts, avoided costs and the techniques used to estimate those costs, the estimated cost-effectiveness of the demand-side programs, and the net economic benefits of the demand-side programs.

13. Charges attributable to demand-side programs under this section shall be clearly shown as a separate line item on bills to the electrical corporation's customers.

14. (1) Any customer of an electrical corporation who has received a state tax credit under sections 135.350 to 135.362, RSMo, or under sections 253.545 to 253.561, RSMo, shall not be eligible for participation in any demand-side program offered by an electrical corporation under this section if such program offers a monetary incentive to the customer.

(2) As a condition of participation in any demand-side program offered by an electrical corporation under this section when such program offers a monetary incentive to the customer, the commission shall develop rules that require documentation to be provided by the customer to the electrical corporation to show that the customer has not received a tax credit listed in subdivision (1) of this subsection.

(3) The penalty for a customer who provides false documentation under subdivision (2) of this subsection shall be a class A misdemeanor.

15. The commission shall develop rules that provide for disclosure of participants in all demand-side programs offered by electrical corporations under this section when such programs provide monetary incentives to the customer. The disclosure required by this subsection may include, but not be limited to, the following: the name of the participant, or the names of the principles if for a company, the property address, and the amount of the monetary incentive received.

Approved July 13, 2009

SB 394 [SCS SB 394]

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

Allows certain businesses to use terms such as drug store in their business name

AN ACT to repeal section 338.260, RSMo, and to enact in lieu thereof one new section relating to certain business names.

SECTION
A. Enacting clause.
338.260. Business name not to include certain words unless supervised by pharmacist — historical names permitted — board of pharmacy may enforce.

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

SECTION A. ENACTING CLAUSE. — Section 338.260, RSMo, is repeated and one new section enacted in lieu thereof, to be known as section 338.260, to read as follows:

338.260. BUSINESS NAME NOT TO INCLUDE CERTAIN WORDS UNLESS SUPERVISED BY PHARMACIST — HISTORICAL NAMES PERMITTED — BOARD OF PHARMACY MAY ENFORCE. — **1.** No person shall carry on, conduct or transact a business under a name which contains as part of the name the words "pharmacist", "pharmacy", "apothecary", "apothecary shop", "chemist shop", "drug store", "druggist", "drugs", "consultant pharmacist", or any word of similar or like import, unless the place of business is supervised by a licensed pharmacist.

2. Nothing in this chapter shall be construed to prevent any person from using a historical name in reference to any building, structure, or business so long as the person is not engaged in the practice of pharmacy as defined in section 338.010.

3. Notwithstanding the provisions of subsection 2 of this section, the board of pharmacy shall retain authority to enforce the provisions of subsection 1 of this section against any person offering for sale any naturopathic or homeopathic service or any herbal, nutritional, vitamin, dietary, mineral, or other supplement intended for human application, absorption, or consumption.

Approved July 7, 2009

SB 398 [SB 398]

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

Modifies property posting provisions

AN ACT to repeal section 569.145, RSMo, and to enact in lieu thereof one new section relating to posting of property against trespassers, with penalty provisions.

SECTION
A. Enacting clause.
569.145. Posting of property against trespassers, purple paint used to mark streets and posts, requirements — entry on posted property is trespassing in first degree, penalty.

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

SECTION A. ENACTING CLAUSE. — Section 569.145, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 569.145, to read as follows:

569.145. POSTING OF PROPERTY AGAINST TRESPASSERS, PURPLE PAINT USED TO MARK STREETS AND POSTS, REQUIREMENTS — ENTRY ON POSTED PROPERTY IS TRESPASSING IN FIRST DEGREE, PENALTY. — In addition to the posting of real property as set forth in section

569.140, the owner or lessee of any real property may post the property by placing identifying purple **[**paint**]** marks on trees or posts around the area to be posted. Each **[**paint**] purple** mark shall be**:**

(1) A vertical line of at least eight inches in length and the bottom of the mark shall be no less than three feet nor more than five feet high. Such **[**paint**]** marks shall be placed no more than one hundred feet apart and shall be readily visible to any person approaching the property**; or**

(2) A post capped or otherwise marked on at least its top two inches. The bottom of the cap or mark shall be not less than three feet but not more than five feet six inches high. Posts so marked shall be placed not more than thirty-six feet apart and shall be readily visible to any person approaching the property. Prior to applying a cap or mark which is visible from both sides of a fence shared by different property owners or lessees, all such owners or lessees shall concur in the decision to post their own property. Property so posted is to be considered posted for all purposes, and any unauthorized entry upon the property is trespass in the first degree, and a class B misdemeanor.

Approved June 24, 2009

SB 435 [CCS HCS SB 435]

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

Allows the Department of Mental Health to contract with county jails to confine sexually violent predators who are civilly committed

AN ACT to repeal sections 630.110, 630.407, 632.489, and 632.495, RSMo, and to enact in lieu thereof four new sections relating to the department of mental health.

SECTION

A. Enacting clause.
630.110. Patient's rights — limitations.
630.407. Administrative entities may be recognized, when — contracting with vendors — subcontracting — department to promulgate rules.
632.489. Probable cause determined — sexually violent predator taken into custody, when — hearing, procedure — examination by department of mental health.
632.495. Unanimous verdict required — offender committed to custody of department of mental health, when — contracting with county jails, when — release, when — mistrial procedures.

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

SECTION A. ENACTING CLAUSE. — Sections 630.110, 630.407, 632.489, and 632.495, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 630.110, 630.407, 632.489, and 632.495, to read as follows:

630.110. PATIENT'S RIGHTS — LIMITATIONS. — 1. Except as provided in subsection 5 of this section, each person admitted to a residential facility or day program and each person admitted on a voluntary or involuntary basis to any mental health facility or mental health program where people are civilly detained pursuant to chapter 632, RSMo, except to the extent that the head of the residential facility or day program determines that it is inconsistent with the person's therapeutic care, treatment, habilitation or rehabilitation and the safety of other facility or program clients and public safety, shall be entitled to the following:

(1) To wear his own clothes and to keep and use his own personal possessions;

(2) To keep and be allowed to spend a reasonable sum of his own money for canteen expenses and small purchases;

(3) To communicate by sealed mail or otherwise with persons including agencies inside or outside the facility;

(4) To receive visitors of his own choosing at reasonable times;

(5) To have reasonable access to a telephone both to make and receive confidential calls;

(6) To have access to his mental and medical records;

(7) To have opportunities for physical exercise and outdoor recreation;

(8) To have reasonable, prompt access to current newspapers, magazines and radio and television programming.

2. Any limitations imposed by the head of the residential facility or day program or his designee on the exercise of the rights enumerated in subsection 1 of this section by a patient, resident or client and the reasons for such limitations shall be documented in his clinical record.

3. Each patient, resident or client shall have an absolute right to receive visits from his attorney, physician or clergyman, in private, at reasonable times.

4. Notwithstanding any limitations authorized under this section on the right of communication, every patient, resident or client shall be entitled to communicate by sealed mail with the department, his legal counsel and with the court, if any, which has jurisdiction over the person.

5. Persons committed to a residential facility or day program operated, funded or licensed by the department pursuant to section 552.040, RSMo, **persons detained at a county jail or at a secure facility under section 632.484 or 632.489, RSMo, or persons committed to a secure facility under section 632.495, RSMo,** shall not be entitled to the rights enumerated in subdivisions (1), (3) and (5) of subsection 1 of this section unless the head of the residential facility or day program determines that these rights are necessary for the person's therapeutic care, treatment, habilitation or rehabilitation. In exercising the discretion to grant any of the rights enumerated in subsection 1 of this section to a patient, resident or client, the head of the residential facility or day program shall consider the safety of the public.

630.407. ADMINISTRATIVE ENTITIES MAY BE RECOGNIZED, WHEN — CONTRACTING WITH VENDORS — SUBCONTRACTING — DEPARTMENT TO PROMULGATE RULES. — 1. The department may recognize providers as administrative entities under the following circumstances:

(1) Vendors operated or funded pursuant to sections 205.975 to 205.990, RSMo;

(2) Vendors operated or funded pursuant to sections 205.968 to 205.973, RSMo;

(3) Providers of a consortium of treatment services to the clients of the division of comprehensive psychiatric services as an agent of the division in a service area, except that such providers may not exceed thirty-six in number**; or**

(4) Providers of targeted case management services to the clients of the division of developmental disabilities as an agent of the division in a defined region that has not established a board as set forth in sections 205.968 to 205.973, RSMo.

2. Notwithstanding any other provision of law to the contrary, the department may contract directly with vendors recognized as administrative entities without competitive bids.

3. Notwithstanding any other provision of law to the contrary, the commissioner of administration shall delegate the authority to administrative entities which are state facilities to subcontract with other vendors in order to provide a full consortium of treatment services for the service area.

4. When state contracts allow, the department may authorize administrative entities to use state contracts for pharmaceuticals or other medical supplies for the purchase of these items.

5. A designation as an administrative entity does not entitle a provider to coverage under sections 105.711 to 105.726, RSMo, the state legal expense fund, or other state statutory protections or requirements.

6. The department shall promulgate regulations within twelve months of August 28, 1990, regulating the manner in which they will contract and designate and revoke designations of providers under this section. Such regulations shall not be required when the parties to such contracts are both governmental entities.

632.489. PROBABLE CAUSE DETERMINED — SEXUALLY VIOLENT PREDATOR TAKEN INTO CUSTODY, WHEN — HEARING, PROCEDURE — EXAMINATION BY DEPARTMENT OF MENTAL HEALTH. — 1. Upon filing a petition pursuant to section 632.484 or 632.486, the judge shall determine whether probable cause exists to believe that the person named in the petition is a sexually violent predator. If such probable cause determination is made, the judge shall direct that person be taken into custody and direct that the person be transferred to an appropriate secure facility, including, but not limited to, a county jail. If the person is ordered to the department of mental health, the director of the department of mental health shall determine the appropriate secure facility to house the person under the provisions of section 632.495.

2. Within seventy-two hours after a person is taken into custody pursuant to subsection 1 of this section, excluding Saturdays, Sundays and legal holidays, such person shall be provided with notice of, and an opportunity to appear in person at, a hearing to contest probable cause as to whether the detained person is a sexually violent predator. At this hearing the court shall:

(1) Verify the detainee's identity; and

(2) Determine whether probable cause exists to believe that the person is a sexually violent predator. The state may rely upon the petition and supplement the petition with additional documentary evidence or live testimony.

3. At the probable cause hearing as provided in subsection 2 of this section, the detained person shall have the following rights in addition to the rights previously specified:

(1) To be represented by counsel;

(2) To present evidence on such person's behalf;

(3) To cross-examine witnesses who testify against such person; and

(4) To view and copy all petitions and reports in the court file, including the assessment of the multidisciplinary team.

4. If the probable cause determination is made, the court shall direct that the person be transferred to an appropriate secure facility, including, but not limited to, a county jail, for an evaluation as to whether the person is a sexually violent predator. If the person is ordered to the department of mental health, the director of the department of mental health shall determine the appropriate secure facility**, which may include a county jail as set forth in section 632.495,** to house the person. The court shall direct the director of the department of mental health to have the person examined by a psychiatrist or psychologist as defined in section 632.005 who was not a member of the multidisciplinary team that previously reviewed the person's records. In addition, such person may be examined by a consenting psychiatrist or psychologist of the person's choice at the person's own expense. Any examination shall be conducted in the facility in which the person is confined. Any examinations ordered shall be made at such time and under such conditions as the court deems proper; except that, if the order directs the director of the department of mental health to have the person examined, the director shall determine the time, place and conditions under which the examination shall be conducted. The psychiatrist or psychologist conducting such an examination shall be authorized to interview family and associates of the person being examined, as well as victims and witnesses of the person's offense or offenses, for use in the examination unless the court for good cause orders otherwise. The psychiatrist or psychologist shall have access to all materials provided to and considered by the multidisciplinary team and to any police reports related to sexual offenses committed by the person being examined. Any examination performed pursuant to this section shall be completed and filed with the court within sixty days of the date the order is received by the director or other evaluator unless the court for good cause orders otherwise. One examination shall be provided

at no charge by the department. All costs of any subsequent evaluations shall be assessed to the party requesting the evaluation.

632.495. UNANIMOUS VERDICT REQUIRED — OFFENDER COMMITTED TO CUSTODY OF DEPARTMENT OF MENTAL HEALTH, WHEN — CONTRACTING WITH COUNTY JAILS, WHEN — RELEASE, WHEN — MISTRIAL PROCEDURES. — 1. The court or jury shall determine whether, by clear and convincing evidence, the person is a sexually violent predator. If such determination that the person is a sexually violent predator is made by a jury, such determination shall be by unanimous verdict of such jury. Any determination as to whether a person is a sexually violent predator may be appealed.

2. If the court or jury determines that the person is a sexually violent predator, the person shall be committed to the custody of the director of the department of mental health for control, care and treatment until such time as the person's mental abnormality has so changed that the person is safe to be at large. Such control, care and treatment shall be provided by the department of mental health.

3. At all times, persons ordered to the department of mental health after a determination by the court that such persons may meet the definition of a sexually violent predator, persons ordered to the department of mental health after a finding of probable cause under section 632.489, and persons committed for control, care and treatment by the department of mental health pursuant to sections 632.480 to 632.513 shall be kept in a secure facility designated by the director of the department of mental health and such persons shall be segregated at all times from any other patient under the supervision of the director of the department of mental health. The department of mental health shall not place or house a person ordered to the department of mental health after a determination by the court that such person may meet the definition of a sexually violent predator, a person ordered to the department of mental health after a finding of probable cause under section 632.489, or a person committed for control, care, and treatment by the department of mental health, pursuant to sections 632.480 to 632.513, with other mental health patients. The provisions of this subsection shall not apply to a person who has been conditionally released under section 632.505.

4. The department of mental health is authorized to enter into an interagency agreement with the department of corrections for the confinement of such persons. Such persons who are in the confinement of the department of corrections pursuant to an interagency agreement shall be housed and managed separately from offenders in the custody of the department of corrections, and except for occasional instances of supervised incidental contact, shall be segregated from such offenders.

5. **The department of mental health is authorized to enter into a contract agreement with one or more county jails in Missouri for the confinement of persons ordered to the department of mental health after a determination by the court that such persons may meet the definition of a sexually violent predator or for the confinement of persons ordered to the department of mental health after a finding of probable cause under section 632.489. Such persons who are in the confinement of a county jail pursuant to a contract agreement shall be housed and managed separately from offenders in the custody of the county jail, and except for occasional instances of supervised incidental contact, shall be segregated from such offenders.**

6. If the court or jury is not satisfied by clear and convincing evidence that the person is a sexually violent predator, the court shall direct the person's release.

[6.**]** **7.** Upon a mistrial, the court shall direct that the person be held at an appropriate secure facility, including, but not limited to, a county jail, until another trial is conducted. If the person is ordered to the department of mental health, the director of the department of mental health shall determine the appropriate secure facility to house the person. Any subsequent trial

following a mistrial shall be held within ninety days of the previous trial, unless such subsequent trial is continued as provided in section 632.492.

Approved July 9, 2009

SB 480 [HCS SB 480]

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

Creates the Missouri Board on Geographic Names

AN ACT to repeal sections 8.001, 8.003, and 8.007, RSMo, and to enact in lieu thereof four new sections relating to state boards and commissions.

SECTION

A. Enacting clause.
8.001. Second state capitol commission established.
8.003. Membership of commission, terms, meetings, annual report.
8.007. Duties of the commission — state capitol commission fund created, lapse to general revenue prohibited — copyright and trademark permitted, when.
109.225. Missouri board on geographic names established, members, terms, meetings — secretary to be designated — duties of board.

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

SECTION A. ENACTING CLAUSE. — Sections 8.001, 8.003, and 8.007, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 8.001, 8.003, 8.007, and 109.225, to read as follows:

8.001. SECOND STATE CAPITOL COMMISSION ESTABLISHED. — The general assembly, recognizing the work of the original state capitol commission board established March 24, 1911, and the work of the capitol decoration commission established April 10, 1917, and seeking to assure the future preservation**, improvement, expansion, renovation, restoration,** and integrity of the capitol and to preserve the historical significance of the capitol hereby establishes the **[**second**]** **Missouri** state capitol commission.

8.003. MEMBERSHIP OF COMMISSION, TERMS, MEETINGS, ANNUAL REPORT. — 1. The commission shall consist of eleven persons, as follows: the commissioner of the office of administration; one member of the senate from the majority party and one member of the senate from the minority party**, appointed by the president pro tempore**; one member of the house of representatives from the majority party and one member of the house of representatives from the minority party**, appointed by the speaker of the house of representatives**; one employee of the house of representatives appointed by the speaker of the house of representatives and one employee of the senate appointed by the president pro tempore; and four members appointed by the governor with the advice and consent of the senate. The lieutenant governor shall be an ex officio member of the commission.

2. The legislative members of the commission shall serve for the general assembly during which they are appointed and until their successors are selected and qualified.

3. The four members appointed by the governor shall be persons who have knowledge and background regarding the history of the state, the history and significance of the seat of state government and the capitol but shall not be required to be professionals in the subject area.

4. The terms of the four members appointed by the governor shall be four years and until their successors are appointed and qualified. Provided, however, that the first term of three public members shall be for two years, thereafter the terms shall be four years. There is no limitation on the number of terms any appointed member may serve. If a vacancy occurs the governor may appoint a member for the remaining portion of the unexpired term created by the vacancy. The governor may remove any **[**appointed**]** member **appointed by him or her** for cause. The members of the commission shall be reimbursed for travel and other expenses actually and necessarily incurred in the performance of their duties by the office of administration.

5. At the first meeting of the commission and at yearly intervals thereafter, the members shall select from among themselves a chairman and a vice chairman.

6. The commission shall hold at least four regular meetings each year and such additional meetings as the chairman deems desirable at a place and time to be fixed by the chairman. Special meetings may be called by five members of the commission upon delivery of written notice to each member of the commission. Reasonable written notice of all meetings shall be given by the director to all members of the commission. Five members of the commission shall constitute a quorum. All actions of the commission shall be taken at meetings open to the public. Any member absent from six consecutive regular commission meetings for any cause whatsoever shall be deemed to have resigned and the vacancy shall be filled immediately in accordance with subsection 1 of this section.

7. The commission shall provide a report to the governor and the general assembly annually.

8.007. DUTIES OF THE COMMISSION — STATE CAPITOL COMMISSION FUND CREATED, LAPSE TO GENERAL REVENUE PROHIBITED — COPYRIGHT AND TRADEMARK PERMITTED, WHEN. — 1. The commission shall:

(1) Exercise general supervision of the administration of sections 8.001 to 8.007;

(2) **Evaluate and approve capitol studies and improvement, expansion, renovation, and restoration projects to be paid for with funds appropriated from the state capitol commission fund;**

(3) Evaluate and recommend courses of action on the restoration and preservation of the capitol, the preservation of historical significance of the capitol and the history of the capitol;

[(3)**]** **(4)** Evaluate and recommend courses of action to ensure accessibility to the capitol for physically disabled persons;

[(4)**]** **(5)** Advise, consult, and cooperate with the office of administration, the archives division of the office of the secretary of state, the historic preservation program within the department of natural resources, the division of tourism within the department of economic development and the historical society of Missouri in furtherance of the purposes of sections 8.001 to 8.007;

[(5)**]** **(6)** Be authorized to cooperate or collaborate with other state agencies and not-for-profit organizations to publish books and manuals concerning the history of the capitol, its improvement or restoration;

[(6)**]** **(7)** Before each September first, recommend options to the governor on budget allocation for improvements or restoration of the capitol premises;

[(7)**]** **(8)** Encourage, participate in, or conduct studies, investigations, and research and demonstrations relating to improvement and restoration of the state capitol it may deem advisable and necessary for the discharge of its duties pursuant to sections 8.001 to 8.007; **[**and

(8)**]** **(9)** Hold hearings, issue notices of hearings and take testimony as the commission deems necessary**; and**

(10) Initiate planning efforts, subject to the appropriation of funds, for a centennial celebration of the laying of the capstone of the Missouri state capitol.

2. The "**[**Second**]** **State** Capitol Commission Fund" is hereby created in the state treasury. Any moneys received from sources other than appropriation by the general assembly, including from private sources, gifts, donations and grants, shall be credited to the **[**second**]** **state** capitol commission fund and shall be appropriated by the general assembly.

3. The provisions of section 33.080, RSMo, to the contrary notwithstanding, moneys in the second capitol commission fund shall not be transferred and placed to the credit of the general revenue fund. **Moneys in the state capitol commission fund shall not be appropriated for any purpose other than those designated by the commission.**

4. The commission is authorized to accept all gifts, bequests and donations from any source whatsoever. The commission may also apply for and receive grants consistent with the purposes of sections 8.001 to 8.007. All such gifts, bequests, donations and grants shall be used or expended upon appropriation in accordance with their terms or stipulations, and the gifts, bequests, donations or grants may be used or expended for the preservation, **improvement, expansion, renovation,** restoration and improved accessibility and for promoting the historical significance of the capitol.

5. The commission may copyright or obtain a trademark for any photograph, written work, art object, or any product created of the capitol or capitol grounds. The commission may grant access or use of any such works to other organizations or individuals for a fee, at its sole discretion, or waive all fees. All funds obtained through licensing fees shall be credited to the capitol commission fund in a manner similar to funds the commission receives as gifts, donations, and grants. The funds shall be used for repairs, refurbishing, or to create art, exhibits, decorations, or other beautifications or adornments to the capitol or its grounds.

109.225. MISSOURI BOARD ON GEOGRAPHIC NAMES ESTABLISHED, MEMBERS, TERMS, MEETINGS — SECRETARY TO BE DESIGNATED — DUTIES OF BOARD. — 1. There is hereby established the "Missouri Board on Geographic Names". The board shall be assigned for administrative purposes to the office of the secretary of state.

2. The board shall consist of nineteen members as follows:

(1) The secretary of state, who shall serve as chair of the board;

(2) Nine citizens of Missouri appointed by the secretary of state;

(3) The director or the director's designee of the department of transportation;

(4) The director or the director's designee of the department of conservation;

(5) The director or the director's designee of the department of natural resources;

(6) The commissioner or the commissioner's designee of the office of administration;

(7) The director or the director's designee of the state archives;

(8) The executive director or the executive director's designee of the state historical society of Missouri;

(9) The director or the director's designee of the United States Geological Survey;

(10) The director or the director's designee of the United States Forest Service; and

(11) The director or the director's designee of the United States Corps of Engineers.

3. Appointed members of the board shall serve three-year terms and shall serve until their successors are appointed. Vacancies on the board shall be filled in the same manner as the original appointment and such member appointed shall serve the remainder of the unexpired term.

4. The board shall meet annually and as otherwise required by the secretary of state.

5. The board shall designate from its members a vice-chair and shall adopt written guidelines to govern the management of the board.

6. Each member of the board shall serve without compensation, but may be reimbursed for their actual and necessary expenses incurred in the performance of their duties as members of the board.

7. The secretary of state shall designate an employee of the secretary of state's office as executive secretary for the board, who shall serve as a nonvoting member and shall

maintain the records of the board's activities and decisions and shall be responsible for correspondence between the board and the United States Board on Geographic Names and other agencies.

