HB 1032 [HB 1032]

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

Requires one of the seven members of the State Board of Health to be a chiropractic physician.

AN ACT to repeal section 191.400, RSMo, and to enact in lieu thereof one new section relating to the state board of health.

SECTION

A. Enacting clause.
191.400. State board of health — appointment — terms — qualifications — limitation on other employment, exception — vacancies — compensation — meetings.

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

SECTION A. ENACTING CLAUSE. — Section 191.400, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 191.400, to read as follows:

191.400. STATE BOARD OF HEALTH — APPOINTMENT — TERMS — QUALIFICATIONS — LIMITATION ON OTHER EMPLOYMENT, EXCEPTION — VACANCIES — COMPENSATION — MEETINGS. — 1. There is hereby created a "State Board of Health" which shall consist of seven members, who shall be appointed by the governor, by and with the advice and consent of the senate. No member of the state board of health shall hold any other office or employment under the state of Missouri other than in a consulting status relevant to the member's professional status, licensure or designation. Not more than four of the members of the state board of health shall be from the same political party.

2. Each member shall be appointed for a term of four years; except that of the members first appointed, two shall be appointed for a term of one year, two for a term of two years, two for a term of three years, and one for a term of four years. The successors of each shall be appointed for full terms of four years. No person may serve on the state board of health for more than two terms. The terms of all members shall continue until their successors have been duly appointed and qualified. Three of the persons appointed to the state board of health shall be persons who are physicians and surgeons licensed by the state board of registration for the healing arts of Missouri. One of the persons appointed to the state board of health shall be a dentist licensed by the Missouri dental board. **[**Three**] One of the persons appointed to the state board of health shall be a chiropractic physician licensed by the Missouri state board of chiropractic examiners. Two** of the persons appointed to the state board of health shall be persons other than those licensed by the state board of registration for the healing arts **[**or**],** the Missouri dental board**, or the Missouri state board of chiropractic examiners** and shall be representative of those persons, professions and businesses which are regulated and supervised by the department of health and senior services and the state board of health. If a vacancy occurs in the appointed membership, the governor may appoint a member for the remaining portion of the unexpired term created by the vacancy. If the vacancy occurs while the senate is not in session, the governor shall make a temporary appointment subject to the approval of the senate when it next convenes. The members shall receive actual and necessary expenses plus twenty-five dollars per day for each day of actual attendance.

3. The board shall elect from among its membership a **[**chairman**] chairperson** and a vice **[**chairman**] chairperson**, who shall act as **[**chairman**] chairperson** in his **or her** absence. The

board shall meet at the call of the **[**chairman**] chairperson**. The **[**chairman**] chairperson** may call meetings at such times as he **or she** deems advisable, and shall call a meeting when requested to do so by three or more members of the board.

Approved July 2, 2002

HB 1037 [CCS SCS HS HCS HB 1037, 1188, 1074 & 1271]

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

Eliminates statute of limitations for forcible rape and sodomy.

AN ACT to repeal section 556.036, RSMo, and to enact in lieu thereof one new section relating to statute of limitations for sexual offenses, with penalty provisions and an emergency clause.

SECTION
A. Enacting clause.
556.036. Time limitations.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Section 556.036, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 556.036, to read as follows:

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;

(2) For any misdemeanor, one year;

(3) For any infraction, six months.

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 either when an indictment is found or an information 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.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to revise the statute of limitations for certain sexual offenses, 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 6, 2002

HB 1041 [SS SCS HB 1041]

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

Expands purposes for which certain local tourism taxes can be used.

AN ACT to repeal sections 67.1360, 92.327, 92.336, 94.875, 407.610 and 620.467, RSMo, relating to tourism, and to enact in lieu thereof twenty new sections relating to the same subject, with an emergency clause for a certain section.

SECTION

A. Enacting clause.
67.1360. Transient guests to pay tax for funding the promotion of tourism, certain cities and counties, vote required.
67.1800. Definitions.
67.1802. District boundaries.
67.1804. Regional taxicab commission established, powers.
67.1806. Membership of commission, appointments.
67.1808. Powers of the commission.
67.1810. Duties of the commission — expenditures limited to fees collected.
67.1812. Taxicab code promulgated, procedure.
67.1814. Airport taxicabs, limitation on regulation by the commission.
67.1816. City and county ordinances in effect until taxicab code adopted.
67.1818. Licensure, taxicab code to include administrative procedures.
67.1820. Commission to establish annual budget to enforce taxicab code.
67.1822. Annual report submitted by commission to CEOs of city and county — CPA appointed by city and county for the commission.

67.1958. Modification of requirements by vote of the district.
92.327. Convention and tourism tax, submitted to voters — rate of tax, deposit in convention tourism fund, purpose.
92.336. Revenue received from tax, distribution, requirements — neighborhood tourist development fund established, purpose.
94.875. Tourism tax trust fund established, purpose — taxes to be deposited in fund — distribution — election required to impose tax.
311.481. Sunday liquor sales for airline clubs.
407.610. Promotion program, notice to attorney general, requirements — unlawful practices — failure to comply, penalty.
620.467. Division of tourism supplemental revenue fund created — use of fund — lapse to general revenue prohibited — funding — effective and expiration dates.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 67.1360, 92.327, 92.336, 94.875, 407.610 and 620.467, RSMo, are repealed and twenty new sections enacted in lieu thereof, to be known as sections 67.1360, 67.1800, 67.1802, 67.1804, 67.1806, 67.1808, 67.1810, 67.1812, 67.1814, 67.1816, 67.1818, 67.1820, 67.1822, 67.1958, 92.327, 92.336, 94.875, 311.481, 407.610 and 620.467, to read as follows:

67.1360. TRANSIENT GUESTS TO PAY TAX FOR FUNDING THE PROMOTION OF TOURISM, CERTAIN CITIES AND COUNTIES, VOTE REQUIRED. — The governing body of:

(1) A city with a population of more than seven thousand and less than seven thousand five hundred;

(2) A county with a population of over nine thousand six hundred and less than twelve thousand which has a total assessed valuation of at least sixty-three million dollars, if the county submits the issue to the voters of such county prior to January 1, 2003;

(3) A third class city which is the county seat of a county of the third classification without a township form of government with a population of at least twenty-five thousand but not more than thirty thousand inhabitants;

(4) Any fourth class city having, according to the last federal decennial census, a population of more than one thousand eight hundred fifty inhabitants but less than one thousand nine hundred fifty inhabitants in a county of the first classification with a charter form of government and having a population of greater than six hundred thousand but less than nine hundred thousand inhabitants;

(5) Any city having a population of more than three thousand but less than eight thousand inhabitants in a county of the fourth classification having a population of greater than forty-eight thousand inhabitants;

(6) Any city having a population of less than two hundred fifty inhabitants in a county of the fourth classification having a population of greater than forty-eight thousand inhabitants;

(7) Any fourth class city having a population of more than two thousand five hundred but less than three thousand inhabitants in a county of the third classification having a population of more than twenty-five thousand but less than twenty-seven thousand inhabitants;

(8) Any third class city with a population of more than three thousand two hundred but less than three thousand three hundred located in a county of the third classification having a population of more than thirty-five thousand but less than thirty-six thousand;

(9) Any county of the second classification without a township form of government and a population of less than thirty thousand;

(10) Any city of the fourth class in a county of the second classification without a township form of government and a population of less than thirty thousand;

(11) Any county of the third classification with a township form of government and a population of at least twenty-eight thousand but not more than thirty thousand;

(12) Any city of the fourth class with a population of more than one thousand eight hundred but less than two thousand in a county of the third classification with a township form of government and a population of at least twenty-eight thousand but not more than thirty thousand;

(13) Any city of the third class with a population of more than seven thousand two hundred but less than seven thousand five hundred within a county of the third classification with a population of more than twenty-one thousand but less than twenty-three thousand;

(14) Any fourth class city having a population of more than two thousand eight hundred but less than three thousand one hundred inhabitants in a county of the third classification with a township form of government having a population of more than eight thousand four hundred but less than nine thousand inhabitants;

(15) Any fourth class city with a population of more than four hundred seventy but less than five hundred twenty inhabitants located in a county of the third classification with a population of more than fifteen thousand nine hundred but less than sixteen thousand inhabitants;

(16) Any third class city with a population of more than three thousand eight hundred but less than four thousand inhabitants located in a county of the third classification with a population of more than fifteen thousand nine hundred but less than sixteen thousand inhabitants;

(17) Any fourth class city with a population of more than four thousand three hundred but less than four thousand five hundred inhabitants located in a county of the third classification without a township form of government with a population greater than sixteen thousand but less than sixteen thousand two hundred inhabitants;

(18) Any fourth class city with a population of more than two thousand four hundred but less than two thousand six hundred inhabitants located in a county of the first classification without a charter form of government with a population of more than fifty-five thousand but less than sixty thousand inhabitants;

(19) Any fourth class city with a population of more than two thousand five hundred but less than two thousand six hundred inhabitants located in a county of the third classification with a population of more than nineteen thousand one hundred but less than nineteen thousand two hundred inhabitants;

(20) Any county of the third classification without a township form of government with a population greater than sixteen thousand but less than sixteen thousand two hundred inhabitants; **[**or**]**

(21) Any county of the second classification with a population of more than forty-four thousand but less than fifty thousand inhabitants;

(22) Any third class city with a population of more than nine thousand five hundred but less than nine thousand seven hundred inhabitants located in a county of the first classification without a charter form of government and with a population of more than one hundred ninety-eight thousand but less than one hundred ninety-eight thousand two hundred inhabitants; or

(23) Any third class city with a population of more than nineteen thousand nine hundred but less than twenty thousand in a county of the first classification without a charter form of government and with a population of more than one hundred ninety-eight thousand but less than one hundred ninety-eight thousand two hundred inhabitants;

may impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels, motels, bed and breakfast inns and campgrounds and any docking facility which rents slips to recreational boats which are used by transients for sleeping, which shall be at least two percent, but not more than five percent per occupied room per night, except that such tax shall not become effective unless the governing body of the city or county submits to the voters of the city or county at a state general, primary or special election, a proposal to authorize the governing body of the city or county to impose a tax pursuant to the provisions of this section and section 67.1362. The tax authorized by this section and section 67.1362 shall be in addition to any charge paid to the owner or operator and shall be in addition to any and all taxes imposed by law

and the proceeds of such tax shall be used by the city or county solely for funding the promotion of tourism. Such tax shall be stated separately from all other charges and taxes.

67.1800. DEFINITIONS. — As used in sections 67.1800 to 67.1822, the following terms mean:

(1) "Airport authority", an entity established by city ordinance regarding governance of the airport with representatives appointed by the chief executives of the city, county, and other approximate counties within the region;

(2) "Airport", Lambert-St. Louis International Airport and any other airport located within the district and designated by a chief executive;

(3) "Airport taxicab", a taxicab which picks up passengers for hire at the airport, transports them to places they designate by no regular specific route, and the charge is made on the basis of distance traveled as indicated by the taximeter;

(4) "Chief executive", the mayor of the city and the county executive of the county;

(5) "City", a city not within a county;

(6) "Commission", the regional taxicab commission created in section 67.1804;

(7) "County", a county with a charter form of government and with more than one million inhabitants;

(8) "District", the geographical area encompassed by the regional taxicab commission;

(9) "Driver", an individual operator of a motor vehicle and may be an employee or independent contractor;

(10) "Hotel and restaurant industry", the group of enterprises actively engaged in the business of operating lodging and dining facilities for transient guests;

(11) "Municipality", a city, town, or village which has been incorporated in accordance with the laws of the state of Missouri;

(12) "On-call/reserve taxicab", any motor vehicle or nonmotorized carriage engaged in the business of carrying persons for hire on the streets of the district, whether the same is hailed on the streets by a passenger or is operated from a street stand, from a garage on a regular route, or between fixed termini on a schedule, and where no regular or specific route is traveled, passengers are taken to and from such places as they designate, and the charge is made on the basis of distance traveled as indicated by a taximeter;

(13) "Premium sedan", any motor vehicle engaged in the business of carrying persons for hire on the streets of the district which seats a total of five or less passengers in addition to a driver and which carries in each vehicle a manifest or trip ticket containing the name and pickup address of the passenger or passengers who have arranged for the use of the vehicle, and the charge is a prearranged fixed contract price quoted for transportation between termini selected by the passenger;

(14) "Taxicab", airport taxicabs, on-call/reserve taxicabs and premium sedans referred to collectively as taxicabs;

(15) "Taxicab company", the use of one or more taxicabs operated as a business carrying persons for hire;

(16) "Taximeter", a meter instrument or device attached to an on-call taxicab or airport taxicab which measures mechanically or electronically the distance driven and the waiting time upon which the fare is based.

67.1802. DISTRICT BOUNDARIES. — There is hereby established a "Regional Taxicab District", with boundaries which shall encompass any city not within a county and any county with a charter form of government and with more than one million inhabitants, including all incorporated municipalities located within such county.

67.1804. REGIONAL TAXICAB COMMISSION ESTABLISHED, POWERS. — For the regional taxicab district, there is hereby established a "Regional Taxicab Commission", which shall be a body politic and corporate vested with all the powers expressly granted to it herein and created for the public purposes of recognizing taxicab service as a public transportation system, improving the quality of the system, and exercising primary authority over the provision of licensing, control and regulations of taxicab services within the district.

67.1806. MEMBERSHIP OF COMMISSION, APPOINTMENTS. — 1. The regional taxicab commission shall consist of a chairperson plus eight members, four of whom shall be appointed by the chief executive of the city with approval of the board of aldermen, and four of whom shall be appointed by the chief executive of the county with approval of the governing body of the county. Of the eight members first appointed, one city appointee and one county appointee shall be appointed to a four-year term, two city appointees and two county appointees shall be appointed to a three-year term, and one city appointee and one county appointee shall be appointed to a one-year term. Members appointed after the expiration of these initial terms shall serve a four-year term. The chief executive officer of the city and the chief executive officer of the county shall alternately appoint a chairperson who shall serve a term of three years. The respective chief executive who appoints the members of the commission shall appoint members to fill unexpired terms resulting from any vacancy of a person appointed by that chief executive. All members and the chairperson must reside within the district while serving as a member. All members shall serve without compensation. Nothing shall prohibit a representative of the taxicab industry from being chairperson.

2. In making the eight appointments set forth in subsection 1 of this section, the chief executive officer of the city and the chief executive officer of the county shall collectively select four representatives of the taxicab industry. Such four representatives of the taxicab industry shall include at least one from each of the following:

(1) An owner or designated assignee of a taxicab company which holds at least one but no more than one hundred taxicab licenses;

(2) An owner or designated assignee of a taxicab company which holds at least one hundred one taxicab licenses or more;

(3) A taxicab driver, excluding any employee or independent contractor of a company currently represented on the commission.

The remaining five commission members shall be designated "at large" and shall not be a representative of the taxicab industry or be the spouse of any such person nor be an individual who has a direct material or financial interest in such industry. If any representative of the taxicab industry resigns or is otherwise unable to serve out the term for which such representative was appointed, a similarly situated representative of the taxicab industry shall be appointed to complete the specified term.

67.1808. POWERS OF THE COMMISSION. — The regional taxicab commission is empowered to:

(1) Develop and implement plans, policies, and programs to improve the quality of taxicab service within the district;

(2) Cooperate and collaborate with the hotel and restaurant industry to:

(a) Restrict the activities of those doormen employed by hotels and restaurants who accept payment from taxicab drivers or taxicab companies in exchange for the doormen's assistance in obtaining passengers for such taxicab drivers and companies; and

(b) Obtain the adherence of hotel shuttle vehicles to the requirement that they operate solely on scheduled trips between fixed termini and shall have authority to create guidelines for hotel and commercial shuttles;

(3) Cooperate and collaborate with other governmental entities, including the government of the United States, this state, and political subdivisions of this and other states;

(4) Cooperate and collaborate with governmental entities whose boundaries adjoin those of the district to assure that any taxicab or taxicab company neither licensed by the commission nor officed within its boundaries shall nonetheless be subject to those aspects of the taxicab code applicable to taxicabs operating within the district's boundaries;

(5) Contract with any public or private agency, individual, partnership, association, corporation or other entity, consistent with law, for the provision of services necessary to improve the quality of taxicab service within the district;

(6) Accept grants and donations from public or private entities for the purpose of improving the quality of taxicab service within the district;

(7) Execute contracts, sue, and be sued;

(8) Adopt a taxicab code to license and regulate taxicab companies and individual taxicabs within the district consistent with existing ordinances, and to provide for the enforcement of such code for the purpose of improving the quality of taxicab service within the district;

(9) Collect reasonable fees in an amount sufficient to fund the commission's licensing, regulatory, inspection, and enforcement functions; except that, for the first year after the regional taxicab commission's taxicab code becomes effective, any increase in fees shall not exceed twenty percent of the total fees collected and for subsequent years, the fees may be adjusted annually based on the rate of inflation according to the Consumer Price Index; and

(10) Establish accounts with appropriate banking institutions, borrow money, buy, sell, or lease property for the necessary functions of the commission.

67.1810. DUTIES OF THE COMMISSION — EXPENDITURES LIMITED TO FEES COLLECTED. — 1. To implement internally the powers which it has been granted, the commission shall:

(1) Elect its own vice chair, secretary, and such other officers as it deems necessary, make such rules as are necessary and consistent with the commission's powers;

(2) Provide for the expenditure of funds necessary for the proper administration of the commission's assigned duties;

(3) Convene monthly meetings of the entire commission or more often if deemed necessary by the commission members;

(4) Make decisions by affirmative vote of the majority of the commission; provided that each of the commissioners, including the chairperson, shall be entitled to one vote on each matter presented for vote and provided further that at least two city appointees and two county appointees, excluding the chairperson, must be included in each majority vote of the commission.

2. The commission shall not exceed or expend moneys in excess of any fees collected and any moneys provided to the commission pursuant to section 67.1820.

67.1812. TAXICAB CODE PROMULGATED, PROCEDURE. — Following the appointment of the commissioners, the regional taxicab commission shall meet for the purpose of establishing and adopting a district-wide taxicab code. In promulgating the taxicab code, the commission shall seek, to the extent reasonably practical, to preserve within the code provisions similar to those contained in chapter 8.98 of the city's municipal ordinance and chapter 806 of the county ordinances, both relating to taxicab issues such as licensing, regulation, inspection, and enforcement while avoiding unnecessary overlaps or inconsistencies between the ordinances. The commission shall present a draft of its district-wide taxicab code at public hearings, one of which will be held in the city and another in the county, following prior public notice of same. Notice of the public hearing

shall be given by publication at least twice, the first publication to be not more than thirty days and the second publication to be not more than ten days prior to each hearing in a newspaper of general circulation in the city and county. The commission shall adopt its taxicab code no later than one hundred eighty days after the appointment of the initial commission members. The commission shall have the power to amend the taxicab code from time to time following the initial adoption without the requirement of public notice or hearings.

67.1814. AIRPORT TAXICABS, LIMITATION ON REGULATION BY THE COMMISSION. — The commission shall further seek the input of the city, county, and airport authority generally regarding the taxicab code and, in particularly with reference to airport taxicabs, shall seek to ensure:

(1) Continuous, smooth airport service during any transition period from the current city and county operation to the new regional taxicab commission;

(2) The need of the airport authority to provide services at the airport's passenger terminals; and

(3) Airport authority involvement as to the servicing of the airport by airport taxicabs.

The commission shall not regulate the airport or airport taxicabs as to cab parking, circulation, cab stands, or passenger loading at the airport, or the payment by airport taxicabs for use of the airport or its facilities.

67.1816. CITY AND COUNTY ORDINANCES IN EFFECT UNTIL TAXICAB CODE ADOPTED. — The city and county's ordinances relating to taxicabs shall remain in full force and effect and be enforced as such by the city and county until one hundred twenty days after the regional taxicab commission adopts its taxicab code, at which time such city and county ordinances shall be deemed to be rescinded as well as ordinances adopted by municipalities within the county. Upon the effective date of the taxicab code:

(1) All licensing, regulations, inspections, inspections of taxicabs, and enforcement of the taxicab code shall rest exclusively with the regional taxicab commission;

(2) All taxicabs subject to the taxicab code shall be required to comply fully with the taxicab code, notwithstanding any previously issued licenses or certificates of convenience;

(3) All permits valid and effective as of August 28, 2002, shall remain valid and effective until the date of expiration or renewal of such permit; and

(4) All available taxicab licensing, inspection, and related fees previously collected and remaining unspent by other jurisdictions shall be immediately paid over the regional taxicab commission for its future use in administering the taxicab code.

The provisions of this section notwithstanding, existing municipal regulations relating to taxicab curb locations and curb fees as well as local business licenses which do not seek to regulate taxicab use shall not be preempted by the taxicab code except by agreement between the commission and applicable municipality.

67.1818. LICENSURE, TAXICAB CODE TO INCLUDE ADMINISTRATIVE PROCEDURES. — The commission shall establish as part of the taxicab code its own internal, administrative procedure for decisions involving the granting, denying, suspending, or revoking of licenses. The commission shall study and take into account rate and fee structures as well as the number of existing taxicab licenses within the district in considering new applications for such licenses. The internal procedures set forth in the taxicab code shall allow appeals from license-related decisions to be conducted by independent hearing officers.

67.1820. COMMISSION TO ESTABLISH ANNUAL BUDGET TO ENFORCE TAXICAB CODE. — The regional taxicab commission shall initially establish, subject to public hearings

thereon, an annual fee-generated budget required for the effective implementation and enforcement of the taxicab code, taking into account staffing requirements and related expenses as well as all revenue sources, including collection of fees previously paid to and unspent by other enforcing jurisdictions and future fees projected to be collected by the commission. Recognizing the elimination of duties and costs associated with the regulatory and enforcement functions of taxicab administration previously borne by the city and county and being assumed by the commission, the city and county shall have the authority to appropriate additional budgetary funding for the commission's needs.

67.1822. ANNUAL REPORT SUBMITTED BY COMMISSION TO CEOS OF CITY AND COUNTY — CPA APPOINTED BY CITY AND COUNTY FOR THE COMMISSION. — 1. Before the second Monday in April of each year, the regional taxicab commission shall make an annual report to the chief executive officers and to the governing bodies of the city and county stating the conditions of the commission as of the first day of January of that year, and the sums of money received and distributed by it during the preceding calendar year.

2. Before the close of the regional taxicab commission's first fiscal year and at the close of each fiscal year thereafter, the chief executives of the city and the county shall appoint one or more certified public accountants who shall annually examine the books, papers, documents, accounts, and vouchers of the commission, and who shall report thereon to the chief executives of the city and the county and to the regional taxicab commission. The commission shall produce and submit for examination all books, papers, documents, accounts, and vouchers, and shall in every way assist such certified public accountants in the performance of their duties pursuant to this section.

67.1958. MODIFICATION OF REQUIREMENTS BY VOTE OF THE DISTRICT. — A tourism community enhancement district may modify the requirements of sections 67.1956 and 67.1968 by an affirmative vote of the qualified voters of such district provided any such modifications are placed upon and approved by the qualified voters, on the same ballot as the sales tax provided in section 67.1959.

92.327. CONVENTION AND TOURISM TAX, SUBMITTED TO VOTERS — RATE OF TAX, DEPOSIT IN CONVENTION TOURISM FUND, PURPOSE. — 1. Any city may submit a proposition to the voters of such city:

(1) A tax not to exceed **[**six**]** **seven** and one-half percent of the amount of sales or charges for all sleeping rooms paid by the transient guests of hotels, motels and tourist courts situated within the city involved, and doing business within such city (excluding sales tax); and

(2) A tax not to exceed **[**one and three-fourths**]** **two** percent of the gross receipts derived from the retail sales of food by every person operating a food establishment.

2. Such taxes shall be known as the "convention and tourism tax" and when collected shall be deposited by the city treasurer in a separate fund to be known as the "Convention and Tourism Fund". The governing body of the city shall appropriate from the convention and tourism fund as provided in sections 92.325 to 92.340.

92.336. REVENUE RECEIVED FROM TAX, DISTRIBUTION, REQUIREMENTS — NEIGHBORHOOD TOURIST DEVELOPMENT FUND ESTABLISHED, PURPOSE. — The revenues received from the tax authorized under sections 92.325 to 92.340 shall be used exclusively for the advertising and promotion of convention and tourism business **and international trade** for the city from which it is collected, subject to the following requirements:

(1) Not less than forty percent of the proceeds of any tax imposed pursuant to subdivision (1) of section 92.327 shall be appropriated and paid to a general not for profit organization, with whom the city has contracted, and which is incorporated in the state of Missouri and located within the city limits of such city, established for the purpose of promoting such city as a

convention, visitors and tourist center with the balance to be used for operating expenses and capital expenditures, including debt service, for sports, convention, exhibition, trade and tourism facilities located within the city limits of the city;

(2) Not less than ten percent of the proceeds of any tax imposed pursuant to subdivision (1) of section 92.327 shall be appropriated to a fund that hereby shall be established and called the "Neighborhood Tourist Development Fund". Such moneys from said funds shall be paid to not-for-profit neighborhood organizations with whom the city has contracted, and which are incorporated in the state of Missouri and located within the city limits of such city established for the purpose of promoting such neighborhood through cultural, social, ethnic, historic, educational, and recreational activities in conjunction with promoting such city as **[**a**] an international trade,** convention, visitors and tourist center;

(3) The proceeds of any tax imposed pursuant to subdivision (2) of section 92.327 shall be used by the city only for capital expenditures, including debt service, for sports, convention, exhibition, trade and tourism facilities located within the city limits of the city.

94.875. TOURISM TAX TRUST FUND ESTABLISHED, PURPOSE — TAXES TO BE DEPOSITED IN FUND — DISTRIBUTION — ELECTION REQUIRED TO IMPOSE TAX. — All taxes authorized and collected under sections 94.870 to 94.881 shall be deposited by the political subdivision in a special trust fund to be known as the "Tourism Tax Trust Fund". The moneys in such tourism tax trust fund shall not be commingled with any other funds of the political subdivision **except as specifically provided herein**. The taxes collected shall be used, upon appropriation by the political subdivision, solely for the purpose of constructing, maintaining**,** or operating convention and tourism facilities, and at least twenty-five percent of such taxes collected shall be used for tourism marketing and promotional purposes**; except that in any city with a population of less than one thousand five hundred inhabitants, forty percent of such taxes collected may be transferred to such city's general revenue fund and the remaining thirty-five percent may be used for city capital improvements, pursuant to voter approval**. The moneys in the tourism tax trust fund of any city with a population of at least fifteen thousand located partially but not wholly within a county of the third classification with a population of at least thirty-nine thousand inhabitants shall be used solely for tourism marketing and promotional purposes. The tax authorized by section 94.870 shall be in addition to any and all other sales taxes allowed by law, but no ordinance or order imposing a tax under section 94.870 shall be effective unless the governing body of the political subdivision submits to the voters of the political subdivision at a municipal or state general, primary**,** or special election a proposal to authorize the governing body of the political subdivision to impose such tax.

311.481. SUNDAY LIQUOR SALES FOR AIRLINE CLUBS. — 1. Notwithstanding any other provisions of this chapter to the contrary, any person who possesses the qualifications required by this chapter, and who now or hereafter meets the requirements of and complies with the provisions of this chapter, 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 between the hours of 11:00 a.m. on Sunday and midnight on Sunday at retail for consumption on the premises of any airline club as described in the application. As used in this section, the term "airline club" shall mean an establishment located within an international airport and owned, leased, or operated by or on behalf of an airline, as a membership club and special services facility for passengers of such airline.

2. 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 each airline club in the same manner as they apply to establishments licensed pursuant to sections 311.085, 311.090 and 311.095, and in addition to all other fees required by law, a person licensed pursuant to 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 fees; except that the requirements other than fees pertaining to the sale of liquor by the drink on Sunday shall not apply.

407.610. PROMOTION PROGRAM, NOTICE TO ATTORNEY GENERAL, REQUIREMENTS — UNLAWFUL PRACTICES — FAILURE TO COMPLY, PENALTY. — 1. Any person who intends to use any promotional device or promotional program, including any sweepstakes, gift award, drawing or display booth, or any other such award or prize inducement items, to advertise, solicit sales or sell any time-share period, time-share plan, or time-share property in the state of Missouri **or sell any tourist-related services as defined pursuant to subsection 8 of this section where a consumer is required to provide any consideration other than monetary for such tourist-related services,** shall notify the Missouri attorney general in writing of this intention not less than fourteen days prior to release of such materials to the public. Included with such notice shall be an exact copy of each promotional device and promotional program to be used. Each promotional device, promotional program, and the notice thereof shall include the following information:

(1) A statement that the promotional device or promotional program is being used for the purpose of soliciting sales of a time-share period, time-share plan or time-share property;

(2) The date by which all such awards or other prize inducement items will be awarded;

(3) The method by which all such items will be awarded;

(4) The odds of being awarded such items;

(5) The manufacturer's suggested retail price of such items; and

(6) The names and addresses of each time-share plan or business entity participating in the promotional device or promotional program.

2. Any material change in a promotional device or promotional program previously submitted to the attorney general shall constitute a new promotional device or promotional program and shall be resubmitted to the attorney general with the notice thereof.

3. It shall be a violation of section 407.020 for any person to:

(1) Fail to comply with the provisions of the notice requirements of this section;

(2) Provide to the attorney general in the notice required by this section any information that is false or misleading in a material manner;

(3) Represent to any person that the filing of the notice of the promotional device or the promotional program constitute an endorsement or approval of the promotional device or promotional program by the attorney general;

(4) Engage in any act or practice declared to be unlawful by section 407.020 in connection with the use of any promotional device or promotional program or any advertisement, or sale of time-share plans, time-share periods or time-share property.

4. At least one of each prize featured in a promotional program shall be awarded by the day and year specified in the promotion. When a promotion promises the award of a certain number of each prize, such number of prizes shall be awarded by the date and year specified in the promotion. A record shall be maintained containing the names and addresses of winners of the prizes and the record shall be made available, upon request, to the public, upon the payment of reasonable reproduction costs. If a seller for any reason does not provide, at the time of a site visitation or visitation to a time-share sales office, the inducement gift which was promised, the seller shall deliver the gift, or an acceptable substitute therefor agreed upon in writing, to the prospective purchaser or purchaser no later than ten days following such visitation, or shall deliver instead of such gift cash in an amount equal to the retail value of the gift.

5. If a prospective purchaser or purchaser does not receive the gift or the cash as provided in subsection 4 of this section, he may bring an action under the provisions of section 407.025. For purposes of actions brought pursuant to this section, the term "actual damages", as used in section 407.025, shall mean at least five times the cash retail value of the most expensive gift offered, but shall not exceed one thousand dollars, in addition to such other actual damages as may be determined by the evidence.

6. The provisions of sections 407.600 to 407.630 shall not apply to a person who has acquired a time-share period for his own occupancy and later offers it for resale.

7. If the sale of a time-share plan or of time-share property is subject to the provisions of sections 407.600 to 407.630, such sale shall not be subject to the provisions of chapter 339, RSMo.

8. For the purposes of this section, the term "Tourist-related services" includes but is not limited to, selling or entering into contracts or other arrangements under which a purchaser receives a premium, coupon or contract for car rentals, lodging, transfers, entertainment, sightseeing or any service reasonably related to air, sea, rail, motor coach or other medium of transportation directly to the consumer.

620.467. DIVISION OF TOURISM SUPPLEMENTAL REVENUE FUND CREATED — USE OF FUND — LAPSE TO GENERAL REVENUE PROHIBITED — FUNDING — EFFECTIVE AND EXPIRATION DATES. — 1. The state treasurer shall annually **[**transfer**] deposit** an amount prescribed in this section out of the general revenue fund pursuant to section 144.700, RSMo, in a fund hereby created in the state treasury, to be known as the "Division of Tourism Supplemental Revenue Fund". The state treasurer shall administer the fund, and the moneys in such fund, except the appropriate percentage of any refund made of taxes collected under the provisions of chapter 144, RSMo, shall be used solely by the division of tourism of the department of economic development to carry out the duties and functions of the division as prescribed by law. Moneys **[**transferred to**] deposited in** the division of tourism supplemental revenue fund shall be in addition to a budget base in each fiscal year. For fiscal year 1994, such budget base shall be six million two hundred thousand dollars, and in each succeeding fiscal year the budget base shall be the prior fiscal year's general revenue base plus any additional appropriations made to the division of tourism, including one hundred percent of the prior fiscal year's **[**transfers**] deposits** made to the division of tourism supplemental revenue fund pursuant to this section. The general revenue base shall decrease by ten percent in each fiscal year following fiscal year 1994. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the division of tourism supplemental revenue fund at the end of any biennium shall not be **[**transferred**] deposited** to the credit of the general revenue fund.

2. In fiscal years 1995 to 2010, a portion of general revenue determined pursuant to this subsection, shall be **[**transferred**] deposited** to the credit of the division of tourism supplemental revenue fund pursuant to subsection 1 of this section. The director of revenue shall determine the amount **[**transferred**] deposited** to the credit of the division of tourism supplemental revenue fund in each fiscal year by computing the previous year's total appropriation into the division of tourism supplemental revenue fund and adding to such appropriation amount the total amount derived from the retail sale of tourist-oriented goods and services collected pursuant to the following sales taxes: state sales taxes; sales taxes collected pursuant to sections 144.010 to 144.430, RSMo, that are designated as local tax revenue to be deposited in the school district trust fund pursuant to section 144.701, RSMo; sales taxes collected pursuant to section 43(a) of article IV of the Missouri Constitution; and sales taxes collected pursuant to section 47(a) of article IV of the Missouri Constitution. If the increase in such sales taxes derived from the retail sale of tourist-oriented goods and services in the fiscal year three years prior to the fiscal year in which each **[**transfer**] deposit** shall be made is at least three percent over such sales taxes derived from the retail sale of tourist-oriented goods and services generated in the fiscal year four years prior to the fiscal year in which each **[**transfer**] deposit** shall be made, an amount equal to one-half of such sales taxes generated above a three percent increase shall be calculated by the director of revenue and the amount calculated shall be **[**transferred**] deposited** by the state treasurer to the credit of the division of tourism supplemental revenue fund.

3. Total **[**transfers to**] deposits in** the supplemental revenue fund in any fiscal year pursuant to subsections 1 and 2 of this section shall not exceed the amount **[**transferred**] deposited** into

the division of tourism supplemental revenue fund in the fiscal year immediately preceding the current fiscal year by more than three million dollars.

4. As used in this section, "sales of tourism-oriented goods and services", are those sales by businesses registered with the department of revenue under the following SIC Codes:

(1) SIC Code 5811;
(2) SIC Code 5812;
(3) SIC Code 5813;
(4) SIC Code 7010;
(5) SIC Code 7020;
(6) SIC Code 7030;
(7) SIC Code 7033;
(8) SIC Code 7041;
(9) SIC Code 7920;
(10) SIC Code 7940;
(11) SIC Code 7990;
(12) SIC Code 7991;
(13) SIC Code 7992;
(14) SIC Code 7996;
(15) SIC Code 7998;
(16) SIC Code 7999; and
(17) SIC Code 8420.

5. Prior to each appropriation from the division of tourism supplemental revenue fund, the division of tourism shall present to the committee on tourism, recreational and cultural affairs of the house of representatives and to the transportation and tourism committee of the senate, or their successors, a promotional marketing strategy including, but not limited to, targeted markets, duration of market plans, ensuing market strategies, and the actual and estimated investment return, if any, resulting therefrom.

6. This section shall become effective July 1, 1994. This section shall expire June 30, 2010.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to clarify the law relating to Sunday liquor sales in airline clubs, the enactment of section 311.481 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 311.481 of this act shall be in full force and effect upon its passage and approval.

Approved July 11, 2002

HB 1075 [HB 1075]

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

Allows owners of real property where vehicles have been abandoned to apply for certificate of title.

AN ACT to amend chapter 301, RSMo, by adding thereto one new section relating to the titling of certain property abandoned on privately owned real estate.

SECTION
A. Enacting clause.
301.193. Abandoned property, titling of, privately owned real estate, procedure.

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 301.193, to read as follows:

301.193. ABANDONED PROPERTY, TITLING OF, PRIVATELY OWNED REAL ESTATE, PROCEDURE. — 1. Any person who purchases or is the owner of real property on which vehicles, as defined in section 301.011, vessels or watercraft, as defined in section 306.010, RSMo, or outboard motors, as that term is used in section 306.530, RSMo, have been abandoned, without the consent of said purchaser or owner of the real property, may apply to the department of revenue for a certificate of title. Prior to making application for a certificate of title the owner of the real estate shall have the vehicle inspected by law enforcement pursuant to subsection 9 of section 301.190, and shall have law enforcement perform a check in the national crime information center and any appropriate statewide law enforcement computer to determine if the vehicle has been reported stolen and the name and address of the person to whom the vehicle was last titled and any lienholders of record. The owner or purchaser of the real estate shall, thirty days prior to making application for title, notify any owners or lienholders of record for the vehicle by certified mail that the owner intends to apply for a certificate of title from the director for the abandoned vehicle. The application for title shall be accompanied by:

(1) A statement explaining the circumstances by which the abandoned property came into the owner or purchaser's possession; a description of the abandoned property including the year, make, model, vehicle identification number and any decal or license plate that may be affixed to the vehicle; the current location of the abandoned property; and the retail value of the abandoned property;

(2) An inspection report of the abandoned property by a law enforcement agency pursuant to subsection 9 of section 301.190; and

(3) A copy of the thirty-day notice and certified mail receipt mailed to any owner and any person holding a valid security interest of record.

2. Upon receipt of the application and supporting documents, the director shall search the records of the department of revenue, or initiate an inquiry with another state, if the evidence presented indicated the abandoned property was registered or titled in another state, to verify the name and address of any owners and any lienholders. If the latest owner or lienholder was not notified the director shall inform the owner or purchaser of the real estate of the latest owner and lienholder information so that notice may be given as required by subsection 1 of this section. Any owner or lienholder receiving notification may protest the issuance of title by, within the thirty-day notice period and may file a petition to recover the vehicle, naming the owner of the real estate and serving a copy of the petition on the director of revenue. The director shall not be a party to such petition but shall, upon receipt of the petition, suspend the processing of any further certificate of title until the rights of all parties to the vehicle are determined by the court. Once all requirements are satisfied the director shall issue one of the following:

(1) An original certificate of title if the vehicle examination certificate, as provided in section 301.190, indicates that the vehicle was not previously in a salvaged condition or rebuilt;

(2) An original certificate of title designated as prior salvage if the vehicle examination certificate as provided in section 301.190 indicates the vehicle was previously in a salvaged condition or rebuilt;

(3) A salvage certificate of title designated with the words "salvage/abandoned property" or junking certificate based on the condition of the abandoned property as stated in the inspection report.

Approved July 3, 2002

HB 1078 [SCS HB 1078]

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

Authorizes sales tax for regional jail districts and associated court facilities.

AN ACT to amend chapter 221, RSMo, by adding thereto one new section authorizing a sales tax for regional jail districts and associated court facilities, with an expiration date.

SECTION
A. Enacting clause.
221.407. Regional jail district sales tax authorized, ballot language — special trust fund established — expiration date.

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

SECTION A. ENACTING CLAUSE. — Chapter 221, RSMo, is amended by adding thereto one new section, to be known as section 221.407, to read as follows:

221.407. REGIONAL JAIL DISTRICT SALES TAX AUTHORIZED, BALLOT LANGUAGE — SPECIAL TRUST FUND ESTABLISHED — EXPIRATION DATE. — 1. The commission of any regional jail district may impose, by order, a sales tax in the amount of one-eighth of one percent, one-fourth of one percent, three-eighths of one percent, or one-half of one percent on all retail sales made in such region which are subject to taxation pursuant to the provisions of sections 144.010 to 144.525, RSMo, for the purpose of providing jail services and court facilities and equipment for such region. The tax authorized by this section shall be in addition to any and all other sales taxes allowed by law, except that no order imposing a sales tax pursuant to this section shall be effective unless the commission submits to the voters of the district, on any election date authorized in chapter 115, RSMo, a proposal to authorize the commission to impose a tax.

2. The ballot of submission shall contain, but need not be limited to, the following language:

Shall the regional jail district of ..... (counties' names) impose a region-wide sales tax of ..... (insert amount) for the purpose of providing jail services and court facilities and equipment for the region?

[ ] 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 of the district voting thereon are in favor of the proposal, then the order and any amendment to such order shall be in effect on the first day of the second quarter immediately following the election approving the proposal. If the proposal receives less than the required majority, the commission shall have no power to impose the sales tax authorized pursuant to this section

unless and until the commission shall again have submitted another proposal to authorize the commission to impose the sales tax authorized by this section and such proposal is approved by the required majority of the qualified voters of the district voting on such proposal; however, in no event shall a proposal pursuant to this section be submitted to the voters sooner than twelve months from the date of the last submission of a proposal pursuant to this section.

3. All revenue received by a district from the tax authorized pursuant to this section shall be deposited in a special trust fund and shall be used solely for providing jail services and court facilities and equipment for such district for so long as the tax shall remain in effect.

4. Once the tax authorized by this section is abolished or terminated by any means, all funds remaining in the special trust fund shall be used solely for providing jail services and court facilities and equipment for the district. Any funds in such special trust fund which are not needed for current expenditures may be invested by the commission in accordance with applicable laws relating to the investment of other county funds.

5. All sales taxes collected by the director of revenue pursuant to this section on behalf of any district, less one percent for cost of collection which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds as provided in section 32.087, RSMo, shall be deposited in a special trust fund, which is hereby created, to be known as the "Regional Jail District Sales Tax Trust Fund". The moneys in the regional jail district sales tax trust fund shall not be deemed to be state funds and shall not be commingled with any funds of the state. The director of revenue shall keep accurate records of the amount of money in the trust fund which was collected in each district imposing a sales tax pursuant to this section, and the records shall be open to the inspection of officers of each member county and the public. Not later than the tenth day of each month the director of revenue shall distribute all moneys deposited in the trust fund during the preceding month to the district which levied the tax. Such funds shall be deposited with the treasurer of each such district, and all expenditures of funds arising from the regional jail district sales tax trust fund shall be paid pursuant to an appropriation adopted by the commission and shall be approved by the commission. Expenditures may be made from the fund for any function authorized in the order adopted by the commission submitting the regional jail district tax to the voters.

6. The director of revenue may authorize the state treasurer to make refunds from the amounts in the trust fund and credited to any district for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such districts. If any district abolishes the tax, the commission shall notify the director of revenue of the action at least ninety days prior to the effective date of the repeal, and the director of revenue 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 of revenue shall remit the balance in the account to the district and close the account of that district. The director of revenue shall notify each district in each instance of any amount refunded or any check redeemed from receipts due the district.

7. Except as provided in this section, all provisions of sections 32.085 and 32.087, RSMo, shall apply to the tax imposed pursuant to this section.

8. The provisions of this section shall expire September 30, 2015.

Approved July 11, 2002

HB 1086 [HB 1086]

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

Requires personal information related to accounts established within Missouri higher education savings account program shall be confidential.

AN ACT to amend chapter 166, RSMo, by adding thereto one new section relating to the privacy of personal information of participants in the Missouri higher education savings program.

SECTION
A. Enacting clause.
166.456. Confidentiality of information.

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

SECTION A. ENACTING CLAUSE. — Chapter 166, RSMo, is amended by adding thereto one new section, to be known as section 166.456, to read as follows:

166.456. CONFIDENTIALITY OF INFORMATION. — All personally identifiable information concerning participants and beneficiaries of accounts established within the Missouri higher education savings program pursuant to sections 166.400 to 166.456 shall be confidential, and any disclosure of such information shall be restricted to purposes directly connected with the administration of the program.

Approved June 28, 2002

HB 1093 [SCS HB 1093, 1094, 1159, 1204, 1242, 1272, 1391, 1397, 1411, 1624, 1632, 1714, 1755, 1778, 1779, 1852, 1862, 2025 & 2123]

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

Creates special license plates for MO-AG Businesses.

AN ACT to repeal section 301.469, RSMo, relating to special license plates and to enact in lieu thereof twenty-five new sections relating to the same subject.

SECTION
A. Enacting clause.
301.469. Missouri conservation heritage foundation, special license plate — application, procedure, design, fee.
301.481. Missouri 4-H special license plate, application, fee.
301.2999. Limitation on special license plates, organization authorizing use of its emblem for a fee.
301.3065. MO-AG Businesses special license plate, application, fee.
301.3080. Rotary International special license plate, application, fee.
301.3082. Hearing Impaired Kids Endowment Fund, Inc., special license plate, application, fee.
301.3084. Friends of the Missouri Women's Council special license plate, application, fee.
301.3086. Delta Sigma Theta and Omega Psi Phi special license plates, application, fee.
301.3088. Prevent Disasters in Missouri, September 11, 2001, special license plate, application, fee.
301.3089. Missouri Coroners' and Medical Examiners' Association special license plate, application, fee.
301.3092. Friends of Arrow Rock special license plate, application, fee.

301.3093. Eagle Scout special license plate, application, fee.
301.3094. Tribe of Mic-O-Say special license plate, application, fee.
301.3095. Order of the Arrow special license plate, application, fee.
301.3096. Missouri Federation of Square and Round Dance Clubs special license plate, application, fee.
301.3097. God Bless America special license plate, application, fee.
301.3098. Kingdom of Calontir special license plate, application, fee.
301.3099. Missouri Civil War Reenactors Association special license plate, application, fee.
301.3101. Missouri-Kansas-Nebraska Conference of Teamsters special license plate, application, fee.
301.3102. St. Louis College of Pharmacy special license plate, application, fee.
301.3103. Fraternal Order of Police special license plate, application, fee.
301.3109. Certain Greek organizations special license plates, application, fee (Kappa Alpha Psi, Iota Phi Theta, Sigma Gamma Rho, Alpha Phi Alpha, Alpha Kappa Alpha, Zeta Phi Beta, Phi Beta Sigma).
301.3117. Jefferson National Parks Association special license plate, application, fee.
301.3118. Missouri Elks Association special license plate, application, fee.
301.3119. Missouri Travel Council special license plate, application, fee.

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

SECTION A. ENACTING CLAUSE. — Section 301.469, RSMo, is repealed and twenty-five new sections enacted in lieu thereof, to be known as sections 301.469, 301.481, 301.2999, 301.3065, 301.3080, 301.3082, 301.3084, 301.3086, 301.3088, 301.3089, 301.3092, 301.3093, 301.3094, 301.3095, 301.3096, 301.3097, 301.3098, 301.3099, 301.3101, 301.3102, 301.3103, 301.3109, 301.3117, 301.3118 and 301.3119, to read as follows:

301.469. MISSOURI CONSERVATION HERITAGE FOUNDATION, SPECIAL LICENSE PLATE — APPLICATION, PROCEDURE, DESIGN, FEE. — 1. Any vehicle owner may receive license plates as prescribed in this section, for **[**issuance either to passenger motor vehicles subject to the registration fees provided in section 301.055, or for a local or nonlocal property-carrying commercial motor vehicle licensed for a gross weight not in excess of twelve thousand pounds as provided in section 301.057 or 301.058**] 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**, after an annual payment of an emblem-use authorization fee to the Missouri conservation heritage foundation. The foundation hereby authorizes the use of its official emblems to be affixed on multiyear personalized license plates as provided in this section. Any vehicle owner may annually apply for the use of the emblems.

2. Upon annual application and payment of a twenty-five dollar emblem-use authorization fee to the Missouri conservation heritage foundation, the foundation shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented to the director of the department of revenue at the time of registration of a motor vehicle.

3. Upon presentation of the annual statement, payment of a fifteen-dollar fee in addition to the regular registration fees and documents which may be required by law, the director of the department of revenue shall issue a personalized license plate, which shall bear an emblem of the Missouri conservation heritage foundation in a form prescribed by the director, to the vehicle owner. 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. A vehicle owner, who was previously issued a plate with a Missouri conservation heritage foundation 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 foundation emblem, as otherwise provided by law.

5. The director of the department of revenue may promulgate rules and regulations for the administration of this section. 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 this section shall become effective only if it has been promulgated pursuant to the provisions of chapter 536, RSMo. All

rulemaking authority delegated prior to August 28, 1999, is of no force and effect; however, 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.

301.481. MISSOURI 4-H SPECIAL LICENSE PLATE, APPLICATION, FEE. — Any person who is a member or a former member or whose child is a member of the Missouri 4-H may apply for motor vehicle license plates for any vehicle such person owns, either solely or jointly, other than a commercial or apportioned motor vehicle licensed in excess of eighteen thousand pounds gross weight. Any such person shall make application for the license plates on a form provided by the director of revenue and furnish such proof as a member or member's parent of the Missouri 4-H as the director may require. Upon payment of a fifteen dollar fee, presentation of all documents and payment of all other fees required by law, the director shall issue license plates bearing letters or numbers or a combination thereof as determined by the advisory committee established in section 301.129, with the words "MISSOURI 4-H" 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 bear an image of the Missouri 4-H emblem. No additional fee shall be charged for personalization of plates issued pursuant to this section. There shall be no limit on the number of plates issued pursuant to this section.

301.2999. LIMITATION ON SPECIAL LICENSE PLATES, ORGANIZATION AUTHORIZING USE OF ITS EMBLEM FOR A FEE. — 1. No specialized license plate shall be issued after January 1, 2002, by the director of revenue which proposes to raise revenue or funds for an organization which authorizes the use of its emblem for a fee unless such organization:

(1) Is a governmental entity; or

(2) Is an organization registered pursuant to section 501(c) of the 1986 Internal Revenue Code, as amended, or an equivalent law which applies to such not-for-profit entity.

2. Any organization which raises revenues or funds through the sponsorship of specialized license plates issued pursuant to the provisions of this chapter enacted prior to January 1, 2002, shall have until January 1, 2004, to comply with the provisions of this section. The director shall verify that all organizations that are paid fees for the use of their emblems for specialized license plates are complying with the provisions of this section. The director shall require all organizations which receive revenues or funds for the use of their emblems to verify their status as a governmental entity or a qualified not-for-profit organization as provided in subsection 1 of this section, in a format prescribed by the director. Any specialized license plates issued prior to January 1, 2004, shall remain valid for the period in which they were registered, regardless of the status of the sponsoring organization.

3. Any moneys received by an organization authorizing the use of its emblem or insignia for a specialized license plate shall only be used by such organization to carry out the organization's charitable mission. Such moneys shall not be used for salaries or any administrative costs of the organization. No individual member of any organization authorizing the use of its emblem or insignia for a specialized license plate shall derive any personal pecuniary gain from any fees the organization collects.

4. 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 the director has received one hundred applications for such plates. An organization shall be exempt from the provisions of this subsection if it deposits with the department of revenue the actual cost of producing the initial issuance of such plates and the director receives at least ten applications for such plates.

5. The provisions of this section shall not apply to any special license plates which bears the emblem or insignia of a branch of the U.S. military or a military organization.

301.3065. MO-AG BUSINESSES SPECIAL LICENSE PLATE, APPLICATION, FEE. — 1. Any motor vehicle owner who has obtained an annual emblem-use authorization statement from the MO-AG Businesses may apply for MO-AG Businesses license plates for any motor 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. MO-AG Businesses hereby authorize the use of their official emblem to be affixed on multiyear personalized license plates as provided in this section. Any motor vehicle owner may annually apply for the use of the emblem.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to MO-AG Businesses, MO-AG Businesses shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented to the department of revenue at the time of registration of a motor vehicle.

3. Upon presentation of the annual statement and payment of a fifteen dollar fee in addition to the regular registration fees and presentation of other documents which may be required by law, the department of revenue shall issue a personalized license plate to the vehicle owner, which shall bear the emblem of the MO-AG Businesses in a form prescribed by the director. 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. A fee for the issuance of personalized license plates issued pursuant to section 301.144, shall not be required for plates issued pursuant to this section.

4. A vehicle owner, who was previously issued a plate with the MO-AG Businesses 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 MO-AG Businesses emblem, as otherwise provided by law.

5. The director of revenue may promulgate rules and regulations for the administration 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 chapter 536, RSMo.

301.3080. ROTARY INTERNATIONAL SPECIAL LICENSE PLATE, APPLICATION, FEE. — 1. Any member of Rotary International may receive special license plates as prescribed by this section, 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, after an annual payment of an emblem-use authorization fee to Rotary International of which the person is a member. Rotary International hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates as provided in this section. Any contribution to Rotary International derived from this section, except reasonable administrative costs, shall be used solely for the purposes of Rotary International. Any member of Rotary International may annually apply for the use of the emblem.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to Rotary International, the organization shall issue to the vehicle owner,

without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear the emblem of Rotary International. 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.

3. A vehicle owner, who was previously issued a plate with the Rotary International 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 Rotary International emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by 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 chapter 536, RSMo.

301.3082. HEARING IMPAIRED KIDS ENDOWMENT FUND, INC., SPECIAL LICENSE PLATE, APPLICATION, FEE. — 1. Any person may receive special license plates as prescribed by this section 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, after an annual payment of an emblem-use authorization fee to the Hearing Impaired Kids Endowment Fund, Inc. The Hearing Impaired Kids Endowment Fund, Inc., hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates as provided in this section. Any contribution to the Hearing Impaired Kids Endowment Fund, Inc., derived from this section, except reasonable administrative costs, shall be used solely for the benefit of children who are residents of Missouri.

2. Upon annual application and payment of a twenty-five dollar emblem-use authorization fee to the Hearing Impaired Kids Endowment Fund, Inc., that organization shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear the emblem of the Hearing Impaired Kids Endowment Fund, Inc. 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.

3. A vehicle owner, who was previously issued a plate with the Hearing Impaired Kids Endowment Fund, Inc., 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 Hearing Impaired Kids Endowment Fund, Inc., emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by 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 chapter 536, RSMo.

301.3084. FRIENDS OF THE MISSOURI WOMEN'S COUNCIL SPECIAL LICENSE PLATE, APPLICATION, FEE. — 1. Any person may receive special license plates as prescribed by this section, 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, after an annual contribution of an emblem-use authorization fee to the Friends of the Missouri Women's Council. Any contribution to the Friends of the Missouri Women's Council pursuant to this section, except reasonable administrative costs, shall be designated for the sole purpose of providing breast cancer services, including but not limited to screening, treatment, staging, and follow-up services. The Friends of the Missouri Women's Council hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates as provided in this section. Any person 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 Friends of the Missouri Women's Council, the organization shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear a graphic design depicting the breast cancer awareness pink ribbon symbol with the words "Breast Cancer Awareness" forming an oval around the symbol, and shall bear the words "MISSOURI WOMEN'S COUNCIL" 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. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. A vehicle owner, who was previously issued a plate with a breast cancer awareness 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 emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by 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 chapter 536, RSMo.

301.3086. DELTA SIGMA THETA AND OMEGA PSI PHI SPECIAL LICENSE PLATES, APPLICATION, FEE. — 1. Any member of the Delta Sigma Theta or Omega Psi Phi Greek organizations at any college or university within this state may apply for special motor vehicle license plates for any 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, after an annual payment of an emblem-use authorization fee to the appropriate organization. Delta Sigma Theta and Omega Psi Phi hereby authorize the use of their official emblem to be affixed on multiyear personalized license plates as provided in this section. Any contribution to Delta Sigma Theta or Omega Psi Phi derived from this section, except reasonable administrative costs, shall be used solely for the purposes of those organizations. Any member of Delta Sigma Theta or Omega Psi Phi may annually apply for the use of the organization's emblem.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to Delta Sigma Theta or Omega Psi Phi, the organization shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which

shall bear the emblem of Delta Sigma Theta or Omega Psi Phi. 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.

3. A vehicle owner, who was previously issued a plate with the Delta Sigma Theta or Omega Psi Phi 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 Delta Sigma Theta or Omega Psi Phi emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by 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 chapter 536, RSMo.

301.3088. PREVENT DISASTERS IN MISSOURI, SEPTEMBER 11, 2001, SPECIAL LICENSE PLATE, APPLICATION, FEE. — 1. Any person who wishes to pay tribute to the disaster relief efforts made in the aftermath of the events of September 11, 2001, may apply for special license plates as prescribed by this section, 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, after payment of an annual contribution to the American Red Cross. Any contribution to the American Red Cross derived from this section, except reasonable administrative costs, shall be deposited in and used solely for the purposes of the Missouri state service delivery area single family disaster fund. Any person may annually apply for such special license plates.

2. Upon annual application and payment of a twenty-five dollar contribution to the American Red Cross disaster relief fund, the organization shall issue to the vehicle owner, without further charge, an annual contribution statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual contribution statement, payment of a fifteen dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate herein described. Such license plates shall have the words "PREVENT DISASTERS IN MISSOURI" in lieu of the words "SHOW-ME STATE" and shall have a white background with a blue and red configuration at the discretion of the advisory committee established in section 301.129. The license plates shall be inscribed with the image of an American flag, and further 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. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. A vehicle owner, who was previously issued a special license plate pursuant to this section but who does not provide an annual contribution statement at a subsequent time of registration, shall be issued a new plate which does not bear the design as described in subsection 2 of this section, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by 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 chapter 536, RSMo.

301.3089. MISSOURI CORONERS' AND MEDICAL EXAMINERS' ASSOCIATION SPECIAL LICENSE PLATE, APPLICATION, FEE. — 1. Any person who is a member in good standing of the Missouri Coroners' and Medical Examiners' Association, after payment of an

emblem-use authorization fee to the Missouri Coroners' and Medical Examiners' Association, may apply for coroners' office 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 Missouri Coroners' and Medical Examiners' Association hereby authorizes the use of its official emblem to be affixed on multiyear license plates as provided in this section.

2. Upon annual application and payment of a twenty-five dollar emblem use contribution to the Missouri Coroners' and Medical Examiners' Association, the Missouri Coroners' and Medical Examiners' Association shall issue to a member, without further charge, an emblem use authorization statement which shall be presented by the member to the department of revenue at the time of registration of a motor vehicle. Any contribution to the Missouri Coroners' and Medical Examiners' Association derived from this section, except reasonable administrative costs, shall be used for the purpose of promoting and supporting the objectives of the Missouri Coroners' and Medical Examiners' Association.

3. Upon presentation of the annual statement, payment of a fifteen-dollar fee in addition to the regular registration fees and presentation of documents required by law, the department of revenue shall issue a license plate to the member, which shall bear the emblem of the Missouri Coroners' and Medical Examiners' Association, the six-point star which is the universally recognized symbol for law enforcement, and the words "CORONERS' OFFICE" in place of the words "SHOW-ME STATE". The director of revenue shall annually set aside personalized license plates bearing each member's designated number to be issued to each member of the Missouri Coroners' and Medical Examiners' Association who meets all requirements established by this section. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates issued pursuant to this section. The license plate authorized by this section shall use a process to ensure that the emblem shall be displayed upon the license plate in the clearest and most attractive manner possible. Such license plates shall be made with fully reflective material with a common color scheme and design and shall be aesthetically attractive, as prescribed by section 301.130.

4. License plates issued pursuant to this section shall be held by the appropriate member of the Missouri Coroners' and Medical Examiners' Association only while such person remains a member in good standing of the Missouri Coroners' and Medical Examiners' Association. Within fifteen days of the loss of member in good standing status, the member shall surrender the license plates issued pursuant to this section to the director of revenue, who shall make them available to the succeeding member of the Missouri Coroners' and Medical Examiners' Association.

301.3092. FRIENDS OF ARROW ROCK SPECIAL LICENSE PLATE, APPLICATION, FEE. — 1. Any member of the organization known as Friends of Arrow Rock may receive special license plates as prescribed by this section, 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, after an annual payment of an emblem-use authorization fee to Friends of Arrow Rock of which the person is a member. Friends of Arrow Rock hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates as provided in this section. Any contribution to Friends of Arrow Rock derived from this section, except reasonable administrative costs, shall be used solely for the purposes of Friends of Arrow Rock. Any member of Friends of Arrow Rock may annually apply for the use of the emblem.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to Friends of Arrow Rock, the organization shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented

by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear the emblem of Friends of Arrow Rock. 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.

3. A vehicle owner, who was previously issued a plate with the Friends of Arrow Rock 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 Friends of Arrow Rock emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by 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 chapter 536, RSMo.

301.3093. EAGLE SCOUT SPECIAL LICENSE PLATE, APPLICATION, FEE. — 1. Any Eagle Scout or parents of an Eagle Scout may receive special license plates as prescribed by this section, 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, after an annual payment of an emblem-use authorization fee to the Boy Scouts of America Council of which the person is a member or the parent of a member. The Boy Scouts of America hereby authorizes the use of its official Eagle Scout emblem to be affixed on multiyear personalized license plates as provided in this section. Any contribution to the Boy Scouts of America derived from this section, except reasonable administrative costs, shall be used solely for the purposes of the Boy Scouts of America. Any Eagle Scout or parent of an Eagle Scout may annually apply for the use of the emblem. An Eagle Scout or parent of an Eagle Scout may apply for the use of the emblem and pay the twenty-five dollar emblem-use authorization fee at any local district council in the state.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to the Boy Scouts of America, the organization shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear the Eagle Scout emblem. 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.

3. A vehicle owner, who was previously issued a plate with the Eagle Scout 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 Eagle Scout emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by 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 chapter 536, RSMo.

301.3094. TRIBE OF MIC-O-SAY SPECIAL LICENSE PLATE, APPLICATION, FEE. — 1. Any member of the Tribe of Mic-O-Say may receive special license plates as prescribed by this section, 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, after an annual payment of an emblem-use authorization fee to the Tribe of Mic-O-Say of which the person is a member. The Tribe of Mic-O-Say hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates as provided in this section. Any contribution to the Tribe of Mic-O-Say derived from this section, except reasonable administrative costs, shall be used solely for the purposes of the Tribe of Mic-O-Say. Any member of the Tribe of Mic-O-Say 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 Tribe of Mic-O-Say, the organization shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear the emblem of the Tribe of Mic-O-Say. 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.

3. A vehicle owner, who was previously issued a plate with the Tribe of Mic-O-Say 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 Tribe of Mic-O-Say emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by 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 chapter 536, RSMo.

301.3095. ORDER OF THE ARROW SPECIAL LICENSE PLATE, APPLICATION, FEE. — 1. Any member of the Order of the Arrow may receive special license plates as prescribed by this section, 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, after an annual payment of an emblem-use authorization fee to the Order of the Arrow of which the person is a member. The Order of the Arrow hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates as provided in this section. Any contribution to the Order of the Arrow derived from this section, except reasonable administrative costs, shall be used solely for the purposes of the Order of the Arrow. Any member of the Order of the Arrow 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 Order of the Arrow, the organization shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear the emblem of the Order of the Arrow. 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.

3. A vehicle owner, who was previously issued a plate with the Order of the Arrow 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 Order of the Arrow emblem, as otherwise provided by law. The director of

revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by 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 chapter 536, RSMo.

301.3096. MISSOURI FEDERATION OF SQUARE AND ROUND DANCE CLUBS SPECIAL LICENSE PLATE, APPLICATION, FEE. — 1. Any member of the Missouri Federation of Square and Round Dance Clubs may receive special license plates as prescribed by this section, 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, after an annual payment of an emblem-use authorization fee to the Missouri Federation of Square and Round Dance Clubs of which the person is a member. The Missouri Federation of Square and Round Dance Clubs hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates as provided in this section. Any contribution to the Missouri Federation of Square and Round Dance Clubs derived from this section, except reasonable administrative costs, shall be used solely for the purposes of the Missouri Federation of Square and Round Dance Clubs. Any member of the Missouri Federation of Square and Round Dance Clubs 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 Missouri Federation of Square and Round Dance Clubs, the organization shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear the emblem of the Missouri Federation of Square and Round Dance Clubs. 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.

3. A vehicle owner, who was previously issued a plate with the Missouri Federation of Square and Round Dance Clubs 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 Missouri Federation of Square and Round Dance Clubs emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by 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 chapter 536, RSMo.

301.3097. GOD BLESS AMERICA SPECIAL LICENSE PLATE, APPLICATION, FEE. — 1. Any vehicle owner may apply for "God Bless America" license plates for any motor 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. Upon making a ten-dollar contribution to the World War II memorial fund the vehicle owner may apply for the "God Bless America" plate. If the contribution is made directly to the Missouri veterans' commission they shall issue the individual making the contribution a receipt, verifying the contribution, that may be used to apply for the "God Bless America" license plate. If the contribution is made directly to the director of revenue pursuant to section 301.3031, the director shall note the contribution and the owner may then apply for the "God Bless America" plate. The applicant for such plate must pay a fifteen-dollar fee in addition to the regular registration fees and present any other documentation required by law for each set of "God Bless America" plates issued

pursuant to this section. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates issued pursuant to this section. The "God Bless America" plate shall bear the emblem of the American flag in a form prescribed by the director of revenue and shall have the words "GOD BLESS AMERICA" 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.

2. The director of revenue may promulgate rules and regulations for the 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, 2002, shall be invalid and void.

301.3098. KINGDOM OF CALONTIR SPECIAL LICENSE PLATE, APPLICATION, FEE. — 1. Any member of the Kingdom of Calontir may receive special license plates as prescribed by this section, 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, after an annual payment of an emblem-use authorization fee to the Kingdom of Calontir, a subdivision of the Society for Creative Anachronism, of which the person is a member. The Kingdom of Calontir hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates as provided in this section. Any contribution to the Kingdom of Calontir derived from this section, except reasonable administrative costs, shall be used solely for the purposes of the Kingdom of Calontir. Any member of the Kingdom of Calontir 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 Kingdom of Calontir, the organization shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear the emblem of the Kingdom of Calontir. 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. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. A vehicle owner, who was previously issued a plate with the Society for Creative Anachronism 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 Society for Creative Anachronism emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by 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 chapter 536, RSMo.

301.3099. MISSOURI CIVIL WAR REENACTORS ASSOCIATION SPECIAL LICENSE PLATE, APPLICATION, FEE. — 1. Any member of the Missouri Civil War Reenactors Association may receive special license plates as prescribed by this section, 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, after an annual payment of an emblem-use authorization fee to the Missouri Civil War Reenactors Association of which the person is a member. The Missouri Civil War Reenactors Association hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates as provided in this section. Any contribution to the Missouri Civil War Reenactors Association derived from this section, except reasonable administrative costs, shall be used solely for the purposes of the Missouri Civil War Reenactors Association. Any member of the Missouri Civil War Reenactors Association 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 Missouri Civil War Reenactors Association, the organization shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear the emblem of the Missouri Civil War Reenactors Association. 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. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. A vehicle owner, who was previously issued a plate with the Missouri Civil War Reenactors Association 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 Missouri Civil War Reenactors Association emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by 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 chapter 536, RSMo.

301.3101. MISSOURI-KANSAS-NEBRASKA CONFERENCE OF TEAMSTERS SPECIAL LICENSE PLATE, APPLICATION, FEE. — 1. Any member of the Missouri-Kansas-Nebraska Conference of Teamsters may receive special license plates as prescribed by this section, 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, after an annual payment of an emblem-use authorization fee to the Missouri-Kansas-Nebraska Conference of Teamsters of which the person is a member. The Missouri-Kansas-Nebraska Conference of Teamsters hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates as provided in this section. Any contribution to the Missouri-Kansas-Nebraska Conference of Teamsters derived from this section, except reasonable administrative costs, shall be used solely for the purposes of the Missouri-Kansas-Nebraska Conference of Teamsters. Any member of the Missouri-Kansas-Nebraska Conference of Teamsters 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 Missouri-Kansas-Nebraska Conference of Teamsters, the organization

shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear the emblem of the Missouri-Kansas-Nebraska Conference of Teamsters and the words "MKN Conference of Teamsters" 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. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. A vehicle owner, who was previously issued a plate with the Missouri- Kansas-Nebraska Conference of Teamsters 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 Missouri-Kansas- Nebraska Conference of Teamsters emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by 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 chapter 536, RSMo.

301.3102. ST. LOUIS COLLEGE OF PHARMACY SPECIAL LICENSE PLATE, APPLICATION, FEE. — 1. Any vehicle owner who has obtained an annual emblem-use authorization statement from the St. Louis College of Pharmacy may, subject to the registration fees provided in section 301.055, apply for St. Louis College of Pharmacy 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. The St. Louis College of Pharmacy hereby authorizes the use of its official emblem to be affixed on multiyear license plates as provided in this section. Any vehicle owner may annually apply for the use of the emblem. Any contribution to the St. Louis College of Pharmacy derived from this section, except reasonable administrative costs, shall be used solely for the purposes of the St. Louis College of Pharmacy.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to the St. Louis College of Pharmacy, the St. Louis College of Pharmacy shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the vehicle owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement and payment of a fifteen-dollar fee in addition to the regular registration fees and presentation of other documents which may be required by law, the department of revenue shall issue a license plate to the vehicle owner, which shall bear the emblem of the St. Louis College of Pharmacy in a form prescribed by the director, shall bear six letters or numbers and shall bear the words "ST. LOUIS COLLEGE OF PHARMACY" 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. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. A vehicle owner, who was previously issued a plate with the St. Louis College of Pharmacy 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 St. Louis College of Pharmacy emblem, as otherwise provided by

law. The director of revenue may promulgate rules and regulations for the administration 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 chapter 536, RSMo.

301.3103. FRATERNAL ORDER OF POLICE SPECIAL LICENSE PLATE, APPLICATION, FEE. — 1. Any member of the fraternal order of police of the state of Missouri may receive special license plates as prescribed by this section 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, after an annual payment of an emblem-use authorization fee to the fraternal order of police of the state of Missouri. The fraternal order of police of the state of Missouri hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates as provided in this section. Any contribution to the fraternal order of police of the state of Missouri derived from this section, except reasonable administrative costs, shall be used solely for the purposes of the fraternal order of police of the state of Missouri. Any member of the fraternal order of police of the state of Missouri 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 fraternal order of police of the state of Missouri, the fraternal order of police of the state of Missouri shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear the emblem of the fraternal order of police of the state of Missouri. 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. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. A vehicle owner who was previously issued a plate with the fraternal order of police of the state of Missouri 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 fraternal order of police of the state of Missouri emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by 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 chapter 536, RSMo.

301.3109. CERTAIN GREEK ORGANIZATIONS SPECIAL LICENSE PLATES, APPLICATION, FEE (KAPPA ALPHA PSI, IOTA PHI THETA, SIGMA GAMMA RHO, ALPHA PHI ALPHA, ALPHA KAPPA ALPHA, ZETA PHI BETA, PHI BETA SIGMA). — 1. Any current member or alumnus of the Kappa Alpha Psi, Iota Phi Theta, Sigma Gamma Rho, Alpha Phi Alpha, Alpha Kappa Alpha, Zeta Phi Beta, and Phi Beta Sigma Greek organizations at any college or university within this state may apply for special motor vehicle license plates for any 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, after an annual payment of an emblem-use authorization fee to the appropriate organization. Kappa Alpha Psi, Iota Phi Theta, Sigma Gamma Rho, Alpha Phi Alpha, Alpha Kappa Alpha, Zeta Phi Beta, and Phi Beta Sigma hereby authorize the use of their

official emblem to be affixed on multiyear personalized license plates as provided in this section. Any contribution to Kappa Alpha Psi, Iota Phi Theta, Sigma Gamma Rho, Alpha Phi Alpha, Alpha Kappa Alpha, Zeta Phi Beta, or Phi Beta Sigma derived from this section, except reasonable administrative costs, shall be used solely for the purposes of those organizations. Any member of Kappa Alpha Psi, Iota Phi Theta, Sigma Gamma Rho, Alpha Phi Alpha, Alpha Kappa Alpha, Zeta Phi Beta, and Phi Beta Sigma may annually apply for the use of the organization's emblem.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to Kappa Alpha Psi, Iota Phi Theta, Sigma Gamma Rho, Alpha Phi Alpha, Alpha Kappa Alpha, Zeta Phi Beta, or Phi Beta Sigma the organization shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear the emblem of Kappa Alpha Psi, Iota Phi Theta, Sigma Gamma Rho, Alpha Phi Alpha, Alpha Kappa Alpha, Zeta Phi Beta, or Phi Beta Sigma. 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. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. A vehicle owner, who was previously issued a plate with the Kappa Alpha Psi, Iota Phi Theta, Sigma Gamma Rho, Alpha Phi Alpha, Alpha Kappa Alpha, Zeta Phi Beta, or Phi Beta Sigma 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 Kappa Alpha Psi, Iota Phi Theta, Sigma Gamma Rho, Alpha Phi Alpha, Alpha Kappa Alpha, Zeta Phi Beta, or Phi Beta Sigma emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by 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 chapter 536, RSMo.

301.3117. JEFFERSON NATIONAL PARKS ASSOCIATION SPECIAL LICENSE PLATE, APPLICATION, FEE. — 1. Any member of Jefferson National Parks Association may receive special license plates as prescribed by this section, 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, after an annual payment of an emblem-use authorization fee to Jefferson National Parks Association of which the person is a member. Jefferson National Parks Association hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates as provided in this section. Any contribution to Jefferson National Parks Association derived from this section, except reasonable administrative costs, shall be used solely for the purposes of Jefferson National Parks Association. Any member of Jefferson National Parks Association may annually apply for the use of the emblem.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to Jefferson National Parks Association, the organization shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee, and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which

shall bear the emblem of the Jefferson National Parks Association and shall have the words "Jefferson National Parks Association" 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. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. A vehicle owner, who was previously issued a plate with the Jefferson National Parks Association 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 Jefferson National Parks Association emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by 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 chapter 536, RSMo.

301.3118. MISSOURI ELKS ASSOCIATION SPECIAL LICENSE PLATE, APPLICATION, FEE. — 1. Any member of Missouri Elks Association may receive special license plates as prescribed by this section, 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, after an annual payment of an emblem-use authorization fee to Missouri Elks Association of which the person is a member. Missouri Elks Association hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates as provided in this section. Any contribution to Missouri Elks Association derived from this section, except reasonable administrative costs, shall be used solely for the purposes of Missouri Elks Association. Any member of Missouri Elks Association may annually apply for the use of the emblem.

2. Upon annual application and payment of a fifteen dollar emblem-use contribution to Missouri Elks Association, the organization shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear the emblem of Missouri Elks Association. 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.

3. A vehicle owner, who was previously issued a plate with the Missouri Elks Association 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 Missouri Elks Association emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by 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 chapter 536, RSMo.

301.3119. MISSOURI TRAVEL COUNCIL SPECIAL LICENSE PLATE, APPLICATION, FEE. — 1. Any individual may receive special license plates as prescribed by this section, 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, after an annual payment of an emblem-use authorization fee to

Missouri Travel Council. Missouri Travel Council hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates as provided in this section. Any contribution to Missouri Travel Council derived from this section, except reasonable administrative costs, shall be used solely for the purposes of Missouri Travel Council. Any member of Missouri Travel Council may annually apply for the use of the emblem.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to Missouri Travel Council, the organization shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear the emblem of Missouri Travel Council. 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. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. A vehicle owner, who was previously issued a plate with the Missouri Travel Council 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 Missouri Travel Council emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by 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 chapter 536, RSMo.

Approved June 13, 2002

HB 1141 [SCS HB 1141,1400,1645,1745 & 2026]

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

Establishes the "Trooper James Froemsdorf Memorial Highway" between mile markers 129 and 135 on I-55 in Perry County.

AN ACT to amend chapters 10 and 227, RSMo, by adding thereto eight new sections relating to the designation of state entities.

SECTION

A. Enacting clause.
10.140. Missouri fox trotting horse, official state horse.
227.317. Babe Adams Highway designated.
227.319. Trooper James Froemsdorf Memorial Highway designated (Perry County).
227.321. Veterans Memorial Bridge designated.
227.323. Henry Shaw Ozark Corridor designated.
227.326. Sergeant Rob Guilliams, Missouri State Highway Patrol, Memorial Bridge designated (Pemiscot County).
227.329. Trooper Kelly L. Poynter Memorial Highway designated (Texas County).
227.333. Sergeant Randy Sullivan Memorial Highway designated (Iron County).

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

SECTION A. ENACTING CLAUSE. — Chapters 10 and 227, RSMo, are amended by adding thereto eight new sections, to be known as sections 10.140, 227.317, 227.319, 227.321, 227.323, 227.326, 227.329 and 227.333, to read as follows:

10.140. MISSOURI FOX TROTTING HORSE, OFFICIAL STATE HORSE. — The Missouri Fox Trotting Horse, is hereby selected for, and shall be known as, the official state horse of the state of Missouri.

227.317. BABE ADAMS HIGHWAY DESIGNATED. — The portion of U.S. Highway 136 in Harrison County, from the eastern city limits of Bethany to the Harrison-Mercer County line, shall be designated the "Babe Adams Highway".

227.319. TROOPER JAMES FROEMSDORF MEMORIAL HIGHWAY DESIGNATED (PERRY COUNTY). — The portion of interstate highway 55, from mile marker 129 to mile marker 135, contained within a county of the third classification without a township form of government and with more than eighteen thousand one hundred but less than eighteen thousand two hundred inhabitants shall be designated the "Trooper James Froemsdorf Memorial Highway".

227.321. VETERANS MEMORIAL BRIDGE DESIGNATED. — The Missouri river bridge on route 364 connecting St. Louis and St. Charles counties shall be designated the "Veterans Memorial Bridge".

227.323. HENRY SHAW OZARK CORRIDOR DESIGNATED. — 1. The portion of interstate highway 44, log mile 277.3, Geyer Road overpass, located in a county of the first classification with a charter form of government and with more than one million inhabitants, to log mile 255.0, one mile west of Gray Summit interchange, located in a county of the first classification without a charter form of government and with more than ninety-three thousand eight hundred but less than ninety-three thousand nine hundred inhabitants shall be designated the "Henry Shaw Ozark Corridor".

2. Pursuant to section 226.525, RSMo, appropriate signage will be provided at the east and west boundaries of the Henry Shaw Ozark Corridor. Such signage shall affirm the state's value for its natural heritage, the Ozarks, plus the cultural heritage of the communities located along the Henry Shaw Ozark Corridor.

227.326. SERGEANT ROB GUILLIAMS, MISSOURI STATE HIGHWAY PATROL, MEMORIAL BRIDGE DESIGNATED (PEMISCOT COUNTY). — The set of bridges spanning ditch number two on the portions of interstate highway 55 and two-lane highway J at mile marker 16, contained within a county of the third classification without a township form of government and with more than twenty thousand but less than twenty thousand one hundred inhabitants shall be designated the "Sergeant Rob Guilliams, Missouri State Highway Patrol, Memorial Bridge".

227.329. TROOPER KELLY L. POYNTER MEMORIAL HIGHWAY DESIGNATED (TEXAS COUNTY). — The portion of U.S. highway 63, from the southern-most city limits of a city of the fourth classification with more than one thousand nine hundred eighty but less than two thousand eighty inhabitants south to the exit for state route Z, all located within a county of the third classification with a township form of government and with more than twenty-three thousand but less than twenty-three thousand one hundred inhabitants, shall be designated the "Trooper Kelly L. Poynter Memorial Highway". The department of transportation shall, at their discretion, erect and maintain signs commemorating this portion of U.S. highway 63.

227.333. SERGEANT RANDY SULLIVAN MEMORIAL HIGHWAY DESIGNATED (IRON COUNTY). — The portion of state highway 72 in a county of the third classification without a township form of government and with more than ten thousand six hundred inhabitants but less than ten thousand seven hundred inhabitants and in a county of the third classification without a township form of government and with more than eleven thousand seven hundred fifty inhabitants but less than eleven thousand eight hundred fifty inhabitants shall be designated the "Sergeant Randy Sullivan Memorial Highway."

Approved July 11, 2002

HB 1148 [HB 1148]

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

Permits the establishment of scatter gardens for human cremains.

AN ACT to amend chapter 214, RSMo, by adding thereto one new section relating to scattering gardens in certain cemeteries.

SECTION
A. Enacting clause.
214.550. Scatter gardens, operation by churches maintaining religious cemeteries — maintenance of garden and records, duty of operator.

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

SECTION A. ENACTING CLAUSE. — Chapter 214, RSMo, is amended by adding thereto one new section, to be known as section 214.550, to read as follows:

214.550. SCATTER GARDENS, OPERATION BY CHURCHES MAINTAINING RELIGIOUS CEMETERIES — MAINTENANCE OF GARDEN AND RECORDS, DUTY OF OPERATOR. — 1. For purposes of this section, the following terms mean:

(1) "Cremains", the ashes that remain after cremation of a human corpse;

(2) "Operator", a church that owns and maintains a religious cemetery;

(3) "Religious cemetery", a cemetery owned, operated, controlled, or managed by any church that has or would qualify for federal tax exempt status as a nonprofit religious organization pursuant to section 501(c) of the Internal Revenue Code as amended;

(4) "Scatter garden", a location for the spreading of cremains set aside within a cemetery.

2. It shall be lawful for any operator of a religious cemetery adjacent to a church building or other building regularly used as a place of worship to establish a scatter garden for the purpose of scattering human cremains.

3. The operator of any religious cemetery containing a scatter garden shall maintain, protect, and supervise the scatter garden, and shall be responsible for all costs incurred for such maintenance, protection, and supervision. Such operator shall also maintain a record of all cremains scattered in the scatter garden that shall include the name, date of death, and Social Security number of each person whose cremains are scattered, and the date the cremains were scattered.

4. A scatter garden established pursuant to this section shall be maintained by the operator of the religious cemetery for as long as such operator is in existence. Upon dissolution of such operator, all records of cremains shall be transferred to the clerk of the city, town, or village in which the scatter garden is located, or if the scatter garden is located in any unincorporated area, to the county recorder.

Approved June 18, 2002

HB 1150 [SS SCS HCS HB 1150, 1237 & 1327]

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

Establishes procedures relating to assessment and collection for the Department of Revenue.

AN ACT to repeal sections 137.073, 137.115, 138.060 and 138.100, RSMo, and to enact in lieu thereof seventeen new sections relating to assessment and collection procedures of the department of revenue, with effective dates for certain sections, an expiration date for a certain section and an emergency clause.

SECTION

A. Enacting clause.
32.375. Dispute over collection or remittance of sales or use tax — abatement allowed, when — administrative review.
32.378. Compromise of taxes, interest, penalties, or additions to the tax, when — taxpayer agreements and duties — statute of limitations if compromise agreed upon — director's duties — rulemaking authority.
32.380. Amnesty to apply to certain taxes — conditions for granting — payments to be deposited in schools of the future fund — rulemaking authority.
32.381. Detrimental reliance by taxpayer, effect of.
137.073. Definitions — revision of prior levy, when, procedure — calculation of state aid for public schools, taxing authority's duties.
137.115. Real and personal property, assessment — maintenance plan — assessor may mail forms for personal property — classes of property, assessment — physical inspection required, when, procedure.
138.060. Appeals from assessor's valuation, no presumption that valuation is correct, burden of proof in certain counties — erroneous assessments — hearing, limitation on assessor's testimony of evaluation.
138.100. Rules — hearings (counties of the first classification).
144.1000. Citation of act.
144.1003. Definitions.
144.1006. Multistate discussions permitted, state representation, duties.
144.1009. Agreements not to invalidate or amend state law — action of general assembly required for implementation of conditions, procedure.
144.1012. Elements of agreement, number of delegates necessary to enter into.
144.1015. Features of agreement to be considered.
620.012. Attorney general to review tax abatement agreements, procedure — termination date.
1. Real and personal property assessment, certain requirements for physical inspection applicable to St. Louis County only.
2. County boards of equalization, certain written materials to be provided in St. Louis County only.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 137.073, 137.115, 138.060 and 138.100, RSMo, are repealed and seventeen new sections enacted in lieu thereof, to be known as sections 32.375, 32.378, 32.380, 32.381, 137.073, 137.115, 138.060, 138.100, 144.1000, 144.1003, 144.1006, 144.1009, 144.1012, 144.1015, 620.012, 1 and 2, to read as follows:

32.375. DISPUTE OVER COLLECTION OR REMITTANCE OF SALES OR USE TAX — ABATEMENT ALLOWED, WHEN — ADMINISTRATIVE REVIEW. — 1. Notwithstanding any provision of law to the contrary, in any dispute regarding the potential liability of a taxpayer for collection and remittance or payment of sales or use tax or related interest, additions to tax or penalties, the director of revenue may, at the request of the taxpayer, consider the reasons for the taxpayer's failure to pay the amounts in dispute.

2. The director may abate all or any portion of any amount assessed or decide to not assess any such amount pursuant to this section if the director determines:

(1) The taxpayer took reasonable steps to determine whether the amounts were owed;

(2) Based on information reasonably available to the taxpayer, the taxpayer reasonably believed that the transactions at issue were not subject to tax and that the amounts in dispute were not owed;

(3) At the time of the transactions at issue, the department of revenue had not issued either:

(a) A regulation that indicated that the transactions at issue were subject to tax; or

(b) Any other written or oral communication that the taxpayer knew of or should have known of stating that the transactions at issue were subject to tax; and

(4) In the discretion of the director, such abatement is in the best interest of the state and will not undermine compliance by taxpayers with the tax laws of this state.

3. If the director determines that any amounts may be abated pursuant to this section, as consideration for the abatement, the taxpayer shall agree that:

(1) The taxpayer shall bear his or her own costs, including any attorney fees;

(2) During the three year period beginning with the date of the agreement, the taxpayer shall comply with all sales and use tax obligations arising from the type of transactions that were the basis of the amounts that are the subject of the agreement and the taxpayer shall not challenge or protest any such sales or use tax obligations arising during the three year period; except that any final decision of a court of competent jurisdiction finding such transactions to be nontaxable and any statutory changes that become effective during the three year period shall apply to the taxpayer notwithstanding any provision of the agreement; and

(3) The taxpayer shall not contest in court or otherwise any amount of the liability sought to be abated.

4. If due to a disagreement concerning the amount to be abated the taxpayer does not agree to the terms provided by subsection 3 of this section or if the director determines the amounts in dispute should not be abated, the director shall issue a final decision setting forth the director's determination. Within sixty days after the date on which the director's decision is delivered in person or is mailed to the taxpayer, whichever is earlier, the taxpayer may file a petition for review of the final decision with the administrative hearing commission.

5. On petition for review before the administrative hearing commission, the commission shall consider whether the director's determination was reasonable based on the factors set forth in subsection 2 of this section. The commission may:

(1) Issue an order to the director stating an amount to be abated by the director, if the commission finds the director's decision unreasonable; or

(2) Issue an order denying the relief sought by the taxpayer, if the commission finds the director's determination reasonable.

6. The provisions of subsection 3 of this section shall apply to any abatement ordered by the commission.

7. A decision of the administrative hearing commission pursuant to this section shall not be subject to appeal or petition for review by the taxpayer or the director.

32.378. COMPROMISE OF TAXES, INTEREST, PENALTIES, OR ADDITIONS TO THE TAX, WHEN — TAXPAYER AGREEMENTS AND DUTIES — STATUTE OF LIMITATIONS IF COMPROMISE AGREED UPON — DIRECTOR'S DUTIES — RULEMAKING AUTHORITY. — 1. In addition to the authority granted to the director of revenue and the administrative hearing commission pursuant to section 32.375, the director of revenue may agree to compromise any tax, interest, penalties or additions to tax assessed or collected by the director of revenue on any of the following grounds:

(1) Doubt as to liability, which exists in any case where there is a genuine dispute as to the existence or amount of the correct tax liability under the law;

(2) Doubt as to collectibility, which exists in any case where the amount assessed including interest, additions to tax and penalties exceeds the taxpayer's ability to pay as defined by regulations promulgated by the director of revenue; or

(3) To promote effective tax administration which means that compromise of the liability will not undermine compliance by taxpayers with the tax laws and that:

(a) Collection of the full liability will result in severe economic hardship to the taxpayer; or

(b) Regardless of the taxpayer's financial circumstances, exceptional circumstances exist such that collection of the full liability will be detrimental to voluntary compliance by taxpayers. Such exceptional circumstances include, but are not limited to, instances where the taxpayer's failure to pay the taxes assessed is the result of circumstances beyond the reasonable control of the taxpayer and is not the result of negligence on the part of the taxpayer, or instances where a reasonable person would not have expected the assessment based on previous policy of the department of revenue or information provided to the taxpayer by the department of revenue.

2. As part of the consideration for any compromise of taxes that is based on subdivisions (2) or (3) of subsection 1 of this section, the taxpayer shall agree:

(1) That the state of Missouri shall keep all payments and other credits applied to the tax, interest, penalties or additions to tax for the periods covered by the offer;

(2) That the state of Missouri shall keep any and all amounts otherwise due the taxpayer as a result of overpayments of any tax or other liability, including interest, additions to tax and penalties, for periods ending before or as of the end of the calendar year in which the offer is accepted; except that the state shall not keep any amounts that, together with amounts already paid on the compromise exceed the liability compromised;

(3) That the taxpayer shall have no right to contest in court or otherwise the amount of the liability compromised;

(4) That the taxpayer shall bear his or her own costs, including any attorney fees;

(5) That during the three year period beginning with the date of the compromise, the taxpayer shall comply with all tax obligations arising from issues or transactions related to the issues or transactions that were the basis of the tax that is the subject of the compromise and that the taxpayer shall not challenge or protest any such tax obligations arising during the three year period; however, any statutory changes that become effective during the three year period shall apply to the taxpayer notwithstanding this provision of the compromise;

(6) That if there is a default in payment of any principal or interest due under terms of the agreement of compromise, or if the taxpayer fails to comply with the provisions of the agreement set forth in subdivision (5) of this subsection, the director of revenue may:

(a) Proceed immediately by suit to collect the entire unpaid balance of the amount agreed upon; or

(b) Proceed immediately by suit to collect as liquidated damages an amount equal to the liability compromised, minus any payments already received under the terms of the agreement, with interest on the unpaid balance from the date of default; or

(c) Disregard the amount of the compromise and apply all amounts previously paid under the agreement against the amount of the liability compromised and assess and collect by levy or suit the balance of the liability. If the director chooses this option, the taxpayer shall have the right to contest in court or otherwise the amount of the liability compromised.

3. The director's remedies under this section are cumulative and the director may pursue any combination of such remedies together or consecutively until the entire liability is paid. No action or inaction by the director shall constitute a waiver or election not to pursue any remedy granted by this section.

4. The taxpayer requesting to compromise payment of taxes, interest, additions to tax, or penalties shall provide any information reasonably requested by the director in order that the director may determine that the offer is made in good faith.