8. The board shall:

(1) Receive and evaluate all proposals for changes in or additions to names of geographic features and places in the state of Missouri to determine the most appropriate and acceptable names for use in maps and official documents of all levels of government;

(2) Make official recommendations to the United States Board on Geographic Names on behalf of the state of Missouri with respect to each proposal;

(3) Assist and cooperate with the United States Board on Geographic Names in matters relating to names of geographic features and places in Missouri;

(4) Assist in the maintenance of a Missouri geographic names database as part of the national database;

(5) Maintain a list of advisers who have special interest and knowledge in Missouri history, geography, or culture and consult with such advisers on a regular basis in the course of the board's deliberations;

(6) Develop and revise state priorities for geographic records projects following guidelines of the United States Board on Geographic Names; and

(7) Submit a report on its activities annually to the general assembly.

9. The board may apply for moneys through federal and state grant programs to sponsor and publish surveys of the condition and needs of geographic records in the state of Missouri and to solicit or develop proposals for projects to be carried out in the state for preservation of geographic records and publications.

Approved July 10, 2009

SB 485 [SB 485]

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

Requires the Ethics Commission to redact the bank account number contained on a committee's statement of organization before it makes the statement public

AN ACT to repeal section 130.021, RSMo, and to enact in lieu thereof one new section relating to committee statements of organization.

SECTION

A. Enacting clause.

130.021. Treasurer for candidates and committees, when required — duties — official depository account to be established — statement of organization for committees, contents, when filed — termination of committee, procedure.

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

SECTION A. ENACTING CLAUSE. — Section 130.021, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 130.021, to read as follows:

130.021. TREASURER FOR CANDIDATES AND COMMITTEES, WHEN REQUIRED — DUTIES — OFFICIAL DEPOSITORY ACCOUNT TO BE ESTABLISHED — STATEMENT OF ORGANIZATION FOR COMMITTEES, CONTENTS, WHEN FILED — TERMINATION OF COMMITTEE, PROCEDURE. — 1. Every committee shall have a treasurer who, except as provided in subsection 10 of this section, shall be a resident of this state and reside in the district or county in which the committee

sits. A committee may also have a deputy treasurer who, except as provided in subsection 10 of this section, shall be a resident of this state and reside in the district or county in which the committee sits, to serve in the capacity of committee treasurer in the event the committee treasurer is unable for any reason to perform the treasurer's duties.

2. Every candidate for offices listed in subsection 1 of section 130.016 who has not filed a statement of exemption pursuant to that subsection and every candidate for offices listed in subsection 6 of section 130.016 who is not excluded from filing a statement of organization and disclosure reports pursuant to subsection 6 **of section 130.016** shall form a candidate committee and appoint a treasurer. Thereafter, all contributions on hand and all further contributions received by such candidate and any of the candidate's own funds to be used in support of the person's candidacy shall be deposited in a candidate committee depository account established pursuant to the provisions of subsection 4 of this section, and all expenditures shall be made through the candidate, treasurer or deputy treasurer of the person's candidate committee. Nothing in this chapter shall prevent a candidate from appointing himself or herself as a committee of one and serving as the person's own treasurer, maintaining the candidate's own records and filing all the reports and statements required to be filed by the treasurer of a candidate committee.

3. A candidate who has more than one candidate committee supporting the person's candidacy shall designate one of those candidate committees as the committee responsible for consolidating the aggregate contributions to all such committees under the candidate's control and direction as required by section 130.041.

4. (1) Every committee shall have a single official fund depository within this state which shall be a federally or state-chartered bank, a federally or state-chartered savings and loan association, or a federally or state-chartered credit union in which the committee shall open and thereafter maintain at least one official depository account in its own name. An "official depository account" shall be a checking account or some type of negotiable draft or negotiable order of withdrawal account, and the official fund depository shall, regarding an official depository account, be a type of financial institution which provides a record of deposits, canceled checks or other canceled instruments of withdrawal evidencing each transaction by maintaining copies within this state of such instruments and other transactions. All contributions which the committee receives in money, checks and other negotiable instruments shall be deposited in a committee's official depository account. Contributions shall not be accepted and expenditures shall not be made by a committee except by or through an official depository account and the committee treasurer, deputy treasurer or candidate. Contributions received by a committee shall not be commingled with any funds of an agent of the committee, a candidate or any other person, except that contributions from a candidate of the candidate's own funds to the person's candidate committee shall be deposited to an official depository account of the person's candidate committee. No expenditure shall be made by a committee when the office of committee treasurer is vacant except that when the office of a candidate committee treasurer is vacant, the candidate shall be the treasurer until the candidate appoints a new treasurer.

(2) A committee treasurer, deputy treasurer or candidate may withdraw funds from a committee's official depository account and deposit such funds in one or more savings accounts in the committee's name in any bank, savings and loan association or credit union within this state, and may also withdraw funds from an official depository account for investment in the committee's name in any certificate of deposit, bond or security. Proceeds from interest or dividends from a savings account or other investment or proceeds from withdrawals from a savings account or from the sale of an investment shall not be expended or reinvested, except in the case of renewals of certificates of deposit, without first redepositing such proceeds in an official depository account. Investments, other than savings accounts, held outside the committee's official depository account at any time during a reporting period shall be disclosed by description, amount, any identifying numbers and the name and address of any institution or person in which or through which it is held in an attachment to disclosure reports the committee is required to file. Proceeds from an investment such as interest or dividends or proceeds from

its sale, shall be reported by date and amount. In the case of the sale of an investment, the names and addresses of the persons involved in the transaction shall also be stated. Funds held in savings accounts and investments, including interest earned, shall be included in the report of money on hand as required by section 130.041.

5. The treasurer or deputy treasurer acting on behalf of any person or organization or group of persons which is a committee by virtue of the definitions of committee in section 130.011 and any candidate who is not excluded from forming a committee in accordance with the provisions of section 130.016 shall file a statement of organization with the appropriate officer within twenty days after the person or organization becomes a committee but no later than the date for filing the first report required pursuant to the provisions of section 130.046. The statement of organization shall contain the following information:

(1) The name, mailing address and telephone number, if any, of the committee filing the statement of organization. If the committee is deemed to be affiliated with a connected organization as provided in subdivision (11) of section 130.011, the name of the connected organization, or a legally registered fictitious name which reasonably identifies the connected organization, shall appear in the name of the committee. If the committee is a candidate committee, the name of the candidate shall be a part of the committee's name;

(2) The name, mailing address and telephone number of the candidate;

(3) The name, mailing address and telephone number of the committee treasurer, and the name, mailing address and telephone number of its deputy treasurer if the committee has named a deputy treasurer;

(4) The names, mailing addresses and titles of its officers, if any;

(5) The name and mailing address of any connected organizations with which the committee is affiliated;

(6) The name and mailing address of its depository, and the name and account number of each account the committee has in the depository**. The account number of each account shall be redacted prior to disclosing the statement to the public**;

(7) Identification of the major nature of the committee such as a candidate committee, campaign committee, continuing committee, political party committee, incumbent committee, or any other committee according to the definition of committee in section 130.011;

(8) In the case of the candidate committee designated in subsection 3 of this section, the full name and address of each other candidate committee which is under the control and direction of the same candidate, together with the name, address and telephone number of the treasurer of each such other committee;

(9) The name and office sought of each candidate supported or opposed by the committee;

(10) The ballot measure concerned, if any, and whether the committee is in favor of or opposed to such measure.

6. A committee may omit the information required in subdivisions (9) and (10) of subsection 5 of this section if, on the date on which it is required to file a statement of organization, the committee has not yet determined the particular candidates or particular ballot measures it will support or oppose.

7. A committee which has filed a statement of organization and has not terminated shall not be required to file another statement of organization, except that when there is a change in any of the information previously reported as required by subdivisions (1) to (8) of subsection 5 of this section an amended statement of organization shall be filed within twenty days after the change occurs, but no later than the date of the filing of the next report required to be filed by that committee by section 130.046.

8. Upon termination of a committee, a termination statement indicating dissolution shall be filed not later than ten days after the date of dissolution with the appropriate officer or officers with whom the committee's statement of organization was filed. The termination statement shall include: the distribution made of any remaining surplus funds and the disposition of any deficits;

and the name, mailing address and telephone number of the individual responsible for preserving the committee's records and accounts as required in section 130.036.

9. Any statement required by this section shall be signed and attested by the committee treasurer or deputy treasurer, and by the candidate in the case of a candidate committee.

10. A committee domiciled outside this state shall be required to file a statement of organization and appoint a treasurer residing in this state and open an account in a depository within this state; provided that either of the following conditions prevails:

(1) The aggregate of all contributions received from persons domiciled in this state exceeds twenty percent in total dollar amount of all funds received by the committee in the preceding twelve months; or

(2) The aggregate of all contributions and expenditures made to support or oppose candidates and ballot measures in this state exceeds one thousand five hundred dollars in the current calendar year.

11. If a committee domiciled in this state receives a contribution of one thousand five hundred dollars or more from any committee domiciled outside of this state, the committee domiciled in this state shall file a disclosure report with the commission. The report shall disclose the full name, mailing address, telephone numbers and domicile of the contributing committee and the date and amount of the contribution. The report shall be filed within forty-eight hours of the receipt of such contribution if the contribution is received after the last reporting date before the election.

12. Each legislative and senatorial district committee shall retain only one address in the district it sits for the purpose of receiving contributions.

Approved July 7, 2009

SB 513 [CCS SB 513]

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

Modifies the filing requirements for certain real estate broker liens

AN ACT to repeal section 429.609, RSMo, and to enact in lieu thereof two new sections relating to real estate, with an expiration date for a certain section.

SECTION

A. Enacting clause.
67.281. Installation of fire sprinklers to be offered to purchaser by builder of certain dwellings — purchaser may decline — expiration date.
429.609. Broker's lien attaches to commercial real estate when, notice to be filed in office of recorder, when — installment payments of compensation, notice recorded when — lease, claim for lien filed when.

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

SECTION A. ENACTING CLAUSE. — Section 429.609, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 67.281 and 429.609, to read as follows:

67.281. INSTALLATION OF FIRE SPRINKLERS TO BE OFFERED TO PURCHASER BY BUILDER OF CERTAIN DWELLINGS — PURCHASER MAY DECLINE — EXPIRATION DATE. — On or before the date of entering into a purchase contract, any builder of single-family dwellings or residences or multifamily dwellings of four or fewer units shall offer to any purchaser the option to install or equip such dwellings or residences with a fire sprinkler system at the purchaser's cost. Notwithstanding any other provision of law to the contrary,

no code, order, ordinance, rule, regulation, or resolution adopted by any political subdivision shall be construed to deny any purchaser of any such dwelling or residence the option to choose or decline the installation or equipping of such dwelling or residence with a fire sprinkler system. Any code, order, ordinance, rule, regulation, or resolution adopted by any political subdivision shall include a provision requiring each builder to provide each purchaser of any such dwelling or residence with the option of purchasing a fire sprinkler system for such dwelling or residence. This section shall expire on December 31, 2011.

429.609. BROKER'S LIEN ATTACHES TO COMMERCIAL REAL ESTATE WHEN, NOTICE TO BE FILED IN OFFICE OF RECORDER, WHEN — INSTALLMENT PAYMENTS OF COMPENSATION, NOTICE RECORDED WHEN — LEASE, CLAIM FOR LIEN FILED WHEN. — A real estate broker's lien authorized by sections 429.600 to 429.627 attaches to the commercial real estate, or an interest in the commercial real estate, when:

(1) The real estate broker procures a person or entity ready, willing and able to purchase, lease or otherwise accept a conveyance of such property upon the terms set forth in the written agreement with the owner or terms otherwise acceptable to the owner or owner's agent, or the real estate broker is entitled to a fee or commission pursuant to a written agreement signed by the owner or the owner's agent; and

(2) The real estate broker records a notice of the lien in the office of the recorder of deeds of the county in which the real property, or any interest in the real property, is located, if such lien is filed prior to the actual conveyance or transfer of the commercial real estate subject to such real estate broker's lien, except that:

(a) If payment to a real estate broker is due in installments and a portion of the payment is due after the conveyance or transfer of the commercial real estate, any claim for a lien for installment payments due after the transfer or conveyance of such real estate may be recorded any time after the transfer or conveyance of the commercial real estate but must be recorded before the date on which the payment is due. Such lien shall only be effective as a lien against the commercial real estate to the extent moneys are still owed to the transferor by the transferee. A single claim for a lien recorded before the transfer or conveyance of the commercial real estate, claiming all moneys due under an installment payment agreement, is not valid or enforceable to the extent of the payments due after the transfer or conveyance. The lien attaches for purposes of this paragraph when the claim for lien is recorded;

(b) In the case of a lease, the claim for lien must be recorded within ninety days after the **[**tenant takes possession of the leased property**]** **date of occupancy or the date of rent commencement as stipulated in the lease, whichever is later**, unless written notice of the intention to sign the lease is personally served on the real estate broker entitled to claim a lien at least ten days before the date of the intended signing of the lease, then the claim for lien must be recorded before the date indicated for the signing of the lease. The lien attaches for purposes of this paragraph when the claim for lien is recorded; or

(c) If the real estate broker has a written agreement with a prospective buyer as provided in subsection 2 of section 429.605, then the lien attaches when the prospective buyer purchases or otherwise accepts a conveyance or transfer of the commercial real estate and records a notice of the lien within ninety days after the purchase or other conveyance or transfer to the buyer in the office of the recorder of deeds in the county in which the commercial real estate, or any interest in the commercial real estate, is located.

Approved July 13, 2009

HB 89 [HCS HB 89]

Requires vehicles to yield the right-of-way to all pedestrians and bicyclists crossing in a crosswalk at an intersection on a city or neighborhood street in Kansas City

AN ACT to repeal section 300.390 and 577.060, RSMo, and to enact in lieu thereof two new sections relating to traffic violations, with a penalty provision.

Vetoed 7-02-09

HB 116 [HB 116]

Changes the laws regarding the crime of assault of a law enforcement officer, emergency personnel, or probation and parole officer and the crime of tampering with a judicial officer

AN ACT to repeal sections 565.081, 565.082, 565.083, and 565.084, RSMo, and to enact in lieu thereof four new sections relating to assault of a law enforcement officer, emergency personnel, probation and parole officer, transit operator, or an employee of mass transit systems while on duty or in operation of their official vehicle, with penalty provisions.

Vetoed 7-13-09

HB 148 [CCS SCS#2 HCS HB 148]

Changes the laws regarding collection of taxes

AN ACT to repeal sections 52.290, 52.312, 52.361, 52.370, 54.010, 55.140, 55.190, 67.110, 137.073, 139.031, 139.140, 139.150, 139.210, 139.220, 140.050, 140.070, 140.080, 140.160, and 165.071, RSMo, and to enact in lieu thereof nineteen new sections relating to property taxation.

Vetoed 7-13-09

HB 171 [SCS HB 171]

Exempts, in the absence of a written contract to the contrary, a tenant from rent payments when his or her residence is destroyed by an act of God

AN ACT to amend chapter 441, RSMo, by adding thereto one new section relating to payment of rent when a leased residence is destroyed.

Vetoed 7-13-09

HB 251 [HCS HB 251]

Specifies that a cooperative association providing economic benefits and services to its members for the purchase of milk products will not be in violation of the Unfair Milk Sales Practices Act

AN ACT to repeal section 416.440, RSMo, and to enact in lieu thereof one new section relating to the sale of milk.

Vetoed 7-13-09

HB 306 [HCS HB 306]

Requires the board of a lake area business district to enter into an agreement with the Department of Revenue for the collection of transient guest taxes within the district

AN ACT to repeal section 67.1177, RSMo, and to enact in lieu thereof one new section relating to certain hotel and motel taxes.

Vetoed 7-02-09

HB 373 [HB 373]

Creates the General Educational Development (GED) Revolving Fund

AN ACT to amend chapter 161, RSMo, by adding thereto one new section relating to the general educational development revolving fund.

Vetoed 7-02-09

HB 544 [SCS HB 544]

Changes the laws regarding the oversight of public funds and access to the dome of the State Capitol

AN ACT to amend chapters 8, 33 and 37, RSMo, by adding thereto three new sections relating to the oversight of public funds.

Vetoed 7-13-09

HB 620 [HCS HB 620 & 671]

Changes the laws regarding bingo and repeals the two percent gross receipts sales tax on pull-tab cards and the two-tenths of one cent tax on each bingo card

AN ACT to repeal sections 313.010, 313.015, 313.040, 313.045, 313.050, 313.055, and 313.057, RSMo, and to enact in lieu thereof six new sections relating to bingo, with penalty provisions.

Vetoed 7-13-09

HB 644 [HB 644]

Changes the laws regarding the registration and licensing of motor vehicles and certificates of ownership for manufactured homes

AN ACT to repeal sections 301.069, 301.190, 301.218, 306.410, 430.082, and 700.320, RSMo, and to enact in lieu thereof six new sections relating to the registration and licensing of motor vehicles.

Vetoed 7-13-09

HB 751 [HB 751]

Changes the laws regarding the Missouri Propane Education and Research Council

AN ACT to repeal sections 414.530, 414.560, and 414.570, RSMo, and to enact in lieu thereof three new sections relating to the Missouri propane education and research act.

Vetoed 7-13-09

SB 37 [SCS SB 37]

Modifies provisions relating to the public defender system

AN ACT to repeal sections 600.011, 600.015, 600.017, 600.019, 600.021, 600.040, 600.042, 600.048, 600.086, 600.089, 600.090, and 600.096, RSMo, and to enact in lieu thereof thirteen new sections relating to the public defender system, with penalty provisions.

Vetoed 7-13-09

SB 147 [HCS SB 147]

Establishes the Missouri Healthy Workplace Recognition Program

AN ACT to amend chapter 191, RSMo, by adding thereto one new section relating to the Missouri healthy workplace recognition program.

Vetoed 7-13-09

SB 153 [SCS SB 153]

Re-words section of law pertaining to co-ops offering return of savings on milk purchases to their members

AN ACT to repeal sections 265.525, 267.565, 267.600, 416.410, and 416.440, RSMo, and to enact in lieu thereof five new sections relating to the marketing of commodities.

Vetoed 7-13-09

SB 156 [SB 156]

Modifies provisions of law regarding travel clubs

AN ACT to repeal sections 407.1240 and 407.1249, RSMo, and to enact in lieu thereof two new sections relating to travel clubs.

Vetoed 7-13-09

SB 202 [SCS SB 202]

Provides that operating a motorcycle, in and of itself, shall not be considered evidence of comparative negligence and prohibits claims adjusters from assigning fault to a party simply because the party was riding a motorcycle

AN ACT to repeal section 302.020, RSMo, and to enact in lieu thereof two new sections relating to the operation of motorcycles.

Vetoed 7-02-09

SB 216 [SCS SB 216]

Modifies the law relating to debt settlement providers

AN ACT to repeal section 425.010, RSMo, and to enact in lieu thereof six new sections relating to debt settlement providers.

Vetoed 7-13-09

SB 235 [HCS SB 235]

Allows for the conversion of manufactured homes from personal property to real property and the reconversion of manufactured homes from real property to personal property

AN ACT to repeal sections 137.016, 137.115, 362.105, 365.020, 365.200, 369.229, 370.300, 400.9-303, 400.9-311, 408.015, 408.052, 408.140, 408.233, 408.250, 408.300, 436.350, 441.005, 442.010, 513.010, 700.010, 700.100, 700.111, 700.320, 700.350, 700.360, 700.370, 700.375, 700.385, 700.525, 700.527, 700.529, 700.530, 700.531, 700.533, 700.535, 700.537, 700.539, and 700.630, RSMo, and to enact in lieu thereof thirty-seven new sections relating to manufactured homes, with penalty provisions.

Vetoed 7-13-09

SB 242 [CCS HCS SCS SB 242]

Provides an alternate procedure to approve bond issuance for a sewer subdistrict in Cass County

AN ACT to repeal section 204.569, RSMo, and to enact in lieu thereof three new sections relating to sewer districts, with an emergency clause for a certain section.

Vetoed 7-13-09

SB 243 [SCS SB 243]

Allows for the sale of deficiency waiver addendums and other similar products with respect to certain loan transactions

AN ACT to repeal section 408.140, 408.233, and 408.300, RSMo, and to enact in lieu thereof four new sections relating to the sale of deficiency waiver addendums and other similar products associated with certain loan transactions.

Vetoed 7-13-09

SB 411 [HCS SCS SB 411]

Makes certain employees of the Missouri Development Finance Board members of the Missouri State Employees' Retirement System

AN ACT to repeal sections 169.020, 169.040, 169.056, 169.070, 169.073, 169.075, 169.090, 169.130, 169.630, 169.650, 169.655, 169.670, and 169.690, RSMo, and to enact in lieu thereof fifteen new sections relating to public employee retirement systems.

Vetoed 7-13-09

SB 464 [CCS HCS SB 464]

Modifies various provisions relating to insurance producers

AN ACT to repeal sections 143.441, 147.010, 148.370, 301.560, 303.024, 374.456, 375.020, 375.1025, 375.1028, 375.1030, 375.1032, 375.1035, 375.1037, 375.1040, 375.1042, 375.1045, 375.1047, 375.1050, 375.1052, 375.1057, 375.1224, 376.428, 379.1300, 379.1302, 379.1310, 379.1326, 379.1332, 379.1373, 379.1388, 379.1412, 382.400, 382.402, 382.405, 382.407, 382.409, 384.025, 384.031, 384.043, 384.051, 384.057, and 384.062, RSMo, and to enact in lieu thereof forty-six new sections relating to the regulation of insurance, with penalty provisions and an emergency clause for a certain section.

Vetoed 7-13-09

SB 542 [SCS SB 542]

Modifies provisions relating to State Treasurer and expands eligibility for Treasurer's linked deposit loan program

AN ACT to repeal sections 30.260, 30.270, 30.750, 30.753, 30.756, 30.758, 30.760, and 30.765, RSMo, and to enact in lieu thereof eight new sections relating to the state treasurer, with penalty provisions.

Vetoed 7-02-09

ADOPTED NOVEMBER 4, 2008

PROPOSED BY INITIATIVE PETITION

PROPOSITION A. — (Proposed by Initiative Petition) Shall Missouri law be amended to: repeal the current individual maximum loss limit for gambling;

- prohibit any future loss limits;
- require identification to enter the gambling area only if necessary to establish that an individual is at least 21 years old;
- restrict the number of casinos to those already built or being built;
- increase the casino gambling tax from 20% to 21%;
- create a new specific education fund from gambling tax proceeds generated as a result of this measure called the "Schools First Elementary and Secondary Education Improvement Fund"; and
- require annual audits of this new fund?

State governmental entities will receive an estimated $105.1 to $130.0 million annually for elementary and secondary education, and $5.0 to $7.0 million annually for higher education, early childhood development, veterans, and other programs. Local governmental entities receiving gambling boat tax and fee revenues will receive an estimated $18.1 to $19.0 million annually

SECTION

A. Enacting clause.
1. Citation of law.
2. Fund created — state treasurer's duties.
3. Licensing of additional excursion gambling boats restricted, when.
160.534. Excursion gambling boat proceeds, transfer to certain education funds.
163.011. Definitions — method of calculating state aid.
313.805. Powers of commission — boats to cruise, exceptions.
313.817. Wagering, conduct of, requirements — minors not allowed to wager — -dealers must be twenty-one years of age — invasion of privacy protections — presentation of false identification a misdemeanor.
313.822. Adjusted gross receipts, tax on, rate, collection procedures — portion to home dock city or county, procedure — gaming proceeds for education fund, created, purpose — audit of certain education funds.