5. If compromise of taxes is agreed upon, any statute of limitations applicable to the assessment and collection of the liability compromised shall be tolled during the period beginning on the date of the compromise and ending one year after the last payment is due pursuant to the agreement.

6. The director's decision to reject or accept an offer of compromise under this section shall be based on consideration of all the facts and circumstances, including the taxpayer's record of overall compliance with the tax laws. Notwithstanding any provision of law to the contrary, the director's decision shall not be subject to review by the administrative hearing commission or any court.

7. The director shall prescribe guidelines for employees of the Missouri department of revenue to determine whether an offer-in-compromise is adequate and should be accepted to resolve a dispute.

8. The director shall establish procedures for an independent administrative review of any rejection of a proposed offer-in-compromise made by a taxpayer pursuant to this section before such rejection is communicated to the taxpayer.

9. The provisions of this section shall not apply to the resolution of any dispute of tax liability in accordance with section 32.375.

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, 2002, shall be invalid and void.

32.380. AMNESTY TO APPLY TO CERTAIN TAXES — CONDITIONS FOR GRANTING — PAYMENTS TO BE DEPOSITED IN SCHOOLS OF THE FUTURE FUND — RULEMAKING AUTHORITY. — 1. Notwithstanding the provisions of any other law to the contrary, with respect to taxes administered by the department of revenue, an amnesty from the assessment or payment of all penalties, additions to tax, and interest shall apply with respect to unpaid taxes reported and paid in full from August 1, 2002, to October 31, 2002, regardless of whether previously assessed, except for penalties, additions to tax, and interest paid before August 1, 2002. The amnesty shall apply only to state tax liabilities due but unpaid on or before December 31, 2001, and shall not extend to any taxpayer who at the time of payment is a party to any criminal investigations or to any civil or criminal litigation that is pending in any court of the United States or this state for nonpayment, delinquency, or fraud in relation to any state tax imposed by the state of Missouri.

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

revenue shall not seek to collect any penalty, addition to tax, or interest which may be applicable. The department of revenue shall not seek civil or criminal prosecution for any taxpayer for the taxable period for which the amnesty has been granted.

3. Amnesty shall be granted only to those taxpayers who have applied for amnesty within the period stated in subsection 1 of this section, who have filed a tax return for each taxable period for which amnesty is requested, who have paid the entire balance due within sixty days of approval by the department of revenue, and who agree to comply with state tax laws for the next three years from the date of the agreement. No taxpayer shall be entitled to a waiver of any penalty, addition to tax, or interest pursuant to this section unless full payment of the tax due is made in accordance with rules and regulations established by the director of revenue.

4. If a taxpayer elects to participate in the amnesty program established pursuant to this section as evidenced by full payment of the tax due as established by the director of revenue, that election shall constitute an express and absolute relinquishment of all administrative and judicial rights of appeal. No tax payment received pursuant to this section shall be eligible for refund or credit.

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

6. All tax payments received as a result of the amnesty program established pursuant to this section shall be deposited in the schools of the future fund created pursuant to section 313.820, RSMo, other than revenues earmarked by the Missouri Constitution.

7. The department may promulgate such rules or regulations or issue administrative guidelines as are 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 chapter 536, RSMo.

32.381. DETRIMENTAL RELIANCE BY TAXPAYER, EFFECT OF. — In the event the department of revenue enters into an agreement with a taxpayer and said agreement exceeds the department's statutory authority and the taxpayer has relied to his detriment, the department shall be permitted to honor said contract. This section shall only apply to cases where the department has collected sales tax that was not owed by the taxpayer.

137.073. DEFINITIONS — REVISION OF PRIOR LEVY, WHEN, PROCEDURE — CALCULATION OF STATE AID FOR PUBLIC SCHOOLS, TAXING AUTHORITY'S DUTIES. — 1. As used in this section, the following terms mean:

(1) "General reassessment", changes in value, entered in the assessor's books, of a substantial portion of the parcels of real property within a county resulting wholly or partly from reappraisal of value or other actions of the assessor or county equalization body or ordered by the state tax commission or any court;

(2) "Tax rate", "rate", or "rate of levy", singular or plural, includes the tax rate for each purpose of taxation of property a taxing authority is authorized to levy without a vote and any tax rate authorized by election, including bond interest and sinking fund;

(3) "Tax rate ceiling", a tax rate as revised by the taxing authority to comply with the provisions of this section or when a court has determined the tax rate; except that, other provisions of law to the contrary notwithstanding, a school district may levy the operating levy for school purposes required for the current year pursuant to subsection 2 of section 163.021, RSMo, less all adjustments required pursuant to article X, section 22 of the Missouri Constitution, if such tax rate does not exceed the highest tax rate in effect subsequent to the 1980 tax year. This is the maximum tax rate that may be levied, unless a higher tax rate ceiling is approved by voters of the political subdivision as provided in this section;

(4) "Tax revenue", when referring to the previous year, means the actual receipts from ad valorem levies on all classes of property, including state-assessed property, in the immediately

preceding fiscal year of the political subdivision, plus an allowance for taxes billed but not collected in the fiscal year and plus an additional allowance for the revenue which would have been collected from property which was annexed by such political subdivision but which was not previously used in determining tax revenue pursuant to this section. The term "tax revenue" shall not include any receipts from ad valorem levies on any property of a railroad corporation or a public utility, as these terms are defined in section 386.020, RSMo, which were assessed by the assessor of a county or city in the previous year but are assessed by the state tax commission in the current year. All school districts and those counties levying sales taxes pursuant to chapter 67, RSMo, shall include in the calculation of tax revenue an amount equivalent to that by which they reduced property tax levies as a result of sales tax pursuant to section 67.505, RSMo, and section 164.013, RSMo, in the immediately preceding fiscal year but not including any amount calculated to adjust for prior years. For purposes of political subdivisions which were authorized to levy a tax in the prior year but which did not levy such tax or levied a reduced rate, the term "tax revenue", as used in relation to the revision of tax levies mandated by law, shall mean the revenues equal to the amount that would have been available if the voluntary rate reduction had not been made.

2. Whenever changes in assessed valuation are entered in the assessor's books **for any personal property, in the aggregate, or for any subclass of real property as such subclasses are established in section 4(b) of article X of the Missouri Constitution and defined in section 137.016**, the county clerk in all counties and the assessor of St. Louis City shall notify each political subdivision wholly or partially within the county or St. Louis City of the change in valuation **of each subclass of real property, individually, and personal property, in the aggregate**, exclusive of new construction and improvements. All political subdivisions shall immediately revise the **applicable** rates of levy for each purpose **for each subclass of real property, individually, and personal property, in the aggregate,** for which taxes are levied to the extent necessary to produce from all taxable property, exclusive of new construction and improvements, substantially the same amount of tax revenue as was produced in the previous year **for each subclass of real property, individually, and personal property, in the aggregate**, except that the rate may not exceed the greater of the rate in effect in the 1984 tax year or the most recent voter-approved rate. **Such tax revenue shall not include any receipts from ad valorem levies on any real property which was assessed by the assessor of a county or city in such previous year but is assessed by the assessor of a county or city in the current year in a different subclass of real property. Where the taxing authority is a school district for the purposes of revising the applicable rates of levy for each subclass of real property, the tax revenues from state-assessed railroad and utility property shall be apportioned and attributed to each subclass of real property based on the percentage of the total assessed valuation of the county that each subclass of real property represents in the current taxable year.** As provided in section 22 of article X of the constitution, a political subdivision may also revise each levy to allow for inflationary assessment growth occurring within the political subdivision. The inflationary growth factor shall be limited to the actual assessment growth **[**within**] in the aggregate for** the political subdivision, exclusive of new construction and improvements, but not to exceed the consumer price index or five percent, whichever is lower. **Should the tax revenue of a political subdivision from the various tax rates determined in this subsection be different than the tax revenue that would have been determined from a single tax rate as calculated pursuant to the method of calculation in this subsection prior to January 1, 2003, then the political subdivision shall revise the tax rates of those subclasses of real property, individually, and/or personal property, in the aggregate, in which there is a tax rate reduction, pursuant to the provisions of this subsection. Such revision shall yield an amount equal to such difference and shall be apportioned among such subclasses of real property, individually, and/or personal property, in the aggregate, as per the relative tax rate reduction of such subclasses of real property, individually, and/or personal property, in the aggregate.**

3. (1) Where the taxing authority is a school district, it shall be required to revise the rates of levy to the extent necessary to produce from all taxable property, including state-assessed railroad and utility property, which shall be separately estimated in addition to other data required in complying with section 164.011, RSMo, substantially the amount of tax revenue permitted in this section. In the year following tax rate reduction, the tax rate ceiling may be adjusted to offset such district's reduction in the apportionment of state school moneys due to its reduced tax rate. However, in the event any school district, in calculating a tax rate ceiling pursuant to this section, requiring the estimating of effects of state-assessed railroad and utility valuation or loss of state aid, discovers that the estimates used result in receipt of excess revenues, which would have required a lower rate if the actual information had been known, the school district shall reduce the tax rate ceiling in the following year to compensate for the excess receipts, and the recalculated rate shall become the tax rate ceiling for purposes of this section.

(2) For any political subdivision which experiences a reduction in the amount of assessed valuation relating to a prior year, due to decisions of the state tax commission or a court pursuant to sections 138.430 to 138.433, RSMo, or due to clerical errors or corrections in the calculation or recordation of any assessed valuation:

(a) Such political subdivision may revise the tax rate ceiling for each purpose it levies taxes to compensate for the reduction in assessed value occurring after the political subdivision calculated the tax rate ceiling **for the particular subclass of real property or for personal property, in the aggregate,** in the prior year. Such revision by the political subdivision shall be made at the time of the next calculation of the tax rate **for the particular subclass of real property or for personal property, in the aggregate,** after the reduction in assessed valuation has been determined and shall be calculated in a manner that results in the revised tax rate ceiling being the same as it would have been had the corrected or finalized assessment been available at the time of the prior calculation;

(b) In addition, for up to three years following the determination of the reduction in assessed valuation as a result of circumstances defined in this subdivision, such political subdivision may levy a tax rate for each purpose it levies taxes above the revised tax rate ceiling provided in paragraph (a) of this subdivision to recoup any revenues it was entitled to receive for the three-year period preceding such determination.

4. (1) In order to implement the provisions of this section and section 22 of article X of the Constitution of Missouri, the term "improvements" shall apply to both real and personal property. In order to determine the value of new construction and improvements, each county assessor shall maintain a record of real property valuations in such a manner as to identify each year the increase in valuation for each political subdivision in the county as a result of new construction and improvements. The value of new construction and improvements shall include the additional assessed value of all improvements or additions to real property which were begun after and were not part of the prior year's assessment, except that the additional assessed value of all improvements or additions to real property which had been totally or partially exempt from ad valorem taxes pursuant to sections 99.800 to 99.865, RSMo, sections 135.200 to 135.255, RSMo, and section 353.110, RSMo, shall be included in the value of new construction and improvements when the property becomes totally or partially subject to assessment and payment of all ad valorem taxes. The aggregate increase in valuation of personal property for the current year over that of the previous year is the equivalent of the new construction and improvements factor for personal property. The assessor shall certify the amount of new construction and improvements for each political subdivision to the county clerk in order that political subdivisions shall have this information for the purpose of calculating tax rates pursuant to this section and section 22, article X, Constitution of Missouri. In addition, the state tax commission shall certify each year to each county clerk the increase in the general price level as measured by the Consumer Price Index for All Urban Consumers for the United States, or its successor publications, as defined and officially reported by the United States Department of Labor, or its successor agency. The state tax commission shall certify the increase in such index on the latest

twelve-month basis available on June first of each year over the immediately preceding prior twelve-month period in order that political subdivisions shall have this information available in setting their tax rates according to law and section 22 of article X of the Constitution of Missouri. For purposes of implementing the provisions of this section and section 22 of article X of the Missouri Constitution, the term "property" means all taxable property, including state assessed property.

(2) Each political subdivision required to revise rates of levy pursuant to this section or section 22 of article X of the Constitution of Missouri shall calculate each tax rate it is authorized to levy and, in establishing each tax rate, shall consider each provision for tax rate revision provided in this section and section 22 of article X of the Constitution of Missouri, separately and without regard to annual tax rate reductions provided in section 67.505, RSMo, and section 164.013, RSMo. Each political subdivision shall set each tax rate it is authorized to levy using the calculation that produces the lowest tax rate ceiling. It is further the intent of the general assembly, pursuant to the authority of section 10(c) of article X of the Constitution of Missouri, that the provisions of such section be applicable to tax rate revisions mandated pursuant to section 22 of article X of the Constitution of Missouri as to reestablishing tax rates as revised in subsequent years, enforcement provisions, and other provisions not in conflict with section 22 of article X of the Constitution of Missouri. Annual tax rate reductions provided in section 67.505, RSMo, and section 164.013, RSMo, shall be applied to the tax rate as established pursuant to this section and section 22 of article X of the Constitution of Missouri, unless otherwise provided by law.

5. (1) In all political subdivisions, the tax rate ceiling established pursuant to this section shall not be increased unless approved by a vote of the people. Approval of the higher tax rate shall be by at least a majority of votes cast. When a proposed higher tax rate requires approval by more than a simple majority pursuant to any provision of law or the constitution, the tax rate increase must receive approval by at least the majority required.

(2) When voters approve an increase in the tax rate, the amount of the increase shall be added to the tax rate ceiling as calculated pursuant to this section to the extent the total rate does not exceed any maximum rate prescribed by law. If a ballot question presents a stated tax rate for approval rather than describing the amount of increase in the question, the stated tax rate approved shall be the current tax rate ceiling. The increased tax rate ceiling as approved may be applied to the total assessed valuation of the political subdivision at the setting of the next tax rate.

(3) The governing body of any political subdivision may levy a tax rate lower than its tax rate ceiling and may increase that lowered tax rate to a level not exceeding the tax rate ceiling without voter approval.

(4) In a year of general reassessment, a governing body whose tax rate is lower than its tax rate ceiling shall revise its tax rate pursuant to the provisions of subsection 4 of this section as if its tax rate were at the tax rate ceiling. In a year following general reassessment, if such governing body intends to increase its tax rate, the governing body shall conduct a public hearing, and in a public meeting it shall adopt an ordinance, resolution or policy statement justifying its action prior to setting and certifying its tax rate. The provisions of this subdivision shall not apply to a taxing jurisdiction which receives some portion of its funding pursuant to chapter 163, RSMo.

6. **(1) For the purposes of calculating state aid for public schools pursuant to section 163.031, RSMo, each taxing authority which is a school district shall determine its proposed tax rate as a blended rate of the classes or subclasses of property. Such blended rate shall be calculated by first determining the total tax revenue of the property within the jurisdiction of the taxing authority, which amount shall be equal to the sum of the products of multiplying the assessed valuation of each class and subclass of property by the corresponding tax rate for such class or subclass, then dividing the total tax revenue by the total assessed valuation of the same jurisdiction, and then multiplying the resulting**

quotient by a factor of one-hundred. Where the taxing authority is a school district, such blended rate shall also be used by such school district for calculating revenue from state-assessed railroad and utility property as defined in chapter 151, RSMo, and for apportioning the tax rate by purpose.

(2) Each taxing authority proposing to levy a tax rate in any year shall notify the clerk of the county commission in the county or counties where the tax rate applies of its tax rate ceiling and its proposed tax rate. Each taxing authority shall express its proposed tax rate in a fraction equal to the nearest **[**one/one hundredth**] one-tenth of a cent, unless its proposed tax rate is in excess of one dollar, then one/one-hundredth** of a cent. **If** a taxing authority shall round **to one/one-hundredth of a cent, it shall round** up a fraction greater than or equal to **[**five/one thousandth**] five/one-thousandth** of one cent to the next higher **[**one/one hundredth**] one/one-hundredth** of a cent**; if a taxing authority shall round to one-tenth of a cent, it shall round up a fraction greater than or equal to five/one-hundredths of a cent to the next higher one-tenth of a cent**. Any taxing authority levying a property tax rate shall provide data, in such form as shall be prescribed by the state auditor by rule, substantiating such tax rate complies with Missouri law. In addition, each taxing authority proposing to levy a tax rate for debt service shall provide data, in such form as shall be prescribed by the state auditor by rule, substantiating the tax rate for debt service complies with Missouri law. A tax rate proposed for annual debt service requirements will be prima facie valid if, after making the payment for which the tax was levied, bonds remain outstanding and the debt fund reserves do not exceed the following year's payments. The county clerk shall keep on file and available for public inspection all such information for a period of three years. The clerk shall, within three days of receipt, forward a copy of the notice of a taxing authority's tax rate ceiling and proposed tax rate and any substantiating data to the state auditor. The state auditor shall, within fifteen days of the date of receipt, examine such information and return to the county clerk his or her findings as to compliance of the tax rate ceiling with this section and as to compliance of any proposed tax rate for debt service with Missouri law. If the state auditor believes that a taxing authority's proposed tax rate does not comply with Missouri law, then the state auditor's findings shall include a recalculated tax rate, and the state auditor may request a taxing authority to submit documentation supporting such taxing authority's proposed tax rate. The county clerk shall immediately forward a copy of the auditor's findings to the taxing authority and shall file a copy of the findings with the information received from the taxing authority. The taxing authority shall have fifteen days from the date of receipt from the county clerk of the state auditor's findings and any request for supporting documentation to accept or reject in writing the rate change certified by the state auditor and to submit all requested information to the state auditor. A copy of the taxing authority's acceptance or rejection and any information submitted to the state auditor shall also be mailed to the county clerk. If a taxing authority rejects a rate change certified by the state auditor and the state auditor does not receive supporting information which justifies the taxing authority's original or any subsequent proposed tax rate, then the state auditor shall refer the perceived violations of such taxing authority to the attorney general's office and the attorney general is authorized to obtain injunctive relief to prevent the taxing authority from levying a violative tax rate.

7. No tax rate shall be extended on the tax rolls by the county clerk unless the political subdivision has complied with the foregoing provisions of this section.

8. Whenever a taxpayer has cause to believe that a taxing authority has not complied with the provisions of this section, the taxpayer may make a formal complaint with the prosecuting attorney of the county. Where the prosecuting attorney fails to bring an action within ten days of the filing of the complaint, the taxpayer may bring a civil action pursuant to this section and institute an action as representative of a class of all taxpayers within a taxing authority if the class is so numerous that joinder of all members is impracticable, if there are questions of law or fact common to the class, if the claims or defenses of the representative parties are typical of the claims or defenses of the class, and if the representative parties will fairly and adequately protect

the interests of the class. In any class action maintained pursuant to this section, the court may direct to the members of the class a notice to be published at least once each week for four consecutive weeks in a newspaper of general circulation published in the county where the civil action is commenced and in other counties within the jurisdiction of a taxing authority. The notice shall advise each member that the court will exclude him or her from the class if he or she so requests by a specified date, that the judgment, whether favorable or not, will include all members who do not request exclusion, and that any member who does not request exclusion may, if he or she desires, enter an appearance. In any class action brought pursuant to this section, the court, in addition to the relief requested, shall assess against the taxing authority found to be in violation of this section the reasonable costs of bringing the action, including reasonable attorney's fees, provided no attorney's fees shall be awarded any attorney or association of attorneys who receive public funds from any source for their services. Any action brought pursuant to this section shall be set for hearing as soon as practicable after the cause is at issue.

9. If in any action, including a class action, the court issues an order requiring a taxing authority to revise the tax rates as provided in this section or enjoins a taxing authority from the collection of a tax because of its failure to revise the rate of levy as provided in this section, any taxpayer paying his or her taxes when an improper rate is applied has erroneously paid his or her taxes in part, whether or not the taxes are paid under protest as provided in section 139.031, RSMo. The part of the taxes paid erroneously is the difference in the amount produced by the original levy and the amount produced by the revised levy. The township or county collector of taxes or the collector of taxes in any city shall refund the amount of the tax erroneously paid. The taxing authority refusing to revise the rate of levy as provided in this section shall make available to the collector all funds necessary to make refunds pursuant to this subsection. No taxpayer shall receive any interest on any money erroneously paid by him or her pursuant to this subsection. Effective in the 1994 tax year, nothing in this section shall be construed to require a taxing authority to refund any tax erroneously paid prior to or during the third tax year preceding the current tax year.

10. A taxing authority, including but not limited to a township, county collector, or collector of taxes, responsible for determining and collecting the amount of residential real property tax levied in its jurisdiction, shall report such amount of tax collected by December thirty-first of each year such property is assessed, to the state tax commission. The state tax commission shall compile the tax data by county or taxing jurisdiction and submit a report to the general assembly no later than January thirty-first of the following year.

137.115. REAL AND PERSONAL PROPERTY, ASSESSMENT — MAINTENANCE PLAN — ASSESSOR MAY MAIL FORMS FOR PERSONAL PROPERTY — CLASSES OF PROPERTY, ASSESSMENT — PHYSICAL INSPECTION REQUIRED, WHEN, PROCEDURE. — 1. All other laws to the contrary notwithstanding, the assessor or the assessor's deputies in all counties of this state including the city of St. Louis shall annually make a list of all real and tangible personal property taxable in the assessor's city, county, town or district. Except as otherwise provided in subsection 3 of this section, the assessor shall annually assess all personal property at thirty-three and one-third percent of its true value in money as of January first of each calendar year. The assessor shall annually assess all real property, including any new construction and improvements to real property, and possessory interests in real property at the percent of its true value in money set in subsection 5 of this section. The assessor shall annually assess all real property in the following manner: new assessed values shall be determined as of January first of each odd-numbered year and shall be entered in the assessor's books; those same assessed values shall apply in the following even-numbered year, except for new construction and property improvements which shall be valued as though they had been completed as of January first of the preceding odd-numbered year. The assessor may call at the office, place of doing business, or residence of each person required by this chapter to list property, and require the person to make a correct

statement of all taxable real property in the county owned by the person, or under his or her care, charge or management, and all taxable tangible personal property owned by the person or under his or her care, charge or management, taxable in the county. On or before January first of each even-numbered year, the assessor shall prepare and submit a two-year assessment maintenance plan to the county governing body and the state tax commission for their respective approval or modification. The county governing body shall approve and forward such plan or its alternative to the plan to the state tax commission by February first. If the county governing body fails to forward the plan or its alternative to the plan to the state tax commission by February first, the assessor's plan shall be considered approved by the county governing body. If the state tax commission fails to approve a plan and if the state tax commission and the assessor and the governing body of the county involved are unable to resolve the differences, in order to receive state cost-share funds outlined in section 137.750, the county or the assessor shall petition the administrative hearing commission, by May first, to decide all matters in dispute regarding the assessment maintenance plan. Upon agreement of the parties, the matter may be stayed while the parties proceed with mediation or arbitration upon terms agreed to by the parties. The final decision of the administrative hearing commission shall be subject to judicial review in the circuit court of the county involved. In the event a valuation of subclass (1) real property within any county of the first classification with a charter form of government, or within a city not within a county, is made by a computer, computer-assisted method or a computer program, the burden of proof, supported by clear, convincing and cogent evidence to sustain such valuation, shall be on the assessor at any hearing or appeal. In any such county, unless the assessor proves otherwise, there shall be a presumption that the assessment was made by a computer, computer-assisted method or a computer program. Such evidence shall include, but shall not be limited to, the following:

(1) The findings of the assessor based on an appraisal of the property by generally accepted appraisal techniques; and

(2) The purchase prices from sales of at least three comparable properties and the address or location thereof. As used in this paragraph, the word "comparable" means that:

(a) Such sale was closed at a date relevant to the property valuation; and

(b) Such properties are not more than one mile from the site of the disputed property, except where no similar properties exist within one mile of the disputed property, the nearest comparable property shall be used. Such property shall be within five hundred square feet in size of the disputed property, and resemble the disputed property in age, floor plan, number of rooms, and other relevant characteristics.

2. Assessors in each county of this state and the city of St. Louis may send personal property assessment forms through the mail.

3. The following items of personal property shall each constitute separate subclasses of tangible personal property and shall be assessed and valued for the purposes of taxation at the following percents of their true value in money:

(1) Grain and other agricultural crops in an unmanufactured condition, one-half of one percent;

(2) Livestock, twelve percent;

(3) Farm machinery, twelve percent;

(4) Motor vehicles which are eligible for registration as and are registered as historic motor vehicles pursuant to section 301.131, RSMo, and aircraft which are at least twenty-five years old and which are used solely for noncommercial purposes and are operated less than fifty hours per year or aircraft that are home built from a kit, five percent;

(5) Poultry, twelve percent; and

(6) Tools and equipment used for pollution control and tools and equipment used in retooling for the purpose of introducing new product lines or used for making improvements to existing products by any company which is located in a state enterprise zone and which is

identified by any standard industrial classification number cited in subdivision (6) of section 135.200, RSMo, twenty-five percent.

4. The person listing the property shall enter a true and correct statement of the property, in a printed blank prepared for that purpose. The statement, after being filled out, shall be signed and either affirmed or sworn to as provided in section 137.155. The list shall then be delivered to the assessor.

5. All subclasses of real property, as such subclasses are established in section 4(b) of article X of the Missouri Constitution and defined in section 137.016, shall be assessed at the following percentages of true value:

(1) For real property in subclass (1), nineteen percent;

(2) For real property in subclass (2), twelve percent; and

(3) For real property in subclass (3), thirty-two percent.

6. Manufactured homes, as defined in section 700.010, RSMo, which are actually used as dwelling units shall be assessed at the same percentage of true value as residential real property for the purpose of taxation. The percentage of assessment of true value for such manufactured homes shall be the same as for residential real property. If the county collector cannot identify or find the manufactured home when attempting to attach the manufactured home for payment of taxes owed by the manufactured home owner, the county collector may request the county commission to have the manufactured home removed from the tax books, and such request shall be granted within thirty days after the request is made; however, the removal from the tax books does not remove the tax lien on the manufactured home if it is later identified or found. A manufactured home located in a manufactured home rental park, rental community or on real estate not owned by the manufactured home owner shall be considered personal property. A manufactured home located on real estate owned by the manufactured home owner may be considered real property.

7. Each manufactured home assessed shall be considered a parcel for the purpose of reimbursement pursuant to section 137.750, unless the manufactured home has been converted to real property in compliance with section 700.111, RSMo, and assessed as a realty improvement to the existing real estate parcel.

8. Any amount of tax due and owing based on the assessment of a manufactured home shall be included on the personal property tax statement of the manufactured home owner unless the manufactured home has been converted to real property in compliance with section 700.111, RSMo, in which case the amount of tax due and owing on the assessment of the manufactured home as a realty improvement to the existing real estate parcel shall be included on the real property tax statement of the real estate owner.

9. The assessor of each county and each city not within a county shall use the trade-in value published in the October issue of the National Automobile Dealers' Association Official Used Car Guide, or its successor publication, as the recommended guide of information for determining the true value of motor vehicles described in such publication. In the absence of a listing for a particular motor vehicle in such publication, the assessor shall use such information or publications which in the assessor's judgment will fairly estimate the true value in money of the motor vehicle.

10. **[**If**]** **Before** the assessor **[**increases**]** **may increase** the assessed valuation of any parcel of subclass (1) real property by more than **[**seventeen**]** **fifteen** percent since the last assessment, excluding increases due to new construction or improvements, **[**then**]** the assessor shall conduct a physical inspection of such property.

11. If a physical inspection is required, pursuant to subsection 10 of this section, the assessor shall notify the property owner of that fact in writing and shall provide the owner clear written notice of the owner's rights relating to the physical inspection. If a physical inspection is required, the property owner may request that an interior inspection be performed during the physical inspection. The owner shall have no less than thirty days to notify the assessor of a request for an interior physical inspection.

12. A physical inspection, as required by subsection 10 of this section, shall include, but not be limited to, an on-site personal observation and review of all exterior portions of the land and any buildings and improvements to which the inspector has or may reasonably and lawfully gain external access, and shall include an observation and review of the interior of any buildings or improvements on the property upon the timely request of the owner pursuant to subsection 11 of this section. Mere observation of the property via a "drive-by inspection" or the like shall not be considered sufficient to constitute a physical inspection as required by this section.

13. A county or city collector may accept credit cards as proper form of payment of outstanding property tax due. No county or city collector may charge surcharge for payment by credit card which exceeds the fee or surcharge charged by the credit card bank for its service.

14. The provisions of sections 137.073, 137.115, 138.060 and 138.100 of this act shall become effective January 1, 2003 for any taxing jurisdiction which is partly or entirely within a county with a charter form of government with greater than one million inhabitants, and the provisions of sections 137.073, 137.115, 138.060 and 138.100 of this act shall become effective January 1, 2005 for all taxing jurisdictions in this state. Any county in this state may, by an affirmative vote of the governing body of such county, opt into the provisions of this act prior to January 1, 2005.

138.060. APPEALS FROM ASSESSOR'S VALUATION, NO PRESUMPTION THAT VALUATION IS CORRECT, BURDEN OF PROOF IN CERTAIN COUNTIES — ERRONEOUS ASSESSMENTS — HEARING, LIMITATION ON ASSESSOR'S TESTIMONY OF EVALUATION. — 1. The county board of equalization shall, in a summary way, determine all appeals from the valuation of property made by the assessor, and shall correct and adjust the assessment accordingly. There shall be no presumption that the assessor's valuation is correct. **In any county with a charter form of government with a population greater than two hundred eighty thousand inhabitants but less than two hundred eighty-five thousand inhabitants, and in any county with a charter form of government with greater than one million inhabitants, and in any city not within a county, the assessor shall have the burden to prove that the assessor's valuation does not exceed the true market value of the subject property. In such county or city, in the event a physical inspection of the subject property is required by subsection 10 of section 137.115, RSMo, the assessor shall have the burden to establish the manner in which the physical inspection was performed and shall have the burden to prove that the physical inspection was performed in accordance with section 137.115, RSMo. In such county or city, in the event the assessor fails to provide sufficient evidence to establish that the physical inspection was performed in accordance with section 137.115, RSMo, the property owner shall prevail on the appeal as a matter of law.** At any hearing before the state tax commission or a court of competent jurisdiction of an appeal of assessment from a first class charter county or a city not within a county, the assessor shall not advocate nor present evidence advocating a valuation higher than that value finally determined by the assessor or the value determined by the board of equalization, whichever is higher, for that assessment period.

2. The county clerk shall keep an accurate record of the proceedings and orders of the board, and the assessor shall correct all erroneous assessments, and the clerk shall adjust the tax book according to the orders of such board and the orders of the state tax commission, except that in adding or deducting such percent to each tract or parcel of real estate as required by such board or state tax commission, he shall add or deduct in each case any fractional sum of less than fifty cents, so that the value of any separate tract shall contain no fractions of a dollar.

138.100. RULES — HEARINGS (COUNTIES OF THE FIRST CLASSIFICATION). — 1. The following rules shall be observed by such county boards of equalization:

(1) They shall raise the valuation of all tracts or parcels of land and all tangible personal property as in their opinion have been returned below their real value; but, after the board has raised the valuation of such property, notice shall be given that said valuation of such property has been increased and a hearing shall be granted; such notice shall be in writing and shall be directed to the owner of the property or the person controlling the same, at his last address as shown by the records in the assessor's office, and shall describe the property and the value thereof as increased; such notice may be by personal service or by mail and if the address of such person or persons is unknown, notice may be given by publication in two newspapers published within the county; such notice shall be served, mailed or published at least five days prior to the date on which said hearing shall be held at which objections, if any, may be made against said increased assessment;

(2) They shall reduce the valuation of such tracts or parcels of land or of any tangible personal property which, in their opinion, has been returned above its true value as compared with the average valuation of all the real and tangible personal property of the county.

2. Such hearings shall end on the last Saturday of July of each year; provided, that the estimated true value of personal property as shown on any itemized personal property return shall not be conclusive on the assessor or prevent the assessor from increasing such valuation. Provided further that said board of equalization shall meet thereafter at least once a month for the purpose of hearing allegations of erroneous assessments, double assessments and clerical errors, and upon satisfactory proof thereof shall correct such errors and certify the same to the county clerk and county collector.

3. The board of equalization in all counties with a charter form of government shall provide the taxpayer with written findings of fact and a written basis for the board's decision regarding any parcel of real property which is the subject of a hearing before any board of equalization.

144.1000. CITATION OF ACT. — Sections 144.1000 to 144.1015 shall be known as and referred to as the "Simplified Sales and Use Tax Administration Act".

144.1003. DEFINITIONS. — As used in sections 144.1000 to 144.1015, the following terms shall mean:

(1) "Agreement", the Streamlined Sales and Use Tax Agreement;

(2) "Certified automated system", software certified jointly by the states that are signatories to the agreement to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to remit to the appropriate state and maintain a record of the transaction;

(3) "Certified service provider", an agent certified jointly by the states that are signatories to the agreement to perform all of the seller's sales tax functions;

(4) "Person", an individual, trust, estate, fiduciary, partnership, limited liability company, limited liability partnership, corporation or any other legal entity;

(5) "Sales tax", any sales tax levied pursuant to this chapter, section 32.085, RSMo, or any other sales tax authorized by statute and levied by this state or its political subdivisions;

(6) "Seller", any person making sales, leases or rentals of personal property or services;

(7) "State", any state of the United States and the District of Columbia;

(8) "Use tax", the use tax levied pursuant to this chapter.

144.1006. MULTISTATE DISCUSSIONS PERMITTED, STATE REPRESENTATION, DUTIES. — For the purposes of reviewing and, if necessary, amending the agreement embodying the simplification recommendations contained in section 144.1015, the state may enter into multistate discussions. For purposes of such discussions, the state shall be represented by

seven delegates, one of whom shall be appointed by the governor, two members appointed by the speaker of the house of representatives, one member appointed by the minority leader of the house of representatives, two members appointed by the president pro tempore of the senate and one member appointed by the minority leader of the senate. The delegates need not be members of the general assembly and at least one of the delegates appointed by the speaker of the house of representatives and one member appointed by the president pro tempore of the senate shall be from the private sector and represent the interests of Missouri businesses. The delegates shall recommend to the committees responsible for reviewing tax issues in the senate and the house of representatives each year any amendment of state statutes required to be substantially in compliance with the agreement. Such delegates shall make a written report by the fifteenth day of January each year regarding the status of the multistate discussions and upon final adoption of the terms of the sales and use tax agreement by the multistate body.

144.1009. AGREEMENTS NOT TO INVALIDATE OR AMEND STATE LAW — ACTION OF GENERAL ASSEMBLY REQUIRED FOR IMPLEMENTATION OF CONDITIONS, PROCEDURE. — No provision of the agreement authorized by sections 144.1000 to 144.1015 in whole or in part invalidates or amends any provision of the law of this state. Implementation of any condition of this agreement in this state, whether adopted before, at, or after membership of this state in the agreement, must be by action of the general assembly. Such report shall be delivered to the governor, the secretary of state, the president pro tempore of the senate and the speaker of the house of representatives and shall simultaneously be made publicly available by the secretary of state to any person requesting a copy.

144.1012. ELEMENTS OF AGREEMENT, NUMBER OF DELEGATES NECESSARY TO ENTER INTO. — Unless five of the seven delegates agree, the delegates shall not enter into or vote for any streamlined sales and use tax agreement that:

(1) Requires adoption of a definition of any term that would cause any item or transaction that is now excluded or exempted from sales or use tax to become subject to sales or use tax;

(2) Requires the state of Missouri to fully exempt or fully apply sales taxes to the sale of food or any other item;

(3) Restricts the ability of local governments under statutes in effect on August 28, 2002, to enact one or more local taxes on one or more items without application of the tax to all sales within the taxing jurisdiction, however, restriction of any such taxes allowed by statutes effective after August 28, 2002, may be supported;

(4) Provides for adoption of any uniform rate structure that would result in a tax increase for any Missouri taxpayer;

(5) Affects the sourcing of sales tax transactions; or

(6) Prohibits limitations or thresholds on the application of sales and use tax rates or prohibits any current sales or use tax exemption in the state of Missouri, including exemptions that are based on the value of the transaction or item.

144.1015. FEATURES OF AGREEMENT TO BE CONSIDERED. — In addition to the requirements of section 144.1012, the delegates should consider the following features when deciding whether or not to enter into any streamlined sales and use tax agreement:

(1) The agreement should address the limitation of the number of state rates over time;

(2) The agreement should establish uniform standards for administration of exempt sales and the form used for filing sales and use tax returns and remittances;

(3) The agreement should require the state to provide a central, electronic registration system that allows a seller to register to collect and remit sales and use taxes for all signatory states;

(4) The agreement should provide that registration with the central registration system and the collection of sales and use taxes in the signatory states will not be used as a factor in determining whether the seller has nexus with a state for any tax;

(5) The agreement should provide for reduction of the burdens of complying with local sales and use taxes through the following so long as they do not conflict with the provisions of section 144.1012:

(a) Restricting variances between the state and local tax bases;

(b) Requiring states to administer any sales and use taxes levied by local jurisdictions within the state so that sellers collecting and remitting these taxes will not have to register or file returns with, remit funds to, or be subject to independent audits from local taxing jurisdictions;

(c) Restricting the frequency of changes in the local sales and use tax rates and setting effective dates for the application of local jurisdictional boundary changes to local sales and use taxes; and

(d) Providing notice of changes in local sales and use tax rates and of changes in the boundaries of local taxing jurisdictions;

(6) The agreement should outline any monetary allowances that are to be provided by the states to sellers or certified service providers. The agreement must allow for a joint public and private sector study of the compliance cost on sellers and certified service providers to collect sales and use taxes for state and local governments under various levels of complexity to be completed by July 1, 2003;

(7) The agreement should require each state to certify compliance with the terms of the agreement prior to joining and to maintain compliance, under the laws of the member state, with all provisions of the agreement while a member, only if the agreement and any amendment thereto complies with the provisions of section 144.1012;

(8) The agreement should require each state to adopt a uniform policy for certified service providers that protects the privacy of consumers and maintains the confidentiality of tax information; and

(9) The agreement should provide for the appointment of an advisory council of private sector representatives and an advisory council of nonmember state representatives to consult with in the administration of the agreement.

620.012. ATTORNEY GENERAL TO REVIEW TAX ABATEMENT AGREEMENTS, PROCEDURE — TERMINATION DATE. — 1. Notwithstanding any other provision of law, before the director of revenue enters into any agreement to abate all or part of a taxpayer's liability to the state, including interest and additions to tax, the director shall forward a copy of the agreement to the attorney general before entering into such agreement.

2. Upon receiving the proposed agreement, the attorney general shall, within ten days, review and approve such agreement for its legal form and content as may be necessary to protect the legal interest of the state. If the attorney general does not approve, then the attorney general shall return the agreement with additional proposed provisions as may be necessary to the proper enforcement of the agreement as required to protect the state's legal interest. If the attorney general does not respond within ten days, or in the case of any agreement that involves an abatement of the taxpayer's tax liability, including interest and additions to tax, to the state of one million dollars or more, within thirty days, the agreement shall be deemed approved.

3. Communications related to the attorney general's review are attorney-client communications. The attorney general's written disposition shall be subject to chapter 610, RSMo.

4. The provisions of this section shall terminate January 1, 2005.

SECTION 1. REAL AND PERSONAL PROPERTY ASSESSMENT, CERTAIN REQUIREMENTS FOR PHYSICAL INSPECTION APPLICABLE TO ST. LOUIS COUNTY ONLY. — The provisions of subsections 11 and 12 of section 137.115, RSMo, shall only apply in any county with a charter form of government with more than on million inhabitants.

SECTION 2. COUNTY BOARDS OF EQUALIZATION, CERTAIN WRITTEN MATERIALS TO BE PROVIDED IN ST. LOUIS COUNTY ONLY. — The provisions of subsection 3 of section 138.100, RSMo, shall only apply in any county with a charter form of government with more than one million inhabitants.

SECTION B. EMERGENCY CLAUSE. — Because of the immediate need to secure adequate state revenue, 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 this act shall be in full force and effect upon its passage and approval, but not before July 1, 2002.

Approved June 14, 2002

HB 1151 [HB 1151]

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

Corrects an erroneous internal cross-reference in the law on administration of trusts.

AN ACT to repeal section 469.411, RSMo, and to enact in lieu thereof one new section relating to disclaimers of property.

SECTION

A. Enacting clause.

469.411. Determination of unitrust amount — definitions — exclusions to net fair market value of assets — applicability of section to certain trusts.

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

SECTION A. ENACTING CLAUSE. — Section 469.411, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 469.411, to read as follows:

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 three percent, or any higher percentage 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 three percent, or any higher percentage 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;

(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 or before August 28, 2001, if the trustee, in the trustee's discretion, elects to have this section apply two years from August 28, 2001, unless the instrument creating the trust provides otherwise. 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. Delivery of the notice to a person with respect to whom, pursuant to subdivision (2) of section 472.300, RSMo, an order would bind a beneficiary of the trust is delivery of notice to that beneficiary for all purposes of this subsection. 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 three percent or greater, 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 **[**469.409**] 469.405**;

(3) No action of any kind based on an election made or not 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 August 28, 2001.

Approved July 10, 2002

HB 1196 [SS SCS HB 1196]

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

Revises the amount of appropriations from the State Highways and Transportation Department Fund for certain entities, excluding the State Highway Patrol.

AN ACT to repeal sections 136.055, 142.803, 144.805, 155.080, 226.200, 226.540, 226.550, 226.573, 226.580, 226.585, 227.100 and 305.230, RSMo, relating to funding for transportation, and to enact in lieu thereof thirteen new sections relating to the same subject.

SECTION

A. Enacting clause.
136.055. Agent to collect motor vehicle taxes and issue licenses — fees — sign required.
142.803. Imposition of tax on fuel, amount — collection and precollection of tax.
144.805. Aviation jet fuel sold to common carriers in interstate transporting or storage exempt from all sales and use tax, when — qualification, procedure — common carrier to make direct payment to revenue — tax revenues to be deposited in aviation trust fund — expires when.
155.080. Use tax on aviation fuel — amount — collection — refunds.
226.200. State highways and transportation department fund — sources of revenue — expenditures.
226.540. Signs permitted on certain highways — lighting restrictions — size, location — zones — specifications.
226.550. Permits, fees for, exemption — permits to be issued for existing signs, exceptions — biennial inspection fees, collection, deposit, exceptions — permit to erect sign lapses, when.
226.573. Rulemaking — new technology in outdoor advertising.
226.580. Unlawful signs defined — removal authorized — notice — owner may proceed, how — removal costs, how paid — review of order, how — order of removal — reimbursement to owner, when.
226.585. Vegetation along right-of-way, cutting of — transportation department, duties.
227.100. Publication of notices, where — construction bids — rejection — bond required.

227.107. Design-build project contracts permitted, limitations, 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.
305.230. Aeronautics program, highways and transportation commission to administer — purposes — aviation trust fund, administration, uses — appropriation — immediate availability of funds in the event of a disaster.

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

SECTION A. ENACTING CLAUSE. — Sections 136.055, 142.803, 144.805, 155.080, 226.200, 226.540, 226.550, 226.573, 226.580, 226.585, 227.100 and 305.230, RSMo, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 136.055, 142.803, 144.805, 155.080, 226.200, 226.540, 226.550, 226.573, 226.580, 226.585, 227.100, 227.107 and 305.230, to read as follows:

136.055. AGENT TO COLLECT MOTOR VEHICLE TAXES AND ISSUE LICENSES — FEES — SIGN REQUIRED. — 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 chauffeur's, operator's or driver's license — two dollars and fifty cents beginning January 1, 1998; and four dollars beginning July 1, 2000**; and five dollars beginning July 1, 2003**, for six-year licenses issued or renewed;

(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. This section shall not apply to agents appointed by the state director of revenue in any city, other than a city not within a county, where the department of revenue maintains an office. 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. 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. 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.

142.803. IMPOSITION OF TAX ON FUEL, AMOUNT — COLLECTION AND PRECOLLECTION OF TAX. — 1. A tax is levied and imposed on all motor fuel used or consumed in this state as follows:

(1) Motor fuel, seventeen cents per gallon**[**. Beginning April 1, 2008, the tax rate shall become eleven cents per gallon**]**;

(2) Alternative fuels, not subject to the decal fees as provided in section 142.869, with a power potential equivalent of motor fuel. In the event alternative fuel, which is not commonly sold or measured by the gallon, is used in motor vehicles on the highways of this state, the director is authorized to assess and collect a tax upon such alternative fuel measured by the nearest power potential equivalent to that of one gallon of regular grade gasoline. The determination by the director of the power potential equivalent of such alternative fuel shall be prima facie correct;

(3) Aviation fuel used in propelling aircraft with reciprocating engines, nine cents per gallon as levied and imposed by section 155.080, RSMo, to be collected as required under this chapter.

2. All taxes, surcharges and fees are imposed upon the ultimate consumer, but are to be precollected as described in this chapter, for the facility and convenience of the consumer. The levy and assessment on other persons as specified in this chapter shall be as agents of this state for the precollection of the tax.

144.805. AVIATION JET FUEL SOLD TO COMMON CARRIERS IN INTERSTATE TRANSPORTING OR STORAGE EXEMPT FROM ALL SALES AND USE TAX, WHEN — QUALIFICATION, PROCEDURE — COMMON CARRIER TO MAKE DIRECT PAYMENT TO REVENUE — TAX REVENUES TO BE DEPOSITED IN AVIATION TRUST FUND — EXPIRES WHEN. — 1. In addition to the exemptions granted pursuant to the provisions of section 144.030, there shall also be specifically exempted from the provisions of sections 144.010 to 144.525, sections 144.600 to 144.748, and section 238.235, RSMo, and the provisions of any local sales tax law, as defined in section 32.085, RSMo, and from the computation of the tax levied, assessed or payable pursuant to sections 144.010 to 144.525, sections 144.600 to 144.748, and section 238.235, RSMo, and the provisions of any local sales tax law, as defined in section 32.085, RSMo, all sales of aviation jet fuel in a given calendar year to common carriers engaged in the interstate air transportation of passengers and cargo, and the storage, use and consumption of such aviation jet fuel by such common carriers, if such common carrier has first paid to the state of Missouri, in accordance with the provisions of this chapter, state sales and use taxes pursuant to the foregoing provisions and applicable to the purchase, storage, use or consumption of such aviation jet fuel in a maximum and aggregate amount of one million five hundred thousand dollars of state sales and use taxes in such calendar year.

2. To qualify for the exemption prescribed in subsection 1 of this section, the common carrier shall furnish to the seller a certificate in writing to the effect that an exemption pursuant to this section is applicable to the aviation jet fuel so purchased, stored, used and consumed. The director of revenue shall permit any such common carrier to enter into a direct-pay agreement with the department of revenue, pursuant to which such common carrier may pay directly to the department of revenue any applicable sales and use taxes on such aviation jet fuel up to the maximum aggregate amount of one million five hundred thousand dollars in each calendar year. The director of revenue shall adopt appropriate rules and regulations to implement the provisions of this section, and to permit appropriate claims for refunds of any excess sales and use taxes collected in calendar year 1993 or any subsequent year with respect to any such common carrier and aviation jet fuel.

3. The provisions of this section shall apply to all purchases and deliveries of aviation jet fuel from and after May 10, 1993.

4. **[**Effective September 1, 1998,**]** All sales and use tax revenues upon aviation jet fuel received pursuant to this chapter, less the amounts specifically designated pursuant to the constitution or pursuant to section 144.701, for other purposes, shall be deposited to the credit

of the aviation trust fund established pursuant to section 305.230, RSMo; provided however, the amount of such state sales and use tax revenues deposited to the credit of such aviation trust fund shall not exceed **[**five**]** **six** million dollars in each calendar year.

5. The provisions of this section and section 144.807 shall expire on December 31, **[**2003**]** **2008**.

155.080. USE TAX ON AVIATION FUEL — AMOUNT — COLLECTION — REFUNDS. — 1. There is hereby imposed a use tax on each gallon of aviation fuel used in propelling aircraft with reciprocating engines. The tax is imposed at the rate of nine cents per gallon. Such tax is to be collected and remitted to this state or paid to this state in the same manner and method and at the same time as is prescribed by chapter 142, RSMo, for the collection of the motor fuel tax imposed on each gallon of motor fuel used in propelling motor vehicles upon the public highways of Missouri.

2. All applicable provisions contained in chapter 142, RSMo, governing administration, collection and enforcement of the state motor fuel tax shall apply to this section, including but not limited to reporting, penalties and interest.

3. Each commercial agricultural aircraft operator may apply for a refund of the tax it has paid for aviation fuel used in a commercial agricultural aircraft. All such applications for refunds shall be made in accordance with the procedures specified in chapter 142, RSMo, for refunds of motor fuel taxes paid. If any person who is eligible to receive a refund of aviation fuel tax fails to apply for a refund as provided in chapter 142, RSMo, **[**he makes a gift of his refund to the aviation trust fund**]** **the refund amount shall be deposited to the credit of the aviation trust fund pursuant to section 305.230, RSMo**.

226.200. STATE HIGHWAYS AND TRANSPORTATION DEPARTMENT FUND — SOURCES OF REVENUE — EXPENDITURES. — 1. There is hereby created a "State Highways and Transportation Department Fund" into which shall be paid or transferred all state revenue derived from highway users as an incident to their use or right to use the highways of the state, including all state license fees and taxes upon motor vehicles, trailers, and motor vehicle fuels, and upon, with respect to, or on the privilege of the manufacture, receipt, storage, distribution, sale or use thereof (excepting the sales tax on motor vehicles and trailers, and all property taxes), and all other revenue received or held for expenditure by or under the department of transportation or the state highways and transportation commission, except:

(1) Money arising from the sale of bonds;

(2) Money received from the United States government; or

(3) Money received for some particular use or uses other than for the payment of principal and interest on outstanding state road bonds.

2. Subject to the limitations of subsection 3 of this section, from said fund shall be paid or credited the cost:

(1) Of collection of all said state revenue derived from highway users as an incident to their use or right to use the highways of the state;

(2) Of maintaining the state highways and transportation commission;

(3) Of maintaining the state transportation department;

(4) Of any workers' compensation for state transportation department employees;

(5) Of the share of the transportation department in any retirement program for state employees, only as may be provided by law; and

(6) Of administering and enforcing any state motor vehicle laws or traffic regulations.

3. **[**For all future fiscal years,**]** **Beginning in fiscal year 2004,** the total amount of appropriations from the state highways and transportation department fund for all state offices and departments**, except for the highway patrol, and actual costs incurred by the office of administration for or on behalf of the highway patrol and employees of the department of transportation,** shall not exceed the total amount appropriated for such offices and

departments from said fund for fiscal year 2001. **Appropriations to the highway patrol from the state highways and transportation department fund shall be made in accordance with article IV, section 30(b) of the Missouri Constitution. Appropriations allocated from the state highways and transportation department fund to the highway patrol shall only be used by the highway patrol to administer and enforce state motor vehicle laws or traffic regulations. Beginning July 1, 2007, any activities or functions conducted by the highway patrol not related to enforcing or administering state motor vehicle laws or traffic regulations shall not be funded by the state highways and transportation department fund, but shall be funded from general revenue or any other applicable source. Any current funding from the highways and transportation department fund used for activities not related to enforcing state motor vehicle laws or traffic regulations shall expire on June 30, 2007. The state auditor shall annually audit and examine the appropriations made to the highway patrol to determine whether such appropriations are actually being used for administering and enforcing state motor vehicle laws and traffic regulations pursuant to the constitution. The state auditor shall submit its annual findings to the general assembly by January fifteenth of each year.**

4. The provisions of subsection 3 of this section shall not apply to appropriations from the state highways and transportation department fund to the highways and transportation commission and the state transportation department or to appropriations to the office of administration for department of transportation employee fringe benefits and OASDHI payments, or to appropriations to the department of revenue for motor vehicle fuel tax refunds under chapter 142, RSMo, or to appropriations to the department of revenue for refunds or overpayments or erroneous payments from the state highways and transportation department fund.

5. All interest earned upon the state highways and transportation department fund shall be deposited in and to the credit of such fund.

6. Any balance remaining in said fund after payment of said costs shall be transferred to the state road fund.

7. Notwithstanding the provisions of subsection 2 of this section to the contrary, any funds raised as a result of increased taxation pursuant to sections 142.025 and 142.372, RSMo, after April 1, 1992, shall not be used for administrative purposes or administrative expenses of the transportation department.

226.540. SIGNS PERMITTED ON CERTAIN HIGHWAYS — LIGHTING RESTRICTIONS — SIZE, LOCATION — ZONES — SPECIFICATIONS. — Notwithstanding any other provisions of sections 226.500 to 226.600, outdoor advertising shall be permitted within six hundred and sixty feet of the nearest edge of the right-of-way of **[**any interstate or primary highway**]** **highways located on the interstate, federal-aid primary system as it existed on June 1, 1991, or the national highway system as amended** in areas zoned industrial, commercial or the like and in unzoned commercial and industrial areas as defined in this section, subject to the following regulations which are consistent with customary use in this state:

(1) Lighting:

(a) No revolving or rotating beam or beacon of light that simulates any emergency light or device shall be permitted as part of any sign. No flashing, intermittent, or moving light or lights will be permitted except scoreboards and other illuminated signs designating public service information, such as time, date, or temperature, or similar information, will be allowed; **tri-vision, projection and other changeable message signs shall be allowed subject to Missouri highway and transportation commission regulations;**

(b) External lighting, such as floodlights, thin line and gooseneck reflectors are permitted, provided the light source is directed upon the face of the sign and is effectively shielded so as to prevent beams or rays of light from being directed into any portion of the main traveled way of the federal-aid primary highways as of June 1, 1991, and all highways designated as part of

the National Highway System by the National Highway System Designation Act of 1995 and those highways subsequently designated as part of the National Highway System and the lights are not of such intensity so as to cause glare, impair the vision of the driver of a motor vehicle, or otherwise interfere with a driver's operation of a motor vehicle;

(c) No sign shall be so illuminated that it interferes with the effectiveness of, or obscures, an official traffic sign, device, or signal;

(2) Size of signs:

(a) The maximum area for any one sign shall be eight hundred square feet with a maximum height of thirty feet and a maximum length of seventy-two feet, inclusive of border and trim but excluding the base or apron, supports, and other structural members. The area shall be measured as established **herein and** in rules promulgated by the commission. In determining the size of a **conforming or nonconforming** sign structure, temporary cutouts and extensions installed for the length of a specific display contract shall not be **[**included in calculating**] considered a substantial increase to** the size of the permanent display; provided the actual square footage of such temporary cutouts or extensions may not exceed thirty-three percent of the permanent display area**. Signs erected in accordance with the provisions of sections 226.500 to 226.600 prior to the effective date of this provision which fail to meet the requirements of this provision shall be deemed legal nonconforming as defined herein**;

(b) The maximum size limitations shall apply to each side of a sign structure, and signs may be placed back to back, double faced, or in V-type construction with not more than two displays to each facing, but such sign structure shall be considered as one sign;

(c) After August 28, 1999, no new sign structure shall be erected in which two or more displays are stacked one above the other. Stacked structures existing on or before August 28, 1999, in accordance with sections 226.500 to 226.600 shall **[**not**]** be deemed **legal** nonconforming **[**for failure to meet the requirements of this section until such sign's structure is modified, repaired, replaced or rebuilt**] and may be maintained in accordance with the provisions sections of 226.500 to 226.600**. Structures displaying more than one display on a horizontal basis shall be allowed, provided that total display areas do not exceed the maximum allowed square footage for a sign structure pursuant to the provisions of paragraph (a) of subdivision (2) of this section;

(3) Spacing of signs:

(a) **On all** interstate highways**, [**and**]** freeways **[**on the**] and nonfreeway** federal-aid primary highways as of June 1, 1991, and all highways designated as part of the National Highway System by the National Highway System Designation Act of 1995 and those highways subsequently designated as part of the National Highway System:

a. No sign structure shall be erected within **[**five hundred**] one thousand four hundred** feet of an existing sign on the same side of the highway;

b. Outside of incorporated municipalities, no structure may be located adjacent to or within five hundred feet of an interchange, intersection at grade, or safety rest area. Such five hundred feet shall be measured from the beginning or ending of the pavement widening at the exit from or entrance to the main traveled way. For purpose of this subparagraph, the term "incorporated municipalities" shall include "urban areas", except that such "urban areas" shall not be considered "incorporated municipalities" if it is finally determined that such would have the effect of making Missouri be in noncompliance with the requirements of Title 23, United States Code, Section 131;

(b) **[**Nonfreeway federal-aid primary highways as of June 1, 1991, and all highways designated as part of the National Highway System by the National Highway System Designation Act of 1995 and those highways subsequently designated as part of the National Highway System:

a. Outside incorporated municipalities, no structure shall be erected within five hundred feet of an existing sign on the same side of the highway. Sign structures existing prior to August 28, 1999, which complied with the requirements of this section when erected shall not be deemed

nonconforming for failure to comply with the spacing provisions of this section until such sign's structure is modified, repaired, replaced or rebuilt;

b. Within incorporated municipalities, no structure shall be erected within five hundred feet of an existing sign. Sign structures existing prior to August 28, 1999, which complied with the requirements of this section when erected shall not be deemed nonconforming for failure to comply with the spacing provisions of this section until such sign's structure is modified, repaired, replaced or rebuilt;

(c)**]** The spacing between structure provisions of subdivision (3) of this section do not apply to signs which are separated by buildings, natural surroundings, or other obstructions in such manner that only one sign facing located within such distance is visible at any one time. Directional or other official signs or those advertising the sale or lease of the property on which they are located, or those which advertise activities on the property on which they are located, including products sold, shall not be counted, nor shall measurements be made from them for the purpose of compliance with spacing provisions;

[(d)**] (c)** No sign shall be located in such manner as to obstruct or otherwise physically interfere with the effectiveness of an official traffic sign, signal, or device or obstruct or physically interfere with a motor vehicle operator's view of approaching, merging, or intersecting traffic;

[(e)**] (d)** The measurements in this section shall be the minimum distances between outdoor advertising sign structures measured along the nearest edge of the pavement between points directly opposite the signs along each side of the highway and shall apply only to outdoor advertising sign structures located on the same side of the highway involved;

(4) As used in this section, the words "unzoned commercial and industrial land" shall be defined as follows: that area not zoned by state or local law or ordinance and on which there is located one or more permanent structures used for a commercial business or industrial activity or on which a commercial or industrial activity is actually conducted together with the area along the highway extending outwardly **[**six hundred**] seven hundred fifty** feet from and beyond the edge of such activity. All measurements shall be from the outer edges of the regularly used improvements, buildings, parking lots, landscaped, storage or processing areas of the commercial or industrial activity and along and parallel to the edge of the pavement of the highway. **[**On nonfreeway federal-aid primary highways as of June 1, 1991, and all highways designated as part of the National Highway System by the National Highway System Designation Act of 1995 and those highways subsequently designated as part of the National Highway System, where there is an unzoned commercial or industrial area on one side of the road as described in this section, the term "unzoned commercial or industrial land" shall also include those lands directly opposite on the other side of the highway to the extent of the same dimensions.**]** Unzoned land shall not include:

(a) Land on the opposite side of **[**an interstate or freeway primary**] the** highway from an unzoned commercial or industrial area as defined in this section **and located adjacent to highways located on the interstate, federal-aid primary system as it existed on June 1, 1991, or the national highway system as amended, unless the opposite side of the highway qualifies as a separate unzoned commercial or industrial area**; **or**

(b) Land zoned by a state or local law, regulation, or ordinance;

[(c) Land on the opposite side of a nonfreeway primary highway which is determined by the proper state authority to be a scenic area;**]**

(5) "Commercial or industrial activities" as used in this section means those which are generally recognized as commercial or industrial by zoning authorities in this state, except that none of the following shall be considered commercial or industrial:

(a) Outdoor advertising structures;

(b) Agricultural, forestry, ranching, grazing, farming, and related activities, including seasonal roadside fresh produce stands;

(c) Transient or temporary activities;

(d) Activities more than six hundred sixty feet from the nearest edge of the right-of-way or not visible from the main traveled way;

(e) Activities conducted in a building principally used as a residence;

(f) Railroad tracks and minor sidings;

(6) The words "unzoned commercial or industrial land" shall also include all areas not specified in this section which constitute an "unzoned commercial or industrial area" within the meaning of the present Section 131 of Title 23 of the United States Code, or as such statute may be amended. As used in this section, the words "zoned commercial or industrial area" shall refer to those areas zoned commercial or industrial by the duly constituted zoning authority of a municipality, county, or other lawfully established political subdivision of the state, or by the state **and which is within seven hundred fifty feet of one or more permanent commercial or industrial activities**. **[**Unzoned**]** Commercial or industrial activities as used in this section are limited to those activities:

(a) In which the primary use of the property is commercial or industrial in nature;

(b) Which are clearly visible from the highway and recognizable as a commercial business;

(c) Which are permanent as opposed to temporary or transitory and of a nature that would customarily be restricted to commercial or industrial zoning in areas comprehensively zoned; and

(d) In determining whether the primary use of the property is commercial or industrial pursuant to paragraph (a) of this subdivision, the state highways and transportation commission shall consider the following factors:

a. The presence of a permanent and substantial building;

b. The existence of utilities and **[**required**] local** business licenses, if any, for the commercial activity;

c. On-premise signs or other identification;

d. **[**Communication with the business owner that can be accomplished at regular intervals either in person, by telephone, by fax machine, by electronic mail or by some other business means**] The presence of an owner or employee on the premises for at least twenty hours per week**;

(7) In zoned commercial and industrial areas, whenever a state, county or municipal zoning authority has adopted laws or ordinances which include regulations with respect to the size, lighting and spacing of signs, which regulations are consistent with the intent of sections 226.500 to 226.600 and with customary use, then from and after the effective date of such regulations, and so long as they shall continue in effect, the provisions of this section shall not apply to the erection of signs in such areas. Notwithstanding any other provisions of this section, after August 28, 1992, with respect to any outdoor advertising which is regulated by the provisions of subdivision (1), (3) or (4) of section 226.520 or subsection 1 of section 226.527:

(a) No county or municipality shall issue a permit to allow a regulated sign to be newly erected without a permit issued by the state highways and transportation commission;

(b) A county or municipality may charge a reasonable one-time permit or inspection fee to assure compliance with local wind load and electrical requirements when the sign is first erected, but a county or municipality may not charge a permit or inspection fee for such sign after such initial fee. Changing the display face or performing routine maintenance shall not be considered as erecting a new sign;

(8) The state highways and transportation commission on behalf of the state of Missouri, may seek agreement with the Secretary of Transportation of the United States under Section 131 of Title 23, United States Code, as amended, that sections 226.500 to 226.600 are in conformance with that Section 131 and provides effective control of outdoor advertising signs as set forth therein. If such agreement cannot be reached and the penalties under subsection (b) of Section 131 are invoked, the attorney general of this state shall institute proceedings described in subsection (1) of that Section 131.

226.550. PERMITS, FEES FOR, EXEMPTION — PERMITS TO BE ISSUED FOR EXISTING SIGNS, EXCEPTIONS — BIENNIAL INSPECTION FEES, COLLECTION, DEPOSIT, EXCEPTIONS — PERMIT TO ERECT SIGN LAPSES, WHEN. — 1. No outdoor advertising which is regulated by subdivision (1), (3) or (4) of section 226.520 or subsection 1 of section 226.527 shall be erected or maintained on or after August 28, 1992, without a one-time permanent permit issued by the state highways and transportation commission. Application for permits shall be made to the state highways and transportation commission on forms furnished by the commission and shall be accompanied by a permit fee of **[**twenty-eight dollars and fifty cents**] two hundred dollars** for all signs; except that, tax-exempt religious organizations as defined in subdivision (11) of section 313.005, RSMo, service organizations as defined in subdivision (12) of section 313.005, RSMo, veterans' organizations as defined in subdivision (14) of section 313.005, RSMo, and fraternal organizations as defined in subdivision (8) of section 313.005, RSMo, shall be granted a permit for signs less than seventy-six square feet without payment of the fee. In the event a permit holder fails to erect a sign structure within twenty-four months of issuance, said permit shall expire and a new permit must be obtained prior to any construction.

2. No outdoor advertising which is regulated by subdivision (1), (3) or (4) of section 226.520 or subsection 1 of section 226.527 which was erected prior to August 28, 1992, shall be maintained without a one-time permanent permit for outdoor advertising issued by the state highways and transportation commission. If a one-time permanent permit was issued by the state highways and transportation commission after March 30, 1972, and before August 28, 1992, it is not necessary for a new permit to be issued. If a one-time permanent permit was not issued for a lawfully erected and lawfully existing sign by the state highways and transportation commission after March 30, 1972, and before August 28, 1992, a one-time permanent permit shall be issued by the commission for each sign which is lawfully in existence on the day prior to August 28, 1992, upon application and payment of a permit fee of **[**twenty-eight dollars and fifty cents**] two hundred dollars**. All applications and fees due pursuant to this subsection shall be submitted before December 31, 1992.

3. For purposes of sections 226.500 to 226.600, the terminology "structure lawfully in existence" or "lawfully existing" sign or outdoor advertising shall, nevertheless, include the following signs unless the signs violate the provisions of subdivisions (3) to (7) of subsection 1 of section 226.580:

(1) All signs erected prior to January 1, 1968;

(2) All signs erected before March 30, 1972, but on or after January 1, 1968, which would otherwise be lawful but for the failure to have a permit for such signs prior to March 30, 1972, except that any sign or structure which was not in compliance with sizing, spacing, lighting, or location requirements of sections 226.500 to 226.600 as the sections appeared in the revised statutes of Missouri 1969, wheresoever located, shall not be considered a lawfully existing sign or structure;

(3) All signs erected after March 30, 1972, which are in conformity with sections 226.500 to 226.600**;**

(4) All signs erected in compliance with sections 226.500 to 226.600, RSMo, prior to the effective date of this act.

4. On or after August 28, 1992, the state highways and transportation commission may, in addition to the fees authorized by subsections 1 and 2 of this section, collect a biennial inspection fee every two years after a state permit has been issued. Biennial inspection fees due after August 28, **[**1992**] 2002, and prior to August 28, 2003**, shall be **[**twenty-eight dollars and fifty cents**] fifty dollars. Biennial inspection fees due on or after August 28, 2003, shall be seventy-five dollars. Biennial inspection fees due on or after August 28, 2004, shall be one hundred dollars**; except that, tax-exempt religious organizations as defined in subdivision (11) of section 313.005, RSMo, service organizations as defined in subdivision (12) of section 313.005, RSMo, veterans' organizations as defined in subdivision (14) of section 313.005,

RSMo, and fraternal organizations as defined in subdivision (8) of section 313.005, RSMo, shall not be required to pay such fee.

5. **[**In order to effect collection from a sign owner of delinquent and unpaid biennial inspection fees which are payable pursuant to this section, or delinquent removal costs pursuant to section 226.580, the state highways and transportation commission may require any delinquent fees to be paid before a permit is issued to the delinquent sign owner for any new sign.**] In order to effect the more efficient collection of biennial inspection fees, the state highways and transportation commission is encouraged to adopt a renewal system in which all permits on a particular county are renewed in the same month. In conjunction with the conversion to this renewal system, the state highways and transportation commission is specifically authorized to prorate renewal fees based on changes in renewal dates.**

6. Sign owners or owners of the land on which signs are located must apply to the state highways and transportation commission for biennial inspection and submit any fees as required by this section on or before December 31, 1992. For a permitted sign which does not have a permit, a permit shall be issued at the time of the next biennial inspection.

7. The state highways and transportation commission shall deposit all fees received for outdoor advertising permits and inspection fees in the state road fund, keeping a separate record of such fees, and the same may be expended by the commission in the administration of sections 226.500 to 226.600.

226.573. RULEMAKING — NEW TECHNOLOGY IN OUTDOOR ADVERTISING. — The state highways and transportation commission is authorized to adopt administrative rules regulating the use of new technology in outdoor advertising as allowed under federal regulations for federal-aid primary highways as of June 1, 1991, and all highways designated as part of the National Highway System by the National Highway System Designation Act of 1995 and those highways subsequently designated as part of the National Highway System. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated pursuant to the authority delegated in this section shall become effective only if it has been promulgated pursuant to 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,**]** **the effective date of this section** shall be invalid and void.

226.580. UNLAWFUL SIGNS DEFINED — REMOVAL AUTHORIZED — NOTICE — OWNER MAY PROCEED, HOW — REMOVAL COSTS, HOW PAID — REVIEW OF ORDER, HOW — ORDER OF REMOVAL — REIMBURSEMENT TO OWNER, WHEN. — 1. The following outdoor advertising within six hundred sixty feet of the right-of-way of interstate or primary highways is deemed unlawful and shall be subject to removal:

(1) Signs erected after March 30, 1972, contrary to the provisions of sections 226.500 to 226.600 and signs erected on or after January 1, 1968, but before March 30, 1972, contrary to the sizing, spacing, lighting, or location provisions of sections 226.500 to 226.600 as they appeared in the revised statutes of Missouri 1969; or

(2) Signs for which a permit is not obtained or a biennial inspection fee is **[**not paid as prescribed in sections 226.500 to 226.600**] more than twelve months past due**; or

(3) Signs which are obsolete; (Signs shall not be considered obsolete solely because they temporarily do not carry an advertising message.) or

(4) Signs that are not in good repair; or

(5) Signs not securely affixed to a substantial structure; or

(6) Signs which attempt or appear to attempt to regulate, warn, or direct the movement of traffic or which interfere with, imitate, or resemble any official traffic sign, signal, or device; or

(7) Signs which are erected or maintained upon trees or painted or drawn upon rocks or other natural features.

2. Signs erected after August 13, 1976, beyond six hundred sixty feet of the right-of-way outside of urban areas, visible from the main traveled way of the interstate or primary system and erected with the purpose of their message being read from such traveled way, except those signs described in subdivisions (1) and (2) of section 226.520 are deemed unlawful and shall be subject to removal.

3. If a sign is deemed to be unlawful for any of the reasons set out in subsections 1 **[**and 2**] to 7** of this section, the state highways and transportation commission shall give notice either by certified mail or by personal service to the owner or occupant of the land on which advertising believed to be unlawful is located and the owner of the outdoor advertising structure. Such notice shall specify the basis for the alleged unlawfulness, shall specify the remedial action which is required to correct the unlawfulness and shall advise that a failure to take the remedial action within **[**thirty**] sixty** days will result in the sign being removed. Within **[**thirty**] sixty** days after receipt of the notice as to him, the owner of the land or of the structure may remove the sign or may take the remedial action specified or may file an action for administrative review pursuant to the provisions of sections 536.067 to 536.090, RSMo, to review the action of the state highways and transportation commission, or he may proceed under the provisions of section 536.150, RSMo, as if the act of the highways and transportation commission was one not subject to administrative review. Notwithstanding any other provisions of sections 226.500 to 226.600, no outdoor advertising structure erected prior to August 28, 1992, defined as a "structure lawfully in existence" or "lawfully existing", by subdivision (1), (2) or (3) of subsection 2 of section 226.550, shall be removed for failure to have a permit until a notice, as provided in this section, has been issued which shall specify failure to obtain a permit or pay a biennial inspection fee as the basis for alleged unlawfulness, and shall advise that failure to take the remedial action of applying for a permit or paying the inspection fee within **[**thirty**] sixty** days will result in the sign being removed. **Signs for which biennial inspection fees are delinquent shall not be removed unless the fees are more than twelve months past due and actual notice of the delinquency has been provided to the sign owner.** Upon application made within the **[**thirty-day**] sixty-day** period as provided in this section, and accompanied by the fee prescribed by section 226.550, together with any inspection fees that would have been payable if a permit had been timely issued, the state highways and transportation commission shall issue a one-time permanent permit for such sign. Such signs with respect to which permits are so issued are hereby determined by the state of Missouri to have been lawfully erected within the meaning of "lawfully erected" as that term is used in Title 23, United States Code, section 131(g), as amended, and shall only be removed upon payment of just compensation, except that the issuance of permits shall not entitle the owners of such signs to compensation for their removal if it is finally determined that such signs are not "lawfully erected" as that term is used in section 131(g) of Title 23 of the United States Code.

4. If **actual** notice as provided in this section is given and neither the remedial action specified is taken nor an action for review is filed, or if an action for review is filed and is finally adjudicated in favor of the state highways and transportation commission, the state highways and transportation commission shall have authority to immediately remove the unlawful outdoor advertising. The owner of the structure shall be liable for the costs of such removal. The commission shall incur no liability for causing this removal, except for damage caused by negligence of the commission, its agents or employees.

5. If notice as provided in this section is given and an action for review is filed under the provisions of section 536.150, RSMo, or if administrative review pursuant to the provisions of sections 536.067 to 536.090, RSMo, is filed and the state highways and transportation commission enters its final decision and order to remove the outdoor advertising structure, the advertising message contained on the structure shall be removed or concealed by the owner of the structure, at the owner's expense, until the action for judicial review is finally adjudicated.

If the owner of the structure refuses or fails to remove or conceal the advertising message, the commission may remove or conceal the advertising message and the owner of the structure shall be liable for the costs of such removal or concealment. The commission shall incur no liability for causing the removal or concealment of the advertising message while an action for review is pending, except if the owner finally prevails in its action for judicial review, the commission will compensate the owner at the rate the owner is actually receiving income from the advertiser pursuant to written lease from the time the message is removed until the judicial review is final.

6. Any signs advertising tourist oriented type business will be the last to be removed.

7. Any signs prohibited by section 226.527 which were lawfully erected prior to August 13, 1976, shall be removed pursuant to section 226.570.

8. The transportation department shall reimburse to the lawful owners of any said nonconforming signs that are now in existence as defined in sections 226.540, 226.550, 226.580 and 226.585, said compensation calculated and/or based on a fair market value and not mere replacement cost.

226.585. VEGETATION ALONG RIGHT-OF-WAY, CUTTING OF — TRANSPORTATION DEPARTMENT, DUTIES. — The state transportation department may cut and trim any vegetation on the highway right-of-way which interferes with the effectiveness of or obscures a lawfully erected billboard, or the highways and transportation commission shall promulgate reasonable rules and regulations to permit the cutting and trimming of such vegetation on the highway or right-of-way by the owner of such billboard. **The right to a vegetation permit by an outdoor advertising permit holder shall be issued in accordance with the current rules and regulations promulgated by the highways and transportation commission and shall not be denied without good cause.** Such rules and regulations shall be promulgated within twelve months after August 28, 1992, or the commission shall suspend the collection of the biennial inspection fees prescribed by section 226.550 until such rules are promulgated, and such rules may include authority to charge a reasonable fee for such **[**permission**] permit**. This section shall not apply if its implementation would have the effect of making Missouri be in noncompliance with requirements of Title 23, United States Code, section 131.

227.100. PUBLICATION OF NOTICES, WHERE — CONSTRUCTION BIDS — REJECTION — BOND REQUIRED. — 1. All contracts for the construction of said work shall be let to the lowest responsible bidder or bidders after notice and publication of an advertisement in a newspaper published in the county where the work is to be done, and in such other publications as the commission may determine**[**; provided, that in all cases where the project advertised shall be for the construction of more than ten miles of road, such advertisement shall provide for bids on sections of said road not to exceed ten miles, as well as on the project as a whole, and such contract shall then be let so as to provide for the most economical construction of said project**]**.

2. Each bid shall be accompanied by a certified check or a cashier's check or a bid bond, guaranteed by a surety company authorized by the director of the department of insurance to conduct surety business in the state of Missouri, equal to five percent of the bid, which certified check, cashier's check, or bid bond shall be deposited with the commissioner as a guaranty and forfeited to the state treasurer to the credit of the state road fund in the event the successful bidder fails to comply with the terms of the proposal, and return to the successful bidder on execution and delivery of the performance bond provided for in subsection 4. The checks of the unsuccessful bidders shall be returned to them in accordance with the terms of the proposal.

3. All notices of the letting of contracts under this section shall state the time and place when and where bids will be received and opened, and all bids shall be sealed and opened only at the time and place mentioned in such notice and in the presence of some member of the commission or some person named by the commission for such purpose.

4. The successful bidders for the construction of said work shall enter into contracts furnished and prescribed by the commission and shall give good and sufficient bond, in a sum

equal to the contract price, to the state of Missouri, with sureties approved by the commission and to ensure the proper and prompt completion of said work in accordance with the provisions of said contracts, and plans and specifications; provided, that if, in the opinion of the majority of the members of the commission, the lowest bid or bids for the construction of any of the roads, or parts of roads, herein authorized to be constructed, shall be excessive, then, and in that event, said commission shall have the right, and it is hereby empowered and authorized to reject any or all bids, and to construct, under its own direction and supervision, all of such roads and bridges, or any part thereof.

227.107. DESIGN-BUILD PROJECT CONTRACTS PERMITTED, LIMITATIONS, 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. 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. 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. 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. 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. 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. 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. 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. 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 commission is authorized to prescribe the form of the contracts for the work.

11. 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.

12. 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.

13. 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.

14. 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.

15. 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.

16. 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.

17. 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.

18. 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.

19. 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.

305.230. AERONAUTICS PROGRAM, HIGHWAYS AND TRANSPORTATION COMMISSION TO ADMINISTER — PURPOSES — AVIATION TRUST FUND, ADMINISTRATION, USES — APPROPRIATION — IMMEDIATE AVAILABILITY OF FUNDS IN THE EVENT OF A DISASTER. — 1. The state highways and transportation commission shall administer an aeronautics program within this state. The **[**state**]** commission shall encourage, foster and participate with the political subdivisions of this state in the promotion and development of aeronautics. The **[**state**]** commission may provide financial assistance in the form of grants from funds appropriated for such purpose to any political subdivision or instrumentality of this state acting independently or jointly or to the owner or owners of any privately owned airport designated as a reliever by the Federal Aviation Administration for the planning, acquisition, construction, improvement or maintenance of airports, or for other aeronautical purposes.

2. Any political subdivision or instrumentality of this state or the owner or owners of any privately owned airport designated as a reliever by the Federal Aviation Administration receiving state funds for the purchase, construction, or improvement, except maintenance, of an airport shall agree before any funds are paid to it to control by ownership or lease the airport for a period equal to the useful life of the project as determined by the **[**state**]** commission following the last payment of state or federal funds to it. In the event an airport authority ceases to exist for any reason, this obligation shall be carried out by the governing body which created the authority.

3. Unless otherwise provided, grants to political subdivisions, instrumentalities or to the owner or owners of any privately owned airport designated as a reliever by the Federal Aviation Administration shall be made from the aviation trust fund. In making grants, the commission shall consider whether the local community has given financial support to the airport in the past. Priority shall be given to airports with local funding for the past five years with no reduction in such funding. The aviation trust fund is a revolving trust fund exempt from the provisions of section 33.080, RSMo, relating to the transfer of funds to the general revenue funds of the state by the state treasurer. All interest earned upon the balance in the aviation trust fund shall be deposited to the credit of the same fund.

4. The moneys in the aviation trust fund shall be administered by the **[**state**]** commission and, when appropriated, shall be used for the following purposes:

(1) As matching funds on an up to **[**eighty**] ninety** percent **[**state/twenty**] state/ten** percent local basis, except in the case where federal funds are being matched, when the ratio of state and local funds used to match the federal funds shall be fifty percent state/fifty percent local:

(a) For preventive maintenance of runways, taxiways and aircraft parking areas, and for emergency repairs of the same;

(b) For the acquisition of land for the development and improvement of airports;

(c) For the earthwork and drainage necessary for the construction, reconstruction or repair of runways, taxiways, and aircraft parking areas;

(d) For the construction, or restoration of runways, taxiways, or aircraft parking areas;

(e) For the acquisition of land or easements necessary to satisfy Federal Aviation Administration safety requirements;

(f) For the identification, marking or removal of natural or manmade obstructions to airport control zone surfaces and safety areas;

(g) For the installation of runway, taxiway, boundary, ramp, or obstruction lights, together with any work directly related to the electrical equipment;

(h) For the erection of fencing on or around the perimeter of an airport;

(i) For purchase, installation or repair of air navigational and landing aid facilities and communication equipment;

(j) For engineering related to a project funded under the provisions of this section and technical studies or consultation related to aeronautics;

(k) For airport planning projects including master plans and site selection for development of new airports, for updating or establishing master plans and airport layout plans at existing airports;

(l) For the purchase, installation, or repair of safety equipment and such other capital improvements and equipment as may be required for the safe and efficient operation of the airport;

(2) As total funds, with no local match:

(a) For providing air markers, windsocks, and other items determined to be in the interest of the safety of the general flying public;

(b) For the printing and distribution of state aeronautical charts and state airport directories on an annual basis, and a newsletter on a quarterly basis or the publishing and distribution of any public interest information deemed necessary by the **[**state**]** commission;

(c) For the conducting of aviation safety workshops;

(d) For the promotion of aerospace education;

(3) As total funds with no local match, up to five hundred thousand dollars per year may be used for the cost of operating existing air traffic control towers that do not receive funding from the Federal Aviation Administration or the **United States** Department of Defense, except no more than one hundred twenty-five thousand dollars per year may be used for any individual control tower.

5. In the event of a natural or manmade disaster which closes any runway or renders inoperative any electronic or visual landing aid at an airport, any funds appropriated for the purpose of capital improvements or maintenance of airports may be made immediately available for necessary repairs once they are approved by the **[**Missouri department of transportation**] commission**. For projects designated as emergencies by the **[**Missouri department of transportation**] commission**, all requirements relating to normal procurement of engineering and construction services are waived.

6. As used in this section, the term "instrumentality of the state" shall mean any state educational institution as defined in section 176.010, RSMo, or any state agency which owned or operated an airport on January 1, 1997, and continues to own or operate such airport.

Approved May 28, 2002

HB 1205 [SCS HB 1205, 1214, 1314, 1320, 1504, 1788, 1867 & 1969]

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

Creates special license plate for members of the Civil Air Patrol.

AN ACT to repeal sections 301.441 and 301.448, RSMo, and to enact in lieu thereof ten new sections relating to special license plates.

SECTION

A. Enacting clause.
301.441. Retired members of the United States military special license plates — application — proof required — license, how marked.
301.448. Military, military reserve and national guard plates for certain vehicles — application, requirements — design, how made.

301.450. Spouse of military members may be issued special license plates, procedure. (Transferred 1985; now 306.530)
301.3060. Civil Air Patrol special license plate, application, fee.
301.3085. United States Marine Corps, active duty combat, special license plate authorized.
301.3090. Operation Enduring Freedom special license plates, application, fee.
301.3105. Veterans of Foreign Wars special license plates, application, fee.
301.3107. Missouri Task Force One special license plate, application, fee.
301.3116. Operation Noble Eagle special license plate, application, fee.
301.4000. Military service special license plate for motorcycles, application, fee.

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

SECTION A. ENACTING CLAUSE. — Sections 301.441 and 301.448, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as sections 301.441, 301.448, 301.450, 301.3060, 301.3085, 301.3090, 301.3105, 301.3107, 301.3116 and 301.4000, to read as follows:

301.441. RETIRED MEMBERS OF THE UNITED STATES MILITARY SPECIAL LICENSE PLATES — APPLICATION — PROOF REQUIRED — LICENSE, HOW MARKED. — Any person who is a retired member of the United States Army, Navy, Air Force, Marine Corps or Coast Guard may apply for **[**issuance of special**]** **retired military** motor vehicle license plates for any **[**passenger motor vehicle subject to the registration fees provided in section 301.055, or for a nonlocal property-carrying**]** **motor vehicle the person owns, either solely or jointly, other than an apportioned motor vehicle or a** commercial motor vehicle licensed **[**for a gross weight of nine thousand one pounds to twelve**]** **in excess of eighteen** thousand pounds **[**as provided in section 301.057, whether such vehicle is owned solely or jointly**]** **gross weight. 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 a vehicle owned solely or jointly by such person**. No additional fee shall be charged for **[**a set of special**]** license plates issued pursuant to this section. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates issued pursuant to this section. Such person shall make application for the **[**special**]** license plates on a form provided by the director of revenue and furnish such proof of retired status from that particular branch of the United States armed forces as the director may require. The plates shall have a white background with a blue and red configuration at the discretion of the advisory committee established in section 301.129. Such plates shall bear the insignia of the respective branch the applicant served in. The director shall then issue license plates bearing the words "RETIRED MILITARY" in preference to 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, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130.

301.448. MILITARY, MILITARY RESERVE AND NATIONAL GUARD PLATES FOR CERTAIN VEHICLES — APPLICATION, REQUIREMENTS — DESIGN, HOW MADE. — Any person who has served and was honorably discharged or currently serves in any branch of the United States armed forces or reserves, the United States Coast Guard or reserve, the United States Merchant Marines or reserve or the Missouri national guard, or any subdivision of any of such services or a member of the United States Marine Corps League may apply for special motor vehicle license plates, either solely or jointly, for issuance either to passenger motor vehicles subject to the registration fees provided in section 301.055, or to nonlocal property-carrying commercial motor vehicles licensed for a gross weight of six thousand pounds up through and including twelve thousand pounds as provided in section 301.057. Any such person shall make application for the special license plates on a form provided by the director of revenue and furnish such proof that such person is a member or former member of any such branch of service as the director may require. Upon presentation of the proof of eligibility and annual payment of the fee required

for personalized license plates in section 301.144, and other fees and documents which may be required by law, the department shall issue personalized license plates which shall bear the seal, logo or emblem, along with a word or words designating the branch or subdivision of such service for which the person applies. All seals, logos, emblems or special symbols shall become an integral part of the license plate; however, no plate shall contain more than one seal, logo, emblem or special symbol and the design of such plates shall be approved by the advisory committee established in section 301.129 and by the branch or subdivision of such service or the Marine Corps League prior to issuing such plates. The plates shall have a white background with a blue and red configuration at the discretion of the advisory committee established in section 301.129. The bidding process used to select a vendor for the material to manufacture the license plates authorized by this section shall consider the aesthetic appearance of the plate. The director of revenue shall make necessary rules and regulations for the enforcement of this section, and shall design all necessary forms. **[**The director of revenue shall not authorize the manufacture of the material to produce such license plates with the individual seal, logo, or emblem until such time he has received one hundred applications for such plates for each branch or subdivision of such service. License plates indicating army reserve, naval reserve, air force reserve, marine corps reserve, coast guard reserve, issued prior to January 1, 1994, will still be in full force and effect until such time the one hundred minimum applications for such branch of service is met.**]** All license plates issued under this provision must be renewed in accordance with law. 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 applicant.

301.450. SPOUSE OF MILITARY MEMBERS MAY BE ISSUED SPECIAL LICENSE PLATES, PROCEDURE. (TRANSFERRED 1985; NOW 306.530) — 1. Notwithstanding the provisions of any other section to the contrary, any surviving spouse who was married to an individual who would have been eligible to own any of the various special military license plates provided for in section 301.448, and who has not remarried, shall be allowed to obtain such special license plates. The surviving spouse shall make application, provide necessary documentation of the individual's military service, and pay such fees as are otherwise required by section 301.448, for issuance of the special military plates. Such plates must be renewed as otherwise required by law. The surviving spouse may renew such plates unless such spouse remarries. License plates issued pursuant to this section shall not be transferable to any other person.

2. The director of the department of revenue shall have the authority to promulgate any rules and regulations necessary for the administration 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 chapter 536, RSMo.

301.3060. CIVIL AIR PATROL SPECIAL LICENSE PLATE, APPLICATION, FEE. — 1. Any person who is a member of the Civil Air Patrol may, after an annual payment of an emblem-use authorization fee to the Civil Air Patrol as provided in subsection 2 of this section, apply for Civil Air Patrol license plates for any motor vehicle such person owns, either solely or jointly, for issuance either for a passenger motor vehicle subject to the registration fees as provided in section 301.055 or for a local or nonlocal property-carrying commercial motor vehicle licensed for a gross weight not in excess of eighteen thousand pounds as provided in section 301.057 or 301.058. The Civil Air Patrol hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates as provided in this section.

2. Upon annual application and payment of a fifteen dollar emblem-use contribution to the Civil Air Patrol, the Civil Air Patrol shall issue to the person, without further charge, an emblem-use authorization statement which shall be presented by the member

to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement and payment of the fee required for personalized license plates in section 301.144 and other fees and documents which may be required by law, the department of revenue shall issue a personalized license plate, which shall bear the emblem of the Civil Air Patrol in the left hand section of such license plate and the words "CIVIL AIR PATROL" in place of the words "SHOW-ME STATE" to the person. The emblem, seal or logo shall be reproduced on the license plate in as a clear and defined manner as possible. If the emblem, seal or logo is unacceptable to the Civil Air Patrol, it shall be the Civil Air Patrol's responsibility to furnish the artwork in a digitalized format. 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.

3. A fee for the issuance of personalized license plates pursuant to section 301.144, shall not be required for plates issued pursuant to 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 plates issued pursuant to this section is issued for vehicles owned solely or jointly by such person. License plates issued pursuant to this section shall not be transferable to any other person except that any registered co-owner of the motor vehicle may operate the motor vehicle for the duration of the year licensed in the event of the death of the qualified person.

301.3085. UNITED STATES MARINE CORPS, ACTIVE DUTY COMBAT, SPECIAL LICENSE PLATE AUTHORIZED. — Any person who has participated in active duty combat action while serving in the United States Marine Corps or the United States Navy may apply for special motor vehicle license plates for any vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle licensed in excess of eighteen thousand pounds gross weight. 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 combat infantry badge as the director may require. The director shall then issue license plates bearing the words "COMBAT ACTION RIBBON" in place of the words "SHOW-ME STATE" in a form prescribed by the director, except that such license plates shall be made with fully reflective material, shall have a white background with a blue and red configuration at the discretion of the director, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Such plates shall also bear an image of a blue, yellow, and red ribbon. There shall be an additional fee charged for each set of special combat action ribbon license plates issued equal to the fee charged for personalized license plates in section 301.144. No more than one set of combat action ribbon license plates shall be issued to a qualified applicant. 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.

301.3090. OPERATION ENDURING FREEDOM SPECIAL LICENSE PLATES, APPLICATION, FEE. — Any person who is serving on active duty in any branch of the United States military, including the reserves or national guard, during any part of Operation Enduring Freedom and has not been dishonorably discharged may receive special 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. Any such person shall make application for the special license plates on a form provided by the director of revenue and furnish such proof of service during Operation Enduring Freedom or proof of status as an honorably

discharged veteran as the director may require. Upon presentation of the proof of eligibility and annual payment of the fee required for personalized license plates prescribed by section 301.144, and other fees and documents which may be required by law, the director shall then issue license plates bearing letters or numbers or a combination thereof as determined by the advisory committee established in section 301.129, with the words "OPERATION ENDURING FREEDOM" in place of the words "SHOW-ME STATE". Such plates shall also bear an image of the American flag. The plates shall be clearly visible at night and shall be aesthetically attractive, as prescribed by section 301.130. No more than one set of special license plates shall be issued pursuant to this section to a qualified applicant. License plates issued pursuant to this section shall not be transferable to any other person except that any registered co-owner of the motor vehicle may operate the motor vehicle for the duration of the year licensed in the event of the death of the qualified person.