Be it enacted by the people of the State of Missouri:

SECTION A. ENACTING CLAUSE. — *Sections 160.534, 163.011, 313.805, 313.817 and 313.822, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 1,2,3, 160.534, 163.011, 313.805, 313.817, and 313.822, to read as follows:*

SECTION 1. CITATION OF LAW. — This act shall be known and may be cited as "The Schools First Elementary and Secondary Education Funding Initiative."

SECTION 2. FUND CREATED — STATE TREASURER'S DUTIES. — There is hereby created in the state treasury the "Schools First Elementary and Secondary Education Improvement Fund," which shall consist of taxes on excursion gambling boat proceeds, as provided in section 160.534.2, RSMo, to be used solely for the purpose of increasing funding for elementary and secondary education. The schools first elementary and secondary education improvement fund shall be state revenues collected from gaming activities for purposes of Article III, Section 39(d) of the Constitution. Moneys in the schools first elementary and secondary education improvement fund shall be kept separate from the general revenue fund as well as any other

funds or accounts in the state treasury. The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

SECTION 3. LICENSING OF ADDITIONAL EXCURSION GAMBLING BOATS RESTRICTED, WHEN. — The Missouri Gaming Commission shall not authorize additional excursion gambling boat licenses after the effective date of this act that exceed the number of licenses which have been approved for excursion gambling boats already built and those under construction. For purposes of this section, "under construction" means an excursion gambling boat that has a license application approved by the Commission for priority investigation and is under construction at the approved site prior to the effective date of this act. If one or more excursion gambling boat licenses issued under chapter 313 is forfeited, surrendered, revoked, not renewed, or expires then the Commission may issue a new license to replace the license that was forfeited, surrendered, revoked, not renewed, or expired.

160.534. EXCURSION GAMBLING BOAT PROCEEDS, TRANSFER TO CERTAIN EDUCATION FUNDS. — 1. For fiscal year 1996 and each subsequent fiscal year, any amount of the excursion gambling boat proceeds deposited in the gaming proceeds for education fund in excess of the amount transferred to the school district bond fund as provided in section 164.303, RSMo, shall be transferred to the classroom trust fund. Such moneys shall be distributed in the manner provided in section 163.043, RSMo.

2. Starting in fiscal year 2009, and for each subsequent fiscal year, all excursion gambling boat proceeds deposited in the gaming proceeds for education fund in excess of the amount transferred to the classroom trust fund for fiscal year 2008 plus the amount appropriated to the school district bond fund in accordance with section 164.303, RSMo, shall be deposited into the schools first elementary and secondary education improvement fund.

3. The amounts deposited in the schools first elementary and secondary education improvement fund pursuant to this section shall constitute new and additional funding for elementary and secondary education and shall not be used to replace existing funding provided for elementary and secondary education.

163.011. DEFINITIONS — METHOD OF CALCULATING STATE AID. — As used in this chapter unless the context requires otherwise:

(1) "Adjusted operating levy", the sum of tax rates for the current year for teachers' and incidental funds for a school district as reported to the proper officer of each county pursuant to section 164.011, RSMo;

(2) "Average daily attendance", the quotient or the sum of the quotients obtained by dividing the total number of hours attended in a term by resident pupils between the ages of five and twenty-one by the actual number of hours school was in session in that term. To the average daily attendance of the following school term shall be added the full-time equivalent average daily attendance of summer school students. "Full-time equivalent average daily attendance of summer school students" shall be computed by dividing the total number of hours, except for physical education hours that do not count as credit toward graduation for students in grades nine, ten, eleven, and twelve, attended by all summer school pupils by the number of hours required in section 160.011, RSMo, in the school term. For purposes of determining average daily attendance under this subdivision, the term "resident pupil" shall include all children between the ages of five and twenty-one who are residents of the school district and who are attending kindergarten through grade twelve in such district. If a child is attending school in a district other than the district of residence and the child's parent is teaching in the school district

or is a regular employee of the school district which the child is attending, then such child shall be considered a resident pupil of the school district which the child is attending for such period of time when the district of residence is not otherwise liable for tuition. Average daily attendance for students below the age of five years for which a school district may receive state aid based on such attendance shall be computed as regular school term attendance unless otherwise provided by law;

(3) "Current operating expenditures":

(a) For the fiscal year 2007 calculation, "current operating expenditures" shall be calculated using data from fiscal year 2004 and shall be calculated as all expenditures for instruction and support services except capital outlay and debt service expenditures minus the revenue from federal categorical sources; food service; student activities; categorical payments for transportation costs pursuant to section 163.161; state reimbursements for early childhood special education; the career ladder entitlement for the district, as provided for in sections 168.500 to 168.515, RSMo; the vocational education entitlement for the district, as provided for in section 167.332, RSMo; and payments from other districts;

(b) In every fiscal year subsequent to fiscal year 2007, current operating expenditures shall be the amount in paragraph (a) plus any increases in state funding pursuant to sections 163.031 and 163.043 subsequent to fiscal year 2005, not to exceed five percent, per recalculation, of the state revenue received by a district in the 2004-05 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payments for any district from the first preceding calculation of the state adequacy target;

(4) "District's tax rate ceiling", the highest tax rate ceiling in effect subsequent to the 1980 tax year or any subsequent year. Such tax rate ceiling shall not contain any tax levy for debt service;

(5) "Dollar-value modifier", an index of the relative purchasing power of a dollar, calculated as one plus fifteen percent of the difference of the regional wage ratio minus one, provided that the dollar value modifier shall not be applied at a rate less than 1.0:

(a) "County wage per job", the total county wage and salary disbursements divided by the total county wage and salary employment for each county and the city of St. Louis as reported by the Bureau of Economic Analysis of the United States Department of Commerce for the fourth year preceding the payment year;

(b) "Regional wage per job":

a. The total Missouri wage and salary disbursements of the metropolitan area as defined by the Office of Management and Budget divided by the total Missouri metropolitan wage and salary employment for the metropolitan area for the county signified in the school district number or the city of St. Louis, as reported by the Bureau of Economic Analysis of the United States Department of Commerce for the fourth year preceding the payment year and recalculated upon every decennial census to incorporate counties that are newly added to the description of metropolitan areas; or if no such metropolitan area is established, then:

b. The total Missouri wage and salary disbursements of the micropolitan area as defined by the Office of Management and Budget divided by the total Missouri micropolitan wage and salary employment for the micropolitan area for the county signified in the school district number, as reported by the Bureau of Economic Analysis of the United States Department of Commerce for the fourth year preceding the payment year, if a micropolitan area for such county has been established and recalculated upon every decennial census to incorporate counties that are newly added to the description of micropolitan areas; or

c. If a county is not part of a metropolitan or micropolitan area as established by the Office of Management and Budget, then the county wage per job, as defined in paragraph (a) of this subdivision, shall be used for the school district, as signified by the school district number;

(c) "Regional wage ratio", the ratio of the regional wage per job divided by the state median wage per job;

(d) "State median wage per job", the fifty-eighth highest county wage per job;

(6) "Free and reduced lunch pupil count", the number of pupils eligible for free and reduced lunch on the last Wednesday in January for the preceding school year who were enrolled as students of the district, as approved by the department in accordance with applicable federal regulations;

(7) "Free and reduced lunch threshold" shall be calculated by dividing the total free and reduced lunch pupil count of every performance district that falls entirely above the bottom five percent and entirely below the top five percent of average daily attendance, when such districts are rank-ordered based on their current operating expenditures per average daily attendance, by the total average daily attendance of all included performance districts;

(8) "Limited English proficiency pupil count", the number in the preceding school year of pupils aged three through twenty-one enrolled or preparing to enroll in an elementary school or secondary school who were not born in the United States or whose native language is a language other than English or are Native American or Alaskan native, or a native resident of the outlying areas, and come from an environment where a language other than English has had a significant impact on such individuals' level of English language proficiency, or are migratory, whose native language is a language other than English, and who come from an environment where a language other than English is dominant; and have difficulties in speaking, reading, writing, or understanding the English language sufficient to deny such individuals the ability to meet the state's proficient level of achievement on state assessments described in Public Law 107-10, the ability to achieve successfully in classrooms where the language of instruction is English, or the opportunity to participate fully in society;

(9) "Limited English proficiency threshold" shall be calculated by dividing the total limited English proficiency pupil count of every performance district that falls entirely above the bottom five percent and entirely below the top five percent of average daily attendance, when such districts are rank-ordered based on their current operating expenditures per average daily attendance, by the total average daily attendance of all included performance districts;

(10) "Local effort":

(a) For the fiscal year 2007 calculation, "local effort" shall be computed as the equalized assessed valuation of the property of a school district in calendar year 2004 divided by one hundred and multiplied by the performance levy less the percentage retained by the county assessor and collector plus one hundred percent of the amount received in fiscal year 2005 for school purposes from intangible taxes, fines, escheats, payments in lieu of taxes and receipts from state-assessed railroad and utility tax, one hundred percent of the amount received for school purposes pursuant to the merchants' and manufacturers' taxes under sections 150.010 to 150.370, RSMo, one hundred percent of the amounts received for school purposes from federal properties under sections 12.070 and 12.080, RSMo, except when such amounts are used in the calculation of federal impact aid pursuant to P.L. 81-874, fifty percent of Proposition C revenues received for school purposes from the school district trust fund under section 163.087, and one hundred percent of any local earnings or income taxes received by the district for school purposes. Under this paragraph, for a special district established under sections 162.815 to 162.940, RSMo, in a county with a charter form of government and with more than one million inhabitants, a tax levy of zero shall be utilized in lieu of the performance levy for the special school district;

(b) In every year subsequent to fiscal year 2007, "local effort" shall be the amount calculated under paragraph (a) of this subdivision plus any increase in the amount received for school purposes from fines. If a district's assessed valuation has decreased subsequent to the calculation outlined in paragraph (a) of this subdivision, the district's local effort shall be calculated using the district's current assessed valuation in lieu of the assessed valuation utilized in calculation outlined in paragraph (a) of this subdivision;

(11) "Membership" shall be the average of:

(a) The number of resident full-time students and the full-time equivalent number of part-time students who were enrolled in the public schools of the district on the last Wednesday in

September of the previous year and who were in attendance one day or more during the preceding ten school days; and

(b) The number of resident full-time students and the full-time equivalent number of part-time students who were enrolled in the public schools of the district on the last Wednesday in January of the previous year and who were in attendance one day or more during the preceding ten school days, plus the full-time equivalent number of summer school pupils. "Full-time equivalent number of part-time students" is determined by dividing the total number of hours for which all part-time students are enrolled by the number of hours in the school term. "Full-time equivalent number of summer school pupils" is determined by dividing the total number of hours for which all summer school pupils were enrolled by the number of hours required pursuant to section 160.011, RSMo, in the school term. Only students eligible to be counted for average daily attendance shall be counted for membership;

(12) "Operating levy for school purposes", the sum of tax rates levied for teachers' and incidental funds plus the operating levy or sales tax equivalent pursuant to section 162.1100, RSMo, of any transitional school district containing the school district, in the payment year, not including any equalized operating levy for school purposes levied by a special school district in which the district is located;

(13) "Performance district", any district that has met all performance standards and indicators as established by the department of elementary and secondary education for purposes of accreditation under section 161.092, RSMo, and as reported on the final annual performance report for that district each year;

(14) "Performance levy", three dollars and forty-three cents;

(15) "School purposes" pertains to teachers' and incidental funds;

(16) "Special education pupil count", the number of public school students with a current individualized education program and receiving services from the resident district as of December first of the preceding school year, except for special education services provided through a school district established under sections 162.815 to 162.940, RSMo, in a county with a charter form of government and with more than one million inhabitants, in which case the sum of the students in each district within the county exceeding the special education threshold of each respective district within the county shall be counted within the special district and not in the district of residence for purposes of distributing the state aid derived from the special education pupil count;

(17) "Special education threshold" shall be calculated by dividing the total special education pupil count of every performance district that falls entirely above the bottom five percent and entirely below the top five percent of average daily attendance, when such districts are rank-ordered based on their current operating expenditures per average daily attendance, by the total average daily attendance of all included performance districts;

(18) "State adequacy target", the sum of the current operating expenditures of every performance district that falls entirely above the bottom five percent and entirely below the top five percent of average daily attendance, when such districts are rank-ordered based on their current operating expenditures per average daily attendance, divided by the total average daily attendance of all included performance districts plus the total amount of funds placed in the schools first elementary and secondary education improvement fund in the preceding fiscal year divided by the total average daily attendance of all school districts for the preceding fiscal year. The department of elementary and secondary education shall first calculate the state adequacy target for fiscal year 2007 and recalculate the state adequacy target every two years using the most current available data**;** provided that the state adequacy target shall be recalculated every year to reflect the per pupil amount of funds placed in the schools first elementary and secondary education improvement fund in the preceding fiscal year. The recalculation shall never result in a decrease from the previous state adequacy target amount. Should a recalculation result in an increase in the state adequacy target amount, fifty percent of that increase shall be included in the state adequacy target amount in the year of recalculation, and fifty percent of that increase

shall be included in the state adequacy target amount in the subsequent year. The state adequacy target may be adjusted to accommodate available appropriations;

(19) "Teacher", any teacher, teacher-secretary, substitute teacher, supervisor, principal, supervising principal, superintendent or assistant superintendent, school nurse, social worker, counselor or librarian who shall, regularly, teach or be employed for no higher than grade twelve more than one-half time in the public schools and who is certified under the laws governing the certification of teachers in Missouri;

(20) "Weighted average daily attendance", the average daily attendance plus the product of twenty-five hundredths multiplied by the free and reduced lunch pupil count that exceeds the free and reduced lunch threshold, plus the product of seventy-five hundredths multiplied by the number of special education pupil count that exceeds the special education threshold, and plus the product of six-tenths multiplied by the number of limited English proficiency pupil count that exceeds the limited English proficiency threshold. For special districts established under sections 162.815 to 162.940, RSMo, in a county with a charter form of government and with more than one million inhabitants, weighted average daily attendance shall be the average daily attendance plus the product of twenty-five hundredths multiplied by the free and reduced lunch pupil count that exceeds the free and reduced lunch threshold, plus the product of seventy-five hundredths multiplied by the sum of the special education pupil count that exceeds the threshold for each county district, plus the product of six-tenths multiplied by the limited English proficiency pupil count that exceeds the limited English proficiency threshold. None of the districts comprising a special district established under sections 162.815 to 162.940, RSMo, in a county with a charter form of government and with more than one million inhabitants, shall use any special education pupil count in calculating their weighted average daily attendance.

313.805. POWERS OF COMMISSION — BOATS TO CRUISE, EXCEPTIONS. — The commission shall have full jurisdiction over and shall supervise all gambling operations governed by sections 313.800 to 313.850. The commission shall have the following powers and shall promulgate rules and regulations to implement sections 313.800 to 313.850:

(1) To investigate applicants and determine the priority and eligibility of applicants for a license and to select among competing applicants for a license the applicant which best serves the interests of the citizens of Missouri;

(2) To license the operators of excursion gambling boats and operators of gambling games within such boats, to identify occupations within the excursion gambling boat operations which require licensing, and adopt standards for licensing the occupations including establishing fees for the occupational licenses and to license suppliers;

(3) To adopt standards under which all excursion gambling boat operations shall be held and standards for the facilities within which the gambling operations are to be held. Notwithstanding the provisions of chapter 311, RSMo, to the contrary, the commission may authorize the operation of gambling games on an excursion gambling boat which is also licensed to sell or serve alcoholic beverages, wine, or beer. The commission shall regulate the wagering structure for gambling excursions [including providing a maximum loss of five hundred dollars per individual player per gambling excursion], <u>provided that the commission shall not establish any regulations or policies that limit the amount of wagers, losses, or buy in amounts</u>.

(4) To enter the premises of excursion gambling boats, facilities, or other places of business of a licensee within this state to determine compliance with sections 313.800 to 313.850;

(5) To investigate alleged violations of sections 313.800 to 313.850 or the commission rules, orders, or final decisions;

(6) To assess any appropriate administrative penalty against a licensee, including, but not limited to, suspension, revocation, and penalties of an amount as determined by the commission up to three times the highest daily amount of gross receipts derived from wagering on the gambling games, whether unauthorized or authorized, conducted during the previous twelve months as well as confiscation and forfeiture of all gambling game equipment used in the conduct of

unauthorized gambling games. Forfeitures pursuant to this section shall be enforced as provided in sections 513.600 to 513.645, RSMo;
(7) To require a licensee, an employee of a licensee or holder of an occupational license to remove a person violating a provision of sections 313.800 to 313.850 or the commission rules, orders, or final orders, or other person deemed to be undesirable from the excursion gambling boat or adjacent facilities;
(8) To require the removal from the premises of a licensee, an employee of a licensee, or a holder of an occupational license for a violation of sections 313.800 to 313.850 or a commission rule or engaging in a fraudulent practice;
(9) To require all licensees to file all financial reports required by rules and regulations of the commission;
(10) To issue subpoenas for the attendance of witnesses and subpoenas duces tecum for the production of books, records, and other pertinent documents, and to administer oaths and affirmations to the witnesses, when, in the judgment of the commission, it is necessary to enforce sections 313.800 to 313.850 or the commission rules;
(11) To keep accurate and complete records of its proceedings and to certify the records as may be appropriate;
(12) To ensure that the gambling games are conducted fairly. No gambling device shall be set to pay out less than eighty percent of all wagers;
(13) To require all licensees of gambling game operations to use a cashless wagering system whereby all players' money is converted to physical or electronic tokens, electronic cards, or chips which only can be used for wagering on the excursion gambling boat;
(14) To require excursion gambling boat licensees to develop a system, approved by the commission, that allows patrons the option to prohibit the excursion gambling boat licensee from using identifying information for marketing purposes. The provisions of this subdivision shall apply only to patrons giving identifying information for the first time. Such system shall be submitted to the commission by October 1, 2000, and approved by the commission by January 1, 2001. The excursion gambling boat licensee shall use identifying information obtained from patrons who have elected to have marketing blocked under the provisions of this section only for the purposes of enforcing the requirements contained in sections 313.800 to 313.850. This section shall not prohibit the commission from accessing identifying information for the purposes of enforcing section 313.004 and sections 313.800 to 313.850;
(15) To determine which of the authorized gambling games will be permitted on any licensed excursion gambling boat;
(16) Excursion gambling boats shall cruise, unless the commission finds that the best interest of Missouri and the safety of the public indicate the need for continuous docking of the excursion gambling boat in any city or county authorized pursuant to subsection 10 of section 313.812. The commission shall base its decision to allow continuously docked excursion gambling boats on any of the following criteria: the docking location or the excursion cruise could cause danger to the boat's passengers, violate federal law or the law of another state, or cause disruption of interstate commerce or possible interference with railway or barge transportation. In addition, the commission shall consider economic feasibility or impact that would benefit land-based development and permanent job creation. The commission shall not discriminate among applicants for continuous-docking excursion gambling that are similarly situated with respect to the criteria set forth in this section;
(17) The commission shall render a finding concerning the possibility of continuous docking, as described in subdivision (15) of this section, within thirty days after a hearing on any request from an applicant or licensee. Such hearing may be held prior to any final action on licensing to assist an applicant and any city or county in the finalizing of their economic development plan;
(18) To require any applicant for a license or renewal of a license to operate an excursion gambling boat to provide an affirmative action plan which has as its goal the use of best efforts to achieve maximum employment of African-Americans and other minorities and maximum

participation in the procurement of contractual purchases of goods and services. This provision shall be administered in accordance with all federal and state employment laws, including Title VII of the Civil Rights Act of 1964, as amended by the Civil Rights Act of 1991. At license renewal, the licensee will report on the effectiveness of the plan. The commission shall include the licensee's reported information in its annual report to the joint committee on gaming and wagering;

(19) To take any other action as may be reasonable or appropriate to enforce sections 313.800 to 313.850 and the commission rules.

313.817. WAGERING, CONDUCT OF, REQUIREMENTS — MINORS NOT ALLOWED TO WAGER — DEALERS MUST BE TWENTY-ONE YEARS OF AGE — INVASION OF PRIVACY PROTECTIONS — PRESENTATION OF FALSE IDENTIFICATION A MISDEMEANOR. — 1. Except as permitted in this section, the licensee licensed to operate gambling games shall permit no form of wagering on gambling games.

2. The licensee may receive wagers only from a person present on a licensed excursion gambling boat.

3. Wagering shall not be conducted with money or other negotiable currency. The licensee shall exchange the money of each wagerer for electronic or physical tokens, chips, or other forms of credit to be wagered on the gambling games. The licensee shall exchange the tokens, chips, or other forms of wagering credit for money at the request of the wagerer.

4. A person under twenty-one years of age shall not make a wager on an excursion gambling boat and shall not be allowed in the area of the excursion boat where gambling is being conducted; provided that employees of the licensed operator of the excursion gambling boat who have attained eighteen years of age shall be permitted in the area in which gambling is being conducted when performing employment-related duties, except that no one under twenty-one years of age may be employed as a dealer or accept a wager on an excursion gambling boat. The governing body of a home dock city or county may restrict the age of entrance onto an excursion gambling boat by passage of a local ordinance.

5. In order to help protect patrons from invasion of privacy and the possibility of identity theft, patrons shall not be required to provide fingerprints, retinal scans, biometric forms of identification, any type of patron tracking cards, or other types of identification prior to being permitted to enter the area where gambling is being conducted on an excursion gambling boat or to make a wager, except that, for purposes of establishing that a patron is at least twenty-one years of age as provided in subsection 4 above, a licensee operating an excursion gambling boat shall be authorized to request such patron to provide a valid state or federal photo identification or a valid passport. This section shall not prohibit enforcement of identification requirements that are required by federal law. This section shall not prohibit enforcement of any Missouri statute requiring identification of patrons for reasons other than being permitted to enter the area of an excursion gambling boat where gambling is being conducted or to make a wager.

6. A licensee shall only allow wagering and conduct gambling games at the times allowed by the commission.

[6.] 7. It shall be unlawful for a person to present false identification to a licensee or a gaming agent in order to gain entrance to an excursion gambling boat, cash a check or verify that such person is legally entitled to be present on the excursion gambling boat. Any person who violates the provisions of this subsection shall be guilty of a class B misdemeanor for the first offense and a class A misdemeanor for second and subsequent offenses.

313.822. ADJUSTED GROSS RECEIPTS, TAX ON, RATE, COLLECTION PROCEDURES — PORTION TO HOME DOCK CITY OR COUNTY, PROCEDURE — GAMING PROCEEDS FOR EDUCATION FUND, CREATED, PURPOSE — AUDIT OF CERTAIN EDUCATION FUNDS. — A tax is imposed on the adjusted gross receipts received from gambling games authorized pursuant to sections 313.800 to 313.850 at the rate of [twenty] twenty-one percent. The taxes imposed by

this section shall be returned to the commission in accordance with the commission's rules and regulations who shall transfer such taxes to the director of revenue. All checks and drafts remitted for payment of these taxes and fees shall be made payable to the director of revenue. If the commission is not satisfied with the return or payment made by any licensee, it is hereby authorized and empowered to make an assessment of the amount due based upon any information within its possession or that shall come into its possession. Any licensee against whom an assessment is made by the commission may petition for a reassessment. The request for reassessment shall be made within twenty days from the date the assessment was mailed or delivered to the licensee, whichever is earlier. Whereupon the commission shall give notice of a hearing for reassessment and fix the date upon which the hearing shall be held. The assessment shall become final if a request for reassessment is not received by the commission within the twenty days. Except as provided in this section, on and after April 29, 1993, all functions incident to the administration, collection, enforcement, and operation of the tax imposed by sections 144.010 to 144.525, RSMo, shall be applicable to the taxes and fees imposed by this section.

(1) Each excursion gambling boat shall designate a city or county as its home dock. The home dock city or county may enter into agreements with other cities or counties authorized pursuant to subsection 10 of section 313.812 to share revenue obtained pursuant to this section. The home dock city or county shall receive ten percent of the adjusted gross receipts tax collections, as levied pursuant to this section, for use in providing services necessary for the safety of the public visiting an excursion gambling boat. Such home dock city or county shall annually submit to the commission a shared revenue agreement with any other city or county. All moneys owed the home dock city or county shall be deposited and distributed to such city or county in accordance with rules and regulations of the commission. All revenues provided for in this section to be transferred to the governing body of any city not within a county and any city with a population of over three hundred fifty thousand inhabitants shall not be considered state funds and shall be deposited in such city's general revenue fund to be expended as provided for in this section.

(2) The remaining amount of the adjusted gross receipts tax shall be deposited in the state treasury to the credit of the "Gaming Proceeds for Education Fund" which is hereby created in the state treasury. Moneys deposited in this fund shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury, shall be used solely for education pursuant to the Missouri Constitution and shall be considered the proceeds of excursion boat gambling and state funds pursuant to article IV, section 15 of the Missouri Constitution. All interest received on the gaming proceeds for education fund shall be credited to the gaming proceeds for education fund. Appropriation of the moneys deposited into the gaming proceeds for education fund shall be pursuant to state law.

(3) The state auditor shall perform an annual audit of the gaming proceeds for education fund and the schools first elementary and secondary education improvement fund, which shall include the evaluation of whether appropriations for elementary and secondary education have increased and are being used as intended by this act. The state auditor shall make copies of each audit available to the public and to the general assembly.

EXPLANATION: Matter enclosed in brackets [thus] in this law is not enacted and is intended to be omitted in the law; new matter enacted and intended to be included in the law is shown underlined thus.

Adopted November 4, 2008. (For — 1,578,674; Against — 1,231,892)
Effective November 4, 2008.

PROPOSITION B. — (Proposed by Initiative Petition) Shall Missouri law be amended to enable the elderly and Missourians with disabilities to continue living independently in their homes by creating the Missouri Quality Homecare Council to ensure the availability of quality home care services under the Medicaid program by recruiting, training, and stabilizing the home care workforce?

The exact cost of this proposal to state governmental entities is unknown, but is estimated to exceed $510,560 annually. Additional costs for training are possible. Matching federal funds, if available, could reduce state costs. It is estimated there would be no costs or savings to local governmental entities.

SECTION

A. Enacting clause.
1. Title.
2. Findings and purpose.
3. Council created, expenses, members, terms, removal.
4. Powers and duties of the council.
5. Consumer rights and employment relations.
6. Definitions.
7. Federal approval and funding.
8. Severability clause.

Be it enacted by the people of the State of Missouri:

***SECTION A. ENACTING CLAUSE.** — Eight new sections are enacted, to be known as sections 1, 2, 3, 4, 5, 6, 7 and 8 to read as follows:*

SECTION 1. TITLE. — Title.

This Act shall be known as and may be cited as "The Quality Home Care Act."

SECTION 2. FINDINGS AND PURPOSE. — Findings and purposes.

The people of the state of Missouri find as follows:

1. Thousands of Missouri senior citizens and people with disabilities continue to live independently in their own homes and avoid placement in institutions such as nursing homes only as the result of the availability of qualified personal care attendants who assist them with the activities of daily living.

2. Many Missouri senior citizens and people with disabilities who could not otherwise afford personal care assistance services in their own homes receive the services with assistance provided by the State and federal governments under the Missouri Consumer Directed Services Program.

3. The United States Supreme Court has mandated that states provide services to persons with disabilities "in community settings rather than in institutions" when remaining in the community is appropriate, consistent with the wishes of the disabled person, and can be reasonably accommodated.

4. In-home care is not only the choice of most senior citizens and people with disabilities, it is less costly than institutional care such as that provided in nursing homes and thus saves Missouri taxpayers significant amounts of money.

5. The Consumer Directed Services Program permits the consumers of these highly intimate and personal services to hire, terminate and supervise the individual providing the services, but it does not currently give consumers any role in setting wage rates for personal care attendants.

6. Personal care attendants generally receive low wages, minimal or no benefits, little if any training, and have no meaningful input into their terms and conditions of employment and no

meaningful means of making suggestions for improvements in the Consumer Directed Services Program.

7. The continued availability of quality home care services is threatened by a looming shortage of qualified personal care attendants due to the aging population in the State as well as low wages, a lack of benefits, and high rates of occupational injury. These poor working conditions also contribute to high turnover among personal care attendants that impairs the continuity of care.

8. The safety of home care services is threatened by both the failure of existing safeguards to protect consumers from potentially abusive attendants and lengthy delays in processing background checks as recently documented by the State Auditor.

9. The continued availability of quality, safe home care services can be ensured through the creation of the Missouri Quality Homecare Council with authority to investigate the quality, safety and availability of home care services, recruit eligible personal care attendants, recommend qualifications for personal care attendants, improve the training of personal care attendants, establish a state-wide list of eligible personal care attendants, refer consumers to eligible personal care attendants, engage in collective bargaining with a representative of personal care attendants, and recommend changes in personal care attendants' wages and benefits to the General Assembly.

SECTION 3. COUNCIL CREATED, EXPENSES, MEMBERS, TERMS, REMOVAL. — The Missouri Quality Homecare Council.

1. Effective January 31, 2009, the Missouri Quality Homecare Council is hereby created to insure the availability and improve the quality of home care services by recruiting, training and stabilizing the personal care attendant work force. Expenses of the Council in carrying out its powers and duties shall be paid from any appropriations for that purpose by the General Assembly. The Council shall be assigned to the Department of Health and Senior Services with supervision by the Department extending only to budgeting and reporting as provided by subdivisions (4) and (5) of subsection 6 of section 1 of the Reorganization Act of 1974. Supervision by the Department shall not extend to matters relating to policies, regulatory functions or other matters specifically delegated to the Council by this Act and the Director of the Department or any employee of the Department, either directly or indirectly, shall not participate or interfere with the activities of the Council in any manner not specifically provided by law.

2. The Council shall consist of eleven members appointed by the Governor with the advice and consent of the Senate as follows:

(1) Six members shall be current or former recipients of personal care assistance services under the Consumer Directed Services Program, or its successor program(s). Two of the consumer members shall have received services for a period of at least one year, two shall have received services for a period of at least two years, and two shall have received services for a period of at least three years. In order to insure that at least one of the consumer members has personal knowledge of challenges rural consumers face, at least one of these members shall be a resident of a third class county.

(2) One member shall be a representative of the Missouri Department of Health and Senior Services, or its successor entity.

(3) Two members shall be representatives of Missouri Centers for Independent Living, or their successor entities.

(4) One member shall be a representative of the Governor's Council on Disabilities, or its successor entity.

(5) One member shall be a representative of the Governor's Advisory Council on Aging, or its successor entity.

3. Each member of the Council shall serve a term of three years, except the first eleven members who shall serve staggered terms as follows: three recipient members and the

Department of Health and Senior Services member shall serve one year terms, two recipient members and one Centers for Independent Living member shall serve two year terms, and one recipient member, one Centers for Independent Living member, and the Council on Disabilities and Advisory Council on Aging members shall serve three year terms. The initial members of the Council shall be appointed by the Governor by March 1, 2009. If a vacancy occurs, the Governor will appoint a replacement for the remainder of the departing member's term. Commission members shall be eligible for reappointment but shall serve no more than two terms. In making appointments, the Governor shall consider nominations or recommendations from the agencies or groups represented on the Council. Members of the Council shall serve without compensation, but shall be reimbursed their actual and necessary expenses. The Governor may remove a Council member for good cause.

SECTION 4. POWERS AND DUTIES OF THE COUNCIL. — The powers and duties of the Council.

The Council shall have the following powers and duties:

1. Assess the size, quality and stability of the homecare workforce in Missouri and the ability of the existing workforce to meet the growing and changing needs of both aging and disabled consumers.

2. Encourage eligible individuals to serve as personal care attendants.

3. Provide training on a voluntary basis, either directly or through contracts, in cooperation with vendors (as defined in section 6.5 below), for prospective and current personal care attendants.

4. Recommend minimum qualifications for personal care attendants to the Department of Health and Senior Services.

5. Establish and maintain a state-wide list of eligible, available personal care attendants, in cooperation with vendors, including attendants available to provide respite and replacement services. In order to facilitate the creation of such a list, all vendors shall provide the Council with the list of persons eligible to be a personal care attendant which vendors are required to maintain under RSMo 208.906.4 and 208.918.1(3). The Council shall insure that all personal care attendants placed on the state-wide list are registered with the family care safety registry as provided in RSMo 210.900 to 210.936 and are not listed on any of the background check lists in the family care safety registry, absent a good cause waiver obtained from the Department pursuant to RSMo 660.317. All consumers seeking personal care attendants, whether or not they are participants in the Consumer Directed Services Program, shall have access to the state-wide list.

6. Provide routine, emergency, respite, and replacement referrals of eligible and available personal care attendants to vendors and consumers.

7. In cooperation with the Missouri State Highway Patrol, the Department of Social Services' Children's Division, the Department of Mental Health, the Department of Health and Senior Services, and vendors and on an on-going basis, assess existing mechanisms for preventing abuse and neglect of consumers in the home care setting and recommend improvements to those agencies and the General Assembly. As part of this duty, members and employees of the Council shall have access to the Employee Disqualification List established in RSMo 660.315 and the Family Care Safety Registry. Members and employees of the Council shall report to the Department of Health and Senior Services when they have reasonable cause to believe that a consumer has been abused or neglected as defined in RSMo 660.250 subject to the same standards set forth in RSMo 208.912.

8. Recommend the wage rate or rates to be paid personal care attendants and any economic benefits to be received by personal care attendants to the General Assembly. The Department shall retain its existing authority to establish the Medicaid reimbursement rate for personal care assistance services under RSMo 208.903.2.

9. Establish other terms and conditions of employment of personal care attendants consistent with consumers' right to hire, fire, train, and supervise personal care attendants.

10. Cooperate with the Department of Health and Senior Services and vendors to improve the provision of personal care assistance services.

11. In carrying out its powers and duties under this Act, the Council may:

(1) Make and execute contracts and all other instruments necessary or convenient for the performance of its duties or exercise of its powers;

(2) Issue rules under the Missouri Administrative Procedures Act, Chapter 536, RSMo, as necessary for the purposes and policies of this Act. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section, shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void;

(3) Establish offices, employ an Executive Director and such other staff as is necessary to carry out its functions and fix their compensation, retain contractors as necessary and prescribe their duties and power, incur expenses, and create such liabilities as are reasonable and proper for the administration of this act;

(4) Solicit and accept for use any grant of money, services or property from the federal government, the state, or any political subdivision or agency thereof, including federal matching funds under Title XIX of the federal Social Security Act, and do all things necessary to cooperate with the federal government, the State, or any political subdivision or agency thereof in making an application for any grant;

(5) Keep records and engage in research and the gathering of relevant statistics;

(6) Acquire, hold, or dispose of personal property or any interest therein, and contract for, lease, or otherwise provide facilities for the activities conducted under this measure;

(7) Sue and be sued in its own name;

(8) Delegate to the appropriate persons the power to execute contracts and other instruments on its behalf and delegate any of its powers and duties if consistent with the purposes of this act; and

(9) Do other acts necessary or convenient to execute the powers expressly granted to it.

SECTION 5. CONSUMER RIGHTS AND EMPLOYMENT RELATIONS. — Consumer rights and employment relations.

1. Consumers shall retain the right to hire, fire, supervise, and train personal care attendants.

2. Vendors shall continue to perform the functions provided in RSMo 208.900-208.930. In addition to having a philosophy that promotes the consumer's ability to live independently in the most integrated setting or the maximum community inclusion of persons with physical disabilities, as required by RSMo 208.918.1, vendors shall provide to consumers advocacy, independent living skills training, peer counseling, and information and referral services, as those terms are used in RSMo 178.656.3.

3. The Council shall be a public body as that term is used in RSMo 105.500 and personal care attendants shall be employees of the Council solely for purposes of RSMo 105.500 et seq.

4. The sole appropriate unit of personal care attendants, as that term is used in RSMo. 105.500(1) shall be a state-wide unit. Personal care attendants who are related to or members of the family of the consumer to whom they provide services shall not for that reason be excluded from the unit. The State Board of Mediation shall conduct an election, by mail ballot, to determine whether an organization shall be designated the exclusive bargaining representative as defined in RSMo 105.500(2) for the state-wide unit of personal care attendants under RSMo 105.525 upon a showing that ten percent of the personal care attendants in said unit want to be represented by a representative. The Missouri Office of Administration shall represent the Council in any collective bargaining with a representative of personal care attendants. Upon

completion of bargaining, any agreements shall be reduced to writing and presented to the Council for adoption, modification or rejection in accordance with RSMo 105.520.

5. The State of Missouri and all vendors shall cooperate in the implementation of any agreements reached by the Council and any representative of personal care attendants, including making any payroll deductions authorized by the agreements which can lawfully be made pursuant to agreements entered into under RSMo 105.500 to 105.530 as currently construed by the Missouri Appellate Courts.

6. Personal care attendants shall not have the right to strike and breach of this prohibition will result in disqualification from participation in the Consumer Directed Services Program.

7. Personal care attendants shall not be considered employees of the State of Missouri or any vendor for any purpose.

SECTION 6. DEFINITIONS. — Definitions.

As used in this act:

1. Council means the Missouri Quality Homecare Council.

2. Department means the Missouri Department of Health and Senior Services.

3. Personal care attendant means a person, other than a consumer's spouse, providing consumer-directed personal care assistance services as defined in RSMo 208.900(2) and (5) under RSMo 208.900-208.927, similar consumer-directed personal care assistance services under RSMo 208.930, and similar consumer-directed personal care assistance services through a program operated pursuant to a waiver obtained under section 1915(c) of the federal Social Security Act or similar consumer-directed services under the successor to any of said programs.

4. Consumer means a person receiving personal care assistance services from a personal care attendant as defined in section 6.3.

5. Vendor is defined in RSMo 208.900(10) and in Section 5.2.

SECTION 7. FEDERAL APPROVAL AND FUNDING. — Federal approval and funding.

The Council and the State of Missouri shall take all actions reasonably necessary to obtain any approval from the United States needed to implement any part of this act and to insure continued federal funding of any program governed by this act.

SECTION 8. SEVERABILITY CLAUSE. — Severability.

If any section, subsection, subdivision, paragraph, sentence, or clause of this act is held to be invalid or unconstitutional, such decision shall not affect any remaining portion, section, or part thereof which can be given effect without the invalid provision.

EXPLANATION: New matter enacted and intended to be included in the law is shown underlined thus.

Adopted November 4, 2008. (For — 2,077,831; Against — 683,137)
Effective December 4, 2008.

PROPOSITION C. — (Proposed by Initiative Petition) Shall Missouri law be amended to require investor-owned electric utilities to generate or purchase electricity from renewable energy sources such as solar, wind, biomass and hydropower with the renewable energy sources equaling at least 2% of retail sales by 2011 increasing incrementally to at least 15% by 2021, including at least 2% from solar energy; and restricting to no more than 1% any rate increase to consumers for this renewable energy?

The estimated direct cost to state governmental entities is $395,183. It is estimated there are no direct costs or savings to local governmental entities. However, indirect costs may be

incurred by state and local governmental entities if the proposal results in increased electricity retail rates.

SECTION
Enacting clause.
393.1020. Citation of law.
393.1025. Definitions.
393.1030. Electric utilities, portfolio requirements — tracking requirements — rulemaking authority — rebate offers — certification of electricity generated.
393.1035. Objectives, electricity production to count toward, when — blending of fuels permitted, when.

Be it enacted by the people of the state of Missouri:

ENACTING CLAUSE. — Chapter 393, RSMo, is amended by repealing sections 393.1020, 393.1025, 393.1030, and 393.1035, and substituting therefor three new sections to be known as sections 393.1020, 393.1025 and 393.1030, to read as follows:

393.1020. CITATION OF LAW. — Sections 393.1025 to 393.1030 shall be known as the Renewable Energy Standard.

393.1025. DEFINITIONS. — As used in sections 393.1020 to 393.1030, the following terms mean:

1. "Commission", the public service commission;

2. "Department", the department of natural resources;

3. "Electric utility", any electrical corporation as defined by section 386.020;

4. "Renewable energy resources", electric energy produced from wind, solar thermal sources, photovoltaic cells and panels, dedicated crops grown for energy production, cellulosic agricultural residues, plant residues, methane from landfills or from wastewater treatment, clean and untreated wood such as pallets, hydropower (not including pumped storage) that does not require a new diversion or impoundment of water and that has a nameplate rating of 10 megawatts or less, fuel cells using hydrogen produced by one of the above-named renewable energy sources, and other sources of energy not including nuclear that become available after the effective date of this section and are certified as renewable by rule by the department; and

5. "Renewable energy credit" or "REC", a tradable certificate of proof that one megawatt-hour of electricity has been generated from renewable energy sources.

393.1030. ELECTRIC UTILITIES, PORTFOLIO REQUIREMENTS — TRACKING REQUIREMENTS — RULEMAKING AUTHORITY — REBATE OFFERS — CERTIFICATION OF ELECTRICITY GENERATED. — 1. The commission shall, in consultation with the department, prescribe by rule a portfolio requirement for all electric utilities to generate or purchase electricity generated from renewable energy resources. Such portfolio requirement shall provide that electricity from renewable energy resources shall constitute the following portions of each electric utility's sales:

(a) No less than two percent for calendar years 2011 through 2013;

(b) No less than five percent for calendar years 2014 through 2017;

(c) No less than ten percent for calendar years 2018 through 2020; and

(d) No less than fifteen percent in each calendar year beginning in 2021.

At least two percent of each portfolio requirement shall be derived from solar energy. The portfolio requirements shall apply to all power sold to Missouri consumers whether such power is self-generated or purchased from another source in or outside of this state. A utility may comply with the standard in whole or in part by purchasing RECs. Each kilowatt-hour of eligible energy generated in Missouri shall count as 1.25 kilowatt-hours for purposes of compliance.

2. The commission, in consultation with the department and within one year of the effective date of sections 393.1020 to 393.1030, shall select a program for tracking and verifying the trading of renewable energy credits. An unused credit may exist for up to three years from the date of its creation. A credit may be used only once to comply with this act and may not also be used to satisfy any similar non-federal requirement. An electric utility may not use a credit derived from a green pricing program. Certificates from net-metered sources shall initially be owned by the customer-generator. The commission, except where the department is specified, shall make whatever rules are necessary to enforce the Renewable Energy Standard. Such rules shall include:

(a) A maximum average retail rate increase of one percent determined by estimating and comparing the electric utility's cost of compliance with least-cost renewable generation and the cost of continuing to generate or purchase electricity from entirely non-renewable sources, taking into proper account future environmental regulatory risk including the risk of greenhouse gas regulation;

(b) Penalties of at least twice the average market value of renewable energy credits for the compliance period for failure to meet the targets of subsection 1. An electric utility will be excused if it proves to the commission that failure was due to events beyond its reasonable control that could not have been reasonably mitigated, or that the maximum average retail rate increase has been reached. Penalties shall not be recovered from customers. Amounts forfeited under this section shall be remitted to the department to purchase renewable energy credits needed for compliance. Any excess forfeited revenues shall be used by the department's energy center solely for renewable energy and energy efficiency projects;

(c) Provisions for an annual report to be filed by each electric utility in a format sufficient to document its progress in meeting the targets.

(d) Provision for recovery outside the context of a regular rate case of prudently incurred costs and the pass-through of benefits to customers of any savings achieved by an electrical corporation in meeting the requirements of this section.

3. Each electric utility shall make available to its retail customers a standard rebate offer of at least $2.00 per installed watt for new or expanded solar electric systems sited on customers' premises, up to a maximum of 25 kilowatts per system, that become operational after 2009.

4. The department shall, in consultation with the commission, establish by rule a certification process for electricity generated from renewable resources and used to fulfill the requirements of subsection 1 of this section. Certification criteria for renewable energy generation shall be determined by factors that include fuel type, technology, and the environmental impacts of the generating facility. Renewable energy facilities shall not cause undue adverse air, water, or land use impacts, including impacts associated with the gathering of generation feedstocks. If any amount of fossil fuel is used with renewable energy resources, only the portion of electrical output attributable to renewable energy resources shall be used to fulfill the portfolio requirements.

The following sections shall be repealed:

[393.1020. CITATION OF LAW — DEFINITIONS. — 1. It is the general assembly's intent to encourage the development and utilization of technically feasible and economical renewable technologies, creating cleaner and more sustainable forms of energy for the residents of the state. It is for this reason that sections 393.1020 to 393.1040 shall be known as the "Green Power Initiative".

2. The definitions provided in section 386.020, RSMo, shall apply to sections 393.1020 to 393.1040. As used in sections 393.1020 to 393.1040, the following terms mean:

(1) "Department", the department of natural resources;

(2) "Eligible renewable energy technology", sources of energy that shall be considered renewable for purposes of this section shall include but not be limited to the following:

(a) Solar, including photovoltaic cells, concentrating solar power technologies, and low temperature solar collectors;

(b) Wind;

(c) Hydroelectric, not including pump storage;
(d) Hydrogen from renewable sources;
(e) Biomass, any organic matter available on a renewable basis, including dedicated energy crops and trees, agricultural food and feed crops, agricultural crop wastes and residues, wood wastes and residues, animal waste, aquatic plants, biogas from landfills or wastewater treatment plants; and
(f) Other renewable energy sources defined by rule by the commission after consultation with the department;
(3) "Energy efficiency", verifiable reductions in energy consumption, or verifiable reductions in the rate of energy consumption growth, as defined by rule by the commission after consultation with the department, as a result of measures implemented by electrical corporations and electricity consumers which may include, but not be limited to, pricing signals, electronic controls, education, information, infrastructure improvements, and the use of high efficiency equipment and lighting;
(4) "Total retail electric sales", the kilowatt-hours of electricity delivered in a year by an electrical corporation to its Missouri retail customers.