301.3105. VETERANS OF FOREIGN WARS SPECIAL LICENSE PLATES, APPLICATION, FEE. — 1. Any member of the Veterans of Foreign Wars may receive special license plates as prescribed by this section, 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, after an annual payment of an emblem-use authorization fee to the Department of Missouri, Veterans of Foreign Wars of which the person is a member. The Veterans of Foreign Wars 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 Veterans of Foreign Wars derived from this section, except reasonable administrative costs, shall be used solely for the purposes of the Department of Missouri, Veterans of Foreign Wars. Any member of the Veterans of Foreign Wars 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 Department of Missouri, Veterans of Foreign Wars, the organization shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear the emblem of the Veterans of Foreign Wars. 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. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. A vehicle owner, who was previously issued a plate with the Veterans of Foreign Wars 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 Veterans of Foreign Wars emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by 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 chapter 536, RSMo.

301.3107. MISSOURI TASK FORCE ONE SPECIAL LICENSE PLATE, APPLICATION, FEE. — 1. Any member of Missouri Task Force One may receive special license plates as prescribed by this section, 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. Any member of Missouri Task Force One may annually apply for such license plates.

2. Upon presentation of the appropriate proof of eligibility as determined by the director and annual payment of a fifteen dollar fee in addition to the registration fee, and other documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear an appropriate configuration to be determined by the director, with the words "MISSOURI TASK FORCE ONE" 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. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. No more than one set of license plates shall be issued pursuant to this section to a qualified applicant. License plates issued pursuant to 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. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by 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 chapter 536, RSMo.

301.3116. OPERATION NOBLE EAGLE SPECIAL LICENSE PLATE, APPLICATION, FEE. — Any person who is serving or has served in any branch of the United States military, including the reserves or national guard, during any part of Operation Noble Eagle and has not been dishonorably discharged may receive special 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. Any such person shall make application for the special license plates on a form provided by the director of revenue and furnish such proof of service during Operation Noble Eagle or proof of status as an honorably discharged veteran as the director may require. Upon presentation of the proof of eligibility and annual payment of the fee required for personalized license plates prescribed by section 301.144, and other fees and documents which may be required by law, the director shall then issue license plates bearing letters or numbers or a combination thereof as determined by the advisory committee established in section 301.129, with the words "OPERATION NOBLE EAGLE" in place of the words "SHOW-ME STATE". Such plates shall also bear an image of the American flag. The plates shall be clearly visible at night and shall be aesthetically attractive, as prescribed by section 301.130. No more than one set of special license plates shall be issued pursuant to this section to a qualified applicant. License plates issued pursuant to this section shall not be transferable to any other person except that any registered co-owner of the motor vehicle may operate the motor vehicle for the duration of the year licensed in the event of the death of the qualified person.

301.4000. MILITARY SERVICE SPECIAL LICENSE PLATE FOR MOTORCYCLES, APPLICATION, FEE. — Any person who served in the active military service in a branch of the armed forces of the United States during a period of war and was honorably discharged from such service may apply for special motorcycle license plates, either solely or jointly, for issuance for any motorcycle subject to the registration fees provided in section 301.055. Any such person shall make application for the special license plates on a form provided by the director of revenue and furnish such proof of service in a foreign war and status as an honorably discharged veteran as the director may require. Upon

presentation of the proof of eligibility and payment of a fifteen dollar fee in addition to the regulation registration fees, and presentation of other documents which may be required by law, the director shall then issue license plates bearing letters or numbers or a combination thereof as determined by the director, with the words "U.S. VET" in place of the words "SHOW-ME STATE". The plates shall be clearly visible at night and shall be aesthetically attractive, as prescribed by section 301.130. No more than one set of special license plates shall be issued pursuant to this section to a qualified applicant. License plates issued pursuant to this section shall not be transferable to any other person except that any registered co-owner of the motorcycle may operate the motorcycle for the duration of the year licensed in the event of the death of the qualified person.

Approved July 3, 2002

HB 1265 [SCS HB 1265]

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

Establishes automatic registration with selective service for male applicants for driver's licenses between the ages of eighteen and twenty-six.

AN ACT to amend chapter 302, RSMo, by adding thereto one new section relating to registration with the Selective Service system, with an effective date.

SECTION
A. Enacting clause.
302.169. Registration with the Selective Service System at time of application for driver's license, procedure.

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

SECTION A. ENACTING CLAUSE. — Chapter 302, RSMo, is amended by adding thereto one new section, to be known as section 302.169, to read as follows:

302.169. REGISTRATION WITH THE SELECTIVE SERVICE SYSTEM AT TIME OF APPLICATION FOR DRIVER'S LICENSE, PROCEDURE. — 1. Any male applicant who applies for a driver's license instruction permit or license or renewal of any such permit or license and who is at least eighteen years of age but less than twenty-six years of age shall also be allowed to register in compliance with the requirements of Section 3 of the Military Selective Service Act, 50 U.S.C. App. Section 453, as amended. The application shall provide appropriate space for completion by the applicant to indicate his desire to register with the Selective Service.

2. If the applicant indicates his desire to register with the Selective Service by completing the appropriate section of the application as described in subsection 1 of this section, the department of revenue shall forward in an electronic format the necessary personal information of such applicants to the Selective Service system. The applicant's signature on the application and completion of the appropriate section of the application shall serve as an indication that the applicant is authorizing the department to forward to the Selective Service system the necessary information for such registration. The department shall notify the applicant at the time of application that the applicant's

signature constitutes consent to registration with the Selective Service system, if the applicant is not already registered.

3. The provisions of this section shall become effective July 1, 2003.

Approved July 11, 2002

HB 1270 [CCS#2 SS SCS HB 1270 & HB 2032]

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

Disallows issuance of special permits for movement of certain vehicles on state and federal highways.

AN ACT to repeal sections 61.021, 300.075, 300.080, 300.100, 300.105, 300.110, 300.125, 300.160, 300.215, 300.300, 300.348, 300.350, 300.585, 300.595, 302.130, 302.137, 302.321, 302.720, 304.001, 304.022, 304.027, 304.200, 575.010 and 575.150, RSMo, and to enact in lieu thereof thirty-four new sections relating to motor vehicles, with penalty provisions and an emergency clause for certain sections.

SECTION

A. Enacting clause.
37.450. State vehicle fleet manager position created, appointment, duties — definitions.
37.452. Sale of surplus vehicles, proceeds to go to owning state agency, exceptions — moneys to be used for purchase of vehicles only.
226.1115. Property removed from roadway to be taken to shoulder or berm of roadway.
300.075. Authority of police and fire department officials.
300.080. Obedience to police and fire department officials.
300.100. Authorized emergency vehicles — permitted acts of drivers.
300.105. Operation of vehicles on approach of authorized emergency vehicles.
300.110. Immediate notice of accident within city.
300.160. Pedestrian control signals.
300.215. Required position and method of turning at intersection.
300.300. Following emergency vehicle prohibited.
300.348. All-terrain vehicles, prohibited — exceptions, operation of all-terrain vehicles under an exception — prohibited uses — penalty.
300.350. Riding bicycles, sleds, roller skates, by attaching to another vehicle, prohibited — pulling a rider behind vehicle prohibited.
300.585. Uniform traffic ticket to be issued when vehicle illegally parked or stopped.
302.130. Issuance of temporary instruction permit, when — requirements — duration — permit driver sticker or sign issued, when — rulemaking authority.
302.137. Motorcycle safety trust fund established, purpose — operators of motorcycles or motortricycles in violation of laws or ordinances to be assessed surcharge, collection, distribution.
302.321. Driving while license or driving privilege is canceled, suspended or revoked, penalty — enhanced penalty for repeat offenders — imprisonment, mandatory, exception.
302.720. Operation without license prohibited, exceptions — instruction permit, use, duration, fee — license, test required, contents, fee — director to promulgate rules and regulations for certification of third-party testers — certain persons prohibited from obtaining license, exceptions.
302.721. Third-party commercial driver license examination program created, purpose, funding — rules.
304.001. Definitions for chapter 304 and chapter 307.
304.022. Emergency vehicle defined — use of lights and sirens — right-of-way — stationary vehicles, procedure — penalty.
304.027. Spinal cord injury fund created, uses — surcharge imposed, when.
304.028. Head injury fund created, moneys in fund, uses — surcharge imposed, when.
304.200. Special permits for oversize or overweight loads — rules for issuing — when valid.
304.370. Hazardous materials, requirements for transportation — violations, penalties.
307.205. Defined — requirements for operation.

307.207. Equipment required.
307.209. Roadway operation, requirements.
307.211. Violations, penalties.
307.402. Inspection of state-owned vehicles, responsibility for.
575.010. Definitions.
575.145. Signal or direction of sheriff or deputy sheriff, duty to stop, motor vehicle operators and riders of animals — violation, penalty.
575.150. Resisting or interfering with arrest — penalty.
622.555. Skill performance evaluation certificate granted, when — application, procedures — rulemaking authority.
61.021. Residency required (certain first class counties).
300.125. Public inspection of reports relating to accidents.
300.595. Police may remove vehicle — when.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 61.021, 300.075, 300.080, 300.100, 300.105, 300.110, 300.125, 300.160, 300.215, 300.300, 300.348, 300.350, 300.585, 300.595, 302.130, 302.137, 302.321, 302.720, 304.001, 304.022, 304.027, 304.200, 575.010 and 575.150, RSMo, are repealed and thirty-four new sections enacted in lieu thereof, to be known as sections 37.450, 37.452, 226.1115, 300.075, 300.080, 300.100, 300.105, 300.110, 300.160, 300.215, 300.300, 300.348, 300.350, 300.585, 302.130, 302.137, 302.321, 302.720, 302.721, 304.001, 304.022, 304.027, 304.028, 304.200, 304.370, 307.205, 307.207, 307.209, 307.211, 307.402, 575.010, 575.145, 575.150 and 622.555, to read as follows:

37.450. STATE VEHICLE FLEET MANAGER POSITION CREATED, APPOINTMENT, DUTIES — DEFINITIONS. — 1. As used in this section, the following terms shall mean:

(1) "Commissioner", the commissioner of administration;

(2) "Fleet manager", the state vehicle fleet manager created pursuant to subsection 2 of this section;

(3) "State vehicle fleet", all vehicles used by the state or titled to the state for the purpose of conducting state business; and

(4) "Vehicle", as defined in section 301.010, RSMo.

2. There is hereby created within the office of administration the position of state vehicle fleet manager. The fleet manager shall be appointed by the commissioner of administration pursuant to the provisions of chapter 36, RSMo.

3. The fleet manager shall institute and supervise a state fleet vehicle tracking system in which the cost of owning and operating each state vehicle is documented by the agency owning the vehicle. All state agencies shall report the purchase and the sale of any vehicle to the fleet manager and provide any additional information requested by the fleet manager in the format, manner and frequency determined by the office of administration. The fleet manager shall have the authority to suspend any agency's use of its credits established pursuant to section 37.452 if the agency does not comply with the requirements of this section or section 307.402, RSMo, until he or she is satisfied that such compliance is achieved.

4. The fleet manager shall submit an annual report to the speaker of the house of representatives, the president pro tempore of the senate and the governor before January thirty-first of each year. The fleet manager's report shall consist of the status of the state vehicle fleet and any recommendations for improvements and changes necessary for more efficient management of the fleet.

5. The office of administration shall establish guidelines for determining the most cost-effective and reasonable mode of travel under the circumstances for single trips from the following options: passenger rail, vehicle rental, fleet checkout and reimbursement for personal car use.

6. The commissioner shall issue policies governing the acquisition, assignment, use, replacement and maintenance of state-owned vehicles.

7. Each agency shall pay a state vehicle fleet fee, as determined by the office of administration, for each vehicle it owns for the purpose of funding the state fleet vehicle tracking system and for other administrative expenses incurred in management of the state vehicle fleet. Any agency that owns at least one thousand vehicles shall receive a credit against the state vehicle fleet fee for the internal fleet management services performed by such agency, provided such agency furnishes all information required by the fleet manager.

8. State agencies shall be responsible for ensuring that state vehicles are used only for state business and not for private purposes.

37.452. SALE OF SURPLUS VEHICLES, PROCEEDS TO GO TO OWNING STATE AGENCY, EXCEPTIONS — MONEYS TO BE USED FOR PURCHASE OF VEHICLES ONLY. — Provisions of section 37.090 notwithstanding, all proceeds generated by the sale of a surplus vehicle, except proceeds generated from the department of transportation, the department of conservation, the Missouri state highway patrol and all state colleges and universities may be deposited in the state treasury to the credit of the office of administration revolving administrative trust fund and credited to the state agency owning the vehicle at the time of sale. Upon appropriation, moneys credited to agencies from the sale of surplus state fleet vehicles shall be used solely for the purchase of vehicles for the respective agency.

226.1115. PROPERTY REMOVED FROM ROADWAY TO BE TAKEN TO SHOULDER OR BERM OF ROADWAY. — If the department of transportation removes property from any roadway of this state pursuant to section 304.155, RSMo, such property shall be immediately taken to the shoulder or berm of the roadway, and the department employees shall not use a wrecker, tow truck or roll-back in the removal process.

300.075. AUTHORITY OF POLICE AND FIRE DEPARTMENT OFFICIALS. — 1. It shall be the duty of the officers of the police department or such officers as are assigned by the chief of police to enforce all **[**street**]** traffic laws of the city and all of the state vehicle laws applicable to **[**street**]** traffic in the city.

2. Officers of the police department or such officers as are assigned by the chief of police are hereby authorized to direct all traffic by voice, hand, or signal in conformance with traffic laws; provided that, in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the police department may direct traffic as conditions may require notwithstanding the provisions of the traffic laws.

3. Officers of the fire department, when at the scene of **[**a fire**] an incident**, may direct or assist the police in directing traffic thereat or in the immediate vicinity.

300.080. OBEDIENCE TO POLICE AND FIRE DEPARTMENT OFFICIALS. — No person shall **[**willfully**] knowingly** fail or refuse to comply with any lawful order or direction of a police officer or fire department official.

300.100. AUTHORIZED EMERGENCY VEHICLES — PERMITTED ACTS OF DRIVERS. — 1. The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, but subject to the conditions herein stated.

2. The driver of an authorized emergency vehicle may:

(1) Park or stand, irrespective of the provisions of this ordinance;

(2) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;

(3) Exceed the maximum speed limits so long as he does not endanger life or property;

(4) Disregard regulations governing direction of movement or turning in specified directions.

3. The exemptions herein granted to an authorized emergency vehicle shall apply only when the driver of any said vehicle while in motion sounds audible signal by **[**bell,**]** siren**[**,**]** or **[**exhaust whistle as may be reasonably necessary, and when the vehicle is equipped with**] while having** at least one lighted lamp **[**displaying**] exhibiting** a red light visible under normal atmospheric conditions from a distance of five hundred feet to the front of such vehicle **or a flashing blue light authorized by section 307.175, RSMo**.

4. The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others.

300.105. OPERATION OF VEHICLES ON APPROACH OF AUTHORIZED EMERGENCY VEHICLES. — 1. Upon the immediate approach of an authorized emergency vehicle making use of audible and visual signals meeting the requirements of the laws of this state, or of a police vehicle properly and lawfully making use of an audible signal only**[**:

(1)**]** the driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer**[**;

(2) Upon the approach of an authorized emergency vehicle, as above stated, the motorman of every streetcar shall immediately stop such car clear of any intersection and keep it in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer**]**.

2. This section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.

300.110. IMMEDIATE NOTICE OF ACCIDENT WITHIN CITY. — The driver of a vehicle involved in an accident **within the city** resulting in injury to or death of any person or total property damage to an apparent extent of five hundred dollars or more to one person shall **[**immediately by the quickest means of communication**]** give**, or cause to be given,** notice of such accident to the police department **[**if such accident occurs within the city**] as soon as reasonably possible**.

300.160. PEDESTRIAN CONTROL SIGNALS. — Whenever special pedestrian control signals exhibiting the words "Walk" or "Don't Walk"**, or appropriate symbols** are in place such signals shall indicate as follows:

(1) "Walk", pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles;

(2) "Wait" or "Don't Walk", no pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his crossing on the walk signal shall proceed to a sidewalk or safety zone while the wait signal is showing.

300.215. REQUIRED POSITION AND METHOD OF TURNING AT INTERSECTION. — The driver of a vehicle intending to turn at an intersection shall do so as follows:

(1) Right turns: Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway**, except where multiple turn lanes have been established**.

(2) Left turns on two-way roadways: At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of such center line where it enters the intersection and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered. Whenever practicable the left turn shall be made in that portion of the intersection to the left of the center of the intersection.

(3) Left turns on other than two-road roadways: At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left-hand lane lawfully available to traffic moving in such direction upon the roadway being entered**, except where multiple turn lanes have been established**.

(4) Designated two-way left turn lanes: Where a special lane for making left turns by drivers proceeding in opposite directions have been indicated by official traffic control devices:

(a) A left turn shall not be made from any other lane;

(b) A vehicle shall not be driven in the lane except when preparing for or making a left turn from or into the roadway or when preparing for or making a u-turn when otherwise permitted by law;

(c) A vehicle shall not be driven in the lane for a distance more than five hundred feet.

300.300. FOLLOWING EMERGENCY VEHICLE PROHIBITED. — The driver of any vehicle other than one on official business shall not follow any **[**fire apparatus**]** **emergency vehicle** traveling in response to **[**a fire alarm**]** **an emergency call** closer than five hundred feet or drive into or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm.

300.348. ALL-TERRAIN VEHICLES, PROHIBITED — EXCEPTIONS, OPERATION OF ALL-TERRAIN VEHICLES UNDER AN EXCEPTION — PROHIBITED USES — PENALTY. — 1. No person shall operate an all-terrain vehicle, as defined in section 300.010, upon the streets and highways of this city, except as follows:

(1) All-terrain vehicles owned and operated by a governmental entity for official use;

(2) All-terrain vehicles operated for agricultural purposes or industrial on-premises purposes between the official sunrise and sunset on the day of operation;

(3) All-terrain vehicles whose operators carry a special permit issued by this city pursuant to section 304.013, RSMo.

2. No person shall operate an off-road vehicle, as defined in section 304.001, RSMo, within any stream or river in this city, except that off-road vehicles may be operated within waterways which flow within the boundaries of land which an off-road vehicle operator owns, or for agricultural purposes within the boundaries of land which an off-road vehicle operator owns or has permission to be upon, or for the purpose of fording such stream or river of this state at such road crossings as are customary or part of the highway system. All law enforcement officials or peace officers of this state and its political subdivisions shall enforce the provisions of this subsection within the geographic area of their jurisdiction.

3. A person operating an all-terrain vehicle on a street or highway pursuant to an exception covered in this section shall have a valid **[**operator's or chauffeur's**]** license **issued by a state authorizing such person to operate a motor vehicle**, but shall not be required to have passed an examination for the operation of a motorcycle, and the vehicle shall be operated at speeds of less than thirty miles per hour. When operated on a street or highway, an all-terrain vehicle shall

have a bicycle safety flag, which extends not less than seven feet above the ground, attached to the rear of the vehicle. The bicycle safety flag shall be triangular in shape with an area of not less than thirty square inches and shall be day-glow in color.

4. No person shall operate an all-terrain vehicle:

(1) In any careless way so as to endanger the person or property of another;

(2) While under the influence of alcohol or any controlled substance; or

(3) Without a securely fastened safety helmet on the head of an individual who operates an all-terrain vehicle or who is being towed or otherwise propelled by an all-terrain vehicle, unless the individual is at least eighteen years of age.

5. No operator of an all-terrain vehicle shall carry a passenger, except for agricultural purposes.

6. A violation of this section shall be a class C misdemeanor.

300.350. RIDING BICYCLES, SLEDS, ROLLER SKATES, BY ATTACHING TO ANOTHER VEHICLE, PROHIBITED — PULLING A RIDER BEHIND VEHICLE PROHIBITED. — No person riding upon any bicycle, motorized bicycle, coaster, roller skates, sled or toy vehicle shall attach the same or himself to any vehicle upon a roadway. **Neither shall the driver of a vehicle knowingly pull a rider behind a vehicle.**

300.585. UNIFORM TRAFFIC TICKET TO BE ISSUED WHEN VEHICLE ILLEGALLY PARKED OR STOPPED. — Whenever any motor vehicle without driver is found parked or stopped in violation of any of the restrictions imposed by ordinance of the city or by state law, the officer finding such vehicle shall take its registration number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a uniform traffic ticket **or other citation** for the driver to answer to the charge against him within **[**five**]** **seven** days during the hours and at a place specified in the traffic ticket.

302.130. ISSUANCE OF TEMPORARY INSTRUCTION PERMIT, WHEN — REQUIREMENTS — DURATION — PERMIT DRIVER STICKER OR SIGN ISSUED, WHEN — RULEMAKING AUTHORITY. — 1. Any person at least fifteen years of age who, except for age or lack of instruction in operating a motor vehicle, would otherwise be qualified to obtain a license pursuant to sections 302.010 to 302.340 may apply for and the director shall issue a temporary instruction permit entitling the applicant, while having such permit in the applicant's immediate possession, to drive a motor vehicle of the appropriate class upon the highways for a period of twelve months, but any such person, except when operating a motorcycle or motortricycle, must be accompanied by a licensed operator for the type of motor vehicle being operated who is actually occupying a seat beside the driver for the purpose of giving instruction in driving the motor vehicle, who is at least twenty-one years of age, and in the case of any driver under sixteen years of age, the licensed operator occupying the seat beside the driver shall be a grandparent, parent, guardian, a driver training instructor holding a valid driver education endorsement on a teaching certificate issued by the department of elementary and secondary education or a qualified instructor of a private drivers' education program who has a valid driver's license. Beginning January 1, 2001, an applicant for a temporary instruction permit shall successfully complete a vision test and a test of the applicant's ability to understand highway signs which regulate, warn or direct traffic and practical knowledge of the traffic laws of this state, pursuant to section 302.173. In addition, beginning January 1, 2001, no permit shall be granted pursuant to this subsection unless a parent or legal guardian gives written permission by signing the application and in so signing, state they, or their designee as set forth in subsection 2 of this section, will provide a minimum of twenty hours of behind-the-wheel driving instruction. The twenty hours of behind-the-wheel driving instruction that is completed pursuant to this subsection may include any time that the holder of an instruction permit has spent operating a motor vehicle in a driver training program taught by a driver training instructor holding a valid driver education

endorsement on a teaching certificate issued by the department of elementary and secondary education or by a qualified instructor of a private drivers' education program. If the applicant for a permit is enrolled in a federal residential job training program, the instructor, as defined in subsection 5 of this section, is authorized to sign the application stating that the applicant will receive the behind-the-wheel driving instruction required by this section.

2. In the event the parent, grandparent or guardian of the person under sixteen years of age has a physical disability which prohibits or disqualifies said parent, grandparent or guardian from being a qualified licensed operator pursuant to this section, said parent, grandparent or guardian may designate a maximum of two individuals authorized to accompany the applicant for the purpose of giving instruction in driving the motor vehicle. An authorized designee must be a licensed operator for the type of motor vehicle being operated and have attained twenty-one years of age. At least one of the designees must occupy the seat beside the applicant while giving instruction in driving the motor vehicle. The name of the authorized designees must be provided to the department of revenue by the parent, grandparent or guardian at the time of application for the temporary instruction permit. The name of each authorized designee shall be printed on the temporary instruction permit, however, the director may delay the time at which permits are printed bearing such names until the inventories of blank permits and related forms existing on August 28, 1998, are exhausted.

3. The director, upon proper application on a form prescribed by the director, in his or her discretion, may issue a restricted instruction permit effective for a school year or more restricted period to an applicant who is enrolled in a high school driver training program taught by a driver training instructor holding a valid driver education endorsement on a teaching certificate issued by the state department of elementary and secondary education even though the applicant has not reached the age of sixteen years but has passed the age of fifteen years. Such instruction permit shall entitle the applicant, when the applicant has such permit in his or her immediate possession, to operate a motor vehicle on the highways, but only when a driver training instructor holding a valid driver education endorsement on a teaching certificate issued by the state department of elementary and secondary education is occupying a seat beside the driver.

4. The director, in his or her discretion, may issue a temporary driver's permit to an applicant who is otherwise qualified for a license permitting the applicant to operate a motor vehicle while the director is completing the director's investigation and determination of all facts relative to such applicant's rights to receive a license. Such permit must be in the applicant's immediate possession while operating a motor vehicle, and it shall be invalid when the applicant's license has been issued or for good cause has been refused.

5. In the event that the applicant for a temporary instruction permit described in subsection 1 of this section is a participant in a federal residential job training program, the permittee may operate a motor vehicle accompanied by a driver training instructor who holds a valid driver education endorsement issued by the department of elementary and secondary education and a valid driver's license.

6. A person at least fifteen years of age may operate a motor vehicle as part of a driver training program taught by a driver training instructor holding a valid driver education endorsement on a teaching certificate issued by the department of elementary and secondary education or a qualified instructor of a private drivers' education program.

7. **Beginning January 1, 2003, the director shall issue with every temporary instruction permit issued pursuant to subsection 1 of this section a sticker or sign bearing the words "PERMIT DRIVER". The design and size of such sticker or sign shall be determined by the director by regulation. Every applicant issued a temporary instruction permit and sticker on or after January 1, 2003, may display or affix the sticker or sign on the rear window of the motor vehicle. Such sticker or sign may be displayed on the rear window of the motor vehicle whenever the holder of the instruction permit operates a motor vehicle during his or her temporary permit licensure period.**

8. The director may adopt rules and regulations necessary to carry out the provisions of this section.

302.137. MOTORCYCLE SAFETY TRUST FUND ESTABLISHED, PURPOSE — OPERATORS OF MOTORCYCLES OR MOTORTRICYCLES IN VIOLATION OF LAWS OR ORDINANCES TO BE ASSESSED SURCHARGE, COLLECTION, DISTRIBUTION. — 1. There is hereby created in the state treasury for use by the department of public safety a fund to be known as the "Motorcycle Safety Trust Fund". All judgments collected pursuant to this section, appropriations of the general assembly, federal grants, private donations and any other moneys designated for the motorcycle safety education program established pursuant to sections 302.133 to 302.138 shall be deposited in the fund. Moneys deposited in the fund shall, upon appropriation by the general assembly to the department of public safety, be received and expended by the department of public safety for the purpose of funding the motorcycle safety education program established under sections 302.133 to 302.138. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any unexpended balance in the motorcycle safety trust fund at the end of any biennium shall not be transferred to the general revenue fund.

2. **[**Any person who violates a Missouri law or a municipal or county ordinance, when the court finds that the violation occurred when the defendant was the operator of a motorcycle or motortricycle, shall have a judgment entered against the defendant in favor of the state of Missouri motorcycle safety trust fund, in the amount of five dollars. Any motor vehicle operator who violates a state law or municipal or county ordinance where the violation involves a motorcycle or motortricycle or where the operator causes an accident involving a motorcycle or motortricycle shall have a judgment entered against the defendant in favor of the state of Missouri motorcycle safety trust fund, of an additional amount of five dollars.

3. The amounts assessable as judgments pursuant to this section shall be doubled if the operator at fault is found by the court to have violated any state law or local ordinance relating to the consumption of alcohol.

4. The judgments collected pursuant to this section shall be paid into the state treasury to the credit of the motorcycle safety trust fund created in this section. Any court clerk receiving funds pursuant to judgments entered pursuant to this section shall collect and disburse such amounts as provided in sections 488.010 to 488.020, RSMo.**]** **In all criminal cases, including violations of any county ordinance or any violation of criminal or traffic laws of this state, including an infraction, there shall be assessed as costs a surcharge in the amount of one dollar. No such surcharge shall be collected in any proceeding involving a violation of an ordinance or state law when the proceeding or defendant has been dismissed by the court or when costs are to be paid by the state, county or municipality.**

3. Such surcharge shall be collected and distributed by the clerk of the court as provided in sections 488.010 to 488.020, RSMo. The surcharge collected pursuant to this section shall be paid to the state treasury to the credit of the motorcycle safety trust fund established in this section.

302.321. DRIVING WHILE LICENSE OR DRIVING PRIVILEGE IS CANCELED, SUSPENDED OR REVOKED, PENALTY — ENHANCED PENALTY FOR REPEAT OFFENDERS — IMPRISONMENT, MANDATORY, EXCEPTION. — 1. A person commits the crime of driving while revoked if he operates a motor vehicle on a highway when his license or driving privilege has been canceled, suspended or revoked under the laws of this state **or any other state** and acts with criminal negligence with respect to knowledge of the fact that his driving privilege has been canceled, suspended or revoked.

2. Any person convicted of driving while revoked is guilty of a class A misdemeanor. Any person with no prior alcohol-related enforcement contacts as defined in section 302.525, convicted a fourth or subsequent time of driving while revoked **or a county or municipal ordinance of driving while suspended or revoked where the judge in such case was an**

attorney and the defendant was represented by or waived the right to an attorney in writing, and where the prior three driving while revoked offences occurred within ten years of the date of occurrence of the present offense and where the person received and served a sentence of ten days or more on such previous offenses; and any person with a prior alcohol-related enforcement contact as defined in section 302.525, convicted a third or subsequent time of driving while revoked **or a county or municipal ordinance of driving while suspended or revoked where the judge in such case was an attorney and the defendant was represented by or waived the right to an attorney in writing, and where the prior two driving while revoked offenses occurred within ten years of the date of occurrence of the present offense and where the person received and served a sentence of ten days or more on such previous offenses** is guilty of a class D felony. No court shall suspend the imposition of sentence as to such a person nor sentence such person to pay a fine in lieu of a term of imprisonment, nor shall such person be eligible for parole or probation until he has served a minimum of forty-eight consecutive hours of imprisonment, unless as a condition of such parole or probation, such person performs at least ten days involving at least forty hours of community service under the supervision of the court in those jurisdictions which have a recognized program for community service. Driving while revoked is a class D felony on the second or subsequent conviction pursuant to section 577.010, RSMo, or a fourth or subsequent conviction for any other offense.

302.720. OPERATION WITHOUT LICENSE PROHIBITED, EXCEPTIONS — INSTRUCTION PERMIT, USE, DURATION, FEE — LICENSE, TEST REQUIRED, CONTENTS, FEE — DIRECTOR TO PROMULGATE RULES AND REGULATIONS FOR CERTIFICATION OF THIRD-PARTY TESTERS — CERTAIN PERSONS PROHIBITED FROM OBTAINING LICENSE, EXCEPTIONS. — 1. Except when operating under an instruction permit as described in this section, no person may drive a commercial motor vehicle unless the person has been issued a commercial driver's license with applicable endorsements valid for the type of vehicle being operated as specified in sections 302.700 to 302.780. A commercial driver's instruction permit shall allow the holder of a valid license to operate a commercial motor vehicle when accompanied by the holder of a commercial driver's license valid for the vehicle being operated and who occupies a seat beside the individual, or reasonably near the individual in the case of buses, for the purpose of giving instruction in driving the commercial motor vehicle. A commercial driver's instruction permit shall be valid for the vehicle being operated for a period of not more than six months, and shall not be issued until the permit holder has met all other requirements of sections 302.700 to 302.780, except for the driving test. A permit holder, unless otherwise disqualified, may be granted one six-month renewal within a one-year period. The fee for such permit or renewal shall be five dollars. In the alternative, a commercial driver's instruction permit shall be issued for a thirty-day period to allow the holder of a valid driver's license to operate a commercial motor vehicle if the applicant has completed all other requirements except the driving test. The permit may be renewed for one additional thirty-day period and the fee for the permit and for renewal shall be five dollars.

2. No person may be issued a commercial driver's license until he has passed written and driving tests for the operation of a commercial motor vehicle which complies with the minimum federal standards established by the secretary and has satisfied all other requirements of the Commercial Motor Vehicle Safety Act of 1986 (Title XII of Pub. Law 99-570), as well as any other requirements imposed by state law. **Applicants for a hazardous materials endorsement must also meet the requirements of the U.S. Patriot Act of 2001 (Title X of Public Law 107-56) as specified and required by regulations promulgated by the secretary.** Nothing contained in this subsection shall be construed as prohibiting the director from establishing alternate testing formats for those who are functionally illiterate; provided, however, that any such alternate test must comply with the minimum requirements of the Commercial Motor Vehicle Safety Act of 1986 (Title XII of Pub. Law 99-570) as established by the secretary.

(1) The written and driving tests shall be held at such times and in such places as the **[**director**] superintendent** may designate. A **[**five-dollar**] twenty-five dollar** examination fee shall be paid by the applicant upon completion of any written or driving test. The director shall delegate the power to conduct the examinations required under sections 302.700 to 302.780 to any member of the highway patrol or any person employed by the highway patrol qualified to give driving examinations.

(2) The director shall adopt and promulgate rules and regulations governing the certification of third-party testers by the department of revenue. Such rules and regulations shall substantially comply with the requirements of 49 CFR Part 383, Section 383.75. A certification to conduct third-party testing shall be valid for one year, and the department shall charge a fee of one hundred dollars to issue or renew the certification of any third-party tester. Any third-party tester who violates any of the rules and regulations adopted and promulgated pursuant to this section shall be subject to having his certification revoked by the department. The department shall provide written notice and an opportunity for the third-party tester to be heard in substantially the same manner as provided in chapter 536, RSMo. If any applicant submits evidence that he has successfully completed a test administered by a third-party tester, the actual driving test for a commercial driver's license may then be waived.

(3) Every applicant for renewal of a commercial driver's license shall provide such certifications and information as required by the secretary and if such person transports a hazardous material **must also meet the requirements of the U.S. Patriot Act of 2001 (Title X of Public Law 107-56) as specified and required by regulations promulgated by the secretary**, such person shall be required to take the written test for such endorsement. A **[**five-dollar**] twenty-five dollar** examination fee shall be paid for **[**each test taken**] upon completion of such tests**.

3. **[**The director may waive the driving test for a commercial driver's license if such applicant provides the certifications required by regulations established by the secretary as a substitute for the driving test and holds a valid license.

4. The certifications may include, but not be limited to, stating that during the two-year period immediately prior to applying for a commercial driver's license the applicant:

(1) Has not had more than one license;

(2) Has not had any license suspended, revoked, canceled or disqualified;

(3) Has not had a conviction in any type of motor vehicle for driving while intoxicated, driving while under the influence of alcohol or controlled substance, leaving the scene of an accident or felony involving the use of a commercial motor vehicle;

(4) Has not violated any state law or county or municipal ordinance relating to the operation of a motor vehicle in connection with an accident; and

(5) Has no record of an accident in which such applicant was at fault.

5. In order to be valid as a certification exempting the applicant from the driving test, the applicant shall also provide evidence and certify that:

(1) He is regularly employed in a job requiring him to drive a commercial motor vehicle; and

(2) He has previously taken and passed a driving test given by a state with a classified licensing and testing system, and that the test was behind the wheel in a representative vehicle for that applicant's license classification; or

(3) He has operated, for at least two years immediately preceding application for a commercial driver's license, a vehicle representative of the commercial motor vehicle the applicant drives or expects to drive.

6.**]** A commercial driver's license may not be issued to a person while the person is disqualified from driving a commercial motor vehicle, when a disqualification is pending in any state or while the person's driver's license is suspended, revoked, or canceled in any state; nor may a commercial driver's license be issued unless the person first surrenders in a manner

prescribed by the director any commercial driver's license issued by another state, which license shall be returned to the issuing state for cancellation.

302.721. THIRD-PARTY COMMERCIAL DRIVER LICENSE EXAMINATION PROGRAM CREATED, PURPOSE, FUNDING — RULES. — 1. There shall be created a "Third-Party Commercial Driver License Examination Program" within the department of revenue. The purpose of this program is to certify third-party commercial driver license examination programs and administer compliance requirements of third-party commercial driver license examination programs in the state of Missouri.

2. Funds may be appropriated from the state highways and transportation department fund for department of revenue administrative costs associated with initial certification and subsequent renewal certification requirements associated with third-party commercial driver license examination programs and determining compliance of all regulations that are required to be adhered to by third-party commercial driver license examination programs in the state of Missouri. Funds may also be appropriated from the state highways and transportation department fund for the highway patrol for functions related to the testing, auditing, retesting, and compliance of commercial driver license third-party examination programs, and the administration of the state CDL testing program.

(1) The director of revenue shall promulgate rules and regulations necessary to administer the certification and compliance programs established pursuant to this section. Any rule promulgated regarding commercial driver license third-party examination certification or compliance shall be promulgated in coordination with the superintendent of the highway patrol.

(2) Any rule promulgated by the director of revenue and the superintendent of the highway patrol regarding compliance requirements for third-party commercial driver license examination programs shall require the superintendent to reexamine a minimum of ten percent of those drivers who have passed the CDL skills examination administered by a certified third-party commercial driver license examination program in the state of Missouri.

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, 2002, shall be invalid and void.

304.001. DEFINITIONS FOR CHAPTER 304 AND CHAPTER 307. — As used in this chapter and chapter 307, RSMo, the following terms shall mean:

(1) "Abandoned property", any unattended motor vehicle, trailer, all-terrain vehicle, outboard motor or vessel removed or subject to removal from public or private property as provided in sections 304.155 and 304.157, whether or not operational**. For any vehicle towed from the scene of an accident at the request of law enforcement and not retrieved by the vehicle's owner within five days of the accident, the agency requesting the tow shall be required to write an abandoned property report or a crime inquiry and inspection report**;

(2) "Commercial vehicle enforcement officers", employees of the Missouri state highway patrol who are not members of the patrol but who are appointed by the superintendent of the highway patrol to enforce the laws, rules, and regulations pertaining to commercial vehicles, trailers, special mobile equipment and drivers of such vehicles;

(3) "Commercial vehicle inspectors", employees of the Missouri state highway patrol who are not members of the patrol but who are appointed by the superintendent of the highway patrol to supervise or operate permanent or portable weigh stations in the enforcement of commercial vehicle laws;

(4) "Commission", the state highways and transportation commission;

(5) "Department", the state transportation department;

(6) "Freeway", a divided state highway with four or more lanes, with no access to the throughways except the established interchanges and with no at-grade crossings;

(7) "Interstate highway", a state highway included in the national system of interstate highways located within the boundaries of Missouri, as officially designated or as may be hereafter designated by the state highways and transportation commission with the approval of the Secretary of Transportation, pursuant to Title 23, U.S.C., as amended;

(8) "Members of the patrol", the superintendent, lieutenant colonel, majors, captains, director of radio, lieutenants, sergeants, corporals and patrolmen of the Missouri state highway patrol;

(9) "Off-road vehicle", any vehicle designed for or capable of cross-country travel on or immediately over land, water, ice, snow, marsh, swampland, or other natural terrain without benefit of a road or trail:

(a) Including, without limitation, the following:

a. Jeeps;

b. All-terrain vehicles;

c. Dune buggies;

d. Multiwheel drive or low-pressure tire vehicles;

e. Vehicle using an endless belt, or tread or treads, or a combination of tread and low-pressure tires;

f. Motorcycles, trail bikes, minibikes and related vehicles;

g. Any other means of transportation deriving power from any source other than muscle or wind; and

(b) Excluding the following:

a. Registered motorboats;

b. Aircraft;

c. Any military, fire or law enforcement vehicle;

d. Farm-type tractors and other self-propelled equipment for harvesting and transporting farm or forest products;

e. Any vehicle being used for farm purposes, earth moving, or construction while being used for such purposes on the work site;

f. Self-propelled lawnmowers, or lawn or garden tractors, or golf carts, while being used exclusively for their designed purpose; and

g. Any vehicle being used for the purpose of transporting a handicapped person;

(10) "Person", any natural person, corporation, or other legal entity;

(11) "Right-of-way", the entire width of land between the boundary lines of a state highway, including any roadway;

(12) "Roadway", that portion of a state highway ordinarily used for vehicular travel, exclusive of the berm or shoulder;

(13) "State highway", a highway constructed or maintained by the state highways and transportation commission with the aid of state funds or United States government funds, or any highway included by authority of law in the state highway system, including all right-of-way;

(14) "Towing company", any person or entity which tows, removes or stores abandoned property;

(15) "Urbanized area", an area with a population of fifty thousand or more designated by the Bureau of the Census, within boundaries to be fixed by the state highways and transportation commission and local officials in cooperation with each other and approved by the Secretary of

Transportation. The boundary of an urbanized area shall, at a minimum, encompass the entire urbanized area as designed by the Bureau of the Census.

304.022. EMERGENCY VEHICLE DEFINED — USE OF LIGHTS AND SIRENS — RIGHT-OF-WAY — STATIONARY VEHICLES, PROCEDURE — PENALTY. — 1. Upon the immediate approach of an emergency vehicle giving audible signal by siren or while having at least one lighted lamp exhibiting red light visible under normal atmospheric conditions from a distance of five hundred feet to the front of such vehicle or a flashing blue light authorized by section 307.175, RSMo, the driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as far as possible to the right of, the traveled portion of the highway and thereupon stop and remain in such position until such emergency vehicle has passed, except when otherwise directed by a police or traffic officer.

2. **Upon approaching a stationary emergency vehicle displaying lighted red or red and blue lights, the driver of every motor vehicle shall:**

(1) Proceed with caution and yield the right-of-way, if possible with due regard to safety and traffic conditions, by making a lane change into a lane not adjacent to that of the stationary vehicle, if on a roadway having at least four lanes with not less than two lanes proceeding in the same direction as the approaching vehicle; or

(2) Proceed with due caution and reduce the speed of the vehicle, maintaining a safe speed for road conditions, if changing lanes would be unsafe or impossible.

3. The motorman of every streetcar shall immediately stop such car clear of any intersection and keep it in such position until the emergency vehicle has passed, except as otherwise directed by a police or traffic officer.

[3.**]** **4.** An "emergency vehicle" is a vehicle of any of the following types:

(1) A vehicle operated by the state highway patrol, the state water patrol or a state park ranger, those vehicles operated by enforcement personnel by the division of motor carrier and railroad safety of the department of economic development, police or fire department, sheriff, constable or deputy sheriff, federal law enforcement officer authorized to carry firearms and to make arrests for violations of the laws of the United States, traffic officer or coroner or by a privately owned emergency vehicle company;

(2) A vehicle operated as an ambulance or operated commercially for the purpose of transporting emergency medical supplies or organs;

(3) Any vehicle qualifying as an emergency vehicle pursuant to section 307.175, RSMo;

(4) Any wrecker, or tow truck or a vehicle owned and operated by a public utility or public service corporation while performing emergency service;

(5) Any vehicle transporting equipment designed to extricate human beings from the wreckage of a motor vehicle;

(6) Any vehicle designated to perform emergency functions for a civil defense or emergency management agency established pursuant to the provisions of chapter 44, RSMo;

(7) Any vehicle operated by an authorized employee of the department of corrections, who as part of the employee's official duties, is responding to a riot, disturbance, hostage incident, escape or other critical situation where there is the threat of serious physical injury or death, responding to mutual aid call from another criminal justice agency, or in accompanying an ambulance which is transporting an offender to a medical facility;

(8) Any vehicle designated to perform hazardous substance emergency functions established pursuant to the provisions of sections 260.500 to 260.550, RSMo.

[4.**]** **5.** (1) The driver of any vehicle referred to in subsection **[**3**]** **4** of this section shall not sound the siren thereon or have the front red lights or blue lights on except when such vehicle is responding to an emergency call or when in pursuit of an actual or suspected law violator, or when responding to, but not upon returning from, a fire;

(2) The driver of an emergency vehicle may:

(a) Park or stand irrespective of the provisions of sections 304.014 to 304.026;

(b) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;

(c) Exceed the prima facie speed limit so long as the driver does not endanger life or property;

(d) Disregard regulations governing direction of movement or turning in specified directions;

(3) The exemptions herein granted to an emergency vehicle shall apply only when the driver of any such vehicle while in motion sounds audible signal by bell, siren, or exhaust whistle as may be reasonably necessary, and when the vehicle is equipped with at least one lighted lamp displaying a red light or blue light visible under normal atmospheric conditions from a distance of five hundred feet to the front of such vehicle.

[5.**]** **6.** No person shall purchase an emergency light as described in this section without furnishing the seller of such light an affidavit stating that the light will be used exclusively for emergency vehicle purposes.

[6.**]** **7.** Violation of this section shall be deemed a class C misdemeanor.

304.027. SPINAL CORD INJURY FUND CREATED, USES — SURCHARGE IMPOSED, WHEN. — 1. There is hereby created in the state treasury for use by the board of curators of the University of Missouri a fund to be known as the "Spinal Cord Injury Fund". All judgments collected pursuant to this section, appropriations of the general assembly, federal grants, private donations and any other moneys designated for the spinal cord injury fund established pursuant to sections 302.133 to 302.138, RSMo, shall be deposited in the fund. Moneys deposited in the fund shall, upon appropriation by the general assembly to the board of curators, be received and expended by the board for the purpose of funding research projects that promote an advancement of knowledge in the area of spinal cord injury. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any unexpended balance in the spinal cord injury fund at the end of any biennium shall not be transferred to the general revenue fund.

2. **[**Any person who is convicted of an intoxication-related offense, as defined by section 577.023, RSMo, shall have a judgment entered against the defendant in favor of the spinal cord injury fund, in the amount of twenty-five dollars.

3.**]** **In all criminal cases including violations of any county ordinance or any violation of criminal or traffic laws of this state, including an infraction, there shall be assessed as costs a surcharge in the amount of two dollars. No such surcharge shall be collected in any proceeding involving a violation of an ordinance or state law when the proceeding or defendant has been dismissed by the court or when costs are to be paid by the state, county or municipality. Such surcharge shall be collected and disbursed by the clerk of the court as provided by sections 488.010 to 488.020.** The **[**judgments**]** **surcharge** collected pursuant to this section shall be paid into the state treasury to the credit of the spinal cord injury fund created in this section. **[**Any court clerk receiving funds pursuant to judgments entered pursuant to this section shall collect and disburse such amounts as provided in sections 488.010 to 488.020, RSMo.**]**

304.028. HEAD INJURY FUND CREATED, MONEYS IN FUND, USES — SURCHARGE IMPOSED, WHEN. — 1. There is hereby created in the state treasury for use by the Missouri Head Injury Advisory Council a fund to be known as the "Head Injury Fund". All judgments collected pursuant to this section, federal grants, private donations and any other moneys designated for the head injury fund shall be deposited in the fund. Moneys deposited in the fund shall, upon appropriation by the general assembly to the office of administration, be received and expended by the council for the purpose of transition and integration of medical, social and educational services or activities for purposes of outreach and short-term supports to enable individuals with traumatic head injury and their families to live in the community, including counseling and mentoring the families.

Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any unexpended balance in the head injury fund at the end of any biennium shall not be transferred to the general revenue fund.

2. In all criminal cases including violations of any county ordinance or any violation of criminal or traffic laws of this state, including an infraction, there shall be assessed as costs a surcharge in the amount of two dollars. No such surcharge shall be collected in any proceeding involving a violation of an ordinance or state law when the proceeding or defendant has been dismissed by the court or when costs are to be paid by the state, county or municipality.

3. Such surcharge shall be collected and distributed by the clerk of the court as provided in sections 488.010 to 488.020, RSMo. The surcharge collected pursuant to this section shall be paid to the state treasury to the credit of the head injury fund established in this section.

304.200. SPECIAL PERMITS FOR OVERSIZE OR OVERWEIGHT LOADS — RULES FOR ISSUING — WHEN VALID. — 1. The chief engineer of the state department of transportation, for good cause shown and when the public safety or public interest so justifies, shall issue special permits for vehicles or equipment exceeding the limitations on width, length, height and weight herein specified, or which are unable to maintain minimum speed limits. Such permits shall be issued only for a single trip or for a definite period, not beyond the date of expiration of the vehicle registration, and shall designate the highways and bridges which may be used pursuant to the authority of such permit.

2. The chief engineer of the state department of transportation shall upon proper application and at no charge issue a special permit to any person allowing the movement on state and federal highways of farm products between sunset and sunrise not in excess of fourteen feet in width. Special permits allowing movement of oversize loads of farm products shall allow for movement between sunset and sunrise, subject to appropriate requirements for safety lighting on the load, appropriate limits on load dimensions and appropriate consideration of high traffic density between sunset and sunrise on the route to be traveled. **[**The chief engineer may also issue upon proper application a special permit to any person allowing the movement on the state and federal highways of vehicles hauling lumber products and earth-moving equipment not in excess of fourteen feet in width.**]** The chief engineer may also issue upon proper application a special permit to any person allowing the movement on the state and federal highways of concrete pump trucks or well-drillers equipment. For the purposes of this section, "farm products" shall have the same meaning as provided in section 400.9-109, RSMo.

3. Rules and regulations for the issuance of special permits shall be prescribed by the state highways and transportation commission and filed with the secretary of state. No rule or portion of a rule promulgated pursuant to the authority of section 304.010 and this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

4. The officer in charge of the maintenance of the streets of any municipality may issue such permits for the use of the streets by such vehicles within the limits of such municipalities.

5. In order to transport manufactured homes, as defined in section 700.010, RSMo, on the roads, highways, bridges and other thoroughfares within this state, only the applicable permits required by this section shall be obtained.

304.370. HAZARDOUS MATERIALS, REQUIREMENTS FOR TRANSPORTATION — VIOLATIONS, PENALTIES. — 1. For the purpose of this section, hazardous materials shall be defined pursuant to Part 397, Title 49, Code of Federal Regulations, as adopted and amended.

2. No person shall transport hazardous materials in or through any highway tunnel in this state. For purposes of this section, a tunnel shall be defined as a horizontal

subterranean passageway through or under an obstruction of a length of one hundred yards or more.

3. No person shall park a vehicle containing hazardous materials within three hundred feet of any highway tunnel in this state except as provided pursuant to Part 397, Title 49, Code of Federal Regulations, as such regulations have been and may periodically be amended.

4. Any person who is found or pleads guilty to a violation of this section shall be guilty of a class B misdemeanor. Any person who is found or pleads guilty to a second or subsequent violation of this section shall be guilty of a class A misdemeanor. Violations of this section shall be enforced pursuant to section 390.201, RSMo.

307.205. DEFINED — REQUIREMENTS FOR OPERATION. — 1. For the purposes of sections 307.205 to 307.211, "electric personal assistive mobility device" (EPAMD) shall mean a self-balancing, two nontandem wheeled device, designed to transport only one person, with an electric propulsion system with an average power of seven hundred fifty watts (one horsepower), whose maximum speed on a paved level surface, when powered solely by such a propulsion system while ridden by an operator who weighs one hundred seventy pounds, is less than twenty miles per hour.

2. An electric personal assistive mobility device may be operated upon a street, highway, sidewalk, and bicycle path. Every person operating such a device shall be granted all of the rights and be subject to all of the duties applicable to a pedestrian pursuant to chapter 304, RSMo.

3. Persons under sixteen years of age shall not operate an electric personal assistive mobility device, except for an operator with a mobility-related disability.

4. An electric personal assistive mobility device shall be operated only on roadways with a speed limit of forty-five miles per hour or less. This shall not prohibit the use of such device when crossing roadways with speed limits in excess of forty-five miles per hour.

5. A city or town shall have the authority to impose additional regulations on the operation of an electric personal assistive mobility device within its city or town limits.

307.207. EQUIPMENT REQUIRED. — Every electric personal assistive mobility device (EPAMD) when in use on a roadway during the period from one-half hour after sunset to one-half hour before sunrise shall be equipped with the following:

(1) A front-facing lamp on the front or carried by the rider which shall emit a white light visible at night under normal atmospheric conditions on a straight, level, unlighted roadway at five hundred feet;

(2) A rear-facing red reflector, at least two square inches in reflective surface area, or a rear-facing red lamp, on the rear which shall be visible at night under normal atmospheric conditions on a straight, level, unlighted roadway when viewed by a vehicle driver under the lower beams of vehicle headlights at six hundred feet.

307.209. ROADWAY OPERATION, REQUIREMENTS. — Every person operating an electric personal assistive mobility device (EPAMD) at less than the posted speed or slower than the flow of traffic upon a street or highway shall ride as near to the right side of the roadway as safe, exercising due care when passing a standing vehicle or one proceeding in the same direction, except when making a left turn, when avoiding hazardous conditions, when the lane is too narrow to share with another vehicle, or when on a one-way street.

307.211. VIOLATIONS, PENALTIES. — Any person seventeen years of age or older who violates any provision of sections 307.205 to 307.211 is guilty of an infraction and, upon conviction thereof, shall be punished by a fine of not less than five dollars nor more than

twenty-five dollars. Such an infraction does not constitute a crime and conviction shall not give rise to any disability or legal disadvantage based on conviction of a criminal offense. If any person under seventeen years of age violates any provision of section 307.205 to 307.211 in the presence of a peace officer possessing the duty and power of arrest for violation of the general criminal laws of the state or for violation of ordinances of counties or municipalities of the state, said officer may impound the electric personal assistive mobility device (EPAMD) involved for a period not to exceed five days upon issuance of a receipt to the child riding it or to its owner.

307.402. INSPECTION OF STATE-OWNED VEHICLES, RESPONSIBILITY FOR. — All state agencies owning motor vehicles shall be responsible for obtaining an inspection of each of their vehicle's mechanism and equipment in accordance with the provisions of sections 307.350 to 307.402 and obtaining a certificate of inspection and approval and a sticker, seal or other device from a duly authorized official inspection station.

575.010. DEFINITIONS. — The following definitions shall apply to chapters 575 and 576, RSMo:

(1) "Affidavit" means any written statement which is authorized or required by law to be made under oath, and which is sworn to before a person authorized to administer oaths;

(2) "Government" means any branch or agency of the government of this state or of any political subdivision thereof;

(3) "Highway", means any public road or thoroughfare for vehicles, including state roads, county roads and public streets, avenues, boulevards, parkways or alleys in any municipality;

[(3)**] (4)** "Judicial proceeding" means any official proceeding in court, or any proceeding authorized by or held under the supervision of a court;

[(4)**] (5)** "Juror" means a grand or petit juror, including a person who has been drawn or summoned to attend as a prospective juror;

[(5)**] (6)** "Jury" means a grand or petit jury, including any panel which has been drawn or summoned to attend as prospective jurors;

[(6)**] (7)** "Official proceeding" means any cause, matter, or proceeding where the laws of this state require that evidence considered therein be under oath or affirmation;

[(7)**] (8)** "Police animal" means a dog, horse or other animal used in law enforcement or a correctional facility, or by a municipal police department, fire department, search and rescue unit or agency, whether the animal is on duty or not on duty. The term shall include, but not be limited to, accelerant detection dogs, bomb detection dogs, narcotic detection dogs, search and rescue dogs and tracking animals;

[(8)**] (9)** "Public record" means any document which a public servant is required by law to keep;

[(9)**] (10)** "Testimony" means any oral statement under oath or affirmation;

[(10)**] (11)** "Victim" means any natural person against whom any crime is deemed to have been perpetrated or attempted;

[(11)**] (12)** "Witness" means any natural person:

(a) Having knowledge of the existence or nonexistence of facts relating to any crime; or

(b) Whose declaration under oath is received as evidence for any purpose; or

(c) Who has reported any crime to any peace officer or prosecutor; or

(d) Who has been served with a subpoena issued under the authority of any court of this state.

575.145. SIGNAL OR DIRECTION OF SHERIFF OR DEPUTY SHERIFF, DUTY TO STOP, MOTOR VEHICLE OPERATORS AND RIDERS OF ANIMALS — VIOLATION, PENALTY. — It shall be the duty of the operator or driver of any vehicle or the rider of any animal traveling

on the highways of this state to stop on signal of any sheriff or deputy sheriff and to obey any other reasonable signal or direction of such sheriff or deputy sheriff given in directing the movement of traffic on the highways. Any person who willfully fails or refuses to obey such signals or directions or who willfully resists or opposes a sheriff or deputy sheriff in the proper discharge of his or her duties shall be guilty of a class A misdemeanor and on conviction thereof shall be punished as provided by law for such offenses.

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 arrests, stops or detentions with or without warrants and to arrests, stops or detentions for any crime, infraction or ordinance violation.

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.

[4. Resisting, by means other than flight, or interfering with an arrest for a felony, is a class D felony; otherwise, resisting or interfering with arrest is a class A misdemeanor.**]**

5. Resisting or interfering with an arrest for a felony is a class D felony. Resisting an arrest 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 is a class A misdemeanor.

622.555. SKILL PERFORMANCE EVALUATION CERTIFICATE GRANTED, WHEN — APPLICATION, PROCEDURES — RULEMAKING AUTHORITY. — 1. The division of motor carrier and railroad safety may grant a skill performance evaluation certificate to a person who is not physically qualified to drive under Code of Federal Regulations, title 49, section 391.41. A skill performance evaluation certificate granted pursuant to this section shall apply to intrastate transportation only. The skill performance evaluation certificate shall be in the possession of the commercial driver any time he or she is operating a commercial motor vehicle.

2. A person who wishes to obtain a skill performance evaluation certificate under this section shall submit to the division the following information:

(1) The applicant's name, address, and telephone number;

(2) The name, address, and telephone number of an employer co-applicant, if any;

(3) A description of the applicant's experience in driving the type of vehicle to be operated under the skill performance evaluation certificate;

(4) A description of the type of driving to be done under the skill performance evaluation certificate;

(5) A description of any modifications to the vehicle the applicant intends to drive under the skill performance evaluation certificate that are designed to accommodate the applicant's medical condition or disability;

(6) Whether the applicant has previously been granted another skill performance evaluation certificate pursuant to this section;

(7) A copy of the applicant's current commercial driver's license;

(8) A copy of a medical examiner's certificate showing that the applicant is medically unqualified to drive;

(9) A statement from the applicant's treating physician that includes:

(a) The extent to which the physician is familiar with the applicant's medical history;

(b) A description of the applicant's medical condition for which a skill performance evaluation certificate is necessary;

(c) Assurance that the applicant has the ability and willingness to follow any course of treatment prescribed by the physician, including the ability to self-monitor or manage the medical condition; and

(d) The physician's professional opinion that the applicant's condition will not adversely affect the applicant's ability to operate a commercial motor vehicle safely; and

(10) Any other information considered necessary by the division including requiring a physical examination or medical report from a physician who specializes in a particular field of medical practice.

3. The division of motor carrier and railroad safety shall promulgate rules and regulations to provide skill performance evaluation certificates for individuals who have failed to meet the specified federal driver's physical qualifications under 49 CFR 391.41. Any rule or regulation promulgated shall only authorize such individual to operate a commercial motor vehicle within Missouri. The regulations promulgated pursuant to this section may only be implemented if the United States Department of Transportation (USDOT) will not impose any sanctions, including funding sanctions, against the state.

4. As used in this section, the term "skill performance evaluation certificate" means approval granted by the division of motor carrier and railroad safety allowing a driver to drive commercial motor vehicles intrastate even though the driver may not meet the minimum federal fitness standards to drive commercial motor vehicles interstate.

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, 2002, shall be invalid and void.

[61.021. RESIDENCY REQUIRED (CERTAIN FIRST CLASS COUNTIES). — The county highway administrator shall be a resident of the state of Missouri.**]**

[300.125. PUBLIC INSPECTION OF REPORTS RELATING TO ACCIDENTS. — 1. All written reports made by persons involved in accidents or by garages shall be without prejudice to the individual so reporting and shall be for the confidential use of the police department or other governmental agencies having use for the records for accident prevention purposes, except that the police department or other governmental agency may disclose the identity of a person involved in an accident when such identity is not otherwise known or when such person denies his presence at such accident.

2. No written reports forwarded under the provisions of this section shall be used as evidence in any trial, civil or criminal, arising out of an accident except that the police

department shall furnish upon demand of any party to such trial, or upon demand of any court, a certificate showing that a specified accident report has or has not been made to the department in compliance with law, and, if such report has been made, the date, time and location of the accident, the names and addresses of the drivers, the owners of the vehicles involved, and the investigating officers.**]**

[300.595. POLICE MAY REMOVE VEHICLE — WHEN.— 1. Members of the police department are authorized to remove a vehicle from a street or highway to the nearest garage or other place of safety, or to a garage designated or maintained by the police department, or otherwise maintained by the city under the circumstances hereinafter enumerated:

(1) When any vehicle is left unattended upon any bridge, viaduct, or causeway, or in any tube or tunnel where such vehicle constitutes an obstruction to traffic;

(2) When a vehicle upon a highway is so disabled as to constitute an obstruction to traffic and the person in charge of the vehicle is by reason of physical injury incapacitated to such an extent as to be unable to provide its custody or removal;

(3) When any vehicle is left unattended upon a street and is so parked illegally as to constitute a definite hazard or obstruction to the normal movement of traffic.

2. Whenever an officer removes a vehicle from a street as authorized in this section and the officer knows or is able to ascertain from the registration records in the vehicle the name and address of the owner thereof, such officer shall immediately give or cause to be given notice in writing to such owner of the fact of such removal and the reasons therefor and of the place to which such vehicle has been removed. In the event any such vehicle is stored in a public garage, a copy of such notice shall be given to the proprietor of such garage.

3. Whenever an officer removes a vehicle from a street under this section and does not know and is not able to ascertain the name of the owner, or for any other reason is unable to give the notice to the owner as hereinbefore provided, and in the event the vehicle is not returned to the owner within a period of three days, then and in that event the officer shall immediately send or cause to be sent a written report of such removal by mail to the state department whose duty it is to register motor vehicles, and shall file a copy of such notice with the proprietor of any public garage in which the vehicle may be stored. Such notice shall include a complete description of the vehicle, the date, time, and place from which removed, the reasons for such removal, and the name of the garage or place where the vehicle is stored.**]**

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to provide more efficient tracking and administration of state-owned vehicles, the enactment of sections 37.450, 37.452 and 307.402 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 sections 37.450, 37.452 and 307.402 of this act shall be in full force and effect upon its passage and approval.

Approved July 11, 2002

HB 1342 [HB 1342]

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

Provides for county political party committee membership when only one candidate files.

AN ACT to repeal section 115.613, RSMo, and to enact in lieu thereof one new section relating to political party committeemen and committeewomen, with an emergency clause.

SECTION

A. Enacting clause.
115.613. Committeeman and committeewoman, how selected — tie vote, effect of — if no person elected a vacancy created — single candidate, effect of.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Section 115.613, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 115.613, to read as follows:

115.613. COMMITTEEMAN AND COMMITTEEWOMAN, HOW SELECTED — TIE VOTE, EFFECT OF — IF NO PERSON ELECTED A VACANCY CREATED — SINGLE CANDIDATE, EFFECT OF. — 1. Except as provided in subsection 4 of this section, the qualified man and woman receiving the highest number of votes from each committee district for committeeman and committeewoman of a party shall be members of the county committee of the party.

2. If two or more qualified persons receive an equal number of votes for county committeeman or committeewoman of a party and a higher number of votes than any other qualified person from the party, a vacancy shall exist on the county committee which shall be filled by a majority of the committee in the manner provided in section 115.617.

3. If no qualified person is elected county committeeman or committeewoman from a committee district for a party, a vacancy shall exist on the county committee which shall be filled by a majority of the committee in the manner provided in section 115.617.

4. The provisions of this subsection shall apply only in any county where no filing fee is required for filing a declaration of candidacy for committeeman or committeewoman in a committee district. **If only one qualified candidate has filed a declaration of candidacy for committeeman or committeewoman in a committee district for a party prior to the deadline established by law, no election shall be held for committeeman or committeewoman in the committee district for that party and the election authority shall certify the qualified candidate in the same manner and at the same time as candidates elected pursuant to subsection 1 of this section are certified.** If no qualified candidate files for committeeman or committeewoman in a committee district for a party, no election shall be held and a vacancy shall exist on the county committee which shall be filled by a majority of the committee in the manner provided in section 115.617. **[**The state shall pay the cost of producing ballots for any election held for the purposes of this subsection. The election authority shall pay all public notice costs for any election held pursuant to this subsection.**]**

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to ensure fiscal savings for the state, 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 3, 2002

HB 1348 [CCS SS#2 SCS HB 1348]

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

Changes referendums on boll weevil suppression from every 5 to every 7 years.

AN ACT to repeal sections 142.028, 254.020, 254.040, 261.110, 261.230, 261.235, 261.239, 263.531, 270.170, 275.464, 311.554, 348.430, 348.432, 407.592, 407.750, 407.751, 407.752, 407.850, 407.860, 407.870, 407.890, 407.892, 407.893 and 414.032, RSMo, and to enact in lieu thereof twenty-seven new sections relating to agriculture, with penalty provisions and a severability clause.

SECTION

A. Enacting clause.
142.028. Definitions — fuel ethanol producer defined — Missouri qualified producer incentive fund created, purpose — administration of fund — grants to producers, amount, computation, paid when — application for grant, content, qualifications, bonding — rules authorized.
142.031. Missouri qualified biodiesel producer fund created — eligibility for grants — rulemaking authority.
254.020. Definitions.
254.040. Designation as forest croplands, application for — refusal, appeal from — size of tract and value limitations.
254.225. Forest landowner cost-share incentive program authorized, reimbursements provided, when — application, procedure.
261.110. Department of agriculture to develop standards and labeling for organic farming — rulemaking authority.
261.120. Organic production and certification fee fund created.
261.230. AgriMissouri marketing program and agricultural products by category, rules authorized, director's duty.
261.235. Missouri agricultural products marketing development fund, created, purposes, lapse of fund into general revenue prohibited — advisory commission for marketing Missouri agricultural products, created, purposes, duties, membership — trademark fees.
261.239. Department of agriculture to create web site to foster marketing of Missouri agricultural products.
261.240. Rulemaking authority.
263.531. Referendum defeated — organization may call other referendums — assessment retention to be subject to vote every ten years.
270.170. Swine or sheep taken up — notice to owner — considered feral hogs, when.
270.260. Release of swine to live in wild or feral state, penalty.
270.400. Killing of feral hogs permitted, when.
275.464. Additional charge — director of agriculture's duty.
311.554. Privilege of selling wine, additional revenue charges — purpose — limitation on use of revenue.
348.430. Agricultural product utilization contributor tax credit — definitions — requirements — limitations.
348.432. New generation cooperative incentive tax credit — definitions — requirements — limitations.
407.592. Law applicable to machinery sold after January 1, 1988, not to affect prior contracts — dealers reimbursed for labor, rate.
407.850. Definitions.
407.860. Inventory qualifying for repurchase — percentage to be paid — cost of transportation to warehouse to be paid by retailer — packing and loading, how paid — transferee of manufacturer or distributors, law to apply, when.
407.870. Inventory which does not qualify for repurchase.
414.032. Requirements, standards, certain fuels — director may inspect fuels, purpose.
414.043. MTBE content limit for gasoline, when.
701.381. Elevator safety and inspection requirements not applicable, when.
701.383. Grain elevators and feed mills, certain elevators exempt from safety and inspection requirements.
407.750. Industrial maintenance and construction power equipment, repurchase of on cancellation of contract, when, amount, payments made, when — exceptions.
407.751. Remedy under contract, retailer may pursue as alternative — not a bar to action under repurchase law, when.
407.752. Failure to make payment, civil action authorized.
407.890. Outdoor power equipment, repurchase of on cancellation of contract, when, amount — payments made, when — exceptions.
407.892. Remedy under contract, retailer may pursue as alternative to law.
407.893. Failure to make payment, civil action authorized.
B. Severability clause.

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

SECTION A. ENACTING CLAUSE. — Sections 142.028, 254.020, 254.040, 261.110, 261.230, 261.235, 261.239, 263.531, 270.170, 275.464, 311.554, 348.430, 348.432, 407.592, 407.750, 407.751, 407.752, 407.850, 407.860, 407.870, 407.890, 407.892, 407.893 and 414.032, RSMo, are repealed and twenty-seven new sections enacted in lieu thereof, to be known as sections 142.028, 142.031, 254.020, 254.040, 254.225, 261.110, 261.120, 261.230, 261.235, 261.239, 261.240, 263.531, 270.170, 270.260, 270.400, 275.464, 311.554, 348.430, 348.432, 407.592, 407.850, 407.860, 407.870, 414.032, 414.043, 701.381 and 701.383, to read as follows:

142.028. DEFINITIONS — FUEL ETHANOL PRODUCER DEFINED — MISSOURI QUALIFIED PRODUCER INCENTIVE FUND CREATED, PURPOSE — ADMINISTRATION OF FUND — GRANTS TO PRODUCERS, AMOUNT, COMPUTATION, PAID WHEN — APPLICATION FOR GRANT, CONTENT, QUALIFICATIONS, BONDING — RULES AUTHORIZED. — 1. As used in this section, the following terms mean:

(1) "Fuel ethanol", one hundred ninety-eight proof ethanol denatured in conformity with the United States Bureau of Alcohol, Tobacco and Firearms' regulations and fermented and distilled in a facility whose principal (over fifty percent) feed stock is cereal grain or cereal grain by-products;

(2) "Fuel ethanol blends", a mixture of ninety percent gasoline and ten percent fuel ethanol in which the gasoline portion of the blend or the finished blend meets the American Society for Testing and Materials - specification number D-439;

(3) "Missouri qualified fuel ethanol producer", any producer of fuel ethanol whose principal place of business and facility for the fermentation and distillation of fuel ethanol is located within the state of Missouri **and is at least fifty-one percent owned by agricultural producers actively engaged in agricultural production for commercial purposes,** and which has made formal application, posted a bond, and conformed to the requirements of this section.

2. The "Missouri Qualified Fuel Ethanol Producer Incentive Fund" is hereby created and subject to appropriations shall be used to provide economic subsidies to Missouri qualified fuel ethanol producers pursuant to this section. The director of the department of agriculture shall administer the fund pursuant to this section.

3. A Missouri qualified fuel ethanol producer shall be eligible for a monthly grant from the fund, except that a Missouri qualified fuel ethanol producer shall only be eligible for the grant for a total of sixty months. The amount of the grant is determined by calculating the estimated gallons of qualified fuel ethanol production to be produced from Missouri agricultural products for the succeeding calendar month, as certified by the department of agriculture, and applying such figure to the per-gallon incentive credit established in this subsection. Each Missouri qualified fuel ethanol producer shall be eligible for a total grant in any **[**calendar**] fiscal** year equal to twenty cents per gallon for the first twelve and one-half million gallons of qualified fuel ethanol produced from Missouri agricultural products in the **[**calendar**] fiscal** year plus five cents per gallon for the next twelve and one-half million gallons of qualified fuel ethanol produced from Missouri agricultural products in the **[**calendar**] fiscal** year. All such qualified fuel ethanol produced by a Missouri qualified fuel ethanol producer in excess of twenty-five million gallons shall not be applied to the computation of a grant pursuant to this subsection. The department of agriculture shall pay all grants for a particular month by the fifteenth day after receipt and approval of the application described in subsection 4 of this section. If actual production of qualified fuel ethanol during a particular month either exceeds or is less than that estimated by a Missouri qualified fuel ethanol producer, the department of agriculture shall adjust the subsequent monthly grant by paying additional amount or subtracting the amount in deficiency by using the calculation described in this subsection.

4. In order for a Missouri qualified fuel ethanol producer to obtain a grant from the fund for a particular month, an application for such funds shall be received no later than fifteen days prior to the first day of the month for which the grant is sought. The application shall include:

(1) The location of the Missouri qualified fuel ethanol producer;

(2) The average number of citizens of Missouri employed by the Missouri qualified fuel ethanol producer in the preceding quarter, if applicable;

(3) The number of bushels of Missouri agricultural commodities used by the Missouri qualified fuel ethanol producer in the production of fuel ethanol in the preceding quarter;

(4) The number of gallons of qualified fuel ethanol the producer expects to manufacture during the month for which the grant is applied;

(5) A copy of the qualified fuel ethanol producer license required pursuant to subsection 5 of this section, name and address of surety company, and amount of bond to be posted pursuant to subsection 5 of this section; and

(6) Any other information deemed necessary by the department of agriculture to adequately ensure that such grants shall be made only to Missouri qualified fuel ethanol producers.

5. The director of the department of agriculture, in consultation with the department of revenue, shall promulgate rules and regulations necessary for the administration of the provisions of this section. The director shall also establish procedures for bonding Missouri qualified fuel ethanol producers. Each Missouri qualified fuel ethanol producer who attempts to obtain moneys pursuant to this section shall be bonded in an amount not to exceed the estimated maximum monthly grant to be issued to such Missouri qualified fuel ethanol producer.

6. **[**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 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, 2002, shall be invalid and void.**

142.031. MISSOURI QUALIFIED BIODIESEL PRODUCER FUND CREATED — ELIGIBILITY FOR GRANTS — RULEMAKING AUTHORITY. — 1. As used in this section the following terms shall mean:

(1) "Biodiesel", fuel as defined in ASTM Standard D-6751 or its subsequent standard specifications for biodiesel fuel (B100) blend stock for distillate fuels;

(2) "Qualified biodiesel producer", a facility that produces biodiesel, is registered with the United States Environmental Protection Agency according to the requirements of 40 CFR 79, and at least fifty-one percent is owned by agricultural producers actively engaged in agricultural production for commercial purposes.

2. The "Missouri Qualified Biodiesel Producer Incentive Fund" is hereby created and subject to appropriations with funds, other than general revenue funds, shall be used to provide economic subsidies to Missouri qualified biodiesel producers pursuant to this section. The director of the department of agriculture shall administer the fund pursuant to this section.

3. A Missouri qualified biodiesel producer shall be eligible for a monthly grant from the fund, except that a Missouri qualified biodiesel producer shall only be eligible for the grant for a total of sixty months. The amount of the grant is determined by calculating the estimated gallons of qualified biodiesel produced during the preceding month from Missouri agricultural products, as certified by the department of agriculture, and applying such figure to the per-gallon incentive credit established in this subsection. Each Missouri

qualified biodiesel producer shall be eligible for a total grant in any fiscal year equal to thirty cents per gallon for the first fifteen million gallons of qualified biodiesel produced from Missouri agricultural products in the fiscal year. All such qualified biodiesel produced by a Missouri qualified biodiesel producer in excess of fifteen gallons shall not be applied to the computation of a grant pursuant to this subsection. The department of agriculture shall pay all grants for a particular month by the fifteenth day after receipt and approval of the application described in subsection 4 of this section.

4. In order for a Missouri qualified biodiesel producer to obtain a grant from the fund, an application for such funds shall be received no later than fifteen days following the last day of the month for which the grant is sought. The application shall include:

(1) The location of the Missouri qualified biodiesel producer;

(2) The average number of citizens of Missouri employed by the Missouri qualified biodiesel producer in the preceding month, if applicable;

(3) The number of bushel equivalents of Missouri agricultural commodities used by the Missouri qualified biodiesel producer in the production of biodiesel in the preceding month;

(4) The number of gallons of qualified biodiesel the producer manufactures during the month for which the grant is applied;

(5) A copy of the qualified biodiesel producer license required pursuant to subsection 5 of this section, name and address of surety company, and amount of bond to be posted pursuant to subsection 5 of this section; and

(6) Any other information deemed necessary by the department of agriculture to adequately ensure that such grants shall be made only to Missouri qualified biodiesel producers.

5. The director of the department of agriculture, in consultation with the department of revenue, shall promulgate rules and regulations necessary for the administration of the provisions of 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, 2002, shall be invalid and void.

254.020. DEFINITIONS. — As used in this chapter, the following words **[**shall have the following meanings**]** **mean**:

(1) **[**The word "commission" shall mean**]** **"Best management practices", forest management practices, as defined by the commission in consultation with the clean water commission, that ensure protection of water quality;**

(2) "Commission", the conservation commission of Missouri **[**upon which, by the terms hereof impressed, are**]** **being responsible for the control, management, restoration, conservation, and regulation of the bird, fish, game, forestry, and all wildlife resources of the state are therefore** vested the responsibilities for the administration **[**hereof in conformity**]** **of this chapter in conformance** with sections 40 to 46 of article IV of the Constitution of Missouri; and the words "rules and regulations" shall mean those made by the commission pursuant thereto;

[(2)**]** **(3)** "Conservation commission fund" **[**as used in this chapter, shall mean**],** only the moneys arising from the additional sales and use taxes provided for in section 43(a) of article IV of the Constitution of Missouri;

[(3)**] (4)** "Forest croplands" **[**shall mean**],** those lands devoted exclusively to growing wood and timber, except for such other uses as shall be approved by the commission by regulations and which are tendered to the commission by any person and accepted and classified by the commission as such; and the commission shall prescribe the terms and conditions of such tender, acceptance and classification;

[(4) The word "person" shall mean**] (5) "Person",** any individual, male or female, singular or plural, of whatever age**[**, and this term**]. The term person** shall include and refer to any owner, grantee, lessee, licensee, permittee, firm, association, copartnership, corporation, municipality or county, as the context may require;

(6) "Precommercial forestry activities", proper forest management activities, as defined by the commission, that do not generate an immediate profit for the landowner;

[(5) The title "state forester" shall mean**] (7) "State forester",** the administrative head of the state forestry program**;**

(8) "Sustainable forestry principles", forest management activities, as defined by the commission, that ensure efficient use and continued availability of forest resources.

254.040. DESIGNATION AS FOREST CROPLANDS, APPLICATION FOR — REFUSAL, APPEAL FROM — SIZE OF TRACT AND VALUE LIMITATIONS. — 1. Any person desiring to have lands designated as forest croplands shall submit an application **[**therefor**]** to the state forester on **[**form or**]** forms **[**to be**]** provided by the commission. The state forester **[**will**] shall** make or cause to be made an examination of the lands covered by **[**said**] such** application and shall forward a copy of **[**same**] such application**, together with his **or her** recommendations, to the commission. If the commission **[**approve and classify**] approves and classifies such** lands as forest croplands, they shall be subject to the provisions of this chapter and **[**such**]** rules and regulations **promulgated pursuant to this chapter**.

2. If the commission **[**refuse so**] refuses** to accept and classify **[**said**] such** lands, the applicant may appeal **[**from**]** the decision of the commission to the circuit court in which such lands, or major part **[**thereof**] of such lands**, are located and the decision of the circuit court in all such matters shall be final.

3. No application **to designate lands as forest croplands** shall be accepted for a tract of land containing less than twenty acres; and no such land shall be classified for tax relief if the value thereof shall exceed one hundred twenty-five dollars per acre or a greater value as set by regulation of the commission.

4. No application for the cost-share incentive program established in section 254.225 shall be accepted for lands designated as forest croplands.

254.225. FOREST LANDOWNER COST-SHARE INCENTIVE PROGRAM AUTHORIZED, REIMBURSEMENTS PROVIDED, WHEN — APPLICATION, PROCEDURE. — 1. The commission may administer a forest landowner cost-share incentive program to promote sustainable forestry on private lands. Such program may provide reimbursement cost share for up to fifty percent of the cost of precommercial forestry activities on eligible lands. Eligible forestry activities shall be carried out in accordance with best management practices and sustainable forestry principles.

2. Any forest landowner may submit a program application to the state forester on forms provided by the commission. Application procedures and acceptance criteria shall be specified by the commission.

3. No application for such program shall be accepted for a tract of land containing less than forty acres. The total amount of incentives provided to any person shall not exceed five thousand dollars in any calendar year.

261.110. DEPARTMENT OF AGRICULTURE TO DEVELOP STANDARDS AND LABELING FOR ORGANIC FARMING — RULEMAKING AUTHORITY. — 1. The department of agriculture shall develop standards and labeling for organic farming.

2. The department of agriculture shall adopt rules to implement the provisions of this section.

3. **[**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 chapter 536, RSMo.**] The department may cooperate with any agency of the federal government, any state, any other agency in this state, any private entity or person engaged in growing, processing, marketing of organic products, or any group of such persons in this state, in programs to effectuate such purposes. Such agreements may provide for cost and revenue sharing, and for division of duties and responsibilities under this section and may include other provisions generally to effectuate the purposes of this section.**

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, 2002, shall be invalid and void.

261.120. ORGANIC PRODUCTION AND CERTIFICATION FEE FUND CREATED. — There is hereby created in the state treasury the "Organic Production and Certification Fee Fund". Fees imposed in accordance with rules promulgated under section 261.110, shall be credited to the organic production and certification fee fund.

261.230. AGRIMISSOURI MARKETING PROGRAM AND AGRICULTURAL PRODUCTS BY CATEGORY, RULES AUTHORIZED, DIRECTOR'S DUTY. — The director of the department of agriculture shall, for the use of the marketing division of the department of agriculture, develop and implement rules and regulations by product category for all Missouri agricultural products included in the AgriMissouri marketing program **[**or any equivalent successor 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, 2000, shall be invalid and void**]**.

261.235. MISSOURI AGRICULTURAL PRODUCTS MARKETING DEVELOPMENT FUND, CREATED, PURPOSES, LAPSE OF FUND INTO GENERAL REVENUE PROHIBITED — ADVISORY COMMISSION FOR MARKETING MISSOURI AGRICULTURAL PRODUCTS, CREATED, PURPOSES, DUTIES, MEMBERSHIP — TRADEMARK FEES. — 1. There is hereby created in the state treasury for the use of the marketing division of the state department of agriculture a fund to be known as "The Missouri Agricultural Products Marketing Development Fund". **[**The general assembly shall appropriate to the fund from the general revenue fund one million three hundred thousand dollars for fiscal year 2002, one million dollars for fiscal year 2003 and seven hundred fifty thousand dollars for fiscal years 2004 to 2006.**]** All moneys received by the state department of agriculture for Missouri agricultural products marketing development from any source, including trademark fees, shall be deposited in the fund. Moneys deposited in the fund shall, upon appropriation by the general assembly to the state department of agriculture, be expended by the

marketing division of the state department of agriculture for **[**purposes**]** **promotion** of Missouri agricultural products **[**marketing development as specified in this section**]** **under the AgriMissouri program**. The unexpended balance in the Missouri agricultural products marketing development fund at the end of the biennium shall not be transferred to the **[**ordinary**]** **general** revenue fund of the state treasury and accordingly shall be exempt from the provisions of section 33.080, RSMo, relating to transfer of funds to the ordinary revenue funds of the state by the state treasurer.

2. There is hereby created within the department of agriculture the "Citizens' Advisory Commission for Marketing Missouri Agricultural Products". The commission shall establish guidelines**, and make recommendations to the director of agriculture, for the use of funds appropriated by the general assembly** for **[**the spending by**]** the marketing division of the department of agriculture**[** of all moneys in**], and for all funds collected or appropriated to** the Missouri agricultural products marketing development fund created pursuant to subsection 1 of this section. The guidelines shall focus on the promotion of the AgriMissouri **[**or successor**]** trademark associated with Missouri agricultural products **[**which has**]** **that have** been approved by the general assembly, and shall advance the following objectives:

(1) Increasing the impact and fostering the effectiveness of local efforts to promote Missouri agricultural products;

(2) Enabling and encouraging expanded advertising efforts for Missouri agricultural products;

(3) Encouraging effective, high-quality advertising projects, innovative marketing strategies, and the coordination of local, regional and statewide marketing efforts;

(4) Providing training and technical assistance to cooperative-marketing partners **of Missouri agricultural products**.

3. The commission **[**shall**]** **may** establish a fee structure for sellers electing to use the AgriMissouri **[**or successor**]** trademark associated with Missouri agricultural products. Under the fee structure: (1) a seller having gross annual sales greater than two million dollars per fiscal year of Missouri agricultural products which constitute the final product of a series of processes or activities shall remit to the marketing division of the department of agriculture, at such times and in such manner as may be prescribed, a trademark fee of one-half of one percent of the aggregate amount of all of such seller's wholesale sales of products carrying the AgriMissouri **[**or successor**]** trademark; and (2) all sellers having gross annual sales less than or equal to two million dollars per fiscal year of Missouri agricultural products which constitute the final product of a series of processes or activities shall, after three years of selling Missouri agricultural products carrying the AgriMissouri **[**or successor**]** trademark, remit to the marketing division of the department of agriculture, at such times and in such manner as may be prescribed, a trademark fee of one-half of one percent of the aggregate amount of all of such seller's wholesale sales of products carrying the AgriMissouri **[**or successor**]** trademark. All trademark fees shall be deposited to the credit of the Missouri agricultural products marketing development fund, created pursuant to this section. **[**The commission may also create two additional trademark labels to be associated with Missouri agricultural products which are certified organic products and certified family-farm-produced products.**]**

4. The marketing division of the department of agriculture is authorized to **[**promote**]** **promulgate** rules consistent with the guidelines and fee structure established by the commission. No rule or portion of a rule shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

5. The commission shall consist of nine members appointed by the governor with the advice and consent of the senate. One member shall be the director of the market development division of the department of agriculture**, or his or her representative**. At least one member shall be a specialist in advertising; at least one member shall be a specialist in agribusiness; at least one member shall be a specialist in the retail grocery business; at least one member shall be a specialist in communications; at least one member shall be a specialist in product

distribution; at least one member shall be a family farmer with expertise in livestock farming; at least one member shall be a family farmer with expertise in grain farming and at least one member shall be a family farmer with expertise in organic farming. Members shall serve for four-year terms, except in the first appointments three members shall be appointed for terms of four years, three members shall be appointed for terms of three years and three members shall be appointed for terms of two years each. Any member appointed to fill a vacancy of an unexpired term shall be appointed for the remainder of the term of the member causing the vacancy. The governor shall appoint a chairperson of the commission, subject to ratification by the commission.

6. Commission members shall receive no compensation but shall be reimbursed for actual and necessary expenses incurred in the performance of their official duties on the commission. The division of market development of the department of agriculture shall provide all necessary staff and support services as required by the commission to hold commission meetings, to maintain records of official acts and to conduct all other business of the commission. The commission shall meet quarterly and at any such time that it deems necessary. Meetings may be called by the chairperson or by a petition signed by a majority of the members of the commission. Ten days' notice shall be given in writing to such members prior to the meeting date. A simple majority of the members of the commission shall be present to constitute a quorum. Proxy voting shall not be permitted.

261.239. DEPARTMENT OF AGRICULTURE TO CREATE WEB SITE TO FOSTER MARKETING OF MISSOURI AGRICULTURAL PRODUCTS. — The marketing division of the department of agriculture shall create an Internet web site for the purpose of fostering the marketing of Missouri agricultural products over the Internet. **[**The web site shall allow consumers to place orders for Missouri agricultural products over the Internet and shall enable small companies which process Missouri agricultural products to pool products with other such small companies.**]**

261.240. 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 261.230 to 261.239 shall become effective only if they comply with and are subject to all of the provisions of chapter 536, RSMo, and if applicable, section 536.028, RSMo. These sections 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.

263.531. REFERENDUM DEFEATED — ORGANIZATION MAY CALL OTHER REFERENDUMS — ASSESSMENT RETENTION TO BE SUBJECT TO VOTE EVERY TEN YEARS. — 1. In the event any referendum conducted under sections 263.500 to 263.537 fails to receive the required number of affirmative votes, the certified organization may, with the consent of the department be authorized to call other referendums.

2. After the passage of any referendum, the eligible voters shall be allowed, by the subsequent referendums, at least every **[**five**]** **ten** years, to vote on whether to continue their assessments.

3. All the requirements for an initial referendum shall be met in subsequent referendums.

270.170. SWINE OR SHEEP TAKEN UP — NOTICE TO OWNER — CONSIDERED FERAL HOGS, WHEN. — 1. If any swine or sheep shall be found running at large, contrary to the provisions of this chapter, it shall be lawful for any person on whose premises said swine or sheep shall be found to restrain the same forthwith, and give the owner, if known, notice in

writing that **[**he**]** **such person** has restrained said swine or sheep, and the amount of damages **[**he**]** **such person** claims in the premises, and requiring the owner to take said swine or sheep away and pay such damages; and such owner shall pay such person a reasonable sum for taking up, feeding and caring for the same, and the actual damages done by said swine or sheep. If such owner fails to comply with the provisions of this section within three days after receiving such notice, or if the owner of such swine or sheep be unknown, such swine or sheep shall be disposed of in the manner provided for in section 270.180.

2. Any swine not conspicuously identified by ear tags or other forms of identification that were born in the wild or that lived outside of captivity for a sufficient length of time to be considered wild by nature by hiding from humans or being nocturnal shall be considered feral hogs. Any person may take or kill such feral hogs on such person's own property.

270.260. RELEASE OF SWINE TO LIVE IN WILD OR FERAL STATE, PENALTY. — Any person who knowingly releases any swine to live in a wild or feral state upon any public land or private land not completely enclosed by a fence capable of containing such animals is guilty of a class A misdemeanor. Each swine so released shall be a separate offense.

270.400. KILLING OF FERAL HOGS PERMITTED, WHEN. — 1. For purposes of this section, the term "feral hog" means any hog, including Russian and European wild boar, that is not conspicuously identified by ear tags or other forms of identification and is roaming freely upon public or private lands without the landowner's permission.

2. A person may kill a feral hog roaming freely upon such person's land and shall not be liable to the owner of the hog for the loss of the hog.

3. Any person may take or kill a feral hog on public land or private land with the consent of the landowner; except that, during the firearms deer and turkey hunting season the regulations of the Missouri Wildlife Code shall apply. Such person shall not be liable to the owner of the hog for the loss of such hog.

4. No person except a landowner or such landowner's agent on such landowner's property shall take or kill a feral hog with the use of an artificial light.

275.464. ADDITIONAL CHARGE — DIRECTOR OF AGRICULTURE'S DUTY. — In addition to any other licenses and charges imposed by chapter 311, RSMo, there shall be collected by the director of the department of agriculture and paid to the director of the department of revenue for deposit in the Missouri wine marketing and research development fund an additional pro rata charge of **[**three**]** **six** dollars per ton of grapes or one hundred sixty gallons of grape juice processed by commercial producers in this state**, with three dollars per ton or one hundred sixty gallons being used for research and advisement of grapes and grape products**. The charges shall be paid and collected pursuant to sections 275.466 to 275.468.

311.554. PRIVILEGE OF SELLING WINE, ADDITIONAL REVENUE CHARGES — PURPOSE — LIMITATION ON USE OF REVENUE. — 1. In addition to the charges imposed by section 311.550, there shall be paid to and collected by the director of revenue for the privilege of selling wine, an additional charge of six cents per gallon or fraction thereof. The additional charge shall be paid and collected in the same manner and at the same time that the charges imposed by section 311.550 are paid and collected.

2. The revenue derived from the additional charge imposed by subsection 1 shall be deposited by the state treasurer to the credit of a separate account in the marketing development fund created by section 261.035, RSMo. Moneys to the credit of the account shall be appropriated annually for use by the division of the state department of agriculture concerned with market development in developing programs for growing, selling, and marketing of grapes and grape products grown in Missouri, including all necessary funding for the employment of

experts in the fields of viticulture and enology as deemed necessary, and programs aimed at improving marketing of all varieties of grapes grown in Missouri; and shall be appropriated and used for no other purpose.

3. In addition to the charges imposed by subsection 1 of this section and section 311.550, there shall be paid to and collected by the director of revenue for the privilege of selling wine an additional charge of six cents per gallon or fraction thereof. This additional six cents per gallon shall be deposited by the state treasurer to the credit of a separate account in the marketing development fund created by section 261.035, RSMo. Moneys to the credit account shall be appropriated annually for the use by the division of the Missouri department of agriculture concerned with the research and advisement of grapes and grape products in Missouri, including all necessary funding for the employment of experts in the fields of viticulture and enology.

348.430. AGRICULTURAL PRODUCT UTILIZATION CONTRIBUTOR TAX CREDIT — DEFINITIONS — REQUIREMENTS — LIMITATIONS. — 1. The tax credit created in this section shall be known as the "Agricultural Product Utilization Contributor Tax Credit".

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

(1) "Authority", the agriculture and small business development authority as provided in this chapter;

(2) "Contributor", an individual, partnership, corporation, trust, limited liability company, entity or person that contributes cash funds to the authority;

(3) "Development facility", a facility producing either a good derived from an agricultural commodity or using a process to produce a good derived from an agricultural product;

(4) "Eligible new generation cooperative", a nonprofit cooperative association formed pursuant to chapter 274, RSMo, or incorporated pursuant to chapter 357, RSMo, for the purpose of operating a development facility or a renewable fuel production facility;

(5) "Eligible new generation processing entity", a partnership, corporation, cooperative, or limited liability company organized or incorporated pursuant to the laws of this state consisting of not less than twelve members, approved by the authority, for the purpose of owning or operating within this state a development facility or a renewable fuel production facility in which producer members:

(a) Hold a majority of the governance or voting rights of the entity and any governing committee;

(b) Control the hiring and firing of management; and

(c) Deliver agricultural commodities or products to the entity for processing, unless processing is required by multiple entities;

[(5)**] (6)** "Renewable fuel production facility", a facility producing an energy source which is derived from a renewable, domestically grown, organic compound capable of powering machinery, including an engine or power plant, and any by-product derived from such energy source.

3. For tax year 1999, a contributor who contributes funds to the authority may receive a credit against the tax otherwise due pursuant to chapter 143, RSMo, other than taxes withheld pursuant to sections 143.191 to 143.265, RSMo, chapter 148, RSMo, chapter 147, RSMo, in an amount of up to one hundred percent of such contribution. The awarding of such credit shall be at the approval of the authority, based on the least amount of credits necessary to provide incentive for the contributions. A contributor that receives tax credits for a contribution to the authority shall receive no other consideration or compensation for such contribution, other than a federal tax deduction, if applicable, and goodwill. A contributor that receives tax credits for a contribution provided in this section may not be a member, owner, investor or lender of an eligible new generation cooperative **or eligible new generation processing entity** that receives financial assistance from the authority either at the time the contribution is made or for a period of two years thereafter.

4. A contributor shall submit to the authority an application for the tax credit authorized by this section on a form provided by the authority. If the contributor meets all criteria prescribed by this section and the authority, the authority shall issue a tax credit certificate in the appropriate amount. Tax credits issued pursuant to this section shall initially be claimed **[**for**]** **in** the taxable year in which the contributor contributes funds to the authority. Any amount of credit that exceeds the tax due for a contributor's taxable year may be carried forward to any of the contributor's five subsequent taxable years. Tax credits issued pursuant to this section may be assigned, transferred or sold. Whenever a certificate of tax credit is assigned, transferred, sold or otherwise conveyed, a notarized endorsement shall be filed with the authority specifying the name and address of the new owner of the tax credit or the value of the credit.

5. The funds derived from contributions in this section shall be used for financial assistance or technical assistance for the purposes provided in section 348.407, to rural agricultural business concepts as approved by the authority. The authority may provide or facilitate loans, equity investments, or guaranteed loans for rural agricultural business concepts, but limited to two million dollars per project or the net state economic impact, whichever is less. Loans, equity investments or guaranteed loans may only be provided to feasible projects, and for an amount that is the least amount necessary to cause the project to occur, as determined by the authority. The authority may structure the loans, equity investments or guaranteed loans in a way that facilitates the project, but also provides for a compensatory return on investment or loan payment to the authority, based on the risk of the project.

6. In any given year, at least ten percent of the funds granted to rural agricultural business concepts shall be awarded to grant requests of twenty-five thousand dollars or less. No single rural agricultural business concept shall receive more than two hundred thousand dollars in grant awards from the authority. Agricultural businesses owned by minority members or women shall be given consideration in the allocation of funds.

348.432. NEW GENERATION COOPERATIVE INCENTIVE TAX CREDIT — DEFINITIONS — REQUIREMENTS — LIMITATIONS. — 1. The tax credit created in this section shall be known as the "New Generation Cooperative Incentive Tax Credit".

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

(1) "Authority", the agriculture and small business development authority as provided in this chapter;

(2) "Development facility", a facility producing either a good derived from an agricultural commodity or using a process to produce a good derived from an agricultural product;

(3) "Eligible new generation cooperative", a nonprofit cooperative association formed pursuant to chapter 274, RSMo, or incorporated pursuant to chapter 357, RSMo, for the purpose of operating a development facility or a renewable fuel production facility and approved by the authority;

(4) "Eligible new generation processing entity", a partnership, corporation, cooperative, or limited liability company organized or incorporated pursuant to the laws of this state consisting of not less than twelve members, approved by the authority, for the purpose of owning or operating within this state a development facility or a renewable fuel production facility in which producer members:

(a) Hold a majority of the governance or voting rights of the entity and any governing committee;

(b) Control the hiring and firing of management; and

(c) Deliver agricultural commodities or products to the entity for processing, unless processing is required by multiple entities;

[(4)**]** **(5)** "Employee-qualified capital project", an eligible new generation cooperative with capital costs greater than fifteen million dollars which will employ at least one hundred employees;

[(5)**] (6)** "Large capital project", an eligible new generation cooperative with capital costs greater than one million dollars;

[(6) "Member", a person, partnership, corporation, trust or limited liability company that invests cash funds to an eligible new generation cooperative;**]**

(7) "Producer member", a person, partnership, corporation, trust or limited liability company whose main purpose is agricultural production that invests cash funds to an eligible new generation cooperative or eligible new generation processing entity;

[(7)**] (8)** "Renewable fuel production facility", a facility producing an energy source which is derived from a renewable, domestically grown, organic compound capable of powering machinery, including an engine or power plant, and any by-product derived from such energy source;

[(8)**] (9)** "Small capital project", an eligible new generation cooperative with capital costs of no more than one million dollars.

3. Beginning tax year 1999, and **[**subsequent tax years**] ending December 31, 2002**, any **producer** member who invests cash funds in an eligible new generation cooperative **or eligible new generation processing entity** may receive a credit against the tax otherwise due pursuant to chapter 143, RSMo, other than taxes withheld pursuant to sections 143.191 to 143.265, RSMo, or chapter 148, RSMo, chapter 147, RSMo, in an amount equal to the lesser of fifty percent of such **producer** member's investment or fifteen thousand dollars.

4. For all tax years beginning on or after January 1, 2003, any producer member who invests cash funds in an eligible new generation cooperative may receive a credit against the tax otherwise due pursuant to chapter 143, RSMo, other than taxes withheld pursuant to sections 143.191 to 143.265, RSMo, chapter 147, RSMo, or chapter 148, RSMo, in an amount equal to the lesser of fifty percent of such producer member's investment or fifteen thousand dollars.

[4.**] 5.** A **producer** member shall submit to the authority an application for the tax credit authorized by this section on a form provided by the authority. If the **producer** member meets all criteria prescribed by this section and is approved by the authority, the authority shall issue a tax credit certificate in the appropriate amount. Tax credits issued pursuant to this section shall initially be claimed **[**for**] in** the taxable year in which the **producer** member contributes capital to an eligible new generation cooperative **or eligible new generation processing entity**. Any amount of credit that exceeds the tax due for a **producer** member's taxable year may be carried back to any of the **producer** member's three prior taxable years and carried forward to any of the **producer** member's five subsequent taxable years. Tax credits issued pursuant to this section may be assigned, transferred, sold or otherwise conveyed and the new owner of the tax credit shall have the same rights in the credit as the **producer** member. Whenever a certificate of tax credit is assigned, transferred, sold or otherwise conveyed, a notarized endorsement shall be filed with the authority specifying the name and address of the new owner of the tax credit or the value of the credit.

[5.**] 6.** Ten percent of the tax credits authorized pursuant to this section initially shall be offered in any fiscal year to small capital projects. If any portion of the ten percent of tax credits offered to small capital costs projects is unused in any calendar year, then the unused portion of tax credits may be offered to employee-qualified capital projects and large capital projects. If the authority receives more applications for tax credits for small capital projects than tax credits are authorized therefor, then the authority, by rule, shall determine the method of distribution of tax credits authorized for small capital projects.

[6.**] 7.** Ninety percent of the tax credits authorized pursuant to this section initially shall be offered in any fiscal year to employee-qualified capital projects and large capital projects. If any portion of the ninety percent of tax credits offered to employee-qualified capital projects and large capital costs projects is unused in any fiscal year, then the unused portion of tax credits may be offered to small capital projects. The maximum tax credit allowed per employee-qualified capital project is three million dollars and the maximum tax credit allowed per large capital

project is one million five hundred thousand dollars. If the authority approves the maximum tax credit allowed for any employee-qualified capital project or any large capital project, then the authority, by rule, shall determine the method of distribution of such maximum tax credit. In addition, if the authority receives more tax credit applications for employee-qualified capital projects and large capital projects than the amount of tax credits authorized therefor, then the authority, by rule, shall determine the method of distribution of tax credits authorized for employee-qualified capital projects and large capital projects.

407.592. LAW APPLICABLE TO MACHINERY SOLD AFTER JANUARY 1, 1988, NOT TO AFFECT PRIOR CONTRACTS — DEALERS REIMBURSED FOR LABOR, RATE. — Sections 407.585 to 407.592 shall apply to any new farm machinery sold after January 1, 1988, but no provision of sections 407.585 to 407.592 shall operate or be construed to invalidate, impair, or otherwise infringe upon the specific requirements of any contract between a dealer and a manufacturer entered into prior to September 28, 1987, and which is in effect on September 28, 1987; provided, however, that in any case wherein warranty repair work is performed for a consumer by a farm equipment dealer under the provisions of a manufacturer's express warranty, the manufacturer shall reimburse the dealer at an hourly labor rate that is the same or greater than the hourly labor rate the dealer currently charges consumers for nonwarranty repair work. **The dealer may accept the manufacturer's reimbursement terms and conditions in lieu of the above.**

407.850. DEFINITIONS. — As used in sections 407.850 to 407.885, the following terms mean:

(1) "Current model", a model listed in the wholesaler's, manufacturer's or distributor's current sales manual or any supplements thereto;

(2) "Current net price", the price listed in the wholesaler's, manufacturer's or distributor's price list or catalogue in effect at the time the contract is canceled or discontinued, less any applicable trade and cash discounts;

(3) "Inventory", **[**farm**] equipment,** implements, machinery, attachments and repair parts;

(4) "Net cost", the price the retailer actually paid for the merchandise to the wholesaler, manufacturer or distributor, plus freight from the wholesaler's, manufacturer's or distributor's location to the dealer's location;

(5) "Retailer", any person, firm or corporation engaged in the business of selling, repairing and retailing:

(a) Farm implements, machinery, attachments or repair parts;

(b) Industrial, maintenance and construction power equipment; or

(c) Outdoor power equipment used for lawn, garden, golf course, landscaping or grounds maintenance;

but shall not include retailers of petroleum and motor vehicles and related automotive care and replacement products normally sold by such retailers.

407.860. INVENTORY QUALIFYING FOR REPURCHASE — PERCENTAGE TO BE PAID — COST OF TRANSPORTATION TO WAREHOUSE TO BE PAID BY RETAILER — PACKING AND LOADING, HOW PAID — TRANSFEREE OF MANUFACTURER OR DISTRIBUTORS, LAW TO APPLY, WHEN. — 1. The wholesaler, manufacturer or distributor shall repurchase that inventory previously purchased from him and held by the retailer at the date of termination of the contract. The provisions of sections 407.850 to 407.885 shall apply to the transferee of such wholesaler, manufacturer or distributor if such transferee acquired substantially all of the assets of such wholesaler, manufacturer or distributor. The wholesaler, manufacturer or distributor shall pay one hundred percent of the net cost of all new, unsold, undamaged and complete **[**farm**] equipment,** implements, machinery, and attachments and ninety-five percent of the current net

price of all new, unused and undamaged repair parts. The retailer shall pay the cost of transportation to the nearest warehouse maintained by the wholesaler, manufacturer, or distributor, or to a mutually agreeable site. The wholesaler, manufacturer or distributor shall pay the retailer five percent of the current net price on all new, unused and undamaged repair parts returned to cover the cost of handling, packing and loading. The wholesaler, manufacturer or distributor shall have the option of performing the handling, packing and loading in lieu of paying the five percent for these services. The retailer shall pay the cost of transportation to the nearest warehouse maintained by the wholesaler, manufacturer, or distributor, or to a mutually agreeable site.

2. Upon payment of the repurchase amount to the retailer, the title and right of possession to the repurchased inventory shall transfer to the wholesaler, manufacturer or distributor.

407.870. INVENTORY WHICH DOES NOT QUALIFY FOR REPURCHASE. — The provisions of sections 407.850 to 407.885 shall not require the repurchase from a retailer of:

(1) Any repair part which because of its condition is not resalable as a new part without repackaging or reconditioning;

(2) Any inventory for which the retailer is unable to furnish evidence, satisfactory to the wholesaler, manufacturer or distributor, of title, free and clear of all claims, liens and encumbrances;

(3) Any inventory which the retailer desires to keep, provided the retailer has a contractual right to do so;

(4) Any **equipment,** implements, machinery, and attachments which are not in new, unused, undamaged, or complete condition;

(5) Any repair parts which are not in new, unused, or undamaged condition;

(6) Any **equipment,** implements, machinery or attachments which were purchased twenty-four months or more prior to notice of termination of the contract;

(7) Any inventory which was ordered by the retailer on or after the date of notification of termination of the contract;

(8) Any inventory which was acquired by the retailer from any source other than the wholesaler, manufacturer or distributor or transferee of such wholesaler, manufacturer or distributor **unless such inventory was acquired from any source authorized or arranged by the manufacturer**.

414.032. REQUIREMENTS, STANDARDS, CERTAIN FUELS — DIRECTOR MAY INSPECT FUELS, PURPOSE. — 1. All kerosene, diesel fuel, heating oil, aviation turbine fuel, gasoline, gasoline-alcohol blends and other motor fuels shall meet the requirements in the annual book of ASTM standards and supplements thereto. The director may promulgate rules and regulations on the labeling, standards for, and identity of motor fuels and heating oils.

2. **[**All sellers of motor fuel which has been blended with an alcohol additive shall notify the buyer of same.

3. All sellers of motor fuel which has been blended with at least one percent oxygenate by weight shall notify the buyer at the pump of the type of oxygenate. The provisions of this subsection may be satisfied with a sticker or label on the pump stating that the motor fuel may or may not contain the oxygenate. The department of agriculture shall provide the sticker or label, which shall be reasonable in size and content, at no cost to the sellers.

4.**]** The director may inspect gasoline, gasoline-alcohol blends or other motor fuels to insure that these fuels conform to advertised grade and octane. In no event shall the penalty for a first violation of this section exceed a written reprimand.

414.043. MTBE CONTENT LIMIT FOR GASOLINE, WHEN. — After July 1, 2005, no gasoline sold, offered for sale, or stored within this state shall contain more than one-half of one percent by volume of methyl tertiary butyl ether (MTBE).

701.381. ELEVATOR SAFETY AND INSPECTION REQUIREMENTS NOT APPLICABLE, WHEN. — The provisions of sections 701.350 to 701.380, RSMo, shall not apply to any device that is inaccessible to the public, not used to transport passengers and was built before January 1, 1940.

701.383. GRAIN ELEVATORS AND FEED MILLS, CERTAIN ELEVATORS EXEMPT FROM SAFETY AND INSPECTION REQUIREMENTS. — Single person elevator lifts and belt manlifts operating only in grain elevators or feed mills will be exempt from sections 701.350 to 701.380 unless inspection is requested by the owner.

[407.750. INDUSTRIAL MAINTENANCE AND CONSTRUCTION POWER EQUIPMENT, REPURCHASE OF ON CANCELLATION OF CONTRACT, WHEN, AMOUNT, PAYMENTS MADE, WHEN — EXCEPTIONS. — Whenever any person, firm, or corporation engaged in the business of selling and repairing industrial, maintenance and construction power equipment enters into a written or parol contract whereby such retailer agrees to maintain a stock of parts or machines or equipment or attachments with any wholesaler, manufacturer, or distributor of industrial, maintenance and construction power equipment used for industrial, maintenance or construction applications and either such wholesaler, manufacturer, or distributor desires to cancel or discontinue the contract, such wholesaler, manufacturer, or distributor shall pay to such retailer, unless the retailer should desire to keep such merchandise, a sum equal to ninety percent of the net cost of all new, unused, undamaged and complete industrial, maintenance and construction power equipment used for industrial, maintenance and construction applications including transportation charges which have been paid by such retailer, and ninety percent of the current net price on new, unused and undamaged repair parts at the price listed in the current price lists or catalogues, which parts had previously been purchased from such wholesaler, manufacturer, or distributor in the previous two years, and held by such retailer on the date of the cancellation of such contract. Any parts in a dealer's inventory for more than two years shall be returned for ninety percent of his original purchase cost. "Net cost" means the price the retailer actually paid for the equipment. "Current net price" means the price listed in the manufacturer's, wholesaler's or distributor's price list or catalogue in effect on the date of termination, less any applicable trade or cash discounts. Upon the payment of the sum equal to ninety percent of the net cost of such equipment and ninety percent of the current net price on the repair parts, the title to such machinery and repair parts shall pass to the manufacturer, wholesaler or distributor making such payment, and such manufacturer, wholesaler, or distributor shall be entitled to the possession of such equipment and repair parts. All payments required to be made under the provisions of this section must be made within ninety days after the return of the machinery or repair parts. After ninety days, all payments or allowances shall include interest at the rate stated in section 408.040, RSMo. The provisions of this section shall not require the repurchase from a retailer of:

(1) Any repair part which has a limited storage life or is otherwise subject to deterioration, such as rubber items, gaskets or batteries;

(2) Any repair part which is in a broken or damaged package;

(3) Any single repair part which is priced as a set of two or more items;

(4) Any repair part which because of its condition is not resalable as a new part without repackaging or reconditioning;

(5) Any inventory for which the retailer is unable to furnish evidence, satisfactory to the wholesaler, manufacturer or distributor, of title, free and clear of all claims, liens and encumbrances;

(6) Any inventory which the retailer desires to keep, provided the retailer has a contractual right to do so;

(7) Any implements, machinery, and attachments which are not in new, unused, undamaged, or complete condition;

(8) Any repair parts which are not in new, unused, or undamaged condition;

(9) Any implements, machinery or attachments which were purchased twenty-four months or more prior to notice of termination of the contract;

(10) Any inventory which was ordered by the retailer on or after the date of notification of termination of the contract;

(11) Any inventory which was acquired by the retailer from any source other than the wholesaler, manufacturer or distributor or transferee of such wholesaler, manufacturer or distributor;

(12) Any part that has been removed from an engine or short block or piece of equipment or any part that has been mounted or installed on an engine or on equipment.**]**

[407.751. REMEDY UNDER CONTRACT, RETAILER MAY PURSUE AS ALTERNATIVE — NOT A BAR TO ACTION UNDER REPURCHASE LAW, WHEN. — The provisions of section 407.750 shall be supplemental to any agreement between the retailer and the manufacturer, wholesaler or distributor covering the return of equipment and repair parts. The retailer may elect to pursue either his contract remedy or the remedy provided herein, and an election by the retailer to pursue his contract remedy shall not bar his right to the remedy provided herein as to those equipment and repair parts not affected by the contract remedy.**]**

[407.752. FAILURE TO MAKE PAYMENT, CIVIL ACTION AUTHORIZED. — In the event that any manufacturer, wholesaler, or distributor of machinery and repair parts for industrial, maintenance and construction power equipment used for industrial, maintenance and construction applications, upon cancellation of a contract by either a retailer or a manufacturer, wholesaler, or distributor, fails or refuses to make payment to such dealer as required by the provisions of section 407.750, such manufacturer, wholesaler, or distributor shall be liable in a civil action to the retailer for costs of litigation and attorney's fees and for one hundred percent of the net cost of such machinery, plus transportation charges which have been paid by the retailer and one hundred percent of the current net price of the repair parts.**]**

[407.890. OUTDOOR POWER EQUIPMENT, REPURCHASE OF ON CANCELLATION OF CONTRACT, WHEN, AMOUNT — PAYMENTS MADE, WHEN — EXCEPTIONS. — Whenever any person, firm, or corporation engaged in the business of selling and repairing outdoor power equipment used for lawn, garden, golf course, landscaping or grounds maintenance, enters into a written or parol contract whereby such retailer agrees to maintain a stock of parts or machines or equipment or attachments with any wholesaler, manufacturer, or distributor of outdoor power equipment used for lawn, garden, golf course, landscaping or grounds maintenance, and either such wholesaler, manufacturer, or distributor desires to cancel or discontinue the contract, such wholesaler, manufacturer, or distributor shall pay to such retailer, unless the retailer should desire to keep such merchandise, a sum equal to ninety percent of the net cost of all new, unused, undamaged and complete outdoor power equipment used for lawn, garden, golf course, landscaping or grounds maintenance, including transportation charges which have been paid by such retailer, and ninety percent of the current net price on new, unused and undamaged repair parts at the price listed in the current price lists or catalogues, which parts had previously been purchased from such wholesaler, manufacturer, or distributor in the previous two years, and held by such retailer on the date of the cancellation of such contract. Any parts in dealer's inventory for more than two years shall be returned for ninety percent of his original purchase cost. "Net cost" means the price the retailer actually paid for the equipment. "Current net price" means the price listed in the manufacturer's, wholesaler's or distributor's price list or catalogue in effect on the date of termination, less any applicable trade or cash discounts. Upon the payment of the sum equal to ninety percent of the net cost of such equipment and ninety percent of the current net price on the repair parts, the title to such machinery and repair parts shall pass to the manufacturer, wholesaler or distributor making such payment, and such manufacturer, wholesaler, or distributor shall be entitled to the possession of such equipment and repair parts.

All payments required to be made under the provisions of this section must be made within ninety days after the return of the machinery or repair parts. After ninety days, all payments or allowances shall include interest at the rate stated in section 408.040, RSMo. The provisions of this section shall not require the repurchase from a retailer of:

(1) Any repair part which has a limited storage life or is otherwise subject to deterioration, such as rubber items, gaskets or batteries;

(2) Any repair part which is in a broken or damaged package;

(3) Any single repair part which is priced as a set of two or more items;

(4) Any repair part which because of its condition is not resalable as a new part without repackaging or reconditioning;

(5) Any inventory for which the retailer is unable to furnish evidence, satisfactory to the wholesaler, manufacturer or distributor, of title, free and clear of all claims, liens and encumbrances;

(6) Any inventory which the retailer desires to keep, provided the retailer has a contractual right to do so;

(7) Any implements, machinery, and attachments which are not in new, unused, undamaged, or complete condition;

(8) Any repair parts which are not in new, unused, or undamaged condition;

(9) Any implements, machinery or attachments which were purchased twenty-four months or more prior to notice of termination of the contract;

(10) Any inventory which was ordered by the retailer on or after the date of notification of termination of the contract;

(11) Any inventory which was acquired by the retailer from any source other than the wholesaler, manufacturer or distributor or transferee of such wholesaler, manufacturer or distributor;

(12) Any part that has been removed from an engine or short block or piece of equipment or any part that has been mounted or installed on an engine or on equipment.**]**

[407.892. REMEDY UNDER CONTRACT, RETAILER MAY PURSUE AS ALTERNATIVE TO LAW. — The provisions of section 407.890 shall be supplemental to any agreement between the retailer and the manufacturer, wholesaler or distributor covering the return of equipment and repair parts. The retailer may elect to pursue either his contract remedy or the remedy provided herein, and an election by the retailer to pursue his contract remedy shall not bar his right to remedy provided herein as to those equipment and repair parts not affected by the contract remedy.**]**

[407.893. FAILURE TO MAKE PAYMENT, CIVIL ACTION AUTHORIZED. — In the event that any manufacturer, wholesaler, or distributor of machinery and repair parts for outdoor power equipment used for lawn, garden, golf course, landscaping or ground maintenance, upon cancellation of a contract by either a retailer or a manufacturer, wholesaler, or distributor, fails or refuses to make payment to such dealer as required by the provisions of section 407.890, such manufacturer, wholesaler, or distributor shall be liable in a civil action to the retailer for costs of litigation and attorneys' fees and for one hundred percent of the net cost of such machinery, plus transportation charges which have been paid by the retailer and one hundred percent of the current net price of the repair parts.**]**

SECTION B. SEVERABILITY CLAUSE. — If any provision of this act or the application thereof to anyone or to any circumstances is held invalid, the remainder of those sections and the application of such provisions to others or other circumstances shall not be affected thereby.

Approved June 24, 2002

HB 1375 [HB 1375]

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

Increases permissible mortgage insurance amounts.

AN ACT to repeal section 443.415, RSMo, and to enact in lieu thereof one new section relating to mortgage insurance amounts.

SECTION
A. Enacting clause.
443.415. Mortgage may be insured for certain buyers, amount, requirements.

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

SECTION A. ENACTING CLAUSE. — Section 443.415, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 443.415, to read as follows:

443.415. MORTGAGE MAY BE INSURED FOR CERTAIN BUYERS, AMOUNT, REQUIREMENTS. — Mortgage insurers may insure a mortgage in an amount not exceeding one hundred **three** percent of the fair market value of the authorized real estate security at the time that the loan is made if secured by a first lien or charge on such real estate security.

Approved July 3, 2002

HB 1381 [SCS HB 1381]

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

Allows insurance policies to be in languages other than English.

AN ACT to amend chapter 375, RSMo, by adding thereto one new section relating to interpretation of insurance materials.

SECTION
A. Enacting clause.
375.919. Use of language other than English permitted, when, disclosures — contractual relationship required for applicability of certain rules — misrepresentation, penalty.

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

SECTION A. ENACTING CLAUSE. — Chapter 375, RSMo, is amended by adding thereto one new section, to be known as section 375.919, to read as follows:

375.919. USE OF LANGUAGE OTHER THAN ENGLISH PERMITTED, WHEN, DISCLOSURES — CONTRACTUAL RELATIONSHIP REQUIRED FOR APPLICABILITY OF CERTAIN RULES — MISREPRESENTATION, PENALTY. — 1. An insurer, as defined in section 375.001, may provide an insurance policy, endorsement, rider and any explanatory material in a

language other than English. In the event of a dispute regarding the insurance or advertising material, the English language version shall dictate the resolution. If a policy, endorsement or rider is provided in a language other than English, the insurer shall also, at the same time, provide to the policyholder a copy of such policy, endorsement or rider in English, and shall disclose on such document, in both English and the other language, the following:

(1) The translation is for informational purposes only; and

(2) The English language version of the policy will be controlling unless the language in the other language version is shown to be a fraudulent mispresentation.

2. Any knowing misrepresentation in providing a policy, endorsement, rider or explanatory materials in a language other than English is a violation of sections 375.930 to 375.948.

Approved July 3, 2002

HB 1386 [HCS HB 1386 & 1038]

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

Revises tinted window restrictions.

AN ACT to repeal section 307.173, RSMo, and to enact in lieu thereof one new section relating to tinted windows, with a penalty provision and an emergency clause.

SECTION

A. Enacting clause.

307.173. Specifications for sun screening device applied to windshield or windows — permit required, when — exceptions — rules, procedure — violations, penalty — exemptions.

B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Section 307.173, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 307.173, to read as follows:

307.173. SPECIFICATIONS FOR SUN SCREENING DEVICE APPLIED TO WINDSHIELD OR WINDOWS — PERMIT REQUIRED, WHEN — EXCEPTIONS — RULES, PROCEDURE — VIOLATIONS, PENALTY — EXEMPTIONS. — 1. **[**Except as provided in subsections 2 and 6 of this section, no person shall operate any motor vehicle registered in this state on any public highway or street of this state with any manufactured vision-reducing material applied to any portion of the motor vehicle's windshield, sidewings, or windows located immediately to the left and right of the driver which reduces visibility from within or without the motor vehicle. 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.

2.**]** Any person may operate a motor vehicle with **[**side and rear windows**]** **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. **[**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 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.

[5.**] 4.** Any person who violates the provisions of this section is guilty of a class C misdemeanor.

[6.**] 5.** Any vehicle licensed with a historical license plate shall be exempt from the requirements of this section.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to clarify the laws regarding tinted windows, 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 February 14, 2002

HB 1398 [HCS HB 1398]

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

Allows relatives of deceased veterans of World War II to apply for World War II medals and extends the application date to 2003.

AN ACT to repeal sections 42.170 and 42.175, RSMo, and to enact in lieu thereof two new sections relating to World War II medals, with an emergency clause.

SECTION
A. Enacting clause.
42.170. World War II medallion, medal and certificate, to whom awarded.
42.175. Adjutant general to administer awards — disposition of deceased applicant's awards.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 42.170 and 42.175, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 42.170 and 42.175, to read as follows:

42.170. WORLD WAR II MEDALLION, MEDAL AND CERTIFICATE, TO WHOM AWARDED. — 1. Every veteran who honorably served on active duty in the United States military service at any time beginning December 7, 1941, and ending **[**September 30, 1945**] December 31, 1946**, shall be entitled to receive a medallion, medal and a certificate of appreciation pursuant to sections 42.170 to 42.185, provided that:

(1) Such veteran is a legal resident of this state on August 28, 2000**, or was a legal resident of this state at the time of his or her death**; and

(2) Such veteran was honorably separated or discharged from military service or is still in active service in an honorable status**, or was in active service in an honorable status at the time of his or her death**.

2. The medallion, medal and the certificate shall be awarded regardless of whether or not such veteran served within the United States or in a foreign country. The medallion, medal and the certificate shall be awarded regardless of whether or not such veteran was under eighteen years of age at the time of enlistment. For purposes of sections 42.170 to 42.185, "veteran" means any person defined as a veteran by the United States Department of Veterans' Affairs or its successor agency.

42.175. ADJUTANT GENERAL TO ADMINISTER AWARDS — DISPOSITION OF DECEASED APPLICANT'S AWARDS. — 1. Except as otherwise provided in sections 42.170 to 42.185, the adjutant general of the state of Missouri shall administer sections 42.170 to 42.185, and may adopt all rules and regulations necessary to administer the provisions of sections 42.170 to 42.185. No rule or portion of a rule promulgated pursuant to sections 42.170 to 42.185 shall become effective unless promulgated pursuant to chapter 536, RSMo.

2. The adjutant general shall determine as expeditiously as possible the persons who are entitled to a medallion, medal and a certificate pursuant to sections 42.170 to 42.185 and distribute the medallions, medals and the certificates as provided in sections 42.170 to 42.185. Applications for the medallion, medal and the certificate shall be filed with the office of the adjutant general at any time after January 1, 2001, and before **[**January 1, 2002**] July 1, 2003**, on forms prescribed and furnished by the adjutant general's office. The adjutant general shall

approve all applications that are in order, and shall cause a medallion, medal and a certificate to be prepared for each approved veteran in the form created by the veterans' commission pursuant to section 42.180.

3. **The following persons may apply for a medallion, medal and certificate pursuant to sections 42.170 to 42.185:**

(1) Any veteran who is entitled to a medallion, medal and certificate pursuant to sections 42.170 to 42.185;

(2) Any spouse of a veteran who is entitled to a medallion, medal and certificate pursuant to sections 42.170 to 42.185 but who died prior to having made application for such medallion, medal and certificate.

4. If any spouse applies for the medallion, medal and certificate pursuant to subsection 3 of this section or if any **[**person**] veteran** dies after applying for a medallion or medal and a certificate pursuant to sections 42.170 to 42.185 and such **[**person**] veteran** would have been entitled to the medallion, medal and the certificate, the adjutant general shall give the medallion, medal and the certificate to the **[**person to whom the largest portion of the veteran's estate was given in such veteran's will. If the estate was split evenly among two or more persons, the surviving spouse, the eldest living child or the closest relative by degree of consanguinity, in that order, shall receive the medallion, medal and the certificate. If there was no will, the veteran's intestate survivor shall receive the medallion, medal and the certificate**] spouse of the deceased veteran**.

[4.**] 5.** If the adjutant general disallows any veteran's claim to a medallion, medal and a certificate pursuant to sections 42.170 to 42.185, a statement of the reason for the disallowance shall be filed with the application and notice of this disallowance shall be mailed to the applicant at the applicant's last known address.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to ensure the award of medals, 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 3, 2002

HB 1399 [HS HB 1399]

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

Extends application deadline for World War II medals to January 1, 2003.

AN ACT to repeal section 42.175, RSMo, and to enact in lieu thereof one new section relating to World War II medals, with an emergency clause.

SECTION

A. Enacting clause.
42.175. Adjutant general to administer awards — disposition of deceased applicant's awards.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Section 42.175, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 42.175, to read as follows:

42.175. ADJUTANT GENERAL TO ADMINISTER AWARDS — DISPOSITION OF DECEASED APPLICANT'S AWARDS. — 1. Except as otherwise provided in sections 42.170 to 42.185, the adjutant general of the state of Missouri shall administer sections 42.170 to 42.185, and may adopt all rules and regulations necessary to administer the provisions of sections 42.170 to 42.185. No rule or portion of a rule promulgated pursuant to sections 42.170 to 42.185 shall become effective unless promulgated pursuant to chapter 536, RSMo.

2. The adjutant general shall determine as expeditiously as possible the persons who are entitled to a medallion, medal and a certificate pursuant to sections 42.170 to 42.185 and distribute the medallions, medals and the certificates as provided in sections 42.170 to 42.185. Applications for the medallion, medal and the certificate shall be filed with the office of the adjutant general at any time after January 1, 2001, and before **[**January 1, 2002**] July 1, 2003**, on forms prescribed and furnished by the adjutant general's office. The adjutant general shall approve all applications that are in order, and shall cause a medallion, medal and a certificate to be prepared for each approved veteran in the form created by the veterans' commission pursuant to section 42.180.

3. If any person dies after applying for a medallion or medal and a certificate pursuant to sections 42.170 to 42.185 and such person would have been entitled to the medallion, medal and the certificate, the adjutant general shall give the medallion, medal and the certificate to the person to whom the largest portion of the veteran's estate was given in such veteran's will. If the estate was split evenly among two or more persons, the surviving spouse, the eldest living child or the closest relative by degree of consanguinity, in that order, shall receive the medallion, medal and the certificate. If there was no will, the veteran's intestate survivor shall receive the medallion, medal and the certificate.

4. If the adjutant general disallows any veteran's claim to a medallion, medal and a certificate pursuant to sections 42.170 to 42.185, a statement of the reason for the disallowance shall be filed with the application and notice of this disallowance shall be mailed to the applicant at the applicant's last known address.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to ensure the award of medals, 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 3, 2002

HB 1402 [CCS SCS HB 1402]

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

Permits municipal utilities to offer wholesale telecommunications services.

AN ACT to repeal sections 386.025, 392.410, 393.295, 393.700, 393.705, 393.715, 393.725, 393.740 and 393.765, RSMo, and to enact in lieu thereof twelve new sections relating to utility projects, with an emergency clause for a certain section.

SECTION

A. Enacting clause.

71.970. Cable television facilities, municipalities may own and operate, requirements — public service commission to study economic impact — expiration date.

182.825. Definitions.
182.827. Responsibilities of public schools and public libraries with public access computers — rulemaking authority — immunity from liability, when.
386.887. Consumer clean energy act — definitions — purchase and sale of electric energy to customer-generators, rules adopted, contracts — net energy measurement calculated by supplier — net metering not required, when.
392.410. Certificate of public convenience and necessity required, exception — certificate of interexchange service authority, required when — duration of certificates — temporary certificates, issued when — political subdivisions restricted from providing certain telecommunications services or facilities, expiration date.
393.310. Certain gas corporations to file set of experimental tariffs with PSC, minimum requirements — expiration date.
393.700. Short title.
393.705. Definitions.
393.715. Powers of commission — purchase of private water utility serving outside municipal limits, effect — successorship, continued and new service authorized, when.
393.725. Bonds issued to be revenue bonds only — form of bonds.
393.740. Certain taxes applicable.
1. Emissions limitation for certain coal-fired cyclone boilers — expiration date.
386.025. Certain joint municipal utility commissions to be considered utility corporations.
393.295. Provisions of chapters 386 and 393, RSMo, applicable to certain joint municipal utility commissions.
393.765. Public service commission law applicable.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 386.025, 392.410, 393.295, 393.700, 393.705, 393.715, 393.725, 393.740 and 393.765, RSMo, are repealed and twelve new sections enacted in lieu thereof, to be known as sections 71.970, 182.825, 182.827, 393.310, 393.700, 393.705, 393.715, 393.725, 393.740, 386.887, 392.410 and 1, to read as follows:

71.970. CABLE TELEVISION FACILITIES, MUNICIPALITIES MAY OWN AND OPERATE, REQUIREMENTS — PUBLIC SERVICE COMMISSION TO STUDY ECONOMIC IMPACT — EXPIRATION DATE. — 1. Municipalities may own and operate cable television facilities on a nondiscriminatory, competitively-neutral basis, and at a price which covers costs, including imputed costs that the political subdivision would incur if it were a for-profit business. No municipality may own or operate cable television facilities and services unless approved by a vote of the people. This section shall apply only to municipalities that acquire or construct cable television facilities and services after August 28, 2002.

2. The public service commission shall annually study the economic impact of the provisions of this section and prepare and submit a report to the general assembly by December thirty-first of each year.

3. The provisions of this section shall terminate on August 28, 2007.

182.825. DEFINITIONS. — As used in sections 182.825 and 182.827, the following terms mean:

(1) "Pornographic for minors", as that term is defined in section 573.010, RSMo;

(2) "Public access computer", a computer that is:

(a) Located in an elementary or secondary public school or public library;

(b) Frequently or regularly used directly by a minor; and

(c) Connected to any computer communication system.

182.827. RESPONSIBILITIES OF PUBLIC SCHOOLS AND PUBLIC LIBRARIES WITH PUBLIC ACCESS COMPUTERS — RULEMAKING AUTHORITY — IMMUNITY FROM LIABILITY, WHEN. — 1. A public school that provides a public access computer shall do one or both of the following:

(1) Equip the computer with software that will limit minors' ability to gain access to material that is pornographic for minors or purchase Internet connectivity from an

Internet service provider that provides filter services to limit access to material that is pornographic for minors;

(2) Develop and implement by January 1, 2003, a policy that is consistent with community standards and establishes measures to restrict minors from gaining computer access to material that is pornographic for minors.

2. The department of elementary and secondary education shall establish rules and regulations for the enforcement of subsection 1 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, 2002, shall be invalid and void.

3. A public library that provides a public access computer shall do one or both of the following:

(1) Equip the computer with software that will limit minors' ability to gain access to material that is pornographic for minors or purchase Internet connectivity from an Internet service provider that provides filter services to limit access to material that is pornographic for minors;

(2) Develop and implement by January 1, 2003, a policy that is consistent with community standards and establishes measures to restrict minors from gaining computer access to material that is pornographic for minors.

4. The secretary of state shall establish rules and regulations for the enforcement of subsection 3 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, 2002, shall be invalid and void.

5. Any public school board member, officer or employee, including library personnel, who willfully neglects or refuses to perform a duty imposed by this section shall be subject to the penalties imposed pursuant to section 162.091, RSMo.

6. A public school or public school board member, officer or employee, including library personnel; public library or public library board member, officer, employee or trustee that complies with subsection 1 or 3 of this section or an Internet service provider providing Internet connectivity to such public school or library in order to comply with this section shall not be criminally liable or liable for any damages that might arise from a minor gaining access to material that is pornographic for minors through the use of a public access computer that is owned or controlled by the public school or public library.

386.887. CONSUMER CLEAN ENERGY ACT — DEFINITIONS — PURCHASE AND SALE OF ELECTRIC ENERGY TO CUSTOMER-GENERATORS, RULES ADOPTED, CONTRACTS — NET ENERGY MEASUREMENT CALCULATED BY SUPPLIER — NET METERING NOT REQUIRED, WHEN. — 1. This section shall be known and may be cited as the "Consumer Clean Energy Act".

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

(1) "Commission", the public service commission of the state of Missouri;

(2) "Customer-generator", a consumer of electric energy who purchases electric energy from a retail electric energy supplier and is the owner of a qualified net metering unit;

(3) "Local distribution system", facilities for the distribution of electric energy to the ultimate consumer thereof;

(4) "Net energy metering", a measurement of the difference between the electric energy supplied to a customer-generator by a retail electric supplier and the electric energy generated by a customer-generator that is delivered to a local distribution system at the same point of interconnection;

(5) "Qualified net metering unit", an electric generation unit which:

(a) Is owned by a customer-generator;

(b) Is a hydrogen fuel cell or is powered by sun, wind or biomass;

(c) Has an electrical generating system with a capacity of not more than one hundred kilowatts;

(d) Is located on the premises that are owned, operated, leased or otherwise controlled by the customer-generator;

(e) Is interconnected and operates in parallel and in synchronization with a retail electric supplier; and

(f) Is intended primarily to offset part or all of the customer-generator's own electrical requirements;

(6) "Retail electric supplier" or "supplier", any person that sells electric energy to the ultimate consumer thereof;

(7) "Value of electric energy", the total resulting from the application of the appropriate rates, which may be time of use rates at the option of the supplier, to the quantity of electric energy produced from qualified net metering units or to the quantity of electric energy sold to customer-generators.

3. By August 28, 2003, each retail electric supplier shall adopt rates, charges, conditions and contract terms for the purchase from and the sale of electric energy to customer-generators. The commission, in consultation with the department and retail electric suppliers, shall develop a simple contract for such transactions and make it available to eligible customer-generators and retail electric suppliers. Upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the purchase from the customer-generator may be by the wholesale generator. Any time of use or other rates charged for electric energy sold to customer-generators shall be the same as those made available to any other customers with the same net electric energy usage pattern including minimum bills and service availability charges. Rates for electric energy generated by the customer-generator from a qualified net generating unit and sold to the retail electric supplier or its wholesale generator shall be the avoided cost (time of use or non-time of use) of the generation used by the retail electric supplier to serve its other customers. Whenever a customer-generator with a qualified net generating unit uses any energy generation method entitled to eligibility under a minimum renewable energy generation requirement, the total amount of energy generated by that method shall be treated as generated by the generator providing electric energy to the retail electric supplier for purposes of such requirement. The wholesale generator, at the option of the retail electric supplier, shall receive credit for emissions avoided by the wholesale generator because of electric energy purchased by the wholesale generator or the retail electric supplier from a qualified net metering unit. If the supplier is required to file tariffs with the commission, the commission shall review the reasonableness of the charges provided in such tariffs.

4. Each retail electric supplier shall calculate the net energy measurement for a customer-generator in the following manner:

(1) The retail electric supplier shall individually measure both the electric energy produced and the electric energy consumed by the customer-generator during each billing period using an electric metering capable of such function, either by a single meter capable of registering the flow of electricity in two directions or by using multiple meters;

(2) If the value of the electric energy supplied by the retail electric supplier exceeds the value of the electric energy delivered by the customer-generator to the retail electric supplier during a billing period, then the customer-generator shall be billed for the net value of the electric energy supplied by the retail electric supplier in accordance with the rates, terms and conditions established by the retail electric supplier for customer-generators; and

(3) If the value of the electric energy generated by the customer-generator exceeds the value of the electric energy supplied by the retail electric supplier, then the customer-generator:

(a) Shall be billed for the appropriate customer charges for that billing period; and

(b) Shall be credited for the excess value of the electric energy generated and supplied to the retail electric supplier during the billing period, with this credit appearing on the bill for the following billing period.

5. A retail electric supplier shall not be required to provide net metering service with respect to additional customer-generators after the date during any calendar year on which the total generating capacity of all customer-generators with qualified net metering units served by that retail electric supplier is equal to or in excess of the lesser of ten thousand kilowatts or one-tenth of one percent of the capacity necessary to meet the company's aggregate customer peak demand for the preceding calendar year.

6. Each retail electric supplier shall maintain and make available to the public records of the total generating capacity of customer-generators of the supplier that are using net metering, the type of generating systems and energy source used by the electric generating systems which customer-generators use. Each such retail electric supplier shall notify the commission when the total generating capacity of such customer-generators is equal to or in excess of the lesser of ten thousand kilowatts or one-tenth of one percent of the capacity necessary to meet the company's aggregate customer peak demand for the preceding calendar year.

7. Each qualified net metering unit used by a customer-generator shall meet all applicable safety, performance, synchronization, interconnection and reliability standards established by the commission, the National Electrical Safety Code, National Electrical Code, the Institute of Electrical, Electronics Engineers, and Underwriters Laboratories. Each qualified net metering unit used by a customer-generator shall also meet all reasonable standards and requirements established by the retail electric supplier to enhance employee, consumer and public safety and the reliability of electric service to the customer-generator and other consumers receiving electric service from the retail electric supplier. Each qualified net metering unit used by a customer-generator shall also comply with all applicable local building, electrical and safety codes. The customer-generator shall obtain liability insurance coverage in amounts and coverage as set by the commission by rule applicable to all qualified net metering units.

8. The cost of meeting the standards of subsection 7 of this section and any cost to install additional controls, to install additional metering, to perform or pay for additional tests or analysis of the effect of the operation of the qualified net metering unit on the local distribution system shall be paid by the customer-generator.

9. Applications by a customer-generator for interconnection to the distribution system shall include a copy of the plans and specifications for the qualified net metering unit for review and acceptance by the retail electric supplier. Prior to connection of the qualified net metering unit to the distribution system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or

engineer that the installation meets the requirements of subsection 7 of this section. Such applications shall be reviewed and responded to by the retail electric supplier within ninety days. If the application for interconnection is approved by the retail electric supplier, the retail electric supplier shall complete the interconnection within fifteen days if electric service already exists to the premises, unless a later date is mutually agreeable to both the customer-generator and the retail electric supplier.

10. The sale of qualified net metering units shall be subject to the provisions of sections 407.700 to 407.720, RSMo. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536, RSMo, rules regarding mandatory disclosures of information by sellers of qualified net metering units. Such rules shall as a minimum require disclosure or the standards of subsection 7 of this section and potential liability of the owner or operator of a qualified net metering unit to third persons for personal injury or property damage as a result of negligent operation of a qualified net metering unit. 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 non-severable 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, 2002, shall be invalid and void.

392.410. CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY REQUIRED, EXCEPTION — CERTIFICATE OF INTEREXCHANGE SERVICE AUTHORITY, REQUIRED WHEN — DURATION OF CERTIFICATES — TEMPORARY CERTIFICATES, ISSUED WHEN — POLITICAL SUBDIVISIONS RESTRICTED FROM PROVIDING CERTAIN TELECOMMUNICATIONS SERVICES OR FACILITIES, EXPIRATION DATE. — 1. A telecommunications company not possessing a certificate of public convenience and necessity from the commission at the time this section goes into effect shall have not more than ninety days in which to apply for a certificate of service authority from the commission pursuant to this chapter unless a company holds a state charter issued in or prior to the year 1913 which charter authorizes a company to engage in the telephone business. No telecommunications company not exempt from this subsection shall transact any business in this state until it shall have obtained a certificate of service authority from the commission pursuant to the provisions of this chapter, except that any telecommunications company which is providing telecommunications service on September 28, 1987, and which has not been granted or denied a certificate of public convenience and necessity prior to September 28, 1987, may continue to provide that service exempt from all other requirements of this chapter until a certificate of service authority is granted or denied by the commission so long as the telecommunications company applies for a certificate of service authority within ninety days from September 28, 1987.

2. No telecommunications company offering or providing, or seeking to offer or provide, any interexchange telecommunications service shall do so until it has applied for and received a certificate of interexchange service authority pursuant to the provisions of subsection 1 of this section. No telecommunications company offering or providing, or seeking to offer or provide, any local exchange telecommunications service shall do so until it has applied for and received a certificate of local exchange service authority pursuant to the provisions of section 392.420.

3. No certificate of service authority issued by the commission shall be construed as granting a monopoly or exclusive privilege, immunity or franchise. The issuance of a certificate of service authority to any telecommunications company shall not preclude the commission from issuing additional certificates of service authority to another telecommunications company providing the same or equivalent service or serving the same geographical area or customers as any previously certified company, except to the extent otherwise provided by section 392.450.

4. Any certificate of public convenience and necessity granted by the commission to a telecommunications company prior to September 28, 1987, shall remain in full force and effect unless modified by the commission, and such companies need not apply for a certificate of service authority in order to continue offering or providing service to the extent authorized in such certificate of public convenience and necessity. Any such carrier, however, prior to substantially altering the nature or scope of services provided under a certificate of public convenience and necessity, or adding or expanding services beyond the authority contained in such certificate, shall apply for a certificate of service authority for such alterations or additions pursuant to the provisions of this section.

5. The commission may review and modify the terms of any certificate of public convenience and necessity issued to a telecommunications company prior to September 28, 1987, in order to ensure its conformity with the requirements and policies of this chapter. Any certificate of service authority may be altered or modified by the commission after notice and hearing, upon its own motion or upon application of the person or company affected. Unless exercised within a period of one year from the issuance thereof, authority conferred by a certificate of service authority or a certificate of public convenience and necessity shall be null and void.

6. The commission may issue a temporary certificate which shall remain in force not to exceed one year to assure maintenance of adequate service or to serve particular customers, without notice and hearing, pending the determination of an application for a certificate.

7. No political subdivision of this state shall provide or offer for sale, either to the public or to a telecommunications provider, a telecommunications service or telecommunications facility used to provide a telecommunications service for which a certificate of service authority is required pursuant to this section. Nothing in this subsection shall be construed to restrict a political subdivision from allowing the nondiscriminatory use of its rights-of-way including its poles, conduits, ducts and similar support structures by telecommunications providers or from providing **to telecommunications providers, within the geographic area in which it lawfully operates as a municipal utility, telecommunications services or telecommunications facilities on a nondiscriminatory, competitively-neutral basis, and at a price which covers cost, including imputed costs that the political subdivision would incur if it were a for-profit business. Nothing in this subsection shall restrict a political subdivision from providing** telecommunications services or facilities:

(1) For its own use;

(2) For 911, E-911 or other emergency services;

(3) For medical or educational purposes;

(4) To students by an educational institution; or

(5) Internet-type services.

The provisions of this subsection shall expire on August 28, **[**2002**] 2007**.

8. The public service commission shall annually study the economic impact of the provisions of this section and prepare and submit a report to the general assembly by December thirty-first of each year.

393.310. CERTAIN GAS CORPORATIONS TO FILE SET OF EXPERIMENTAL TARIFFS WITH PSC, MINIMUM REQUIREMENTS — EXPIRATION DATE. — 1. This section shall only apply to gas corporations as defined in section 386.020, RSMo. This section shall not affect any existing laws and shall only apply to the program established pursuant to this section.

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

(1) "Aggregate", the combination of natural gas supply and transportation services, including storage, requirements of eligible school entities served through a Missouri gas corporation's delivery system;

(2) "Commission", the Missouri public service commission; and

(3) "Eligible school entity", shall include any seven-director, urban or metropolitan school district as defined pursuant to section 160.011, RSMo, and shall also include, one year after the effective date of this section and thereafter, any school for elementary or secondary education situated in this state, whether a charter, private, or parochial school or school district.

3. Each Missouri gas corporation shall file with the commission, by August 1, 2002, a set of experimental tariffs applicable the first year to public school districts and applicable to all school districts, whether charter, private, public, or parochial, thereafter.

4. The tariffs required pursuant to subsection 3 of this section shall, at a minimum:

(1) Provide for the aggregate purchasing of natural gas supplies and pipeline transportation services on behalf of eligible school entities in accordance with aggregate purchasing contracts negotiated by and through a not-for-profit school association;

(2) Provide for the resale of such natural gas supplies, including related transportation service costs, to the eligible school entities at the gas corporation's cost of purchasing of such gas supplies and transportation, plus all applicable distribution costs, plus an aggregation and balancing fee to be determined by the commission, not to exceed four-tenths of one cent per therm delivered during the first year; and

(3) Not require telemetry or special metering, except for individual school meters over one hundred thousand therms annually.

5. The commission may suspend the tariff as required pursuant to subsection 3 of this section for a period ending no later than November 1, 2002, and shall approve such tariffs upon finding that implementation of the aggregation program set forth in such tariffs will not have any negative financial impact on the gas corporation, its other customers or local taxing authorities, and that the aggregation charge is sufficient to generate revenue at least equal to all incremental costs caused by the experimental aggregation program.

6. The commission may adopt by order such other procedures not inconsistent with this section which the commission determines are reasonable or necessary to administer the experimental program.

7. This section shall terminate June 30, 2005.

393.700. SHORT TITLE. — Sections 393.700 to 393.770 **[**and section 386.025, RSMo,**]** shall be known as the "Joint Municipal Utility Commission Act".

393.705. DEFINITIONS. — As used in sections 393.700 to 393.770 **[**and sections 386.025, RSMo, and 393.295**]**, the following terms shall, unless the context clearly indicates otherwise, have the following meanings:

(1) "Bond" or "bonds", any bonds, interim certificates, notes, debentures or other obligations of a commission issued pursuant to sections 393.700 to 393.770 **[**and sections 386.025, RSMo, and 393.295**]**;

(2) "Commission", any joint municipal utility commission established by a joint contract **[**under**]** **pursuant to** sections 393.700 to 393.770 **[**and sections 386.025, RSMo, and 393.295**]**;

(3) "Contracting municipality", each municipality which is a party to a joint contract establishing a commission **[**under**]** **pursuant to** sections 393.700 to 393.770 **[**and sections 386.025, RSMo, and 393.295**]**, a water supply district formed **[**under**]** **pursuant to** the provisions of chapter 247, RSMo, or a sewer district formed pursuant to the provisions of chapter 204, RSMo, or chapter 249, RSMo;

(4) "Joint contract", the contract entered into among or by and between two or more of the following contracting entities for the purpose of establishing a commission:

(a) Municipalities;

(b) Public water supply districts;

(c) Sewer districts;

(d) Nonprofit water companies; or

(e) Nonprofit sewer companies;

(5) "Person", a natural person, cooperative or private corporation, association, firm, partnership, or business trust of any nature whatsoever, organized and existing **[**under**]** **pursuant to** the laws of any state or of the United States and any municipality or other municipal corporation, governmental unit, or public corporation created under the laws of this state or the United States, and any person, board, or other body declared by the laws of any state or the United States to be a department, agency or instrumentality thereof;

(6) "Project", the purchasing, construction, extending or improving of any revenue-producing water, sewage, gas or electric light works, heating or power plants, including all real and personal property of any nature whatsoever to be used in connection therewith, together with all parts thereof and appurtenances thereto, used or useful in the generation, production, transmission, distribution excluding retail sales, purchase, sale, exchange, transport and treatment of sewage or interchange of water, sewage, electric power and energy, or any interest therein or right to capacity thereof and the acquisition of fuel of any kind for any such purposes.

393.715. POWERS OF COMMISSION — PURCHASE OF PRIVATE WATER UTILITY SERVING OUTSIDE MUNICIPAL LIMITS, EFFECT — SUCCESSORSHIP, CONTINUED AND NEW SERVICE AUTHORIZED, WHEN. — 1. The general powers of a commission to the extent provided in section 393.710 **[**herein and subject to the provisions of section 393.765 herein**]** shall include the power to:

(1) Plan, develop, acquire, construct, reconstruct, operate, manage, dispose of, participate in, maintain, repair, extend or improve one or more projects, either exclusively or jointly or by participation with electric cooperative associations, municipally owned or public utilities or acquire any interest in or any rights to capacity of a project, within or outside the state, and act as an agent, or designate one or more other persons participating in a project to act as its agent, in connection with the planning, acquisition, construction, operation, maintenance, repair, extension or improvement of such project;

(2) Acquire, sell, distribute and process fuels necessary to the production of electric power and energy; provided, however, the commission shall not have the power or authority to erect, own, use or maintain a transmission line which is parallel or generally parallel to another transmission line in place within a distance of two miles, which serves the same general area sought to be served by the commission unless the public service commission finds that it is not feasible to utilize the transmission line which is in place;

(3) Acquire by purchase or lease, construct, install, and operate reservoirs, pipelines, wells, check dams, pumping stations, water purification plants, and other facilities for the production, wholesale distribution, and utilization of water and to own and hold such real and personal property as may be necessary to carry out the purposes of its organization; provided, however, that a commission shall not sell or distribute water, at retail or wholesale, within the certificated area of a water corporation which is subject to the jurisdiction of the public service commission unless the sale or distribution of water is within the boundaries of a public water supply district or municipality which is a contracting municipality in the commission and the commission has obtained the approval of the public service commission prior to commencing such said sale or distribution of water;

(4) Acquire by purchase or lease, construct, install, and operate lagoons, pipelines, wells, pumping stations, sewage treatment plants and other facilities for the treatment and transportation of sewage and to own and hold such real and personal property as may be necessary to carry out the purposes of its organization;

(5) Enter into operating, franchises, exchange, interchange, pooling, wheeling, transmission and other similar agreements with any person;

(6) Make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the commission;

(7) Employ agents and employees;

(8) Contract with any person, within or outside the state, for the construction of any project or for any interest therein or any right to capacity thereof, without advertising for bids, preparing final plans and specifications in advance of construction, or securing performance and payment of bonds, except to the extent and on such terms as its board of directors shall determine. Any contract entered into pursuant to this subdivision shall contain a provision that the requirements of sections 290.210 to 290.340, RSMo, shall apply;

(9) Purchase, sell, exchange, transmit, treat, dispose or distribute water, sewage, gas, heat or electric power and energy, or any by-product resulting therefrom, within and outside the state, in such amounts as it shall determine to be necessary and appropriate to make the most effective use of its powers and to meet its responsibilities, and to enter into agreements with any person with respect to such purchase, sale, exchange, treatment, disposal or transmission, on such terms and for such period of time as its board of directors shall determine. A commission may not sell or distribute water, gas, heat or power and energy, or sell sewage service at retail to ultimate customers outside the boundary limits of its contracting municipalities except pursuant to subsection 2 or 3 of this section;

(10) Acquire, own, hold, use, lease, as lessor or lessee, sell or otherwise dispose of, mortgage, pledge, or grant a security interest in any real or personal property, commodity or service or interest therein;

(11) Exercise the powers of eminent domain for public use as provided in chapter 523, RSMo, except that the power of eminent domain shall not be exercised against any electric cooperative association, municipally owned or public utility;

(12) Incur debts, liabilities or obligations including the issuance of bonds pursuant to the authority granted in section 27 of article VI of the Missouri Constitution;

(13) Sue and be sued in its own name;

(14) Have and use a corporate seal;

(15) Fix, maintain and revise fees, rates, rents and charges for functions, services, facilities or commodities provided by the commission;

(16) Make, and from time to time, amend and repeal, bylaws, rules and regulations not inconsistent with this section to carry into effect the powers and purposes of the commission;

(17) Notwithstanding the provisions of any other law, invest any funds held in reserve or sinking funds, or any funds not required for immediate disbursement, including the proceeds from the sale of any bonds, in such obligations, securities and other investments as the commission deems proper;

(18) Join organizations, membership in which is deemed by the board of directors to be beneficial to accomplishment of the commission's purposes;

(19) Exercise any other powers which are deemed necessary and convenient by the commission to effectuate the purposes of the commission; and

(20) Do and perform any acts and things authorized by this section under, through or by means of an agent or by contracts with any person.

2. When a municipality purchases a privately owned water utility and a commission is created pursuant to sections 393.700 to 393.770, the commission may continue to serve those locations previously receiving water from the private utility even though the location receives such service outside the geographical area of the municipalities forming the commission. New water service may be provided in such areas if the site to receive such service is located within one-fourth of a mile from a site serviced by the privately owned water utility.

3. When a commission created by any of the contracting entities listed in subdivision (4) of section 393.705 becomes a successor to any nonprofit water corporation, nonprofit sewer corporation or other nonprofit agency or entity organized to provide water or sewer service, the commission may continue to serve, as well as provide new service to, those locations and areas previously receiving water or sewer service from such nonprofit entity, regardless of whether or not such location receives such service outside the geographical service area of the contracting

entities forming such commission; provided that such locations and areas previously receiving water and sewer service from such nonprofit entity are not located within:

(1) Any county of the first classification with a population of more than six hundred thousand and less than nine hundred thousand;

(2) The boundaries of any sewer district established pursuant to article VI, section 30(a) of the Missouri Constitution; or

(3) The certificated area of a water or sewer corporation that is subject to the jurisdiction of the public service commission.

393.725. BONDS ISSUED TO BE REVENUE BONDS ONLY — FORM OF BONDS. — 1. Bonds issued pursuant to sections 393.700 to 393.770 by a commission shall be payable, as to the principal and interest, solely from the net revenues derived by the commission from the operation of the commission's project or projects, after providing for the costs of operation and maintenance of the commission's project or projects, or from any other funds made available to the commission from sources other than from proceeds of taxation.

2. Each bond issued pursuant to the provisions of sections 393.700 to 393.770 shall contain a statement that such bond is not an indebtedness of the state, or of any political subdivision thereof, other than the joint municipal utility commission, or of the contracting municipalities, the contracting public water supply districts or the contracting sewer districts, but shall be special obligations of the commission only and that neither the faith and credit nor the taxing power of the state or of any political subdivision thereof, or of the contracting municipalities, contracting public water supply districts or contracting sewer districts is pledged to the payment of or the interest on such bonds. The bonds shall not be deemed to be an indebtedness within the meaning of any constitutional or statutory limitation upon the incurring of indebtedness. Neither the members of the board of directors of a commission nor any person executing the bonds shall be liable personally on the bonds by reason of the lawful issuance thereof.

3. A commission, subject to the provisions of section 393.760, may from time to time issue its bonds in such principal amounts as it deems necessary to provide sufficient funds to purchase, construct, extend or improve a project, including the establishment or increase of reserves, interest accrued during construction of such project and for a period not exceeding one year after the completion of construction of such project, and the payment of all other costs or expenses of the commission incident to and necessary or convenient to carry out its corporate purposes and powers.

4. Bonds of a commission shall be authorized by resolution of the board of directors and may be issued under such resolution or under a trust indenture or other security instrument, as authorized by the resolution, in one or more series and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates, be in such denomination or denominations, be in such form, either coupon, registered or both, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places within or without the state, and be subject to such terms of redemption, with or without premium, as such resolution, trust indenture or other security instrument may provide, and without limitation by the provisions of any other law limiting amounts, maturities or interest rates.

5. The bonds shall be sold at public sale **[**and in the event of a rejection of all bids by the commission, the bonds may be sold**] or** at private sale as the commission may provide and at such price or prices as the commission shall determine **[**or for a joint municipal utility commission within a fifteen-county area being served with water from a lake constructed by the U.S. Army Corps of Engineers and located north of the Missouri River, if the commission determines it is in the best interest of the commission, at private sale. The reason or reasons why private sale is in the best interest of the people served shall be set forth in the order or resolution authorizing the private sale**]**. The decision of the commission shall be conclusive.

6. The bonds may be signed by manual or facsimile signatures as determined by resolution of the board. In case any of the officers whose signatures appear on any bonds or coupons shall cease to be such officers before the delivery of such obligations, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if the officers had remained in office until such delivery.

7. Pending preparation of definitive bonds, a commission may issue temporary bonds which shall be exchanged for the definitive bonds when such bonds shall have been executed and are available for delivery.

8. All bonds issued under the provisions of sections 393.700 to 393.770 shall be negotiable instruments **[**under**]** **pursuant to** the provisions of the uniform commercial code of the state.

393.740. CERTAIN TAXES APPLICABLE. — 1. All bonds issued pursuant to sections 393.700 to 393.770 and all income or interest thereon shall be exempt from all state taxes, except estate and transfer taxes.

2. All property, real and tangible personal, **except for properties acquired exclusively for water supply districts,** acquired by the bonds issued pursuant to sections 393.700 and 393.770 or otherwise acquired by a commission shall be subject to taxation for state, county, and municipal and other local purposes **only** to the same extent as **[**bridge and public utility companies under the provisions of sections 153.030, RSMo, and 138.420, RSMo, except for those properties acquired exclusively for water supply districts**]** **if such property was owned directly by each participating municipality in proportion to the percentage of each municipality's interest or participation in the facility or property**.

SECTION 1. EMISSIONS LIMITATION FOR CERTAIN COAL-FIRED CYCLONE BOILERS — EXPIRATION DATE. — **Notwithstanding any provisions of law to the contrary, any utility unit, as defined in Title IV of the federal Clean Air Act, 42 U.S.C. Section 7851a, that uses coal-fired cyclone boilers which also burn tire derived fuel shall limit emissions of oxides of nitrogen to a rate no greater than eighty percent of the emission limit for cyclone-fired boilers in Title IV of the federal Clean Air Act and implementing regulations in 40 CFR Part 76, as amended. The provisions of this section shall expire on April 30, 2004, or upon the effective date of a revision to 10 CSR 10-6.350, whichever later occurs. The director of the department of natural resources shall notify the revisor of statutes of the effective date of a revision to 10 CSR 10-6.350.**

[386.025. CERTAIN JOINT MUNICIPAL UTILITY COMMISSIONS TO BE CONSIDERED UTILITY CORPORATIONS. — Any joint municipal utility commission established by contract for the purpose of owning, operating, controlling or managing all or part of any gas or electric light works, heating or power plants, or gas or electrical production, distribution or transmission facilities shall be considered a gas corporation or electrical corporation, as the case may be, as those terms are defined in this chapter.**]**

[393.295. PROVISIONS OF CHAPTERS 386 AND 393, RSMO, APPLICABLE TO CERTAIN JOINT MUNICIPAL UTILITY COMMISSIONS. — All provisions of this chapter and chapter 386, RSMo, concerning court proceedings and the jurisdiction, supervision, powers and duties of the public service commission with reference to gas corporations and electrical corporations, including, but not limiting by enumeration those provisions concerning supervision, investigations, complaints, hearings, reports, approval of certificates of franchises, granting of certificates, approval of issues of stocks, bonds, notes and other evidence of indebtedness, keeping of accounts, fixing of just and reasonable rates, which shall be based on costs associated with any property of such corporations, shall be and are hereby made fully applicable to any joint municipal utility commission which owns, operates, controls or manages all or part of any gas or electric light works, heating or power plants, electrical energy resources or gas or electrical

production, distribution or transmission facilities in this state. Nothing contained herein, however, shall affect the rights, privileges or duties of existing corporations pursuant to this chapter, including the construction of facilities within an existing certificated area.**]**

[393.765. PUBLIC SERVICE COMMISSION LAW APPLICABLE. — All provisions of chapters 386, RSMo, and 393 in reference to the jurisdiction, supervision, powers and duties of the public service commission with reference to gas and electrical corporations are hereby made applicable to any commission proposed to be created pursuant to sections 393.700 to 393.770 which commission proposes to own, operate, control or manage any gas or electrical light works, heating or power plant in this state, and such provisions shall have full application thereto.**]**

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to authorize certain utility projects, the enactment of section 393.310, 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 393.310 of this act shall be in full force and effect upon its passage and approval.

Approved July 11, 2002

HB 1403 [SS SCS HCS HB 1403]

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

Regulates retainage clauses in construction contracts.

AN ACT to amend chapter 436, RSMo, by adding thereto thirteen new sections relating to retainage in private building contracts.

SECTION

A. Enacting clause.
436.300. Private construction work contract payment requirements.
436.303. Contract provisions — retainage.
436.306. Security tendered, when.
436.309. Subcontractor may tender substitute security, when.
436.312. Substitute security requirements.
436.315. Withholding of retainage prohibited, when.
436.318. Release of retainage, payment made.
436.321. Adjustment in retainage, when.
436.324. Release of retainage, when.
436.327. Substantial completion defined.
436.330. Subcontractor obligations.
436.333. Unenforceability of contracts entered into after August 28, 2002.
436.336. Applicability.

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

SECTION A. ENACTING CLAUSE. — Chapter 436, RSMo, is amended by adding thereto thirteen new sections, to be known as sections 436.300, 436.303, 436.306, 436.309, 436.312, 436.315, 436.318, 436.321, 436.324, 436.327, 436.330, 436.333, and 436.336, to read as follows:

436.300. PRIVATE CONSTRUCTION WORK CONTRACT PAYMENT REQUIREMENTS. — Notwithstanding any other law to the contrary, all parties to any contract or agreement for private construction work that is between any owner and any contractor, or between any contractor and any subcontractor, or between any subcontractor and any sub-subcontractor, or any supplier at whatever tier for construction, reconstruction, maintenance, alteration, or repair for a private owner of any building, improvement, structure, private road, appurtenance, or appliance, including moving, demolition, or any excavating connected therewith, shall make payment in accordance with the terms of such contract or agreement, provided such terms are not inconsistent with the provisions of sections 436.300 to 436.336.

436.303. CONTRACT PROVISIONS — RETAINAGE. — A contract or agreement may include a provision for the retainage of a portion of any payment due from the owner to the contractor, not to exceed ten percent of the amount of such payment due pursuant to the contract or agreement, to ensure the proper performance of the contract or agreement, provided that the contract may provide that if the contractor's performance is not in accordance with the terms of the contract or agreement, the owner may retain additional sums to protect the owner's interest in satisfactory performance of the contract or agreement. The amount or amounts so retained by the owner shall be referred to in sections 436.300 to 436.336 as "retainage", and shall be held by the owner in trust for the benefit of the contractor and contractor's subcontractors, sub-subcontractors, and suppliers at whatever tier who are not in default, in proportion to their respective interests. Such retainage shall be subject to the conditions and limitations listed in section 436.300 to 436.336.

436.306. SECURITY TENDERED, WHEN. — 1. The contractor may tender to the owner acceptable substitute security as set forth in section 436.312 with a written request for release of retainage in the amount of the substitute security. The contractor shall thereupon either:

(1) Be entitled to receive cash payment of retainage pursuant to this section; or

(2) Not be subject to the withholding of retainage, in either case, to the extent of the security tendered, provided that the contractor is not in default of its agreement with the owner.

2. If the tender described in subsection 1 of this section is made after retainage has been withheld, the owner shall, within five working days after receipt of the tender, pay to the contractor the withheld retainage to the extent of the substitute security. If the tender described in subsection 1 of this section is made before retainage has been withheld, the owner shall, to the extent of the substitute security, refrain from withholding any retainage from the future payments.

436.309. SUBCONTRACTOR MAY TENDER SUBSTITUTE SECURITY, WHEN. — A subcontractor of the contractor may tender to the contractor acceptable substitute security as set forth in section 436.312 with a written request for release of retainage in the amount of the substitute security. The contractor shall tender the subcontractor's substitute security to the owner with a like request, pursuant to the provisions of section 436.306. Provided that the subcontractor is not in default of its agreement with the contractor, the contractor shall pay over to the subcontractor, within five working days after receipt, any accumulated retainage paid by the owner to the contractor on account of substitute security tendered by the subcontractor, except that the contractor shall not be required to pay over retainage in excess of the amount properly attributable to work completed by the subcontractor at the time of payment. Provided that the subcontractor is not in default of its agreement with the contractor, the contractor shall refrain from withholding retainage

from payments to the subcontractor to the extent the owner has refrained from withholding retainage from payments to the contractor on account of the subcontractor's substituted security. The subcontractor shall be entitled to receive, upon receipt by the contractor, all income received by the contractor from the owner on account of income producing securities deposited by the subcontractor as substitute security. Except as otherwise provided in this section, the contractor shall have no obligation to collect or pay to a subcontractor retainage on account of substitute security tendered by the subcontractor.

436.312. SUBSTITUTE SECURITY REQUIREMENTS. — 1. The following shall constitute acceptable substitute security for purposes of sections 436.306 and 436.309:

(1) Certificates of deposit drawn and issued by a national banking association located in this state or by any banking corporation incorporated pursuant to the laws of this state; and mutually agreeable to the project owner and the contractor or subcontractor, in the amount of the retainage released. If the letter of credit is not renewed at least sixty days before the expiration of the letter of credit, the owner may draw upon the letter of credit regardless of the contractor's or subcontractor's performance for an amount equal to or no greater than the value of the amount of work remaining to be performed by the contractor or subcontractor.

(2) A retainage bond naming the owner as obligee issued by any surety company authorized to issue surety bonds in this state in the amount of the retainage released; or

(3) An irrevocable and unconditional letter of credit in favor of the owner, issued by a national banking association located in this state or by any banking corporation incorporated pursuant to the laws of this state, in the amount of the retainage released.

2. The contractor shall be entitled to receive, in all events, all interest and income earned on any securities deposited by the contractor in substitution for retainage.

436.315. WITHHOLDING OF RETAINAGE PROHIBITED, WHEN. — A contractor shall not withhold from any subcontractor any retainage in excess of the retainage withheld from the contractor by the owner for the subcontractor's work, unless the subcontractor's performance is not in accordance with the terms of the subcontract, in which case, subject to the terms of the subcontract, the contractor may retain additional sums to ensure the subcontractor's satisfactory performance of the subcontract.

436.318. RELEASE OF RETAINAGE, PAYMENT MADE. — Upon the release of retainage by the owner to the contractor, other than for substituted security pursuant to sections 436.306 and 436.312, the contractor shall pay to each subcontractor the subcontractor's ratable share of the retainage released, provided that all conditions of the subcontract for release of retainage to the subcontractor have been satisfied.

436.321. ADJUSTMENT IN RETAINAGE, WHEN. — If it is determined that a subcontractor's performance has been satisfactorily completed and the subcontractor can be released prior to substantial completion of the entire project without risk to the owner involving the subcontractor's work, the contractor shall request such adjustment in retainage, if any, from the owner as necessary to enable the contractor to pay the subcontractor in full, and the owner shall as part of the next contractual payment cycle release the subcontractor's retainage to the contractor, who shall in turn as part of the next contractual payment cycle release such retainage as is due the subcontractor.

436.324. RELEASE OF RETAINAGE, WHEN. — Within thirty days of the project reaching substantial completion, as defined in section 436.327, all retainage or substitute security shall be released by the owner to the contractor less an amount equal to one hundred fifty

percent of the costs to complete any remaining items. Upon receipt of such retainage from the owner, the contractor shall within seven days release to each subcontractor that subcontractor's share of the retainage.

436.327. SUBSTANTIAL COMPLETION DEFINED. — The project shall be deemed to have reached substantial completion upon the occurrence of the earlier of the architect or engineer issuing a certificate of substantial completion in accordance with the terms of the contract documents or the owner accepting the performance of the full contract.

436.330. SUBCONTRACTOR OBLIGATIONS. — Subcontractors and sub-subcontractors of every tier shall comply with the provisions of sections 436.300 to 436.336 in their relations with their sub-subcontractors and suppliers and shall be bound by the same obligations to their sub-subcontractors and suppliers as contractors are to their subcontractors.

436.333. UNENFORCEABILITY OF CONTRACTS ENTERED INTO AFTER AUGUST 28, 2002. — A contract or agreement formed after August 28, 2002, shall be unenforceable to the extent that its provisions are inconsistent with sections 436.300 to 436.336. If retainage is withheld in violation of sections 436.300 to 436.360, a court may, in addition to any other award for damages, award interest at the rate of up to one and one-half percent per month from the date of such wrongful or improper withholding of retainage. In any action brought to enforce sections 436.300 to 436.336, a court may award reasonable attorney's fees to the prevailing party. If the parties elect to resolve the dispute by arbitration pursuant to section 436.350, the arbitrator may award any remedy that a court is authorized to award.

436.336. APPLICABILITY. — Sections 436.300 to 436.336 shall apply to contracts and agreements entered into after August 28, 2002. Sections 436.300 to 436.336 shall apply to all private construction projects, except single-family residential construction and other residential construction consisting of four or fewer units.

Approved July 11, 2002

HB 1406 [SCS HB 1406]

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 requirements for board of regents of Northwest Missouri State University.

AN ACT to amend chapter 174, RSMo, by adding thereto one new section relating to the board of regents of Northwest Missouri State University.

SECTION
A. Enacting clause.
174.332. Northwest Missouri State University, board of regents, members.

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

SECTION A. ENACTING CLAUSE. — Chapter 174, RSMo, is amended by adding thereto one new section, to be known as section 174.332, to read as follows:

174.332. NORTHWEST MISSOURI STATE UNIVERSITY, BOARD OF REGENTS, MEMBERS. — Notwithstanding the provisions of section 174.050 to the contrary, the board of regents of Northwest Missouri State University shall be composed of nine members, six of whom shall reside in the district in which the university is situated with at least one member of the board being a resident of Nodaway County and two additional members selected from any of the seven college districts as contained in section 174.010, provided that no more than one member be appointed from the same congressional district, one of which shall serve a term of three years and one of which shall serve a term of six years. All subsequent members appointed shall serve a term of six years pursuant to the provisions of section 174.070.

Approved July 12, 2002

HB 1443 [SS SCS HCS HB 1443]

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

Enacts the "Safe Place for Newborns Act of 2002".

AN ACT to repeal sections 192.016 and 453.030, RSMo, and to enact in lieu thereof three new sections relating to child abandonment.

SECTION

A. Enacting clause.
192.016. Putative father registry.
210.950. Safe Place for Newborns Act — definitions — procedure — immunity from liability.
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.

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

SECTION A. ENACTING CLAUSE. — Sections 192.016 and 453.030, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 192.016, 210.950 and 453.030, to read as follows:

192.016. PUTATIVE FATHER REGISTRY. — 1. The department of health and senior services shall establish a putative father registry which shall record the names and addresses of:

(1) Any person adjudicated by a court of this state to be the father of a child born out of wedlock;

(2) Any person who has filed with the registry before or after the birth of a child out of wedlock, a notice of intent to claim paternity of the child;

(3) Any person adjudicated by a court of another state or territory of the United States to be the father of an out-of-wedlock child, where a certified copy of the court order has been filed with the registry by such person or any other person.

2. A person filing a notice of intent to claim paternity of a child or an acknowledgment of paternity shall file the acknowledgment affidavit form developed by the state registrar which shall include the minimum requirements prescribed by the Secretary of the United States Department of Health and Human Services pursuant to 42 U.S.C. Section **[**652(2)(7)**] 652 (a)(7)**.

3. A person filing a notice of intent to claim paternity of a child shall notify the registry of any change of address.

4. A person who has filed a notice of intent to claim paternity may at any time revoke a notice of intent to claim paternity previously filed therewith and, upon receipt of such notification by the registry, the revoked notice of intent to claim paternity shall be deemed a nullity nunc pro tunc.

5. An unrevoked notice of intent to claim paternity of a child may be introduced in evidence by any party, other than the person who filed such notice, in any proceeding in which such fact may be relevant.

6. The department shall, upon request and within two business days of such request, provide the names and addresses of persons listed with the registry to any court or authorized agency, or entity or person named in section 453.014, RSMo, and such information shall not be divulged to any other person, except upon order of a court for good cause shown.

7. The department of health and senior services shall:

(1) Prepare forms for registration of paternity and an application for search of the putative father registry;

(2) Produce and distribute a pamphlet or publication informing the public about the putative father registry, including the procedures for voluntary acknowledgment of paternity, the consequences of acknowledgment and failure to acknowledge paternity pursuant to section 453.010, RSMo, and the address of the putative father registry. Such pamphlet or publication shall be made available for distribution at all offices of the department of health and senior services. The department shall also provide such pamphlets or publications to the department of social services, hospitals, libraries, medical clinics, schools, universities, and other providers of child-related services upon request;

(3) Provide information to the public at large by way of general public service announcements, or other ways to deliver information to the public about the putative father registry and its services.

210.950. SAFE PLACE FOR NEWBORNS ACT — DEFINITIONS — PROCEDURE — IMMUNITY FROM LIABILITY. — 1. This section shall be known and may be cited as the "Safe Place for Newborns Act of 2002". The purpose of this section is to protect newborn children from injury and death caused by abandonment by a parent, and to provide safe and secure alternatives to such abandonment.

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

(1) "Hospital", as defined in section 197.020, RSMo;

(2) "Nonrelinquishing parent", the biological parent who does not leave a newborn infant with any person listed in subsection 3 of this section in accordance with this section;

(3) "Relinquishing parent", the biological parent or person acting on such parent's behalf who leaves a newborn infant with any person listed in subsection 3 of this section in accordance with this section.

3. A parent shall not be prosecuted for a violation of sections 568.030, 568.032, 568.045 or 568.050, RSMo, for actions related to the voluntary relinquishment of a child up to five days old pursuant to this section and it shall be an affirmative defense to prosecution for a violation of sections 568.030, 568.032, 568.045 and 568.050, RSMo, that a parent who is a defendant voluntarily relinquished a child no less than six days old but no more than thirty days old pursuant to this section if:

(1) Expressing intent not to return for the child, the parent voluntarily delivered the child safely to the physical custody of any of the following persons:

(a) An employee, agent, or member of the staff of any hospital, in a health care provider position or on duty in a nonmedical paid or volunteer position;

(b) A firefighter or emergency medical technician on duty in a paid position or on duty in a volunteer position; or

(c) A law enforcement officer;

(2) The child was no more than thirty days old when delivered by the parent to any person listed in subdivision (1) of this subsection; and

(3) The child has not been abused or neglected by the parent prior to such voluntary delivery.

4. A person listed in subdivision (1) of subsection 3 of this section shall, without a court order, take physical custody of a child the person reasonably believes to be no more than thirty days old and is delivered in accordance with this section by a person purporting to be the child's parent. If delivery of a newborn is made pursuant to this section in any place other than a hospital, the person taking physical custody of the child shall arrange for the immediate transportation of the child to the nearest hospital licensed pursuant to chapter 197, RSMo.

5. The hospital, its employees, agents and medical staff shall perform treatment in accordance with the prevailing standard of care as necessary, to protect the physical health or safety of the child. The hospital shall notify the division of family services and the local juvenile officer upon receipt of a child pursuant to this section. The local juvenile officer shall immediately begin protective custody proceedings and request the child be made a ward of the court during the child's stay in the medical facility. Upon discharge of the child from the medical facility and pursuant to a protective custody order ordering custody of the child to the division, the division of family services shall take physical custody of the child. The parent's voluntary delivery of the child in accordance with this section shall constitute the parent's implied consent to any such act and a voluntary relinquishment of such parent's parental rights.

6. In any termination of parental rights proceeding initiated after the relinquishment of a child pursuant to this section, the juvenile officer shall make public notice that a child has been relinquished, including the sex of the child, and the date and location of such relinquishment. Within thirty days of such public notice, the nonrelinquishing parent wishing to establish parental rights shall identify himself or herself to the court and state his or her intentions regarding the child. The court shall initiate proceedings to establish paternity, or if no person identifies himself as the father within thirty days, maternity. The juvenile officer shall make examination of the putative father registry established in section 192.016, RSMo, to determine whether attempts have previously been made to preserve parental rights to the child. If such attempts have been made, the juvenile officer shall make reasonable efforts to provide notice of the abandonment of the child to such putative father.

7. (1) If a relinquishing parent of a child relinquishes custody of the child to any person listed in subsection 3 of this section in accordance with this section and to preserve the parental rights of the nonrelinquishing parent, the nonrelinquishing parent shall take such steps necessary to establish parentage within thirty days after the public notice or specific notice provided in subsection 6 of this section.

(2) If a nonrelinquishing parent fails to take steps to establish parentage within the thirty-day period specified in subdivision (1) of this subsection, the nonrelinquishing parent may have all of his or her rights terminated with respect to the child.

(3) When a nonrelinquishing parent inquires at a hospital regarding a child whose custody was relinquished pursuant to this section, such facility shall refer the non-relinquishing parent to the division of family services and the juvenile court exercising jurisdiction over the child.

8. The persons listed in subdivision (1) of subsection 3 of this section shall be immune from civil, criminal, and administrative liability for accepting physical custody of a child pursuant to this section if such persons accept custody in good faith. Such immunity shall not extend to any acts or omissions, including negligent or intentional acts or omissions, occurring after the acceptance of such child.

9. The division of family services shall:

(1) Provide information and answer questions about the process established by this section on the statewide, toll-free telephone number maintained pursuant to section 210.145, RSMo;

(2) Provide information to the public by way of pamphlets, brochures, or by other ways to deliver information about the process established by this section.

10. Nothing in this section shall be construed as conflicting with section 210.125.

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.

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) Any man who:

(a) Is presumed to be the father pursuant to the subdivisions (1), (2), **or** (3) **[**or (5)**]** 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; 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 shall provide the names of all such persons unless the mother has good cause as to why she should not name such persons. The court shall determine if good cause is justifiable. By signing the consent, the birth parent acknowledges that those having an interest in the child have been supplied with all available information to assist in locating all possible fathers; 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.

Approved July 2, 2002

HB 1455 [SS SCS HS HB 1455]

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

Clarifies the retroactive starting date for purposes of the BACKDROP retirement provisions.

AN ACT to repeal sections 50.1020, 50.1040, 86.200, 86.213, 86.251, 86.255, 86.256, 87.207, 87.235, 104.050, 104.095, 104.110, 104.140, 104.250, 104.254, 104.270, 104.335, 104.344, 104.350, 104.374, 104.380, 104.400, 104.436, 104.438, 104.515, 104.540, 104.601, 104.620, 104.625, 104.800, 104.1015, 104.1018, 104.1021, 104.1024, 104.1039, 104.1054, 104.1066, 104.1072, 104.1075, 104.1084, 104.1093, 104.1200, 104.1210, 104.1215, 217.665 and 476.517, RSMo, and to enact in lieu thereof fifty-three new sections relating to public retirement systems, with an emergency clause.

SECTION

A. Enacting clause.
50.1020. Source of funds, delinquent tax penalties — county assessor, duties — deposit of funds — payroll deduction.
50.1040. Membership in system — payroll deduction for nonLAGERS members — opting out prohibited, exceptions — opting in, when.
86.200. Definitions.
86.213. Board of trustees to administer — members of board, selection — terms.
86.251. Deferred retirement option plan — election — deposit of retirement allowance in DROP account — termination of participation, when — forms of payment — effect of participation — death of member, payment of funds — accidental disability retirement allowance, effect — interest, amount — approval by IRS — election for monthly survivor annuity, when.
86.255. Eligible rollover distribution payable, election to pay directly to plan — definitions — written explanation required by board, when — distribution made, when.
86.256. Annual benefit not to exceed certain amount — annual additions not to exceed certain amount — combined plan limitation not to be exceeded — incorporation by reference of Internal Revenue Code.
86.294. Contributions to be accepted after January 1, 2002, limitations.
86.296. Trustee to trustee transfers to be accepted after January 1, 2002.
87.177. Service retirement allowance, eligibility, application, benefits — survivor's right to share of benefits — cost-of-living allowance.
87.207. Cost-of-living increase, how determined.
87.231. Surviving spouse as special consultant to the board, when — compensation — effect on eligibility for retirement benefits.
87.235. Payments on proof of accidental death in service — beneficiaries.
87.238. Retired firefighters to act as special advisors to retirement system, when — compensation.
104.050. Years of service used in calculating annuity — noncompensated absences for illness and injury, effect — withdrawal before entitled to deferred annuity, relinquishes all rights — reinstatement of forfeited service, when.
104.110. Disability benefits, who entitled, how calculated — medical examination required, when — proof of application for Social Security benefits — death benefit, not payable, when — board to establish definitions — annuity benefits, accrual, election — death benefit, eligibility, when.
104.140. Death prior to retirement, benefits.
104.250. Law creates vested rights — benefits exempt from taxes and executions.
104.254. Spouses of deceased retired members appointed as special consultants, when — duties — compensation — not to affect other benefits.
104.270. Insurance benefits to be furnished, how — state contribution, amount — contracts for, how let.
104.335. Vesting service — members who are entitled to annuities — requirements, amounts — terminated vested member, judge, administrative law judge or legal advisor, election to pay present value of annuity, eligibility, purchase of prior service credit.
104.344. Member entitled to purchase prior creditable service for nonfederal full-time public employment or contractual services — method, period, limitation.
104.350. Withdrawal from service, when, reentry after withdrawal, how made — forfeiture and reinstatement of creditable service, when.
104.374. State employee's normal annuity, computation — noncompensated absences counted as membership service, when — employees and general assembly members continuing to serve, cost-of-living increases on retirement or death.
104.380. Retired members elected to state office, effect of — reemployment of retired members, effect of.
104.400. Normal retirement age — early retirement requirements — annuity, how computed.
104.436. Financing pattern for contribution determinations — commissioner of administration to certify payment.
104.438. Benefit funds, pay period certification of amount required — treasurer to transfer amount to fund.
104.515. Insurance and disability benefits to be kept in separate accounts — state's contribution, amount, contribution to be made from highway funds for certain employees, when — employees and families, who are covered for medical insurance — premium collection for amount not covered by state — special consultants, duties, compensation, benefits.
104.540. Law creates vested rights — certain contributions may be withheld from benefits and paid over.