393.1025. ELECTRICAL CORPORATIONS, DUTIES REGARDING TECHNOLOGY—COMMISSION TO ADOPT RULES. — 1. Each electrical corporation shall make a good faith effort to generate or procure sufficient electricity generated by an eligible renewable energy technology, and support energy efficiency measures, so that by 2012, four percent of total retail electric sales in the aggregate by electrical corporations is generated by eligible renewable energy technologies, increasing to eight percent by 2015, and eleven percent generated by eligible renewable energy technologies by 2020. Generation provided by any existing eligible renewable energy technology, owned, controlled, or purchased by electrical corporations, that are operational prior to August 28, 2007, shall be applied towards meeting the objective so long as it continues to generate electricity. Credit towards the objective also may be achieved through energy efficiency that includes electrical corporation and consumer efforts to reduce the consumption of electric energy. After consulting with the department, the commission may establish intermediate goals for the use of renewable energy technologies as part of its rulemaking process.
2. By July 1, 2008, the commission shall, after consultation with the department, adopt rules that integrate into its resource planning rules the renewable energy objective of subsection 1 of this section and the criteria and standards by which it will measure an electrical corporation's efforts to meet that objective to determine whether it is making the required good faith effort. In this rulemaking, the commission shall include criteria and standards that, at a minimum, shall:
(1) Protect against adverse economic impacts, including the costs of any transmission investments necessary to access eligible renewable energy technologies, on the ratepayers and shareholders;
(2) Protect against undesirable impacts on the reliability of each electrical corporation's system;
(3) Consider environmental compliance costs, present and future, of each source being evaluated; and
(4) Consider technical feasibility, providing for flexibility in meeting the objective in the event electrical corporations are, for good cause shown, unable to meet in aggregate the objective of this section.
3. In its rulemaking under this section, the commission shall provide for a weighted scale of how energy produced by various eligible renewable energy technologies shall count toward an electrical corporation's objective. In establishing this scale, the commission shall consider the attributes of various technologies and fuels and shall establish a system that grants multiple credits toward the objective for those technologies and fuels the commission determines are in the public interest to encourage. The commission may also grant multiple credits toward the objective for generation in the state or procurement of electricity generated in the state that uses an eligible renewable energy technology.
4. The commission shall develop rules as provided in this section in consultation with the department as necessary to implement the requirements of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section and section 393.1020 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

393.1030. BIENNIAL REPORT REQUIRED, CONTENTS. — 1. Each electric corporation shall submit to the commission a biennial report by December thirty-first, beginning in 2009, on its plans, activities, and progress with regard to the objective of section 393.1025, demonstrating to the commission that it is making the required good faith effort. The report must be submitted in a format prescribed by the commission, not to exceed fifty pages, and it shall include the following:
(1) Sufficient data to specify and verify the status of its renewable energy mix relative to the good faith objective;
(2) Sufficient data to specify and verify the status of the electric corporation's and its customers' energy efficiency efforts relative to the good faith objective;
(3) Efforts taken to meet the objective;

(4) Any obstacles encountered or anticipated in meeting the objective; and
(5) Potential solutions to the obstacles.
2. The commission shall compile the information provided under subsection 1 of this section and biennially report by July first, beginning in 2010, to the governor, the speaker of the house of representatives, the president pro tempore of the senate, the chairs of the committees in the house of representatives and senate with jurisdiction over energy and environment policy issues, and the department as to the progress of electrical corporations in the state in increasing the amount of renewable energy provided to retail customers and increasing energy efficiency, with any recommendations for regulatory or legislative action. In addition, the Missouri director of the department of economic development shall issue a biennial report by July first, beginning in 2010, on the impact of the renewable portfolio standard on the Missouri economy and the director of the department of natural resources shall issue a biennial report by July first, beginning in 2010, on the environmental impact of sections 393.1020 to 393.1040. The biennial reporting requirements under this subsection shall end after July 1, 2022.

393.1035. OBJECTIVES, ELECTRICITY PRODUCTION TO COUNT TOWARD, WHEN — BLENDING OF FUELS PERMITTED, WHEN. — 1. Electricity produced by fuel combustion may only count toward an electrical corporation's objectives if the generation facility complies with all federal and state statutes and rules.
2. An electrical corporation may blend or co-fire a fuel listed in subsection 2 of section 393.1020, with other fuels in the generation facility, but only the percentage of electricity that is attributable to a fuel listed in that section can be counted toward an electric corporation's renewable energy objectives.]

Adopted November 4, 2008. (For — 1,777,500; Against — 914,332)
Effective November 4, 2008.

ADOPTED NOVEMBER 4, 2008

HOUSE JOINT RESOLUTION 7 [SCS HJR 7]

CONSTITUTIONAL AMENDMENT NO. 1. — (Proposed by the Ninety-fourth General Assembly, First Regular Session) Shall the Missouri Constitution be amended to add a statement that English shall be the language of all governmental meetings at which any public business is discussed, decided, or public policy is formulated whether conducted in person or by communication equipment including conference calls, video conferences, or Internet chat or message board?

It is estimated this proposal will have no costs or savings to state or local governmental entities.

JOINT RESOLUTION Submitting to the qualified voters of Missouri, an amendment to article I of the Constitution of Missouri relating to English as the official state language.

Be it resolved by the House of Representatives, the Senate concurring therein:

SECTION
A. Enacting clause.
34. English to be the official language in this state.

That at the next general election to be held in the state of Missouri, on Tuesday next following the first Monday in November, 2008, or at a special election to be called by the governor for that purpose, there is hereby submitted to the qualified voters of this state, for adoption or rejection, the following amendment to article I of the Constitution of the state of Missouri:

SECTION A. ENACTING CLAUSE. — Article I, Constitution of Missouri, is amended by adding thereto one new section, to be known as section 34, to read as follows:

SECTION 34. ENGLISH TO BE THE OFFICIAL LANGUAGE IN THIS STATE. — That English shall be the language of all official proceedings in this state. Official proceedings shall be limited to any meeting of a public governmental body at which any public business is discussed, decided, or public policy formulated, whether such meeting is conducted in person or by means of communication equipment, including, but not limited to, conference call, video conference, Internet chat, or Internet message board. The term "official proceeding" shall not include an informal gathering of members of a public governmental body for ministerial or social purposes, but the term shall include a public vote of all or a majority of the members of a public governmental body, by electronic communication or any other means, conducted in lieu of holding an official proceeding with the members of the public governmental body gathered at one location in order to conduct public business.

EXPLANATION — Matter enclosed in bold-faced brackets **[**thus**]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

Adopted November 4, 2008. (For — 2,407,536; Against — 381,874)
Effective December 4, 2008.

SENATE JOINT RESOLUTION 45 [SJR 45]

CONSTITUTIONAL AMENDMENT NO. 4. — (Proposed by the Ninety-fourth General Assembly, Second Regular Session) Shall the Missouri Constitution be amended to change provisions relating to the financing of stormwater control projects by:

- limiting availability of grants and loans to public water and sewer districts only;
- removing the cap on available funding and existing restrictions on disbursements;
- requiring loan repayments to be used only for stormwater control projects?

It is estimated the cost to state governmental entities is $0 to $236,000 annually. It is estimated state governmental entities will save approximately $7,500 for each bond issuance. It is estimated local governmental entities participating in this program may experience savings, however the amount is unknown.

JOINT RESOLUTION Submitting to the qualified voters of Missouri, an amendment repealing section 37(h) of article III of the Constitution of Missouri, and adopting one new section in lieu thereof relating to storm water control assistance.

SECTION

A. Enacting clause.

37(h). Storm water control plans, studies and projects — bonds authorized, procedure — storm water control bond and interest fund created, administration (includes St. Louis City and counties of the first classification)..

Be it resolved by the Senate, the House of Representatives concurring therein:

That at the next general election to be held in the state of Missouri, on Tuesday next following the first Monday in November, 2008, or at a special election to be called by the governor for that purpose, there is hereby submitted to the qualified voters of this state, for adoption or rejection, the following amendment to article III of the Constitution of the state of Missouri:

SECTION A. ENACTING CLAUSE. — Section 37(h), article III, Constitution of Missouri, is repealed and one new section adopted in lieu thereof, to be known as section 37(h), to read as follows:

SECTION 37(h). STORM WATER CONTROL PLANS, STUDIES AND PROJECTS — BONDS AUTHORIZED, PROCEDURE — STORM WATER CONTROL BOND AND INTEREST FUND CREATED, ADMINISTRATION (INCLUDES ST. LOUIS CITY AND COUNTIES OF THE FIRST CLASSIFICATION). — 1. In addition to any other indebtedness authorized under this constitution or the laws of this state, the general assembly may authorize the contracting of an indebtedness on behalf of the state of Missouri and the issuance of bonds or other evidences of indebtedness not exceeding in the aggregate the sum of two hundred million dollars for the purpose of providing funds for use in this state for stormwater control plans, studies and projects in counties of the first classification and in any city not within a county, through grants and loans administered by the clean water commission and the department of natural resources pursuant to the procedures in chapter 644, RSMo. The bonds shall be issued by the state board of fund commissioners from time to time and in such amounts as may be necessary to carry on the program of the clean water commission and the department of natural resources as determined by the general assembly for the financing and constructing of these plans, studies and projects by any municipality, **public** sewer district, sewer district established pursuant to article VI, section 30(a) of the Missouri Constitution, **public** water district, or any combination of the same located in a county of the first classification or in any city not within a county or by any county of the first classification. The board of fund commissioners shall offer such bonds at public sale,

and shall provide such method as it may deem necessary for the advertisement of the sale of each issue of bonds before such bonds are sold. The proceeds of the sale or sales of any bonds issued hereunder shall be paid into the state treasury and be credited to a fund to be designated the "Stormwater Control Fund". The bonds shall be retired serially and by installments within a period not to exceed twenty-five years from their date of issue and shall bear interest at a rate or rates not exceeding the rate permitted by law. The proceeds of the sale of the bonds herein authorized shall be expended for the purposes for which the bonds are hereinabove authorized to be issued.

2. The bonds and the interest thereon shall be paid out of the "Stormwater Control Bond and Interest Fund", which is hereby created, and the payment of such bonds and the interest thereon shall be secured by a pledge of the full faith, credit and resources of the state of Missouri. Upon the issuance of such bonds, or any portion thereof, the state board of fund commissioners shall notify the commissioner of administration of the amount of money required, in the remaining portion of the fiscal year during which such bonds shall have been issued, for the payment of interest on the bonds, and of the amount of money required for the payment of interest on the bonds in the next succeeding fiscal year, and to pay such bonds as they mature. Thereafter, within thirty days after the beginning of each fiscal year, the state board of fund commissioners shall notify the commissioner of administration of the amount of money required for the payment of interest on the bonds in the next succeeding fiscal year and to pay such bonds maturing in the next succeeding fiscal year.

3. It shall be the duty of the commissioner of administration to transfer at least monthly, from the state general revenue fund, after deducting therefrom the proportionate part thereof appropriated for the support of the free public schools, and to credit to the stormwater control bond and interest fund such sum as may be necessary from time to time until there shall have been transferred to such fund the amount so certified to the commissioner of administration by the state board of fund commissioners, as provided in this section.

4. If at any time after the issuance of any of the bonds, it shall become apparent to the commissioner of administration that the funds available in the state general revenue fund will not be sufficient for the payment of the sinking fund and interest on outstanding obligations of the state and for the purpose of public education and the principal and interest maturing and accruing on the bonds during the next succeeding fiscal year, a direct tax shall be levied upon all taxable tangible property in the state for the payment of such bonds and the interest that will accrue thereon. In such event, it shall be the duty of the commissioner of administration annually, on or before the first day of July, to determine the rate of taxation necessary to be levied upon all taxable tangible property within the state to raise the amount of money needed to pay the principal of and interest on such bonds maturing and accruing in the next succeeding fiscal year, taking into consideration available funds, delinquencies and costs of collection. The commissioner of administration shall annually certify the rate of taxation so determined to the county clerk of each county and to the comptroller or other officer in the city of St. Louis whose duty it shall be to make up and certify the tax books wherein are extended the ad valorem state taxes. It shall be the duty of such clerks and the comptroller or other proper officer in the city of St Louis to extend upon the tax books the taxes to be collected and to certify the same to the collectors of the revenue of their respective counties and of the city of St. Louis, who shall collect such taxes at the same time and in the same manner and by the means as are now or may hereafter be provided by law for the collection of state and county taxes, and to pay the same into the state treasury for the credit of the stormwater control bond and interest fund.

5. All funds paid into the stormwater control bond and interest fund shall be and stand appropriated without legislative action to the payment of principal and interest of the bonds, there to remain until paid out in discharge of the principal of such bonds and the interest accruing thereon, and no part of such fund shall be used for any other purpose so long as any of the principal of such bonds and the interest thereon shall be unpaid. The general assembly may appropriate in any year such amount from the stormwater control fund as it determines to be

necessary for the purposes specified in this section**[**; provided that such appropriations may not exceed twenty million dollars, in the aggregate, per fiscal year. Of those grant and loan funds appropriated pursuant to this section, fifty percent shall be allocated to grants and fifty percent shall be allocated to loans**]**. Grants **[**shall be fifty percent of the cost of the plan, study or project and**]** may be combined with loans such as those provided by the commission or the department. **Funding for** grants **[**and**] or** loans from the stormwater control fund shall be **[**dispersed**] initially offered** to eligible recipients in counties of the first classification and in a city not within a county in an amount equal to the percentage ratio that the population of the recipient county or city bears to the total population of all counties of the first classification and cities not within a county as determined by the last decennial census. Any city with a population of at least twenty-five thousand inhabitants located in such counties of the first classification shall **[**receive**] initially be offered** such funds **[**directly**]** in an amount equal to the percentage ratio that the city's population bears to the total population of the county. Other provisions of this section notwithstanding, in those cities or counties served by a sewer district established pursuant to article VI, section 30(a) of the Missouri Constitution, such district shall receive the grants or loans directly. **Any funds not accepted in the initial offers of funding under this subsection shall be subsequently offered to recipients of the initial offer of funding who continue to have eligible projects until all funds have been accepted. Any such subsequent funding offer shall be equal to the percentage ratio that the population of the funding recipient bears to the total population of all other recipients with eligible projects.**

6. **Repayments of storm water loans and any interest payments on such loans shall be deposited in a fund as provided by law for the purposes of financing and constructing storm water control plans, studies, and projects. Any unexpended balance in such fund shall not be subject to biennial transfer under the provisions of section 33.080, RSMo, and all interest earned shall accrue to the fund.**

7. The general assembly may enact such laws as may be necessary to carry out the provisions of this section.

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

Adopted November 4, 2008. (For — 1,494,107; Against — 1,088,728)
Effective December 4, 2008.

PROPOSED AMENDMENTS TO THE CONSTITUTION OF MISSOURI

HJR 15 [HJR 15]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Proposes a constitutional amendment exempting all real property used as a homestead by a former prisoner of war with a total service-connected disability from property taxation

JOINT RESOLUTION Submitting to the qualified voters of Missouri an amendment repealing section 6 of article X of the Constitution of Missouri, and adopting one new section in lieu thereof relating to property tax exemption.

SECTION
A. Enacting clause.
6. Property exempt from taxation.

Be it resolved by the House of Representatives, the Senate concurring therein:

That at the next general election to be held in the state of Missouri, on Tuesday next following the first Monday in November, 2010, or at a special election to be called by the governor for that purpose, there is hereby submitted to the qualified voters of this state, for adoption or rejection, the following amendment to article X of the Constitution of the state of Missouri:

SECTION A. ENACTING CLAUSE. — Section 6, article X, Constitution of Missouri, is repealed and one new section adopted in lieu thereof, to be known as section 6, to read as follows:

SECTION 6. PROPERTY EXEMPT FROM TAXATION. — 1. All property, real and personal, of the state, counties and other political subdivisions, and nonprofit cemeteries, **and all real property used as a homestead as defined by law of any citizen of this state who is a former prisoner of war, as defined by law, and who has a total service-connected disability,** shall be exempt from taxation; all personal property held as industrial inventories, including raw materials, work in progress and finished work on hand, by manufacturers and refiners, and all personal property held as goods, wares, merchandise, stock in trade or inventory for resale by distributors, wholesalers, or retail merchants or establishments shall be exempt from taxation; and all property, real and personal, not held for private or corporate profit and used exclusively for religious worship, for schools and colleges, for purposes purely charitable, for agricultural and horticultural societies, or for veterans' organizations may be exempted from taxation by general law. In addition to the above, household goods, furniture, wearing apparel and articles of personal use and adornment owned and used by a person in his home or dwelling place may be exempt from taxation by general law but any such law may provide for approximate restitution to the respective political subdivisions of revenues lost by reason of the exemption. All laws exempting from taxation property other than the property enumerated in this article, shall be void. The provisions of this section exempting certain personal property of manufacturers, refiners, distributors, wholesalers, and retail merchants and establishments from taxation shall become

effective, unless otherwise provided by law, in each county on January 1 of the year in which that county completes its first general reassessment as defined by law.

2. All revenues lost because of the exemption of certain personal property of manufacturers, refiners, distributors, wholesalers, and retail merchants and establishments shall be replaced to each taxing authority within a county from a countywide tax hereby imposed on all property in subclass 3 of class 1 in each county. For the year in which the exemption becomes effective, the county clerk shall calculate the total revenue lost by all taxing authorities in the county and extend upon all property in subclass 3 of class 1 within the county, a tax at the rate necessary to produce that amount. The rate of tax levied in each county according to this subsection shall not be increased above the rate first imposed and will stand levied at that rate unless later reduced according to the provisions of subsection 3. The county collector shall disburse the proceeds according to the revenue lost by each taxing authority because of the exemption of such property in that county. Restitution of the revenues lost by any taxing district contained in more than one county shall be from the several counties according to the revenue lost because of the exemption of property in each county. Each year after the first year the replacement tax is imposed, the amount distributed to each taxing authority in a county shall be increased or decreased by an amount equal to the amount resulting from the change in that district's total assessed value of property in subclass 3 of class 1 at the countywide replacement tax rate. In order to implement the provisions of this subsection, the limits set in section 11(b) of this article may be exceeded, without voter approval, if necessary to allow each county listed in section 11(b) to comply with this subsection.

3. Any increase in the tax rate imposed pursuant to subsection 2 of this section shall be decreased if such decrease is approved by a majority of the voters of the county voting on such decrease. A decrease in the increased tax rate imposed under subsection 2 of this section may be submitted to the voters of a county by the governing body thereof upon its own order, ordinance, or resolution and shall be submitted upon the petition of at least eight percent of the qualified voters who voted in the immediately preceding gubernatorial election.

4. As used in this section, the terms "revenues lost" and "lost revenues" shall mean that revenue which each taxing authority received from the imposition of a tangible personal property tax on all personal property held as industrial inventories, including raw materials, work in progress and finished work on hand, by manufacturers and refiners, and all personal property held as goods, wares, merchandise, stock in trade or inventory for resale by distributors, wholesalers, or retail merchants or establishments in the last full tax year immediately preceding the effective date of the exemption from taxation granted for such property under subsection 1 of this section, and which was no longer received after such exemption became effective.

SJR 5 [SCS SJR 5]

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

Proposes a constitutional amendment to require the assessors in charter counties, except Jackson County, to be elected officials.

JOINT RESOLUTION Submitting to the qualified voters of Missouri, an amendment repealing section 18(b) of article VI of the Constitution of Missouri, and adopting one new section in lieu thereof relating to assessors.

SECTION
A. Enacting clause.
18(b). Provisions required in county charters.

Be it resolved by the Senate, the House of Representatives concurring therein:

That at the next general election to be held in the state of Missouri, on Tuesday next following the first Monday in November, 2010, or at a special election to be called by the governor for that purpose, there is hereby submitted to the qualified voters of this state, for adoption or rejection, the following amendment to article VI of the Constitution of the state of Missouri:

SECTION A. ENACTING CLAUSE. — Section 18(b), article VI, Constitution of Missouri, is repealed and one new section adopted in lieu thereof, to be known as section 18(b), to read as follows:

SECTION 18(b). PROVISIONS REQUIRED IN COUNTY CHARTERS. — The charter shall provide for its amendment, for the form of the county government, the number, kinds, manner of selection, terms of office and salaries of the county officers, and for the exercise of all powers and duties of counties and county officers prescribed by the constitution and laws of the state; **however, such charter shall, except for the charter of any county with a charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants, require the assessor of the county to be an elected officer**.

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HOUSE CONCURRENT RESOLUTION NO. 5 [HCR 5]

AN ACT

Relating to disapproving the recommendations of the Missouri Citizens' Commission on Compensation for Elected Officials.

WHEREAS, Article XIII, Section 3 of the Missouri Constitution charges the Missouri Citizens' Commission on Compensation for Elected Officials with setting the amounts of compensation paid to statewide elected officials, legislators, and judges; and

WHEREAS, the Constitution provides the Commission with a four-month window prior to its constitutional deadline for making salary recommendations to hold public hearings around the state to gather testimony related to salaries for affected state officials and to carefully consider whether pay increases are warranted; and

WHEREAS, the Missouri Citizens' Commission on Compensation of Elected Officials has recommended that statewide elected officials, legislators, and judges receive a cost-of-living adjustment only if a cost-of-living adjustment is approved by the Missouri General Assembly for all state employees; and

WHEREAS, in addition, the Commission recommended a pay increase of $1,500 annually to each of the state's associate circuit court judges and that judges be allowed a per diem for attending an annual three-day judicial conference which equals the per diem received by member of the Missouri General Assembly. Such recommendations are not contingent upon the approval of a cost-of-living adjustment for all state employees; and

WHEREAS, the Commission's recommendations shall take effect unless disapproved by the General Assembly through a concurrent resolution process passed by two-thirds majorities in each legislative chamber before February 1, 2009:

NOW, THEREFORE, BE IT RESOLVED by the members of the House of Representatives of the Ninety-fifth General Assembly, First Regular Session, the Senate concurring therein, that the recommendations of the Missouri Citizens' Commission on Compensation for Elected Officials be disapproved; and

BE IT FURTHER RESOLVED that the Chief Clerk of the Missouri House of Representatives be instructed to prepare a properly inscribed copy of this resolution for Governor Jay Nixon.

HOUSE CONCURRENT RESOLUTION NO. 10 [HCR 10]

BE IT RESOLVED, by the House of Representatives of the Ninety-fifth General Assembly, First Regular Session of the State of Missouri, the Senate concurring therein, that the House of Representatives and the Senate convene in Joint Session in the Hall of the House of Representatives at 7:00 p.m., Tuesday, January 27, 2009, to receive a message from His Excellency, the Honorable Jeremiah W. (Jay) Nixon, Governor of the State of Missouri; and

BE IT FURTHER RESOLVED, that a committee of ten (10) from the House be appointed by the Speaker to act with a committee of ten (10) from the Senate, appointed by the President Pro Tem, to wait upon the Governor of the State of Missouri and inform His Excellency that the House of Representatives and Senate of the Ninety-fifth General Assembly, First Regular Session, are now organized and ready for business and to receive any message or communication that His Excellency may desire to submit, and that the Chief Clerk of the House of Representatives be directed to inform the Senate of the adoption of this resolution.

HOUSE CONCURRENT RESOLUTION NO. 11 [HCR 11]

BE IT RESOLVED, by the House of Representatives of the Ninety-fifth General Assembly, First Regular Session of the State of Missouri, the Senate concurring therein, that the House of Representatives and the Senate convene in Joint Session in the Hall of the House of Representatives at 10:30 a.m., Wednesday, January 28, 2009, to receive a message from Her Honor Chief Justice Laura Denvir Stith, the Chief Justice of the Supreme Court of the State of Missouri; and

BE IT FURTHER RESOLVED, that a committee of ten (10) from the House be appointed by the Speaker to act with a committee of ten (10) from the Senate, appointed by the President Pro Tem, to wait upon the Chief Justice of the Supreme Court of the State of Missouri and inform Her Honor that the House of Representatives and the Senate of the Ninety-fifth General Assembly, First Regular Session, are now organized and ready for business and to receive any message or communication that Her Honor may desire to submit, and that the Chief Clerk of the House of Representatives be directed to inform the Senate of the adoption of this resolution.