104.601. Years of service to include unused accumulated sick leave, when — credited sick leave not counted for vesting purposes — applicable also to teachers' and school employees' retirement system.
104.605. Eligible rollover distribution and eligible retirement plan defined — compliance with IRS code required.
104.620. Contribution refund to members — effect on benefits — record retention — reversion to credit of fund, when — reversion of unclaimed benefits, when — refund received, when.
104.625. Annuities and lump sum payments, when, determination of amount.
104.800. Transfers of creditable service to other retirement system — transfer to be made, when — effect of transfer — death of member prior to retirement and transfer to be computed under system with most advantageous benefits.
104.1015. Election into year 2000 plan, effect of — comparison of plans provided — calculation of annuity.
104.1018. Vesting of benefits, when — reemployment of member, effect of.
104.1021. Credited service determined by board — calculation.
104.1024. Retirement, application — annuity payments, how paid, amount — election to receive annuity or lump sum payment for certain employees, determination of amount.
104.1039. Reemployment of a retiree, effect on annuity.
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.
104.1055. Eligible rollover distribution and eligible retirement plan defined — compliance with IRS code, when.
104.1066. Actuarial evaluations, methods used — certification of contribution rate, when.
104.1072. Life insurance benefits — medical insurance for certain retirees.
104.1075. Disability income benefits.
104.1084. Retirement benefits, general assembly members — COLA permitted, when — ineligibility for benefits.
104.1093. Designation of an agent — benefit recipient defined — revocation of agent's authority.
104.1200. Definitions.
104.1210. No credited service for outside employee or member, when — information provided by institutions and administrators, when.
104.1215. Outside employee's election for membership, when.
105.664. Actuarial valuation performed at least biennially.
217.665. Board members, appointment, qualifications — terms, vacancies — compensation, expenses — chairman, designation.
476.517. One-time retirement plan election for certain judges.
104.095. Death prior to retirement, surviving spouse's option for computation.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 50.1020, 50.1040, 86.200, 86.213, 86.251, 86.255, 86.256, 87.207, 87.235, 104.050, 104.095, 104.110, 104.140, 104.250, 104.254, 104.270, 104.335, 104.344, 104.350, 104.374, 104.380, 104.400, 104.436, 104.438, 104.515, 104.540, 104.601, 104.620, 104.625, 104.800, 104.1015, 104.1018, 104.1021, 104.1024, 104.1039, 104.1054, 104.1066, 104.1072, 104.1075, 104.1084, 104.1093, 104.1200, 104.1210, 104.1215, 217.665 and 476.517, RSMo, are repealed and fifty-three new sections enacted in lieu thereof, to be known as sections 50.1020, 50.1040, 86.200, 86.213, 86.251, 86.255, 86.256, 86.294, 86.296, 87.177, 87.207, 87.231, 87.235, 87.238, 104.050, 104.110, 104.140, 104.250, 104.254, 104.270, 104.335, 104.344, 104.350, 104.374, 104.380, 104.400, 104.436, 104.438, 104.515, 104.540, 104.601, 104.605, 104.620, 104.625, 104.800, 104.1015, 104.1018, 104.1021, 104.1024, 104.1039, 104.1054, 104.1055, 104.1066, 104.1072, 104.1075, 104.1084, 104.1093, 104.1200, 104.1210, 104.1215, 105.664, 217.665 and 476.517, to read as follows:

50.1020. SOURCE OF FUNDS, DELINQUENT TAX PENALTIES — COUNTY ASSESSOR, DUTIES — DEPOSIT OF FUNDS — PAYROLL DEDUCTION. — 1. The board may accept gifts, donations, grants and bequests from private or public sources to the county employees' retirement system fund.

2. No state moneys shall be used to fund sections 50.1000 to 50.1300.

3. In all counties, except counties of the first classification having a charter form of government and any city not within a county, the penalties provided in sections 137.280 and 137.345, RSMo, shall be deposited in the county employees' retirement fund. Any interest derived from the collection and investment of any part of the penalties shall also be credited to the county employees' retirement fund. All penalties and interest shall be transmitted to the board

monthly by the county treasurer. The county assessor shall maintain a written or electronic log reflecting number of assessment notices sent, number of personal property lists that were not returned by the deadline established by law, number of penalties waived and the reason for waiving such penalty.

4. Other provisions of law to the contrary notwithstanding, pending final settlement of taxes collected by the county collector, the county collector shall deposit all money collected in interest-bearing deposits within twenty-four hours after the close of business each day collections are received, except on Fridays of each week or on days prior to a state or national holiday, in a financial institution and all interest or other gain on such deposits shall be paid to the county treasurer and shall be credited to the political subdivision for which the funds were collected.

5. Each county clerk, except in counties of the first classification having a charter form of government and any city not within a county, shall make the payroll deductions mandated pursuant to subsection 2 or 3 of section 50.1040, and the county treasurer shall transmit these moneys monthly to the board for deposit into the county employees' retirement fund.

6. Each county, except counties of the first classification with a charter form of government and any city not within a county, shall deposit in the county employees' retirement fund each payroll period ending after December 31, 2002, an amount equal to four percent of the compensation paid in such payroll period to each employee hired or rehired by that county on or after February 25, 2002. Such deposit shall be paid out of the county funds or, at the county's election, in whole or in part through payroll deduction as described in subsection 2 of section 50.1040. All amounts due pursuant to this subsection shall be transmitted by the county treasurer to the county employees' retirement fund immediately following the payroll period for which such amounts are due. Each county clerk shall maintain a written or electronic log reflecting the employees hired or rehired by such county on or after February 25, 2002, the amount of each such employee's compensation, and the dollar amount due each payroll period by the county pursuant to this subsection with respect to each such employee, and shall provide such log to the county employees' retirement fund immediately following the payroll period for which such amounts are due.

50.1040. MEMBERSHIP IN SYSTEM — PAYROLL DEDUCTION FOR NONLAGERS MEMBERS — OPTING OUT PROHIBITED, EXCEPTIONS — OPTING IN, WHEN. — 1. On and after January 1, 2000, as an incident to employment or continued employment, each person who has not previously opted out of the retirement system who is employed as a county employee as defined in section 50.1000 and who is hired and fired by the county and whose work and responsibilities are directed and controlled by the county and who is compensated directly from county funds shall become a member of the system. Such membership shall continue as long as the person continues to be an employee, or receives benefits pursuant to the provisions of sections 50.1000 to 50.1300.

2. A member who is not a member of LAGERS shall be subject to a payroll deduction equal to two percent of the member's compensation. **[**This**] In addition, in order to meet the deposit required by subsection 6 of section 50.1020, a county may, in its discretion, subject any member, including a member of LAGERS, hired or rehired by that county on or after February 25, 2002, to an additional payroll deduction not to exceed four percent of the member's compensation. Such additional payroll deduction shall be used exclusively for the deposit in the county employees' retirement fund pursuant to subsection 6 of section 50.1020. Any** payroll deduction **pursuant to this subsection** shall constitute the member's required contribution to the plan and **[**after January 1, 2000,**]** shall be designated as an employer "pick-up" contribution, as described in 26 U.S.C. 414(h)(2). A member may not waive this contribution, or terminate this contribution requirement by opting out of the retirement system.

3. A county employee who is a member on January 1, 2000, and a county employee who is hired after January 1, 2000, shall not be permitted to opt out of the retirement system; except that, before January 1, 2000, a county employee did have the right to opt out of the retirement system. County employees who exercised this opt-out option must wait three years from the date the opt-out decision was made before becoming a member. After this three-year period has elapsed, the employee shall have a three-month period to opt into the system. If the employee opts into the system, such employee shall be subject to a payroll deduction of two percent, or one percent if the employee is also a member of the LAGERS, of the compensation received from the date the county employee opted out of the system, plus interest equal to the current prime rate plus two percent, to purchase all or part of this period of employment as creditable service. The payroll deduction shall be made in equal monthly installments for a time agreed to by the employee and the board, but in no event longer than four years.

4. An employee may opt into the retirement system, after having opted out, without purchasing any portion of his or her earlier service as creditable service. In such event, the deduction described in subsection 3 of this section shall not be imposed, and the employee shall become vested in the system after eight years of subsequent uninterrupted service.

5. Notwithstanding any other provisions of this section to the contrary, an employee who opted out of the retirement system before January 1, 2000, shall not be permitted to opt back into the system after January 1, 2000, unless the employee opts in, in accordance with the procedures of subsection 3 or 4 of this section, immediately following the expiration of the three-year opt-out period that includes January 1, 2000.

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) **[**If a member who is described in paragraph (c) or (e) of this subdivision completes less than one full year of creditable service after returning to active participation in the system, the member's earnable compensation for the period immediately prior to DROP entry shall be added to the member's earnable compensation after the member's return to active participation for purposes of determining such member's average final compensation for his or her last year of creditable service**] 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 9 of section 84.160, RSMo, plus shift differential as provided in subdivision (4) of subsection 10 of section 84.160, RSMo. Such amount shall **[**be determined without regard to**] 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) "Members' interest", interest on accumulated contributions at such rate as may be set from time to time by the board of trustees;

(15) "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) "Plan year" or "limitation year", the twelve consecutive-month period beginning each October first and ending each September thirtieth;

(17) "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) "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;

(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.

86.213. BOARD OF TRUSTEES TO ADMINISTER — MEMBERS OF BOARD, SELECTION — TERMS. — 1. The general administration and the responsibility for the proper operation of the retirement system and for making effective the provisions of sections 86.200 to 86.366 are hereby vested in a board of trustees of ten persons. The board shall be constituted as follows:

(1) The president of the board of police commissioners of the city, ex officio. If the president is absent from any meeting of the board of trustees for any cause whatsoever, the president may be represented by any member of the board of police commissioners who in such case shall have full power to act as a member of the board of trustees;

(2) The comptroller of the city, ex officio. If the comptroller is absent from any meeting of the board of trustees for any cause whatsoever, the comptroller may be represented by either the deputy comptroller or the first assistant comptroller who in such case shall have full power to act as a member of the said board of trustees;

(3) Three members to be appointed by the mayor of the city to serve for a term of two years;

(4) Three members to be elected by the members of the retirement system of the city for a term of three years; provided, however, that the term of office of the first three members so elected shall begin immediately upon their election and one such member's term shall expire one year from the date the retirement system becomes operative, another such member's term shall expire two years from the date the retirement system becomes operative and the other such member's term shall expire three years from the date the retirement system becomes operative; provided, further, that such members shall be members of the system and hold office only while members of the system;

(5) Two members who shall be retired members of the retirement system to be elected by the retired members of the retirement system for a term of three years; except that, the term of office of the first two members so elected shall begin immediately upon their election and one such member's term shall expire two years from the date of election and the other such member's term shall expire three years from the date of election.

2. Any member elected chairman of the board of trustees may serve **[**a total of four years in that capacity which shall be limited to no more than two consecutive terms**] without term limitations**.

3. Each commissioned elected trustee shall be granted travel time by the St. Louis metropolitan police department to attend any and all functions that have been authorized by the board of trustees of the police retirement system of St. Louis. Travel time**, with compensation,** for a trustee shall not exceed thirty days in any board fiscal year.

86.251. DEFERRED RETIREMENT OPTION PLAN — ELECTION — DEPOSIT OF RETIREMENT ALLOWANCE IN DROP ACCOUNT — TERMINATION OF PARTICIPATION, WHEN — FORMS OF PAYMENT — EFFECT OF PARTICIPATION — DEATH OF MEMBER, PAYMENT OF FUNDS — ACCIDENTAL DISABILITY RETIREMENT ALLOWANCE, EFFECT — INTEREST, AMOUNT — APPROVAL BY IRS — ELECTION FOR MONTHLY SURVIVOR ANNUITY, WHEN. — 1. The board of trustees may develop and establish a deferred retirement option plan (DROP) in which members who are eligible for retirement but who have not terminated employment as police officers and who have not actually retired may participate. The DROP shall be designed to allow members with at least twenty years of creditable service or who have attained the age of fifty-five who have achieved eligibility for retirement and are entitled to a service retirement allowance and other benefits to postpone actual retirement, continue active employment and accumulate a deferred receipt of the service retirement allowance. No one shall participate in the DROP for a period exceeding five years.

2. Any member who has at least twenty years of creditable service or has attained the age of fifty-five may elect in writing before retirement to participate in the DROP. A member electing to participate in the DROP shall postpone actual retirement, shall continue in active employment and shall not receive any direct retirement allowance payments or benefits during the period of participation.

3. Upon the start of the participation in the DROP, the member shall cease to make any mandatory contributions to the system. No contribution shall be required by the city into the DROP account. During the period of participation in the DROP, the amount that the member would have received as a service retirement allowance if the member had actually retired instead of entering DROP shall be deposited monthly in the member's DROP account which shall be established in the member's name by the board of trustees. The member's service retirement allowance shall not be adjusted for any cost-of-living increases for any period prior to the member's termination of employment as a police officer and actual retirement. Cost-of-living increases, if any, for any period following the member's termination of employment as a police officer and actual retirement shall be applied only to monthly service retirement payments made following termination of employment as a police officer and actual retirement. Service earned during the period of participation in the DROP shall not be creditable service and shall not be counted in determination of any service retirement allowance or surviving spouse's or dependents' benefits. Compensation paid during the period of participation in the DROP shall not be earnable compensation and shall not be counted in the determination of any service retirement allowance or surviving spouse's or dependent's benefits. The member's service retirement allowance shall be frozen as of the date the member enters DROP. Except as specifically provided in sections 86.200 to 86.366, the member's frozen service retirement allowance shall not increase while the member is participating in DROP or after the member's participation in DROP ends, and the member shall not share in any benefit improvement that is enacted or that becomes effective while such member is participating in the DROP.

4. A member shall cease participation in the DROP upon the termination of the member's employment as a police officer and actual retirement, or at the end of the five-year period commencing on the first day of the member's participation in the DROP, or as of the effective date, but in no event prior to October 1, 2001, of the member's election to return to active participation in the system, whichever occurs first. A member's election to return to active

participation in the system before the end of the five-year period commencing on the first day of participation in the DROP shall be made and shall become effective in accordance with procedures established by the board of trustees, but in no event prior to October 1, 2001. Upon the member's termination of employment as a police officer and actual retirement, the member shall elect to receive the value of the member's DROP account, in one of the following forms of payment:

(a) A lump sum payment; or

(b) Equal monthly installments over a ten-year period.

Either form of payment should begin within thirty days after the member's notice to the board of trustees that the member has selected a particular option.

5. If a member who is participating in the DROP elects to return to active participation in the system or if a member who is participating in the DROP does not terminate employment as a police officer in the city for which the retirement system was established pursuant to sections 86.200 to 86.366 and actually retires at the end of the five-year period commencing on the first day of the member's participation in the DROP, the member shall return to active participation in the system and shall resume making mandatory contributions to the system effective as of the day after participation in the DROP ends or, if later, October 1, 2001. The board of trustees shall notify the police commissioners to begin deducting mandatory contributions from the member's salary and the member's employment period shall count as creditable service beginning as of the day the member returns to active participation.

6. In no event shall a member whose participation in DROP has ended for any reason be eligible to participate in DROP again.

7. Upon the member's termination of employment as a police officer and actual retirement, the member's mandatory contributions to the retirement system shall be paid to the member pursuant to subsection 4 of section 86.253.

8. If a member dies prior to termination of employment as a police officer and actual retirement while participating in the DROP or before the member has received full withdrawal of the amount in the member's DROP account under the installment optional payment form, the remaining balance of the member's DROP account shall be payable to the member's surviving spouse; or, if the member is then unmarried, to the member's dependent children in equal shares; or, if none, to the member's dependent mother or father; or, if none, to the member's designated beneficiary or, if no such beneficiary is then living, to the member's estate. Payment shall be made **in a lump sum** within sixty days after **[**the retirement system is notified of the member's death**]** **receipt by the board of trustees of evidence and proof of the death of a member**. In addition, the member's mandatory contributions, if any, that were not already paid to the member pursuant to subsection 4 of section 86.253 shall be paid to the member's surviving spouse pursuant to section 86.288.

9. If a member has elected to participate in the DROP and during such participation period applies for and receives benefits for an accidental disability retirement allowance pursuant to the provisions of section 86.263, the member shall forfeit all rights, claims or interest in the member's DROP account and the member's benefits shall be calculated as if the member has continued in employment and had not elected to participate in the DROP. Any portion of a DROP account that has been forfeited as provided in this subsection shall be a general asset of the system.

10. A member's DROP account shall earn interest equal to the rate of return earned by the system's investment portfolio on a market value basis, including realized and unrealized gains and losses, net of investment expense, as certified by the system's actuary. As of the **[**first**] last** day of each **plan** year**[**,**]** beginning **[**with the second fiscal year of**] after DROP** participation **begins**, the member's DROP account balance, determined as of the **[**first**] last** day of **[**such**] the prior plan** year, shall be credited with interest at the investment rate earned by the assets of the retirement system for **[**the**] such** prior **plan** year. If distribution of the member's DROP account balance is **[**completed during the year**] made in a lump sum under subsection 4 or 8 of this**

section, interest **for the plan year of distribution** shall be credited**[**, based**]** on the **[**beginning**]** **ending** balance for the **prior plan** year **at the investment rate earned on the assets of the retirement system for the prior plan year**, in proportion to the part of the **plan** year preceding the date of **[**final distribution. No interest shall be credited on amounts, if any, added to the member's DROP account during the year in which the distribution of the account is completed**] the member's termination of employment or death, whichever is earlier**. If the member's DROP account is paid in equal monthly installments pursuant to subsection **[**5**] 4** of this section, **[**any**] interest during the installment period shall be credited as of the last day of each plan year ending after installment payment begins on the account balance as of the first or last day of the plan year, whichever is lower, at the investment rate earned by the assets of the system for the prior plan year. Interest for the year in which the final installment is paid shall be credited on the balance remaining after the final installment is paid, at the investment rate earned on the assets of the system for the prior plan year, in proportion to the part of the plan year preceding payment of the final installment. Any** interest credited to the DROP account during the installment period shall be paid as soon as reasonably possible after the final monthly installment. **No interest shall be credited on amounts, if any, added to the member's DROP account during the year in which the distribution of the account is completed.**

11. The board of trustees shall not incur any liability individually or on behalf of other individuals for any act or omission, made in good faith in relation to the DROP or assets credited to DROP accounts established by this section. The provisions of the Internal Revenue Code and regulations promulgated thereunder shall supersede any provision of this section if there is any inconsistency with the Internal Revenue Code or regulation.

12. Upon the receipt by the board of trustees of evidence and proof that the death of a member resulted from an event occurring while the member was in the actual performance of duty, and if the member is participating in the DROP, the member's surviving spouse or, if the member is then unmarried, the member's unmarried dependent children, may elect within thirty days after the member's death to have the amount in the member's DROP account paid in the form of a monthly survivor annuity. Payment of the survivor annuity shall begin within sixty days after the election is received. Payment to the member's surviving spouse shall continue until the surviving spouse's death; payment to the member's unmarried dependent children shall be made while any child qualifies as an unmarried dependent child pursuant to section 86.280. The survivor annuity shall be the actuarial equivalent of the member's DROP account as of the date **[**payment begins**] of the member's death**. In no event shall the total amount paid pursuant to this subsection be less than the member's DROP account balance as of the date **[**payment begins**] of the member's death**.

86.255. ELIGIBLE ROLLOVER DISTRIBUTION PAYABLE, ELECTION TO PAY DIRECTLY TO PLAN — DEFINITIONS — WRITTEN EXPLANATION REQUIRED BY BOARD, WHEN — DISTRIBUTION MADE, WHEN. — 1. Notwithstanding any other provision of the plan established in sections 86.200 to 86.366, if an eligible rollover distribution becomes payable to a distributee, the distributee may elect, at the time and in the manner prescribed by the board of trustees, to have any of the eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

2. For purposes of this section, the following terms mean:

(1) "Direct rollover", a payment by the board of trustees from the fund to the eligible retirement plan specified by the distributee;

(2) "Distributee", a member, a surviving spouse or a spouse;

(3) "Eligible retirement plan", an individual retirement account described in Section 408(a) of the Internal Revenue Code, an individual retirement annuity described in Section 408(b) of the Internal Revenue Code, or a qualified trust described in Section 401(a) of the Internal Revenue Code that accepts the distributee's eligible rollover distribution **or, effective for eligible rollover**

distributions made on or after January 1, 2002, an annuity contract described in Section 403(b) of the Internal Revenue Code or an eligible plan under Section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan, and shall include, for eligible rollover distributions made on or after January 1, 2002, a distribution to a surviving spouse or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Internal Revenue Code;

(4) "Eligible rollover distribution", any distribution of all or any portion of a member's benefit, other than:

(a) A distribution that is one of a series of substantially equal periodic payments, made not less frequently than annually, for the life or life expectancy of the distributee or for the joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more;

(b) The portion of a distribution that is required under Section 401(a)(9) of the Internal Revenue Code; or

(c) **[**The**] Effective for distributions made on or after January 1, 2002, a** portion of **[**any**] a** distribution **[**that is not includable in**] shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includable in** gross income. **However, such portion may be transferred only to an individual retirement account or annuity described in Section 408(a) or (b) of the Internal Revenue Code, or to a qualified defined contribution plan described in Section 401(a) or 403(a) of the Internal Revenue Code that agrees to separately account for amounts so transferred, including to separately account for the portion of such distribution which is includable in gross income and the portion that is not so includable.**

3. The board of trustees shall, at least thirty days, but not more than ninety days, before making an eligible rollover distribution, provide a written explanation to the distributee in accordance with the requirements of Section 402(f) of the Internal Revenue Code.

4. If the eligible rollover distribution is not subject to Sections 401(a) and 417 of the Internal Revenue Code, such eligible rollover distribution may be made less than thirty days after the distributee has received the notice described in subsection 3 of this section, provided that:

(1) The board of trustees clearly informs the distributee of the distributee's right to consider whether to elect a direct rollover, and if applicable, a particular distribution option, for at least thirty days after the distributee receives the notice; and

(2) The distributee, after receiving the notice, affirmatively elects a distribution.

86.256. ANNUAL BENEFIT NOT TO EXCEED CERTAIN AMOUNT — ANNUAL ADDITIONS NOT TO EXCEED CERTAIN AMOUNT — COMBINED PLAN LIMITATION NOT TO BE EXCEEDED — INCORPORATION BY REFERENCE OF INTERNAL REVENUE CODE. — 1. In no event shall a member's annual benefit paid under the plan established pursuant to sections 86.200 to 86.366 exceed the amount specified in Section 415(b)**(1)(A)** of the Internal Revenue Code, as adjusted for any applicable increases in the cost of living, as in effect on the last day of the plan year, including any increases after the member's termination of employment.

2. **Effective for limitation years beginning after December 31, 2001,** in no event shall the annual additions to the plan established pursuant to sections 86.200 to 86.366, on behalf of the member, including the member's own mandatory contributions, exceed the lesser of:

(1) **[**Twenty-five**] One hundred** percent of the member's compensation, as defined for purposes of Section 415(c)**(3)** of the Internal Revenue Code**, for the limitation year**; or

(2) **[**Thirty**] Forty** thousand dollars, as adjusted for increases in the cost of living **under Section 415(d) of the Internal Revenue Code**.

3. Effective for limitation years beginning prior to January 1, 2000, in no event shall the combined plan limitation of Section 415(e) of the Internal Revenue Code be exceeded; provided that, if necessary to avoid exceeding such limitation, the member's annual benefit under the plan established pursuant to sections 86.200 to 86.366 shall be reduced to the extent necessary to satisfy such limitations.

4. For purposes of this section, Section 415 of the Internal Revenue Code, including the special rules under Section 415(b) applicable to governmental plans and qualified participants **[**in**]** **employed by a** police **[**and**]** **or** fire department **[**plans**]**, is incorporated in this section by reference.

86.294. CONTRIBUTIONS TO BE ACCEPTED AFTER JANUARY 1, 2002, LIMITATIONS. — 1. Notwithstanding any other provision of the plan established in sections 86.200 to 86.366, and subject to the provisions of subsections 2, 3, and 4 of this section, effective January 1, 2002, the plan shall accept a member's rollover contribution or direct rollover of an eligible rollover distribution made on or after January 1, 2002, from a qualified plan described in Section 401(a) or 403(a) of the Internal Revenue Code, or an annuity contract described in Section 403(b) of the Internal Revenue Code, or an eligible plan under Section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state. The plan will also accept a member's rollover contribution of the portion of a distribution from an individual retirement account or annuity described in Section 408(a) or (b) of the Internal Revenue Code that is eligible to be rolled over and would otherwise be includable in gross income.

2. The amount of such rollover contribution or direct rollover of an eligible rollover distribution shall not exceed the amount required to repay the member's accumulated contributions plus the applicable members' interest thereon from the date of withdrawal to the date of repayment in order to receive credit for such prior service in accordance with section 86.210, to the extent that Section 415 of the Internal Revenue Code does not apply to such repayment by reason of subsection (k)(3) thereof, or to purchase permissive service credit, as defined in Section 415(n)(3)(A) of the Internal Revenue Code, for the member under the plan in accordance with the provisions of section 105.691, RSMo.

3. Acceptance of any rollover contribution or direct rollover of eligible rollover distribution under this section shall be subject to the approval of the board of trustees and shall be made in accordance with procedures established by the board of trustees.

4. In no event shall the plan accept any rollover contribution or direct rollover distribution to the extent that such contribution or distribution consists of after-tax employee contributions which are not includable in gross income.

86.296. TRUSTEE TO TRUSTEE TRANSFERS TO BE ACCEPTED AFTER JANUARY 1, 2002. — 1. Notwithstanding any other provision of the plan established in sections 86.200 to 86.366, and subject to the provisions of subsections 2 and 3 of this section, effective January 1, 2002, the plan shall accept a direct trustee-to-trustee transfer on behalf of a member from an annuity contract described in Section 403(b) of the Internal Revenue Code or an eligible plan under Section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision.

2. A trustee-to-trustee transfer may be accepted by the plan only if the transfer is used to repay the member's accumulated contributions plus the applicable members' interest thereon from the date of withdrawal to the date of repayment in order to receive credit for such prior service in accordance with section 86.210, to the extent that Section 415 of the Internal Revenue Code does not apply to such repayment by reason of subsection (k)(3) thereof, or to purchase permissive service credit, as defined in Section 415(n)(3)(A) of the

Internal Revenue Code, for the member under the plan in accordance with the provisions of section 105.691, RSMo.

3. Acceptance of any trustee-to-trustee transfer under this section shall be subject to the approval of the board of trustees and shall be made in accordance with procedures established by the board of trustees.

87.177. SERVICE RETIREMENT ALLOWANCE, ELIGIBILITY, APPLICATION, BENEFITS — SURVIVOR'S RIGHT TO SHARE OF BENEFITS — COST-OF-LIVING ALLOWANCE. — 1. Any firefighter who terminates employment with five or more years of service but less than twenty years may apply at age sixty-two for a service retirement allowance. Upon written application to the board of trustees the benefit payable shall be equal to two percent times years of service times the average final compensation, and the member shall also be repaid the total amount of the member's contribution, without interest.

2. The benefits provided in subsection 1 of this section shall be in lieu of any benefits payable pursuant to the provisions of section 87.240.

3. Any survivor of a firefighter retiring pursuant to the provisions of subsection 1 of this section shall be entitled to fifty percent of the retirement allowance of the retired member at his or her date of death.

4. Any surviving spouse of a firefighter who had five or more years of service but less than twenty years and who dies prior to application for retirement benefits payable pursuant to this section shall be entitled to fifty percent of the retirement allowance of the member at his or her date of death payable at the date the member would have reached age sixty-two, or to the immediate refund of the member's contribution plus interest. If no surviving spouse exists, a benefit shall be payable pursuant to subdivisions (2) and (3) of subsection 1 of section 87.220, or by the immediate refund of the member's contribution plus interest.

5. Any firefighter retiring pursuant to the provisions of this section shall be entitled to receive a cost-of-living allowance of five percent per year for a maximum of five years.

87.207. COST-OF-LIVING INCREASE, HOW DETERMINED. — The following allowances due under the provisions of sections 87.120 to **[**87.370**]** **87.371** of any member who retired from service shall be increased annually, as approved by the board of trustees beginning with the first increase in the October following his **or her** retirement and subsequent increases in each October thereafter, at the rates designated:

(1) With a retirement service allowance or ordinary disability allowance**:**

(a) One and one-half percent per year, compounded each year, up to age sixty for those retiring with twenty to twenty-four years of service,

(b) Two and one-fourth percent per year, compounded each year, up to age sixty for those retiring with twenty-five to twenty-nine years of service,

(c) Three percent per year, compounded each year, up to age sixty for those retiring with thirty or more years of service,

(d) After age sixty, five percent per year for five years or until a total maximum increase of twenty-five percent is reached;

(2) With an accidental disability allowance, three percent per year, compounded each year, up to age sixty, then five percent per year for five years **[**or until a total maximum increase of twenty-five percent is reached**]**.

[Each increase, however, is subject to a determination by the board of trustees that the consumer price index (United States Average Index) as published by the United States Department of Labor shows an increase of not less than the approved rate during the latest twelve-month period for which the index is available at date of determination. If the increase is in excess of the approved rate for any year, the excess shall be accumulated as to any retired member and increases may be granted in subsequent years subject to the maximum allowed for each full year from October

following his retirement but not to exceed a total increase of twenty-five percent. If the board of trustees determines that the index has decreased for any year, the benefits of any retired member that have been increased shall be decreased but not below his initial benefit. No annual increase shall be made of less than one percent and no decrease of less than three percent except that any decrease shall be limited by the initial benefit.**]**

87.231. SURVIVING SPOUSE AS SPECIAL CONSULTANT TO THE BOARD, WHEN — COMPENSATION — EFFECT ON ELIGIBILITY FOR RETIREMENT BENEFITS. — 1. In lieu of any benefits payable pursuant to section 87.230, any surviving spouse who is receiving retirement benefits, upon application to the board of trustees of the retirement system, shall be made, constituted, appointed and employed by the board as a special consultant on the problems of retirement, aging, and other state matters, for the remainder of his or her life, and upon request of the board, give opinions, and be available to give opinions in writing, or orally, in response to such request, as may be required, and for such services shall be compensated monthly, in an amount, which, when added to any monthly retirement benefits being received, shall not exceed fifty percent of the deceased member's average final compensation or five hundred twenty-five dollars, whichever is greater.

2. This compensation shall be consolidated with any other retirement benefits payable to such surviving spouse, and shall be paid in the manner and from the same fund as his or her other retirement benefits under this chapter, and shall be treated in all aspects under the laws of this state as retirement benefits paid pursuant to this chapter.

3. The employment provided for by this section shall in no way affect any person's eligibility for retirement benefits under this chapter, or in any way have the effect of reducing retirement benefits, anything to the contrary notwithstanding.

87.235. PAYMENTS ON PROOF OF ACCIDENTAL DEATH IN SERVICE — BENEFICIARIES. — 1. **Effective May 1, 2002,** upon the receipt of evidence and proof that the death of a member was the result of an accident or exposure at any time or place, provided that at such time or place the member was in the actual performance of the member's duty and, in the case of an exposure, while in response to an emergency call, or was acting pursuant to orders, there shall be paid in lieu of all other benefits the following benefits:

(1) A retirement allowance to the widow during the person's widowhood of [fifty] **seventy** percent of the [deceased member's average final compensation] **pay then provided by law for the highest step in the range of salary for the next title or next rank above the member's range or title held at the time of the member's death**, plus ten percent of such compensation to or for the benefit of each unmarried dependent child of the deceased member, who is either under the age of eighteen, or who is totally and permanently mentally or physically disabled and incapacitated, regardless of age, but not in excess of a total of three children, including both classes, and paid as the board of trustees in its discretion directs;

(2) If no widow benefits are payable pursuant to subdivision (1), such total allowance as would have been paid had there been a widow shall be divided among the unmarried dependent children under the age of eighteen and such unmarried children, regardless of age, who are totally and permanently mentally or physically disabled and incapacitated, and paid to or for the benefit of such children as the board of trustees in its discretion shall direct;

(3) If there is no widow, or child under the age of eighteen years, or child, regardless of age, who is totally and permanently mentally or physically disabled and incapacitated, then an amount equal to the widow's benefit shall be paid to the member's dependent father or dependent mother, as the board of trustees shall direct, to continue until remarriage or death;

(4) Any benefit payable to, or for the benefit of, a child or children under the age of eighteen years pursuant to subdivisions (1) and (2) of this section shall be paid beyond the age of eighteen years through the age of twenty-five years in such 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 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.

2. No benefits pursuant to this section shall be paid to a child over eighteen years of age who is totally and permanently mentally or physically disabled and incapacitated, if such child is a patient or ward in a public-supported institution.

3. Wherever any dependent child designated by the board of trustees to receive benefits pursuant to this section is in the care of the widow of the deceased member, the child's benefits may be paid to the widow for the child.

87.238. RETIRED FIREFIGHTERS TO ACT AS SPECIAL ADVISORS TO RETIREMENT SYSTEM, WHEN — COMPENSATION. — **1. In lieu of any benefit payable pursuant to section 87.237, any person who served as a firefighter and who is retired and receiving a retirement allowance of less than six hundred twenty-five dollars may act as a special advisor to the retirement system.**

2. For the additional service as a special advisor, each retired person shall receive, in addition to the retirement allowance provided pursuant to this chapter, an additional amount, which amount, together with the retirement allowance he or she is receiving pursuant to other provisions of this chapter, shall equal, but not exceed, six hundred twenty-five dollars. Any retirement allowance paid to a retiree pursuant to this subsection shall be withdrawn from the firefighters' retirement and relief system fund and no moneys shall be withdrawn from the general revenue fund of any city not within a county.

104.050. YEARS OF SERVICE USED IN CALCULATING ANNUITY — NONCOMPENSATED ABSENCES FOR ILLNESS AND INJURY, EFFECT — WITHDRAWAL BEFORE ENTITLED TO DEFERRED ANNUITY, RELINQUISHES ALL RIGHTS — REINSTATEMENT OF FORFEITED SERVICE, WHEN. — 1. Years of service and twelfths of a year are to be used in calculating any annuity. Absences **taken by an employee without compensation** for sickness or injury of **the employee of** less than twelve months may be counted as continuous service. Absences for more than twelve months' continuous duration cancel all prior service credits unless the board of trustees grants special leave to the employee affected prior to the termination of a twelve-month absence. This subsection shall not apply to injury sustained while in the line of duty.

2. Any member who withdraws from service before he is entitled to deferred benefits under section 104.035 forfeits, waives, and relinquishes all accrued rights in the fund, including all accrued creditable service.

3. If a former employee has forfeited creditable service for any period he shall have the period of creditable service restored only upon the completion of one continuous year of service after he again becomes an employee.

104.110. DISABILITY BENEFITS, WHO ENTITLED, HOW CALCULATED — MEDICAL EXAMINATION REQUIRED, WHEN — PROOF OF APPLICATION FOR SOCIAL SECURITY BENEFITS — DEATH BENEFIT, NOT PAYABLE, WHEN — BOARD TO ESTABLISH DEFINITIONS — ANNUITY BENEFITS, ACCRUAL, ELECTION — DEATH BENEFIT, ELIGIBILITY, WHEN. — 1. Any employee, regardless of the length of time of creditable service, who is affirmatively found by the board to be wholly incapable of performing the duties of the employee's or any other position in the employee's department for which the employee is suited, shall be entitled to receive disability benefits. The disability benefit provided by this subsection shall equal one and six-tenths percent of the employee's average compensation multiplied by the number of years of creditable service of the member.

2. Any uniformed member of the highway patrol, highway patrol employee or department of transportation employee, regardless of the length of time of creditable service, who is found

by the board to be disabled as a result of injuries incurred in the performance of the employee's duties, shall be entitled to receive an initial disability benefit in an amount equal to seventy percent of the compensation that the employee was receiving on the date preceding the date of disability; provided, however, that the amount of the disability benefit, plus any primary Social Security disability benefits received by such member shall not exceed ninety percent of the monthly compensation such member was receiving on the date preceding the date of disability.

3. Any disability benefits payable pursuant to this section shall be decreased by any amount paid to such member for periodic disability benefits by reason of the workers' compensation laws of this state. After termination of payment under workers' compensation, however, disability benefits shall be paid in the amount required by subsections 1, 2, **[**8 and 10**] 7, and 9** of this section.

4. The board of trustees may require a medical examination of a disabled member at any time by a designated physician, and benefits shall be discontinued if the board finds that such member is able to perform the duties of the member's former position or if such member refuses to submit to a medical examination. Any employee who applies for disability benefits provided pursuant to this section shall provide medical certification acceptable to the board which shall include the date the disability commenced and the expected duration of the disability.

5. Any employee who applies for disability benefits pursuant to subsections 2 and **[**8**] 7** of this section shall provide proof of application for Social Security disability benefits. If Social Security disability benefits are denied, the employee shall also provide proof that the employee has requested reconsideration, and upon denial of the reconsideration, that an appeal process is prosecuted.

6. The disability benefits provided in this section shall not be paid to any member who retains or regains earning capacity as determined by the board. If a member who has been receiving disability benefits again becomes an employee, the member's disability benefits shall be discontinued.

7. **[**Upon the completion of six months continuous service after reemployment, the member shall have the member's prior period of creditable service restored. Any subsequent determination of benefits due the member or the member's survivors shall be based on the sum of the member's creditable service accrued to the date the member's disability benefits commenced and the period of creditable service after the member's return to employment. Should the member again become disabled, retire, or terminate employment within the six-month period after the member's return to work, any benefits to which the member becomes entitled shall be based on the member's service and compensation to the date disability benefits originally began. There shall be no death benefits payable pursuant to section 104.090 or pursuant to section 104.140 if the employee dies within six months after the member's return to employment from disability. The provision of this subsection shall not apply to a person receiving disability benefits pursuant to subsection 2 of this section.

8.**]** The board shall also provide or contract for long-term disability benefits for those members whose disability exists or is diagnosed as being of such nature as to exist for more than one year. The benefits provided or contracted for pursuant to this subsection shall be in lieu of any other benefit provided in this section. The eligibility requirements, benefit period and amount of the disability benefits provided pursuant to this subsection shall be established by the board.

[9.**] 8.** Definitions of disability and other rules and procedures necessary for administration of the disability benefits provided pursuant to this section shall be established by the board.

[10.**] 9.** Any member receiving disability benefits pursuant to subsections 1 and 2 of this section shall receive the same cost-of-living increases as granted to retired members pursuant to section 104.130.

[11.**] 10.** The state highways and transportation commission shall contribute the same amount as provided for all state employees for any person receiving disability benefits pursuant to subsection 2 of this section for medical insurance provided pursuant to section 104.270.

[12.**]** **11.** Any member who qualified for disability benefits pursuant to subsection 2 or subsection **[**8**]** **7** of this section shall continue to accrue normal annuity benefits based on the member's rate of pay immediately prior to the date the member became disabled in accordance with sections 104.090 and 104.615 as in effect on the earlier of the date the member reaches normal retirement age or the date normal annuity payments commence.

[13.**]** **12.** A member who continues to be disabled as provided in subsection 2 or subsection **[**8**]** **7** of this section shall continue to accrue creditable service until the member reaches normal retirement age. The maximum benefits period for benefits pursuant to subsections 2 and **[**8**]** **7** of this section shall be established by the board. A member who is eligible to retire and does retire while receiving disability benefits pursuant to subsections 2 and **[**8**]** **7** of this section shall receive the greater of the normal annuity or the minimum annuity determined pursuant to sections 104.090 and 104.615, as if the member had continued in the active employ of the employer until the member's normal retirement age and the member's compensation for such period had been the member's rate of pay immediately preceding the date the member became disabled.

[14.**]** **13.** Any member who was receiving disability benefits from the board prior to August 28, 1997, or any member who has submitted an application for disability benefits before August 28, 1997, and would have been eligible to receive benefits pursuant to the eligibility requirements which were applicable at the time of application shall be eligible to receive or shall continue to receive benefits in accordance with such prior eligibility requirements until the member again becomes an employee.

[15.**]** **14.** Any member receiving disability benefits pursuant to **subsection 1,** subsection 2 or subsection **[**8**]** **7** of this section shall be eligible to receive death benefits pursuant to the provisions of **[**section 104.095 or**]** subsection **[**2**]** **1** of section 104.140. The death benefits provided pursuant to this subsection shall be in lieu of the death benefits available to the member pursuant to subsection **[**1**]** **2** of section 104.140.

15. The board is authorized to contract for the benefits provided pursuant to subsections 1 and 2 of this section.

104.140. DEATH PRIOR TO RETIREMENT, BENEFITS. — 1. **(1)** If a member who has five or more years of creditable service dies before retirement, **[**his**]** **the member's** surviving spouse, **[**if named as his beneficiary and married to the deceased member on the date of the member's death, or his surviving unemancipated children under the age of twenty-one, if named as beneficiary or beneficiaries, shall receive a total monthly payment equal to fifty percent of the deceased member's accrued monthly benefit calculated as if the member were of normal retirement age as of his date of death. If the surviving spouse dies leaving any unemancipated children under the age of twenty-one years, the payment shall continue until the children become emancipated or reach twenty-one years of age**] to whom the member was married on the date of the member's death, if any, shall receive the reduced survivorship benefits provided in option 1 of subsection 3 of section 104.090 calculated as if the member were of normal retirement age and had retired as of the date of the member's death and had elected option 1;**

(2) If there is no eligible surviving spouse, or when a spouse's annuity has ceased to be payable, the member's eligible surviving children under twenty-one years of age shall receive monthly, in equal shares, an amount equal to eighty percent of the member's accrued annuity calculated as if the member were of normal retirement age and retired as of the date of death. Benefits otherwise payable to a child under eighteen years of age shall be payable to the surviving parent as natural guardian of such child if such parent has custody or assumes custody of such minor child, or to the legal guardian of such child, until such child attains age eighteen, and thereafter, the benefit may be paid to the child until age twenty-one; provided, the age twenty-one maximum shall be extended for any child who has been found totally incapacitated by a court of competent jurisdiction;

(3) No benefit is payable pursuant to this section if no eligible surviving spouse or children under twenty-one years of age survive the member. Benefits cease pursuant to this section when there is no eligible surviving beneficiary through either death of the eligible surviving spouse or through either death or the attainment of twenty-one years of age by the eligible surviving children. If the member's surviving children are receiving equal shares of the benefit described in subdivision (2) of this subsection, and one or more of such children become ineligible by reason of death or the attainment of twenty-one years of age, the benefit shall be reallocated so that the remaining eligible children receive equal shares of the total benefit as described in subdivision (2) of this subsection.

2. Effective January 1, 1985, if an employee who has three or more, but less than **[**ten**] five** years of creditable service dies before retirement, the surviving spouse of the deceased employee, if **[**named as beneficiary and**]** married to the deceased employee on the date of the employee's death, or the deceased employee's surviving **[**unemancipated**] eligible** children under the age of twenty-one, **[**if named as beneficiary or beneficiaries,**]** shall receive a total monthly payment equal to twenty-five percent of the deceased employee's accrued monthly benefit calculated as if the employee were of normal retirement age as of the date of death. **[**Such benefit shall be increased by five-twelfths of one percent for each month of service in excess of five years.**]** If the surviving spouse dies leaving any **[**unemancipated**] eligible** children under the age of twenty-one years, the payment shall continue until the children **[**become emancipated or**]** reach twenty-one years of age. If there is no surviving spouse eligible for benefits under this subsection, but there are any **[**unemancipated**]** children of the deceased employee eligible for payments, the payments shall continue until the children **[**become emancipated or**]** reach twenty-one years of age. Any benefits payable to **[**unemancipated**] eligible** children under twenty-one years of age shall be made on a pro rata basis among the surviving **[**unemancipated**]** children under twenty-one years of age.

3. For the purpose of computing the amount of a benefit payable pursuant to this section, if the board finds that the death was a natural and proximate result of a personal injury or disease arising out of and in the course of the member's actual performance of duty as an employee, then the minimum benefit to such member's surviving spouse or, if no surviving spouse benefits are payable, the minimum benefit that shall be divided among and paid to such member's surviving **[**unemancipated**] eligible** children under the age of twenty-one shall be fifty percent of the member's final average compensation. The service requirements of subsections 1 and 2 of this section shall not apply to any benefit payable pursuant to this subsection.

104.250. LAW CREATES VESTED RIGHTS — BENEFITS EXEMPT FROM TAXES AND EXECUTIONS. — 1. All payroll deductions and deferred compensation provided for under sections 104.010 to 104.270 are hereby made obligations of the state of Missouri. No alteration, amendment, or repeal of sections 104.010 to 104.270 shall affect the then existing rights of members and beneficiaries, but shall be effective only as to rights which would otherwise accrue under sections 104.010 to 104.270 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 to, any person under the provisions of sections 104.010 to 104.270 are hereby made and declared exempt from any tax of the state of Missouri or any political subdivision or taxing body thereof, and shall not be subject to execution, garnishment, attachment, writ of sequestration, or any other process or claim whatsoever, and shall be unassignable **except that any payment from the retirement system shall be subject to the collection of child support or spousal maintenance**.

104.254. SPOUSES OF DECEASED RETIRED MEMBERS APPOINTED AS SPECIAL CONSULTANTS, WHEN — DUTIES — COMPENSATION — NOT TO AFFECT OTHER BENEFITS. — 1. Any spouse of a deceased member of the patrol who retired prior to October 1, 1984, shall, upon application, be made, constituted, appointed, and employed by the board as a special consultant

on the problems of retirement, aging, and other matters relating to spouses of deceased members of the patrol, and upon the request of the board, shall give opinions and be available to give opinions, in writing or orally, in response to such requests of the board. As compensation for the services required by this section, spouses of deceased members of the patrol shall be compensated monthly in an amount based on the monthly amount which the member would have been receiving had the selection of options been made on the date of the spouse's application to be made a consultant under the provisions of this section and the member had elected the option of his choice pursuant to the provisions of subsection 3 of section 104.090, or an amount which, when added to any survivorship benefits received initially upon the death of the member of the patrol, shall be equal to two hundred dollars per month or fifty percent or the percentage so selected by the member at retirement of the monthly benefit amount which the member was receiving immediately prior to his death, whichever amount is greater, plus an annual monthly increase in an amount computed by multiplying the spouse's current monthly benefit amount by eighty percent of the increase in the consumer price index calculated in the manner specified in section 104.415. The annual increase provided by this subsection shall not exceed five percent nor be less than four percent, and the total increase in compensation granted as annual increases in accordance with this subsection shall not exceed **[**fifty**]** **sixty-five** percent of the total compensation granted each spouse by this section on August 13, 1986.

2. The employment provided for by this section shall in no way affect any person's eligibility for retirement or survivor benefits under this chapter, or in any way have the effect of reducing any retirement or survivor benefits, anything to the contrary notwithstanding.

104.270. INSURANCE BENEFITS TO BE FURNISHED, HOW — STATE CONTRIBUTION, AMOUNT — CONTRACTS FOR, HOW LET. — The state highways and transportation commission may provide for **[**insurance**]** benefits to cover medical expenses and death for members of the **[**state**]** **closed and year 2000 plans of the highways and** transportation **[**department**]** employees' and highway patrol retirement system. Any plan may provide medical benefits for dependents of members and for **[**retired members**]** **retirees of the closed and year 2000 plans and for persons entitled to deferred annuities in the closed and year 2000 plans and their dependents**. Death benefits shall be comparable to those provided for in section 104.517. Contributions by the state highways and transportation commission to provide the **[**insurance**]** benefits shall be on the same basis as provided for other state employees under the provisions of section 104.515. Except as otherwise provided by law, the cost of benefits for dependents of members and for **[**retired members**]** **retirees** and their dependents shall be paid by the members **or retirees**. The **[**state highways and transportation**]** commission may contract **with other persons or entities including but not limited to third-party administrators, health network providers, and health maintenance organizations** for all, or any part of, the **[**insurance**]** benefits provided for in this section. **[**If the state highways and transportation commission contracts for insurance benefits, or for administration of the insurance plan, such contracts shall be entered into on the basis of competitive bids.**]** **The commission may require reimbursement of any medical claims paid by the commission's medical plan for which there was third-party liability.**

104.335. VESTING SERVICE — MEMBERS WHO ARE ENTITLED TO ANNUITIES — REQUIREMENTS, AMOUNTS — TERMINATED VESTED MEMBER, JUDGE, ADMINISTRATIVE LAW JUDGE OR LEGAL ADVISOR, ELECTION TO PAY PRESENT VALUE OF ANNUITY, ELIGIBILITY, PURCHASE OF PRIOR SERVICE CREDIT. — 1. Any member whose employment terminated prior to September 1, 1972, and (a) who had served at least three full biennial assemblies as a member of the general assembly, or (b) who was other than a member of the general assembly and who had fifteen or more years of vesting service shall be entitled to a deferred normal annuity based on the member's creditable service, average compensation and the law in effect at the time the member's employment was terminated.

2. (1) Any member whose employment terminated on or after September 1, 1972, and prior to July 1, 1981, and (a) who had served at least three full biennial assemblies as a member of the general assembly, or (b) who was other than a member of the general assembly and who had fifteen or more years of vesting service or who had ten or more years of vesting service and was at least thirty-five years of age at the date of termination of employment shall be entitled to a deferred normal annuity based on the member's creditable service, average compensation and the law in effect at the time the member's employment was terminated.

(2) Any member whose employment terminated on or after July 1, 1981, and (a) who had served at least three full biennial assemblies as a member of the general assembly, or (b) who was other than a member of the general assembly and who had ten or more years of vesting service at the date of termination of employment shall be entitled to a deferred normal annuity based on the member's creditable service, average compensation and the law in effect at the time the member's employment was terminated.

(3) Any member whose employment terminated on or after September 1, 1972, and who had four or more years of vesting service as governor, lieutenant governor, secretary of state, auditor, treasurer, or attorney general of this state shall be entitled to a deferred normal annuity based on the member's creditable service, average compensation and the law in effect at the time the member's employment was terminated.

(4) Any member whose employment terminated on or after September 28, 1985, and who (a) had served less than three full biennial assemblies as a member of the general assembly, and (b) has less than ten years of vesting service as an employee other than a member of the general assembly shall be entitled to two years of vesting service for each full biennial assembly in which the member served plus an additional amount of vesting service for each partial biennial assembly served, which amount shall be equal to the pro rata portion of the biennial assembly so served. The total amount of vesting service provided for in this subdivision shall be used to calculate the deferred normal annuity or deferred partial annuity to which such member is entitled based on the member's creditable service, which includes all service designated as vesting service under this subdivision, the member's average compensation, and the law in effect at the time the member's employment was terminated.

3. Any member whose employment terminated on or after October 1, 1984, but before September 28, 1992, and who was other than a member of the general assembly and who has five or more years of vesting service as an employee at the date of termination of employment shall be entitled to a deferred partial annuity based on the member's creditable service, average compensation, and the law in effect at the time the member's employment was terminated, in the following amounts:

(1) An employee with at least five years of vesting service, but less than six years, is entitled to fifty percent of the amount payable as a deferred normal annuity;

(2) An employee with six years of vesting service, but less than seven years, is entitled to sixty percent of the amount payable as a deferred normal annuity;

(3) An employee with seven years of vesting service, but less than eight years, is entitled to seventy percent of the amount payable as a deferred normal annuity;

(4) An employee with eight years of vesting service, but less than nine years, is entitled to eighty percent of the amount payable as a deferred normal annuity;

(5) An employee with nine years of vesting service, but less than ten years, is entitled to ninety percent of the amount payable as a deferred normal annuity.

4. Any member whose employment terminated on or after September 28, 1992, and who was other than a member of the general assembly and who has five or more years of vesting service as an employee at the date of termination of employment shall be entitled to a deferred normal annuity based on the member's creditable service, average compensation, and the law in effect at the time the member's employment was terminated.

5. Any member who is entitled to a deferred normal annuity as provided in subsection 1, 2, 3, or 4 of this section and who reenters the service of a department and again becomes a

member of the system shall have the member's prior period of vesting service combined with the member's current membership service, so that any benefits that may become payable under this system by reason of the member's retirement or subsequent withdrawal will recognize such prior period of vesting service.

6. (1) A vested member, an administrative law judge or legal advisor as defined in section 287.812, RSMo, or a judge as defined in section 476.515, RSMo, who has terminated all employment with the state of Missouri for a period of six months or longer, may make a one-time election for the system to pay the present value of a deferred annuity or a benefit as defined in section 287.812, RSMo, or section 476.515, RSMo, if the amount of such terminated member's or person's creditable service is less than ten years, and if such terminated member or person is not within five years of eligibility for receiving an annuity or benefit. Any such member, administrative law judge, legal advisor or judge who terminates employment on or after August 28, 1997, shall be eligible for the one-time election provided for in this subsection only if the present value of the deferred annuity does not exceed ten thousand dollars. The present value shall be actuarially determined by the system. Except as provided in subdivision (2) of this subsection, any payment so made shall be a complete discharge of the existing liability of the system with respect to such terminated member or person.

(2) Upon subsequent employment in a position covered under a system administered by the Missouri state employees' retirement system, the employee, administrative law judge or judge may elect, within one year of such employment, to purchase creditable service equal to the amount of creditable service surrendered due to a payment as specified in this subsection. The cost of such purchase shall be actuarially determined by the system, and shall be paid over a period of not longer than two years from the date of election, with interest on the unpaid balance.

(3) Persons described in subdivision (1) of this subsection who terminate employment on or after September 1, 2002, shall no longer be eligible to make the election described in subdivision (1) of this subsection.

7. Any individual, covered by a retirement plan identified in chapter 104, chapter 287 or chapter 476, RSMo, who terminated employment prior to August 28, 1993, shall, upon application to the board of trustees of the Missouri state employees' retirement system, be made, constituted and appointed and employed by the board as a special consultant on the problems of retirement, aging and other state matters for the remainder of the person's life. Upon request of the board or the court from which the person retired, the consultant shall give opinions or be available to give opinions in writing or orally in response to such requests. As compensation for such services, the consultant shall be eligible to purchase or transfer, prior to retirement, creditable service as set forth in section 105.691, RSMo.

104.344. MEMBER ENTITLED TO PURCHASE PRIOR CREDITABLE SERVICE FOR NONFEDERAL FULL-TIME PUBLIC EMPLOYMENT OR CONTRACTUAL SERVICES — METHOD, PERIOD, LIMITATION. — Notwithstanding any other law to the contrary, any person who is actively employed by the state of Missouri in a position covered by a retirement plan administered by the Missouri state employees' retirement system and who had nonfederal full-time public employment in the state of Missouri or who had provided full-time services for compensation to the state of Missouri under a contract, and who by virtue of such employment was a member of a retirement system or other employer-sponsored retirement plan other than the Missouri state employees' retirement system but is not vested in such other retirement system or plan, or was not a member of any retirement system or plan, may elect, prior to retirement, to purchase **[**up to four years of**]** **all of the member's** creditable prior service **but not to exceed four years** for such service in any plan administered by the Missouri state employees' retirement system in which the person is receiving service credit for active employment or is eligible for a deferred annuity. The purchase shall be effected by the person paying to the Missouri state employees' retirement system an amount equal to what would have been contributed by the state in his or her behalf had the person been a member for the period for which he or she is electing

to purchase credit and had the person's compensation during such period been the same as the annual salary rate at which the person was initially employed in a position covered by a plan administered by the Missouri state employees' retirement system, with the calculations based on the contribution rate in effect on the date of his or her employment under the provisions of the Missouri state employees' retirement system with simple interest calculated from the date of employment from which the person could first receive creditable service from the Missouri state employees' retirement system to the date of election to purchase such service. The payment shall be made over a period of not longer than two years, with simple interest on the unpaid balance. In no event shall any person receive credit or benefits under any other retirement plan as defined pursuant to section 105.691, RSMo, for creditable service purchased pursuant to the provisions of this section. The contribution rate for any judge who elects to purchase service for a period prior to July 1, 1998, shall be equal to a contribution rate which would be used if the judicial system were funded on an actuarial basis prior to that date.

104.350. WITHDRAWAL FROM SERVICE, WHEN, REENTRY AFTER WITHDRAWAL, HOW MADE — FORFEITURE AND REINSTATEMENT OF CREDITABLE SERVICE, WHEN. — 1. Upon withdrawal from service, any member who is not entitled to a normal annuity, deferred normal annuity or disability benefits pursuant to the provisions of this chapter shall forfeit all rights in the fund, including the member's accrued creditable service as of the date of the member's withdrawal.

2. A former employee who is employed on or after August 28, **[**2000**] 2002**, who has forfeited service shall have the forfeited period of service restored **after receiving creditable service continuously for one year**.

104.374. STATE EMPLOYEE'S NORMAL ANNUITY, COMPUTATION — NONCOMPENSATED ABSENCES COUNTED AS MEMBERSHIP SERVICE, WHEN — EMPLOYEES AND GENERAL ASSEMBLY MEMBERS CONTINUING TO SERVE, COST-OF-LIVING INCREASES ON RETIREMENT OR DEATH. — 1. The normal annuity of a member, other than a member of the general assembly or a member who served in an elective state office, shall be an amount equal to one and six-tenths percent of the average compensation of the member multiplied by the number of years of creditable service of the member. Years of membership service and twelfths of a year are to be used in calculating any annuity. Absences **taken by an employee without compensation** for sickness and injury **of the employee** of less than twelve months **or for leave taken by an employee without compensation pursuant to the provisions of the Family and Medical Leave Act of 1993** shall be counted as years of **[**membership**] creditable** service.

2. In addition to the amount determined pursuant to subsection 1 of this section, the normal annuity of a uniformed member of the water patrol shall be increased by thirty-three and one-third percent of the benefit.

3. Employees who are fully vested at the age of sixty-five years and who continue to be employed by an agency covered under the system or members of the general assembly who serve in the general assembly after the age of sixty-five years shall have added to their normal annuity when they retire or die an amount equal to the total of all annual cost-of-living increases that the retired members of the system received during the years between when the employee or member of the general assembly reached sixty-five years of age and the year that the employee or member of the general assembly terminated employment or died. In no event shall the total increase in compensation granted under this subsection and subsection 2 of section 104.612 exceed sixty-five percent of the person's normal annuity calculated at the time of retirement or death.

104.380. RETIRED MEMBERS ELECTED TO STATE OFFICE, EFFECT OF — REEMPLOYMENT OF RETIRED MEMBERS, EFFECT OF. — If a retired member is elected to any state office or is appointed to any state office or is employed by a department **[**and works more

than one thousand hours per year regardless of the number of positions held on or after the first day of employment, the retired member shall not receive an annuity or additional creditable service for any month or part of a month for which the retired member is so employed. The system shall recover any benefit payments received by the retiree during any year that the retiree works more than one thousand hours pursuant to section 104.490. The term "year" as used in this section shall mean the twelve-month period beginning on the annuity starting date and each subsequent year thereafter. The provisions of this section shall apply to all retired members employed on or after September 1, 2001, regardless of when the retired member was first employed. Any person who is an employee on or after August 28, 2001, retires and is subsequently employed in a position covered by the highways and transportation employees' and highway patrol retirement system shall not be eligible to receive retirement benefits or additional creditable service from the system.**] in a position normally requiring the performance by the person of duties during not less than one thousand hours per year, the member shall not receive an annuity for any month or part of a month for which the member serves as an officer or employee, but the member shall be considered to be a new employee with no previous creditable service and must accrue creditable service in order to receive any additional annuity. Any retired member who again becomes an employee and who accrues additional creditable service and later retires shall receive an additional amount of monthly annuity calculated to include only the creditable service and the average compensation earned by the member since such employment or creditable service earned as a member of the general assembly. Years of membership service and twelfths of a year are to be used in calculating any additional annuity except for creditable service earned as a member of the general assembly, and such additional annuity shall be based on the type of service accrued. In either event, the original annuity and the additional annuity, if any, shall be paid commencing with the end of the first month after the month during which the member's term of office has been completed, or the member's employment terminated. If a retired member is employed by a department in a position that does not normally require the person to perform duties during at least one thousand hours per year, the member shall not be considered an employee as defined pursuant to section 104.010. A retired member who becomes reemployed as an employee on or after August 28, 2001, in a position covered by the highways and transportation employees' and highway patrol retirement system shall not be eligible to receive retirement benefits or additional creditable service from the state employees' retirement system.**

104.400. NORMAL RETIREMENT AGE — EARLY RETIREMENT REQUIREMENTS — ANNUITY, HOW COMPUTED. — 1. Any member **who terminates employment** may retire with a normal annuity upon obtaining normal retirement age.

2. Any member after attaining fifty-five years of age who has at least ten years of vesting service may retire. In such case, the member, except uniformed members of the water patrol, shall receive an annuity in an amount which is the actuarial reduction approved by the board of the normal annuity the member would have received commencing at the earliest date on which the member is entitled to an unreduced benefit based on the member's creditable service at the date of the member's termination of employment.

104.436. FINANCING PATTERN FOR CONTRIBUTION DETERMINATIONS — COMMISSIONER OF ADMINISTRATION TO CERTIFY PAYMENT. — 1. **[**Beginning January 1, 1991, at least ninety days before each regular session of the general assembly, the board shall certify to the division of budget an actuarially determined estimate of the amount which will be necessary during the next biennial or appropriation period to pay all liabilities, including costs of administration, which shall exist or accrue under sections 104.010 and 104.320 to 104.800 during such period. The estimate shall be computed as a level percentage of payroll compensation to cover the normal cost and to amortize the accrued liability over a period not to

exceed forty years.**]** **The board intends to follow a financing pattern which computes and requires contribution amounts which, expressed as percents of active member payroll, will remain approximately level from year to year and from one generation of citizens to the next generation. Such contribution determinations require regular actuarial valuations, which shall be made by the board's actuary, using assumptions and methods adopted by the board after consulting with its actuary. The entry age normal cost valuation method shall be used in determining normal cost, and contributions for unfunded accrued liabilities shall be determined using level percent-of-payroll amortization.**

2. **At least ninety days before each regular session of the general assembly, the board shall certify to the division of budget the contribution rate necessary to cover the liabilities of the plan administered by the system, including costs of administration, expected to accrue during the next appropriation period.** The commissioner of administration shall request appropriation of the amount calculated **[**under**]** **pursuant to** the provisions of **this** subsection **[**1 of this section**]**. **Following each pay period,** the commissioner of administration **[**monthly**]** shall requisition and certify the payment to the executive director of the Missouri state employees' retirement system. The executive director shall promptly deposit the amounts certified to the credit of the Missouri state employees' retirement fund.

3. The employers of members of the system who are not paid out of funds that have been deposited in the state treasury shall remit promptly to the executive director an amount equal to the amount which the state would have paid if those members had been paid entirely from state funds. The executive director shall promptly deposit the amounts certified to the credit of the Missouri state employees' retirement system fund.

4. These amounts are funds of the system, and shall not be commingled with any funds in the state treasury.

104.438. BENEFIT FUNDS, PAY PERIOD CERTIFICATION OF AMOUNT REQUIRED — TREASURER TO TRANSFER AMOUNT TO FUND. — The commissioner of administration at the end of each **[**month**]** **pay period** shall certify to the state treasurer the amount required to be paid on account of officers and employees of each department, division, agency or unit of government whose services are covered by the Missouri state employees' retirement system. Thereupon the state treasurer shall immediately transfer such amounts from the proper funds to the credit of the fund for the Missouri state employees' retirement system.

104.515. INSURANCE AND DISABILITY BENEFITS TO BE KEPT IN SEPARATE ACCOUNTS — STATE'S CONTRIBUTION, AMOUNT, CONTRIBUTION TO BE MADE FROM HIGHWAY FUNDS FOR CERTAIN EMPLOYEES, WHEN — EMPLOYEES AND FAMILIES, WHO ARE COVERED FOR MEDICAL INSURANCE — PREMIUM COLLECTION FOR AMOUNT NOT COVERED BY STATE — SPECIAL CONSULTANTS, DUTIES, COMPENSATION, BENEFITS. — 1. Separate accounts for medical, life insurance and disability benefits provided pursuant to sections 104.517 and 104.518 shall be established as part of the fund. The funds, property and return on investments of the separate account shall not be commingled with any other funds, property and investment return of the system. All benefits and premiums are paid solely from the separate account for medical, life insurance and disability benefits provided pursuant to this section.

2. The state shall contribute an amount as appropriated by law and approved by the governor per month for medical benefits, life insurance and long-term disability benefits as provided pursuant to this section and sections 104.517 and 104.518. Such amounts shall include the cost of providing life insurance benefits for each active employee who is a member of the Missouri state employees' retirement system, a member of the public school retirement system and who is employed by a state agency other than an institution of higher learning, a member of the retirement system established by sections 287.812 to 287.855, RSMo, the judicial retirement system, each legislator and official holding an elective state office, members not on payroll status who are receiving workers' compensation benefits, and if the state highways and transportation

commission so elects, those employees who are members of the state transportation department employees' and highway patrol retirement system; if the state highways and transportation commission so elects to join the plan, the state shall contribute an amount as appropriated by law for medical benefits for those employees who are members of the transportation department employees' and highway patrol retirement system; an additional amount equal to the amount required, based on competitive bidding or determined actuarially, to fund the retired members' death benefit or life insurance benefit, or both, provided in subsection 4 of this section and the disability benefits provided in section 104.518. This amount shall be reported as a separate item in the monthly certification of required contributions which the commissioner of administration submits to the state treasurer and shall be deposited to the separate account for medical, life insurance and disability benefits. All contributions made on behalf of members of the state transportation department employees' and highway patrol retirement system shall be made from highway funds. If the highways and transportation commission so elects, the spouses and unemancipated children under twenty-three years of age of employees who are members of the state transportation department employees' and highway patrol retirement system shall be able to participate in the program of insurance benefits to cover medical expenses pursuant to the provisions of subsection 3 of this section.

3. The board shall determine the premium amounts required for participating employees. The premium amounts shall be the amount, which, together with the state's contribution, is required to fund the benefits provided, taking into account necessary actuarial reserves. Separate premiums shall be established for employees' benefits and a separate premium or schedule of premiums shall be established for benefits for spouses and unemancipated children under twenty-three years of age of participating employees. The employee's premiums for spouse and children benefits shall be established to cover that portion of the cost of such benefits which is not paid for by contributions by the state. All such premium amounts shall be paid to the board of trustees at the time that each employee's wages or salary would normally be paid. The premium amounts so remitted will be placed in the separate account for medical, life insurance and disability benefits. In lieu of the availability of premium deductions, the board may establish alternative methods for the collection of premium amounts.

4. Each special consultant eligible for life benefits employed by a board of trustees of a retirement system as provided in section 104.610 who is a member of the Missouri state life insurance plan or Missouri state transportation department and Missouri state highway patrol life insurance plan shall, in addition to duties prescribed in section 104.610 or any other law, and upon request of the board of trustees, give the board, orally or in writing, a short detailed statement on life insurance and death benefit problems affecting retirees. As compensation for the extra duty imposed by this subsection, any special consultant as defined above, other than a special consultant entitled to a deferred normal annuity pursuant to section 104.035 or 104.335, who retires on or after September 28, 1985, shall receive as a part of compensation for these extra duties, a death benefit of five thousand dollars**, and any special consultant who terminates employment on or after August 28, 1999, after reaching normal or early retirement age and becomes a retiree within sixty days of such termination shall receive five thousand dollars of life insurance coverage**. In addition, each special consultant who is a member of the transportation department employees' and highway patrol retirement system medical insurance plan shall also provide the board, upon request of the board, orally or in writing, a short detailed statement on physical, medical and health problems affecting retirees. As compensation for this extra duty, each special consultant as defined above shall receive, in addition to all other compensation provided by law, nine dollars, or an amount equivalent to that provided to other special consultants pursuant to the provisions of section 103.115, RSMo. In addition, any special consultant as defined in section 287.820, RSMo, or section 476.601, RSMo, who terminates employment and immediately retires on or after August 28, 1995, shall receive as a part of compensation for these duties, a death benefit of five thousand dollars **and any special consultant who terminates employment on or after August 28, 1999, after reaching**

the age of eligibility to receive retirement benefits and becomes a retiree within sixty days of such termination shall receive five thousand dollars of life insurance coverage.

5. Any former employee who is receiving disability income benefits from the Missouri state employees' retirement system or the transportation department employees' and highway patrol retirement system shall, upon application with the board of trustees of the Missouri consolidated health care plan or the transportation department employees and highway patrol medical plan, be made, constituted, appointed and employed by the respective board as a special consultant on the problems of the health of disability income recipients and, upon request of the board of trustees of each medical plan, give the board, orally or in writing, a short detailed statement of physical, medical and health problems affecting disability income recipients. As compensation for the extra duty imposed by this subsection, each such special consultant as defined in this subsection may receive, in addition to all other compensation provided by law, an amount contributed toward medical benefits coverage provided by the Missouri consolidated health care plan or the transportation employees and highway patrol medical plan pursuant to appropriations.

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.

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.

104.601. YEARS OF SERVICE TO INCLUDE UNUSED ACCUMULATED SICK LEAVE, WHEN — CREDITED SICK LEAVE NOT COUNTED FOR VESTING PURPOSES — APPLICABLE ALSO TO TEACHERS' AND SCHOOL EMPLOYEES' RETIREMENT SYSTEM. — Any member retiring pursuant to the provisions of this chapter or any member retiring pursuant to provisions of chapter 169, RSMo, who is a member of the public school retirement system and who is employed by a state agency other than an institution of higher learning, after working continuously until reaching retirement age, shall be credited with all his or her unused sick leave as **[**certified by his or her employing agency**]** **reported through the financial and human resources system maintained by the office of administration, or if a state agency's employees are not paid salaries or wages through such system, as reported directly by the state agency**. When calculating years of service, each member shall be entitled to one-twelfth of a year of creditable service for each one hundred sixty-eight hours of unused accumulated sick leave earned by the member. **The employing agency shall not certify unused sick leave unless such unused sick leave could have been used by the member for sickness or injury.** The rate of accrual of sick leave for purposes of computing years of service **[**as**]** **pursuant to** this section **[**applies to legislative, executive and judicial employees**]** shall be **[**consistent with the rate

of accrual as specified by regulations of the personnel advisory board pursuant to section 36.350, RSMo**] no greater than ten hours per month**. Nothing under this section shall allow a member to vest in the retirement system by using such credited sick leave to reach the time of vesting.

104.605. ELIGIBLE ROLLOVER DISTRIBUTION AND ELIGIBLE RETIREMENT PLAN DEFINED — COMPLIANCE WITH IRS CODE REQUIRED. — 1. Notwithstanding any provision to the contrary in this chapter, the term "eligible rollover distribution" shall have the meaning specified in section 402(c)(4) of the Internal Revenue Code of 1986, as amended, and which is herein incorporated by reference.

2. Notwithstanding any provision to the contrary in this chapter, the term "eligible retirement plan" shall have the meaning specified in section 402(c)(8)(B) of the Internal Revenue Code of 1986, as amended, and which is herein incorporated by reference.

3. For distributions occurring after December 31, 1993, the systems shall comply with section 401(a)(31) of the Internal Revenue Code of 1986, as amended, and which is herein incorporated by reference.

104.620. CONTRIBUTION REFUND TO MEMBERS — EFFECT ON BENEFITS — RECORD RETENTION — REVERSION TO CREDIT OF FUND, WHEN — REVERSION OF UNCLAIMED BENEFITS, WHEN — REFUND RECEIVED, WHEN. — 1. Any member who has not received a lump sum payment equal to the sum total of the contributions that the member paid into the retirement system, plus interest credited to his or her account, shall be entitled to such a lump sum payment. Lump sum payments made pursuant to this section shall not be reduced by any retirement benefits which a member is entitled to receive, but shall be paid in full out of appropriate funds pursuant to appropriations for this purpose.

2. In the event any accumulated contributions standing to a member of the Missouri state employees' retirement system's credit remains unclaimed by such member for a period of four years or more, such accumulated contributions shall automatically revert to the credit of the fund for the Missouri state employees' retirement system. If an application is made, after such reversion, for such accumulated contributions, the board shall pay such contributions from the fund for the Missouri state employees' retirement system; except that, no interest shall be paid on such funds after the date of the reversion to the fund for the Missouri state employees' retirement system.

3. **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 section 104.625 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 member of 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 after such reversion for such amount, the board shall pay such amount from the board's fund to the member, except that no interest shall be paid on such funds after the date of the reversion to the fund.

4. 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 that 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 service less any annuity amounts received by the member and the survivor or beneficiary.

104.625. ANNUITIES AND LUMP SUM PAYMENTS, WHEN, DETERMINATION OF AMOUNT. — Effective **[**January**]** **July** 1, 2002, any member retiring pursuant to the provisions of sections 104.010 to 104.801, except an elected official or a member of the general assembly, who has not been paid retirement benefits and continues employment for at least two years beyond normal retirement age, may elect to receive an annuity and lump sum payment or payments, determined as follows:

(1) A retroactive starting date shall be established which shall be **[**the later of the date when a normal annuity would have first been payable had the member retired at that time or five years before the annuity starting date, which shall be the first day of the month with respect to which an amount is paid as annuity pursuant to this section**]** **a date selected by the member; provided, however, that the retroactive starting date selected by the member shall not be a date which is earlier than the date when a normal annuity would have first been payable. In addition, the retroactive starting date shall not be more than five years prior to the annuity starting date, which shall be the first day of the month with respect to which an amount is paid as an annuity pursuant to this section. The member's selection of a retroactive starting date shall be done in twelve-month increments, except this restriction shall not apply when the member selects the total available time between the retroactive starting date and the annuity starting date**;

(2) The prospective annuity payable as of the annuity starting date shall be determined pursuant to the provisions otherwise applicable under the law, with the exception that it shall be the amount which would have been payable had the member actually retired on the retroactive starting date under the retirement plan selected by the member. Other than for the lump sum payment or payments specified in subdivision (3) of this section, no other amount shall be due for the period between the retroactive starting date and the annuity starting date;

(3) The lump sum payable shall be ninety percent of the annuity amounts which would have been paid to the member from the retroactive starting date to the annuity starting date had the member actually retired on the retroactive starting date and received a normal annuity. The member shall elect to receive the lump sum amount either in its entirety at the same time as the initial annuity payment is made or in three equal annual installments with the first payment made at the same time as the initial annuity payment; **[**and**]**

(4) Any annuity payable pursuant to this section that is subject to a division of benefit order pursuant to section 104.312 shall be calculated as follows:

(a) Any service of a member between the retroactive starting date and the annuity starting date shall not be considered creditable service except for purposes of calculating the division of benefit; and

(b) The lump sum payment described in subdivision (3) of this section shall not be subject to any division of benefit order**; and**

(5) For purposes of determining annual benefit increases payable as part of the lump sum and annuity provided pursuant to this section, the retroactive starting date shall be considered the member's date of retirement.

104.800. TRANSFERS OF CREDITABLE SERVICE TO OTHER RETIREMENT SYSTEM — TRANSFER TO BE MADE, WHEN — EFFECT OF TRANSFER — DEATH OF MEMBER PRIOR TO RETIREMENT AND TRANSFER TO BE COMPUTED UNDER SYSTEM WITH MOST ADVANTAGEOUS BENEFITS. — 1. Except as otherwise provided by law, any person having earned creditable service pursuant to the provisions of the state employees' retirement system or pursuant to the provisions of the state transportation department employees' and highway patrol retirement system or having service as a statewide state elective officer or having service as a member of the general assembly or having service pursuant to the provisions of sections 287.812 to 287.855, RSMo, or having service as a judge, as defined in section 476.515, RSMo, may elect prior to retirement and not after retirement, to make a one-time transfer of credit for such service or such creditable service to or from any other retirement system or type of service specified in this section or sections 56.800 to 56.840, RSMo, for which the person has accumulated service or creditable service. The amount of transferred credit shall be accumulated with the amount of such creditable service or such service earned by the person in the retirement system or type of service to which the service is transferred for purposes of determining the benefits to which the person is entitled under the retirement system or type of service to which the service is transferred. The transfer of such creditable service or service shall become effective on the first day of the second month following the month in which the person files written notification of the person's election with the retirement boards affected by such service transfer. When the election to transfer creditable service or service becomes effective, the person shall thereby forfeit any claim to any benefit under the provisions of the retirement system or type of service, as the case may be, from which the service or creditable service was transferred regardless of the amount of service or creditable service previously earned in such retirement system or type of service. **Any person who has transferred service pursuant to this subsection prior to August 28, 2002, and who is an employee covered by a retirement plan described in this subsection after that date, may elect to make an additional transfer of service prior to retirement if additional service would otherwise be available to be transferred except for the forfeiture of that service after the previous transfer. In no event shall** the amount of service **that** a person shall be entitled to transfer pursuant to the provisions of this section **[**shall not**]** exceed **[**five**] eight** years.

2. In the event of the death of a member before retirement and prior to exercising transfer rights pursuant to the provisions of this section, survivorship benefits shall be computed as if such person had in fact exercised or not exercised the person's transfer rights to produce the most advantageous benefit possible.

3. Any person that has earned creditable service pursuant to the provisions governing the Missouri state employees' retirement system or pursuant to the provisions of chapter 287, RSMo, or chapter 476, RSMo, who terminated employment prior to August 13, 1986, shall, upon application to the board of trustees of the Missouri state employees' retirement system, be made, constituted and appointed and employed by the board as a special consultant on the problems of retirement, aging and other state matters for the remainder of the person's life. Upon request of the board or the court from which the person retired, the consultant shall give opinions or be available to give opinions in writing or orally in response to such request. As compensation for such services, the consultant shall be eligible, prior to retirement, to make a one-time transfer of creditable service as provided in this section.

104.1015. ELECTION INTO YEAR 2000 PLAN, EFFECT OF — COMPARISON OF PLANS PROVIDED — CALCULATION OF ANNUITY. — 1. Persons covered by a closed plan on July 1, 2000, shall elect whether or not to change to year 2000 plan coverage. Any such person who

elects to be covered by the year 2000 plan shall forfeit all rights to receive benefits under this chapter except as provided under the year 2000 plan and all creditable service of such person under the closed plan shall be credited under the year 2000 plan. Any such person who elects not to be covered by the year 2000 plan shall waive all rights to receive benefits under the year 2000 plan. In no event shall any retroactive annuity be paid to such persons pursuant to sections 104.1003 to 104.1093 except as described in subsection 2 of this section.

2. Each retiree of the closed plan on July 1, 2000, shall be furnished by the appropriate system a written comparison of the retiree's closed plan coverage and the retiree's potential year 2000 plan coverage. A retiree shall elect whether or not to change to year 2000 plan coverage by making a written election, on a form furnished by the appropriate board, and providing that form to the system by no later than twelve months after July 1, 2000, and any retiree who fails to make such election within such time period shall be deemed to have elected to remain covered under the closed plan; provided the election must be after the retiree has received from the appropriate system such written comparison. The retirement option elected under the year 2000 plan shall be the same as the retirement option elected under the closed plan, except any retiree who is receiving one of the options providing for a continuing lifetime annuity to a surviving spouse under the closed plan may elect to receive an annuity under option 1 or 2 of section 104.1027, or a life annuity under subsection 2 of section 104.1024, provided the person who was married to the member at the time of retirement, if any, consents in writing to such election made pursuant to section 104.1024, or to any election described in this section if the person was married to a member of the Missouri state employees' retirement system. The effective date of payment of an annuity under the year 2000 plan as provided in this subsection shall begin on July 1, 2000. No adjustment shall be made to retirement benefits paid to the retiree prior to July 1, 2000. In order to calculate a new monthly annuity for retirees electing coverage under the year 2000 plan pursuant to this subsection, the following calculations shall be made:

(1) Except as otherwise provided in this subsection, the retiree's gross monthly retirement annuity in effect immediately prior to July 1, 2000, shall be multiplied by the percentage increase in the life annuity formula between the closed plan and the year 2000 plan. This amount shall be added to the retiree's gross monthly retirement annuity in effect immediately prior to July 1, 2000, to arrive at the retiree's new monthly retirement annuity in the year 2000 plan on July 1, 2000. The age of eligibility and reduction factors applicable to the retiree's original annuity under the closed plan shall remain the same in the annuity payable under the year 2000 plan, except as provided in subdivision (2) of this subsection.

(2) If option 1 or 2 pursuant to section 104.1027 is chosen by the retiree under the year 2000 plan, the new monthly retirement annuity calculated pursuant to subdivision (1) of this subsection shall be recalculated using the reduction factors for the option chosen pursuant to section 104.1027.

(3) If a temporary annuity is payable pursuant to subsection 4 of section 104.1024 the additional temporary annuity shall be calculated by multiplying the retiree's credited service by the retiree's final average pay by eight-tenths of one percent.

(4) Cost-of-living adjustments paid pursuant to section 104.1045 will commence on the anniversary of the retiree's annuity starting date coincident with or next following July 1, 2000.

(5) Any retiree or other person described in this section who elects coverage under the year 2000 plan based on service rendered as a member of the general assembly or as a statewide elected official shall receive an annuity under the year 2000 plan calculated pursuant to the provisions of section 104.1084 using the current monthly pay at the time of the election with future COLAs calculated pursuant to subsection 7 of section 104.1084.

3. Each person who is an employee and covered by the closed plan and not a retiree of the closed plan on July 1, 2000, shall elect whether or not to change to year 2000 plan coverage prior to the last business day of the month before the person's annuity starting date, and if such election has not been made within such time, annuity payments due beginning on and after the month of the annuity starting date shall be made the month following the receipt by the

appropriate system of such election and any other information required by the year 2000 plan created by sections 104.1003 to 104.1093; provided, such election must be after the person has received from the year 2000 plan a written comparison of the person's closed plan coverage and the person's potential year 2000 plan coverage and the election must be made in writing on a form furnished by the appropriate board. If such person dies after the annuity starting date but before making such election and providing such other information, no benefits shall be paid except as required pursuant to section 104.420 or subsection 2 of section 104.372 for members of the general assembly.

4. Each person who is not an employee and not a retiree and is eligible for a deferred annuity from the closed plan on July 1, 2000, shall elect whether or not to change to the year 2000 plan coverage prior to the last business day of the month before the person's annuity starting date, and if such election has not been made within such time, annuity payments due beginning on and after the month of the annuity starting date shall be made the month following the receipt by the appropriate system of such election and any other information required by the year 2000 plan created by sections 104.1003 to 104.1093; provided, the election must be after the person has received from the year 2000 plan a written comparison of the person's closed plan coverage and the person's potential year 2000 plan coverage and the election must be made in writing on a form furnished by the appropriate board. If such person dies after the annuity starting date but before making such election and providing such other information, no benefits shall be paid except as required pursuant to section 104.420 or subsection 2 of section 104.372 for members of the general assembly.

5. Each person who is not an employee and not a retiree and is eligible for a deferred annuity from the closed plan and returns to covered employment on or after July 1, 2000, shall be covered under the closed plan; provided, such person shall elect whether or not to change to the year 2000 plan coverage prior to the last business day of the month before the person's annuity starting date, and if such election has not been made within such time, annuity payments due beginning on and after the month of the annuity starting date shall be made the month following the receipt by the appropriate system of such election and any other information required by the year 2000 plan created by sections 104.1003 to 104.1093 and the election must be after the person has received from the year 2000 plan a written comparison of the person's closed plan coverage and the person's potential year 2000 plan coverage and the election must be made in writing on a form furnished by the appropriate board. If such person dies after the annuity starting date but before making such election and providing such other information, no benefits shall be paid except as required under section 104.420 or subsection 2 of section 104.372 for members of the general assembly.

6. Each person who is not an employee and not a retiree and not eligible for a deferred annuity from the closed plan but has forfeited creditable service with the closed plan and becomes an employee **on or** after **[**July 1, 2000**]** **August 28, 2002**, shall be changed to year 2000 plan coverage **[**upon such return**]** and **upon receiving credited service continuously for one year shall** receive credited service for all such forfeited creditable service under the closed plan.

7. Each person who was employed as a member of the general assembly through December 31, 2000, covered under the closed plan, and has served at least two full biennial assemblies as defined in subdivision (24) of subsection 1 of section 104.010 but who is not eligible for a deferred annuity under the closed plan shall be eligible to receive benefits under the new plan pursuant to subdivision (5) of subsection 2 of this section upon meeting the age requirements under the new plan.

8. The retirees and persons described in subsections 2 and 4 of this section shall be eligible for benefits under those subsections pursuant to subsection 8 of section 104.610.

104.1018. VESTING OF BENEFITS, WHEN — REEMPLOYMENT OF MEMBER, EFFECT OF. — 1. When a member is no longer employed in a position covered by the system, membership in the system shall thereupon cease. If a member has five or more years of credited service upon

such member's termination of membership, such member shall be a vested former member entitled to a deferred annuity pursuant to section 104.1036. If a member has fewer than five years of credited service upon termination of membership, such former member's credited service shall be forfeited, provided that if such former member becomes reemployed in a position covered by the system, such former member shall again become a member of the system and the forfeited credited service shall be restored **after receiving creditable service continuously for one year**.

2. Upon a member becoming a retiree, membership shall cease and, except as otherwise provided in section 104.1039, the person shall not again become a member of the system.

3. If a vested former member becomes reemployed in a position covered by the system before such vested former member's annuity starting date, membership shall be restored with the previous credited service and increased by such reemployment.

104.1021. CREDITED SERVICE DETERMINED BY BOARD — CALCULATION. — 1. The appropriate board shall determine how much credited service shall be given each member consistent with this section.

2. If a member terminates employment and is eligible to receive an annuity pursuant to the year 2000 plan, or becomes a vested former member at the time of termination**,** the member's or former member's unused sick leave as **[**certified by the member's employing department**]** **reported through the financial and human resources system maintained by the office of administration, or if a department's employees are not paid salaries or wages through such system, as reported directly by the department,** for which the member has not been paid will be converted to credited service at the time of application for retirement benefits. The member shall receive one-twelfth of a year of credited service for each one hundred and sixty-eight hours of such unused sick leave. **The employing department shall not certify unused sick leave unless such unused sick leave could have been used by the member for sickness or injury. The rate of accrual of sick leave for purposes of computing years of service pursuant to this section shall be no greater than ten hours per month.** Such credited service shall not be used in determining the member's eligibility for retirement or final average pay. Such credited service shall be added to the credited service in the last position of employment held as a member of the system.

3. If a member is employed in a covered position and simultaneously employed in one or more other covered or noncovered positions, credited service shall be determined as if all such employment were in one position, and covered pay shall be the total of pay for all such positions.

4. In calculating any annuity, "credited service" means a period expressed as whole years and any fraction of a year measured in twelfths that begins on the date an employee commences employment in a covered position and ends on the date such employee's membership terminates pursuant to section 104.1018 plus any additional period for which the employee is credited with service pursuant to this section.

5. A member shall be credited for all military service after membership commences as required by state and federal law.

6. Any member who had active military service in the United States Army, Air Force, Navy, Marine Corps, Army or Air National Guard, Coast Guard, or any reserve component thereof prior to becoming a member, or who is otherwise ineligible to receive credited service pursuant to subsection 1 or 5 of this section, and who became a member after the person's discharge from military service under honorable conditions may elect, prior to retirement, to purchase credited service for all such military service, but not to exceed four years, provided the person is not receiving and is not eligible to receive retirement credits or benefits from any other public or private retirement plan, other than a United States military service retirement system, for the military service to be purchased, and an affidavit so stating is filed by the member with the year 2000 plan along with the submission of appropriate documentation verifying the member's dates of active service. The purchase shall be effected by the member paying to the

system an amount equal to the state's contributions that would have been made to the system on the member's behalf had the member been a member for the period for which the member is electing to purchase credit and had the member's pay during such period of membership been the same as the annual pay rate as of the date the member was initially employed as a member, with the calculations based on the contribution rate in effect on the date of such member's employment with simple interest calculated from the date of employment to the date of election pursuant to this subsection. The payment shall be made over a period of not longer than two years, measured from the date of election, and with simple interest on the unpaid balance. If a member who purchased credited service pursuant to this subsection dies prior to retirement, the surviving spouse may, upon written request, receive a refund of the amount contributed for such purchase of such credited service, provided the surviving spouse is not entitled to survivorship benefits payable pursuant to the provisions of section 104.1030.

7. Any member of the Missouri state employees' retirement system shall receive credited service for the creditable prior service that such employee would have been entitled to under the closed plan pursuant to section 104.339, subsections 2, and 6 to 9 of section 104.340, subsection 12 of section 104.342, section 104.344, subsection 4 of section 104.345, subsection 4 of section 104.372, section 178.640, RSMo, and section 211.393, RSMo, provided such service has not been credited under the closed plan.

8. Any member who has service in both systems and dies or terminates employment shall have the member's service in the other system transferred to the last system that covered such member and any annuity payable to such member shall be paid by that system. Any such member may elect to transfer service between systems prior to termination of employment, provided, any annuity payable to such member shall be paid by the last system that covered such member prior to the receipt of such annuity.

9. In no event shall any person or member receive credited service pursuant to the year 2000 plan if that same service is credited for retirement benefits under any defined benefit retirement system not created pursuant to this chapter.

10. Any additional credited service as described in subsections 5 to 7 of this section shall be added to the credited service in the first position of employment held as a member of the system. Any additional creditable service received pursuant to section 105.691, RSMo, shall be added to the credited service in the position of employment held at the time the member completes the purchase or transfer pursuant to such section.

11. A member may not purchase any credited service described in this section unless the member has met the five-year minimum service requirement as provided in subdivisions (11) and (20) of section 104.1003, the two full biennial assemblies minimum service requirement as provided in section 104.1084, or the four-year minimum service requirement as provided in section 104.1084.

12. Absences taken by an employee without compensation for sickness and injury of the employee of less than twelve months or for leave taken by such employee without compensation pursuant to the provisions of the Family and Medical Leave Act of 1993 shall be counted as years of credited service.

104.1024. RETIREMENT, APPLICATION — ANNUITY PAYMENTS, HOW PAID, AMOUNT — ELECTION TO RECEIVE ANNUITY OR LUMP SUM PAYMENT FOR CERTAIN EMPLOYEES, DETERMINATION OF AMOUNT. — 1. Any member who terminates employment may retire on or after attaining normal retirement eligibility by making application in written form and manner approved by the appropriate board. The written application shall set forth the annuity starting date which shall not be earlier than the first day of the second month following the month of the execution and filing of the member's application for retirement nor later than the first day of the fourth month following the month of the execution and filing of the member's application for retirement.

2. A member's annuity shall be paid in the form of a life annuity, except as provided in section 104.1027, and shall be an amount for life equal to one and seven-tenths percent of the final average pay of the member multiplied by the member's years of credited service.

3. The life annuity defined in subsection 2 of this section shall not be less than a monthly amount equal to fifteen dollars multiplied by the member's full years of credited service.

4. If as of the annuity starting date of a member who has attained normal retirement eligibility the sum of the member's years of age and years of credited service equals eighty or more years and if the member's age is at least fifty years but less than sixty-two years, or, in the case of a member of the highway patrol who shall be subject to the mandatory retirement provision of section 104.080, the mandatory retirement age and completion of five years of credited service, then in addition to the life annuity described in subsection 2 of this section, the member shall receive a temporary annuity equal to eight-tenths of one percent of the member's final average pay multiplied by the member's years of credited service. The temporary annuity and any cost-of-living adjustments attributable to the temporary annuity pursuant to section 104.1045 shall terminate at the end of the calendar month in which the earlier of the following events occurs: the member's death or the member's attainment of the earliest age of eligibility for reduced Social Security retirement benefits.

5. The annuity described in subsection 2 of this section for any person who has credited service not covered by the federal Social Security Act, as provided in sections 105.300 to 105.445, RSMo, shall be calculated as follows: the life annuity shall be an amount equal to two and five-tenths percent of the final average pay of the member multiplied by the number of years of service not covered by the federal Social Security Act in addition to one and seven-tenths percent of the final average pay of the member multiplied by the member's years of credited service covered by the federal Social Security Act.

6. Effective **[**January**]** **July** 1, 2002, any member, except an elected official or a member of the general assembly, who has not been paid retirement benefits and continues employment for at least two years beyond the date of normal retirement eligibility, may elect to receive an annuity and lump sum payment or payments, determined as follows:

(1) A retroactive starting date shall be established which shall be **[**the later of the first day of retirement eligibility or five years before the annuity starting date**]** **a date selected by the member; provided, however, that the retroactive starting date selected by the member shall not be a date which is earlier than the date when a normal annuity would have first been payable. In addition, the retroactive starting date shall not be more than five years prior to the annuity starting date. The member's selection of a retroactive starting date shall be done in twelve-month increments, except this restriction shall not apply when the member selects the total available time between the retroactive starting date and the annuity starting date**;

(2) The prospective annuity payable as of the annuity starting date shall be determined pursuant to the provisions of this section, with the exception that it shall be the amount which would have been payable at the annuity starting date had the member actually retired on the retroactive starting date under the retirement plan selected by the member. Other than for the lump sum payment or payments specified in subdivision (3) of this subsection, no other amount shall be due for the period between the retroactive starting date and the annuity starting date;

(3) The lump sum payable shall be ninety percent of the annuity amounts which would have been paid to the member from the retroactive starting date to the annuity starting date had the member actually retired on the retroactive starting date and received a life annuity. The member shall elect to receive the lump sum amount either in its entirety at the same time as the initial annuity payment is made or in three equal annual installments with the first payment made at the same time as the initial annuity payment; **[**and**]**

(4) Any annuity payable pursuant to this section that is subject to a division of benefit order pursuant to section 104.1051 shall be calculated as follows:

(a) Any service of a member between the retroactive starting date and the annuity starting date shall not be considered credited service except for purposes of calculating the division of benefit; and

(b) The lump sum payment described in subdivision (3) of this section shall not be subject to any division of benefit order**; and**

(5) For purposes of determining annual benefit increases payable as part of the lump sum and annuity provided pursuant to this section, the retroactive starting date shall be considered the member's date of retirement.

104.1039. REEMPLOYMENT OF A RETIREE, EFFECT ON ANNUITY. — If a retiree is employed as an employee by a department **[**and works more than one thousand hours per year regardless of the number of positions held on or after the first day of employment, the retiree shall not receive an annuity or additional credited service for any month or part of a month for which the retiree is so employed. The system shall recover any benefit payments received by the retiree during any year that the retiree works more than one thousand hours pursuant to section 104.1060. The term "year" as used in this section shall mean the twelve-month period beginning on the annuity starting date and each subsequent year thereafter.**], the retiree shall not receive an annuity payment for any calendar month in which the retiree is so employed. While reemployed the retiree shall be considered to be a new employee with no previous credited service upon subsequent retirement. Such retiree shall receive an additional annuity in addition to the original annuity, calculated based only on the credited service and the pay earned by such retiree during reemployment and paid in accordance with the annuity option originally elected; provided such retiree who ceases to receive an annuity pursuant to this section shall not receive such additional annuity if such retiree is employed by a department in a position that is covered by a state-sponsored defined benefit retirement plan not created pursuant to this chapter. The original annuity and any additional annuity shall be paid commencing as of the end of the first month after the month during which the retiree's reemployment terminates.**

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.

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.

104.1055. ELIGIBLE ROLLOVER DISTRIBUTION AND ELIGIBLE RETIREMENT PLAN DEFINED — COMPLIANCE WITH IRS CODE, WHEN. — 1. Notwithstanding any provision to the contrary in this chapter, the term "eligible rollover distribution" shall have the meaning specified in section 402(c)(4) of the Internal Revenue Code of 1986, as amended, and which is herein incorporated by reference.

2. Notwithstanding any provision to the contrary in this chapter, the term "eligible retirement plan" shall have the meaning specified in section 402(c)(8)(B) of the Internal Revenue Code of 1986, as amended, and which is herein incorporated by reference.

3. For distributions occurring after December 31, 1993, the systems shall comply with section 401(a)(31) of the Internal Revenue Code of 1986, as amended, and which is herein incorporated by reference.

104.1066. ACTUARIAL EVALUATIONS, METHODS USED — CERTIFICATION OF CONTRIBUTION RATE, WHEN. — 1. The year 2000 plan intends to follow a financing pattern which computes and requires contribution amounts which, expressed as percents of active member payroll, will remain approximately level from year to year and from one generation of citizens to the next generation. Such contribution determinations require regular actuarial valuations, which shall be made by the board's actuary, using assumptions and methods adopted

by the board after consulting with its actuary. The entry age-normal cost valuation method shall be used in determining normal cost, and contributions for unfunded accrued liabilities shall be determined using level percent-of-payroll amortization. For purposes of this subsection **and section 104.436,** the actuary shall determine a single contribution rate applicable to both closed plan and year 2000 plan participants and, in determining such rate, make estimates of the probabilities of closed plan participants transferring to the year 2000 plan.

2. At least ninety days before each regular session of the general assembly, the board of the Missouri state employees' retirement system shall certify to the division of budget the contribution rate necessary to cover the liabilities of the year 2000 plan administered by such system, including costs of administration, expected to accrue during the next appropriation period. The commissioner of administration shall request appropriations based upon the contribution rate so certified. From appropriations so made, the commissioner of administration shall certify contribution amounts to the state treasurer who in turn shall immediately pay the **[**monthly**]** contributions to the year 2000 plan.

3. The employers of members covered by the Missouri state employees' retirement system who are not paid out of funds that have been deposited in the state treasury shall remit **[**monthly**] following each pay period** to the year 2000 plan an amount equal to the amount which the state would have paid if those members had been paid entirely from state funds. Such employers shall maintain payroll records for a minimum of five years and shall produce all such records as requested by the system. The system is authorized to request from the state office of administration an appropriation out of the annual budget of any such employer in the event such records indicate that such employer has not contributed the amounts required by this section. The office of administration shall request such appropriation which shall be equal to the amount necessary to replace any shortfall in contributions as determined by the system. From appropriations so made, the commissioner of administration shall certify contribution amounts to the state treasurer who in turn shall immediately pay such contributions to the year 2000 plan.

4. At least ninety days before each regular session of the general assembly, the board of the transportation department and highway patrol retirement system shall certify to the department of transportation and the department of public safety the contribution rate necessary to cover the liabilities of the year 2000 plan administered by such system, including costs of administration, expected to accrue during the next biennial or other appropriation period. Each department shall include in its budget and in its request for appropriations for personal service the sum so certified to it by such board, and shall present the same to the general assembly for allowance. The sums so certified and appropriated, when available, shall be immediately paid to the system and deposited in the highway and transportation employees' and highway patrol retirement and benefit fund.

5. These amounts are funds of the year 2000 plan and shall not be commingled with any funds in the state treasury.

104.1072. LIFE INSURANCE BENEFITS — MEDICAL INSURANCE FOR CERTAIN RETIREES. — 1. Each board shall provide or contract, or both, for life insurance benefits for employees covered pursuant to the year 2000 plan as follows:

(1) Employees shall be provided fifteen thousand dollars of life insurance until December 31, 2000. Effective January 1, 2001, the system shall provide or contract or both for basic life insurance for employees covered under any retirement plan administered by the system pursuant to this chapter, persons covered by sections 287.812 to 287.856, RSMo, for employees who are members of the judicial retirement system as provided in section 476.590, RSMo, and, at the election of the state highways and transportation commission, employees who are members of the highways and transportation employees' and highway patrol retirement system, in the amount equal to one times annual pay, subject to a minimum amount of fifteen thousand dollars. The board shall establish by rule or contract the method for determining the annual rate of pay and any other terms of such insurance as it deems necessary to implement the requirements pursuant

to this section. Annual rate of pay shall not include overtime or any other irregular payments as determined by the board. Such life insurance shall provide for triple indemnity in the event the cause of death is a proximate result of a personal injury or disease arising out of and in the course of actual performance of duty as an employee;

(2) **[**Upon a**] Any** member **[**terminating**] who terminates** employment **[**and becoming a retiree the month following termination of employment,**] after reaching normal or early retirement eligibility and becomes a retiree within sixty days of such termination shall receive** five thousand dollars of life insurance **[**shall be provided**] coverage**.

2. (1) In addition to the life insurance authorized by the provisions of subsection 1 of this section, any person for whom life insurance is provided or contracted for pursuant to such subsection may purchase, at the person's own expense and only if monthly voluntary payroll deductions are authorized, additional life insurance at a cost to be stipulated in a contract with a private insurance company or as may be required by a system if the board of trustees determines that the system should provide such insurance itself. The maximum amount of additional life insurance which may be so purchased is that amount which equals six times the amount of the person's annual rate of pay, subject to any maximum established by a board, except that if such maximum amount is not evenly divisible by one thousand dollars, then the maximum amount of additional insurance which may be purchased is the next higher amount evenly divisible by one thousand dollars.

(2) Any person defined in subdivision (1) of this subsection may retain an amount not to exceed sixty thousand dollars of life insurance following the date of his or her retirement if such person becomes a retiree the month following termination of employment and makes written application for such life insurance at the same time such person's application is made to the board for retirement benefits. Such life insurance shall only be provided if such person pays the entire cost of the insurance, as determined by the board, by allowing voluntary deductions from the member's annuity.

(3) In addition to the life insurance authorized in subdivision (1) of this subsection, any person for whom life insurance is provided or contracted for pursuant to this subsection may purchase, at the person's own expense and only if monthly voluntary payroll deductions are authorized, life insurance covering the person's children or the person's spouse or both at coverage amounts to be determined by the board at a cost to be stipulated in a contract with a private insurer or as may be required by the system if the board of trustees determines that the system should provide such insurance itself.

(4) Effective July 1, 2000, any member who applies and is eligible to receive an annuity based on the attainment of at least fifty years of age with a total of years of age and years of credited service which is at least eighty shall be eligible to retain any optional life insurance described in subdivision (1) of this subsection. The amount of such retained insurance shall not be greater than the amount in effect during the month prior to termination of employment. Such insurance may be retained until the member's attainment of the earliest age for eligibility for reduced Social Security retirement benefits at which time the amount of such insurance that may be retained shall be that amount permitted pursuant to subdivision (2) of this subsection.

3. The state highways and transportation commission may provide for insurance benefits to cover medical expenses for members of the highways and transportation employees' and highway patrol retirement system. The state highways and transportation commission may provide medical benefits for dependents of members and for retired members. Contributions by the state highways and transportation commission to provide the **[**insurance**]** benefits shall be on the same basis as provided for other state employees pursuant to the provisions of section 104.515. Except as otherwise provided by law, the cost of benefits for dependents of members and for **[**retired members**] retirees** and their dependents shall be paid by the members **or retirees**. The **[**state highways and transportation**]** commission may contract **with other persons or entities including but not limited to third-party administrators, health network providers and health maintenance organizations** for all, or any part of, the **[**insurance**]**

benefits provided for in this section. **[**If the state highways and transportation commission contracts for insurance benefits, or for administration of the insurance plan, such contracts shall be entered into on the basis of competitive bids.**]** **The commission may require reimbursement of any medical claims paid by the commission's medical plan for which there was third-party liability.**

4. The highways and transportation employees' and highway patrol retirement system may request the state highways and transportation commission to provide life insurance benefits as required in subsections 1 and 2 of this section. If the state highways and transportation commission agrees to the request, the highways and transportation employees' and highway patrol retirement system shall reimburse the state highways and transportation commission for any and all costs for life insurance provided pursuant to subdivision **[**(1)**]** **(2)** of subsection 1 of this section. The person who is covered pursuant to subsection 2 of this section shall be solely responsible for the costs of any additional life insurance. **In lieu of the life insurance benefit in subdivision (2) of subsection 1 of this section, the highways and transportation employees' and highway patrol retirement system is authorized in its sole discretion to provide a death benefit of five thousand dollars.**

104.1075. DISABILITY INCOME BENEFITS. — 1. Each board shall provide or contract, or both, for disability income benefits for employees pursuant to sections 104.1003 to 104.1093, and other persons specified by applicable state law, as follows:

(1) Definitions of disability and other rules and procedures necessary for the operation and administration of the disability benefit shall be established by each board;

(2) An employee may elect to waive the receipt of the disability benefit provided for under this section at any time.

2. To the extent that each board enters or has entered into any contract with any insurer or service organization to provide the disability benefits provided for pursuant to this section:

(1) The obligation to provide such disability benefits shall be primarily that of the insurer or service organization and secondarily that of the board;

(2) Any member who has been denied disability benefits by the insurer or service organization and has exhausted all appeal procedures provided by the insurer or service organization may appeal such decision by filing a petition against the insurer or service organization in a court of law in the member's county of residence;

(3) The board and the system shall not be liable for the disability benefits provided for by an insurer or service organization pursuant to this section and shall not be subject to any cause of action with regard to disability benefits or the denial of disability benefits by the insurer or service organization unless the member has obtained judgment against the insurer or service organization for disability benefits and the insurer or service organization is unable to satisfy that judgment.

104.1084. RETIREMENT BENEFITS, GENERAL ASSEMBLY MEMBERS — COLA PERMITTED, WHEN — INELIGIBILITY FOR BENEFITS. — 1. For members of the general assembly, the provisions of this section shall supplement or replace the indicated other provisions of the year 2000 plan. "Normal retirement eligibility" means attainment of age fifty-five for a member who has served at least **[**two**]** **three** full biennial assemblies or the attainment of at least age fifty for a member who has served at least **[**two**]** **three** full biennial assemblies with a total of years of age and years of credited service which is at least eighty. A member shall receive two years of credited service for every full biennial assembly served. A full biennial assembly shall be equal to the period of time beginning on the first day the general assembly convenes for a first regular session until the last day of the following year. If a member serves less than a full biennial assembly, the member shall receive credited service for the pro rata portion of the full biennial assembly served.

2. For the purposes of section 104.1024, the normal retirement annuity of a member of the general assembly shall be an amount for life equal to one twenty-fourth of the monthly pay for a senator or representative on the annuity starting date multiplied by the years of credited service as a member of the general assembly. In no event shall any such member or eligible beneficiary receive annuity amounts in excess of one hundred percent of pay.

3. To be covered by the provisions of section 104.1030, or section 104.1036, a member of the general assembly must have served at least **[**two**]** **three** full biennial assemblies.

4. For members who are statewide elected officials, the provisions of this section shall supplement or replace the indicated other provisions of the year 2000 plan. "Normal retirement eligibility" means attainment of age fifty-five for a member who has served at least four years as a statewide elected official, or the attainment of age fifty with a total of years of age and years of such credited service which is at least eighty.

5. For the purposes of section 104.1024, the normal retirement annuity of a member who is a statewide elected official shall be an amount for life equal to one twenty-fourth of the monthly pay in the highest office held by such member on the annuity starting date multiplied by the years of credited service as a statewide elected official not to exceed twelve years.

6. To be covered by the provisions of sections 104.1030 and 104.1036, a member who is a statewide elected official must have at least four years as a statewide elected official.

7. The provisions of section 104.1045 shall not apply to persons covered by the general assembly and statewide elected official provisions of this section. Persons covered by the general assembly provisions and receiving a year 2000 plan annuity shall be entitled to a cost-of-living adjustment (COLA) when there are increases in pay for members of the general assembly. Persons covered by the statewide elected official provisions and receiving a year 2000 plan annuity shall be entitled to COLAs when there are increases in the pay for statewide elected officials in the highest office held by such person. The COLA described in this subsection shall be equal to and concurrent with the percentage increase in pay as described in section 105.005, RSMo. No COLA shall be less than zero.

8. Any member who serves under this chapter as a member of the general assembly or as a statewide elected official on or after August 28, 1999, shall not be eligible to receive any retirement benefits from the system under either the closed plan or the year 2000 plan based on service rendered on or after August 28, 1999, as a member of the general assembly or as a statewide elected official if such member is convicted of a felony that is determined by a court of law to have been committed in connection with the member's duties either as a member of the general assembly or as a statewide elected official, unless such conviction is later reversed by a court of law.

9. A member of the general assembly who has purchased or transferred creditable service shall not be subject to the cap on benefits pursuant to subsection 2 of this section for that portion of the benefit attributable to the purchased or transferred service.

104.1093. DESIGNATION OF AN AGENT — BENEFIT RECIPIENT DEFINED — REVOCATION OF AGENT'S AUTHORITY. — 1. For purposes of this section, the term "benefit recipient" shall include any employee, beneficiary or retiree pursuant to sections 104.010 to 104.1093, any administrative law judge, legal advisor or beneficiary as defined pursuant to section 287.812, RSMo, or any judge or beneficiary as defined pursuant to section 476.515, RSMo, or any special commissioner pursuant to section 476.450, RSMo.

2. Notwithstanding any provision of law to the contrary, any **[**employee, beneficiary or retiree pursuant to sections 104.010 to 104.1093, any administrative law judge, legal advisor or beneficiary as defined pursuant to section 287.812, RSMo, or any judge or beneficiary as defined pursuant to section 476.515, RSMo, or any special commissioner pursuant to section 476.450, RSMo,**]** **benefit recipient** may designate an agent who shall have the same authority as an agent pursuant to a durable power of attorney pursuant to sections 404.700 to 404.737, RSMo, with regard to the application for and receipt of an annuity or any other benefits. The authority of

such agent may be revoked at any time by such **[**employee, beneficiary or retiree**]** **benefit recipient**. The authority of such agent shall not terminate if such **[**employee, beneficiary or retiree**]** **benefit recipient** becomes disabled or incapacitated. The designation shall be effective only upon the disability or incapacity of the benefit recipient as determined by that person's physician and communicated in writing to the system.

3. In the event a benefit recipient becomes disabled or incapacitated and has not designated an agent pursuant to subsection 1 of this section, the following persons may act as agent as described in subsection 1 of this section upon submission of a written statement from a physician determining that the beneficiary recipient is disabled or incapacitated:

(1) The spouse of the beneficiary recipient;

(2) If the spouse is unavailable, to a child of the beneficiary recipient;

(3) If a child is unavailable, to a brother or sister of the beneficiary recipient;

(4) If a brother or sister is unavailable, to a parent of the beneficiary recipient.

4. The system shall not be liable with regard to any payment made in good faith pursuant to this section.

104.1200. DEFINITIONS. — As used in **[**this section and section**]** **sections 104.1200 to** 104.1215, the following terms mean:

(1) "Education employee", any person described in the following classifications who is employed by one of the institutions, otherwise would meet the definition of "employee" pursuant to section 104.010 or 104.1003, and is not employed at a technical or vocational school or college: teaching personnel, instructors, assistant professors, associate professors, professors and academic administrators holding faculty rank;

(2) "Institutions", Truman State University, Northwest Missouri State University, Southeast Missouri State University, Southwest Missouri State University, Central Missouri State University, Harris-Stowe State College, Lincoln University, Missouri Western State College and Missouri Southern State College;

(3) "Outside employee", any other provisions of sections 104.010 to 104.1093 to the contrary notwithstanding, an education employee first so employed on or after July 1, 2002**, who has not been previously employed in a position covered by the Missouri state employee's retirement system**. An outside employee shall not be covered by the other benefit provisions of this chapter, but rather shall be covered by the benefit provisions provided for pursuant to sections 104.1200 to 104.1215.

104.1210. NO CREDITED SERVICE FOR OUTSIDE EMPLOYEE OR MEMBER, WHEN — INFORMATION PROVIDED BY INSTITUTIONS AND ADMINISTRATORS, WHEN. — 1. In no event shall any outside employee **[**or member of the Missouri state employees' retirement system**]** receive **[**creditable service or**]** credited service in the system for any time period in which such employee or member participated in the defined contribution plan established pursuant to sections 104.1200 to 104.1215.

2. Institutions and any third-party administrator shall provide such information to the Missouri state employees' retirement system as may be required to implement the provisions of sections 104.1200 to 104.1215.

104.1215. OUTSIDE EMPLOYEE'S ELECTION FOR MEMBERSHIP, WHEN. — Any outside employee who has participated in the defined contribution plan established pursuant to sections 104.1200 to 104.1215 for at least six years may elect to become a member of the Missouri state employees' retirement system. Such employee shall:

(1) Make such election while actively employed in a position that would otherwise be eligible for membership in the Missouri state employees' retirement system except for the provisions of sections 104.1200 to 104.1215;

(2) Participate in the year 2000 plan; **[**except that such employee shall participate in the closed plan as defined in section 104.1003 if such employee was a member of the closed plan prior to participating in such defined contribution plan;**]**

(3) Be considered to have met the service requirements contained in **[**subsection 4 of section 104.335 or**]** section 104.1018**[**, whichever is otherwise applicable**]**;

(4) Not receive any **[**creditable service or**]** credited service for service rendered while a participant in such defined contribution plan;

(5) Forfeit any right to future participation in the defined contribution plan after such election; and

(6) Not be eligible to receive credited service pursuant to section 104.1090 based on service rendered while a participant in such defined contribution plan.

105.664. ACTUARIAL VALUATION PERFORMED AT LEAST BIENNIALLY. — Each plan shall at least biennially prepare and have available as public information an actuarial valuation performed in compliance with the recommended standards and guidelines as set forth by the governmental accounting standards board. Any plan currently performing valuations on a biennial basis making a substantial proposed change in benefits as defined in section 105.660, shall have a new actuarial valuation performed using the same methods and assumptions for the most recent periodic actuarial valuation.

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. The chairman shall be the director of the division and shall have charge of the division's operations, funds and expenditures. 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 th estate 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.

476.517. ONE-TIME RETIREMENT PLAN ELECTION FOR CERTAIN JUDGES. — Any judge who is or has been a commissioner or deputy commissioner of the circuit court appointed after February 29, 1972, who has received creditable service pursuant to chapter 104, RSMo, and sections 476.515 to 476.565, based on service as a commissioner or deputy commissioner shall make a one-time retirement plan election upon application to receive retirement benefits. Such judge shall elect to**:**

(1) Receive retirement benefits based on all of the judge's service as a commissioner or deputy commissioner of the circuit court pursuant to section 104.374 or 104.1024, RSMo, or sections 476.515 to 476.565**; or**

(2) Receive retirement benefits pursuant to section 104.374 or 104.1024, RSMo, based on the judge's service as a commissioner or deputy commissioner of the circuit court prior to August 28, 1999, and receive retirement benefits pursuant to sections 476.515 to 476.565 based on the judge's service as a commissioner or deputy commissioner of the circuit court on or after August 28, 1999.

[104.095. DEATH PRIOR TO RETIREMENT, SURVIVING SPOUSE'S OPTION FOR COMPUTATION. — If an employee with ten or more years of creditable service dies before retirement, his spouse, if named as his beneficiary, may elect, in lieu of the benefits provided in section 104.140, to receive the reduced survivorship benefits under this section calculated as if the member had retired as of the date of his death. If a member who is entitled to a deferred normal annuity under the provisions of section 104.035 dies before retirement, his spouse, if named as his beneficiary, shall receive the reduced survivorship benefits under section 104.090 calculated as if the member had retired as of the date of his death.**]**

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to provide equitable treatment and timely application of certain pension benefits and compensation, 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 on July 1, 2002, or upon its passage and approval, whichever occurs later.

Approved July 11, 2002

HB 1468 [SCS HB 1468]

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

Clarifies that commercial casualty insurance filings shall not be excessive, inadequate, or unfairly discriminatory.

AN ACT to repeal sections 375.775, 376.1350, 379.321, 379.362, 379.889 and 379.890, RSMo, relating to commercial lines of insurance, and to enact in lieu thereof five new sections relating to the same subject.

SECTION
A. Enacting clause.
375.775. Association, powers and duties.
376.1350. Definitions.
379.321. Rating plans to be filed with director, when — informational filings.
379.889. Rates not to be excessive, inadequate, or unfairly discriminatory — unfair discrimination defined.
379.890. Rates, rate plan or rate system filing — required actuarial data.
379.362. Commercial property insurance and commercial casualty insurance policies exempt, when — information required — surplus lines exception.

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

SECTION A. ENACTING CLAUSE. — Sections 375.775, 376.1350, 379.321, 379.362, 379.889 and 379.890, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 375.775, 376.1350, 379.321, 379.889 and 379.890, to read as follows:

375.775. ASSOCIATION, POWERS AND DUTIES. — 1. The association shall:

(1) Be obligated to the extent of the covered claims existing prior to the date of **[**entry of a decree or judgment pursuant to section 375.560**] a final order of liquidation** or a judicial determination by a court of competent jurisdiction in the insurer's domiciliary state that an insolvent insurer exists and arising within thirty days from the date or at the time of the first such **[**decree, judgment**] order** or determination, or before the policy expiration date if less than thirty days after such date, or before or at the time the insured replaces the policy or causes its cancellation, if he does so within thirty days of such date, but obligation shall include only that amount of each covered claim which is in excess of one hundred dollars and is less than three hundred thousand dollars, except that the association shall pay the full amount of any covered claim arising out of a workers' compensation policy. In no event shall the association be obligated to an insured or claimant in an amount in excess of the face amount or the limits of the policy from which a claim arises or be obligated for the payment of unearned premium in excess of the amount of ten thousand dollars, or to an insured or claimant on any covered claim until it receives confirmation from the receiver or liquidator of an insolvent insurer that the claim is within the coverage of an applicable policy of the insolvent insurer, except that within the sole discretion of the association, if the association deems it has sufficient evidence from other sources, including any claim forms which may be propounded by the association, that the claim is within the coverage of an applicable policy of the insolvent insurer, it shall proceed to process the claim, pursuant to its statutory obligations, without such confirmation by the receiver or liquidator:

(a) All covered claims shall be filed with the association on the claim information form required by this paragraph no later than the final date first set by the court for the filing of claims against the liquidator or receiver of an insolvent insurer, except that if the time first set by the court for filing claims is one year or less from the date of insolvency, and an extension of the time to file claims is granted by the court, claims may be filed with the association no later than the new date set by the court or within one year of the date of insolvency, whichever first occurs. In no event shall the association be obligated on a claim filed after such date or on one not filed on the required form. A claim information form shall consist of a statement verified under oath by the claimant which includes all of the following:

a. The particulars of the claim;

b. A statement that the sum claimed is justly owing and that there is no setoff, counterclaim, or defense to said claim;

c. The name and address of the claimant and the attorney who represents the claimant, if any; and

d. If the claimant is an insured, that the insured's net worth did not exceed twenty-five million dollars on the date the insurer became an insolvent insurer. The association may require that a prescribed form be used and may require that other information and documents be included. A covered claim shall not include any claim not described in a timely filed claim information form even though the existence of the claim was not known to the claimant at the time a claim information form was filed;

(b) **In the case of claims arising from a member insurer subject to a final order of liquidation issued on or after September 1, 2000, the provisions of paragraph (a) of subdivision (1) of subsection 1 of this section shall not apply and in lieu thereof, such claims shall be governed by this paragraph. All covered claims shall be filed with the association, liquidator or receiver no later than the final date first set by the court for the filing of claims against the liquidator or receiver of an insolvent insurer, except that if the time first set by the court for filing claims is one year or less from the date of the insolvency, and an extension of the time to file claims is granted by the court, claims may be filed no later than the new date set by the court or within one year of the date of insolvency, whichever first occurs. The association may require that the prescribed forms be used and may require that other information and documents be included in confirming the existence of a covered claim or in determining eligibility of any claimant. Such information may include, but is not limited to:**

a. The particulars of the claim;

b. A statement that the sum claimed is justly owing and that there is not setoff, counterclaim, or defense to said claim;

c. The name and address of the claimant and the attorney who represents the claimant, if any; and

d. A verification under oath of such requested information. In no event shall the association be obligated on a claim filed with the association, liquidator or receiver for protection afforded under the insured's policy for incurred but not reported losses. A covered claim shall not include any claim that is not filed prior to the final date for filing claims, even though the existence of the claims was not known to the claimant prior to such final date.

(c) In the case of claims arising from bodily injury, sickness or disease, the amount of any such award shall not exceed the claimant's reasonable expenses incurred for necessary medical, surgical, X-ray, dental services and comparable services for individuals who, in the exercise of their constitutional rights, rely on spiritual means alone for healing in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof, including prosthetic devices and necessary ambulance, hospital, professional nursing, and any amounts lost or to be lost by reason of claimant's inability to work and earn wages or salary or their equivalent, except that the association shall pay the full amount of any covered claim arising out of a workers' compensation policy. Such award may also include payments in fact made to others, not members of claimant's household, which were reasonably incurred to obtain from such other persons ordinary and necessary services for the production of income in lieu of those services the claimant would have performed for himself had he not been injured. Verdicts as respect only those civil actions as may be brought to recover damages as provided in this section shall specifically set out the sums applicable to each item in this section for which an award may be made;

(2) Be deemed the insurer to the extent of its obligations on the covered claims and to such extent shall have all rights, duties, and obligations of the insolvent insurer as if the insurer had not become insolvent;

(3) Allocate claims paid and expenses incurred among the four accounts separately, and assess member insurers separately for each account amounts necessary to pay the obligations of

the association under subdivision (1) of this subsection to an insolvency, the expenses of handling covered claims subsequent to an insolvency, the cost of examinations under subdivision (6) of this subsection, and other expenses authorized by sections 375.771 to 375.779. The assessments of each member insurer shall be in the proportion that the net direct written premiums of the member insurer for the preceding calendar year on the kinds of insurance in the account bears to the net direct written premiums of all member insurers for the preceding calendar year of the kinds of insurance in the account. Each member insurer shall be notified of the assessment not later than thirty days before it is due. No member insurer may be assessed in any year on any account an amount greater than one percent of that member insurer's net direct written premiums for the preceding calendar year on the kinds of insurance in the account. If the maximum assessment, together with the other assets of the association in any account, does not provide in any one year in any account an amount sufficient to make all necessary payments from that account, the funds available shall be prorated and the unpaid portion shall be paid as soon thereafter as funds become available. The association may defer, in whole or in part, the assessment of any member insurer, if the assessment would cause the member insurer's financial statement to reflect amounts of capital or surplus less than the minimum amounts required for a certificate of authority by any jurisdiction in which the member insurer is authorized to transact insurance. Deferred assessments shall be paid when such payment will not reduce capital or surplus below required minimums. Such payments shall be refunded to those companies receiving larger assessments by virtue of such deferment, or, in the discretion of any such company, credited against future assessments. No dividends shall be paid stockholders or policyholders of a member insurer so long as all or part of any assessment against such insurer remains deferred. Each member insurer may set off against any assessment, authorized payments made on covered claims and expenses incurred in the payment of such claims by the member insurer if they are chargeable to the account for which the assessment is made. Assessments made under sections 375.771 to 375.779 and section 375.916 shall not be subject to subsection 1 of section 375.916;

(4) Handle claims through its employees or through one or more insurers or other persons designated as servicing facilities. Designation of a servicing facility is subject to the approval of the director, but such designation may be declined by a member insurer;

(5) Reimburse each servicing facility for obligations of the association paid by the facility and for actual expenses incurred by the facility while handling claims on behalf of the association and shall pay the other expenses of the association authorized by this section;

(6) Be subject to examination and regulation by the director. The board of directors shall submit, not later than March thirtieth of each year, a financial report for the preceding calendar year in a form approved by the director; and

(7) Be considered to have been designated commissioner pursuant to subsection 2 of section 375.670, and it shall proceed to investigate, hear, settle, and determine covered claims unless the claimant shall, within thirty days from the date the claim is presented, present a written demand that such claim be processed in the liquidation proceedings as a claim not covered by sections 375.771 to 375.779.

2. The association may:

(1) Appear in, defend and appeal any action on a claim brought against the association;

(2) Employ or retain such persons as are necessary to handle claims and perform other duties of the association;

(3) Borrow funds necessary to effect the purposes of sections 375.771 to 375.779 in accord with the plan of operation;

(4) Sue or be sued;

(5) Negotiate and become a party to such contracts as are necessary to carry out the purpose of sections 375.771 to 375.779;

(6) Perform such other acts as are necessary or proper to effectuate the purpose of sections 375.771 to 375.779;

(7) Refund to the member insurers in proportion to the contribution of each member insurer to that account that amount by which the assets of the account exceed the liabilities, if, at the end of any calendar year, the board of directors finds that the assets of the association in any account exceed the liabilities of that account as estimated by the board of directors for the coming year; and

(8) Become a member of the National Committee on Insurance Guaranty Funds.

376.1350. DEFINITIONS. — For purposes of sections 376.1350 to 376.1390, the following terms mean:

(1) "Adverse determination", a determination by a health carrier or its designee utilization review organization that an admission, availability of care, continued stay or other health care service has been reviewed and, based upon the information provided, does not meet the health carrier's requirements for medical necessity, appropriateness, health care setting, level of care or effectiveness, and the payment for the requested service is therefore denied, reduced or terminated;

(2) "Ambulatory review", utilization review of health care services performed or provided in an outpatient setting;

(3) "Case management", a coordinated set of activities conducted for individual patient management of serious, complicated, protracted or other health conditions;

(4) "Certification", a determination by a health carrier or its designee utilization review organization that an admission, availability of care, continued stay or other health care service has been reviewed and, based on the information provided, satisfies the health carrier's requirements for medical necessity, appropriateness, health care setting, level of care and effectiveness;

(5) "Clinical peer", a physician or other health care professional who holds a nonrestricted license in a state of the United States and in the same or similar specialty as typically manages the medical condition, procedure or treatment under review;

(6) "Clinical review criteria", the written screening procedures, decision abstracts, clinical protocols and practice guidelines used by the health carrier to determine the necessity and appropriateness of health care services;

(7) "Concurrent review", utilization review conducted during a patient's hospital stay or course of treatment;

(8) "Covered benefit" or "benefit", a health care service that an enrollee is entitled under the terms of a health benefit plan;

(9) "Director", the director of the department of insurance;

(10) "Discharge planning", the formal process for determining, prior to discharge from a facility, the coordination and management of the care that a patient receives following discharge from a facility;

(11) "Drug", any substance prescribed by a licensed health care provider acting within the scope of the provider's license and that is intended for use in the diagnosis, mitigation, treatment or prevention of disease. The term includes only those substances that are approved by the FDA for at least one indication;

(12) "Emergency medical condition", the sudden and, at the time, unexpected onset of a health condition that manifests itself by symptoms of sufficient severity that would lead a prudent lay person, possessing an average knowledge of medicine and health, to believe that immediate medical care is required, which may include, but shall not be limited to:

(a) Placing the person's health in significant jeopardy;

(b) Serious impairment to a bodily function;

(c) Serious dysfunction of any bodily organ or part;

(d) Inadequately controlled pain; or

(e) With respect to a pregnant woman who is having contractions:

a. That there is inadequate time to effect a safe transfer to another hospital before delivery; or

b. That transfer to another hospital may pose a threat to the health or safety of the woman or unborn child;

(13) "Emergency service", a health care item or service furnished or required to evaluate and treat an emergency medical condition, which may include, but shall not be limited to, health care services that are provided in a licensed hospital's emergency facility by an appropriate provider;

(14) "Enrollee", a policyholder, subscriber, covered person or other individual participating in a health benefit plan;

(15) "FDA", the federal Food and Drug Administration;

(16) "Facility", an institution providing health care services or a health care setting, including but not limited to hospitals and other licensed inpatient centers, ambulatory surgical or treatment centers, skilled nursing centers, residential treatment centers, diagnostic, laboratory and imaging centers, and rehabilitation and other therapeutic health settings;

(17) "Grievance", a written complaint submitted by or on behalf of an enrollee regarding the:

(a) Availability, delivery or quality of health care services, including a complaint regarding an adverse determination made pursuant to utilization review;

(b) Claims payment, handling or reimbursement for health care services; or

(c) Matters pertaining to the contractual relationship between an enrollee and a health carrier;

(18) "Health benefit plan", a policy, contract, certificate or agreement entered into, offered or issued by a health carrier to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services**; except that, health benefit plan shall not include any coverage pursuant to liability insurance policy, workers' compensation insurance policy, or medical payments insurance issued as a supplement to a liability policy**;

(19) "Health care professional", a physician or other health care practitioner licensed, accredited or certified by the state of Missouri to perform specified health services consistent with state law;

(20) "Health care provider" or "provider", a health care professional or a facility;

(21) "Health care service", a service for the diagnosis, prevention, treatment, cure or relief of a health condition, illness, injury or disease;

(22) "Health carrier", an entity subject to the insurance laws and regulations of this state that contracts or offers to contract to provide, deliver, arrange for, pay for or reimburse any of the costs of health care services, including a sickness and accident insurance company, a health maintenance organization, a nonprofit hospital and health service corporation, or any other entity providing a plan of health insurance, health benefits or health services**; except that such plan shall not include any coverage pursuant to a liability insurance policy, workers' compensation insurance policy, or medical payments insurance issued as a supplement to a liability policy**;

(23) "Health indemnity plan", a health benefit plan that is not a managed care plan;

(24) "Managed care plan", a health benefit plan that either requires an enrollee to use, or creates incentives, including financial incentives, for an enrollee to use, health care providers managed, owned, under contract with or employed by the health carrier;

(25) "Participating provider", a provider who, under a contract with the health carrier or with its contractor or subcontractor, has agreed to provide health care services to enrollees with an expectation of receiving payment, other than coinsurance, co-payments or deductibles, directly or indirectly from the health carrier;

(26) "Peer-reviewed medical literature", a published scientific study in a journal or other publication in which original manuscripts have been published only after having been critically reviewed for scientific accuracy, validity and reliability by unbiased independent experts, and that has been determined by the International Committee of Medical Journal Editors to have met the uniform requirements for manuscripts submitted to biomedical journals or is published in a

journal specified by the United States Department of Health and Human Services pursuant to section 1861(t)(2)(B) of the Social Security Act, as amended, as acceptable peer-reviewed medical literature. Peer-reviewed medical literature shall not include publications or supplements to publications that are sponsored to a significant extent by a pharmaceutical manufacturing company or health carrier;

(27) "Person", an individual, a corporation, a partnership, an association, a joint venture, a joint stock company, a trust, an unincorporated organization, any similar entity or any combination of the foregoing;

(28) "Prospective review", utilization review conducted prior to an admission or a course of treatment;

(29) "Retrospective review", utilization review of medical necessity that is conducted after services have been provided to a patient, but does not include the review of a claim that is limited to an evaluation of reimbursement levels, veracity of documentation, accuracy of coding or adjudication for payment;

(30) "Second opinion", an opportunity or requirement to obtain a clinical evaluation by a provider other than the one originally making a recommendation for a proposed health service to assess the clinical necessity and appropriateness of the initial proposed health service;

(31) "Stabilize", with respect to an emergency medical condition, that no material deterioration of the condition is likely to result or occur before an individual may be transferred;

(32) "Standard reference compendia":

(a) The American Hospital Formulary Service-Drug Information; or

(b) The United States Pharmacopoeia-Drug Information;

(33) "Utilization review", a set of formal techniques designed to monitor the use of, or evaluate the clinical necessity, appropriateness, efficacy, or efficiency of, health care services, procedures, or settings. Techniques may include ambulatory review, prospective review, second opinion, certification, concurrent review, case management, discharge planning or retrospective review. Utilization review shall not include elective requests for clarification of coverage;

(34) "Utilization review organization", a utilization review agent as defined in section 374.500, RSMo.

379.321. RATING PLANS TO BE FILED WITH DIRECTOR, WHEN — INFORMATIONAL FILINGS. — 1. Every insurer shall file with the director, except as to commercial property or commercial casualty insurance as provided in subsection 6 of this section, every manual of classifications, rules, underwriting rules and rates, every rating plan and every modification of the foregoing which it uses and the policies and forms to which such rates are applied. Any insurer may satisfy its obligation to make any such filings by becoming a member of, or a subscriber to, a licensed rating organization which makes such filings and by authorizing the director to accept such filings on its behalf, provided that nothing contained in section 379.017 and sections 379.316 to 379.361 shall be construed as requiring any insurer to become a member of or a subscriber to any rating organization or as requiring any member or subscriber to authorize the director to accept such filings on its behalf. Filing with the director by such insurer or licensed rating organization within ten days after such manuals, rating plans or modifications thereof or policies or forms are effective shall be sufficient compliance with this section.

2. Except as to commercial property or commercial casualty insurance as provided in subsection 6 of this section **[**and inland marine risks as provided in subsection 1 of this section**]**, no insurer shall make or issue a policy or contract except pursuant to filings which are in effect for that insurer or pursuant to section 379.017 and sections 379.316 to 379.361. Any rates, rating plans, rules, classifications or systems, in effect on August 13, 1972, shall be continued in effect until withdrawn by the insurer or rating organization which filed them.

3. Upon the written application of the insured, stating his or her reasons therefor, filed with the insurer, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk.

4. Every insurer which is a member of or a subscriber to a rating organization shall be deemed to have authorized the director to accept on its behalf all filings made by the rating organization which are within the scope of its membership or subscribership, provided:

(1) That any subscriber may withdraw or terminate such authorization, either generally or for individual filings, by written notice to the director and to the rating organization and may then make its own independent filings for any kinds of insurance, or subdivisions, or classes of risks, or parts or combinations of any of the foregoing, with respect to which it has withdrawn or terminated such authorization, or may request the rating organization, within its discretion, to make any such filing on an agency basis solely on behalf of the requesting subscriber; and

(2) That any member may proceed in the same manner as a subscriber unless the rating organization shall have adopted a rule, with the approval of the director:

(a) Requiring a member, before making an independent filing, first to request the rating organization to make such filing on its behalf and requiring the rating organization, within thirty days after receipt of such request, either:

a. To make such filing as a rating organization filing;

b. To make such filing on an agency basis solely on behalf of the requesting member; or

c. To decline the request of such member; and

(b) Excluding from membership any insurer which elects to make any filing wholly independently of the rating organization.

5. Any change in a filing made pursuant to this section during the first six months of the date such filing becomes effective shall be approved or disapproved by the director within ten days following the director's receipt of notice of such proposed change.

6. Commercial property and commercial casualty requirements differ as follows:

(1) All commercial property and commercial casualty insurance rates, rate plans, modifications, and manuals of classifications, where appropriate, shall be filed with the director for informational purposes only. Such rates are not to be reviewed or approved by the department of insurance as a condition of their use. Nothing in this subsection shall require the filing of individual rates where the original manuals, rates and rules for the insurance plan or program to which such individual policies conform have already been filed with the director;

(2) If an insurer will only renew a commercial casualty or commercial property insurance policy with an increase in premium of twenty-five percent or more, a "premium alteration requiring notification" notice must be mailed or delivered by the insurer at least sixty days prior to the expiration date of the policy, except in the case of an umbrella or excess policy the coverage of which is contingent on the coverage of an underlying policy of commercial property or casualty insurance, in which case notice of an increase in premium of twenty-five percent or more shall be mailed or delivered at least thirty days prior to the expiration date of the policy. Such notice shall be mailed or delivered to the agent of record and to the named insured at the address shown in the policy. If the insurer fails to meet this notice requirement, the insured shall have the option of continuing the policy for the remainder of the notice period plus an additional thirty days at the premium rate of the existing policy or contract. This provision does not apply if the insurer has offered to renew a policy without such an increase in premium or if the insured fails to pay a premium due or any advance premium required by the insurer for renewal. For purposes of this section, "premium alteration requiring notification" means an annual increase in premium of twenty-five percent or more, exclusive of premium increases due to a change in the operations of the insured which increases either the hazard insured against or the individual loss characteristics, or due to a change in the magnitude of the exposure basis, including, without limitation, increases in payroll or sales. For commercial multiperil policies, no "premium alteration requiring notification" shall be required unless the increase in premium for all of a policyholder's policies taken together amounts to a twenty-five percent or more annual increase in premium;

(3) Commercial property and commercial casualty policy forms shall be filed with the director as provided pursuant to subsection 1 of this section. However, if after review, it is

determined that corrective action must be taken to modify the filed forms, the director shall impose such corrective action on a prospective basis for new policies. All policies previously issued which are of a type that is subject to such corrective action shall be deemed to have been modified to conform to such corrective action retroactive to their inception date;

(4) For purposes of this section, "commercial casualty" means "commercial casualty insurance" as defined in section 379.882. For purposes of this section, "commercial property" means property insurance, which is for business and professional interests, whether for profit, nonprofit or public in nature which is not for personal, family or household purposes, **and shall include commercial inland marine insurance,** but does not include title insurance;

(5) Nothing in this subsection shall limit the director's authority over excessive, inadequate or unfairly discriminatory rates.

379.889. RATES NOT TO BE EXCESSIVE, INADEQUATE, OR UNFAIRLY DISCRIMINATORY — UNFAIR DISCRIMINATION DEFINED. — **[**1. The effective date of a commercial casualty insurance filing required to be submitted to the director for review shall be the date specified therein, but not earlier than sixty days after the filing is received by the director. If the director has reviewed the filing prior to expiration of the waiting period, the director may authorize an effective date prior to expiration of the waiting period but not earlier than the date such written application is received. If the director has not approved or disapproved the commercial casualty insurance filing within the sixty-day period after the filing is received by the director, the filing shall be deemed approved until such time as the director disapproves the filing.

2. The director shall only approve**]** Commercial casualty insurance **[**filings that are not**] rates shall not be** excessive, inadequate or unfairly discriminatory. No rate shall be held to be excessive unless such rate is unreasonably high for the insurance coverage provided. No rate shall be held to be inadequate unless such rate is unreasonably low for the insurance coverage provided and is insufficient to sustain projected losses and expenses or unless such rate is unreasonably low for the insurance coverage provided and the use of such rate has, or if continued will have, the effect of destroying competition or creating a monopoly. Unfair discrimination shall be defined to include, but shall not be limited to, the use of rates which unfairly discriminate between risks in the application of like charges or credits or the use of rates which unfairly discriminate between risks having essentially the same hazard.

379.890. RATES, RATE PLAN OR RATE SYSTEM FILING — REQUIRED ACTUARIAL DATA. — Supporting actuarial data shall **[**accompany every**] be filed in support of a** commercial casualty insurance rate, rating plan, or rating system filing**, whenever requested by the director to determine whether rates are excessive, inadequate or unfairly discriminatory**. The data shall be in sufficient detail to:

(1) Justify any rate level changes; and

(2) Demonstrate the statistical significance of differences or correlations relevant to rating plan definitions and rate differentials.

[379.362. COMMERCIAL PROPERTY INSURANCE AND COMMERCIAL CASUALTY INSURANCE POLICIES EXEMPT, WHEN — INFORMATION REQUIRED — SURPLUS LINES EXCEPTION. — 1. Commercial property insurance and commercial casualty insurance policies shall be exempt from those provisions of sections 379.316 to 379.361, sections 379.420 to 379.510 and section 379.888 which concern regulation by the department of policy language, policy provisions or the format of such policies, or the rates associated with such policies, for any policy for which the policyholder certifies in writing, on a certification form approved by the department, that the policyholder understands that the policy's language or the policy's rating is unregulated by the department and that the requirements of either subdivision (1) or subdivision (2) below are met:

(1) The policyholder has utilized the services of the independent insurance adviser. For purposes of this section, the term "independent insurance adviser" means a person who is qualified through education, training or experience to assess the purchaser's insurance needs and analyze the policy with or on behalf of the policyholder. Such an insurance adviser may be an employee of the policyholder or a person retained by the purchaser, provided that the independent insurance adviser shall not also be an employee of the insurer. Such an independent insurance adviser shall only be compensated for services related to the insurance transaction in question by the policyholder; or

(2) The policyholder's commercial operations meet any two of the following criteria:

(a) One hundred or more employees;

(b) A net worth of over twenty-five million dollars;

(c) Net revenues or sales of over fifty million dollars;

(d) Paid aggregate annual commercial insurance premiums of over fifty thousand dollars, excluding workers' compensation and employer's liability insurance;

(e) Is a not-for-profit or public entity with an annual budget or assets of at least twenty-five million dollars; or

(f) Is a municipality with a population of over fifty thousand inhabitants.

2. An insurer writing a commercial property or commercial casualty insurance policy pursuant to subsection 1 of this section shall retain a copy of the policyholder's written certification as part of the insurer's policy records of the transaction.

3. Nothing contained in subsection 1 of this section shall be construed as exempting commercial property or commercial casualty policies which meet the requirements of subsection 1 of this section from any regulatory authority of the director of the department of insurance other than that authority related to the oversight of the policy language, policy provisions or the format of policies, or of the rates used to calculate the amount of premium charged. In particular, nothing contained in subsection 1 of this section shall limit the director's authority over excessive, inadequate or unfairly discriminatory rates.

4. The director may, by rule, require insurers providing coverage pursuant to subsection 1 of this section to retain information in such insurer's files identifying the policies providing such coverage, and to report to the department aggregate data regarding the types of such coverage written and the amounts charged for such coverage.

5. Notwithstanding the provisions of section 384.017, RSMo, commercial property or commercial casualty insurance meeting the requirements of subsection 1 of this section may be procured through a surplus lines licensee from an eligible surplus lines insurer even though the same type of coverage or quality of service is obtainable in the market from admitted insurers.**]**

Approved July 2, 2002

HB 1473 [SCS HB 1473]

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

Allows enrollees to waive their right to receive documents and materials from their health insurer.

AN ACT to repeal section 376.1350, RSMo, relating to health insurance, and to enact in lieu thereof two new sections relating to the same subject.

SECTION
A. Enacting clause.
376.1350. Definitions.
376.1450. Waiver of enrollee's right to receive documents and materials in printed form, when.

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

SECTION A. ENACTING CLAUSE. — Section 376.1350, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 376.1350 and 376.1450, to read as follows:

376.1350. DEFINITIONS. — For purposes of sections 376.1350 to 376.1390, the following terms mean:

(1) "Adverse determination", a determination by a health carrier or its designee utilization review organization that an admission, availability of care, continued stay or other health care service has been reviewed and, based upon the information provided, does not meet the health carrier's requirements for medical necessity, appropriateness, health care setting, level of care or effectiveness, and the payment for the requested service is therefore denied, reduced or terminated;

(2) "Ambulatory review", utilization review of health care services performed or provided in an outpatient setting;

(3) "Case management", a coordinated set of activities conducted for individual patient management of serious, complicated, protracted or other health conditions;

(4) "Certification", a determination by a health carrier or its designee utilization review organization that an admission, availability of care, continued stay or other health care service has been reviewed and, based on the information provided, satisfies the health carrier's requirements for medical necessity, appropriateness, health care setting, level of care and effectiveness;

(5) "Clinical peer", a physician or other health care professional who holds a nonrestricted license in a state of the United States and in the same or similar specialty as typically manages the medical condition, procedure or treatment under review;

(6) "Clinical review criteria", the written screening procedures, decision abstracts, clinical protocols and practice guidelines used by the health carrier to determine the necessity and appropriateness of health care services;

(7) "Concurrent review", utilization review conducted during a patient's hospital stay or course of treatment;

(8) "Covered benefit" or "benefit", a health care service that an enrollee is entitled under the terms of a health benefit plan;

(9) "Director", the director of the department of insurance;

(10) "Discharge planning", the formal process for determining, prior to discharge from a facility, the coordination and management of the care that a patient receives following discharge from a facility;

(11) "Drug", any substance prescribed by a licensed health care provider acting within the scope of the provider's license and that is intended for use in the diagnosis, mitigation, treatment or prevention of disease. The term includes only those substances that are approved by the FDA for at least one indication;

(12) "Emergency medical condition", the sudden and, at the time, unexpected onset of a health condition that manifests itself by symptoms of sufficient severity that would lead a prudent lay person, possessing an average knowledge of medicine and health, to believe that immediate medical care is required, which may include, but shall not be limited to:

(a) Placing the person's health in significant jeopardy;

(b) Serious impairment to a bodily function;

(c) Serious dysfunction of any bodily organ or part;

(d) Inadequately controlled pain; or

(e) With respect to a pregnant woman who is having contractions:

a. That there is inadequate time to effect a safe transfer to another hospital before delivery; or

b. That transfer to another hospital may pose a threat to the health or safety of the woman or unborn child;

(13) "Emergency service", a health care item or service furnished or required to evaluate and treat an emergency medical condition, which may include, but shall not be limited to, health care services that are provided in a licensed hospital's emergency facility by an appropriate provider;

(14) "Enrollee", a policyholder, subscriber, covered person or other individual participating in a health benefit plan;

(15) "FDA", the federal Food and Drug Administration;

(16) "Facility", an institution providing health care services or a health care setting, including but not limited to hospitals and other licensed inpatient centers, ambulatory surgical or treatment centers, skilled nursing centers, residential treatment centers, diagnostic, laboratory and imaging centers, and rehabilitation and other therapeutic health settings;

(17) "Grievance", a written complaint submitted by or on behalf of an enrollee regarding the:

(a) Availability, delivery or quality of health care services, including a complaint regarding an adverse determination made pursuant to utilization review;

(b) Claims payment, handling or reimbursement for health care services; or

(c) Matters pertaining to the contractual relationship between an enrollee and a health carrier;

(18) "Health benefit plan", a policy, contract, certificate or agreement entered into, offered or issued by a health carrier to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services**; except that, health benefit plan shall not include any coverage pursuant to liability insurance policy, workers' compensation insurance policy, or medical payments insurance issued as a supplement to a liability policy**;

(19) "Health care professional", a physician or other health care practitioner licensed, accredited or certified by the state of Missouri to perform specified health services consistent with state law;

(20) "Health care provider" or "provider", a health care professional or a facility;

(21) "Health care service", a service for the diagnosis, prevention, treatment, cure or relief of a health condition, illness, injury or disease;

(22) "Health carrier", an entity subject to the insurance laws and regulations of this state that contracts or offers to contract to provide, deliver, arrange for, pay for or reimburse any of the costs of health care services, including a sickness and accident insurance company, a health maintenance organization, a nonprofit hospital and health service corporation, or any other entity providing a plan of health insurance, health benefits or health services**; except that such plan shall not include any coverage pursuant to a liability insurance policy, workers' compensation insurance policy, or medical payments insurance issued as a supplement to a liability policy**;

(23) "Health indemnity plan", a health benefit plan that is not a managed care plan;

(24) "Managed care plan", a health benefit plan that either requires an enrollee to use, or creates incentives, including financial incentives, for an enrollee to use, health care providers managed, owned, under contract with or employed by the health carrier;

(25) "Participating provider", a provider who, under a contract with the health carrier or with its contractor or subcontractor, has agreed to provide health care services to enrollees with an expectation of receiving payment, other than coinsurance, co-payments or deductibles, directly or indirectly from the health carrier;

(26) "Peer-reviewed medical literature", a published scientific study in a journal or other publication in which original manuscripts have been published only after having been critically

reviewed for scientific accuracy, validity and reliability by unbiased independent experts, and that has been determined by the International Committee of Medical Journal Editors to have met the uniform requirements for manuscripts submitted to biomedical journals or is published in a journal specified by the United States Department of Health and Human Services pursuant to section 1861(t)(2)(B) of the Social Security Act, as amended, as acceptable peer-reviewed medical literature. Peer-reviewed medical literature shall not include publications or supplements to publications that are sponsored to a significant extent by a pharmaceutical manufacturing company or health carrier;

(27) "Person", an individual, a corporation, a partnership, an association, a joint venture, a joint stock company, a trust, an unincorporated organization, any similar entity or any combination of the foregoing;

(28) "Prospective review", utilization review conducted prior to an admission or a course of treatment;

(29) "Retrospective review", utilization review of medical necessity that is conducted after services have been provided to a patient, but does not include the review of a claim that is limited to an evaluation of reimbursement levels, veracity of documentation, accuracy of coding or adjudication for payment;

(30) "Second opinion", an opportunity or requirement to obtain a clinical evaluation by a provider other than the one originally making a recommendation for a proposed health service to assess the clinical necessity and appropriateness of the initial proposed health service;

(31) "Stabilize", with respect to an emergency medical condition, that no material deterioration of the condition is likely to result or occur before an individual may be transferred;

(32) "Standard reference compendia":

(a) The American Hospital Formulary Service-Drug Information; or

(b) The United States Pharmacopoeia-Drug Information;

(33) "Utilization review", a set of formal techniques designed to monitor the use of, or evaluate the clinical necessity, appropriateness, efficacy, or efficiency of, health care services, procedures, or settings. Techniques may include ambulatory review, prospective review, second opinion, certification, concurrent review, case management, discharge planning or retrospective review. Utilization review shall not include elective requests for clarification of coverage;

(34) "Utilization review organization", a utilization review agent as defined in section 374.500, RSMo.

376.1450. WAIVER OF ENROLLEE'S RIGHT TO RECEIVE DOCUMENTS AND MATERIALS IN PRINTED FORM, WHEN. — An enrollee, as defined in section 376.1350, may waive his or her right to receive documents and materials from a managed care entity in printed form so long as such documents and materials are readily accessible electronically through the entity's Internet site. An enrollee may revoke such waiver at any time by notifying the managed care entity by phone or in writing or annually. Any enrollee who does not execute such a waiver and prospective enrollees shall have documents and materials from the managed care entity provided in printed form. For purposes of this section, "managed care entity" includes, but is not limited to, a health maintenance organization, preferred provider organization, point of service organization and any other managed health care delivery entity of any type or description.

Approved July 3, 2002

HB 1477 [SCS HB 1477]

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

Revises Missouri Health and Educational Facilities Act to include public community junior colleges.

AN ACT to repeal sections 360.106, 360.111, and 360.112, RSMo, and to enact in lieu thereof three new sections relating to the Missouri health and educational facilities act.

SECTION

A. Enacting clause.
360.106. Definitions — bonds or notes issued for loans to or purchase of notes of school districts and community junior colleges — how secured — investment of funds — bids required for professional services furnished — report by authority due when.
360.111. School districts or public community junior college may participate in a direct deposit agreement — participation a waiver of right to bankruptcy.
360.112. Authority to serve as administrator for issuances — commissioner of education and state treasurer's authority.

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

SECTION A. ENACTING CLAUSE. — Sections 360.106, 360.111, and 360.112, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 360.106, 360.111, and 360.112, to read as follows:

360.106. DEFINITIONS — BONDS OR NOTES ISSUED FOR LOANS TO OR PURCHASE OF NOTES OF SCHOOL DISTRICTS AND COMMUNITY JUNIOR COLLEGES — HOW SECURED — INVESTMENT OF FUNDS — BIDS REQUIRED FOR PROFESSIONAL SERVICES FURNISHED — REPORT BY AUTHORITY DUE WHEN. — 1. As used in this section and sections 360.111 to 360.118, the following terms mean:

(1) "Funding agreement", any loan agreement, financing agreement or other agreement between the authority and a participating district under this section, providing for the use of proceeds of, security for, and the repayment of, school district bonds, and shall include a complete waiver by the participating district of all powers, rights and privileges conferred upon the participating district to institute any action authorized by any act of the Congress of the United States relating to bankruptcy on the part of the participating district;

(2) "Participating district", with respect to a particular issue of bonds, notes or other financial obligations, any school district and any public community junior college in this state which voluntarily enters into a funding agreement with the authority pursuant to this section;

(3) "School district bonds", any bonds, notes or other obligations issued by the authority for the purpose of making loans to, purchasing the bonds or notes of or otherwise by agreement using or providing for the use of the proceeds of the obligations by a participating district under this section and all related costs of issuance of the obligations including, but not limited to, all costs, charges, fees and expenses of underwriters, financial advisors, attorneys, consultants, accountants and of the authority.

2. In addition to other powers granted to the authority by sections 360.010 to 360.140, the authority shall have the power to issue school district bonds or notes for the purpose of making loans to, or purchasing the bonds, notes or other financial instruments of:

(1) Any school district or any public community junior college in this state for the use of the various funds of such school district or public community junior college for any lawful purpose; and

(2) Any school district in this state with respect to obligations issued by such school district pursuant to sections 164.121 to 164.301, RSMo, or otherwise by law.

3. In connection with the issuance of school district bonds pursuant to the powers granted in this section, the authority shall have all powers as set forth elsewhere in sections 360.010 to 360.140, and the provisions of sections 360.010 to 360.140 shall be applicable to the issuance of school district bonds to the extent that they are not inconsistent with the provisions of this section.

4. School district bonds issued pursuant to this section may be secured by a pledge of payments made to the authority by the participating district, by the bonds or notes of the participating district, or by a pooling of such payments, bonds or notes of two or more of such participating districts or as otherwise set forth in the funding agreements.

5. The authority may invest any funds held pursuant to powers granted under this section, which are not required for immediate disbursement, in any investment approved by the authority and specified in the trust indenture or resolution pursuant to which such bonds or notes are issued without regard to any limitation otherwise imposed by section 360.120 or otherwise by law; provided, however, that each participating district shall receive the earnings, or a credit for such earnings, to the extent any such amounts invested are attributable to a particular participating district.

6. (1) In connection with school district bonds, upon certification by the authority to the commissioner of education and the state treasurer that the funding agreement provides for consent by a participating district for direct deposit of its state payments to the trustee, the state treasurer shall transfer, but only out of funds described in this section, directly to the trustee for such school district bonds, the amounts needed to pay the principal and interest when due on the school district bonds attributable to a particular participating district. Such transfers for any school district bonds attributable to a particular participating district shall only be made out of, and to the extent of, the state payments and distributions from all funds to be made by the state to such participating district pursuant to sections 163.011 to 163.195, RSMo, and the distributions from the fair share fund to be made by the state to such participating district pursuant to section 149.015, RSMo. Any such transfer by the state on behalf of a participating district shall discharge the state's obligation to make such state payments to such participating district to the extent of such transfer;

(2) A participating district shall withdraw amounts from any of its funds established pursuant to section 165.011, RSMo, to the extent such amounts could have been used to make the payments made on its behalf by the state treasurer as provided in subdivision (1) of this subsection. Notwithstanding any provisions of section 108.180, RSMo, to the contrary, such amounts shall be deposited into the participating district's funds as provided by law in lieu of the state payments transferred to the trustee under the funding agreement;

(3) The authority shall from time to time develop guidelines containing certain criteria with respect to participating school districts and with respect to the issuance of school district bonds;

(4) Transfers made under this subsection pursuant to a school district's participation in a funding agreement under this section shall be made at no cost to the school district.

7. The authority shall provide for the payment of costs of issuance, costs of credit enhancement and any other costs or fees related to the issuance of any school district bonds other than reserve funds, out of the proceeds thereof or out of amounts distributed annually to the authority pursuant to sections 160.534 and 164.303, RSMo. The authority shall annually submit a request for funding of such costs to the commissioner of education in such form and at such time as he may request. A copy of such request shall be forwarded to the commissioner of administration. The authority shall provide for the payment of costs pursuant to this subsection only for bonds issued for the purpose of financing construction or renovation projects approved by voters after January 1, 1995, or refinancing construction or renovation projects or for refinance of lease purchase obligations with general obligation bonds.

8. Any refunding or refinancing of existing bonds of a school district under this section shall have a net present value savings of at least one and one-half percent of the par amount of the refunded bonds.

9. The commissioner of education shall serve as an ex officio, nonvoting, advisory member of the authority solely with regard to the exercise of powers granted pursuant to this section.

10. Nothing in this section or sections 360.111 to 360.118 shall be construed to relieve a school district **or public community junior college** of its obligation to levy a debt service levy or capital projects levy sufficient to retire any obligation of the district **or college** as otherwise provided by law.

11. Any professional services provided in connection with the sale of such bonds pursuant to this section, including, but not limited to, underwriters, bond counsel, underwriters' counsel, trustee and financial advisors, shall be obtained through competitive bidding. The initial bid for professional services shall be for a period of not longer than two years, and thereafter such bids shall be awarded for a period not longer than one year.

12. The authority shall review the cost effectiveness of the program established under this section and sections 360.111 to 360.118 and shall, on or before the fifteenth of August of each year, provide a report to the general assembly which shall contain a report on the program, the authority's findings and a recommendation of whether this section should be repealed, strengthened or otherwise amended.

360.111. SCHOOL DISTRICTS OR PUBLIC COMMUNITY JUNIOR COLLEGE MAY PARTICIPATE IN A DIRECT DEPOSIT AGREEMENT — PARTICIPATION A WAIVER OF RIGHT TO BANKRUPTCY. — Any school district **or public community junior college** which is not a participating district, as defined in section 360.106, with respect to a particular issue of its bonds, notes or other financial obligations may participate with the authority in a direct deposit agreement with respect to such issue of bonds, notes or other financial obligations. A direct deposit agreement under sections 360.111 to 360.118 shall satisfy all requirements of subsection 6 of section 360.106 with regard to funding agreements of participating districts, and such school district shall be subject to all requirements applicable to participating districts under subsections 6 and 9 of section 360.106 and shall have all powers granted to participating districts under subsection 6 of section 360.106. A direct deposit agreement under sections 360.111 to 360.118 shall include a complete waiver by the school district **or public community junior college** of all powers, rights and privileges conferred upon the school district **or public community junior college** to institute any action authorized by any act of the Congress of the United States relating to bankruptcy on the part of the school district **or public community junior college**. No school district **or public community junior college** shall be precluded from participation with the authority pursuant to section 360.106 with respect to any particular issue of bonds, notes or other financial obligations on the basis of the district's **or college's** participation with the authority in a direct deposit agreement pursuant to sections 360.111 to 360.118 with respect to any other issue of bonds, notes or other financial obligations.

360.112. AUTHORITY TO SERVE AS ADMINISTRATOR FOR ISSUANCES — COMMISSIONER OF EDUCATION AND STATE TREASURER'S AUTHORITY. — The authority shall serve as administrator for any issuance pursuant to sections 360.111 to 360.118. The authority, the commissioner of education and the state treasurer shall be authorized to take all actions with regard to a school district **or public community junior college** which has a direct deposit agreement under sections 360.111 to 360.118 as such persons are authorized to take such actions with respect to a participating district under subsection 6 of section 360.106.

Approved June 12, 2002

HB 1492 [SCS HB 1492]

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

Changes disclosure reporting deadlines.

AN ACT to repeal section 130.046, RSMo, relating to elections, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.
130.046. Times for filing of disclosure — periods covered by reports — certain disclosure reports not required — supplemental reports, when.

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

SECTION A. ENACTING CLAUSE. — Section 130.046, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 130.046, to read as follows:

130.046. TIMES FOR FILING OF DISCLOSURE — PERIODS COVERED BY REPORTS — CERTAIN DISCLOSURE REPORTS NOT REQUIRED — SUPPLEMENTAL REPORTS, WHEN. — 1. The disclosure reports required by section 130.041 for all committees shall be filed at the following times and for the following periods:

(1) Not later than the eighth day before an election for the period closing on the twelfth day before the election if the committee has made any contribution or expenditure either in support or opposition to any candidate or ballot measure;

(2) Not later than the thirtieth day after an election for a period closing on the twenty-fifth day after the election, if the committee has made any contribution or expenditure either in support of or opposition to any candidate or ballot measure; except that, a successful candidate who takes office prior to the twenty-fifth day after the election shall have complied with the report requirement of this subdivision if a disclosure report is filed by such candidate and any candidate committee under the candidate's control before such candidate takes office, and such report shall be for the period closing on the day before taking office; and

(3) Not later than the fifteenth day following the close of each calendar quarter.

Notwithstanding the provisions of this subsection, if any committee accepts contributions or makes expenditures in support of or in opposition to a ballot measure or a candidate, and the report required by this subsection for the most recent calendar quarter is filed prior to the fortieth day before the election on the measure or candidate, the committee shall file an additional disclosure report not later than the fortieth day before the election for the period closing on the forty-fifth day before the election.

2. In the case of a ballot measure to be qualified to be on the ballot by initiative petition or referendum petition, or a recall petition seeking to remove an incumbent from office, disclosure reports relating to the time for filing such petitions shall be made as follows:

(1) In addition to the disclosure reports required to be filed pursuant to subsection 1 of this section the treasurer of a committee, other than a continuing committee, supporting or opposing a petition effort to qualify a measure to appear on the ballot or to remove an incumbent from office shall file an initial disclosure report fifteen days after the committee begins the process of raising or spending money. After such initial report, the committee shall file quarterly disclosure reports as required by subdivision (3) of subsection 1 of this section until such time as the reports required by subdivisions (1) and (2) of subsection 1 of this section are to be filed. In addition the committee shall file a second disclosure report no later than the fifteenth day after the deadline date for submitting such petition. The period covered in the initial report shall begin on the day

the committee first accepted contributions or made expenditures to support or oppose the petition effort for qualification of the measure and shall close on the fifth day prior to the date of the report;

(2) If the measure has qualified to be on the ballot in an election and if a committee subject to the requirements of subdivision (1) of this subsection is also required to file a preelection disclosure report for such election any time within thirty days after the date on which disclosure reports are required to be filed in accordance with subdivision (1) of this subsection, the treasurer of such committee shall not be required to file the report required by subdivision (1) of this subsection, but shall include in the committee's preelection report all information which would otherwise have been required by subdivision (1) of this subsection.

3. The candidate, if applicable, treasurer or deputy treasurer of a committee shall file disclosure reports pursuant to this section, except for any calendar quarter in which the contributions received by the committee or the expenditures or contributions made by the committee do not exceed five hundred dollars. The reporting dates and periods covered for such quarterly reports shall not be later than the fifteenth day of January, April, July and October for periods closing on the thirty-first day of December, the thirty-first day of March, the thirtieth day of June and the thirtieth day of September. No candidate, treasurer or deputy treasurer shall be required to file the quarterly disclosure report required not later than the fifteenth day of any January immediately following a November election, provided that such candidate, treasurer or deputy treasurer shall file the information required on such quarterly report on the quarterly report to be filed not later than the fifteenth day of April immediately following such November election. Each report by such committee shall be cumulative from the date of the last report. In the case of the continuing committee's first report, the report shall be cumulative from the date of the continuing committee's organization. Every candidate, treasurer or deputy treasurer shall file, at a minimum, the campaign disclosure reports covering the quarter immediately preceding the date of the election and those required by subdivisions (1) and (2) of subsection 1 of this section. A continuing committee shall submit additional reports if it makes aggregate expenditures, other than contributions to a committee, of five hundred dollars or more, within the reporting period at the following times for the following periods:

(1) Not later than the **[**seventh**] eighth** day before an election for the period closing on the twelfth day before the election;

(2) Not later than forty-eight hours after aggregate expenditures of five hundred dollars or more are made after the twelfth day before the election; and

(3) Not later than the thirtieth day after an election for a period closing on the twenty-fifth day after the election.

4. The reports required to be filed no later than the thirtieth day after an election and any subsequently required report shall be cumulative so as to reflect the total receipts and disbursements of the reporting committee for the entire election campaign in question. The period covered by each disclosure report shall begin on the day after the closing date of the most recent disclosure report filed and end on the closing date for the period covered. If the committee has not previously filed a disclosure report, the period covered begins on the date the committee was formed; except that in the case of a candidate committee, the period covered begins on the date the candidate became a candidate according to the definition of the term candidate in section 130.011.

5. Notwithstanding any other provisions of this chapter to the contrary:

(1) Certain disclosure reports pertaining to any candidate who receives nomination in a primary election and thereby seeks election in the immediately succeeding general election shall not be required in the following cases:

(a) If there are less than fifty days between a primary election and the immediately succeeding general election, the disclosure report required to be filed quarterly; provided that, any other report required to be filed prior to the primary election and all other reports required to be

filed not later than the **[**seventh**]** **eighth** day before the general election are filed no later than the final dates for filing such reports;

(b) If there are less than eighty-five days between a primary election and the immediately succeeding general election, the disclosure report required to be filed not later than the thirtieth day after the primary election need not be filed; provided that any report required to be filed prior to the primary election and any other report required to be filed prior to the general election are filed no later than the final dates for filing such reports; and

(2) No disclosure report needs to be filed for any reporting period if during that reporting period the committee has neither received contributions aggregating more than five hundred dollars nor made expenditure aggregating more than five hundred dollars and has not received contributions aggregating more than **[**two**]** **three** hundred **[**fifty**]** dollars from any single contributor **and if the committee's treasurer files a statement with the appropriate officer that the committee has not exceeded the identified thresholds in the reporting period**. Any contributions received or expenditures made which are not reported because **[**of**]** this statement is filed in lieu of a disclosure report shall be included in the next disclosure report filed by the committee. **[**A report**]** **This statement** shall **not** be filed **in lieu of the report** for two or more consecutive disclosure **[**quarters**]** **periods** if either the contributions received or expenditures made in the aggregate during those reporting periods exceed five hundred dollars **[**and a report**]. This statement** shall **not** be filed **[**not**], in lieu of the report,** later than the thirtieth day after an election if that report would show a deficit of more than one thousand dollars.

6. (1) If the disclosure report required to be filed by a committee not later than the thirtieth day after an election shows a deficit of unpaid loans and other outstanding obligations in excess of five thousand dollars, semiannual supplemental disclosure reports shall be filed with the appropriate officer for each succeeding semiannual period until the deficit is reported in a disclosure report as being reduced to five thousand dollars or less; except that, a supplemental semiannual report shall not be required for any semiannual period which includes the closing date for the reporting period covered in any regular disclosure report which the committee is required to file in connection with an election. The reporting dates and periods covered for semiannual reports shall be not later than the fifteenth day of January and July for periods closing on the thirty-first day of December and the thirtieth day of June;

(2) Committees required to file reports pursuant to subsection 2 or 3 of this section which are not otherwise required to file disclosure reports for an election shall file semiannual reports as required by this subsection if their last required disclosure report shows a total of unpaid loans and other outstanding obligations in excess of five thousand dollars.

7. In the case of a committee which disbands and is required to file a termination statement pursuant to the provisions of section 130.021 with the appropriate officer not later than the tenth day after the committee was dissolved, the candidate, committee treasurer or deputy treasurer shall attach to the termination statement a complete disclosure report for the period closing on the date of dissolution. A committee shall not utilize the provisions of subsection 8 of section 130.021 or the provisions of this subsection to circumvent or otherwise avoid the reporting requirements of subsection 6 or 7 of this section.

8. Disclosure reports shall be filed with the appropriate officer not later than 5:00 p.m. prevailing local time of the day designated for the filing of the report and a report postmarked not later than midnight of the day previous to the day designated for filing the report shall be deemed to have been filed in a timely manner. The appropriate officer may establish a policy whereby disclosure reports may be filed by facsimile transmission.

Approved July 3, 2002

HB 1502 [SS SCS HS HCS HB 1502 & 1821]

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

Sets requirements for insurance companies that use credit reports for underwriting decisions.

AN ACT to amend chapter 375, RSMo, by adding thereto one new section relating to credit information used in insurance underwriting.

SECTION
A. Enacting clause.
375.918. Underwriting, use of credit scores, no adverse action permitted — definitions — disclosures.

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

SECTION A. ENACTING CLAUSE. — Chapter 375, RSMo, is amended by adding thereto one new section, to be known as section 375.918, to read as follows:

375.918. UNDERWRITING, USE OF CREDIT SCORES, NO ADVERSE ACTION PERMITTED — DEFINITIONS — DISCLOSURES. — 1. As used in this section, the following terms mean:

(1) "Adverse action", a denial, nonrenewal of, or a reduction in the amount of benefits payable or types of coverages under any contract, existing or applied for, in connection with the underwriting of insurance. An offer by an insurer to write a contract through an affiliated insurer does not constitute an adverse action;

(2) "Contract", any automobile insurance policy as defined in section 379.110, RSMo, or any property insurance policy as defined in section 375.001, including such a policy on a mobile home or residential condominium unit or a policy of renters' or tenants' insurance. Contract shall not include any policy of mortgage insurance or commercial insurance;

(3) "Credit report", any written or electronic communication of any information by a consumer reporting agency that:

(a) Bears on a person's credit worthiness, credit standing, or credit capacity; and

(b) Is used or collected wholly or partly to serve as a factor in the underwriting of a contract;

(4) "Credit scoring entity", any entity that is involved in creating, compiling, or providing insurance credit scores;

(5) "Insurance credit score", a numerical representation of the insurance risk a person presents using the person's attributes derived from a credit report or credit information in a formula to assess insurance risk on an actuarial or statistical basis;

(6) "Insurer", any insurance company or entity that offers a contract;

(7) "Underwriting", the selection of the risk that will be assumed by the insurer on a contract, and specifically the decision whether to accept, deny, renew, nonrenew, reduce, or increase the amount of benefits payable or types of coverages under the contract.

2. An insurer using a credit report or insurance credit score as a factor in underwriting shall not take an adverse action based on such factor without consideration of another noncredit related underwriting factor.

3. No insurer shall take an adverse action against an applicant or insured based on inability to compute an insurance credit score without consideration of another underwriting factor, unless the insurer can justify the credibility that the lack of an insurance credit score has in underwriting to the director of insurance.

4. An insurer using a credit report or insurance credit score as a factor in underwriting a contract shall disclose at the time of the original application for the contract or on the application itself that the insurer may gather credit information.

5. An insurer using a credit report or insurance credit score as a factor in underwriting of a contract shall not take an adverse action on such contract based on information that is the subject of a written dispute between the policyholder or applicant and a consumer reporting agency, as noted in such person's credit report, until such dispute has reached final determination in accordance with the federal Fair Credit Reporting Act, 15 U.S.C. Section 1681, et seq. In the event that information is the subject of a written dispute under this subsection, the sixty-day period provided by section 375.002 or section 379.110, RSMo, shall be extended until fifteen days after the dispute reaches final determination. Nothing in this subsection shall be construed to require any consumer reporting agency, as defined by the federal Fair Credit Reporting Act, 15 U.S.C. Section 1681, et seq., to include any information on a credit report beyond the extent required by the federal Fair Credit Reporting Act, 15 U.S.C. Section 1681, et seq.

6. If the use of a credit report or insurance credit score on a contract results in an adverse action, the insurer shall provide the policyholder or applicant:

(1) Notice that a credit report or insurance credit score adversely affected the underwriting of the contract;

(2) The name, address, and telephone number of the consumer credit reporting agency that furnished the credit information, in compliance with the notice requirements of the federal Fair Credit Reporting Act, 15 U.S.C. Section 1681, et seq.;

(3) Notice of the right to obtain a free credit report from the consumer credit reporting agency within sixty days; and

(4) Notice of the right to lodge a dispute with the consumer credit reporting agency to have any erroneous information corrected in accordance with the federal Fair Credit Reporting Act, 15 U.S.C. Section 1681, et seq.

7. Within thirty days from the date the insurer provides notice of an adverse action pursuant to subdivision (1) of subsection 6 of this section, the applicant or insured may in writing request from the insurer a statement of reasons for such action. For purposes of determining the thirty-day period, the notice of an adverse action is deemed received three days after mailing. The statement of reasons shall be sufficiently clear and specific so that a person of average intelligence can identify the basis for the insurer's decision without further inquiry. An insurer may provide an explanation of significant characteristics of the credit history that may have impacted such person's insurance credit score to meet the requirements of this subsection. Standardized credit explanations provided by credit scoring entities comply with this subsection.

8. If an insurer bases an adverse action in part on a credit report or insurance credit score, the applicant or insured may within thirty days of such adverse action make a written request for re-underwriting following any correction relating to the credit report or insurance credit score.

9. An insurer may obtain and use a current credit report or insurance credit score on new business or renewal contracts, but shall not take an adverse action with respect to renewal contracts based upon such credit report or insurance credit score until or after the third anniversary date of the initial contract.

10. Insurance inquiries shall not directly or indirectly be used as a negative factor in any insurance credit scoring formula or in the use of a credit report in underwriting.

11. Nothing in this section shall be construed as superceding the provisions of section 375.002 and section 379.114, RSMo. Nothing in this section shall be construed as prohibiting any insurer from using credit information in determining whether to offer a policyholder or applicant the option to finance or establish a payment plan for the

payment of any premium for a contract. Nothing in this section shall apply to any entity not acting as an insurer or credit scoring entity as defined in subsection 1 of this section.

12. No credit scoring entity shall provide or sell to any party, other than the insurer, its insurance company affiliates or holding companies, and the producer from whom the inquiry was generated, data or lists that include any information that in whole or in part is submitted in conjunction with credit inquiries about consumers. Such information includes, but is not limited to, expiration dates, information that may identify time periods during which a consumer's insurance may expire, or other nonpublic personal information as defined under the Gramm-Leach-Bliley Act, 15 U.S.C. Sections 6801 to 6809. The provisions of this subsection shall not preclude the exchange of information specifically authorized under the federal Fair Credit Reporting Act, 15 U.S.C. Section 1681, et seq., the Gramm-Leach-Bliley Act, 15 U.S.C. Sections 6801 to 6809 and other applicable federal law. The provisions of this subsection shall not apply to data disclosed in connection with a proposed or actual sale, merger, transfer or exchange of all or a portion of an insurer's or producer's business or operating unit, including but not limited to, the sale of a portfolio of contracts, if such disclosure concerns solely consumers of the business or unit and such disclosure is not the primary reason for the sale, merger, transfer or exchange.

13. A violation of this section may be enforceable under section 374.280, RSMo.

14. The provisions of this section shall apply to all contracts entered into on or after July 1, 2003.

Approved July 12, 2002

HB 1508 [SCS HB 1508]

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

Revises various provisions relating to outdoor advertising along state highways and interstates.

AN ACT to repeal sections 226.540, 226.550, 226.573, 226.580, and 226.585, RSMo, and to enact in lieu thereof five new sections relating to highway beautification.

SECTION

A. Enacting clause.
226.540. Signs permitted on certain highways — lighting restrictions — size, location — zones — specifications.
226.550. Permits, fees for, exemption — permits to be issued for existing signs, exceptions — biennial inspection fees, collection, deposit, exceptions — permit to erect sign lapses, when.
226.573. Rulemaking — new technology in outdoor advertising.
226.580. Unlawful signs defined — removal authorized — notice — owner may proceed, how — removal costs, how paid — review of order, how — order of removal — reimbursement to owner, when.
226.585. Vegetation along right-of-way, cutting of — transportation department, duties.

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

SECTION A. ENACTING CLAUSE. — Section 226.540, 226.550, 226.573, 226.580, and 226.585, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 226.540, 226.550, 226.573, 226.580, and 226.585, to read as follows:

226.540. SIGNS PERMITTED ON CERTAIN HIGHWAYS — LIGHTING RESTRICTIONS — SIZE, LOCATION — ZONES — SPECIFICATIONS. — Notwithstanding any other provisions of

sections 226.500 to 226.600, outdoor advertising shall be permitted within six hundred and sixty feet of the nearest edge of the right-of-way of **[**any interstate or primary highway**]** **highways located on the interstate, federal-aid primary system as it existed on June 1, 1991, or the national highway system as amended** in areas zoned industrial, commercial or the like and in unzoned commercial and industrial areas as defined in this section, subject to the following regulations which are consistent with customary use in this state:

(1) Lighting:

(a) No revolving or rotating beam or beacon of light that simulates any emergency light or device shall be permitted as part of any sign. No flashing, intermittent, or moving light or lights will be permitted except scoreboards and other illuminated signs designating public service information, such as time, date, or temperature, or similar information, will be allowed; **tri-vision, projection, and other changeable message signs shall be allowed subject to Missouri highway and transportation commission regulations;**

(b) External lighting, such as floodlights, thin line and gooseneck reflectors are permitted, provided the light source is directed upon the face of the sign and is effectively shielded so as to prevent beams or rays of light from being directed into any portion of the main traveled way of the federal-aid primary highways as of June 1, 1991, and all highways designated as part of the National Highway System by the National Highway System Designation Act of 1995 and those highways subsequently designated as part of the National Highway System and the lights are not of such intensity so as to cause glare, impair the vision of the driver of a motor vehicle, or otherwise interfere with a driver's operation of a motor vehicle;

(c) No sign shall be so illuminated that it interferes with the effectiveness of, or obscures, an official traffic sign, device, or signal;

(2) Size of signs:

(a) The maximum area for any one sign shall be eight hundred square feet with a maximum height of thirty feet and a maximum length of seventy-two feet, inclusive of border and trim but excluding the base or apron, supports, and other structural members. The area shall be measured as established **herein and** in rules promulgated by the commission. In determining the size of a **conforming or nonconforming** sign structure, temporary cutouts and extensions installed for the length of a specific display contract shall not be **[**included in calculating**]** **considered a substantial increase to** the size of the permanent display; provided the actual square footage of such temporary cutouts or extensions may not exceed thirty-three percent of the permanent display area**. Signs erected in accordance with the provisions of sections 226.500 to 226.600 prior to the effective date of this provision which fail to meet the requirements of this provision shall be deemed legally nonconforming as defined herein**;

(b) The maximum size limitations shall apply to each side of a sign structure, and signs may be placed back to back, double faced, or in V-type construction with not more than two displays to each facing, but such sign structure shall be considered as one sign;

(c) After August 28, 1999, no new sign structure shall be erected in which two or more displays are stacked one above the other. Stacked structures existing on or before August 28, 1999, in accordance with sections 226.500 to 226.600 shall **[**not**]** be deemed **legally** nonconforming **[**for failure to meet the requirements of this section until such sign's structure is modified, repaired, replaced or rebuilt**]** **and may be maintained in accordance with the provisions of 226.500 to 226.600**. Structures displaying more than one display on a horizontal basis shall be allowed, provided that total display areas do not exceed the maximum allowed square footage for a sign structure pursuant to the provisions of paragraph (a) of subdivision (2) of this section;

(3) Spacing of signs:

(a) **On all** interstate highways **[**and**],** freeways **[**on the**], and nonfreeway** federal-aid primary highways as of June 1, 1991, and all highways designated as part of the National Highway System by the National Highway System Designation Act of 1995 and those highways subsequently designated as part of the National Highway System:

a. No sign structure shall be erected within **[**five hundred**]** **one thousand four hundred** feet of an existing sign on the same side of the highway;

b. Outside of incorporated municipalities, no structure may be located adjacent to or within five hundred feet of an interchange, intersection at grade, or safety rest area. Such five hundred feet shall be measured from the beginning or ending of the pavement widening at the exit from or entrance to the main traveled way. For purpose of this subparagraph, the term "incorporated municipalities" shall include "urban areas", except that such "urban areas" shall not be considered "incorporated municipalities" if it is finally determined that such would have the effect of making Missouri be in noncompliance with the requirements of Title 23, United States Code, Section 131;

(b) **[**Nonfreeway federal-aid primary highways as of June 1, 1991, and all highways designated as part of the National Highway System by the National Highway System Designation Act of 1995 and those highways subsequently designated as part of the National Highway System:

a. Outside incorporated municipalities, no structure shall be erected within five hundred feet of an existing sign on the same side of the highway. Sign structures existing prior to August 28, 1999, which complied with the requirements of this section when erected shall not be deemed nonconforming for failure to comply with the spacing provisions of this section until such sign's structure is modified, repaired, replaced or rebuilt;

b. Within incorporated municipalities, no structure shall be erected within five hundred feet of an existing sign. Sign structures existing prior to August 28, 1999, which complied with the requirements of this section when erected shall not be deemed nonconforming for failure to comply with the spacing provisions of this section until such sign's structure is modified, repaired, replaced or rebuilt;

(c)**]** The spacing between structure provisions of subdivision (3) of this section do not apply to signs which are separated by buildings, natural surroundings, or other obstructions in such manner that only one sign facing located within such distance is visible at any one time. Directional or other official signs or those advertising the sale or lease of the property on which they are located, or those which advertise activities on the property on which they are located, including products sold, shall not be counted, nor shall measurements be made from them for the purpose of compliance with spacing provisions;

[(d)**]** **(c)** No sign shall be located in such manner as to obstruct or otherwise physically interfere with the effectiveness of an official traffic sign, signal, or device or obstruct or physically interfere with a motor vehicle operator's view of approaching, merging, or intersecting traffic;

[(e)**]** **(d)** The measurements in this section shall be the minimum distances between outdoor advertising sign structures measured along the nearest edge of the pavement between points directly opposite the signs along each side of the highway and shall apply only to outdoor advertising sign structures located on the same side of the highway involved;

(4) As used in this section, the words "unzoned commercial and industrial land" shall be defined as follows: that area not zoned by state or local law or ordinance and on which there is located one or more permanent structures used for a commercial business or industrial activity or on which a commercial or industrial activity is actually conducted together with the area along the highway extending outwardly **[**six hundred**]** **seven hundred fifty** feet from and beyond the edge of such activity. All measurements shall be from the outer edges of the regularly used improvements, buildings, parking lots, landscaped, storage or processing areas of the commercial or industrial activity and along and parallel to the edge of the pavement of the highway. **[**On nonfreeway federal-aid primary highways as of June 1, 1991, and all highways designated as part of the National Highway System by the National Highway System Designation Act of 1995 and those highways subsequently designated as part of the National Highway System, where there is an unzoned commercial or industrial area on one side of the road as described in this section, the term "unzoned commercial or industrial land" shall also include those lands directly opposite

on the other side of the highway to the extent of the same dimensions.**]** Unzoned land shall not include:

(a) Land on the opposite side of **[**an interstate or freeway primary**] the** highway from an unzoned commercial or industrial area as defined in this section **and located adjacent to highways located on the interstate, federal-aid primary system as it existed on June 1, 1991, or the national highway system as amended, unless the opposite side of the highway qualifies as a separate unzoned commercial or industrial area**;

(b) Land zoned by a state or local law, regulation, or ordinance;

[(c) Land on the opposite side of a nonfreeway primary highway which is determined by the proper state authority to be a scenic area;**]**

(5) "Commercial or industrial activities" as used in this section means those which are generally recognized as commercial or industrial by zoning authorities in this state, except that none of the following shall be considered commercial or industrial:

(a) Outdoor advertising structures;

(b) Agricultural, forestry, ranching, grazing, farming, and related activities, including seasonal roadside fresh produce stands;

(c) Transient or temporary activities;

(d) Activities more than six hundred sixty feet from the nearest edge of the right-of-way or not visible from the main traveled way;

(e) Activities conducted in a building principally used as a residence;

(f) Railroad tracks and minor sidings;

(6) The words "unzoned commercial or industrial land" shall also include all areas not specified in this section which constitute an "unzoned commercial or industrial area" within the meaning of the present Section 131 of Title 23 of the United States Code, or as such statute may be amended. As used in this section, the words "zoned commercial or industrial area" shall refer to those areas zoned commercial or industrial by the duly constituted zoning authority of a municipality, county, or other lawfully established political subdivision of the state, or by the state **and which is within seven hundred fifty feet of one or more permanent commercial or industrial activities**. **[**Unzoned**]** Commercial or industrial activities as used in this section are limited to those activities:

(a) In which the primary use of the property is commercial or industrial in nature;

(b) Which are clearly visible from the highway and recognizable as a commercial business;

(c) Which are permanent as opposed to temporary or transitory and of a nature that would customarily be restricted to commercial or industrial zoning in areas comprehensively zoned; and

(d) In determining whether the primary use of the property is commercial or industrial pursuant to paragraph (a) of this subdivision, the state highways and transportation commission shall consider the following factors:

a. The presence of a permanent and substantial building;

b. The existence of utilities and **[**required**] local** business licenses, if any, for the commercial activity;

c. On-premise signs or other identification;

d. **[**Communication with the business owner that can be accomplished at regular intervals either in person, by telephone, by fax machine, by electronic mail or by some other business means**] The presence of an owner or employee on the premises for at least twenty hours per week**;

(7) In zoned commercial and industrial areas, whenever a state, county or municipal zoning authority has adopted laws or ordinances which include regulations with respect to the size, lighting and spacing of signs, which regulations are consistent with the intent of sections 226.500 to 226.600 and with customary use, then from and after the effective date of such regulations, and so long as they shall continue in effect, the provisions of this section shall not apply to the erection of signs in such areas. Notwithstanding any other provisions of this section, after August 28,

1992, with respect to any outdoor advertising which is regulated by the provisions of subdivision (1), (3) or (4) of section 226.520 or subsection 1 of section 226.527:

(a) No county or municipality shall issue a permit to allow a regulated sign to be newly erected without a permit issued by the state highways and transportation commission;

(b) A county or municipality may charge a reasonable one-time permit or inspection fee to assure compliance with local wind load and electrical requirements when the sign is first erected, but a county or municipality may not charge a permit or inspection fee for such sign after such initial fee. Changing the display face or performing routine maintenance shall not be considered as erecting a new sign;

(8) The state highways and transportation commission on behalf of the state of Missouri, may seek agreement with the Secretary of Transportation of the United States under Section 131 of Title 23, United States Code, as amended, that sections 226.500 to 226.600 are in conformance with that Section 131 and provides effective control of outdoor advertising signs as set forth therein. If such agreement cannot be reached and the penalties under subsection (b) of Section 131 are invoked, the attorney general of this state shall institute proceedings described in subsection (1) of that Section 131.