SENATE CONCURRENT RESOLUTION NO. 1 [SCR 1]

BE IT RESOLVED by the Senate, the House of Representatives concurring therein, that the President Pro Tem of the Senate and the Speaker of the House appoint a committee of thirty-six members, one-half from the Senate and one-half from the House to cooperate in making all necessary plans and arrangements for the participation of the General Assembly in the inauguration of the executive officials of the State of Missouri on January 12, 2009; and

BE IT FURTHER RESOLVED that the joint committee be authorized to cooperate with any other committees, officials or persons planning and executing the inaugural ceremonies keeping with the traditions of the great State of Missouri.

SENATE CONCURRENT RESOLUTION NO. 2 [SCR 2]

Relating to recognition of October 3rd as Science Day

WHEREAS, in 2006, more than 100 schools, science learning centers, and city and state leaders made the first ever Science Day in the heartland a big success; and

WHEREAS, governors from Illinois, Tennessee, and Missouri have previously proclaimed October 3rd as "Science Day"; and

WHEREAS, it is absolutely fitting and proper to designate a special day to raise public awareness of the importance of science education; and

WHEREAS, such an important designation could raise enthusiasm for science and technology learning; and

WHEREAS, a solid educational foundation based on the sciences have inspired individuals to develop breakthrough cures for all types of disease, provide awareness about the importance of taking care of our environment, and create modern conveniences which better the lives for each one of us:

NOW THEREFORE BE IT RESOLVED that the members of the Missouri Senate, Ninety-Fifth General Assembly, First Regular Session, the House of Representatives concurring therein, hereby recognize October 3rd of each year as Science Day in Missouri; and

BE IT FURTHER RESOLVED that the members of the Missouri Senate and the House of Representatives encourage citizens throughout Missouri to observe this day by honoring teachers in their community and by recognizing the importance of science in the classroom; and

BE IT FURTHER RESOLVED that the Secretary of the Missouri Senate be instructed to send properly inscribed copies of this resolution to the Governor for his approval or rejection pursuant to the Missouri Constitution.

Approved July 2, 2009

SENATE CONCURRENT RESOLUTION NO. 5 [SCR 5]

WHEREAS, the State of Missouri contains 553 miles of the Missouri River, which borders 23 Missouri counties and over 50 Missouri communities, making it one of the State's greatest natural resources; and

WHEREAS, the Missouri General Assembly supports this natural resource as a vital link in the State of Missouri's total transportation system and wishes to maximize this valuable asset in order to move freight and to support our state's economy; and

WHEREAS, barge transport allows for significant economic benefits and cost savings, since one barge can transport the same amount of freight as 15 railcars or 60 trucks; and

WHEREAS, river transportation is the most environmentally friendly form of transporting goods and commodities, creating almost no noise pollution and emitting 35 to 60 percent fewer pollutants than either trucks or trains; and

WHEREAS, barges are also the most fuel efficient method of freight transport, barges can move one ton of cargo 576 miles per gallon of fuel, compared to 413 miles per gallon of fuel for railcars and only 155 miles per gallon of fuel for trucks; and

WHEREAS, the Missouri General Assembly recognizes that the State of Missouri is investing more of its resources to develop and improve public ports in the state, including those on the Missouri River; and

WHEREAS, the Flood Control Act of 1944, as amended, expresses the United States Congress' intent to support inland waterway navigation and to provide flood control on our nation's rivers; and

WHEREAS, the June 4, 2003, August 16, 2005, and February 8, 2008, decisions of the United States Court of Appeals of the Eighth Circuit held that navigation was a dominant function of the Flood Control Act of 1944; and

WHEREAS, navigation on the Missouri River is operated in accordance with the updated Master Manual, which contains the management plan for the River and was adopted by the United States Army Corps of Engineers in 2004; and

WHEREAS, the Missouri General Assembly recognizes that the United States Army Corps of Engineers utilized extensive public processes to complete the 2004 Master Manual and worked to balance the needs and desires of many competing stakeholder groups in establishing the Manual's navigation guidelines; and

WHEREAS, the 2004 Master Manual was finalized after 15 years of debate and litigation and after the expenditure of over $35 million in federal funds; and

WHEREAS, the 2004 Missouri River Master Water Control Manual reduced the length of the navigation season, shifting a large amount of water away from navigation and other downstream uses of the Missouri River to benefit upstream uses, such as reservoir recreation; and

WHEREAS, the upstream states have requested that the United States Army Corps of Engineers conduct a study to reexamine the authorized purposes of the Missouri River reservoir system as outlined in the 1994 Flood Control Act; and

WHEREAS, the study requested by the upstream states would be the first of its kind, because it would scrutinize the authorized purposes of the Missouri River reservoir system rather than studying the current Missouri River Master Water Control Manual, thereby undermining the Manual's management plan for the Missouri River; and

WHEREAS, in requesting this study, the upstream states are seeking an additional shift in water to upstream states, despite Congress' authorization of downstream uses of Missouri River water, including navigation; and

WHEREAS, increasing Missouri River water in upstream states will have a significant, negative impact upon Missouri and other downstream states by impacting navigation, power generation, flood control, and drinking water availability; and

WHEREAS, eighteen power plants, which have the capacity to generate over 11,000 megawatts of electricity, draw cooling water from the lower Missouri River basin, and the viability of those power plants would be jeopardized if the authorized purposes of the Missouri River reservoir system were changed; and

WHEREAS, the State of Missouri has constructed infrastructure to support water supply and power generation in the lower Missouri River basin with the understanding that reliable navigation flows would be maintained in the future, and this study could threaten the reliability of those navigation flows; and

WHEREAS, the Missouri General Assembly believes that all of the congressionally authorized uses of the Missouri River should be promoted, not just those uses benefitting the upstream states:

NOW, THEREFORE, BE IT RESOLVED by the members of the Missouri Senate, Ninety-fifth General Assembly, First Regular Session, the House of Representatives concurring therein, hereby urge the United States Congress to deny any request that would authorize a study of the Missouri River's congressionally authorized purposes; and

BE IT FURTHER RESOLVED that the members of the Missouri Senate, Ninety-fifth General Assembly, First Regular Session, the House of Representatives concurring therein, hereby urge Missouri's Congressional delegation to actively oppose the authorization and funding of the Missouri River study proposed by the upstream states; and

BE IT FURTHER RESOLVED that the Secretary of the Senate be instructed to prepare a properly inscribed copy of this resolution for the United States Army Corps of Engineers and to each member of Missouri's Congressional delegation.

SENATE CONCURRENT RESOLUTION NO. 8 [SCR 8]

WHEREAS, horse processing is the most tightly regulated of any animal harvest, and the horse is the only animal that has its transportation to processing regulated. If horse processing plants are forced to close and export options are eliminated, the Horse Welfare Coalition estimates that 90,000 to 100,000 unwanted horses annually would be exposed to potential abandonment and neglect; and

WHEREAS, the 90,000 to 100,000 additional unwanted horses each year would compete for adoption with the 32,000 wild horses that United States taxpayers are already paying $40 million to shelter and feed; and

WHEREAS, the nation's inadequate, overburdened, and unregulated horse rescue and adoption facilities cannot handle the influx of the approximately 60,000 or more additional horses each year that would result from a harvesting ban, according to the Congressional Research Service; and

WHEREAS, many zoo animal diets rely on equine protein because it mimics what the animal would receive in the wild. Veterinarians and animal nutritionists say it is the healthiest diet for big cats and rare birds. If legislation shuts down horse processing facilities, the only source for this meat that is inspected by the U.S. Department of Agriculture (USDA) will be eliminated:

NOW THEREFORE BE IT RESOLVED that the members of the Missouri Senate, Ninety-fifth General Assembly, First Regular Session, the House of Representatives concurring therein, hereby urge the United States Congress to strongly support the continuation of horse

processing in the United States and to offer incentives that help create horse processing plants throughout the United States, such as state-inspected horse harvest for export; and

BE IT FURTHER RESOLVED that the members of the Missouri General Assembly strongly encourage Congress to support new horse processing facilities and the continuation of existing facilities on both the state and national level; and

BE IT FURTHER RESOLVED that the members of the Missouri General Assembly urge Congress to oppose any legislation introduced in the 111th Congress that would restrict the transportation and processing of horses in the United States and internationally; and

BE IT FURTHER RESOLVED that the members of the Missouri General Assembly support the location of USDA-approved horse processing facilities on state, tribal, or private lands under mutually-acceptable and market-driven land leases and, if necessary, a mutually-acceptable assignment of revenues that meet the needs of all parties involved with the facility; and

BE IT FURTHER RESOLVED that the Secretary of the Missouri Senate be instructed to prepare properly inscribed copies of this resolution for the President of the United States Senate, the Speaker of the United States House of Representatives and the members of the Missouri Congressional delegation.

SENATE CONCURRENT RESOLUTION NO. 27 [SCR 27]

WHEREAS, the United States Congress recently passed, and President Obama signed, the American Recovery and Reinvestment Act of 2009 (ARRA); and

WHEREAS, the ARRA allocates federal stimulus and stabilization money to the various states via several funds that come with different stipulations as to the use of the allocated moneys; and

WHEREAS, the state of Missouri's share of the federal stimulus and stabilization money could be approximately four billion dollars; and

WHEREAS, there is great confusion as to the conditions and stipulations that must be met in order to maximize the amount of funds that the state may receive under ARRA; and

WHEREAS, some of the ARRA funds will use preexisting formulas to determine how much money will go to certain programs, such as worker training, food stamps and renewable energy promotion; and

WHEREAS, other ARRA funds, such as those that come from the stabilization fund, may provide the state with more discretion as to how such funds are spent by the state; and

WHEREAS, it is necessary for the General Assembly to conduct in-depth studies regarding the parameters of the ARRA funds in order to ensure compliance with federal law and that Missouri receives its fair share of the ARRA funds:

NOW, THEREFORE, BE IT RESOLVED by the members of the Missouri Senate, Ninety-fifth General Assembly, First Regular Session, the House of Representatives concurring therein, hereby establish a Joint Interim Committee on Oversight of Federal Stimulus and Stabilization Funds; and

BE IT FURTHER RESOLVED that the committee shall be charged with the following:

(1) Conducting a comprehensive study and analysis of strategies for securing the maximum amount of federal dollars for Missouri and Missourians that will come from the ARRA; and

(2) Examine any conditions or stipulations that are attached to the receipt of federal funds under ARRA; and

(3) Investigate exactly for what purpose or programs moneys under ARRA may be used; and

(4) Such other matters as the Joint Interim Committee may deem necessary in order to determine the proper course of future legislative and budgetary action regarding these issues; and

BE IT FURTHER RESOLVED that the committee shall be composed of ten members, three majority party members and two minority party members of the Senate, to be appointed by the President Pro Tem of the Senate, and three majority party members and two minority party members of the House of Representatives, to be appointed by the Speaker of the House of Representatives; and

BE IT FURTHER RESOLVED that the Joint Interim Committee is authorized to function during the legislative interim between the First Regular Session of the Ninety-fifth General Assembly through January 15, 2010, of the Second Regular Session of the Ninety-fifth General Assembly; and

BE IT FURTHER RESOLVED that the Joint Interim Committee may solicit input and information necessary to fulfill its obligations, including but not limited to soliciting input and information from any state department or agency the Joint Interim Committee deems relevant, political subdivisions of this State, and the general public; and

BE IT FURTHER RESOLVED that the staffs of Senate Appropriations, Senate Research, House Appropriations, House Research, and the Joint Committee on Legislative Research shall provide such legal, research, clerical, technical, and bill drafting services as the Joint Interim Committee may require in the performance of its duties; and

BE IT FURTHER RESOLVED that the actual and necessary expenses of the Joint Interim Committee, its members, and any staff assigned to the Joint Interim Committee incurred by the Joint Interim Committee shall be paid by the Joint Contingent Fund.

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ADMINISTRATION, OFFICE OF

SB 15 Authorizes the conveyance and lease of certain state properties
SB 376 Modifies provisions relating to energy and energy efficiency
HB 282 Authorizes the Governor to convey state property in Jasper County, known as the Joplin Regional Center, to Missouri Southern State University
HB 544 Requires the Commissioner of the Office of Administration to maintain the Missouri Accountability Portal, establishes the Joint Committee on Recovery Accountability and Transparency, and requires the Office of Administration to provide legislators a key to the Capitol dome (VETOED)
HB 745 Requires the Commissioner of Administration to give new generation processing entities preference when purchasing commodities and tangible personal property

AGRICULTURE AND ANIMALS

SB 153 Modifies provisions pertaining to milk sales, the Rice Advisory Council and the state veterinarian (VETOED)
HB 251 Specifies that any return on savings given by a cooperative association to its members for the purchase of milk products will not be a violation of the Unfair Milk Sales Practices Act (VETOED)
HB 481 Modifies laws regarding courts, judicial proceedings, and other provisions

AGRICULTURE DEPARTMENT

SB 153 Modifies provisions pertaining to milk sales, the Rice Advisory Council and the state veterinarian (VETOED)
HB 251 Specifies that any return on savings given by a cooperative association to its members for the purchase of milk products will not be a violation of the Unfair Milk Sales Practices Act (VETOED)

ALCOHOL

SB 26 Prohibits alcohol beverage vaporizers
HB 62 Modifies various provisions relating to crime
HB 132 Modifies provisions relating to liquor control

AMBULANCES AND AMBULANCE DISTRICTS

SB 307 Modifies provisions of law regarding taxes to fund certain health care services

APPROPRIATIONS

SB 313 Creates two separate funds within the state treasury to receive and retain funds provided under the American Recovery and Reinvestment Act of 2009
HB 1 Appropriates money to the Board of Fund Commissioners
HB 2 Appropriates money for the expenses, grants, refunds, and distributions of the State Board of Education and Department of Elementary and Secondary Education
HB 3 Appropriates money for the expenses, grants, refunds, and distributions of the Department of Higher Education
HB 4 Appropriates money for the expenses, grants, refunds, and distributions of the Department of Revenue and Department of Transportation

HB 5 Appropriates money for the expenses, grants, refunds, and distributions of the Office of Administration, Department of Transportation, and Department of Public Safety

HB 6 Appropriates money for the expenses, grants, refunds, and distributions of the Department of Agriculture, Department of Natural Resources, and Department of Conservation

HB 7 Appropriates money for the expenses and distributions of the departments of Economic Development, Insurance, Financial Institutions, Professional Registration, Labor and Industrial Relations

HB 8 Appropriates money for the expenses, grants, refunds, and distributions of the Department of Public Safety

HB 9 Appropriates money for the expenses, grants, refunds, and distributions of the Department of Corrections

HB 10 Appropriates money for the expenses, grants, refunds, and distributions of the Department of Mental Health, Board of Public Buildings, and Department of Health and Senior Services

HB 11 Appropriates money for the expenses, grants, and distributions of the Department of Social Services

HB 12 Appropriates money for the expenses, grants, refunds, and distributions of statewide elected officials, the Judiciary, Office of the State Public Defender, and General Assembly

HB 13 Appropriates money for real property leases and related services

HB 14 Appropriates money for supplemental purposes for several departments and offices of state government, for the purchase of equipment, payment of claims for refunds, for persons, firms and corporations

HB 15 Appropriates money for supplemental purposes for the several departments and offices of state government, and for payment of various claims for refunds, for persons, firms and corporations

HB 17 Appropriates money for capital improvement and other purposes as provided in Article IV, Section 28

HB 21 Appropriates money for supplemental purposes for various departments and offices of state government

HB 22 Appropriates money for capital improvement projects, for grants, refunds and distributions, planning, expenses, and to transfer money among certain funds.

ARCHITECTS

SB 296 Modifies laws regarding cemeteries and cemetery operators, physician assistants, the board for architects, professional engineers, professional land surveyors, and landscape architects, dental care professionals, nurses, pharmacy, and mental health benefits

ATTORNEY GENERAL, STATE

SB 464 Modifies various provisions relating to insurance (VETOED)

HB 577 Modifies various provisions relating to the regulations of insurance

HB 698 Modifies signage requirements for certain donation receptacles

ATTORNEYS

HB 237 Modifies provisions relating to courts

HB 863 Requires courts to accommodate child witnesses in certain judicial proceedings in several ways

BANKS AND FINANCIAL INSTITUTIONS

SB 1 Establishes licensing and contract requirements for preneed funeral contract sellers, providers, and seller agents

SB 243 Allows for the sale of deficiency waiver addendums and other similar products with respect to certain loan transactions (VETOED)

SB 277 Authorizes financial institutions to assign fiduciary obligations relating to irrevocable life insurance trusts

SB 485 Requires the Ethics Commission to redact the bank account number contained on a committee

HB 239 Modifies laws regarding the management of funds by the University of Missouri board of curators, charities, trustees of certain irrevocable trusts, and personal representatives and conservators of estates

HB 382 Regulates residential mortgage brokers and loan originators

HB 836 Requires certain notices to occupants of residential property in cases of foreclosure before the new owner may bring an action seeking possession of the property

HB 914 Removes a provision requiring the circuit court to approve the Director of Finance

BOARDS, COMMISSIONS, COMMITTEES, COUNCILS

SB 157 Codifies into law the five regional autism projects currently serving persons with autism

SB 161 Removes certain limitations on investments made by boards of trustees of police and firemen

SB 291 Modifies provisions relating to education

SB 296 Modifies laws regarding cemeteries and cemetery operators, physician assistants, the board for architects, professional engineers, professional land surveyors, and landscape architects, dental care professionals, nurses, pharmacy, and mental health benefits

SB 411 Makes certain employees of the Missouri Development Finance Board members of the Missouri State Employees (VETOED)

SB 480 Creates the Missouri Board on Geographic Names and modifies the name and duties of the Second Capitol Commission

HB 124 Modifies the scope and duration of the Joint Committee on Terrorism, Bioterrorism, and Homeland Security

HB 237 Modifies provisions relating to courts

HB 247 Modifies provisions relating to review of advanced practice registered nurses by collaborating physicians and the definition of eligible student for the nursing student loan program

HB 272 Establishes the Alzheimer's State Plan Task Force

HB 382 Regulates residential mortgage brokers and loan originators

HB 427 Enacts various provisions related to veterans, military members, and their families

HB 485 Modifies the membership and quorum requirements for the Seismic Safety Commission

HB 525 Codifies into law the five regional Autism projects currently serving persons with Autism

HB 593 Removes certain limitations on investments made by boards of trustees of police and firemen

HB 751 Modifies provisions relating to the Missouri Propane Education and Research Council (VETOED)

HB 866 Requires the destruction of certain complaints made by sexually violent predators against certain licensed professionals

BOATS AND WATERCRAFT

HB 269 Modifies laws relating to certificates of ownership

BONDS - BAIL

SB 464 Modifies various provisions relating to insurance (VETOED)

BUSINESS AND COMMERCE

SB 153 Modifies provisions pertaining to milk sales, the Rice Advisory Council and the state veterinarian (VETOED)
SB 156 Modifies provisions of law regarding travel clubs (VETOED)
SB 294 Restricts corporate name reservation
SB 394 Allows certain businesses to use terms such as drug store in their business name
HB 83 Modifies provisions of law regarding travel clubs
HB 191 Creates various tax incentives for job development
HB 481 Modifies laws regarding courts, judicial proceedings, and other provisions
HB 652 Defines the terms "certified mail" and "certified mail with return receipt requested" for the purposes of Missouri statutes where these terms are used
HB 661 Modifies provisions pertaining to programs administered by the Department of Natural Resources
HB 698 Modifies signage requirements for certain donation receptacles
HB 734 Modifies provisions pertaining to energy and water pollution
HB 751 Modifies provisions relating to the Missouri Propane Education and Research Council (VETOED)

CAMPAIGN FINANCE

SB 485 Requires the Ethics Commission to redact the bank account number contained on a committee

CEMETERIES

HB 111 Provides funeral establishments with immunity from liability with regard to disposal of unclaimed veterans
HB 427 Enacts various provisions related to veterans, military members, and their families

CHARITIES

HB 132 Modifies provisions relating to liquor control
HB 210 Allows a retired state employee to request that contributions to the state employees charitable campaign be withheld from their monthly benefit
HB 239 Modifies laws regarding the management of funds by the University of Missouri board of curators, charities, trustees of certain irrevocable trusts, and personal representatives and conservators of estates
HB 698 Modifies signage requirements for certain donation receptacles

CHILDREN AND MINORS

SB 26 Prohibits alcohol beverage vaporizers
SB 36 Modifies provisions relating to forcible sexual offenses against children
SB 140 Modifies provisions relating to criminal nonsupport
SB 141 Modifies the law on the establishment of paternity
HB 62 Modifies various provisions relating to crime
HB 154 Modifies provisions relating to placement of children
HB 481 Modifies laws regarding courts, judicial proceedings, and other provisions
HB 525 Codifies into law the five regional Autism projects currently serving persons with Autism
HB 716 Adds provisions related to newborns and newborn screenings
HB 863 Requires courts to accommodate child witnesses in certain judicial proceedings in several ways

CITIES, TOWNS AND VILLAGES

SJR 5 Requires all assessors, except the Jackson County Assessor, to be elected
SB 296 Modifies laws regarding cemeteries and cemetery operators, physician assistants, the board for architects, professional engineers, professional land surveyors, and landscape architects, dental care professionals, nurses, pharmacy, and mental health benefits
HB 400 Allows certain veterans to park in metered parking spaces for free if approved by local government
HB 859 Requires communities to file one copy of any technical code adopted with the clerk

CIVIL PROCEDURE

SB 202 Modifies the law regarding the operation of a motorcycle, namely the assignment of fault for the operator (VETOED)
SB 355 Allows motor vehicle dealers, boat dealers, and powersport dealers to charge administrative fees associated with the sale or lease of certain vehicles and vessels under certain conditions
HB 237 Modifies provisions relating to courts
HB 481 Modifies laws regarding courts, judicial proceedings, and other provisions

CONSERVATION DEPARTMENT

HB 250 Modifies provisions pertaining to horseback riding on public land and the state soil and water conservation program

CONSTITUTIONAL AMENDMENTS

SJR 5 Requires all assessors, except the Jackson County Assessor, to be elected

CONSTRUCTION AND BUILDING CODES

HB 859 Requires communities to file one copy of any technical code adopted with the clerk

CONSUMER PROTECTION

SB 216 Modifies the law relating to debt settlement providers (VETOED)

CONTRACTS AND CONTRACTORS

SB 156 Modifies provisions of law regarding travel clubs (VETOED)
SB 296 Modifies laws regarding cemeteries and cemetery operators, physician assistants, the board for architects, professional engineers, professional land surveyors, and landscape architects, dental care professionals, nurses, pharmacy, and mental health benefits
HB 83 Modifies provisions of law regarding travel clubs
HB 359 Removes certain statutory restrictions on the current design-build highway project process to allow the state highways and transportation commission to enter into more design-build highway project contracts
HB 381 Requires Department of Revenue to implement new procedures for awarding fee office contracts
HB 544 Requires the Commissioner of the Office of Administration to maintain the Missouri Accountability Portal, establishes the Joint Committee on Recovery Accountability and Transparency, and requires the Office of Administration to provide legislators a key to the Capitol dome (VETOED)
HB 859 Requires communities to file one copy of any technical code adopted with the clerk

COOPERATIVES

SB 153 Modifies provisions pertaining to milk sales, the Rice Advisory Council and the state veterinarian (VETOED)
HB 251 Specifies that any return on savings given by a cooperative association to its members for the purchase of milk products will not be a violation of the Unfair Milk Sales Practices Act (VETOED)

CORPORATIONS

SB 217 Allows remote participation in certain corporate shareholders
SB 224 Modifies the requirements of a restated articles of incorporation
SB 294 Restricts corporate name reservation
HB 914 Removes a provision requiring the circuit court to approve the Director of Finance

CORRECTIONS DEPARTMENT

SB 36 Modifies provisions relating to forcible sexual offenses against children
HB 481 Modifies laws regarding courts, judicial proceedings, and other provisions
HB 747 Specifies that in order for a person to be guilty of the crime of sexual contact with a prisoner or offender, the prisoner or offender must be confined in a jail, prison, or correctional facility

COUNTIES

SB 196 Modifies the procedure for detaching territory from a public water supply district
SB 242 Prohibits certain storm water management fees and provides an alternate procedure to approve bond issuance for a sewer subdistrict in Cass County (VETOED)

HB 148 Modifies provisions relating to county collectors and the collection of taxes (VETOED)
HB 257 Allows Lincoln county, after meeting the required assessed valuation, to become a second class county upon a vote of the governing body to change classifications
HB 859 Requires communities to file one copy of any technical code adopted with the clerk

COUNTY GOVERNMENT

HB 859 Requires communities to file one copy of any technical code adopted with the clerk

COUNTY OFFICIALS

SJR 5 Requires all assessors, except the Jackson County Assessor, to be elected
HB 148 Modifies provisions relating to county collectors and the collection of taxes (VETOED)
HB 306 Requires the board of directors of a lake area business district to enter into an agreement with the Department of Revenue to collect transient guest tax revenues (VETOED)
HB 667 Removes the 12-month grace period that newly elected sheriffs are allowed in order to become a licensed peace officer in order to execute police powers beginning January 1, 2010

COURTS

SB 26 Prohibits alcohol beverage vaporizers
SB 37 Modifies provisions relating to the public defender system (VETOED)
SB 140 Modifies provisions relating to criminal nonsupport
SB 141 Modifies the law on the establishment of paternity
SB 196 Modifies the procedure for detaching territory from a public water supply district
SB 231 Exempts landlords from liability for loss or damage to tenants
SB 265 Extends the collection of the Statewide Court Automation fee until 2013
HB 62 Modifies various provisions relating to crime
HB 116 Modifies the laws regarding the crime of assault of a law enforcement officer, emergency personnel, or probation and parole officer and the crime of tampering with a judicial officer (VETOED)
HB 177 Gives the judge presiding in certain sexual offense cases discretion to disclose information regarding the defendant, which could be used to identify the victim, to avoid protecting the defendant
HB 237 Modifies provisions relating to courts
HB 239 Modifies laws regarding the management of funds by the University of Missouri board of curators, charities, trustees of certain irrevocable trusts, and personal representatives and conservators of estates
HB 273 Allows the personal representative of an estate to submit documentation other than vouchers to the court as evidence of expenditures on behalf of the estate
HB 481 Modifies laws regarding courts, judicial proceedings, and other provisions
HB 652 Defines the terms "certified mail" and "certified mail with return receipt requested" for the purposes of Missouri statutes where these terms are used
HB 863 Requires courts to accommodate child witnesses in certain judicial proceedings in several ways

CREDIT AND BANKRUPTCY

SB 216 Modifies the law relating to debt settlement providers (VETOED)

CREDIT UNIONS

HB 382 Regulates residential mortgage brokers and loan originators

CRIMES AND PUNISHMENT

SB 26 Prohibits alcohol beverage vaporizers
SB 36 Modifies provisions relating to forcible sexual offenses against children
SB 37 Modifies provisions relating to the public defender system (VETOED)
SB 140 Modifies provisions relating to criminal nonsupport
SB 398 Modifies property posting provisions
SB 435 Modifies provisions relating to contracts of the Department of Mental Health
HB 62 Modifies various provisions relating to crime
HB 116 Modifies the laws regarding the crime of assault of a law enforcement officer, emergency personnel, or probation and parole officer and the crime of tampering with a judicial officer (VETOED)
HB 152 Requires persons arrest for certain offenses to provide a biological sample for DNA profiling analysis
HB 177 Gives judge presiding in certain sexual offense cases discretion to disclose information regarding the defendant, which could be used to identify the victim, to avoid protecting the defendant
HB 683 Modifies several provisions of law relating to transportation
HB 685 Specifies that the Highway Patrol does not have to notify or be accompanied by the county sheriff when it serves certain search warrants
HB 747 Specifies that in order for a person to be guilty of the crime of sexual contact with a prisoner or offender, the prisoner or offender must be confined in a jail, prison, or correctional facility
HB 826 Allows the Department of Mental Health to contract with county jails to confine sexually violent predators who are civilly committed

CRIMINAL PROCEDURE

SB 26 Prohibits alcohol beverage vaporizers
SB 37 Modifies provisions relating to the public defender system (VETOED)
SB 435 Modifies provisions relating to contracts of the Department of Mental Health
HB 62 Modifies various provisions relating to crime
HB 152 Requires persons arrest for certain offenses to provide a biological sample for DNA profiling analysis
HB 177 Gives the judge presiding in certain sexual offense cases discretion to disclose information regarding the defendant, which could be used to identify the victim, to avoid protecting the defendant
HB 481 Modifies laws regarding courts, judicial proceedings, and other provisions
HB 685 Specifies that the Highway Patrol does not have to notify or be accompanied by the county sheriff when it serves certain search warrants
HB 826 Allows the Department of Mental Health to contract with county jails to confine sexually violent predators who are civilly committed

DENTISTS

SB 296 Modifies laws regarding cemeteries and cemetery operators, physician assistants, the board for architects, professional engineers, professional land surveyors, and landscape architects, dental care professionals, nurses, pharmacy, and mental health benefits

DISABILITIES

SB 157 Codifies into law the five regional autism projects currently serving persons with autism
HJR 15 Exempts real property used by certain former prisoners of war as a homestead from property tax
HB 289 Modifies provisions relating to special education due process hearings
HB 395 Modifies provisions relating to long-term care facilities
HB 397 Modifies provisions of the Police Retirement System of St. Louis and the Police Retirement System of Kansas City
HB 525 Codifies into law the five regional Autism projects currently serving persons with Autism

DRUGS AND CONTROLLED SUBSTANCES

SB 296 Modifies laws regarding cemeteries and cemetery operators, physician assistants, the board for architects, professional engineers, professional land surveyors, and landscape architects, dental care professionals, nurses, pharmacy, and mental health benefits
HB 247 Modifies provisions relating to review of advanced practice registered nurses by collaborating physicians and the definition of eligible student for the nursing student loan program

DRUNK DRIVING/BOATING

SB 26 Prohibits alcohol beverage vaporizers
HB 62 Modifies various provisions relating to crime

EASEMENTS AND CONVEYANCES

SB 15 Authorizes the conveyance and lease of certain state properties
HB 282 Authorizes the Governor to convey state property in Jasper County, known as the Joplin Regional Center, to Missouri Southern State University
HB 537 Authorizes the Governor to convey a parcel of real property to the Missouri Highways and Transportation Commission for the new Mississippi River Bridge project
HB 909 Authorizes the Governor to convey various state properties
HB 918 Authorizes the Governor to convey state property known as the Mid-Missouri Mental Health Center to the University of Missouri-Columbia

ECONOMIC DEVELOPMENT

HB 191 Creates various tax incentives for job development
HB 802 Implements new median family income eligibility thresholds for persons living in owner-occupied units and rental units for purposes of receiving assistance under the Neighborhood Assistance Act

ECONOMIC DEVELOPMENT DEPARTMENT

HB 191 Creates various tax incentives for job development

HB 802 Implements new median family income eligibility thresholds for persons living in owner-occupied units and rental units for purposes of receiving assistance under the Neighborhood Assistance Act
HB 914 Removes a provision requiring the circuit court to approve the Director of Finance

EDUCATION, ELEMENTARY AND SECONDARY

SCR 2 Recognizes October 3rd of each year as Science Day
SB 232 Prohibits certain public agencies and political subdivisions from discrimination based on an individual
SB 291 Modifies provisions relating to education
HB 236 Requires school districts to adopt policies to allow students with a disability to participate in graduation ceremonies with their graduating class
HB 289 Modifies provisions relating to special education due process hearings
HB 373 Creates the GED Revolving Fund for the payment and expenses related to GED test administration (VETOED)
HB 490 Modifies requirements for public career-technical schools to participate in the A+ Schools Program
HB 506 Requires the Governor to annually issue a proclamation declaring the first week of March as Math, Engineering, Technology and Science Week
HB 682 Creates an exception for the 2008-2009 school year for the number of school days to be made up due to inclement weather
HB 922 Requires each school district to adopt a policy on allergy prevention and response

EDUCATION, HIGHER

HB 239 Modifies laws regarding the management of funds by the University of Missouri board of curators, charities, trustees of certain irrevocable trusts, and personal representatives and conservators of estates
HB 390 Modifies the law relating to unauthorized aliens and employment safety programs
HB 427 Enacts various provisions related to veterans, military members, and their families
HB 490 Modifies requirements for public career-technical schools to participate in the A+ Schools Program
HB 506 Requires the Governor to annually issue a proclamation declaring the first week of March as Math, Engineering, Technology and Science Week

ELDERLY

HB 272 Establishes the Alzheimer's State Plan Task Force
HB 395 Modifies provisions relating to long-term care facilities

ELECTIONS

HB 427 Enacts various provisions related to veterans, military members, and their families
HB 709 Modifies provisions relating to voter notification cards

ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT

SB 291 Modifies provisions relating to education
HB 289 Modifies provisions relating to special education due process hearings

HB 373 Creates the GED Revolving Fund for the payment and expenses related to GED test administration (VETOED)
HB 490 Modifies requirements for public career-technical schools to participate in the A+ Schools Program
HB 682 Creates an exception for the 2008-2009 school year for the number of school days to be made up due to inclement weather
HB 922 Requires each school district to adopt a policy on allergy prevention and response

EMERGENCIES

HB 103 Modifies provisions relating to public safety
HB 390 Modifies the law relating to unauthorized aliens and employment safety programs
HB 485 Modifies the membership and quorum requirements for the Seismic Safety Commission
HB 580 Establishes the Line of Duty Compensation Act

EMPLOYEES - EMPLOYERS

SB 147 Establishes the Missouri Healthy Workplace Recognition Program (VETOED)
SB 232 Prohibits certain public agencies and political subdivisions from discrimination based on an individual
HB 231 Requires group health insurance policies issued to employers not covered by the federal COBRA law to provide terminated employees continuation coverage rights in the same manner as provided by the federal COBRA law
HB 390 Modifies the law relating to unauthorized aliens and employment safety programs

EMPLOYMENT SECURITY

HB 1075 Modifies various provisions relating to unemployment compensation

ENERGY

SB 376 Modifies provisions relating to energy and energy efficiency
SB 542 Modifies provisions relating to the State Treasurer and expands eligibility for the Treasurer (VETOED)
HB 661 Modifies provisions pertaining to programs administered by the Department of Natural Resources
HB 751 Modifies provisions relating to the Missouri Propane Education and Research Council (VETOED)
HB 883 Modifies provisions relating to the State Treasurer and expands eligibility for the Treasurer

ENGINEERS

SB 296 Modifies laws regarding cemeteries and cemetery operators, physician assistants, the board for architects, professional engineers, professional land surveyors, and landscape architects, dental care professionals, nurses, pharmacy, and mental health benefits

ENTERTAINMENT, SPORTS AND AMUSEMENTS

HB 299 Removes the cap on appropriations of nonresident entertainer and athlete tax revenues to the Missouri Arts Council

ENVIRONMENTAL PROTECTION

HB 661 Modifies provisions pertaining to programs administered by the Department of Natural Resources
HB 734 Modifies provisions pertaining to energy and water pollution

ESTATES, WILLS AND TRUSTS

HB 239 Modifies laws regarding the management of funds by the University of Missouri board of curators, charities, trustees of certain irrevocable trusts, and personal representatives and conservators of estates
HB 273 Allows the personal representative of an estate to submit documentation other than vouchers to the court as evidence of expenditures on behalf of the estate

ETHICS

SB 485 Requires the Ethics Commission to redact the bank account number contained on a committee

EVIDENCE

HB 863 Requires courts to accommodate child witnesses in certain judicial proceedings in several ways

FAMILY LAW

SB 141 Modifies the law on the establishment of paternity
HB 154 Modifies provisions relating to placement of children
HB 427 Enacts various provisions related to veterans, military members, and their families
HB 481 Modifies laws regarding courts, judicial proceedings, and other provisions

FAMILY SERVICES DIVISION

HB 154 Modifies provisions relating to placement of children
HB 481 Modifies laws regarding courts, judicial proceedings, and other provisions

FEDERAL - STATE RELATIONS

SB 313 Creates two separate funds within the state treasury to receive and retain funds provided under the American Recovery and Reinvestment Act of 2009
HB 361 Prohibits the Department of Revenue from amending its driver

FEES

SB 37 Modifies provisions relating to the public defender system (VETOED)

SB 265 Extends the collection of the Statewide Court Automation fee until 2013
SB 355 Allows motor vehicle dealers, boat dealers, and powersport dealers to charge administrative fees associated with the sale or lease of certain vehicles and vessels under certain conditions
HB 237 Modifies provisions relating to courts
HB 381 Requires Department of Revenue to implement new procedures for awarding fee office contracts
HB 734 Modifies provisions pertaining to energy and water pollution
HB 751 Modifies provisions relating to the Missouri Propane Education and Research Council (VETOED)

FIRE PROTECTION

SB 161 Removes certain limitations on investments made by boards of trustees of police and firemen
HB 116 Modifies the laws regarding the crime of assault of a law enforcement officer, emergency personnel, or probation and parole officer and the crime of tampering with a judicial officer (VETOED)
HB 205 Prohibits the sale of cigarettes in this state that have not been tested, certified, and marked as meeting certain performance standards
HB 580 Establishes the Line of Duty Compensation Act
HB 859 Requires communities to file one copy of any technical code adopted with the clerk

FIREARMS AND FIREWORKS

HB 481 Modifies laws regarding courts, judicial proceedings, and other provisions

FUNERALS AND FUNERAL DIRECTORS

SB 1 Establishes licensing and contract requirements for preneed funeral contract sellers, providers, and seller agents
HB 111 Provides funeral establishments with immunity from liability with regard to disposal of unclaimed veterans
HB 427 Enacts various provisions related to veterans, military members, and their families

GENERAL ASSEMBLY

HCR 5 Disapproves the Missouri Citizens
HB 124 Modifies the scope and duration of the Joint Committee on Terrorism, Bioterrorism, and Homeland Security

GOVERNOR & LT. GOVERNOR

SB 15 Authorizes the conveyance and lease of certain state properties
SB 179 Authorizes several real property interest conveyances to various entities
HB 282 Authorizes the Governor to convey state property in Jasper County, known as the Joplin Regional Center, to Missouri Southern State University
HB 506 Requires the Governor to annually issue a proclamation declaring the first week of March as Math, Engineering, Technology and Science Week
HB 537 Authorizes Governor to convey a parcel of real property to the Missouri Highways and Transportation Commission for the new Mississippi River Bridge project

HB 544 Requires Commissioner of the Office of Administration to maintain the Missouri Accountability Portal, establishes the Joint Committee on Recovery Accountability and Transparency, and requires the Office of Administration to provide legislators a key to the Capitol dome (VETOED)
HB 895 Authorizes the Governor to convey all interest in an easement across state property located in Macon County to certain private property owners for obtaining access to their property
HB 909 Authorizes the Governor to convey various state properties
HB 918 Authorizes the Governor to convey state property known as the Mid-Missouri Mental Health Center to the University of Missouri-Columbia

GUARDIANS

HB 154 Modifies provisions relating to placement of children
HB 481 Modifies laws regarding courts, judicial proceedings, and other provisions

HEALTH CARE

SB 296 Modifies laws regarding cemeteries and cemetery operators, physician assistants, the board for architects, professional engineers, professional land surveyors, and landscape architects, dental care professionals, nurses, pharmacy, and mental health benefits
HB 231 Requires group health insurance policies issued to employers not covered by the federal COBRA law to provide terminated employees continuation coverage rights in the same manner as provided by the federal COBRA law
HB 247 Modifies provisions relating to review of advanced practice registered nurses by collaborating physicians and the definition of eligible student for the nursing student loan program
HB 272 Establishes the Alzheimer's State Plan Task Force
HB 525 Codifies into law the five regional Autism projects currently serving persons with Autism
HB 740 Extends the expiration date of various federal reimbursement allowances from 2009 to 2011.
HB 919 Permits associations to provide group health insurance policies to sole-proprietorships and self-employed individuals

HEALTH CARE PROFESSIONALS

SB 296 Modifies laws regarding cemeteries and cemetery operators, physician assistants, the board for architects, professional engineers, professional land surveyors, and landscape architects, dental care professionals, nurses, pharmacy, and mental health benefits

HEALTH DEPARTMENT

SB 147 Establishes the Missouri Healthy Workplace Recognition Program (VETOED)
SB 296 Modifies laws regarding cemeteries and cemetery operators, physician assistants, the board for architects, professional engineers, professional land surveyors, and landscape architects, dental care professionals, nurses, pharmacy, and mental health benefits
SB 338 Modifies provisions relating to crime victims

HB 272 Establishes the Alzheimer's State Plan Task Force
HB 395 Modifies provisions relating to long-term care facilities
HB 525 Codifies into law the five regional Autism projects currently serving persons with Autism
HB 716 Adds provisions related to newborns and newborn screenings
HB 740 Extends the expiration date of various federal reimbursement allowances from 2009 to 2011.

HEALTH, PUBLIC

SB 147 Establishes the Missouri Healthy Workplace Recognition Program (VETOED)
HB 716 Adds provisions related to newborns and newborn screenings

HIGHWAY PATROL

SB 47 Modifies requirements for certain law enforcement personnel
HB 685 Specifies that the Highway Patrol does not have to notify or be accompanied by the county sheriff when it serves certain search warrants

HOLIDAYS

HB 678 Designates May 1 of each year as "Silver Star Families of America Day" to honor the wounded members of the United States armed forces

HOUSING

HB 382 Regulates residential mortgage brokers and loan originators
HB 802 Implements new median family income eligibility thresholds for persons living in owner-occupied units and rental units for purposes of receiving assistance under the Neighborhood Assistance Act
HB 836 Requires certain notices to occupants of residential property in cases of foreclosure before the new owner may bring an action seeking possession of the property

IMMIGRATION

HB 124 Modifies the scope and duration of the Joint Committee on Terrorism, Bioterrorism, and Homeland Security
HB 390 Modifies the law relating to unauthorized aliens and employment safety programs

INSURANCE - AUTOMOBILE

SB 202 Modifies the law regarding the operation of a motorcycle, namely the assignment of fault for the operator (VETOED)

INSURANCE - GENERAL

SB 126 Prohibits life insurers from taking underwriting actions or charging different rates based upon a person
SB 464 Modifies various provisions relating to insurance (VETOED)
HB 577 Modifies various provisions relating to the regulations of insurance

INSURANCE - LIFE

SB 1 Establishes licensing and contract requirements for preneed funeral contract sellers, providers, and seller agents
SB 126 Prohibits life insurers from taking underwriting actions or charging different rates based upon a person
HB 577 Modifies various provisions relating to the regulations of insurance

INSURANCE - MEDICAL

SB 464 Modifies various provisions relating to insurance (VETOED)
HB 218 Modifies the eligibility rules for health insurance coverage under the Missouri Health Insurance Pool
HB 231 Requires group health insurance policies issued to employers not covered by the federal COBRA law to provide terminated employees continuation coverage rights in the same manner as provided by the federal COBRA law
HB 326 Modifies provisions relating to certain mental health professionals
HB 481 Modifies laws regarding courts, judicial proceedings, and other provisions
HB 577 Modifies various provisions relating to the regulations of insurance
HB 919 Permits associations to provide group health insurance policies to sole-proprietorships and self-employed individuals

INSURANCE DEPARTMENT

SB 126 Prohibits life insurers from taking underwriting actions or charging different rates based upon a person
SB 464 Modifies various provisions relating to insurance (VETOED)
HB 218 Modifies the eligibility rules for health insurance coverage under the Missouri Health Insurance Pool
HB 382 Regulates residential mortgage brokers and loan originators
HB 577 Modifies various provisions relating to the regulations of insurance
HB 811 Requires applicants for licensing as a dietitian to have a current registration with the Commission on Dietetic Registration
HB 919 Permits associations to provide group health insurance policies to sole-proprietorships and self-employed individuals

JACKSON COUNTY

SJR 5 Requires all assessors, except the Jackson County Assessor, to be elected

JUDGES

HB 237 Modifies provisions relating to courts
HB 481 Modifies laws regarding courts, judicial proceedings, and other provisions
HB 826 Allows the Department of Mental Health to contract with county jails to confine sexually violent predators who are civilly committed
HB 863 Requires courts to accommodate child witnesses in certain judicial proceedings in several ways

LABOR AND INDUSTRIAL RELATIONS DEPARTMENT

SB 338 Modifies provisions relating to crime victims
HB 1075 Modifies various provisions relating to unemployment compensation

LAKES, RIVERS AND WATERWAYS

HB 734 Modifies provisions pertaining to energy and water pollution

LANDLORDS AND TENANTS

SB 231 Exempts landlords from liability for loss or damage to tenants
HB 171 Excuses tenant from paying rent when his or her residence is destroyed by an act of God or other natural or man-made disaster, provided the tenant was not the cause of the disaster (VETOED)
HB 481 Modifies laws regarding courts, judicial proceedings, and other provisions
HB 836 Requires certain notices to occupants of residential property in cases of foreclosure before the new owner may bring an action seeking possession of the property

LAW ENFORCEMENT OFFICERS AND AGENCIES

SB 26 Prohibits alcohol beverage vaporizers
SB 47 Modifies requirements for certain law enforcement personnel
SB 161 Removes certain limitations on investments made by boards of trustees of police and firemen
HB 62 Modifies various provisions relating to crime
HB 116 Modifies the laws regarding the crime of assault of a law enforcement officer, emergency personnel, or probation and parole officer and the crime of tampering with a judicial officer (VETOED)
HB 152 Requires persons arrest for certain offenses to provide a biological sample for DNA profiling analysis
HB 397 Modifies provisions of the Police Retirement System of St. Louis and the Police Retirement System of Kansas City
HB 580 Establishes the Line of Duty Compensation Act
HB 593 Removes certain limitations on investments made by boards of trustees of police and firemen
HB 667 Removes the 12-month grace period that newly elected sheriffs are allowed in order to become a licensed peace officer in order to execute police powers beginning January 1, 2010
HB 683 Modifies several provisions of law relating to transportation
HB 685 Specifies that the Highway Patrol does not have to notify or be accompanied by the county sheriff when it serves certain search warrants
HB 747 Specifies that in order for a person to be guilty of the crime of sexual contact with a prisoner or offender, the prisoner or offender must be confined in a jail, prison, or correctional facility
HB 826 Allows the Department of Mental Health to contract with county jails to confine sexually violent predators who are civilly committed

LIABILITY

SB 231 Exempts landlords from liability for loss or damage to tenants

HB 111 Provides funeral establishments with immunity from liability with regard to disposal of unclaimed veterans
HB 427 Enacts various provisions related to veterans, military members, and their families
HB 481 Modifies laws regarding courts, judicial proceedings, and other provisions