226.550. PERMITS, FEES FOR, EXEMPTION — PERMITS TO BE ISSUED FOR EXISTING SIGNS, EXCEPTIONS — BIENNIAL INSPECTION FEES, COLLECTION, DEPOSIT, EXCEPTIONS — PERMIT TO ERECT SIGN LAPSES, WHEN. — 1. No outdoor advertising which is regulated by subdivision (1), (3) or (4) of section 226.520 or subsection 1 of section 226.527 shall be erected or maintained on or after August 28, 1992, without a one-time permanent permit issued by the state highways and transportation commission. Application for permits shall be made to the state highways and transportation commission on forms furnished by the commission and shall be accompanied by a permit fee of **[**twenty-eight dollars and fifty cents**] two hundred dollars** for all signs; except that, tax-exempt religious organizations as defined in subdivision (11) of section 313.005, RSMo, service organizations as defined in subdivision (12) of section 313.005, RSMo, veterans' organizations as defined in subdivision (14) of section 313.005, RSMo, and fraternal organizations as defined in subdivision (8) of section 313.005, RSMo, shall be granted a permit for signs less than seventy-six square feet without payment of the fee. In the event a permit holder fails to erect a sign structure within twenty-four months of issuance, said permit shall expire and a new permit must be obtained prior to any construction.

2. No outdoor advertising which is regulated by subdivision (1), (3) or (4) of section 226.520 or subsection 1 of section 226.527 which was erected prior to August 28, 1992, shall be maintained without a one-time permanent permit for outdoor advertising issued by the state highways and transportation commission. If a one-time permanent permit was issued by the state highways and transportation commission after March 30, 1972, and before August 28, 1992, it is not necessary for a new permit to be issued. If a one-time permanent permit was not issued for a lawfully erected and lawfully existing sign by the state highways and transportation commission after March 30, 1972, and before August 28, 1992, a one-time permanent permit shall be issued by the commission for each sign which is lawfully in existence on the day prior to August 28, 1992, upon application and payment of a permit fee of **[**twenty-eight dollars and fifty cents**] two hundred dollars**. All applications and fees due pursuant to this subsection shall be submitted before December 31, 1992.

3. For purposes of sections 226.500 to 226.600, the terminology "structure lawfully in existence" or "lawfully existing" sign or outdoor advertising shall, nevertheless, include the following signs unless the signs violate the provisions of subdivisions (3) to (7) of subsection 1 of section 226.580:

(1) All signs erected prior to January 1, 1968;

(2) All signs erected before March 30, 1972, but on or after January 1, 1968, which would otherwise be lawful but for the failure to have a permit for such signs prior to March 30, 1972, except that any sign or structure which was not in compliance with sizing, spacing, lighting, or

location requirements of sections 226.500 to 226.600 as the sections appeared in the revised statutes of Missouri 1969, wheresoever located, shall not be considered a lawfully existing sign or structure;

(3) All signs erected after March 30, 1972, which are in conformity with sections 226.500 to 226.600**[.];**

(4) All signs erected in compliance with sections 226.500 to 226.600 prior to the effective date of this act.

4. On or after August 28, 1992, the state highways and transportation commission may, in addition to the fees authorized by subsections 1 and 2 of this section, collect a biennial inspection fee every two years after a state permit has been issued. Biennial inspection fees due after August 28, **[**1992,**] 2002, and prior to August 28, 2003,** shall be **[**twenty-eight dollars and fifty cents**] fifty dollars. Biennial inspection fees due on or after August 28, 2003, shall be seventy-five dollars. Biennial inspection fees due on or after August 28, 2004, shall be one hundred dollars**; except that, tax-exempt religious organizations as defined in subdivision (11) of section 313.005, RSMo, service organizations as defined in subdivision (12) of section 313.005, RSMo, veterans' organizations as defined in subdivision (14) of section 313.005, RSMo, and fraternal organizations as defined in subdivision (8) of section 313.005, RSMo, shall not be required to pay such fee.

5. **[**In order to effect collection from a sign owner of delinquent and unpaid biennial inspection fees which are payable pursuant to this section, or delinquent removal costs pursuant to section 226.580, the state highways and transportation commission may require any delinquent fees to be paid before a permit is issued to the delinquent sign owner for any new sign.**] In order to effect the more efficient collection of biennial inspection fees, the state highways and transportation commission is encouraged to adopt a renewal system in which all permits in a particular county are renewed in the same month. In conjunction with the conversion to this renewal system, the state highways and transportation commission is specifically authorized to prorate renewal fees based on changes in renewal dates.**

6. Sign owners or owners of the land on which signs are located must apply to the state highways and transportation commission for biennial inspection and submit any fees as required by this section on or before December 31, 1992. For a permitted sign which does not have a permit, a permit shall be issued at the time of the next biennial inspection.

7. The state highways and transportation commission shall deposit all fees received for outdoor advertising permits and inspection fees in the state road fund, keeping a separate record of such fees, and the same may be expended by the commission in the administration of sections 226.500 to 226.600.

226.573. RULEMAKING — NEW TECHNOLOGY IN OUTDOOR ADVERTISING. — The state highways and transportation commission is authorized to adopt administrative rules regulating the use of new technology in outdoor advertising as allowed under federal regulations for federal-aid primary highways as of June 1, 1991, and all highways designated as part of the National Highway System by the National Highway System Designation Act of 1995 and those highways subsequently designated as part of the National Highway System. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated pursuant to the authority delegated in this section shall become effective only if it has been promulgated pursuant to 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**] the effective date of this section**, shall be invalid and void.

226.580. UNLAWFUL SIGNS DEFINED — REMOVAL AUTHORIZED — NOTICE — OWNER MAY PROCEED, HOW — REMOVAL COSTS, HOW PAID — REVIEW OF ORDER, HOW — ORDER OF REMOVAL — REIMBURSEMENT TO OWNER, WHEN. — 1. The following outdoor advertising within six hundred sixty feet of the right-of-way of interstate or primary highways is deemed unlawful and shall be subject to removal:

(1) Signs erected after March 30, 1972, contrary to the provisions of sections 226.500 to 226.600 and signs erected on or after January 1, 1968, but before March 30, 1972, contrary to the sizing, spacing, lighting, or location provisions of sections 226.500 to 226.600 as they appeared in the revised statutes of Missouri 1969; or

(2) Signs for which a permit is not obtained or a biennial inspection fee is **[**not paid as prescribed in sections 226.500 to 226.600**] more than twelve months' past due**; or

(3) Signs which are obsolete; (Signs shall not be considered obsolete solely because they temporarily do not carry an advertising message.) or

(4) Signs that are not in good repair; or

(5) Signs not securely affixed to a substantial structure; or

(6) Signs which attempt or appear to attempt to regulate, warn, or direct the movement of traffic or which interfere with, imitate, or resemble any official traffic sign, signal, or device; or

(7) Signs which are erected or maintained upon trees or painted or drawn upon rocks or other natural features.

2. Signs erected after August 13, 1976, beyond six hundred sixty feet of the right-of-way outside of urban areas, visible from the main traveled way of the interstate or primary system and erected with the purpose of their message being read from such traveled way, except those signs described in subdivisions (1) and (2) of section 226.520 are deemed unlawful and shall be subject to removal.

3. If a sign is deemed to be unlawful for any of the reasons set out in subsections 1 **[**and 2**] through 7** of this section, the state highways and transportation commission shall give notice either by certified mail or by personal service to the owner or occupant of the land on which advertising believed to be unlawful is located and the owner of the outdoor advertising structure. Such notice shall specify the basis for the alleged unlawfulness, shall specify the remedial action which is required to correct the unlawfulness and shall advise that a failure to take the remedial action within **[**thirty**] sixty** days will result in the sign being removed. Within **[**thirty**] sixty** days after receipt of the notice as to him, the owner of the land or of the structure may remove the sign or may take the remedial action specified or may file an action for administrative review pursuant to the provisions of sections 536.067 to 536.090, RSMo, to review the action of the state highways and transportation commission, or he may proceed under the provisions of section 536.150, RSMo, as if the act of the highways and transportation commission was one not subject to administrative review. Notwithstanding any other provisions of sections 226.500 to 226.600, no outdoor advertising structure erected prior to August 28, 1992, defined as a "structure lawfully in existence" or "lawfully existing", by subdivision (1), (2) or (3) of subsection 2 of section 226.550, shall be removed for failure to have a permit until a notice, as provided in this section, has been issued which shall specify failure to obtain a permit or pay a biennial inspection fee as the basis for alleged unlawfulness, and shall advise that failure to take the remedial action of applying for a permit or paying the inspection fee within **[**thirty**] sixty** days will result in the sign being removed. **Signs for which biennial inspection fees are delinquent shall not be removed unless the fees are more than twelve months' past due and actual notice of the delinquency has been provided to the sign owner.** Upon application made within the **[**thirty-day**] sixty-day** period as provided in this section, and accompanied by the fee prescribed by section 226.550, together with any inspection fees that would have been payable if a permit had been timely issued, the state highways and transportation commission shall issue a one-time permanent permit for such sign. Such signs with respect to which permits are so issued are hereby determined by the state of Missouri to have been lawfully erected within the meaning of "lawfully erected" as that term is used in Title 23, United States Code, section 131(g), as

amended, and shall only be removed upon payment of just compensation, except that the issuance of permits shall not entitle the owners of such signs to compensation for their removal if it is finally determined that such signs are not "lawfully erected" as that term is used in section 131(g) of Title 23 of the United States Code.

4. If **actual** notice as provided in this section is given and neither the remedial action specified is taken nor an action for review is filed, or if an action for review is filed and is finally adjudicated in favor of the state highways and transportation commission, the state highways and transportation commission shall have authority to immediately remove the unlawful outdoor advertising. The owner of the structure shall be liable for the costs of such removal. The commission shall incur no liability for causing this removal, except for damage caused by negligence of the commission, its agents or employees.

5. If notice as provided in this section is given and an action for review is filed under the provisions of section 536.150, RSMo, or if administrative review pursuant to the provisions of sections 536.067 to 536.090, RSMo, is filed and the state highways and transportation commission enters its final decision and order to remove the outdoor advertising structure, the advertising message contained on the structure shall be removed or concealed by the owner of the structure, at the owner's expense, until the action for judicial review is finally adjudicated. If the owner of the structure refuses or fails to remove or conceal the advertising message, the commission may remove or conceal the advertising message and the owner of the structure shall be liable for the costs of such removal or concealment. The commission shall incur no liability for causing the removal or concealment of the advertising message while an action for review is pending, except if the owner finally prevails in its action for judicial review, the commission will compensate the owner at the rate the owner is actually receiving income from the advertiser pursuant to written lease from the time the message is removed until the judicial review is final.

6. Any signs advertising tourist oriented type business will be the last to be removed.

7. Any signs prohibited by section 226.527 which were lawfully erected prior to August 13, 1976, shall be removed pursuant to section 226.570.

8. The transportation department shall reimburse to the lawful owners of any said nonconforming signs that are now in existence as defined in sections 226.540, 226.550, 226.580 and 226.585, said compensation calculated and/or based on a fair market value and not mere replacement cost.

226.585. VEGETATION ALONG RIGHT-OF-WAY, CUTTING OF — TRANSPORTATION DEPARTMENT, DUTIES. — The state transportation department may cut and trim any vegetation on the highway right-of-way which interferes with the effectiveness of or obscures a lawfully erected billboard, or the highways and transportation commission shall promulgate reasonable rules and regulations to permit the cutting and trimming of such vegetation on the highway or right-of-way by the owner of such billboard. **The right to a vegetation permit by an outdoor advertising permit holder shall be issued in accordance with the current rules and regulations promulgated by the highways and transportation commission and shall not be denied without good cause.** Such rules and regulations shall be promulgated within twelve months after August 28, 1992, or the commission shall suspend the collection of the biennial inspection fees prescribed by section 226.550 until such rules are promulgated, and such rules may include authority to charge a reasonable fee for such **[**permission**] permit**. This section shall not apply if its implementation would have the effect of making Missouri be in noncompliance with requirements of Title 23, United States Code, section 131.

Approved July 11, 2002

HB 1515 [HB 1515]

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

Revises section awarding honorary high school diplomas to certain veterans.

AN ACT to repeal section 160.360, RSMo, and to enact in lieu thereof one new section relating to the awarding of honorary high school diplomas to certain civilian prisoners of war and veterans.

SECTION
A. Enacting clause.
160.360. Operation recognition, honorary high school diplomas awarded to certain veterans and civilian POWs, when.

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

SECTION A. ENACTING CLAUSE. — Section 160.360, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 160.360, to read as follows:

160.360. OPERATION RECOGNITION, HONORARY HIGH SCHOOL DIPLOMAS AWARDED TO CERTAIN VETERANS AND CIVILIAN POWS, WHEN. — 1. The department of elementary and secondary education, with the cooperation of the Missouri veterans' commission, shall develop and administer a program to be known as "Operation Recognition". The purpose of the program is to award honorary high school diplomas to **civilian prisoners of war (POWs) and to** World War I, World War II and Korean War veterans who left high school prior to graduation to enter United States military service. The department and commission shall jointly develop an application procedure, distribute applications and publicize the program to school districts, accredited nonpublic schools, veterans' organizations, and state, regional and local media.

2. All **civilian POWs who are residents or former residents of the state of Missouri and all** honorably discharged World War I, World War II and Korean War veterans who are residents or former residents of the state of Missouri, who served in the United States military during World War I, World War II or the Korean War, and who did not return to school and complete their education after the war shall be eligible to receive a diploma. Diplomas may be issued posthumously.

3. Upon approval of an application, the department shall issue an honorary high school diploma for **an eligible civilian POW or** an eligible veteran. The diploma shall also include a statement specifying that the diploma is awarded in recognition of military service experiences and civic duty responsibilities. The diploma shall indicate the **civilian POW's or** veteran's school of attendance. The department and commission shall work together to provide school districts, schools, communities and veterans' organizations with information about hosting a diploma ceremony on or around Veterans Day. The diploma shall be mailed to the **civilian POW or** veteran or, if the **civilian POW or** veteran is deceased, to the **civilian POW's or** veteran's family.

Approved June 12, 2002

HB 1518 [HB 1518]

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

Alters the language for the statute controlling certain insurance company investments.

AN ACT to repeal section 376.307, RSMo, and to enact in lieu thereof one new section relating to life insurance company investments.

SECTION
A. Enacting clause.
376.307. Limits on investments which are not eligible for state deposit.

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

SECTION A. ENACTING CLAUSE. — Section 376.307, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 376.307, to read as follows:

376.307. LIMITS ON INVESTMENTS WHICH ARE NOT ELIGIBLE FOR STATE DEPOSIT. — 1. Notwithstanding any direct or implied prohibitions in chapter 375 or 376, RSMo, the capital, reserve and surplus funds of all life insurance companies of whatever kind and character organized or doing business under chapter 375 or 376, RSMo, may be invested in any investments which do not otherwise qualify under any other provision of chapter 375 or 376, RSMo, provided, however, the investments authorized by this section are not eligible for deposit with the department of insurance and shall be subject to all the limitations set forth in subsection 2.

2. No such life insurance company shall **[**invest in**]** **own** such investments in an amount in excess of the following limitations, to be based upon its admitted assets, capital and surplus as shown in its last annual statement **[**preceding the date of the acquisition of such investment, all as**]** filed with the director of the department of insurance of the state of Missouri:

(1) The aggregate amount of all such investments under this section shall not exceed the lesser of (a) eight percent of its admitted assets or (b) the amount of its capital and surplus in excess of nine hundred thousand dollars; and

(2) The amount of any one such investment under this section shall not exceed one percent of its admitted assets.

3. If, subsequent to its acquisition hereunder, any such investment shall become specifically authorized or permitted under any other section contained in chapter 375 or 376, RSMo, any such company may thereafter consider such investment as held under such other applicable section and not under this section.

Approved July 3, 2002

HB 1519 [HB 1519]

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

Designates April 19th of each year as "Patriots Day".

AN ACT to amend chapter 9, RSMo, by adding thereto one new section relating to the designation of patriots day.

SECTION
A. Enacting clause.
9.115. Patriots Day, date of — how observed.

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 9.115, to read as follows:

9.115. PATRIOTS DAY, DATE OF — HOW OBSERVED. — April nineteenth of every year shall be known and designated as "Patriots Day". It shall be a day on which to commemorate the day of the "shot heard 'round the world" and the beginning of the American Revolution. The teachers and students of the schools of this state shall observe the day with appropriate exercises. All citizens of this state are requested to devote some portion of patriots day to solemn contemplation on the selfless sacrifice made by those who fought and gave their lives for our nation's independence.

Approved July 3, 2002

HB 1532 [SCS HS HCS HB 1532]

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

Revises the provisions of dram shop liability by providing that the sale of liquor to persons under 21 or to intoxicated persons must be knowing and proven beyond a reasonable doubt.

AN ACT to repeal section 537.053, RSMo, relating to dram shop liability, and to enact in lieu thereof two new sections relating to the same subject.

SECTION
A. Enacting clause.
375.1730. Dram shop liability coverage, costs reported to department of insurance — rates.
537.053. Sale of alcoholic beverage may be proximate cause of personal injuries or death — requirements — (dram shop law).

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

SECTION A. ENACTING CLAUSE. — Section 537.053, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 375.1730 and 537.053, to read as follows:

375.1730. DRAM SHOP LIABILITY COVERAGE, COSTS REPORTED TO DEPARTMENT OF INSURANCE — RATES. — Any insurance company that sells liability insurance which provides coverage for dram shop liability as described in section 537.053, RSMo, shall report all costs associated with such coverages to the department of insurance. The rates for such coverage shall be governed pursuant to section 379.889, RSMo.

537.053. SALE OF ALCOHOLIC BEVERAGE MAY BE PROXIMATE CAUSE OF PERSONAL INJURIES OR DEATH — REQUIREMENTS — (DRAM SHOP LAW). — 1. Since the repeal of the Missouri Dram Shop Act in 1934 (Laws of 1933-34, extra session, page 77), it has been and

continues to be the policy of this state to follow the common law of England, as declared in section 1.010, RSMo, to prohibit dram shop liability and to follow the common law rule that furnishing alcoholic beverages is not the proximate cause of injuries inflicted by intoxicated persons.

2. **[**The legislature hereby declares that this section shall be interpreted so that the holdings in cases such as Carver v. Schafer, 647 S.W.2d 570 (Mo. App. 1983); Sampson v. W. F. Enterprises, Inc., 611 S.W.2d 333 (Mo. App. 1980); and Nesbitt v. Westport Square, Ltd., 624 S.W.2d 519 (Mo. App. 1981) be abrogated in favor of prior judicial interpretation finding the consumption of alcoholic beverages, rather than the furnishing of alcoholic beverages, to be the proximate cause of injuries inflicted upon another by an intoxicated person.

3.**]** Notwithstanding **[**subsections**]** **subsection** 1 **[**and 2**]** of this section, a cause of action may be brought by or on behalf of any person who has suffered personal injury or death against any person licensed to sell intoxicating liquor by the drink for consumption on the premises **[**who, pursuant to section 311.310, RSMo, has been convicted, or has received a suspended imposition of the sentence arising from the conviction, of the sale of intoxicating liquor to a person under the age of twenty-one years or an obviously intoxicated person if the sale of such intoxicating liquor is the proximate cause of the personal injury or death sustained by such person.**]** **when it is proven by clear and convincing evidence that the seller knew or should have known that intoxicating liquor was served to a person under the age of twenty-one years or knowingly served intoxicating liquor to a visibly intoxicated person.**

3. For purposes of this section, a person is "visibly intoxicated" when inebriated to such an extent that the impairment is shown by significantly uncoordinated physical action or significant physical dysfunction. A person's blood alcohol content does not constitute prima facie evidence to establish that a person is visibly intoxicated within the meaning of this section, but may be admissible as relevant evidence of the person's intoxication.

4. Nothing in this section shall be interpreted to provide a right of recovery to a person who suffers injury or death proximately caused by the person's voluntary intoxication unless the person is under the age of twenty-one years. No person over the age of twenty-one years or their dependents, personal representative, and heirs may assert a claim for damages for personal injury or death against a seller of intoxicating liquor by the drink for consumption on the premises arising out of the person's voluntary intoxication.

5. In an action brought pursuant to subsection 2 of this section alleging the sale of intoxicating liquor by the drink for consumption on the premises to a person under the age of twenty-one years, proof that the seller or the seller's agent or employee demanded and was shown a driver's license or official state or federal personal identification card, appearing to be genuine and showing that the minor was at least twenty-one years of age, shall be relevant in determining the relative fault of the seller or seller's agent or employee in the action.

6. No employer may discharge his or her employee for refusing service to a visibly intoxicated person.

Approved July 11, 2002

HB 1537 [SCS HB 1537]

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

Allows debt to offset the value of an estate for purposes of application of small estate administration procedures.

AN ACT to repeal sections 214.330 and 473.097, RSMo, relating to estates and trusts, and to enact in lieu thereof three new sections relating to the same subject.

SECTION
A. Enacting clause.
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.
362.011. Trust business not engaged in, when — prohibition on use of words "trust company", when.
473.097. Small estate — distribution of assets without letters, when — affidavit — procedure — fee.

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

SECTION A. ENACTING CLAUSE. — Sections 214.330 and 473.097, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 214.330, 362.011 and 473.097, to read as follows:

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 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.

362.011. TRUST BUSINESS NOT ENGAGED IN, WHEN — PROHIBITION ON USE OF WORDS "TRUST COMPANY", WHEN. — 1. For the purposes of this chapter, a person does not engage in the trust business by:

(1) The rendering of fiduciary services by an attorney-at-law admitted to the practice of law in this state;

(2) Rendering services as a certified or registered public accountant in the performance of duties as such;

(3) Acting as a trustee or receiver in bankruptcy;

(4) Engaging in the business of an escrow agent;

(5) Receiving rents and proceeds of sale as a licensed real estate broker on behalf of the principal;

(6) Acting as trustee under a deed of trust made only as security for the payment of money or for the performance of another act;

(7) Acting in accordance with its authorized powers as a religious, charitable, educational, or other not-for-profit corporation or as a charitable trust or as an unincorporated religious organization;

(8) Engaging in securities transactions as a dealer or salesman;

(9) Acting as either a receiver under the supervision of a court or as an assignee for the benefit of creditors under the supervision of a court; or

(10) Engaging in such other activities that the director may prescribe by rule.

2. Persons consigned to be not engaged in the trust business pursuant to subsection 1 of this section shall not use the words "trust company" as part of any artificial or corporate name or title nor shall such persons engage in any other conduct that violates section 362.425.

473.097. SMALL ESTATE — DISTRIBUTION OF ASSETS WITHOUT LETTERS, WHEN — AFFIDAVIT — PROCEDURE — FEE. — 1. Distributees of an estate which consists of personal property or real property or both personal and real property have a defeasible right to the personal property, and are entitled to the real property of such estate, as provided in this section, without awaiting the granting of letters testamentary or of administration, if all of the following conditions are met:

(1) The value of the entire estate, less liens**, debt,** and encumbrances, does not exceed forty thousand dollars;

(2) Thirty days have elapsed since the death of the decedent and no application for letters or for administration or for refusal of letters under section 473.090 is pending or has been granted, or if such refusal has been granted and subsequently revoked;

(3) A bond, in an amount not less than the value of the personal property, approved by the judge or clerk of the probate division is filed by the person making the **[**herein**]** required affidavit conditioned upon the payment of the debts of the decedent, including any debts to the state of Missouri, the expenses of funeral and burial and compliance with future orders of the court in relation to the estate of the decedent; and further conditioned that any part of the property to which the distributee is not entitled will be delivered to the persons entitled to the property under the law. Liability of the sureties on the bonds provided for in this section terminates unless proceedings against them are instituted within two years after the bond is filed; except that, the court may dispense with the filing of a bond if it finds that the same is not necessary;

(4) A fee, in the amount prescribed in **[**subdivision (4) of**]** subsection 1 of section 483.580, RSMo, and when required, the publication cost of the notice to creditors are paid or the proof of payment for such publication is provided to the clerk of the probate **[**court**] division**.

2. Notwithstanding the limitation periods set out in section 473.050, the affidavit required by this section may be made by the person designated as personal representative under the will of the decedent, if a will has been presented for probate within the limitation periods specified in section 473.050, otherwise by any distributee entitled to receive property of the decedent any time after thirty days after decedent's death, and shall set forth all of the following:

(1) That the decedent left no will or, if the decedent left a will, that the will was presented for probate within the limitation periods specified in section 473.050;

(2) That all unpaid debts, claims or demands against the decedent or the decedent's estate and all estate taxes due, if any, on the property transfers involved have been or will be paid, except that any liability by the affiant for the payment of unpaid claims or demands shall be limited to the value of the property received;

(3) An itemized description and valuation of property of the decedent. As used in this subdivision, the phrase "property of the decedent" shall not include property which was held by the decedent as a tenant by the entirety or a joint tenant at the time of the decedent's death;

(4) The names and addresses of persons having possession of the property;

(5) The names, addresses and relationship to the decedent of the persons entitled to and who will receive, the specific items of property remaining after payment of claims and debts of the decedent, included in the affidavit;

(6) The facts establishing the right to such specific items of property as prescribed by this section.

The certificate of the clerk shall be annexed to or endorsed on the affidavit and shall show the names and addresses of the persons entitled to the described property under the facts stated in the affidavit and shall recite that the will of decedent has been probated or that no will has been presented to the court and that all estate taxes on the property, if any are due, have been paid.

3. A copy of the affidavit and certificate shall be filed in the office of the clerk of the probate division and copies of the affidavit and certificate shall be furnished by the clerk.

4. The distributees mentioned in this section may establish their right to succeed to the real estate of the decedent by filing a copy of the foregoing affidavit and certificate of the clerk in the office of the recorder of deeds of each county where the real property is situated.

5. When the value of the property listed in the affidavit is more than fifteen thousand dollars, the clerk shall cause to be published in a newspaper of general circulation within the county which qualifies under chapter 493, RSMo, a notice to creditors of the decedent to file their claims in the court or be forever barred. The notice shall be published once a week for two consecutive weeks. Proof of publication of notice pursuant to this section shall be filed not later than ten days after completion of the publication. The notice shall be in substantially the following form:

To all persons interested in the estate of ....., Decedent:

On the ..... day of ....., **[**19...**] 20...**, a small estate affidavit was filed by the distributees for the decedent under section 473.097, RSMo, with the probate division of the circuit court of ..... County, Missouri.

All creditors of the decedent, who died on ....., **[**19...**] 20...**, are notified that section 473.444 sets a limitation period that would bar claims one year after the death of the decedent. A creditor may request that this estate be opened for administration.

Receipt of this notice should not be construed by the recipient to indicate that the recipient may possibly have a beneficial interest in the estate. The nature and extent of any person's interest, if any, may possibly be determined from the affidavit on this estate filed in the probate division of the circuit court of ..... County, Missouri.

Date of first publication is ....., **[**19....**] 20...**

.....
Clerk of the Probate Division
of the Circuit Court
..... County, Missouri

6. Upon compliance with the procedure required by this section, the personal property and real estate involved shall not thereafter be taken in execution for any debts or claims against the decedent, but such compliance has the same effect in establishing the right of distributees to succeed to the property as if complete administration was had; but nothing in this section affects the right of secured creditors with respect to such property.

7. The affiant shall collect the property of decedent described in the affidavit. The property of decedent shall be liquidated by the affiant to the extent necessary to pay debts of decedent. If the decedent's property is not sufficient to pay such debts, abatement of the shares of the distributees shall occur in accordance with section 473.620. The affiant shall distribute the remaining property to such persons identified in the affidavit as required in subdivision (5) of

subsection 2 of this section who are entitled to receive the specific items of personal property, as described in the affidavit, or to have any evidence of such property transferred to such persons. To the extent necessary to facilitate distribution, the affiant may liquidate all or part of decedent's property.

Approved July 10, 2002

HB 1548 [SCS HB 1548]

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

Provides for the completion of the newborn hearing screening if the newborn is transferred to another facility before the screenings are completed.

AN ACT to repeal section 191.925, RSMo, and to enact in lieu thereof one new section relating to newborn hearing screening program.

SECTION

A. Enacting clause.

191.925. Screening for hearing loss, infants, when — procedures used — exemptions — information provided, by whom — no liability, when.

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

SECTION A. ENACTING CLAUSE. — Section 191.925, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 191.925, to read as follows:

191.925. SCREENING FOR HEARING LOSS, INFANTS, WHEN — PROCEDURES USED — EXEMPTIONS — INFORMATION PROVIDED, BY WHOM — NO LIABILITY, WHEN. — 1. Effective January 1, 2002, every infant born in this state shall be screened for hearing loss in accordance with the provisions of sections **[**191.225**] 191.925** to 191.937 and section 376.685, RSMo.

2. The screening procedure shall include the use of at least one of the following physiological technologies:

(1) Automated or diagnostic auditory brainstem response (ABR);

(2) Otoacoustic emissions (OAE); or

(3) Other technologies approved by the department of health and senior services.

3. Every newborn delivered on or after January 1, 2002, in an ambulatory surgical center or hospital shall be screened for hearing loss prior to discharge of the infant from the facility. **Any facility that transfers a newborn for further acute care prior to completion of the newborn hearing screening shall notify the receiving facility of the status of the newborn hearing screening. The receiving facility shall be responsible for the completion of the newborn hearing screening.** Such facilities shall report the screening results on all newborns to the parents or guardian of the newborn, and the department of health and senior services in a manner prescribed by the department.

4. If a newborn is delivered in a place other than the facilities listed in subsection 3 of this section, the physician or person who professionally undertakes the pediatric care of the infant shall ensure that the newborn hearing screening is performed within three months of the date of the infant's birth. Such physicians and persons shall report the screening results on all newborns

to the parents or guardian of the newborn, and the department of health and senior services in a manner prescribed by the department.

5. The provisions of this section shall not apply if the parents of the newborn or infant object to such testing on the grounds that such tests conflict with their religious tenets and practices.

6. As provided in subsection 5 of this section, the parent of any child who fails to have the hearing screening test administered after notice of the requirement for such test shall have such refusal documented in writing. Such physicians, persons or administrators shall obtain the written refusal and make such refusal part of the medical record of the infant, and shall report such refusal to the department of health and senior services in a manner prescribed by the department.

7. The physician or person who professionally undertakes the pediatric care of the newborn, and administrators of ambulatory surgical centers or hospitals shall provide to the parents or guardians of newborns a written packet of educational information developed and supplied by the department of health and senior services describing the screening, how it is conducted, the nature of the hearing loss, and the possible consequences of treatment and nontreatment for hearing loss prior to administering the screening.

8. All facilities or persons described in subsections 3 and 4 of this section who voluntarily provide hearing screening to newborns prior to January 1, 2002, shall report such screening results to the department of health in a manner prescribed by the department.

9. All facilities or persons described in subsections 3 and 4 of this section shall provide the parents or guardians of newborns who fail the hearing screening with educational materials that:

(1) Communicate the importance of obtaining further hearing screening or diagnostic audiological assessment to confirm or rule out hearing loss;

(2) Identify community resources available to provide rescreening and diagnostic audiological assessments; and

(3) Provide other information as prescribed by the department of health and senior services.

10. Any person who acts in good faith in complying with the provisions of this section by reporting the newborn hearing screening results to the department of health and senior services shall not be civilly or criminally liable for furnishing the information required by this section.

11. The department of health and senior services shall provide audiological and administrative technical support to facilities and persons implementing the requirements of this section, including, but not limited to, assistance in:

(1) Selecting state-of-the-art newborn hearing screening equipment;

(2) Developing and implementing newborn hearing screening procedures that result in appropriate failure rates;

(3) Developing and implementing training for individuals administering screening procedures;

(4) Developing and distributing educational materials for families;

(5) Identifying community resources for delivery of rescreening and pediatric audiological assessment services; and

(6) Implementing reporting requirements.

Such audiological technical support shall be provided by individuals qualified to administer newborn and infant hearing screening, rescreening and diagnostic audiological assessment.

Approved July 2, 2002

HB 1568 [SCS HB 1568]

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

Sets limits on the types of investments an insurance company can participate in.

AN ACT to repeal sections 375.246, 375.330, 375.1202, 376.311, 376.671, 376.951, 376.952, 376.955, 376.957 and 379.080, RSMo, and to enact in lieu thereof fourteen new sections relating to insurance.

SECTION

A. Enacting clause.
375.246. Reinsurance, when allowed as an asset or reduction from liability.
375.330. Purchase and ownership of real estate.
375.1202. Reinsurers, amounts recoverable not reduced due to delinquency proceedings — exceptions.
376.311. Investment of capital reserve and surplus of life insurance companies in investment pools — definitions — qualifications — requirements.
376.671. Provisions which shall be contained in annuity contracts.
376.951. Law, how cited — definitions.
376.952. Laws applicable, Medicare supplement laws not applicable — purpose — policies or riders must be in compliance.
376.955. Policies, content requirements, provisions prohibited — rules authorized.
376.957. Coverage outline to be delivered to applicants, when, content.
376.1121. Denial of claim, long-term care insurance, duties of issuer.
376.1124. Rescinding of a long-term care policy, permitted when — grounds for contesting — no field issuance, when.
376.1127. Nonforfeiture benefit option required for long-term care insurance policies, requirements of offer — rulemaking authority.
376.1130. Rulemaking authority.
379.080. Capital and surplus of stock or mutual company, investments authorized — violation, penalty.

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

SECTION A. ENACTING CLAUSE. — Sections 375.246, 375.330, 375.1202, 376.311, 376.671, 376.951, 376.952, 376.955, 376.957 and 379.080, RSMo, are repealed and fourteen new sections enacted in lieu thereof, to be known as sections 375.246, 375.330, 375.1202, 376.311, 376.671, 376.951, 376.952, 376.955, 376.957, 376.1121, 376.1124, 376.1127, 376.1130 and 379.080, to read as follows:

375.246. REINSURANCE, WHEN ALLOWED AS AN ASSET OR REDUCTION FROM LIABILITY. — 1. Credit for reinsurance shall be allowed a domestic ceding insurer as either an asset or a **[**deduction**]** **reduction** from liability on account of reinsurance ceded only when the reinsurer meets the requirements of subdivisions (1) to **[**(4)**] (5)** of this subsection. **[**If meeting the requirements of subdivision (3) or (4) of this subsection, the requirements of subdivision (5) must also be met.**] Credit shall be allowed pursuant to subdivision (1), (2) or (3) of this subsection only as respects cessions of those kinds or classes of business which the assuming insurer is licensed or otherwise permitted to write or assume in its state of domicile or, in the case of a United States branch of an alien assuming insurer, in the state through which it is entered and licensed to transact insurance or reinsurance. Credit shall be allowed pursuant to subdivision (3) or (4) of this subsection only if the applicable requirements of subdivision (6) have been satisfied.**

(1) Credit shall be allowed when the reinsurance is ceded to an assuming insurer **[**which**]** **that** is licensed to transact insurance in this state;

(2) Credit shall be allowed when the reinsurance is ceded to an assuming insurer **[**which**]** **that** is accredited as a reinsurer in this state. An accredited reinsurer is one **[**which**]** **that**:

(a) Files with the director evidence of its submission to this state's jurisdiction;

(b) Submits to the authority of the department of insurance to examine its books and records;

(c) Is licensed to transact insurance or reinsurance in at least one state, or in the case of a United States branch of an alien assuming insurer is entered through and licensed to transact insurance or reinsurance in at least one state;

(d) Files annually with the director a copy of its annual statement filed with the insurance department of its state of domicile and a copy of its most recent audited financial statement; and

(e) **[**Either:

a.**]** Maintains a surplus as regards policyholders in an amount **[**which is**]** not less than twenty million dollars and whose accreditation has not been denied by the director within ninety days of its submission; or

[b.**]** **(f)** Maintains a surplus as regards policyholders in an amount less than twenty million dollars and whose accreditation has been approved by the director**[**;

c. The requirements in subparagraphs a and b of this paragraph do not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system;**].**

No credit shall be allowed a domestic ceding insurer if the assuming insurer's accreditation has been revoked by the director after notice and hearing.

(3) Credit shall be allowed when the reinsurance is ceded to an assuming insurer **[**which**]** **that** is domiciled **[**and licensed**]** in, or in the case of a United States branch of an alien assuming insurer is entered through, a state **[**which**]** **that** employs standards regarding credit for reinsurance substantially similar to those applicable under this statute and the assuming insurer or United States branch of an alien assuming insurer:

(a) Maintains a surplus as regards policyholders in an amount not less than twenty million dollars**; except that this paragraph does not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system**; and

(b) Submits to the authority of the department of insurance to examine its books and records;

(4) (a) Credit shall be allowed when the reinsurance is ceded to an assuming insurer **[**which**]** **that** maintains a trust fund in a qualified United States financial institution, as defined in subdivision (2) of subsection 3 of this section, for the payment of the valid claims of its United States **[**policyholders and**]** ceding insurers, their assigns and successors in interest. **To enable the director to determine the sufficiency of the trust fund,** the assuming insurer shall report annually to the director information substantially the same as that required to be reported on the National Association of Insurance Commissioners' annual statement form by licensed insurers **[**to enable the director to determine the sufficiency of the trust fund. In the case of a single assuming insurer, the trust shall consist of a trusteed account representing the assuming insurer's liabilities attributable to business written in the United States and, in addition, the assuming insurer shall maintain a trusteed surplus of not less than twenty million dollars. In the case of a group including incorporated and individual unincorporated underwriters, the trust shall consist of a trusteed account representing the group's liabilities attributable to business written in the United States and, in addition, the group shall maintain a trusteed surplus of which one hundred million dollars shall be held jointly for the benefit of United States ceding insurers or any member of the group. The incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of solvency regulation and control by the group's domiciliary regulator as are the unincorporated members. The group shall make available to the director an annual certification of the solvency of each underwriter by the group's domiciliary regulator and its independent public accountants;

(b) In the case of a group of incorporated insurers under common administration which complies with the filing requirements contained in the previous paragraph, and which is under the supervision of the Department of Trade and Industry of the United Kingdom and submits to the authority of the department of insurance to examine its books and records and bears the expense of such examination, and which has aggregate policyholders' surplus of ten billion dollars; the trust shall be in an amount equal to the group's several liabilities attributable to United States business ceded by United States ceding insurers to any member of the group pursuant to

reinsurance contracts issued in the name of such group; plus the group shall maintain a joint trusteed surplus of which one hundred million dollars shall be held jointly for the benefit of United States ceding insurers or any member of the group as additional security for any such liabilities, and each member of the group shall make available to the director an annual certification of the member's solvency by the member's domiciliary regulator and its independent public accountant;

(c) Such trust shall be established in a form approved by the director of insurance**]. The assuming insurer shall submit to examination of its books and records by the director.**

(b) Credit for reinsurance shall not be granted pursuant to this subdivision unless the form of the trust and any amendments to the trust have been approved by:

a. The commissioner or director of the state agency regulating insurance in the state where the trust is domiciled; or

b. The commissioner or director of another state who, pursuant to the terms of the trust instrument, has accepted principal regulatory oversight of the trust.

(c) The form of the trust and any trust amendments shall also be filed with the commissioner or director in every state in which the ceding insurer beneficiaries of the trust are domiciled. The trust instrument shall provide that contested claims shall be valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust shall vest legal title to its assets in **[**the trustees of the trust for its United States policyholders and**] its trustees for the benefit of the assuming insurer's United States** ceding insurers, their assigns and successors in interest. The trust and the assuming insurer shall be subject to examination as determined by the director.

(d) The trust **[**described herein must**] shall** remain in effect for as long as the assuming insurer **[**shall have**] has** outstanding obligations due under the reinsurance agreements subject to the trust**[**;

(d)**].** No later than February twenty-eighth of each year the trustees of the trust shall report to the director in writing **[**setting forth**]** the balance of the trust and listing the trust's investments at the preceding year end and shall certify the date of termination of the trust, if so planned, or certify that the trust **[**shall**] will** not expire prior to the next following December thirty-first**[**;**].**

(e) The following requirements apply to the following categories of assuming insurers:

a. The trust fund for a single assuming insurer shall consist of funds in trust in an amount not less than the assuming insurer's liabilities attributable to reinsurance ceded by the United States ceding insurers, and, in addition, the assuming insurer shall maintain a trusteed surplus of not less than twenty million dollars;

b. In the case of a group of incorporated and individual unincorporated underwriters:

(i) For reinsurance ceded under reinsurance agreements with an inception, amendment or renewal date on or after August 1, 1995, the trust shall consist of a trusteed account in an amount not less than the group's several liabilities attributable to business ceded by United States domiciled ceding insurers to any member of the group;

(ii) For reinsurance ceded under reinsurance agreements with an inception date on or before July 31, 1995, and not amended or renewed after that date, notwithstanding the other provisions of this section, the trust shall consist of a trustee account in an amount not less than the group's several insurance and reinsurance liabilities attributable to business in the United States; and

(iii) In addition to these trusts, the group shall maintain in trust a trusteed surplus of which one hundred million dollars shall be held jointly for the benefit of the United States domiciled ceding insurers of any member of the group for all years of account;

c. The incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of regulation and solvency control by the group's domiciliary regulator as are the unincorporated members;

d. Within ninety days after its financial statements are due to be filed with the group's domiciliary regulator, the group shall provide to the director an annual certification by the group's domiciliary regulator of the solvency of each underwriter member; or if a certification is unavailable, financial statements, prepared by independent public accountants, of each underwriter member of the group;

(5) Credit:

(a) Shall be allowed when the reinsurance is ceded to an assuming insurer not meeting the requirements of subdivision (1), (2), (3) or (4) of this subsection, but only as to the insurance of risks located in a jurisdiction of the United States where the reinsurance is required by applicable law or regulation of that jurisdiction;

(b) May be allowed in the discretion of the director when the reinsurance is ceded to an assuming insurer not meeting the requirements of subdivision (1), (2), (3) or (4) of this subsection, but only as to the insurance of risks located in a foreign country where the reinsurance is required by applicable law or regulation of that country;

[(5)**]** **(6)** If the assuming insurer is not licensed or accredited to transact insurance or reinsurance in this state, the credit permitted by subdivisions (3) and (4) of this subsection shall not be allowed unless the assuming insurer agrees in the reinsurance agreements:

(a) That in the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer shall submit to the jurisdiction of the courts of this state, will comply with all requirements necessary to give such courts jurisdiction, and will abide by the final decisions of such courts or of any appellate courts in this state in the event of an appeal; and

(b) To designate the director or a designated attorney as its true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on behalf of the ceding company. This **[**provision**]** **paragraph** is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if **[**such an**]** **this** obligation is created in the agreement and the jurisdiction and situs of the arbitration is **[**the state of Missouri**], with respect to any receivership of the ceding company, any jurisdiction of the United States;**

(7) If the assuming insurer does not meet the requirements of subdivision (1), (2) or (3) of ths subsection, the credit permitted by subdivision (4) of this subsection shall not be allowed unless the assuming insurer agrees in the trust agreements to the following conditions:

(a) Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate because it contains an amount less than the amount required by paragraph (e) of subdivision (4) of this subsection, or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an order of the commissioner or director with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the commissioner or director with regulatory oversight all of the assets of the trust fund;

(b) The assets shall be distributed by and claims shall be filed with and valued by the commissioner or director with regulatory oversight in accordance with the laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic insurance companies;

(c) If the commissioner or director with regulatory oversight determines that the assets of the trust fund or any part thereof are not necessary to satisfy the claims of the United States ceding insurers of the grantor of the trust, the assets or part thereof shall be returned by the commissioner or director with regulatory oversight to the trustee for distribution in accordance with the trust agreement; and

(d) The grantor shall waive any right otherwise available to it under United States law that is inconsistent with this subsection.

2. **[**A**]** **An asset or** reduction from liability for the reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of subsection 1 of this section shall be allowed in an amount not exceeding the liabilities carried by the ceding insurer **[**and such**]. The** reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer, under a reinsurance contract with **[**such**] the** assuming insurer as security for the payment of obligations thereunder, if **[**such**] the** security is held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer; or, in the case of a trust, held in a qualified United States financial institution, as defined in subdivision (2) of subsection 3 of this section. This security may be in the form of:

(1) Cash;

(2) Securities listed by the securities valuation office of the National Association of Insurance Commissioners and qualifying as admitted assets;

(3) **(a)** Clean, irrevocable, unconditional letters of credit, as defined in subdivision (1) of subsection 3 of this section, issued or confirmed by a qualified United States **financial** institution no later than December thirty-first **[**with respect to**] of** the year for which filing is being made, and in the possession of**, or in trust for,** the ceding company on or before the filing date of its annual statement.

(b) Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance or confirmation, notwithstanding the issuing or confirming institution's subsequent failure to meet applicable standards of issuer acceptability, shall continue to be acceptable as security until their expiration, extension, renewal, modification or amendment, whichever first occurs;

(4) Any other form of security acceptable to the director **[**and approved by the attorney general**]**.

3. (1) For purposes of subdivision (3) of subsection 2 of this section, a "qualified United States financial institution" means an institution that:

(a) Is organized or**,** in the case of a United States office of a foreign banking organization, licensed under the laws of the United States or any state thereof;

(b) Is regulated, supervised and examined by federal or state authorities having regulatory authority over banks and trust companies; and

(c) Has been determined by either the director, or the securities valuation office of the National Association of Insurance Commissioners, to meet such standards of financial condition and standing as are considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the director.

(2) A "qualified United States financial institution" means, for purposes of those provisions of this law specifying those institutions that are eligible to act as a fiduciary of a trust, an institution that:

(a) Is organized, or in the case of a United States branch or agency office of a foreign banking organization, licensed under the laws of the United States or any state thereof and has been granted authority to operate with fiduciary powers; and

(b) Is regulated, supervised and examined by federal or state authorities having regulatory authority over banks and trust companies.

4. The director may adopt rules and regulations implementing the provisions of this section.

5. **(1)** The director shall disallow any credit as an asset or as a deduction from liability for any reinsurance found by him to have been arranged for the purpose principally of deception as to the ceding company's financial condition as of the date of any financial statement of the company. Without limiting the general purport of this provision, reinsurance of any substantial part of the company's outstanding risks contracted for in fact within four months prior to the date of any such financial statement and canceled in fact within four months after the date of such statement, or reinsurance under which the assuming insurer bears no substantial insurance risk or substantial risk of net loss to itself, shall prima facie be deemed to have been arranged for the purpose principally of deception within the intent of this provision.

(2) (a) The director shall also disallow **as an asset or deduction from liability to any ceding insurer** any credit for reinsurance unless the reinsurance is payable to the ceding company, and if it be impaired or insolvent to its **[**rehabilitator or**]** receiver, by the assuming insurer on the basis of the liability of the ceding company under the contracts reinsured without diminution because of the insolvency of the ceding company.

(b) Such payments shall be made directly to the ceding insurer or to its domiciliary liquidator except:

a. Where the contract of insurance or reinsurance specifically provides for payment to the named insured, assignee or named beneficiary of the policy issued by the ceding insurer in the event of the insolvency of the ceding insurer; or

b. Where the assuming insurer, with the consent of it and the direct insured or insureds in an assumption reinsurance transaction subject to sections 375.1280 to 375.1295, has assumed such policy obligations of the ceding insurer as direct obligations of the assuming insurer to the payees under such policies and in substitution for the obligations of the ceding insurer to such payees.

(c) Notwithstanding paragraphs (a) and (b) of this subdivision, in the event that a life and health insurance guaranty association has made the election to succeed to the rights and obligations of the insolvent insurer under the contract of reinsurance, then the reinsurer's liability to pay covered reinsured claims shall continue under the contract of reinsurance, subject to the payment to the reinsurer of the reinsurance premiums for such coverage. Payment for such reinsured claims shall only be made by the reinsurer pursuant to the direction of the guaranty association or its designated successor. Any payment made at the direction of the guaranty association or its designated successor by the reinsurer will discharge the reinsurer of all further liability to any other party for such claim payment.

(d) The reinsurance agreement may provide that the domiciliary liquidator of an insolvent ceding insurer shall give written notice to the assuming insurer of the pendency of a claim against such ceding insurer on the contract reinsured within a reasonable time after such claim is filed in the liquidation proceeding. During the pendency of such claim, any assuming insurer may investigate such claim and interpose, at its own expense in the proceeding where such claim is to be adjudicated any defenses which it deems available to the ceding insurer, or its liquidator. Such expense may be filed as a claim against the insolvent ceding insurer to the extent of a proportionate share of the benefit which may accrue to the ceding insurer solely as a result of the defense undertaken by the assuming insurer. Where two or more assuming insurers are involved in the same claim and a majority in interest elect to interpose a defense to such claim, the expense shall be apportioned in accordance with the terms of the reinsurance agreement as though such expense had been incurred by the ceding insurer.

6. **[**After an insurer has been declared insolvent the liquidator or receiver of such insurer shall file with the director a statement which shall reflect the claims reserves (including incurred but not reported losses) and unearned premium reserves which have been established by the liquidator or receiver and which shall also set forth the amounts of such reserves that are allocable to particular reinsurers of the insolvent company. Each such statement shall be filed by each liquidator or receiver not less frequently than annually and shall be considered for all intents and purposes as the annual statement which was required to be filed by the insurer with the director prior to the liquidation proceedings.**]** To the extent that any reinsurer of an insurance company in liquidation would have been required under any agreement pertaining to reinsurance to post letters of credit or other security prior to an order of liquidation to cover such reserves reflected upon **[**a**] the last financial** statement **[**required to post letters of credit or other security to cover such**] filed with a regulatory authority immediately prior to receivership, such reinsurer shall be required to post letters of credit or other security to cover** reserves after a company has been placed in liquidation or receivership. If a reinsurer shall fail to post letters

of credit or other security **as** required by a reinsurance agreement or the provisions of this **[**section**]** **subsection**, the director may **[**issue an order barring such reinsurer from thereafter reinsuring any insurance company which is incorporated under the laws of the state of Missouri or admitted to do business in**]** **consider disallowing as a credit or asset, in whole or in part, any future reinsurance ceded to such reinsurer by a ceding insurance company that is incorporated under the laws of** the state of Missouri.

7. **The provisions of section 375.420 shall not apply to any action, suit or proceeding by a ceding insurer against an assuming insurer arising out of a contract of reinsurance effectuated in accordance with the laws of Missouri.**

8. The provisions of this section shall become effective on January 1, **[**1992**]** **2003**, and shall be applicable to the financial statements of a reinsurer as of December 31, **[**1991**]** **2002**.

375.330. PURCHASE AND OWNERSHIP OF REAL ESTATE. — 1. No insurance company formed under the laws of this state shall be permitted to purchase, hold or convey real estate, excepting for the purpose and in the manner herein set forth, to wit:

(1) Such as shall be necessary for its accommodation in the transaction of its business; provided that before the purchase of real estate for any such purpose, the approval of the director of the department of insurance must be first had and obtained, and **[**in no event shall] **except with the approval of the director,** the value of such real estate, together with all appurtenances thereto, purchased for such purpose**[**:

(a) If a stock company, exceed the amount of its capital stock;

(b) If a fire or casualty company, but not a stock company, exceed sixty percent of its surplus or ten percent of its admitted assets, as shown by its last annual statement preceding the date of acquisition, as filed with the director of the department of insurance, whichever is the lesser; or

(c) If any other type or kind of insurance company, exceed sixty percent of its surplus or five percent of its admitted assets, as shown by its last annual statement, whichever is the lesser] **shall not exceed twenty percent of the insurance company's capital and surplus as shown by its last annual statement**; or

(2) Such as shall have been mortgaged in good faith by way of security for loans previously contracted, or for moneys due; or

(3) Such as shall have been conveyed to it in satisfaction of debts contracted in the course of its dealings; or

(4) Such as shall have been purchased at sales upon the judgments, decrees or mortgages obtained or made for such debts; or

(5) Such as shall be necessary and proper for carrying on its legitimate business under the provisions of the Urban Redevelopment Corporations Act; or

(6) Such as shall have been acquired under the provisions of the Urban Redevelopment Corporations Act permitting such company to purchase, own, hold or convey real estate; or

(7) Such real estate, or any interest therein, as may be acquired or held by it by purchase, lease or otherwise, as an investment for the production of income, which real estate or interest therein may thereafter be held, improved, developed, maintained, managed, leased, sold or conveyed by it as real estate necessary and proper for carrying on its legitimate business; or

(8) A reciprocal or interinsurance exchange may, in its own name, purchase, sell, mortgage, hold, encumber, lease, convey, or otherwise affect the title to real property for the purposes and objects of the reciprocal or interinsurance exchange. Such deeds, notes, mortgages or other documents relating to real property may be executed by the attorney in fact of the reciprocal or interinsurance exchange. This provision shall be retroactive and shall apply to real estate owned or sold by a reciprocal insurer prior to August 28, 1990.

2. The investments acquired under subdivision (7) of subsection 1 of this section may be in either existing or new business or industrial properties, or for new residential properties or new housing purposes.

3. Provided, no such insurance company shall invest more than ten percent of its admitted assets, as shown by its last annual statement preceding the date of acquisition, as filed with the director of the department of insurance of the state of Missouri, in the total amount of real estate acquired under subdivision (7) of subsection 1, nor more under subdivision (7) of subsection 1 than one percent of its admitted assets or ten percent of its capital and surplus, whichever is greater, in any one property, nor more under subdivision (7) of subsection 1 than one percent of its admitted assets or ten percent of its capital and surplus, whichever is greater, in total properties leased or rented to any one individual, partnership or corporation.

4. It shall not be lawful for any company incorporated as aforesaid to purchase, hold or convey real estate in any other case or for any other purpose; and all such real estate acquired in payment of a debt, by foreclosure or otherwise, and real estate exchanged therefor, shall be sold and disposed of within ten years after such company shall have acquired absolute title to the same, unless the company owning such real estate or interest therein shall elect to hold it pursuant to subdivision (7) of subsection 1.

5. The director of the department of insurance may, for good cause shown, extend the time for holding such real estate acquired in paying of a debt, by foreclosure or otherwise, and real estate exchanged therefor, and not held by the company under subdivision (7) of subsection 1, for such period as he may find to be to the best interests of the policyholders of said company.

6. If a life insurance company depositing under section 376.170, RSMo, becomes the owner of real estate pursuant to this section, the company may execute its own deed for the real estate to the director of the department of insurance, as trustee. The deed may be deposited with the director as proper security, under and according to the provisions of sections 376.010 to 376.670, RSMo, the value to be subject to the approval of the director.

375.1202. REINSURERS, AMOUNTS RECOVERABLE NOT REDUCED DUE TO DELINQUENCY PROCEEDINGS — EXCEPTIONS. — 1. The amount recoverable by the liquidator from reinsurers shall not be reduced as a result of the delinquency proceedings, regardless of any provision in the reinsurance contract or other agreement. Payment made directly to an insured or other creditor shall not diminish the reinsurer's obligation to the insurer's estate **except where:**

(1) The reinsurance contract specifically provides for payment to the named insured, assignee or named beneficiary of the policy issued by the ceding insurer in the event of the ceding insurer's insolvency; or

(2) The assuming insurer, with the consent of the direct insured or insureds, has directly assumed the ceding insurer's policy obligations to the payees under such policies in substitution for the ceding insurer's obligations to such payees.

2. Notwithstanding subsection 1 of this section, in the event that a life and health insurance guaranty association has made the election to succeed to the rights and obligations of the insolvent insurer under the contract of reinsurance, then the reinsurer's liability to pay covered reinsured claims shall continue under the contract of reinsurance, subject to the payment to the reinsurer of the reinsurance premiums for such coverage. Payment for such reinsured claims shall only be made by the reinsurer pursuant to the direction of the guaranty association or its designated successor. Any payment made at the direction of the guaranty association or its designated successor by the reinsurer will discharge the reinsurer of all further liability to any other party for said claim payment.

376.311. INVESTMENT OF CAPITAL RESERVE AND SURPLUS OF LIFE INSURANCE COMPANIES IN INVESTMENT POOLS — DEFINITIONS — QUALIFICATIONS — REQUIREMENTS. — 1. In addition to the investments permitted by other provisions of the laws, the capital reserve and surplus of all life insurance companies of whatever kind and character, organized or doing business pursuant to this chapter, may be invested in an investment pool meeting the requirements set out below, and any other provision of law relating to investments made by life insurance companies.

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

(1) "Business entity", a corporation, limited liability company, association, partnership, joint stock company, joint venture, mutual fund trust, or other similar form of business organization, including such an entity when organized as a not-for-profit entity;

(2) "Qualified bank", a national bank, state bank or trust company that at all times is no less than adequately capitalized as determined by the standards adopted by the United States banking regulators and that is either regulated by state banking laws or is a member of the Federal Reserve System.

3. (1) Qualified investment pools shall invest only in investments which an insurer may acquire pursuant to this chapter and other provisions of law. The insurer's proportionate interest in these investments may not exceed the applicable limits of this section and other provisions of law.

(2) An insurer shall not acquire an investment in an investment pool pursuant to this subsection if, after giving effect to the investment, the aggregate amount of investments in all investment pools then held by the insurer would exceed thirty percent of its assets.

(3) For an investment in an investment pool to be qualified pursuant to this chapter, the investment pool shall not:

(a) Acquire securities issued, assumed, guaranteed or insured by the insurer or an affiliate of the insurer;

(b) Borrow or incur any indebtedness for borrowed money, except for securities lending and reverse repurchase transactions;

(c) Lend money or other assets to participants in the pool.

(4) For an investment pool to be qualified pursuant to this chapter, the manager of the investment pool shall:

(a) Be organized pursuant to the laws of the United States or a state and designated as the pool manager in a pooling agreement;

(b) Be the insurer; an affiliated insurer; **a business entity affiliated with the insurer;** a qualified bank; a business entity registered pursuant to the Investment Advisors Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.) as amended; or, in the case of a reciprocal insurer or interinsurance exchange, its attorney-in-fact.

(5) The pool manager, or an agent designated by the pool manager, shall compile and maintain detailed accounting records setting forth:

(a) The cash receipts and disbursements reflecting each participant's proportionate investment in the investment pool;

(b) A complete description of all underlying assets of the investment pool including amount, interest rate, maturity date (if any) and other appropriate designations; and

(c) Other records which, on a daily basis, allow third parties to verify each participant's investments in the investment pool.

(6) The pool manager shall maintain the assets of the investment pool in one **or more** custody **[**account**] accounts**, in the name of or on behalf of the investment pool, under **[**a**] one or more** custody **[**agreement**] agreements** with a qualified bank. **[**All custodial agreements shall be filed with the department of insurance for prior approval. The**] Each** custody agreement shall:

(a) State and recognize the claims and rights of each participant;

(b) Acknowledge that the underlying assets of the investment pool are held solely for the benefit of each participant in proportion to the aggregate amount of its investments in the investment pool; and

(c) Contain an agreement that the underlying assets of the investment pool shall not be commingled with the general assets of the qualified bank or any other person.

(7) The pooling agreement for each investment pool shall be in writing and shall provide that:

(a) An insurer and its **[**affiliated insurers**]** **affiliates** shall, at all times, hold one hundred percent of the interests in the investment pool;

(b) The underlying assets of the investment pool shall not be commingled with the general assets of the pool manager or any other person;

(c) The aggregate amount of each pool participant's interest in the investment pool shall be in proportion to:

a. Each participant's undivided interest in the underlying assets of the investment pool; and

b. The underlying assets of the investment pool held solely for the benefit of each participant;

(d) A participant or, in the event of the participant's insolvency, bankruptcy or receivership, its trustee, receiver, conservator or other successor-in-interest may withdraw all or any portion of its investment from the investment pool under the terms of the pooling agreement;

(e) Withdrawals may be made on demand without penalty or other assessment on any business day, but settlement of funds shall occur within a reasonable and customary period thereafter, provided:

a. In the case of publicly traded securities, settlement shall not exceed five business days; and

b. In the case of all other securities and investments, settlement shall not exceed ten business days.

Distributions pursuant to this paragraph shall be calculated in each case net of all then applicable fees and expenses of the investment pool.

(8) The pooling agreement shall provide that the pool manager shall distribute to a participant, at the discretion of the pool manager:

(a) In cash, the then fair market value of the participant's pro rata share of each underlying asset of the investment pool; or

(b) In-kind, a pro rata share of each underlying asset; or

(c) In a combination of cash and in-kind distributions, a pro rata share in each underlying asset;

(9) The pool manager shall make the records of the investment pool available for inspection by the director.

4. The pooling agreement and any other arrangements or agreements relating to an investment pool, and any amendments thereto, shall be submitted to the department of insurance for prior approval pursuant to section 382.195, RSMo. Individual financial transactions between the pool and its participants in the ordinary course of the investment pool's operations shall not be subject to the provisions of section 382.195, RSMo. Investment activities of pools and transactions between pools and participants shall be reported annually in the registration statement required by section 382.100, RSMo.

376.671. PROVISIONS WHICH SHALL BE CONTAINED IN ANNUITY CONTRACTS. — 1. This section shall not apply to any reinsurance, group annuity purchased under a retirement plan or plan of deferred compensation established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code, as now or hereafter amended, premium deposit fund, variable annuity, investment annuity, immediate annuity, any deferred annuity contract after annuity payments have commenced, or reversionary annuity, nor to any contract which shall be delivered outside this state through an agent or other representative of the company issuing the contract.

2. In the case of contracts issued on or after the operative date of this section as defined in subsection 11, no contract of annuity, except as stated in subsection 1, shall be delivered or issued for delivery in this state unless it contains in substance the following provisions, or

corresponding provisions which in the opinion of the director are at least as favorable to the contractholder, upon cessation of payment of considerations under the contract:

(1) That upon cessation of payment of considerations under a contract, the company will grant a paid-up annuity benefit on a plan stipulated in the contract of such value as is specified in subsections 4, 5, 6, 7, and 9;

(2) If a contract provides for a lump sum settlement at maturity, or at any other time, that upon surrender of the contract at or prior to the commencement of any annuity payments, the company will pay in lieu of any paid-up annuity benefit a cash surrender benefit of such amount as is specified in subsections 4, 5, 7, and 9. The company shall reserve the right to defer the payment of such cash surrender benefit for a period of six months after demand therefor with surrender of the contract;

(3) A statement of the mortality table, if any, and interest rates used in calculating any minimum paid-up annuity, cash surrender or death benefits that are guaranteed under the contract, together with sufficient information to determine the amounts of such benefits;

(4) A statement that any paid-up annuity, cash surrender or death benefits that may be available under the contract are not less than the minimum benefits required by any statute of the state in which the contract is delivered and an explanation of the manner in which such benefits are altered by the existence of any additional amounts credited by the company to the contract, any indebtedness to the company on the contract or any prior withdrawals from or partial surrenders of the contract. Notwithstanding the requirements of this section, any deferred annuity contract may provide that if no considerations have been received under a contract for a period of two full years and the portion of the paid-up annuity benefit at maturity on the plan stipulated in the contract arising from considerations paid prior to such period would be less than twenty dollars monthly, the company may at its option terminate such contract by payment in cash of the then present value of such portion of the paid-up annuity benefit, calculated on the basis of the mortality table, if any, and interest rate specified in the contract for determining the paid-up annuity benefit, and by such payment shall be relieved of any further obligation under such contract.

3. The minimum values as specified in subsections 4, 5, 6, 7, and 9 of any paid-up annuity, cash surrender or death benefits available under an annuity contract shall be based upon minimum nonforfeiture amounts as defined in this section.

(1) With respect to contracts providing for flexible considerations, the minimum nonforfeiture amount at any time at or prior to the commencement of any annuity payment shall be equal to an accumulation up to such time at a rate of interest of three percent per annum of percentages of the net considerations (as hereinafter defined) paid prior to such time, decreased by the sum of

(a) Any prior withdrawals from or partial surrenders of the contract accumulated at a rate of interest of three percent per annum; and

(b) The amount of any indebtedness to the company on the contract, including interest due and accrued and increased by any existing additional amounts credited by the company to the contract. The net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount not less than zero and shall be equal to the corresponding gross considerations credited to the contract during that contract year less an annual contract charge of thirty dollars and less a collection charge of one dollar and twenty-five cents per consideration credited to the contract during that contract year. The percentages of net considerations shall be sixty-five percent of the net consideration for the first contract year and eighty-seven and one-half percent of the net considerations for the second and later contract years. Notwithstanding the provisions of the preceding sentence, the percentage shall be sixty-five percent of the portion of the total net consideration for any renewal contract year which exceeds by not more than two times the sum of those portions of the net considerations in all prior contract years for which the percentage was sixty-five percent;

(2) With respect to contracts providing for fixed scheduled considerations, minimum nonforfeiture amounts shall be calculated on the assumption that considerations are paid annually in advance and shall be defined as for contracts with flexible considerations which are paid annually with two exceptions:

(a) The portion of the net consideration for the first contract year to be accumulated shall be the sum of sixty-five percent of the net consideration for the first contract year plus twenty-two and one-half percent of the excess of the net consideration for the first contract year over the lesser of the net considerations for the second and third contract years;

(b) The annual contract charge shall be the lesser of thirty dollars or ten percent of the gross annual consideration;

(3) With respect to contracts providing for a single consideration, minimum nonforfeiture amounts shall be defined as for contracts with flexible considerations except that the percentage of net consideration used to determine the minimum nonforfeiture amount shall be equal to ninety percent, and the net consideration shall be the gross consideration less a contract charge of seventy-five dollars**;**

(4) Notwithstanding any other provision of this subsection, for any contract issued on or after July 1, 2002, and before July 1, 2004, the interest rate at which net considerations, prior withdrawals and partial surrenders shall be accumulated, for the purpose of determining minimum nonforfeiture amounts, shall be one and one-half percent per annum.

4. Any paid-up annuity benefit available under a contract shall be such that its present value on the date annuity payments are to commence is at least equal to the minimum nonforfeiture amount on that date. Such present value shall be computed using the mortality table, if any, and the interest rate specified in the contract for determining the minimum paid-up annuity benefits guaranteed in the contract.

5. For contracts which provide cash surrender benefits, such cash surrender benefits available prior to maturity shall not be less than the present value as of the date of surrender of that portion of the maturity value of the paid-up annuity benefit which would be provided under the contract at maturity arising from considerations paid prior to the time of cash surrender reduced by the amount appropriate to reflect any prior withdrawals from or partial surrenders of the contract, such present value being calculated on the basis of an interest rate not more than one percent higher than the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, decreased by the amount of any indebtedness to the company on the contract, including interest due and accrued, and increased by any existing additional amounts credited by the company to the contract. In no event shall any cash surrender benefit be less than the minimum nonforfeiture amount at that time. The death benefit under such contracts shall be at least equal to the cash surrender benefit.

6. For contracts which do not provide cash surrender benefits, the present value of any paid-up annuity benefit available as a nonforfeiture option at any time prior to maturity shall not be less than the present value of that portion of the maturity value of the paid-up annuity benefit provided under the contract arising from considerations paid prior to the time the contract is surrendered in exchange for, or changed to, a deferred paid-up annuity, such present value being calculated for the period prior to the maturity date on the basis of the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, and increased by any existing additional amounts credited by the company to the contract. For contracts which do not provide any death benefits prior to the commencement of any annuity payments, such present values shall be calculated on the basis of such interest rate and the mortality table specified in the contract for determining the maturity value of the paid-up annuity benefit. However, in no event shall the present value of a paid-up annuity benefit be less than the minimum nonforfeiture amount at that time.

7. For the purpose of determining the benefits calculated under subsections 5 and 6, in the case of annuity contracts under which an election may be made to have annuity payments

commence at optional maturity date, the maturity date shall be deemed to be the latest date for which election shall be permitted by the contract, but shall not be deemed to be later than the anniversary of the contract next following the annuitant's seventieth birthday or the tenth anniversary of the contract, whichever is later.

8. Any contract which does not provide cash surrender benefits or does not provide death benefits at least equal to the minimum nonforfeiture amount prior to the commencement of any annuity payments shall include a statement in a prominent place in the contract that such benefits are not provided.

9. Any paid-up annuity, cash surrender or death benefits available at any time, other than on the contract anniversary under any contract with fixed scheduled considerations, shall be calculated with allowance for the lapse of time and the payment of any scheduled considerations beyond the beginning of the contract year in which cessation of payment of considerations under the contract occurs.

10. For any contract which provides, within the same contract by rider or supplemental contract provision, both annuity benefits and life insurance benefits that are in excess of the greater of cash surrender benefits or a return of the gross considerations with interest, the minimum nonforfeiture benefits shall be equal to the sum of the minimum nonforfeiture benefits for the annuity portion and the minimum nonforfeiture benefits, if any, for the life insurance portion computed as if each portion were a separate contract. Notwithstanding the provisions of subsections 4, 5, 6, 7, and 9, additional benefits payable in the event of total and permanent disability, as reversionary annuity or deferred reversionary annuity benefits, or as other policy benefits additional to life insurance, endowment and annuity benefits, and considerations for all such additional benefits, shall be disregarded in ascertaining the minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits that may be required by this section. The inclusion of such additional benefits shall not be required in any paid-up benefits, unless such additional benefits separately would require minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits.

11. After September 28, 1979, any company may file with the director a written notice of its election to comply with the provisions of this section after a specified date before September 28, 1981. After the filing of such notice, then upon such specified date, which shall be the operative date of this section for such company, this section shall become operative with respect to annuity contracts thereafter issued by such company. If a company makes no such election, the operative date of this section for such company shall be September 28, 1981.

376.951. LAW, HOW CITED — DEFINITIONS. — 1. Sections 376.951 to 376.958 **and sections 376.1121 to 376.1133** may be known and cited as the "Long-term Care Insurance Act".

2. As used in sections 376.951 to 376.958 **and sections 376.1121 to 376.1133, unless the context requires otherwise,** the following terms mean:

(1) "Applicant":

(a) In the case of an individual long-term care insurance policy, the person who seeks to contract for benefits; and

(b) In the case of a group long-term care insurance policy, the proposed certificate holder;

(2) "Certificate", any certificate **[**or evidence of coverage**]** issued under a group long-term care insurance policy, which policy has been delivered or issued for delivery in this state;

(3) "Director", the director of the department of insurance of this state;

(4) "Group long-term care insurance", a long-term care insurance policy which is delivered or issued for delivery in this state and issued to:

(a) One or more employers or labor organizations, or to a trust or to the trustees of a fund established by one or more employers or labor organizations, or a combination thereof, for employees or former employees or a combination thereof or for members or former members or a combination thereof, of the labor organization; or

(b) Any professional, trade or occupational association for its members or former or retired members, or combination thereof, if such association;

a. Is composed of individuals all of whom are or were actively engaged in the same profession, trade or occupation; and

b. Has been maintained in good faith for purposes other than obtaining insurance; or

(c) An association or a trust or the trustee of a fund established, created or maintained for the benefit of members of one or more associations. Prior to advertising, marketing or offering such policy within this state, the association or associations, or the insurer of the association or associations, shall file evidence with the director that the association or associations have at the outset a minimum of one hundred persons and have been organized and maintained in good faith for purposes other than that of obtaining insurance; have been in active existence for at least one year; and have a constitution and bylaws which provide that:

a. The association or associations hold regular meetings not less than annually to further purposes of the members;

b. Except for credit unions, the association or associations collect dues or solicit contributions from members; and

c. The members have voting privileges and representation on the governing board and committees. Thirty days after such filing the association or associations shall be deemed to satisfy such organizational requirements, unless the director makes a finding that the association or associations do not satisfy those organizational requirements;

(d) A group other than as described in paragraph (a), (b) or (c) of subdivision (4) of this subsection, subject to a finding by the director that:

a. The issuance of the 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;

(5) "Long-term care insurance", any **insurance** policy**[**, contract, certificate, evidence of coverage**]** or rider advertised, marketed, offered or designed to provide coverage for not less than twelve consecutive months for each covered person on an expense-incurred, indemnity, prepaid or other basis; for one or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance of personal care services, provided in a setting other than an acute care unit of a hospital. Such term includes group and individual annuities and life insurance policies or riders which provide directly or which supplement long-term care insurance. Such term also includes a policy or rider which provides for payment of benefits based upon cognitive impairment or the loss of functional capacity. **Long-term care insurance also includes qualified long-term care insurance contracts.** Long-term care insurance may be issued by insurers; fraternal benefit societies; health services corporations; prepaid health plans; **[**and**]** health maintenance organizations**, or any similar organization** to the extent they are otherwise authorized **to issue life or health insurance**. Long-term care insurance shall not include any insurance policy which is offered primarily to provide basic Medicare supplement coverage, basic hospital expense coverage, basic medical-surgical expense coverage, hospital confinement indemnity coverage, major medical expense coverage, disability income or related asset protection coverage, accident only coverage, specified disease or specified accident coverage, or limited benefit health coverage**. With regard to life insurance, long-term care insurance does not include life insurance policies that accelerate the death benefit specifically for one or more of the qualifying events of terminal illness, medical conditions requiring extraordinary medical intervention, or permanent institutional confinement, and that provide the option of a lump-sum payment for those benefits and neither the benefits nor the eligibility for the benefits is conditioned upon the receipt of long-term care. Notwithstanding any other provision of sections 376.951 to 376.958 and sections 376.1121 to 376.1133 to the contrary, any product advertised, marketed, or offered as long-term**

care insurance shall be subject to the provisions of sections 376.951 to 376.958 and sections 376.1121 to 376.1133;

(6) "Policy", any policy, **[**contract, certificate, evidence of coverage,**]** subscriber agreement, rider or endorsement delivered or issued for delivery in this state by an insurer; fraternal benefit society; health services corporation; prepaid health plan or health maintenance organization**, or any similar organization;**

(7) "Qualified long-term care insurance contract" or "federally tax-qualified long-term care insurance contract", the portion of a life insurance contract that provides long-term care insurance coverage by rider or as part of the contract that satisfies the requirements of Section 7702B(b) and (e) of the Internal Revenue Code of 1986, as amended. Qualified long-term care insurance contract also includes an individual or group insurance contract that meets the requirements of Section 7702B(b) of the Internal Revenue Code of 1986, as amended, as follows:

(a) The only insurance protection provided under the contract is coverage of qualified long-term care services. A contract shall not fail to satisfy the requirements of this paragraph by reason of payments being made on a per diem or other periodic basis without regard to the expenses incurred during the period to which the payments relate;

(b) The contract does not pay or reimburse expenses incurred for services or items to the extent that the expenses are reimbursable under Title XVIII of the Social Security Act, as amended, or would be so reimbursable but for the application of a deductible or coinsurance amount. The requirements of this paragraph do not apply to expenses that are reimbursable under Title XVIII of the Social Security Act only as a secondary payor. A contract shall not fail to satisfy the requirements of this paragraph by reason of payments being made on a per diem or other periodic basis without regard to the expenses incurred during the period to which the payments relate;

(c) The contract is guaranteed renewable within the meaning of Section 7702B(b)(1)(C) of the Internal Revenue Code of 1986, as amended;

(d) The contract does not provide for a cash surrender value or other money that can be paid, assigned, pledged as collateral for a loan, or borrowed except as provided in paragraph (e) of this subdivision;

(e) All refunds of premiums and all policyholder dividends or similar amounts under the contract are to be applied as a reduction in future premiums or to increase future benefits; except that a refund on the event of death of the insured or a complete surrender or cancellation of the contract shall not exceed the aggregate premiums paid under the contract; and

(f) The contract meets the consumer protection provisions set forth in Section 7702B(g) of the Internal Revenue Code of 1986, as amended.

376.952. LAWS APPLICABLE, MEDICARE SUPPLEMENT LAWS NOT APPLICABLE — PURPOSE — POLICIES OR RIDERS MUST BE IN COMPLIANCE. — 1. The provisions of sections 376.951 to 376.958 **and sections 376.1121 to 376.1133** shall apply to policies delivered or issued for delivery in this state on or after August 28, **[**1990**] 2002**. Sections 376.951 to 376.958 **and sections 376.1121 to 376.1133** are not intended to supersede the obligations of entities subject to the provisions of sections 376.951 to 376.958 **and sections 376.1122 to 376.1133** to comply with the substance of other applicable insurance laws insofar as they do not conflict with the provisions of sections 376.951 to 376.958 **and sections 376.1122 to 376.1133**, except that laws and regulations designed and intended to apply to medicare supplement insurance policies shall not be applied to long-term care insurance.

2. The purposes of the provisions of sections 376.951 to 376.958 **and sections 376.1122 to 376.1133** are to promote the public interest, to promote the availability of long-term care insurance policies, to protect applicants for long-term care insurance, as defined, from unfair or deceptive sales or enrollment practices, to establish standards for long-term care insurance, to

facilitate public understanding and comparison of long-term care insurance policies, and to facilitate flexibility and innovation in the development of long-term care insurance coverage.

3. Any policy or rider advertised, marketed or offered as long-term care or nursing home insurance shall comply with the provisions of sections 376.951 to 376.958 **and sections 376.1122 to 376.1133**.

376.955. POLICIES, CONTENT REQUIREMENTS, PROVISIONS PROHIBITED — RULES AUTHORIZED. — 1. The director may adopt regulations that include standards for full and fair disclosure setting forth the manner, content and required disclosures for the sale of long-term care insurance policies, terms of renewability, initial and subsequent conditions of eligibility, nonduplication of coverage provisions, coverage of dependents, preexisting conditions, termination of insurance, continuation or conversion, probationary periods, limitations, exceptions, reductions, elimination periods, requirements for replacement, recurrent conditions and definitions of terms. Regulations adopted pursuant to sections 376.951 to 376.958 **and sections 376.1122 to 376.1133** shall be in accordance with the provisions of chapter 536, RSMo.

2. No long-term care insurance policy may:

(1) Be canceled, nonrenewed or otherwise terminated on the grounds of the age or the deterioration of the mental or physical health of the insured individual or certificate holder; or

(2) Contain a provision establishing a new waiting period in the event existing coverage is converted to or replaced by a new or other form within the same company, except with respect to an increase in benefits voluntarily selected by the insured individual or group policyholder; or

(3) Provide coverage for skilled nursing care only or provide significantly more coverage for skilled care in a facility than for lower levels of care.

3. No long-term care insurance policy or certificate other than a policy or certificate thereunder issued to a group as defined in paragraph (a) of subdivision (4) of subsection 2 of section 376.951:

(1) Shall use a definition of preexisting condition which is more restrictive than the following: "Preexisting condition" means a condition for which medical advice or treatment was recommended by, or received from, a provider of health care services, within six months preceding the effective date of coverage of an insured person;

(2) May exclude coverage for a loss or confinement which is the result of a preexisting condition unless such loss or confinement begins within six months following the effective date of coverage of an insured person.

4. The director may extend the limitation periods set forth in subdivisions (1) and (2) of subsection 3 of this section as to specific age group categories in specific policy forms upon findings that the extension is in the best interest of the public.

5. The definition of preexisting condition provided in subsection 3 of this section does not prohibit an insurer from using an application form designed to elicit the complete health history of an applicant, and, on the basis of the answers on that application, from underwriting in accordance with that insurer's established underwriting standards. Unless otherwise provided in the policy or certificate, a preexisting condition, regardless of whether it is disclosed on the application, need not be covered until the waiting period described in subdivision (2) of subsection 3 of this section expires. No long-term care insurance policy or certificate may exclude or use waivers or riders of any kind to exclude, limit or reduce coverage or benefits for specifically named or described preexisting diseases or physical conditions beyond the waiting period described in subdivision (2) of subsection 3 of this section.

6. No long-term care insurance policy may be delivered or issued for delivery in this state if such policy:

(1) Conditions eligibility for any benefits on a prior hospitalization requirement; or

(2) Conditions eligibility for benefits provided in an institutional care setting on the receipt of a higher level of institutional care; or

(3) Conditions eligibility for any benefits **[**on a prior institutionalization requirement, except in the case of**]** **other than** waiver of premium, post-confinement, post-acute care or recuperative benefits **on a prior institutionalization requirement**.

7. A long-term care insurance policy containing post-confinement, post-acute care or recuperative benefits shall clearly label in a separate paragraph of the policy or certificate entitled "Limitations or Conditions on Eligibility for Benefits" such limitations or conditions, including any required number of days of confinement.

8. A long-term care insurance policy or rider which conditions eligibility of noninstitutional benefits on the prior receipt of institutional care shall not require a prior institutional stay of more than thirty days.

9. No long-term care insurance policy or rider which provides benefits only following institutionalization shall condition such benefits upon admission to a facility for the same or related conditions within a period of less than thirty days after discharge from the institution.

10. The director may adopt regulations establishing loss ratio standards for long-term care insurance policies provided that a specific reference to long-term care insurance policies is contained in the regulation.

11. Long-term care insurance applicants shall have the right to return the policy or certificate within thirty days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the applicant is not satisfied for any reason. Long-term care insurance policies and certificates shall have a notice prominently printed on the first page or attached thereto stating in substance that the applicant shall have the right to return the policy or certificate within thirty days of its delivery and to have the premium refunded if, after examination of the policy or certificate, other than a certificate issued pursuant to a policy issued to a group defined in paragraph (a) of subdivision (4) of subsection 2 of section 376.951, the applicant is not satisfied for any reason. **This subsection shall also apply to denials of applications and any refund must be made within thirty days of the return or denial.**

376.957. COVERAGE OUTLINE TO BE DELIVERED TO APPLICANTS, WHEN, CONTENT. — 1. An outline of coverage shall be delivered to a prospective applicant for long-term care insurance at the time of initial solicitation through means which prominently direct the attention of the recipient to the document and its purpose. The director shall prescribe a standard format, including style, arrangement and overall appearance, and the content of an outline of coverage. In the case of agent solicitations, an agent shall deliver the outline of coverage prior to the presentation of an **[**applicant**]** **application** or enrollment form. In the case of direct response solicitations, the outline of coverage shall be presented in conjunction with any application or enrollment form. **In the case of a policy issued to a group defined in section 376.951, an outline of coverage shall not be required to be delivered; provided that the information described in subdivisions (1) to (6) of subsection 2 of this section is contained in other materials relating to enrollment. Upon request, such other materials shall be made available to the director.**

2. The outline of coverage shall include:

(1) A description of the principal benefits and coverage provided in the policy;

(2) A statement of the principal exclusions, reductions, and limitations contained in the policy;

(3) A statement of the terms under which the policy or certificate, or both, may be continued in force or discontinued, including any reservation in the policy of a right to change the premium. Continuation or conversion provisions of group coverage shall be specifically described;

(4) A statement that the outline of coverage is a summary only, not a contract of insurance, and that the policy or group master policy contains governing contractual provisions;

(5) A description of the terms under which the policy or certificate may be returned and premium refunded; **[**and**]**

(6) A brief description of the relationship of cost of care and benefits**; and**

(7) A statement that discloses to the policyholder or certificate holder whether the policy is intended to be a federally tax-qualified long-term care insurance contract under Section 7702B(b) of the Internal Revenue Code of 1986, as amended.

3. A certificate issued pursuant to a group long-term care insurance policy which policy is delivered or issued for delivery in this state shall include:

(1) A description of the principal benefits and coverage provided in the policy;

(2) A statement of the principal exclusions, reductions and limitations contained in the policy; and

(3) A statement that the group master policy determines governing contractual provisions.

4. **If an application for a long-term care insurance contract or certificate is approved, the issuer shall deliver the contract or certificate of insurance to the applicant no later than thirty days after the date of approval.**

5. At the time of policy delivery, a policy summary shall be delivered for an individual life insurance policy which provides long-term care benefits within the policy or by rider. In the case of direct response solicitations, the insurer shall deliver the policy summary upon the applicant's request, but regardless of request shall make such delivery no later than at the time of policy delivery. In addition to complying with all applicable requirements, the summary shall also include:

(1) An explanation of how the long-term care benefit interacts with other components of the policy, including deductions from death benefits;

(2) An illustration of the amount of benefits, the length of benefit, and the guaranteed lifetime benefits, if any, for each covered person;

(3) Any exclusions, reductions and limitations on benefits of long-term care; **[**and**]**

(4) **A statement that any long-term care inflation protection option that may be required by the laws of this state is not available under the policy; and**

(5) If applicable to the policy type, the summary shall also include:

(a) A disclosure of the effects of exercising other rights under the policy;

(b) A disclosure of guarantees related to long-term care costs of insurance charges **[**or notice that such guarantees are included in the policy or rider; and**]**;

(c) Current and projected maximum lifetime benefits**; and**

(d) The provisions of the policy summary listed in paragraphs (a) to (c) of this subdivision may be incorporated into a basic illustration required to be delivered in accordance with sections 375.1509, RSMo, or into the life insurance policy summary required to be delivered in accordance with section 376.706.

376.1121. DENIAL OF CLAIM, LONG-TERM CARE INSURANCE, DUTIES OF ISSUER. — If a claim under a long-term care insurance contract is denied, the issuer shall, within sixty days of the date of a written request by the policyholder or certificate holder, or a representative thereof:

(1) Provide a written explanation of the reasons for the denial; and

(2) Make available all information directly related to the denial.

376.1124. RESCINDING OF A LONG-TERM CARE POLICY, PERMITTED WHEN — GROUNDS FOR CONTESTING — NO FIELD ISSUANCE, WHEN. — 1. For a policy or certificate that has been in force less than six months, an insurer may rescind a long-term care insurance policy or certificate, or deny an otherwise valid long-term care insurance claim upon a showing of misrepresentation that is material to the acceptance for coverage.

2. For a policy or certificate that has been in force for at least six months but less than two years, an insurer may rescind a long-term care insurance policy or certificate, or deny an otherwise valid long-term care insurance claim upon a showing of misrepresentation that is both material to the acceptance of coverage and which pertains to the conditions for which benefits are sought.

3. After a policy or certificate has been in force for two years, such policy or certificate is not contestable upon the grounds of misrepresentation alone. Such policy or certificate may be contested only upon a showing that the insured knowingly and intentionally misrepresented relevant facts relating to the insured's health.

4. No long-term care insurance policy or certificate shall be field issued based on medical or health status. For purposes of this subsection, "field issued" means a policy or certificate issued by an agent or third-party administrator pursuant to the underwriting authority granted to the agent or third-party administrator by an insurer.

5. If an insurer has paid benefits under the long-term care insurance policy or certificate, the benefit payments shall not be recovered by the insurer if such policy or certificate is rescinded.

6. In the event of the death of the insured, this section shall not apply to the remaining death benefit of a life insurance policy that accelerates benefits for long-term care. In this situation, the remaining death benefits under these policies shall be governed by the contestability provisions otherwise applicable in the policy to life insurance benefits. In all other situations, this section shall apply to life insurance policies that accelerate benefits for long-term care.

376.1127. NONFORFEITURE BENEFIT OPTION REQUIRED FOR LONG-TERM CARE INSURANCE POLICIES, REQUIREMENTS OF OFFER — RULEMAKING AUTHORITY. — 1. Except as provided in subsection 2 of this section, a long-term care insurance policy shall not be delivered or issued for delivery in this state unless the policyholder or certificate holder has been offered the option of purchasing a policy or certificate including a nonforfeiture benefit. The offer of a nonforfeiture benefit may be in the form of a rider that is attached to the policy. If a policyholder or certificate holder declines the nonforfeiture benefit, the insurer shall provide a contingent benefit upon lapse that will be available for a specified period of time following a substantial increase in premium rates.

2. When a group long-term care insurance policy is issued, the offer required in subsection 1 of this section shall be made to the group policyholder; except that, if the policy is issued as group long-term care insurance, as defined in section 376.951, other than to a continuing care retirement community or other similar entity, the offering shall be made to each proposed certificate holder.

3. The director shall promulgate rules specifying the type or types of nonforfeiture benefits to be offered as part of long-term care insurance policies and certificates, the standards for nonforfeiture benefits, and the rules regarding contingent benefit upon lapse, including a determination of the specified period of time during which a contingent benefit upon lapse will be available and the substantial premium rate increase that triggers a contingent benefit upon lapse as described in subsection 1 of this section.