LICENSES - DRIVER

HB 361 Prohibits the Department of Revenue from amending its driver
HB 381 Requires Department of Revenue to implement new procedures for awarding fee office contracts
HB 683 Modifies several provisions of law relating to transportation

LICENSES - LIQUOR AND BEER

HB 132 Modifies provisions relating to liquor control

LICENSES - MISCELLANEOUS

HB 400 Allows certain veterans to park in metered parking spaces for free if approved by local government

LICENSES - MOTOR VEHICLE

HB 269 Modifies laws relating to certificates of ownership
HB 381 Requires Department of Revenue to implement new procedures for awarding fee office contracts
HB 400 Allows certain veterans to park in metered parking spaces for free if approved by local government
HB 427 Enacts various provisions related to veterans, military members, and their families
HB 644 Requires operators of salvage pool or salvage disposal sales, rather than sellers, who sell nonrepairable vehicles to foreign residents to complete certain statutory duties (VETOED)
HB 683 Modifies several provisions of law relating to transportation

LICENSES - PROFESSIONAL

SB 1 Establishes licensing and contract requirements for preneed funeral contract sellers, providers, and seller agents
SB 152 Modifies definition of eligible student for nursing student loan program
SB 296 Modifies laws regarding cemeteries and cemetery operators, physician assistants, the board for architects, professional engineers, professional land surveyors, and landscape architects, dental care professionals, nurses, pharmacy, and mental health benefits
HB 103 Modifies provisions relating to public safety
HB 247 Modifies provisions relating to review of advanced practice registered nurses by collaborating physicians and the definition of eligible student for the nursing student loan program
HB 326 Modifies provisions relating to certain mental health professionals
HB 382 Regulates residential mortgage brokers and loan originators
HB 811 Requires applicants for licensing as a dietitian to have a current registration with the Commission on Dietetic Registration

HB 842 Defines certain boat docks as real property for the purposes of real estate appraisers and modifies the definition of "commercial real estate" as it is used in licensing real estate brokers and agents
HB 866 Requires the destruction of certain complaints made by sexually violent predators against certain licensed professionals

LIENS

SB 235 Modifies various provisions pertaining to manufactured homes and allows for the sale of deficiency waiver addendums with respect to certain loan transactions (VETOED)
SB 513 Modifies the filing requirements for certain real estate broker liens and requires builders to offer to install sprinklers in some instances
HB 269 Modifies laws relating to certificates of ownership

MANUFACTURED HOUSING

SB 235 Modifies various provisions pertaining to manufactured homes and allows for the sale of deficiency waiver addendums with respect to certain loan transactions (VETOED)
HB 269 Modifies laws relating to certificates of ownership

MARRIAGE AND DIVORCE

HB 481 Modifies laws regarding courts, judicial proceedings, and other provisions

MEDICAID

HB 395 Modifies provisions relating to long-term care facilities

MEDICAL PROCEDURES AND PERSONNEL

HB 580 Establishes the Line of Duty Compensation Act

MENTAL HEALTH DEPARTMENT

SB 157 Codifies into law the five regional autism projects currently serving persons with autism
SB 435 Modifies provisions relating to contracts of the Department of Mental Health
HB 395 Modifies provisions relating to long-term care facilities
HB 525 Codifies into law the five regional Autism projects currently serving persons with Autism
HB 740 Extends the expiration date of various federal reimbursement allowances from 2009 to 2011.
HB 826 Allows the Department of Mental Health to contract with county jails to confine sexually violent predators who are civilly committed

MERCHANDISING PRACTICES

HB 698 Modifies signage requirements for certain donation receptacles

MILITARY AFFAIRS

HB 82 Modifies provisions of law authorizing an income tax exemption for certain retirement benefits and creates a six year phased-in income tax exemption for military retirement income

HB 427 Enacts various provisions related to veterans, military members, and their families

HB 678 Designates May 1 of each year as "Silver Star Families of America Day" to honor the wounded members of the United States armed forces

HB 861 Allows the Adjutant General to assign the number of assistant adjutants general that are authorized by National Guard Bureau rules and regulations rather than limiting the number to two

MINING AND OIL AND GAS PRODUCTION

HB 246 Modifies laws regarding surface mining and sand and gravel removal

MORTGAGES AND DEEDS

SB 235 Modifies various provisions pertaining to manufactured homes and allows for the sale of deficiency waiver addendums with respect to certain loan transactions (VETOED)

HB 836 Requires certain notices to occupants of residential property in cases of foreclosure before the new owner may bring an action seeking possession of the property

MOTELS AND HOTELS

HB 306 Requires the board of directors of a lake area business district to enter into an agreement with the Department of Revenue to collect transient guest tax revenues (VETOED)

MOTOR VEHICLES

SB 202 Modifies the law regarding the operation of a motorcycle, namely the assignment of fault for the operator (VETOED)

SB 355 Allows motor vehicle dealers, boat dealers, and powersport dealers to charge administrative fees associated with the sale or lease of certain vehicles and vessels under certain conditions

SB 368 Provides an affirmative defense to bicyclists and motorcyclists who run red lights under certain conditions

HB 89 Requires vehicles to yield the right-of-way to all pedestrians and bicyclists crossing in a crosswalk on a city or neighborhood street in Kansas City (VETOED)

HB 93 Exempts tractors used in tractor parades from certain width, length, height and license plate display regulations under certain circumstances

HB 253 Allows motorcycle headlamps to be wired to modulate either the upper beam or the lower beam from its maximum intensity to a lesser intensity if certain modulation standards are met

HB 269 Modifies laws relating to certificates of ownership

HB 644 Requires operators of salvage pool or salvage disposal sales, rather than sellers, who sell nonrepairable vehicles to foreign residents to complete certain statutory duties (VETOED)

HB 683 Modifies several provisions of law relating to transportation

NATURAL RESOURCES DEPARTMENT

SB 154 Authorizes nonprofit sewer companies to provide domestic water services in certain areas
HB 246 Modifies laws regarding surface mining and sand and gravel removal
HB 250 Modifies provisions pertaining to horseback riding on public land and the state soil and water conservation program
HB 283 Authorizes nonprofit sewer companies to provide domestic water services in certain areas
HB 661 Modifies provisions pertaining to programs administered by the Department of Natural Resources
HB 734 Modifies provisions pertaining to energy and water pollution
HB 751 Modifies provisions relating to the Missouri Propane Education and Research Council (VETOED)

NURSES

SB 152 Modifies definition of eligible student for nursing student loan program
SB 296 Modifies laws regarding cemeteries and cemetery operators, physician assistants, the board for architects, professional engineers, professional land surveyors, and landscape architects, dental care professionals, nurses, pharmacy, and mental health benefits
HB 247 Modifies provisions relating to review of advanced practice registered nurses by collaborating physicians and the definition of eligible student for the nursing student loan program

NURSING AND BOARDING HOMES

HB 395 Modifies provisions relating to long-term care facilities

PARKS AND RECREATION

HB 250 Modifies provisions pertaining to horseback riding on public land and the state soil and water conservation program

PHARMACY

SB 296 Modifies laws regarding cemeteries and cemetery operators, physician assistants, the board for architects, professional engineers, professional land surveyors, and landscape architects, dental care professionals, nurses, pharmacy, and mental health benefits
SB 394 Allows certain businesses to use terms such as drug store in their business name
HB 740 Extends the expiration date of various federal reimbursement allowances from 2009 to 2011.

PHYSICIANS

HB 247 Modifies provisions relating to review of advanced practice registered nurses by collaborating physicians and the definition of eligible student for the nursing student loan program

HB 866 Requires the destruction of certain complaints made by sexually violent predators against certain licensed professionals

POLITICAL SUBDIVISIONS

SB 232 Prohibits certain public agencies and political subdivisions from discrimination based on an individual
SB 242 Prohibits certain storm water management fees and provides an alternate procedure to approve bond issuance for a sewer subdistrict in Cass County (VETOED)
HB 246 Modifies laws regarding surface mining and sand and gravel removal

PRISONS AND JAILS

SB 36 Modifies provisions relating to forcible sexual offenses against children
SB 44 Modifies various provisions relating to private jails
SB 435 Modifies provisions relating to contracts of the Department of Mental Health
HB 747 Specifies that in order for a person to be guilty of the crime of sexual contact with a prisoner or offender, the prisoner or offender must be confined in a jail, prison, or correctional facility
HB 826 Allows the Department of Mental Health to contract with county jails to confine sexually violent predators who are civilly committed

PROPERTY, REAL AND PERSONAL

SB 179 Authorizes several real property interest conveyances to various entities
SB 231 Exempts landlords from liability for loss or damage to tenants
SB 235 Modifies various provisions pertaining to manufactured homes and allows for the sale of deficiency waiver addendums with respect to certain loan transactions (VETOED)
SB 398 Modifies property posting provisions
HB 246 Modifies laws regarding surface mining and sand and gravel removal
HB 537 Authorizes the Governor to convey a parcel of real property to the Missouri Highways and Transportation Commission for the new Mississippi River Bridge project
HB 842 Defines certain boat docks as real property for the purposes of real estate appraisers and modifies the definition of "commercial real estate" as it is used in licensing real estate brokers and agents
HB 895 Authorizes the Governor to convey all interest in an easement across state property located in Macon County to certain private property owners for obtaining access to their property

PUBLIC BUILDINGS

HB 918 Authorizes the Governor to convey state property known as the Mid-Missouri Mental Health Center to the University of Missouri-Columbia

PUBLIC OFFICERS

SB 37 Modifies provisions relating to the public defender system (VETOED)
HCR 5 Disapproves the Missouri Citizens

PUBLIC RECORDS, PUBLIC MEETINGS

HB 177 Gives the judge presiding in certain sexual offense cases discretion to disclose information regarding the defendant, which could be used to identify the victim, to avoid protecting the defendant
HB 265 Modifies provisions relating to teacher and school retirement systems

PUBLIC SAFETY DEPARTMENT

SB 26 Prohibits alcohol beverage vaporizers
SB 338 Modifies provisions relating to crime victims
HB 103 Modifies provisions relating to public safety
HB 132 Modifies provisions relating to liquor control
HB 485 Modifies the membership and quorum requirements for the Seismic Safety Commission

PUBLIC SERVICE COMMISSION

SB 154 Authorizes nonprofit sewer companies to provide domestic water services in certain areas
SB 376 Modifies provisions relating to energy and energy efficiency
HB 283 Authorizes nonprofit sewer companies to provide domestic water services in certain areas

RETIREMENT - LOCAL GOVERNMENT

HB 397 Modifies provisions of the Police Retirement System of St. Louis and the Police Retirement System of Kansas City
HB 593 Removes certain limitations on investments made by boards of trustees of police and firemen

RETIREMENT - SCHOOLS

SB 411 Makes certain employees of the Missouri Development Finance Board members of the Missouri State Employees (VETOED)
HB 265 Modifies provisions relating to teacher and school retirement systems
HB 373 Creates the GED Revolving Fund for the payment and expenses related to GED test administration (VETOED)

RETIREMENT - STATE

SB 411 Makes certain employees of the Missouri Development Finance Board members of the Missouri State Employees (VETOED)
HB 210 Allows a retired state employee to request that contributions to the state employees charitable campaign be withheld from their monthly benefit

RETIREMENT SYSTEMS AND BENEFITS - GENERAL

SB 161 Removes certain limitations on investments made by boards of trustees of police and firemen

HB 82 Modifies provisions of law authorizing an income tax exemption for certain retirement benefits and creates a six year phased-in income tax exemption for military retirement income

HB 210 Allows a retired state employee to request that contributions to the state employees charitable campaign be withheld from their monthly benefit

HB 593 Removes certain limitations on investments made by boards of trustees of police and firemen

REVENUE DEPARTMENT

SB 235 Modifies various provisions pertaining to manufactured homes and allows for the sale of deficiency waiver addendums with respect to certain loan transactions (VETOED)

SB 307 Modifies provisions of law regarding taxes to fund certain health care services

HB 205 Prohibits the sale of cigarettes in this state that have not been tested, certified, and marked as meeting certain performance standards

HB 269 Modifies laws relating to certificates of ownership

HB 299 Removes the cap on appropriations of nonresident entertainer and athlete tax revenues to the Missouri Arts Council

HB 306 Requires the board of directors of a lake area business district to enter into an agreement with the Department of Revenue to collect transient guest tax revenues (VETOED)

HB 361 Prohibits the Department of Revenue from amending its driver

HB 381 Requires Department of Revenue to implement new procedures for awarding fee office contracts

HB 400 Allows certain veterans to park in metered parking spaces for free if approved by local government

HB 644 Requires operators of salvage pool or salvage disposal sales, rather than sellers, who sell nonrepairable vehicles to foreign residents to complete certain statutory duties (VETOED)

HB 661 Modifies provisions pertaining to programs administered by the Department of Natural Resources

HB 683 Modifies several provisions of law relating to transportation

ROADS AND HIGHWAYS

SB 179 Authorizes several real property interest conveyances to various entities

SB 368 Provides an affirmative defense to bicyclists and motorcyclists who run red lights under certain conditions

HB 89 Requires vehicles to yield the right-of-way to all pedestrians and bicyclists crossing in a crosswalk on a city or neighborhood street in Kansas City (VETOED)

HB 91 Designates various highways and bridges within the state of Missouri

HB 93 Exempts tractors used in tractor parades from certain width, length, height and license plate display regulations under certain circumstances

HB 250 Modifies provisions pertaining to horseback riding on public land and the state soil and water conservation program

HB 253 Allows motorcycle headlamps to be wired to modulate either the upper beam or the lower beam from its maximum intensity to a lesser intensity if certain modulation standards are met

HB 359 Removes certain statutory restrictions on the current design-build highway project process to allow the state highways and transportation commission to enter into more design-build highway project contracts

HB 537 Authorizes Governor to convey a parcel of real property to the Missouri Highways and Transportation Commission for the new Mississippi River Bridge project
HB 683 Modifies several provisions of law relating to transportation
HB 685 Specifies that the Highway Patrol does not have to notify or be accompanied by the county sheriff when it serves certain search warrants
HB 867 Designates a portion of U. S. Highway 36 in DeKalb County as the "CW2 Matthew G. Kelley Memorial Highway"

SAINT LOUIS

SJR 5 Requires all assessors, except the Jackson County Assessor, to be elected
HB 397 Modifies provisions of the Police Retirement System of St. Louis and the Police Retirement System of Kansas City

SAINT LOUIS COUNTY

SJR 5 Requires all assessors, except the Jackson County Assessor, to be elected

SAVINGS AND LOAN

SB 152 Modifies definition of eligible student for nursing student loan program
SB 277 Authorizes financial institutions to assign fiduciary obligations relating to irrevocable life insurance trusts
HB 239 Modifies laws regarding the management of funds by the University of Missouri board of curators, charities, trustees of certain irrevocable trusts, and personal representatives and conservators of estates
HB 247 Modifies provisions relating to review of advanced practice registered nurses by collaborating physicians and the definition of eligible student for the nursing student loan program

SCIENCE AND TECHNOLOGY

SCR 2 Recognizes October 3rd of each year as Science Day
HB 152 Requires persons arrest for certain offenses to provide a biological sample for DNA profiling analysis

SECRETARY OF STATE

SB 294 Restricts corporate name reservation
SB 480 Creates the Missouri Board on Geographic Names and modifies the name and duties of the Second Capitol Commission
HB 427 Enacts various provisions related to veterans, military members, and their families
HB 481 Modifies laws regarding courts, judicial proceedings, and other provisions
HB 709 Modifies provisions relating to voter notification cards

SECURITIES

HB 239 Modifies laws regarding the management of funds by the University of Missouri board of curators, charities, trustees of certain irrevocable trusts, and personal representatives and conservators of estates

SEWERS AND SEWER DISTRICTS

SB 242 Prohibits certain storm water management fees and provides an alternate procedure to approve bond issuance for a sewer subdistrict in Cass County (VETOED)
HB 734 Modifies provisions pertaining to energy and water pollution

SOCIAL SERVICES DEPARTMENT

SB 307 Modifies provisions of law regarding taxes to fund certain health care services
SB 376 Modifies provisions relating to energy and energy efficiency
HB 395 Modifies provisions relating to long-term care facilities
HB 740 Extends the expiration date of various federal reimbursement allowances from 2009 to 2011

SOVEREIGN OR OFFICIAL IMMUNITY

HB 481 Modifies laws regarding courts, judicial proceedings, and other provisions

STATE DEPARTMENTS

SB 232 Prohibits certain public agencies and political subdivisions from discrimination based on an individual

STATE EMPLOYEES

SB 232 Prohibits certain public agencies and political subdivisions from discrimination based on an individual
SB 411 Makes certain employees of the Missouri Development Finance Board members of the Missouri State Employees (VETOED)
HB 210 Allows a retired state employee to request that contributions to the state employees charitable campaign be withheld from their monthly benefit
HB 231 Requires group health insurance policies issued to employers not covered by the federal COBRA law to provide terminated employees continuation coverage rights in the same manner as provided by the federal COBRA law

SUNSHINE LAW

HB 265 Modifies provisions relating to teacher and school retirement systems

SURVEYORS

SB 296 Modifies laws regarding cemeteries and cemetery operators, physician assistants, the board for architects, professional engineers, professional land surveyors, and landscape architects, dental care professionals, nurses, pharmacy, and mental health benefits

TAX CREDITS

HB 191 Creates various tax incentives for job development

HB 544 Requires the Commissioner of the Office of Administration to maintain the Missouri Accountability Portal, establishes the Joint Committee on Recovery Accountability and Transparency, and requires the Office of Administration to provide legislators a key to the Capitol dome (VETOED)
HB 802 Implements new median family income eligibility thresholds for persons living in owner-occupied units and rental units for purposes of receiving assistance under the Neighborhood Assistance Act

TAXATION AND REVENUE - GENERAL

SB 307 Modifies provisions of law regarding taxes to fund certain health care services
HB 148 Modifies provisions relating to county collectors and the collection of taxes (VETOED)
HB 306 Requires the board of directors of a lake area business district to enter into an agreement with the Department of Revenue to collect transient guest tax revenues (VETOED)
HB 481 Modifies laws regarding courts, judicial proceedings, and other provisions
HB 740 Extends the expiration date of various federal reimbursement allowances from 2009 to 2011

TAXATION AND REVENUE - INCOME

HB 82 Modifies provisions of law authorizing an income tax exemption for certain retirement benefits and creates a six year phased-in income tax exemption for military retirement income
HB 299 Removes the cap on appropriations of nonresident entertainer and athlete tax revenues to the Missouri Arts Council

TAXATION AND REVENUE - PROPERTY

SB 296 Modifies laws regarding cemeteries and cemetery operators, physician assistants, the board for architects, professional engineers, professional land surveyors, and landscape architects, dental care professionals, nurses, pharmacy, and mental health benefits
HJR 15 Exempts real property used by certain former prisoners of war as a homestead from property tax

TAXATION AND REVENUE - SALES AND USE

HB 191 Creates various tax incentives for job development
HB 306 Requires the board of directors of a lake area business district to enter into an agreement with the Department of Revenue to collect transient guest tax revenues (VETOED)

TELEVISION

HB 661 Modifies provisions pertaining to programs administered by the Department of Natural Resources

TERRORISM

HB 124 Modifies the scope and duration of the Joint Committee on Terrorism, Bioterrorism, and Homeland Security

TOBACCO PRODUCTS

HB 205 Prohibits the sale of cigarettes in this state that have not been tested, certified, and marked as meeting certain performance standards

TRANSPORTATION

SB 368 Provides an affirmative defense to bicyclists and motorcyclists who run red lights under certain conditions

HB 89 Requires vehicles to yield the right-of-way to all pedestrians and bicyclists crossing in a crosswalk on a city or neighborhood street in Kansas City (VETOED)

HB 93 Exempts tractors used in tractor parades from certain width, length, height and license plate display regulations under certain circumstances

HB 116 Modifies the laws regarding the crime of assault of a law enforcement officer, emergency personnel, or probation and parole officer and the crime of tampering with a judicial officer (VETOED)

HB 253 Allows motorcycle headlamps to be wired to modulate either the upper beam or the lower beam from its maximum intensity to a lesser intensity if certain modulation standards are met

HB 537 Authorizes the Governor to convey a parcel of real property to the Missouri Highways and Transportation Commission for the new Mississippi River Bridge project

HB 652 Defines the terms "certified mail" and "certified mail with return receipt requested" for the purposes of Missouri statutes where these terms are used

HB 683 Modifies several provisions of law relating to transportation

HB 752 Eliminates the position of Transportation Inspector General for the Joint Committee on Transportation Oversight and modifies the law regarding the leadership of the Highways and Transportation Commission

HB 867 Designates a portion of U. S. Highway 36 in DeKalb County as the "CW2 Matthew G. Kelley Memorial Highway"

HB 909 Authorizes the Governor to convey various state properties

TRANSPORTATION DEPARTMENT

SB 179 Authorizes several real property interest conveyances to various entities

HB 93 Exempts tractors used in tractor parades from certain width, length, height and license plate display regulations under certain circumstances

HB 359 Removes certain statutory restrictions on the current design-build highway project process to allow the state highways and transportation commission to enter into more design-build highway project contracts

HB 683 Modifies several provisions of law relating to transportation

HB 752 Eliminates the position of Transportation Inspector General for the Joint Committee on Transportation Oversight and modifies the law regarding the leadership of the Highways and Transportation Commission

TREASURER, STATE

SB 307 Modifies provisions of law regarding taxes to fund certain health care services
SB 313 Creates two separate funds within the state treasury to receive and retain funds provided under the American Recovery and Reinvestment Act of 2009
SB 542 Modifies provisions relating to the State Treasurer and expands eligibility for the Treasurer (VETOED)
HB 883 Modifies provisions relating to the State Treasurer and expands eligibility for the Treasurer

UNIFORM LAWS

HB 239 Modifies laws regarding the management of funds by the University of Missouri board of curators, charities, trustees of certain irrevocable trusts, and personal representatives and conservators of estates
HB 481 Modifies laws regarding courts, judicial proceedings, and other provisions

UTILITIES

SB 154 Authorizes nonprofit sewer companies to provide domestic water services in certain areas
SB 196 Modifies the procedure for detaching territory from a public water supply district
SB 376 Modifies provisions relating to energy and energy efficiency
HB 283 Authorizes nonprofit sewer companies to provide domestic water services in certain areas

VETERANS

HJR 15 Exempts real property used by certain former prisoners of war as a homestead from property tax
HB 111 Provides funeral establishments with immunity from liability with regard to disposal of unclaimed veterans
HB 400 Allows certain veterans to park in metered parking spaces for free if approved by local government
HB 427 Enacts various provisions related to veterans, military members, and their families
HB 678 Designates May 1 of each year as "Silver Star Families of America Day" to honor the wounded members of the United States armed forces

VICTIMS OF CRIME

SB 338 Modifies provisions relating to crime victims

WASTE - SOLID

HB 661 Modifies provisions pertaining to programs administered by the Department of Natural Resources

WATER RESOURCES AND WATER DISTRICTS

SB 196 Modifies the procedure for detaching territory from a public water supply district
HB 661 Modifies provisions pertaining to programs administered by the Department of Natural Resources
HB 734 Modifies provisions pertaining to energy and water pollution

WEAPONS

HB 62 Modifies various provisions relating to crime

WORKERS COMPENSATION

HB 580 Establishes the Line of Duty Compensation Act