376.1130. RULEMAKING AUTHORITY. — 1. The director shall promulgate reasonable rules to promote premium adequacy and to provide alternatives for the policyholder in the event of substantial rate increases, and to establish minimum standards for marketing practices, agent testing, penalties, and reporting practices for long-term care insurance.

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 sections 376.1121 to 376.1133 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, 2002, shall be invalid and void.

379.080. CAPITAL AND SURPLUS OF STOCK OR MUTUAL COMPANY, INVESTMENTS AUTHORIZED — VIOLATION, PENALTY. — 1. (1) The amount of the minimum capital required of a stock company to write the lines of business it proposes to transact or is transacting, or if the company is a mutual company an amount equal to the minimum capital required of a stock company transacting the same classes of business, shall be held in cash or invested in:

(a) Treasury notes or bonds of the United States;

(b) Bonds of the state of Missouri;

(c) Bonds issued by any school district of the state of Missouri;

(d) Bonds of any political subdivision of this state;

(2) The remainder of the capital, surplus or policyholders' surplus of these companies and their other assets may be invested, to the extent allowed by this or any other provision of law, in:

(a) The investments authorized by subdivision (1) of subsection 1 of this section;

(b) Loans safely secured by personal property collateral worth, at its cash market value, not less than twenty percent in excess of the amount loaned thereon;

(c) Stocks, bonds or evidences of indebtedness issued by corporations organized under the laws of this state, or of the United States or of any other state;

(d) Bonds or other obligations issued by multinational development banks in which the United States is a member nation, including the African Development Bank;

(e) Bonds of any other state, or of any political subdivision of any other state;

(f) Mortgages or deeds of trust on unencumbered real estate in this or any other state worth not less than twenty percent in excess of the amount loaned thereon;

(g) If a company is authorized to do business in a foreign country or a possession of the United States or has outstanding insurance or reinsurance contracts on risks located in a foreign country or United States' possession, the company may invest the remainder of its capital and other assets in securities, cash or other investments payable in the currency of the foreign country or possession that are of substantially the same kinds and classes as those eligible for investments under this subsection, provided that such investments are made with the approval of the director. The aggregate amount of the foreign investments and cash shall not exceed the greater of one and one-half times the amount of the company's reserves and other obligations under the contracts or the amount that the company is required by law to invest in the foreign country or possession, and the aggregate amount of foreign investments and cash shall not exceed five percent of the company's admitted assets. All foreign investments shall be reported to the director from time to time as he directs;

(h) Loans evidenced by bonds, notes or other evidences of indebtedness guaranteed or insured, but only to the extent guaranteed or insured by the United States, any state, territory or possession of the United States, the District of Columbia, or by any agency, administration, authority or instrumentality of any of the political units enumerated;

(i) Shares of insured state-chartered building and loan associations and federal savings and loan associations, if such shares are insured by the Federal Deposit Insurance Corporation;

(j) Investments permitted by section 99.550, RSMo;

(k) Data processing equipment, automobiles, real estate and put or call options and financial futures contracts to the extent allowed by this section and any other provision of law;

(l) Investments in subsidiaries to the extent allowed by section 382.020, RSMo;

(m) Any other investments not described herein provided the aggregate amount of such investments shall not exceed eight percent of the admitted assets of the company;

(n) Any investments in an investment pool meeting the requirements of section 379.083 and any other provision of law relating to investments made by individual property and casualty companies; **[**and**]**

(o) Any other investments expressly authorized in writing by the director of the department of insurance**; and**

(p) Any investment in a Missouri tax credit certificate or partnership interest which entitles the company to receive Missouri tax credits that may be used as a credit against the gross premium tax.

2. Violation of any of the provisions of this section by an insurer is grounds for the suspension or revocation of its certificate of authority by the director.

Approved July 12, 2002

HB 1580 [HB 1580]

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

Permits county boards of equalization to appoint two additional citizen members to the board.

AN ACT to repeal sections 138.010 and 138.020, RSMo, and to enact in lieu thereof two new sections relating to county boards of equalization.

SECTION
A. Enacting clause.
138.010. Membership of county board of equalization — annual meetings.
138.020. Members of board not to receive additional compensation, exception — compensation of county surveyor.

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

SECTION A. ENACTING CLAUSE. — Sections 138.010 and 138.020, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 138.010 and 138.020, to read as follows:

138.010. MEMBERSHIP OF COUNTY BOARD OF EQUALIZATION — ANNUAL MEETINGS. — 1. Except as otherwise provided by law, in every county in this state there shall be a county board of equalization consisting of the commissioners of the county commission, the county assessor, the county surveyor, and the county clerk who shall be secretary of the board without a vote. **The county commissioners shall also have the option to appoint two additional members to the board who shall be citizens of the county, but not officers of the county.**

2. Except as provided in subsection 3 of this section, this board shall meet at the office of the county clerk on the second Monday of July of each year.

3. Upon a finding by the board that it is necessary in order to fairly hear all cases arising from a general reassessment, the board may begin meeting after May thirty-first in any applicable year to timely consider any appeal or complaint resulting from an evaluation made during a general reassessment of all taxable real property and possessory interests in the county.

138.020. MEMBERS OF BOARD NOT TO RECEIVE ADDITIONAL COMPENSATION, EXCEPTION — COMPENSATION OF COUNTY SURVEYOR. — The commissioners of the county commission, the county assessor, the county clerk, and those sitting as members as may otherwise be provided, who are now or may hereafter be compensated by salary shall not be entitled to additional compensation for the performance of their duties as members of the county board of equalization. The county surveyor shall be present and sit as a member of the county

board of equalization and shall receive as compensation a fee as agreed upon by the county commission. **Citizens who are not officers of the county, but who sit as members of the county board of equalization, may receive compensation if agreed upon by the county commission.**

Approved July 3, 2002

HB 1600 [SS#2 HB 1600]

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

Requires keepers of licensed pool tables to post information for players in no less than ten-point type.

AN ACT to repeal sections 318.100, 326.256, 326.271, 326.280, 326.283, 326.286, 326.289, 326.292 and 335.016, RSMo, and to enact in lieu thereof nine new sections relating to licensing requirements for public accountants and keepers of billiard tables, with penalty provisions.

SECTION
A. Enacting clause.
318.100. Keepers of tables to display law.
326.256. Definitions.
326.271. Rulemaking authority, conduct of matters and continuing education.
326.280. License issued, when — reexamination and fees — temporary license issued, when.
326.283. Reciprocity for out-of-state accountants — licensee of this state committing act in another state, effect.
326.286. Issuance and renewal of licenses, when, term — license holder by foreign authority, state license issued, when.
326.289. Issuance and renewal of permits, procedure.
326.292. Issuance of reports on financial statements, license required — use of CPA or CA title, when — violations, penalty.
335.016. Definitions.

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

SECTION A. ENACTING CLAUSE. — Sections 318.100, 326.256, 326.271, 326.280, 326.283, 326.286, 326.289, 326.292 and 335.016, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as sections 318.100, 326.256, 326.271, 326.280, 326.283, 326.286, 326.289, 326.292 and 335.016, to read as follows:

318.100. KEEPERS OF TABLES TO DISPLAY LAW. — Every licensed keeper of one or more such tables mentioned in section 318.010 shall **[**post up**]** **display** in the room where the same is placed one or more placards, having section 318.090 conspicuously **[**written, painted or**]** **posted and** printed thereon, in letters **[**of**]** not **[**less**]** **smaller** than **[**one-quarter inch in size**]** **ten-point type**, for the information of players.

326.256. DEFINITIONS. — 1. As used in this chapter, the following terms mean:
(1) "AICPA", the American Institute of Certified Public Accountants;
(2) "Attest", providing the following financial statement services:
(a) Any audit or other engagement to be performed in accordance with the Statements on Auditing Standards (SAS);

(b) Any examination of prospective financial information to be performed in accordance with the Statements on Standards for Attestation Engagements (SSAE);

(3) "Board", the Missouri state board of accountancy established pursuant to section 326.259 or its predecessor pursuant to prior law;

(4) "Certificate", a certificate issued pursuant to section 326.060 prior to August 28, 2001;

(5) "Certified public accountant" or "CPA", the holder of a certificate or license as defined in this section;

(6) "Certified public accountant firm", "CPA firm" or "firm", a sole proprietorship, a corporation, a partnership or any other form of organization issued a permit pursuant to section 326.289;

(7) "Client", a person or entity that agrees with a licensee or licensee's employer to receive any professional service;

(8) "Compilation", providing a service to be performed in accordance with Statements on Standards for Accounting and Review Services (SSARS) that is presented in the form of financial statements information that is the representation of management (owners) without undertaking to express any assurance on the statements;

(9) "License", a license issued pursuant to section 326.280, or a provisional license issued pursuant to section 326.283; or, in each case, an individual license or permit issued pursuant to corresponding provisions of prior law;

(10) "Licensee", the holder of a license as defined in this section;

(11) "Manager", a manager of a limited liability company;

(12) "Member", a member of a limited liability company;

(13) "NASBA", the National Association of State Boards of Accountancy;

(14) "Peer review", a study, appraisal or review of one or more aspects of the professional work of a licensee or certified public accountant firm that performs attest, review or compilation services, by licensees who are not affiliated either personally or through their certified public accountant firm being reviewed pursuant to the Standards for Performing and Reporting on Peer Reviews promulgated by the AICPA or such other standard adopted by regulation of the board which meets or exceeds the AICPA standards;

(15) "Permit", a permit to practice as a certified public accountant firm issued pursuant to section 326.289 or corresponding provisions of prior law or pursuant to corresponding provisions of the laws of other states;

(16) "Professional", arising out of or related to the specialized knowledge or skills associated with certified public accountants;

(17) "Public **[**accountancy**]** **accounting**":

(a) Performing or offering to perform for an enterprise, client or potential client one or more services involving the use of accounting or auditing skills, or one or more management advisory or consulting services, or the preparation of tax returns or the furnishing of advice on tax matters by a person, firm, limited liability company or professional corporation using the title "C.P.A." or "P.A." in signs, advertising, directory listing, business cards, letterheads or other public representations;

(b) Signing or affixing a name, with any wording indicating the person or entity has expert knowledge in accounting or auditing to any opinion or certificate attesting to the reliability of any representation or estimate in regard to any person or organization embracing financial information or facts respecting compliance with conditions established by law or contract, including but not limited to statutes, ordinances, rules, grants, loans and appropriations; or

(c) Offering to the public or to prospective clients to perform, or actually performing on behalf of clients, professional services that involve or require an audit or examination of financial records leading to the expression of a written attestation or opinion concerning these records;

(18) "Report", when used with reference to financial statements, means an opinion, report or other form of language that states or implies assurance as to the reliability of any financial statements, and that also includes or is accompanied by any statement or implication that the

person or firm issuing it has special knowledge or competence in accounting or auditing. Such a statement or implication of special knowledge or competence may arise from use by the issuer of the report of names or titles indicating that the person or firm is an accountant or auditor, or from the language of the report itself. The term report includes any form of language which disclaims an opinion when such form of language is conventionally understood to imply any positive assurance as to the reliability of the financial statements referred to or special competence on the part of the person or firm issuing such language, or both, and includes any other form of language that is conventionally understood to imply such assurance or such special knowledge or competence, or both;

(19) "Review", providing a service to be performed in accordance with Statements on Standards for Accounting and Review Services (SSARS) that is performing inquiry and analytical procedures that provide the accountant with a reasonable basis for expressing limited assurance that there are no material modifications that should be made to the statements for them to be in conformity with generally accepted accounting principles or, if applicable, with another comprehensive basis of accounting;

(20) "State", any state of the United States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands and Guam; except that "this state" means the state of Missouri;

(21) "Substantial equivalency", a determination by the board of accountancy or its designee that the education, examination and experience requirements contained in the statutes and administrative rules of another jurisdiction are comparable to or exceed the education, examination and experience requirements contained in this chapter or that an individual certified public accountant's education, examination and experience qualifications are comparable to or exceed the education, examination and experience requirements contained in this chapter;

(22) "Transmittal", any transmission of information in any form, including but not limited to any and all documents, records, minutes, computer files, disks or information.

2. The statements on standards specified in this section shall be adopted by reference by the board pursuant to rulemaking and shall be those developed for general application by the AICPA or other recognized national accountancy organization as prescribed by board rule.

326.271. RULEMAKING AUTHORITY, CONDUCT OF MATTERS AND CONTINUING EDUCATION. — 1. The board shall promulgate rules of procedure for governing the conduct of matters before the board.

2. The board shall promulgate rules of professional conduct for establishing and maintaining high standards of competence and integrity in the profession of public **[**accountancy**]** **accounting**.

3. In promulgating rules and regulations regarding the requirements of continuing education, the board:

(1) May use and rely upon guidelines and pronouncements of recognized educational and professional associations;

(2) May prescribe for content, duration and organization of courses;

(3) Shall consider applicant accessibility to continuing education as required by the board, and any impediments to the interstate practice of public **[**accountancy**]** **accounting** which may result from differences in requirements in states;

(4) May in its discretion relax or suspend continuing education requirements for instances of individual hardship;

(5) Shall not require the completion of more than one hundred twenty hours of continuing education or its equivalent in any three-year period, not more than one-third of which shall be required in any one year. The continuing education requirements must be capable of being fulfilled in programs or courses reasonably available to licensees within the state.

4. The board may require by rule licensees to submit any continuing education reporting as the board deems necessary.

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 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 chapter 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.

326.280. LICENSE ISSUED, WHEN — REEXAMINATION AND FEES — TEMPORARY LICENSE ISSUED, WHEN. — 1. A license shall be granted by the board to any person who meets the requirements of this chapter and who:

(1) Is a resident of this state or has a place of business in this state or, as an employee, is regularly employed in this state;

(2) Has attained the age of twenty-one years;

(3) Is of good moral character;

(4) Either:

(a) Applied for the initial examination prior to June 30, 1999, and holds a baccalaureate degree conferred by an accredited college or university recognized by the board, with a concentration in accounting or the substantial equivalent of a concentration in accounting as determined by the board; or

(b) Applied for the initial examination on or after June 30, 1999, and has at least one hundred fifty semester hours of college education, including a baccalaureate or higher degree conferred by an accredited college or university recognized by the board, with the total educational program including an accounting concentration or equivalent as determined by board rule to be appropriate;

(5) Has passed an examination in accounting, auditing and such other related subjects as the board shall determine is appropriate; and

(6) Has had one year of experience. Experience shall be verified by a licensee and shall include any type of service or advice involving the use of accounting, attest, review, compilation, management advisory, financial advisory, tax or consulting skills including governmental accounting, budgeting or auditing. The board shall promulgate rules and regulations concerning the verifying licensee's review of the applicant's experience.

2. The board **[**shall**] may** prescribe by rule the terms and conditions for reexaminations and fees to be paid for reexaminations.

3. A person who, on August 28, 2001, holds an individual permit issued pursuant to the laws of this state shall not be required to obtain additional licenses pursuant to sections 326.280 to 326.286, and the licenses issued shall be considered licenses issued pursuant to sections 326.280 to 326.286. However, such persons shall be subject to the provisions of section 326.286 for renewal of licenses.

4. Upon application, the board may issue a temporary license to an applicant pursuant to this subsection for a person who has made a prima facie showing that the applicant meets all of the requirements for a license and possesses the experience required. The temporary license shall be effective only until the board has had the opportunity to investigate the applicant's qualifications for licensure pursuant to subsection 1 of this section and notify the applicant that the applicant's application for a license has been granted or rejected. In no event shall a temporary license be in effect for more than twelve months after the date of issuance nor shall a temporary license be reissued to the same applicant. No fee shall be charged for a temporary license. The holder of a temporary license which has not expired, been suspended or revoked shall be deemed to be the holder of a license issued pursuant to this section until the temporary license expires, is terminated, suspended or revoked.

5. An applicant for an examination who meets the educational requirements of subdivision (4) of subsection 1 of this section or who reasonably expects to meet those requirements within sixty days after the examination shall be eligible for examination if the applicant also meets the requirements of subdivisions (1), (2) and (3) of subsection 1 of this section. For an applicant admitted to examination on the reasonable expectation that the applicant will meet the educational requirements within sixty days, no license shall be issued nor credit for the examination or any part thereof given unless the educational requirement is in fact met within the sixty-day period.

326.283. RECIPROCITY FOR OUT-OF-STATE ACCOUNTANTS — LICENSEE OF THIS STATE COMMITTING ACT IN ANOTHER STATE, EFFECT. — 1. (1) An individual whose principal place of business is not in this state and has a valid designation to practice public **[**accountancy**]** **accounting** from any state which the board has determined by rule to be in substantial equivalence with the licensure requirements of sections 326.250 to 326.331, or if the individual's qualifications are substantially equivalent to the licensure requirements of sections 326.250 to 326.331, shall be presumed to have qualifications substantially equivalent to this state's requirements and shall have all the privileges of licensees of this state, provided the individual shall notify the board of his or her intent to engage in the practice of accounting with a client within this state whether in person, by electronic or technological means, or any other manner. The board by rule may require individuals to obtain a license.

(2) Any individual of another state exercising the privilege afforded pursuant to this section consents as a condition of the grant of this privilege to:

(a) The personal and subject matter jurisdiction and disciplinary authority of the board;

(b) Comply with this chapter and the board's rules; and

(c) The appointment of the state board which issued the individual's license as his or her agent upon whom process may be served in any action or proceeding by this board against the individual.

(3) Nothing in this section shall prohibit temporary practice in this state for professional business incidental to a CPA's regular practice outside this state. "Temporary practice" means that practice which is a continuation or extension of an engagement for a client located outside this state, which engagement began outside this state and extends into this state through common ownership, existence of a subsidiary, assets or other operations located within this state.

2. A licensee of this state offering or rendering services or using his or her certified public accountant title in another state shall be subject to disciplinary action in this state for an act committed in another state for which the licensee would be subject to discipline for an act committed in the other state. Notwithstanding the provisions of section 326.274 to the contrary, the board may investigate any complaint made by the board of accountancy of another state.

326.286. ISSUANCE AND RENEWAL OF LICENSES, WHEN, TERM — LICENSE HOLDER BY FOREIGN AUTHORITY, STATE LICENSE ISSUED, WHEN. — 1. The board may grant or renew licenses to persons who make application and demonstrate that**[**:

(1)**]** their qualifications, including the qualifications prescribed by section 326.280, are in accordance with this section**[**; or

(2) They are eligible under the substantial equivalency standard pursuant to subsection 1 of section 326.283**]**.

2. Licenses shall be initially issued and renewed for periods of not more than three years and shall expire on the renewal date following issuance or renewal. Applications for licenses shall be made in such form, and in the case of applications for renewal, between such dates, as the board by rule shall specify. Application and renewal fees shall be determined by the board by rule.

3. With regard to applicants that do not qualify for reciprocity **[**under**]** **pursuant to subsection 1 of this section, or a provisional license through** the substantial equivalency

standard set out in subsection 1 of section 326.283, the board may issue a license to an applicant upon a showing that:

(1) The applicant passed the examination required for issuance of the applicant's certificate with grades that would have been passing grades at the time in this state;

(2) The applicant had four years of experience outside of this state of the type described in subdivision (6) of subsection 1 of section 326.280 or meets equivalent requirements prescribed by the board by rule, after passing the examination upon which the applicant's license was based and within the ten years immediately preceding the application; and

(3) If the applicant's certificate, license or permit was issued more than four years prior to the application for issuance of a license pursuant to this section, the applicant has fulfilled the requirements of continuing professional education that would have been applicable pursuant to subsection 6 of this section.

4. As an alternative to the requirements of subsection 3 of this section, a certified public accountant licensed by another state who establishes a principal place of business in this state shall request the issuance of a license from the board prior to establishing the principal place of business. The board may issue a license to the person who obtains verification from the NASBA National Qualification Appraisal Service that the individual's qualifications are substantially equivalent to the licensure requirements of sections 326.250 to 326.331.

5. An application pursuant to this section may be made through the NASBA Qualification Appraisal Service.

6. For renewal of a license pursuant to this section, each licensee shall participate in a program of learning designed to maintain professional competency. The program of learning shall comply with rules adopted by the board. The board may create by rule an exception to such requirement for licensees who do not perform or offer to perform for the public one or more kinds of services involving the use of accounting or auditing skills, including issuance of reports on financial statements or of one or more kinds of management advisory, financial advisory or consulting services, or the preparation of tax returns or the furnishing of advice on tax matters. Licensees granted an exception by the board shall place the word "inactive" adjacent to their certified public accountant title on any business card, letterhead or any other document or device, except their certified public accountant certificate, on which their certified public accountant title appears.

7. Applicants for initial issuance or renewal of licenses pursuant to this section shall list all states in which they have applied for or hold certificates, licenses or permits and list any past denial, revocation or suspension or any discipline of a certificate, license or permit. Each holder of or applicant for a license shall notify the board in writing within thirty days after its occurrence of any issuance, denial, revocation or suspension or any discipline of a certificate, license or permit by another state.

8. The board may issue a license to a holder of a substantially equivalent foreign designation, provided that:

(1) The foreign authority which granted the designation makes similar provisions to allow a person who holds a valid license issued by this state to obtain such foreign authority's comparable designation; and

(2) The foreign designation:

(a) Was duly issued by a foreign authority that regulates the practice of public **[**accountancy**]** **accounting** and the foreign designation has not expired or been revoked or suspended;

(b) Entitles the holder to issue reports upon financial statements; and

(c) Was issued upon the basis of educational, examination and experience requirements established by the foreign authority or by law; and

(3) The applicant:

(a) Received the designation based on educational and examination standards substantially equivalent to those in effect in this state at the time the foreign designation was granted;

(b) Completed an experience requirement substantially equivalent to the requirement set out in subdivision (6) of subsection 1 of section 326.280 in the jurisdiction which granted the foreign designation or has completed four years of professional experience in this state, or meets equivalent requirements prescribed by the board by rule within the ten years immediately preceding the application; and

(c) Passed a uniform qualifying examination in national standards and an examination on the laws, regulations and code of ethical conduct in effect in this state acceptable to the board.

9. An applicant pursuant to subsection 8 of this section shall list all jurisdictions, foreign and domestic, in which the applicant has applied for or holds a designation to practice public **[**accountancy**] accounting**. Each holder of a license issued pursuant to this subsection shall notify the board in writing within thirty days after its occurrence of any issuance, denial, revocation, suspension or any discipline of a designation or commencement of a disciplinary or enforcement action by any jurisdiction.

10. The board has the sole authority to interpret the application of the provisions of subsections 8 and 9 of this section.

[11. The board shall require by rule as a condition for renewal of a license by any licensee who performs review or compilation services for the public other than through a certified public accountant firm that the individual undergo, no more frequently than once every three years, a peer review conducted in a manner as the board by rule shall specify, and the review shall include verification that the individual has met the competency requirements set out in professional standards for such services.**]**

326.289. ISSUANCE AND RENEWAL OF PERMITS, PROCEDURE. — 1. The board may grant or renew permits to practice as a certified public accounting firm to entities that make application and demonstrate their qualifications in accordance with this section or to certified public accounting firms originally licensed in another state that establish an office in this state. A firm shall hold a permit issued pursuant to this section to provide attest, review or compilation services or to use the title certified public accountant or certified public accounting firm.

2. Permits shall be initially issued and renewed for periods of not more than three years or for a specific period as prescribed by board rule following issuance or renewal.

3. The board shall determine by rule the form for application and renewal of permits and shall annually determine the fees for permits and their renewals.

4. An applicant for initial issuance or renewal of a permit to practice pursuant to this section shall be required to show that:

(1) Notwithstanding any other provision of law to the contrary, a simple majority of the ownership of the firm, in terms of financial interests and voting rights of all partners, officers, principals, shareholders, members or managers, belongs to licensees who are licensed in some state, and the partners, officers, principals, shareholders, members or managers, whose principal place of business is in this state and who perform professional services in this state are licensees pursuant to section 326.280 or the corresponding provision of prior law. Although firms may include nonlicensee owners, the firm and its ownership shall comply with rules promulgated by the board;

(2) Any certified public accounting firm may include owners who are not licensees, provided that:

(a) The firm designates a licensee of this state who is responsible for the proper registration of the firm and identifies that individual to the board;

(b) All nonlicensee owners are active individual participants in the certified public accounting firm or affiliated entities;

(c) The firm complies with other requirements as the board may impose by rule;

(3) Any licensee**, initially licensed on or after August 28, 2001,** who is responsible for supervising attest**[**, review or compilation**]** services, or signs or authorizes someone to sign the licensee's report on the financial statements on behalf of the firm, shall meet competency

requirements as determined by the board by rule which shall include one year of experience in addition to the experience required pursuant to subdivision (6) of subsection 1 of section 326.280 and shall be verified by a licensee. The additional experience required by this subsection shall include experience in attest work supervised by a licensee**;**

(4) Any licensee who is responsible for supervising review services or signs or authorizes someone to sign review reports shall meet the competency requirements as determined by board by rule which shall include experience in review services.

5. An applicant for initial issuance or renewal of a permit to practice shall register each office of the firm within this state with the board and show that all attest, review and compilation services rendered in this state are under the charge of a licensee.

6. No licensee or firm holding a permit pursuant to this chapter shall use a professional or firm name or designation that is misleading as to:

(1) The legal form of the firm;

(2) The persons who are partners, officers, members, managers or shareholders of the firm; or

(3) Any other matter.

The names of one or more former partners, members or shareholders may be included in the name of a firm or its successor unless the firm becomes a sole proprietorship because of the death or withdrawal of all other partners, officers, members or shareholders. A firm may use a fictitious name if the fictitious name is registered with the board and is not otherwise misleading. The name of a firm shall not include the name **or initials** of an individual who is **not** a present or a past partner, member or shareholder of the firm or its predecessor. The name of the firm shall not include the name of an individual who is not a licensee.

7. Applicants for initial issuance or renewal of permits shall list in their application all states in which they have applied for or hold permits as certified public accounting firms and list any past denial, revocation, suspension or any discipline of a permit by any other state. Each holder of or applicant for a permit pursuant to this section shall notify the board in writing within thirty days after its occurrence of any change in the identities of partners, principals, officers, shareholders, members or managers whose principal place of business is in this state; any change in the number or location of offices within this state; any change in the identity of the persons in charge of such offices; and any issuance, denial, revocation, suspension or any discipline of a permit by any other state.

8. Firms which fall out of compliance with the provisions of this section due to changes in firm ownership or personnel after receiving or renewing a permit shall take corrective action to bring the firm back into compliance as quickly as possible. The board may grant a reasonable period of time for a firm to take such corrective action. Failure to bring the firm back into compliance within a reasonable period as defined by the board may result in the suspension or revocation of the firm permit.

9. The board shall require by rule, as a condition to the renewal of permits, that firms undergo, no more frequently than once every three years, peer reviews conducted in a manner as the board shall specify. The review shall include a verification that individuals in the firm who are responsible for supervising attest, review and compilation services or sign or authorize someone to sign the accountant's report on the financial statements on behalf of the firm meet the competency requirements set out in the professional standards for such services, provided that any such rule:

(1) Shall include reasonable provision for compliance by a firm showing that it has within the preceding three years undergone a peer review that is a satisfactory equivalent to peer review generally required pursuant to this subsection;

(2) May require, with respect to peer reviews, that peer reviews be subject to oversight by an oversight body established or sanctioned by board rule, which shall periodically report to the board on the effectiveness of the review program under its charge and provide to the board a

listing of firms that have participated in a peer review program that is satisfactory to the board; and

(3) Shall require, with respect to peer reviews, that the peer review processes be operated and documents maintained in a manner designed to preserve confidentiality, and that the board or any third party other than the oversight body shall not have access to documents furnished or generated in the course of the peer review of the firm except as provided in subdivision (2) of this subsection.

10. Prior to January 1, 2008, licensees who perform fewer than three attest services during each calendar year shall be exempt from the requirements of subsection 9 of this section.

11. The board may, by rule, charge a fee for oversight of peer reviews, provided that the fee charged shall be substantially equivalent to the cost of oversight.

12. In connection with proceedings before the board or upon receipt of a complaint involving the licensee performing peer reviews, the board shall not have access to any documents furnished or generated in the course of the performance of the peer reviews except for peer review reports, letters of comment and summary review memoranda. The documents shall be furnished to the board only in a redacted manner that does not specifically identify any firm or licensee being peer reviewed or any of their clients.

13. The peer review processes shall be operated and the documents generated thereby be maintained in a manner designed to preserve their confidentiality. No third party, other than the oversight body, the board, subject to the provisions of subsection 12 of this section, or the organization performing peer review shall have access to documents furnished or generated in the course of the review. All documents shall be privileged and closed records for all purposes and all meetings at which the documents are discussed shall be considered closed meetings pursuant to subdivision (1) of section 610.021, RSMo. The proceedings, records and workpapers of the board and any peer review subjected to the board process shall be privileged and shall not be subject to discovery, subpoena or other means of legal process or introduction into evidence at any civil action, arbitration, administrative proceeding or board proceeding. No member of the board or person who is involved in the peer review process shall be permitted or required to testify in any civil action, arbitration, administrative proceeding or board proceeding as to any matters produced, presented, disclosed or discussed during or in connection with the peer review process or as to any findings, recommendations, evaluations, opinions or other actions of such committees or any of its members; provided, however, that information, documents or records that are publicly available shall not be subject to discovery or use in any civil action, arbitration, administrative proceeding or board proceeding merely because they were presented or considered in connection with the peer review process.

326.292. ISSUANCE OF REPORTS ON FINANCIAL STATEMENTS, LICENSE REQUIRED — USE OF CPA OR CA TITLE, WHEN — VIOLATIONS, PENALTY. — 1. Only licensees may issue a report on financial statements of any person, firm, organization or governmental unit or offer to render or render any attest service. Such restriction shall not prohibit any act of a public official or public employee in the performance of the person's duties as such; nor prohibit the performance by any nonlicensee of other services involving the use of accounting skills, including the preparation of tax returns, management advisory services and the preparation of nonattest financial statements. Nonlicensees may prepare financial statements and issue nonattest transmittals or information thereon which do not purport to be in compliance with the Statements on Standards for Accounting and Review Services (SSARS).

2. Only certified public accountants shall use or assume the title certified public accountant, or the abbreviation CPA or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that such person is a certified public accountant. Nothing in this section shall prohibit:

(1) A certified public accountant whose certificate was in full force and effect, issued pursuant to the laws of this state prior to August 28, 2001, and who does not engage in the

practice of public accounting, auditing, bookkeeping or any similar occupation, from using the title certified public accountant or abbreviation CPA;

(2) A person who holds a certificate, then in force and effect, issued pursuant to the laws of this state prior to August 28, 2001, and who is regularly employed by or is a director or officer of a corporation, partnership, association or business trust, in his or her capacity as such, from signing, delivering or issuing any financial, accounting or related statement, or report thereon relating to such corporation, partnership, association or business trust provided the capacity is so designated, and provided in the signature line the title CPA or certified public accountant is not designated.

3. No firm shall provide attest services or assume or use the title certified public accountants or the abbreviation CPAs, or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that such firm is a certified public accounting firm unless:

(1) The firm holds a valid permit issued pursuant to section 326.289; and

(2) Ownership of the firm is in accord with section 326.289 and rules promulgated by the board.

4. Only persons holding a valid license or permit issued pursuant to section 326.280 or 326.289 shall assume or use the title certified accountant, chartered accountant, enrolled accountant, licensed accountant, registered accountant, accredited accountant or any other title or designation likely to be confused with the titles certified public accountant or public accountant, or use any of the abbreviations CA, LA, RA, AA or similar abbreviation likely to be confused with the abbreviation CPA or PA. The title enrolled agent or EA shall only be used by individuals so designated by the Internal Revenue Service. Nothing in this section shall prohibit the use or issuance of a title for nonattest services provided that the organization and the title issued by the organization existed prior to August 28, 2001.

5. (1) Nonlicensees shall not use language in any statement relating to the financial affairs of a person or entity that is conventionally used by certified public accountants in reports on financial statements. Nonlicensees may use the following safe harbor language:

(a) For compilations:

"I (We) have prepared the accompanying (financial statements) of (name of entity) as of (time period) for the (period) then ended. This presentation is limited to preparing in the form of a financial statement information that is the representation of management (owners). I (We) have not audited or reviewed the accompanying financial statements and accordingly do not express an opinion or any other form of assurance on them.";

(b) For reviews:

"I (We) reviewed the accompanying (financial statements) of (name of entity) as of (time period) for the (period) then ended. These financial statements (information) are (is) the responsibility of the company's management. I (We) have not audited the accompanying financial statements and accordingly do not express an opinion or any other form of assurance on them.".

(2) Only persons or firms holding a valid license or permit issued pursuant to section 326.280 or 326.289 shall assume or use any title or designation that includes the words accountant or accounting in connection with any other language, including the language of a report, that implies that the person or firm holds a license or permit or has special competence as an accountant or auditor; provided, however, that this subsection shall not prohibit any officer, partner, principal, member, manager or employee of any firm or organization from affixing such person's own signature to any statement in reference to the financial affairs of the firm or organization with any wording designating the position, title or office that the person holds therein nor prohibit any act of a public official or employee in the performance of the person's duties as such. Nothing in this subsection shall prohibit the singular use of "accountant" or "accounting" for nonattest purposes.

6. Licensees **signing or authorizing someone to sign reports on financial statements when** performing attest, review or compilation services shall provide those services in accordance with professional standards as determined by the board by rule.

7. No licensee or holder of a provisional license or firm holding a permit pursuant to sections 326.280 to 326.289 shall use a professional or firm name or designation that is misleading about the legal form of the firm, or about the persons who are partners, principals, officers, members, managers or shareholders of the firm, or about any other matter.

8. None of the foregoing provisions of this section shall apply to a person or firm holding a certification, designation, degree or license granted in a foreign country entitling the holder to engage in the practice of public **[**accountancy**]** **accounting** or its equivalent in the country whose activities in this state are limited to the provision of professional services to persons or firms who are residents of, governments of, or business entities of the country in which the person holds the entitlement, who performs no attest, review or compilation services and who issues no reports with respect to the financial statements of any other persons, firms or governmental units in this state, and who does not use in this state any title or designation other than the one under which the person practices in such country, followed by a translation of such title or designation into the English language, if it is in a different language, and by the name of such country.

9. No licensee whose license is issued pursuant to section 326.280 or issued pursuant to prior law shall perform attest services through any certified public accounting firm that does not hold a valid permit issued pursuant to section 326.289.

10. **[**No individual licensee shall issue a report in standard form upon a compilation or review of financial information through any form of business that does not hold a valid permit issued pursuant to section 326.289 unless the report discloses the name of the business through which the individual is issuing the report, and the individual:

(1) Signs the compilation or review report identifying the individual as a licensee;

(2) Meets the competency requirement provided in applicable standards; and

(3) Undergoes, no less frequently than once every three years, a peer review conducted in a manner as the board by rule shall specify, and the review shall include verification that the individual has met the competency requirements set out in professional standards for such services.

11.**]** Nothing herein shall prohibit a practicing attorney or firm of attorneys from preparing or presenting records or documents customarily prepared by an attorney or firm of attorneys in connection with the attorney's professional work in the practice of law.

[12.**]** **11.** Nothing herein shall prohibit any trustee, executor, administrator, referee or commissioner from signing and certifying financial reports incident to his or her duties in that capacity.

[13.**]** **12.** Nothing herein shall prohibit any director or officer of a corporation, partner or a partnership, sole proprietor of a business enterprise, member of a joint venture, member of a committee appointed by stockholders, creditors or courts, or an employee of any of the foregoing, in his or her capacity as such, from signing, delivering or issuing any financial, accounting or related statement, or report thereon, relating to the corporation, partnership, business enterprise, joint venture or committee, provided the capacity is designated on the statement or report.

[14.**]** **13.** (1) A licensee shall not for a commission recommend or refer to a client any product or service, or for a commission recommend or refer any product or service to be supplied by a client, or receive a commission, when the licensee also performs for that client:

(a) An audit or review of a financial statement; or

(b) A compilation of a financial statement when the licensee expects, or reasonably may expect, that a third party will use the financial statement and the licensee's compilation report does not disclose a lack of independence; or

(c) An examination of prospective financial information.

Such prohibition applies during the period in which the licensee is engaged to perform any of the services listed above and the period covered by any historical financial statements involved in such listed services.

(2) A licensee who is not prohibited by this section from performing services for or receiving a commission and who is paid or expects to be paid a commission shall disclose in writing that fact to any person or entity to whom the licensee recommends or refers a product or service to which the commission relates.

(3) Any licensee who accepts a referral fee for recommending or referring any service of a licensee to any person or entity or who pays a referral fee to obtain a client shall disclose in writing the acceptance or payment to the client.

[15.**]** **14.** (1) A licensee shall not:

(a) Perform for a contingent fee any professional services for, or receive a fee from, a client for whom the licensee or the licensees's firm performs:

a. An audit or review of a financial statement; or

b. A compilation of a financial statement when the licensee expects, or reasonably might expect, that a third party will use the financial statement and the licensee's compilation report does not disclose a lack of independence; or

c. An examination of prospective financial information; **[**or**]**

(b) Prepare an original **[**or amended**]** tax return or claim for a tax refund for a contingent fee for any client**; or**

(c) Prepare an amended tax return or claim for a tax refund for a contingent fee for any client, unless permitted by board rule.

(2) The prohibition in subdivision (1) of this subsection applies during the period in which the licensee is engaged to perform any of those services and the period covered by any historical financial statements involved in any services.

(3) A contingent fee is a fee established for the performance of any service pursuant to an arrangement in which no fee will be charged unless a specified finding or result is attained, or in which the amount of the fee is otherwise dependent upon the finding or result of the service. Solely for purposes of this section, fees are not regarded as being contingent if fixed by courts or other public authorities, or, in tax matters, if determined based on the results of judicial proceedings or the findings of governmental agencies. A licensee's fees may vary depending, for example, on the complexity of services rendered.

[16.**]** **15.** Any person who violates any provision of subsections 1 to 5 of this section shall be guilty of a class A misdemeanor. Whenever the board has reason to believe that any person has violated this section it may certify the facts to the attorney general of this state or bring other appropriate proceedings.

335.016. DEFINITIONS. — As used in **[**sections 335.011 to 335.096**]** **this chapter**, unless the context clearly requires otherwise, the following words and terms mean:

(1) "Accredited", the official authorization or status granted by an agency for a program through a voluntary process;

(2) "Advanced practice nurse", a nurse who has had education beyond the basic nursing education and is certified by a nationally recognized professional organization as having a nursing specialty, or who meets criteria for advanced practice nurses established by the board of nursing. The board of nursing may promulgate rules specifying which professional nursing organization certifications are to be recognized as advanced practice nurses, and may set standards for education, training and experience required for those without such specialty certification to become advanced practice nurses;

(3) "Approval", official recognition of nursing education programs which meet standards established by the board of nursing;

(4) "Board" or "state board", the state board of nursing;

(5) "Executive director", a qualified **[**registered professional nurse**]** **individual** employed by the board as executive secretary or otherwise to administer the provisions of **[**sections 335.011 to 335.096**]** **this chapter** under the board's direction. Such person employed as executive director shall not be a member of the board;

(6) "Inactive nurse", as defined by rule pursuant to section 335.061;

(7) A "licensed practical nurse" or "practical nurse", a person licensed pursuant to the provisions of **[**sections 335.011 to 335.096**] this chapter** to engage in the practice of practical nursing;

(8) "Licensure", the issuing of a license to practice professional or practical nursing to candidates who have met the specified requirements and the recording of the names of those persons as holders of a license to practice professional or practical nursing;

(9) "Practical nursing", the performance for compensation of selected acts for the promotion of health and in the care of persons who are ill, injured, or experiencing alterations in normal health processes. Such performance requires substantial specialized skill, judgment and knowledge. All such nursing care shall be given under the direction of a person licensed by a state regulatory board to prescribe medications and treatments or under the direction of a registered professional nurse. For the purposes of this chapter, the term "direction" shall mean guidance or supervision provided by a person licensed by a state regulatory board to prescribe medications and treatments or a registered professional nurse, including, but not limited to, oral, written, or otherwise communicated orders or directives for patient care. When practical nursing care is delivered pursuant to the direction of a person licensed by a state regulatory board to prescribe medications and treatments or under the direction of a registered professional nurse, such care may be delivered by a licensed practical nurse without direct physical oversight;

(10) "Professional nursing", the performance for compensation of any act which requires substantial specialized education, judgment and skill based on knowledge and application of principles derived from the biological, physical, social and nursing sciences, including, but not limited to:

(a) Responsibility for the teaching of health care and the prevention of illness to the patient and his or her family;

(b) Assessment, nursing diagnosis, nursing care, and counsel of persons who are ill, injured or experiencing alterations in normal health processes;

(c) The administration of medications and treatments as prescribed by a person licensed by a state regulatory board to prescribe medications and treatments;

(d) The coordination and assistance in the delivery of a plan of health care with all members of a health team;

(e) The teaching and supervision of other persons in the performance of any of the foregoing;

(11) A "registered professional nurse" or "registered nurse", a person licensed pursuant to the provisions of **[**sections 335.011 to 335.096**] this chapter** to engage in the practice of professional nursing.

Approved July 11, 2002

HB 1634 [SCS HB 1634]

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

Changes expense funding requirements for certain land trusts.

AN ACT to repeal sections 52.250, 52.290, 141.610, 141.720, 141.750, 141.770, 141.790, 447.620, 447.622, 447.625, 447.632, 447.636, 447.638 and 447.640, RSMo, relating to land trusts and transfers, and to enact in lieu thereof twenty-five new sections relating to the same subject.

SECTION

A. Enacting clause.
52.250. Fees for mailing statements and receipts to be deposited in county treasury (third and fourth class counties).
52.290. Collection of back taxes, certain counties — fee deposited in county general revenue fund and retirement fund — collection of back taxes, certain political subdivisions, fee.
52.312. Tax maintenance fund established, use of money.
52.315. Monthly deposits in tax maintenance fund — additional uses of money — audit of fund.
52.317. Moneys provided for budget purposes, requirements — moneys remaining in fund at end of calendar year, requirements.
54.323. Tax maintenance fund established in certain counties of the third and fourth classification.
54.325. Delinquent and back taxes, additional amount to be collected by ex officio collector, use of moneys — audit of fund.
54.327. Moneys provided for budget purposes in certain counties of the third and fourth classification — moneys remaining in fund at end of calendar year, requirements.
141.610. Court administrator's, sheriff's deed, effect — action to set aside, limitations (charter counties).
141.720. Composition of land trust — terms — qualifications — vacancies — compensation — removal (charter counties).
141.750. Land trust, seal, powers, conveyances (charter counties).
141.770. Annual budget — public hearing — administrative costs, how paid — fiscal year — payment of claim by land trust — performance audits permitted, when (charter counties).
141.790. Accounts relating to each parcel of real estate — proceeds of sale — distribution (charter counties).
447.620. Definitions.
447.622. Petition, requirements.
447.625. Procedures in certain cities (Jackson County).
447.632. Grant of petition, requirements.
447.636. Quarterly report.
447.638. Restoration of possession, compensation.
447.640. Quitclaim judicial deed may be granted, conditions, effect.
1. Conveyance of property owned by state in Battle of Athens State Historic Site to Robert F. French trust.
2. Conveyance of property at Cuivre River State Park to Steve and Ellen Piacentini.
3. Conveyance of property at Washington State Park to Rachel DeClue and Patricia Westoff.
4. Conveyance of property at Washington State Park to Oscar and Margaret Rulo.
5. Conveyance of certain land in Jefferson County.

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

SECTION A. ENACTING CLAUSE. — Sections 52.250, 52.290, 141.610, 141.720, 141.750, 141.770, 141.790, 447.620, 447.622, 447.625, 447.632, 447.636, 447.638 and 447.640, RSMo, are repealed and twenty-five new sections enacted in lieu thereof, to be known as sections 52.250, 52.290, 52.312, 52.315, 52.317, 54.323, 54.325, 54.327, 141.610, 141.720, 141.750, 141.770, 141.790, 447.620, 447.622, 447.625, 447.632, 447.636, 447.638, 447.640, 1, 2, 3, 4 and 5, to read as follows:

52.250. FEES FOR MAILING STATEMENTS AND RECEIPTS TO BE DEPOSITED IN COUNTY TREASURY (THIRD AND FOURTH CLASS COUNTIES). — The collectors in third class counties shall collect a fee of one-half of one percent **[**and the collectors in fourth class counties shall collect a fee of one percent**]** of all current taxes collected, including current delinquent taxes, exclusive of all current railroad and utility taxes collected **on behalf of the county**, as compensation for mailing the statements and receipts. All fees collected pursuant to this section shall be collected on behalf of the county and shall be paid into the county treasury. **Notwithstanding any provisions of law to the contrary, or any other provision of law in conflict with the provisions of this section, in all counties which become counties of the second or fourth classification after December 31, 2000, one-half of one percent of all current taxes collected, including current delinquent taxes allocable to each taxing authority within the county and the county shall continue to be deducted each year for mailing the statements and receipts, exclusive of all current railroad and utility taxes collected, and shall be deposited into the county general fund as required by this section as if the county had retained its classification as a county of either the third or the fourth**

classification. Collectors in third and fourth class counties are entitled to collect such fees immediately upon an order of the circuit court **[**under**] pursuant to** section 139.031, RSMo. If the protest is later sustained and a portion of the taxes so paid is returned to the taxpayer the county shall return that portion of the fee collected on the amount returned to the taxpayer. **Such county collector may accept credit cards as proper form of payment of outstanding taxes due. No county collector may charge a surcharge for payment by credit card which exceeds the fee or surcharge charged by the credit card bank for its service.**

52.290. COLLECTION OF BACK TAXES, CERTAIN COUNTIES — FEE DEPOSITED IN COUNTY GENERAL REVENUE FUND AND RETIREMENT FUND — COLLECTION OF BACK TAXES, CERTAIN POLITICAL SUBDIVISIONS, FEE. — 1. In all counties except counties of the first classification having a charter form of government and any city not within a county, the collector shall collect on behalf of the county a fee for the collection of delinquent and back taxes of **[**five**] seven** percent on all sums collected to be added to the face of the tax bill and collected from the party paying the tax. **[**Two-fifths**] Two-sevenths** of the fees collected **[**under**] pursuant to** the provisions of this section shall be paid into the county general fund**, two-sevenths of the fees collected pursuant to the provisions of this section shall be paid into the tax maintenance fund of the county as required by section 52.312** and **[**three-fifths**] three-sevenths** of the fees collected **[**under**] pursuant to** the provisions of this section shall be paid into the county employees' retirement fund created by sections 50.1000 to 50.1200, RSMo.

2. In all counties of the first classification having a charter form of government and any city not within a county, the collector shall collect on behalf of the county and pay into the county general fund a fee for the collection of delinquent and back taxes of two percent on all sums collected to be added to the face of the tax bill and collected from the party paying the tax **except that in a county with a charter form of government and with more than two hundred fifty thousand but less than three hundred fifty thousand inhabitants, the collector shall collect on behalf of the county a fee for the collection of delinquent and back taxes of three percent on all sums collected to be added to the face of the tax bill and collected from the party paying the tax. Two-thirds of the fees collected pursuant to the provisions of this section shall be paid into the county general fund and one-third of the fees collected pursuant to this section shall be paid into the tax maintenance fund of the county as required by section 52.312, RSMo**.

3. Such county collector may accept credit cards as proper form of payment of outstanding delinquent and back taxes due. No county collector may charge a surcharge for payment by credit card.

52.312. TAX MAINTENANCE FUND ESTABLISHED, USE OF MONEY. — **Notwithstanding any provisions of law to the contrary, in addition to fees provided for in this chapter, or any other provisions of law in conflict with the provisions of this section, all counties, including a county with a charter form of government and with more than two hundred fifty thousand but less than three hundred fifty thousand inhabitants other than counties of the first classification having a charter form of government and any city not within a county, subject to the provisions of this section, shall establish a fund to be known as the "Tax Maintenance Fund" to be used solely as a depository for funds received or collected for the purpose of funding additional costs and expenses incurred in the office of collector.**

52.315. MONTHLY DEPOSITS IN TAX MAINTENANCE FUND — ADDITIONAL USES OF MONEY — AUDIT OF FUND. — 1. The two-sevenths collected to fund the tax maintenance fund pursuant to section 52.290, shall be transmitted monthly for deposit into the tax maintenance fund and used for additional administration and operation costs for the office of collector. Any costs shall include, but shall not be limited to, those costs that require any additional out-of-pocket expense by the office of collector and it may include

reimbursement to county general revenue for the salaries of employees of the office of collector for hours worked and any other expenses necessary to conduct and execute the duties and responsibilities of such office.

2. The tax maintenance fund may also be used by the collector for training, purchasing new or upgrading information technology, equipment or other essential administrative expenses necessary to carry out the duties and responsibilities of the office of collector, including anything necessarily pertaining thereto.

3. The collector has the sole responsibility for all expenditures made from the tax maintenance fund and shall approve all expenditures from such fund. All such expenditures from the tax maintenance fund shall not be used to substitute for or subsidize any allocation of county general revenue for the operation of the office of collector.

4. The tax maintenance fund may be audited by the appropriate auditing agency. Any unexpended balance shall be left in the tax maintenance fund, to accumulate from year to year with interest.

52.317. MONEYS PROVIDED FOR BUDGET PURPOSES, REQUIREMENTS — MONEYS REMAINING IN FUND AT END OF CALENDAR YEAR, REQUIREMENTS. — Any county subject to the provisions of section 52.312 shall provide moneys for budget purposes in an amount not less than the approved budget in the previous year and shall include the same percentage adjustments in compensation as provided for other county employees as effective January first each year. Any moneys accumulated and remaining in the tax maintenance fund as of December thirty-first each year in all counties of the first classification without a charter form of government and any county with a charter form of government and with more than two hundred fifty thousand but less than three hundred fifty thousand inhabitants shall be limited to an amount equal to one-half of the previous year's approved budget for the office of collector, and any moneys accumulated and remaining in the tax maintenance fund as of December thirty-first each year in all counties other than counties of the first classification and any city not within a county, which collect more than four million dollars of all current taxes charged to be collected, shall be limited to an amount equal to the previous year's approved budget for the office of collector. Any moneys remaining in the tax maintenance fund as of December thirty-first each year that exceed the above established limits shall be transferred to county general revenue by the following January fifteenth of each year.

54.323. TAX MAINTENANCE FUND ESTABLISHED IN CERTAIN COUNTIES OF THE THIRD AND FOURTH CLASSIFICATION. — Notwithstanding any provisions of law to the contrary, in addition to fees provided for in this chapter, or any other provisions of law in conflict with the provisions of this section, all counties of the third and fourth classification adopting township organization subject to the provisions of this section, shall establish a fund to be known as the "Tax Maintenance Fund" to be used solely as a depository for funds received or collected for the purpose of funding additional costs and expenses incurred in the office of treasurer ex officio collector.

54.325. DELINQUENT AND BACK TAXES, ADDITIONAL AMOUNT TO BE COLLECTED BY EX OFFICIO COLLECTOR, USE OF MONEYS — AUDIT OF FUND. — 1. In addition to the fees collected on all delinquent and back taxes by any treasurer ex officio collector pursuant to the provisions of this chapter and chapter 50, RSMo, such ex officio collector shall collect an additional two percent on all delinquent and back taxes and these additional fees shall be transmitted monthly for deposit into the tax maintenance fund pursuant to the provisions of section 54.323 and used for additional administration and operation costs for the office of treasurer ex officio collector. Any costs shall include, but shall not be limited to, those costs that require any additional out-of-pocket expense by the office of treasurer

ex officio collector and it may include reimbursement to county general revenue for the salaries of employees of the office of treasurer ex officio collector for hours worked and any other expenses necessary to conduct and execute the duties and responsibilities of such office.

2. The tax maintenance fund may also be used by the treasurer ex officio collector for training, purchasing new or upgrading information technology, equipment or other essential administrative expenses necessary to carry out the duties and responsibilities of the office of treasurer ex officio collector, including anything necessarily pertaining thereto.

3. The treasurer ex officio collector has the sole responsibility for all expenditures made from the tax maintenance fund and shall approve all expenditures from such fund. All such expenditures from the tax maintenance fund shall not be used to substitute for or subsidize any allocation of county general revenue for the operation of the office of treasurer ex officio collector.

4. The tax maintenance fund may be audited by the appropriate auditing agency. Any unexpended balance shall be left in the tax maintenance fund, to accumulate from year to year with interest.

54.327. MONEYS PROVIDED FOR BUDGET PURPOSES IN CERTAIN COUNTIES OF THE THIRD AND FOURTH CLASSIFICATION — MONEYS REMAINING IN FUND AT END OF CALENDAR YEAR, REQUIREMENTS. — Any county of the third and fourth classification adopting township organization shall provide moneys for budget purposes in an amount not less than the approved budget in the previous year and shall include the same percentage adjustments in compensation as provided for other county employees as effective January first each year. Any moneys accumulated and remaining in the tax maintenance fund as of December thirty-first each year in all counties of the third and fourth classification adopting township organization shall be limited to an amount equal to the previous year's approved budget for the office of treasurer ex officio collector. Any moneys remaining in the tax maintenance fund as of December thirty-first each year that exceed the above established limits shall be transferred to county general revenue by the following January fifteenth of each year.

141.610. COURT ADMINISTRATOR'S, SHERIFF'S DEED, EFFECT — ACTION TO SET ASIDE, LIMITATIONS (CHARTER COUNTIES). — Each court administrator's or sheriff's deed given pursuant to the provisions of the land tax collection law shall be presumptive evidence that the suit and all proceedings therein and all proceedings prior thereto from and including assessment of the lands affected thereby and all notices required by law were regular and in accordance with all provisions of the law relating thereto. **The court administrator or sheriff shall record its deed and shall collect said recording fee at the time of sale.** After **[**two years**]** **one year** from the date of the **[**recording of such**]** court administrator's **[**or sheriff's deed**]** **foreclosure sale**, the presumption shall be conclusive pursuant to sections 141.210 to 141.810. Notwithstanding section 516.010, RSMo, no suit to set aside or to attack the validity of any such court administrator's or sheriff's deed shall be commenced or maintained unless the suit is filed within **[**two years**]** **one year** from the date **of** the court administrator's **[**or sheriff's deed is recorded**]** **foreclosure sale**.

141.720. COMPOSITION OF LAND TRUST — TERMS — QUALIFICATIONS — VACANCIES — COMPENSATION — REMOVAL (CHARTER COUNTIES). — 1. The land trust shall be composed of three members, one of whom shall be appointed by the county **executive, or if the county does not have a county executive, the county** commission of the county, one of whom shall be appointed by the city council of that city in the county which then has the largest population according to the last preceding federal decennial census, and one of whom shall be

appointed by the board of directors of the school district which then has the largest population according to such census in the county.

2. The terms of office of the land trustees shall be for four years each, except the terms of the first land trustees who shall be appointed by the foregoing appointing authorities, respectively, not sooner than twelve months and not later than eighteen months after sections 141.210 to 141.810 take effect.

3. Each land trustee shall have been a resident of the county for at least five years next prior to appointment, shall not hold other salaried or compensated public office by election or appointment during service as land trustee, the duties of which would in any way conflict with his duties as land trustee, and shall have had at least ten years experience in the management or sale of real estate.

4. Of the first land trustees appointed under sections 141.210 to 141.810, the land trustee appointed by the county commission shall serve for a term ending February 1, 1946, the land trustee appointed by the board of directors of the school district then having the largest population in the county shall serve for a term expiring February 1, 1947, and the land trustee appointed by the city council of the city then having the largest population in the county shall serve for a term expiring February 1, 1948. Each land trustee shall serve until his successor has been appointed and qualified.

5. Any vacancy in the office of land trustee shall be filled for the unexpired term by the same appointing authority which made the original appointment. If any appointing authority fails to make any appointment of a land trustee within the time the first appointments are required by sections 141.210 to 141.810 to be made, or within thirty days after any term expires or vacancy occurs, then the appointment shall be made by the mayor of that city in the county then having the largest population, according to the last preceding federal decennial census.

6. The members shall receive for their services as land trustees a salary of two thousand four hundred dollars per year.

7. Each land trustee may be removed for cause by the respective appointing authority, after public hearing, if requested by the land trustee, and an opportunity to be represented by counsel and to present evidence is afforded the trustee.

141.750. LAND TRUST, SEAL, POWERS, CONVEYANCES (CHARTER COUNTIES). — 1. Such land trust shall be a continuing body and shall have and adopt an official seal which shall bear on its face the words "Land Trust of ..... County, Missouri", "Seal", and shall have the power to sue and issue deeds in its name, which deed shall be signed by the chairman or vice chairman, and attested by the secretary or assistant secretary and the official seal of the land trust affixed thereon, and shall have the general power to administer its business as any other corporate body.

2. The land trust may convey title to any real estate sold or conveyed by it by general or special warranty deed, and may convey an absolute title in fee simple, without in any case procuring any consent, conveyance or other instrument from the beneficiaries for which it acts; provided, however, that each such deed shall recite whether the selling price represents a consideration equal to or in excess of two-thirds of the appraised value of such real estate so sold or conveyed, and if such selling price represents a consideration less than two-thirds of the appraised value of said real estate, then the land trustees shall first procure the consent thereto of not less than two of the three appointing authorities, which consent shall be evidenced by a copy of the action of each such appointing authority duly certified to by its clerk or secretary attached to and made a part of said deed**, except the land trust may sell or convey a vacant residential tract of land containing four thousand square feet or less with an assessed value of less than two hundred fifty dollars to the owner or owners of residential property contiguous to the tract being sold for a price equal to fifty percent of the assessed value of the tract without first obtaining an appraisal of the tract**.

141.770. ANNUAL BUDGET — PUBLIC HEARING — ADMINISTRATIVE COSTS, HOW PAID — FISCAL YEAR — PAYMENT OF CLAIM BY LAND TRUST — PERFORMANCE AUDITS PERMITTED, WHEN (CHARTER COUNTIES). — 1. Each annual budget of the land trust shall be itemized as to objects and purposes of expenditure, prepared not later than December **[**fifteenth**]** **tenth** of each year **with copies delivered to the county and city that appointed trustee members**, and shall include therein only such appropriations as shall be deemed necessary to meet the reasonable expenses of the land trust during the forthcoming fiscal year. **That budget shall not become the required annual budget of the land trust unless and until it has been approved by the governing bodies of the county or city that appointed trustee members. If either of the governing bodies of the county and city that appointed trustee members fail to notify the land trust in writing of any objections to the proposed annual budget on or before December twentieth, then such failure or failures to object shall be deemed approval. In the event objections have been made and a budget for the fiscal year beginning January first has not been approved by the governing bodies of the county and city on or before January first, then the budget for the previous fiscal year shall become the approved budget for that fiscal year.** Any unexpended funds from the preceding fiscal year shall be deducted from the amounts needed to meet the budget requirements of the forthcoming year.

2. Copies of the budget shall be made available to the public on or before December **[**fifteenth**]** **tenth**, and a public hearing shall be had thereon prior to December twentieth, in each year. **The approved and adopted budget may be amended by the trustee members only with the approval of the governing bodies of the county and city that appointed trustee members.**

3. **If at any time there are not sufficient funds available to pay** the salaries and other expenses of such land trust and of its employees, incident to the administration of sections 141.210 to 141.810, including any expenditures authorized by section 141.760, **funds sufficient to pay such expenses** shall be advanced and paid to the land trust upon its requisition therefor, fifty percent thereof by the county commission of such county, and the other fifty percent by all of the municipalities in such county as defined in section 141.220, in proportion to their assessed valuations at the time of their last completed assessment for state and county purposes. The land trust shall have power to requisition **such funds in an amount** not to exceed twenty-five **[**thousand dollars**]** **percent of the total annual budget of the land trust** from such sources for **[**each**]** **that** fiscal year of the land trust **for which there are not sufficient funds otherwise available to pay the salaries and other expenses of the land trust**, but any amount in excess of twenty-five **[**thousand dollars per**]** **percent of the total annual budget in any fiscal** year may be requisitioned by and paid to the land trust only if such additional sums are agreed to and approved by the county commission and the respective municipalities in such county so desiring to make such payment. All moneys so requisitioned shall be paid in a lump sum within thirty days after **such requisition or** the commencement of **[**each**]** **the** fiscal year of the land trust **for which such requisition is made, whichever is later**, and shall be deposited to the credit of the land trust in some bank or trust company, subject to withdrawal by warrant as herein provided.

4. The fiscal year of the land trust shall commence on January first of each year. **[**Said**]** **Such** land trust shall audit all claims for the expenditure of money, and shall, acting by the chairman or vice chairman thereof, draw warrants therefor from time to time.

5. No warrant for the payment of any claim shall be drawn by such land trust until such claim shall have been approved by the land commissioner and shall bear **[**his**]** **the commissioner's** certificate that there is a sufficient unencumbered balance in the proper appropriation and sufficient unexpended cash available for the payment thereof. For any certification contrary thereto, such land commissioner shall be liable personally and on **[**his**]** **the commissioner's** official bond for the amounts so certified, and shall thereupon be promptly removed from office by the land trustees.

6. In addition to the annual audit provided for in section 141.760, the land trust may be performance audited at any time by the state auditor or by the auditor of any home rule city with more than four hundred thousand inhabitants and located in more than one county that is a member of the land trust. The cost of such audit shall be paid by the land trust, and copies shall be made available to the public within thirty days of the completion of the audit.

141.790. ACCOUNTS RELATING TO EACH PARCEL OF REAL ESTATE — PROCEEDS OF SALE — DISTRIBUTION (CHARTER COUNTIES). — 1. Such land trust shall set up accounts on its books relating to the operation, management, or other expense of each individual parcel of real estate.

2. When any parcel of real estate is sold or otherwise disposed of by the land trust, the proceeds therefrom shall be applied and distributed in the following order:

(1) To the payment of the expenses of sale;

(2) To the payment of any penalties, attorney's fees or costs which were included in the judgment originally entered against said parcel of real estate, plus its proportional part of the costs of sheriff's foreclosure sale, as shown on the books of the collector;

(3) To the payment of the costs of the care, improvement, operation, and management of such parcel of real estate as determined by the land trustees and apportioned to such parcel;

(4) The balance to be **retained by the land trust to pay the salaries and other expenses of such land trust and of its employees, incident to the administration of sections 141.210 to 141.810, including any expenditures authorized by section 141.760, as provided for in its annual budget;**

(5) Any funds in excess of those necessary to meet the expenses of the annual budget of the land trust in any fiscal year, and including a reasonable sum to carry over into the next fiscal year to assure that sufficient funds will be available to meet initial expenses for that next fiscal year, may be paid to the respective taxing authorities and tax bill owners, if any, in the proportion that the principal amounts of the tax bills of each such party bears to the total principal amount of all the tax bills included in the original judgment relating to such parcel of real estate and in the order of their respective priorities. After deduction of all sums charged to each account for various expenses, distribution shall be made to the respective taxing authorities and to tax bill owners having an interest in such parcel of real estate, on January first and July first of each year, and at such other times as the land trustees in their discretion may determine.

447.620. DEFINITIONS. — As used in sections 447.620 to 447.640, the following terms mean:

(1) "Housing code", a local building, fire, health, property maintenance, nuisance or other ordinance which contains standards regulating the condition or maintenance of residential buildings;

(2) "Last known address", the address where the property is located or the address as listed in the property tax records;

(3) **[**"Low- or moderate-income housing", housing for persons and families who lack the amount of income necessary to rent or purchase adequate housing without financial assistance, as defined by such income limits as shall be established by the Missouri housing development commission for the purposes of determining eligibility under any program aimed at providing housing for low- and moderate-income families or persons;

(4)**]** "Municipality", any incorporated city, town or village;

[(5)**]** **(4)** "Nuisance", any property which because of its physical condition or use is a public nuisance or any property which constitutes a blight on the surrounding area or any property which is in violation of the applicable housing code such that it constitutes a substantial threat to the life, health or safety of the public. For purposes of sections 447.620 to 447.640, any declaration of a public nuisance by a municipality pursuant to an ordinance adopted pursuant to

sections 67.400 to 67.450, RSMo, shall constitute prima facie evidence that the property is a nuisance;

[(6)**]** **(5)** "Organization", any Missouri not-for-profit organization validly organized pursuant to law and whose purpose includes the provision or enhancement of housing opportunities in its community;

[(7)**]** **(6)** "Parties in interest", any owner or owners of record, occupant, lessee, mortgagee, trustee, personal representative, agent or other party having an interest in the property as shown by the land records of the recorder of deeds of the county wherein the property is located, except in any municipality contained wholly or partially within a county **[**with a population of over six hundred thousand and less than nine hundred thousand**]** **with a charter form of government and with more than six hundred thousand but less than seven hundred thousand inhabitants**, "parties in interest" shall mean owners, lessees, mortgagees or lienholders whose interest has been recorded or filed in the public records;

[(8)**]** **(7)** "Rehabilitation", the process of improving the property, including, but not limited to, bringing the property into compliance with the applicable housing code.

447.622. PETITION, REQUIREMENTS. — Any organization may petition to have property declared abandoned pursuant to the provisions of sections 447.620 to 447.640 and for temporary possession of such property, if:

(1) The property has been continuously unoccupied by persons legally entitled to possession for at least one month prior to the filing of the petition;

(2) The taxes are delinquent on the property;

(3) The property is a nuisance; and

(4) The organization intends to rehabilitate the property **[**and use the property as low- or moderate-income housing**]**.

447.625. PROCEDURES IN CERTAIN CITIES (JACKSON COUNTY). — 1. Any petition filed under the provisions of sections 447.620 to 447.640 which pertains to property located within any **[**municipality contained wholly or partially within a county with a population of over six hundred thousand and less than nine hundred thousand**]** **home rule city with more than four hundred thousand inhabitants and located in more than one county** shall meet the requirements of this section.

2. Summons shall be issued and service of process shall be had as in other in rem or quasi in rem civil actions.

3. The petition shall contain a prayer for a court order approving the organization's rehabilitation plan and granting temporary possession of the property to the organization. The petition shall also contain a prayer for a sheriff's deed conveying title to the property to the organization **[**at the expiration of the one-year period following entry of the order granting temporary possession of the property to the organization**]** **upon the completion of rehabilitation** when no owner has regained possession of the property pursuant to section **[**447.438**]** **447.638**.

4. The court shall stay any ruling on the organization's prayer for a sheriff's deed until **[**the one-year period has expired**]** **rehabilitation has been completed**.

5. The owner **[**shall be entitled to regain possession of the property by motion instead of a new petition under section 447.638. The compensation to be paid shall be set**]** **may file a motion for restoration of possession of the property prior to the completion of rehabilitation. The court shall determine whether to restore possession to the owner and proper compensation to the organization** in the same manner as in section 447.638.

6. **[**The**]** **Upon completion of rehabilitation the** organization may file a motion for sheriff's deed in place of a petition for judicial deed under section 447.640.

7. The provisions of sections 447.620 to 447.640 shall apply except where they are in conflict with this section.

447.632. GRANT OF PETITION, REQUIREMENTS. — The court shall grant the organization's petition if the court finds that the conditions alleged by the plaintiff as specified in section 447.622 **[**exist**] existed at the time the verified petition was filed in the circuit court**, that the plan for the rehabilitation of the property submitted to the court by the plaintiff is feasible and defendant has failed to demonstrate that the plaintiff should not be allowed to rehabilitate the property.

447.636. QUARTERLY REPORT. — The organization shall file **[**an annual**] a quarterly** report of its rehabilitation and use of the property, including a statement of all expenditures made by the organization and all income and receipts from the property for the preceding **[**years**] quarters**.

447.638. RESTORATION OF POSSESSION, COMPENSATION. — The owner **[**shall be entitled to regain possession of the property by petitioning**] may petition** the circuit court for restoration of possession **of the property** and, upon due notice to the plaintiff organization, for a hearing on such petition. At the hearing, the court shall determine **whether the owner has the capacity and the resources to complete rehabilitation of the property if such work has not been completed by the organization. If the court determines that the owner does not have the capacity or the resources to complete rehabilitation of the property, the court shall not restore possession to the owner. If the court determines that the rehabilitation work has been completed by the organization or that the owner has the capacity and the resources to complete the rehabilitation, the court shall then determine** proper compensation to the organization for its expenditures, including management fees, based on the organization's reports to the court. The court, in determining the proper compensation to the organization, may consider income or receipts received from the property by the organization. After the owner pays the compensation to the organization as determined by the court, the owner shall resume possession of the property, subject to all existing rental agreements, whether written or verbal, entered into by the organization.

447.640. QUITCLAIM JUDICIAL DEED MAY BE GRANTED, CONDITIONS, EFFECT. — If an owner **[**takes no action to**] does not** regain possession of the property in the one-year period following entry of an order granting temporary possession of the property to the organization, the organization may file a petition for judicial deed and, upon due notice to the named defendants, an order may be entered granting a quitclaim judicial deed to the organization. A conveyance by judicial deed shall operate to extinguish all existing ownership interests in, liens on, and other interest in the property, except tax liens.

SECTION 1. CONVEYANCE OF PROPERTY OWNED BY STATE IN BATTLE OF ATHENS STATE HISTORIC SITE TO ROBERT F. FRENCH TRUST. — 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 the Battle of Athens State Historic Site to the Robert F. French Trust. The property to be conveyed is more particularly described as follows:

All that part of the Southwest quarter of section nineteen in Township sixty seven North, Range seven West described in instrument recorded at microfilm drawer 3M card 2156 of the Clark county records being WEST of the following described line. Beginning at the Southeast corner of a tract of land described in instrument recorded at microfilm drawer 9M card 926 of the Clark County records and shown on survey dated February 05, 1999 recorded with the Department of Natural Resources as Document number 750-26794, thence along the south boundary of section nineteen North 87 degrees 03' 25" West 8.0 feet to a fence and the true point of beginning, thence along said fence North 3 degrees 00' 33" East 1139.6 feet, thence North 4 degrees 38' 44" East 956.9 feet to a corner

fence post, thence continue North 4 degrees 38' 44" East on a projection of the fence to the low water mark of the Des Moines River.

2. In consideration for the conveyance in subsection 1 of this section, the Missouri department of natural resources is hereby authorized to receive via quitclaim deed property from the Robert F. French Trust. The property to be conveyed to the department is more particularly described as follows:

All that part of the Southwest quarter of section nineteen in Township sixty seven North, Range seven West described in instrument recorded at microfilm drawer 3M card 2156 of the Clark county records being EAST of the following described line. Beginning at the Southeast corner of a tract of land described in instrument recorded at microfilm drawer 9M card 926 of the Clark County records and shown on survey dated February 05, 1999 recorded with the Department of Natural Resources as Document number 750-26794, thence along the south boundary of section nineteen North 87 degrees 03' 25" West 8.0 feet to a fence and the true point of beginning, thence along said fence North 3 degrees 00'33" East 1139.6 feet, thence North 4 degrees 38' 44" East 956.9 feet to a corner fence post, thence continue North 4 degrees 38' 44" East on a projection of the fence to the low water mark of the Des Moines River.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 2. CONVEYANCE OF PROPERTY AT CUIVRE RIVER STATE PARK TO STEVE AND ELLEN PIACENTINI. — 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 at Cuivre River State Park to Steve and Ellen Piacentini, husband and wife. The property to be conveyed is more particularly described as follows:

Part of lands located in the County of Lincoln and the State of Missouri, lying in part of the southwest quarter of Section 16 and part of the northwest quarter of Section 21, Township 49 North, Range 1 East of the Fifth Principal Meridian, being all that part north and east of the following described courses:

Commencing at a standard aluminum monument, described in MoDNR document # 600-65596 and located per survey filed as document # 750-26854 in the records of the Missouri Department of Natural Resources, marking the southeast corner of the northeast quarter of the northwest quarter of said Section 21; thence along the east line of said northeast quarter of the northwest quarter of Section 21, north 00 degrees 51 minutes 55 seconds east, a distance of 890.80 feet to a set 5/8 inch rebar, the TRUE POINT OF BEGINNING of the herein described courses; thence departing said east line north 89 degrees 08 minutes 05 seconds west, a distance of 45.00 feet to a set 5/8 inch rebar, from which a found 3/8 inch rebar bears south 89 degrees 08 minutes 05 seconds east, a distance of 18.1 feet; thence north 00 degrees 51 minutes 55 seconds east, a distance of 489.20 feet to a set 5/8 inch rebar, from which a standard aluminum monument, described in MoDNR document # 600-65595 and located per said survey filed as document # 750-26854, bears south 89 degrees 05 minutes 55 seconds east, a distance of 45.00 feet and a found ½ inch rebar with orange plastic cap marked "RLS 1851" bears south 79 degrees 19 minutes 30 seconds east, a distance of 16.1 feet; thence north 89 degrees 05 minutes 55 seconds west, a distance of 155.40 feet to a set 5/8 inch rebar; thence north 00 degrees 54 minutes 05 seconds east, a distance of 53.80 feet to a set 5/8 inch rebar; thence north 89 degrees 05 minutes 55 seconds west, a distance of 409.29 feet to the east line of a tract of land conveyed to Loyd E. Groshong by instrument recorded in Deed Book 220 at page 575 of the Lincoln County land records, marked by a set 5/8 inch rebar, from which a found 1 1/4 inch solid round rod bears north 00 degrees 34 minutes 30 seconds east, a distance of 253.60 feet; thence along the east line of said Groshong tract, south 00 degrees 34 minutes 30 seconds west, a distance of 53.80 feet to the section line between said Sections 16 and 21, marked by a set 5/8 inch rebar, the point of termination of the herein described courses, from

which a found 7/8 inch O.D. iron pipe bears south 00 degrees 34 minutes 30 seconds west, a distance of 7.55 feet and a 5/8 inch rebar with aluminum cap, described in MoDNR document # 600-65594 and located per said survey filed as document # 750-26854, bears north 89 degrees 05 minutes 55 seconds west, a distance of 710.45 feet.

2. In consideration for the conveyance in subsection 1 of this section, the Missouri department of natural resources is hereby authorized to receive via quitclaim deed property from Steve and Ellen Piacentini. The property to be conveyed to the department is more particularly described as follows:

Part of lands located in the County of Lincoln and the State of Missouri, lying in part of the southwest quarter of Section 16 and part of the northwest quarter of Section 21, Township 49 North, Range 1 East of the Fifth Principal Meridian, being all that part south and west of the following described courses:

Commencing at a standard aluminum monument, described in MoDNR document # 600-65596 and located per survey filed as document # 750-26854 in the records of the Missouri Department of Natural Resources, marking the southeast corner of the northeast quarter of the northwest quarter of said Section 21; thence along the east line of said northeast quarter of the northwest quarter of Section 21, north 00 degrees 51 minutes 55 seconds east, a distance of 890.80 feet to a set 5/8 inch rebar, the TRUE POINT OF BEGINNING of the herein described courses; thence departing said east line north 89 degrees 08 minutes 05 seconds west, a distance of 45.00 feet to a set 5/8 inch rebar, from which a found 3/8 inch rebar bears south 89 degrees 08 minutes 05 seconds east, a distance of 18.1 feet; thence north 00 degrees 51 minutes 55 seconds east, a distance of 489.20 feet to a set 5/8 inch rebar , from which a standard aluminum monument, described in MoDNR document # 600-65595 and located per said survey filed as document # 750-26854, bears south 89 degrees 05 minutes 55 seconds east, a distance of 45.00 feet and a found ½ inch rebar with orange plastic cap marked "RLS 1851" bears south 79 degrees 19 minutes 30 seconds east, a distance of 16.1 feet; thence north 89 degrees 05 minutes 55 seconds west, a distance of 155.40 feet to a set 5/8 inch rebar; thence north 00 degrees 54 minutes 05 seconds east, a distance of 53.80 feet to a set 5/8 inch rebar; thence north 89 degrees 05 minutes 55 seconds west, a distance of 409.29 feet to the east line of a tract of land conveyed to Loyd E. Groshong by instrument recorded in Deed Book 220 at page 575 of the Lincoln County land records, marked by a set 5/8 inch rebar, from which a found 1 1/4 inch solid round rod bears north 00 degrees 34 minutes 30 seconds east, a distance of 253.60 feet; thence along the east line of said Groshong tract, south 00 degrees 34 minutes 30 seconds west, a distance of 53.80 feet to the section line between said Sections 16 and 21, marked by a set 5/8 inch rebar, the point of termination of the herein described courses, from which a found 7/8 inch O.D. iron pipe bears south 00 degrees 34 minutes 30 seconds west, a distance of 7.55 feet and a 5/8 inch rebar with aluminum cap, described in MoDNR document # 600-65594 and located per said survey filed as document # 750-26854, bears north 89 degrees 05 minutes 55 seconds west, a distance of 710.45 feet.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 3. CONVEYANCE OF PROPERTY AT WASHINGTON STATE PARK TO RACHEL DECLUE AND PATRICIA WESTOFF. — 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 at Washington State Park to Rachel DeClue and Patricia Westoff. The property to be conveyed is more particularly described as follows:

Part of lands located in the County of Washington and the State of Missouri, lying in the west half of the northeast quarter of Section 29, Township 39 North, Range 3 East of the Fifth Principal Meridian, being all that part enclosed by the following described courses:

Commencing at a standard aluminum monument, described in MoDNR document # 600-66813 and located per survey filed as document # 750-26906 in the records of the Missouri Department of Natural Resources, marking the southeast corner of said west half of the northeast quarter of Section 29; thence north 88 degrees 06 minutes 30 seconds west, a distance of 807.05 feet to a found 1 inch round rod (as called for in Deed Book 125 at page 61 of the land records of Washington County), lying within the right-of-way of Missouri Route 21; thence north 39 degrees 15 minutes 30 seconds west, a distance of 711.15 feet to a found 3/4 inch smooth round rod (as called for in Deed Book 125 at page 202 of said land records); thence north 80 degrees 28 minutes 30 seconds east, a distance of 7.0 feet to the easterly right-of-way of said Route 21, marked by a set 5/8 inch rebar, being the TRUE POINT OF BEGINNING of the herein described courses; thence continuing north 80 degrees 28 minutes 30 seconds east, a distance of 413.00 feet to a set 5/8 inch rebar; thence south 14 degrees 20 minutes 00 seconds east, a distance of295.15 feet to a set 5/8 inch rebar; thence south 87 degrees 00 minutes 00 seconds west, a distance of 290.00 feet to said easterly right-of-way, from which a found t-post bears south 87 degrees 00 minutes 00 seconds west, a distance of 7.7 feet; thence northwesterly along said easterly right-of-way to the true point of beginning.

2. In consideration for the conveyance in subsection 1 of this section, the Missouri department of natural resources is hereby authorized to receive via quitclaim deed property from Rachel DeClue and Patricia Westoff. The property to be conveyed to the department is more particularly described as follows:

Part of lands located in the County of Washington and the State of Missouri, lying in the west half of the northeast quarter of Section 29, Township 39 North, Range 3 East of the Fifth Principal Meridian, being all that part north and east of the following described courses:

Commencing at a standard aluminum monument, described in MoDNR document # 600-66813 and located per survey filed as document # 750-26906 in the records of the Missouri Department of Natural Resources, marking the southeast corner of said west half of the northeast quarter of Section 29 and being the TRUE POINT OF BEGINNING of the herein described courses; thence south 87 degrees 37 minutes 35 seconds west, a distance of 123.69 feet to a found ½ inch rebar with yellow plastic cap marked "ELGIN PS 1682", per said document # 750-26906; thence north 47 degrees 49 minutes 00 seconds west, a distance of 508.45 feet to a set 5/8 inch rebar; thence north 84 degrees 46 minutes 30 seconds west, a distance of 270.10 feet to a set 5/8 inch rebar; thence north 14 degrees 20 minutes 00 seconds west, a distance of295.15 feet to a set 5/8 inch rebar; thence south 80 degrees 28 minutes 30 seconds west, a distance of413.00 feet to the easterly right-of-way of Missouri Route 21, marked by a set 5/8 inch rebar , said rebar being the point of termination, from which a found 3/4 inch smooth round rod (as called for in Deed Book 125 at page 202 of the land records of Washington County) bears south 80 degrees 28 minutes 30 seconds west, a distance of 7.0 feet and a found ½ inch rebar with yellow plastic cap marked "ELGIN PS 1682", per said document # 750-26906, bears north 39 degrees 20 minutes 00 seconds west, a distance of 110.90 feet.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 4. CONVEYANCE OF PROPERTY AT WASHINGTON STATE PARK TO OSCAR AND MARGARET RULO. — 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 at Washington State Park to Oscar and Margaret Rulo. The property to be conveyed is more particularly described as follows:

Part of lands located in the County of Washington and the State of Missouri, lying in the west half of the northeast quarter of Section 29, Township 39 North, Range 3 East of

the Fifth Principal Meridian, being all that part south and west of the following described courses:

Commencing at a standard aluminum monument, described in MoDNR document # 600-66813 and located per survey filed as document # 750-26906 in the records of the Missouri Department of Natural Resources, marking the southeast corner of said west half of the northeast quarter of Section 29; thence south 87 degrees 37 minutes 35 seconds west, a distance of 123.69 feet to a found ½ inch rebar with yellow plastic cap marked "ELGIN PS 1682", per said document # 750-26906, being the TRUE POINT OF BEGINNING of the herein described courses; thence north 47 degrees 49 minutes 00 seconds west, a distance of 508.45 feet to a set 5/8 inch rebar; thence north 84 degrees 46 minutes 30 seconds west, a distance of 270.10 feet to a set 5/8 inch rebar; thence south 87 degrees 00 minutes 00 seconds west, a distance of 290.00 feet to the point of termination at the easterly right-of-way of Missouri Route 21, from which a found t-post bears south 87 degrees 00 minutes 00 seconds west, a distance of 7.7 feet.

2. In consideration for the conveyance in subsection 1 of this section, the Missouri department of natural resources is hereby authorized to receive via quitclaim deed property from Oscar and Margaret Rulo. The property to be conveyed to the department is more particularly described as follows:

Part of lands located in the County of Washington and the State of Missouri, lying in the west half of the northeast quarter of Section 29, Township 39 North, Range 3 East of the Fifth Principal Meridian, being all that part north and east of the following described courses:

Commencing at a standard aluminum monument, described in MoDNR document # 600-66813 and located per survey tiled as document # 750-26906 in the records of the Missouri Department of Natural Resources, marking the southeast corner of said west half of the northeast quarter of Section 29 and being the TRUE POINT OF BEGINNING of the herein described courses; thence south 87 degrees 37 minutes 35 seconds west, a distance of 123.69 feet to a found ½ inch rebar with yellow plastic cap marked "ELGIN PS 1682", per said document # 750-26906; thence north 47 degrees 49 minutes 00 seconds west, a distance of 508.45 feet to a set 5/8 inch rebar; thence north 84 degrees 46 minutes 30 seconds west, a distance of 270.10 feet to a set 5/8 inch rebar; thence north 14 degrees 20 minutes 00 seconds west, a distance of 295.15 feet to a set 5/8 inch rebar; thence south 80 degrees 28 minutes 30 seconds west, a distance of 413.00 feet to the easterly right-of-way of Missouri Route 21, marked by a set 5/8 inch rebar, said rebar being the point of termination, from which a found 3/4 inch smooth round rod (as called for in Deed Book 125 at page 202 of the land records of Washington County) bears south 80 degrees 28 minutes 30 seconds west, a distance of 7.0 feet and a found ½ inch rebar with yellow plastic cap marked "ELGIN PS 1682", per said document # 750-26906, bears north 39 degrees 20 minutes 00 seconds west, a distance of 110.90 feet.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 5. CONVEYANCE OF CERTAIN LAND IN JEFFERSON COUNTY. — 1. The director of the department of natural resources is hereby authorized and empowered to grant and convey certain land in Jefferson County described as follows:

Parcel 11: Part of a larger tract of 42.26 acres located and being all that part of the South one-half of the northeast quarter of Section 20, Township 43 North, Range 5 East, in Jefferson County, Missouri and described as follows: Beginning at an iron pipe in the South line of the Northeast Quarter of said Section 20, being South 88 degrees 25 minutes East, distance 507.41 feet from the center of said Section 20; thence leaving the said South line of said Northeast Quarter of said Section 20, North 30 minutes East 159.11 feet to an iron pipe; thence North 88 degrees 25 minutes East 588.47 feet to a point in the center-line of a branch from which an iron pipe bears South 88 degrees 25 minutes West, distance

146.66 feet; thence along the said center-line of said branch South 27 degrees 02 minutes West 181.29 feet to a point from which an iron pipe bears South 88 degrees 25 minutes West, distance 65.60 feet; thence leaving the said center-line of said branch and along the South line of said Northeast Quarter of said Section 20 South 88 degrees 25 minutes West 507.41 feet to the point of beginning, containing two (2) acres.

Also an easement 20 feet wide lying East of and South of the following described line: Beginning at a point located in the North line of the above described tract said point being South 88 degrees 25 minutes West 75 feet more or less from the Northeast corner; thence North 28 degrees 48 minutes East 760 feet, more or less to a point; thence South 49 degrees 45 minutes East to the West right-of-way line of Romain Creek County Road.

2. Tammy L. Edwards shall have the right of first refusal to purchase the property described in subsection 1 of this section based on the fair market value of the property as determined by an appraiser contracted with by the department of natural resources. In the event that Tammy L. Edwards is unable or unwilling to purchase the property for the price determined by the department of natural resources, the department of natural resources shall then sell the property at a public auction under such terms and conditions as the department shall set.

3. The attorney general shall approve the form of the instrument of conveyance.

Approved July 10, 2002

HB 1635 [SCS HB 1635]

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

Requires deposits for water services for certain customers in certain cities to accrue interest after the deposit is held by a water corporation for two years.

AN ACT to repeal section 393.130, RSMo, relating to deposits for water service, and to enact in lieu thereof one new section relating to the same subject.

SECTION

A. Enacting clause.
393.130. Safe and adequate service — charges — certain home rule cities, interest accrual, when.

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

SECTION A. ENACTING CLAUSE. — Section 393.130, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 393.130, to read as follows:

393.130. SAFE AND ADEQUATE SERVICE — CHARGES — CERTAIN HOME RULE CITIES, INTEREST ACCRUAL, WHEN. — 1. Every gas corporation, every electrical corporation, every water corporation, and every sewer corporation shall furnish and provide such service instrumentalities and facilities as shall be safe and adequate and in all respects just and reasonable. All charges made or demanded by any such gas corporation, electrical corporation, water corporation or sewer corporation for gas, electricity, water, sewer or any service rendered or to be rendered shall be just and reasonable and not more than allowed by law or by order or decision of the commission. Every unjust or unreasonable charge made or demanded for gas, electricity, water, sewer or any such service, or in connection therewith, or in excess of that allowed by law or by order or decision of the commission is prohibited.

2. No gas corporation, electrical corporation, water corporation or sewer corporation shall directly or indirectly by any special rate, rebate, drawback or other device or method, charge, demand, collect or receive from any person or corporation a greater or less compensation for gas, electricity, water, sewer or for any service rendered or to be rendered or in connection therewith, except as authorized in this chapter, than it charges, demands, collects or receives from any other person or corporation for doing a like and contemporaneous service with respect thereto under the same or substantially similar circumstances or conditions.

3. No gas corporation, electrical corporation, water corporation or sewer corporation shall make or grant any undue or unreasonable preference or advantage to any person, corporation or locality, or to any particular description of service in any respect whatsoever, or subject any particular person, corporation or locality or any particular description of service to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

4. Nothing in this section shall be taken to prohibit a gas corporation, electrical corporation, water corporation or sewer corporation from establishing a sliding scale for a fixed period for the automatic adjustment of charges for gas, electricity, water, sewer or any service rendered or to be rendered and the dividends to be paid stockholders of such gas corporation, electrical corporation, water corporation or sewer corporation; provided, that the sliding scale shall first have been filed with and approved by the commission; but nothing in this subsection shall operate to prevent the commission after the expiration of such fixed period from fixing proper, just and reasonable rates and charges to be made for service as authorized in sections 393.110 to 393.285.

5. No water corporation shall be permitted to charge any municipality or fire protection district a rate for the placing and providing of fire hydrants for distribution of water for use in protecting life and property from the hazards of fire within such municipality or fire protection district. Nothing herein shall prevent such water corporation from including the cost of placement and maintenance of such fire hydrants in its cost basis in determining a fair and reasonable rate to be charged for water. Any such fee or rental charge being made for such fire hydrants whether by contract or otherwise at the time this act shall take effect may remain in effect for a period of one hundred twenty days after this section shall take effect.

6. In any home rule city with more than four hundred thousand inhabitants and located in more than one county, any deposits held by the city for any water or sewerage services provided to a customer at any premises shall accrue interest if the customer is current in payments for water and sewerage services and if the city has held the deposit for two or more years. Interest for each year, or part thereof, shall accrue at the rate set for six month United States treasury bills effective December thirty-first of the preceding year. For any deposit held by the city on or before the December thirty-first prior to August 28, 2002, if that deposit is still held by the city on the December thirty-first one year next following August 28, 2002, interest accruing pursuant to this section from the effective date shall be credited to the customer's individual account, or paid to the customer, at the city's discretion.

Approved June 27, 2002

HB 1636 [SCS HB 1636]

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

Permits certain cities to designate a county election authority verification board as its own verification board.

AN ACT to repeal section 115.507, RSMo, and to enact in lieu thereof one new section relating to election authority verification boards.

SECTION
A. Enacting clause.
115.507. Announcement of results by verification board, contents, when due — abstract of votes to be official returns.

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

SECTION A. ENACTING CLAUSE. — Section 115.507, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 115.507, to read as follows:

115.507. ANNOUNCEMENT OF RESULTS BY VERIFICATION BOARD, CONTENTS, WHEN DUE — ABSTRACT OF VOTES TO BE OFFICIAL RETURNS. — 1. Not later than the second Tuesday after the election, the verification board shall issue a statement announcing the results of each election held within its jurisdiction and shall certify the returns to each political subdivision and special district submitting a candidate or question at the election. The statement shall include a categorization of the number of regular and absentee votes cast in the election, and how those votes were cast; provided however, that absentee votes shall not be reported separately where such reporting would disclose how any single voter cast his or her vote. When absentee votes are not reported separately the statement shall include the reason why such reporting did not occur. Nothing in this section shall be construed to require the election authority to tabulate absentee ballots by precinct on election night.

2. The verification board shall prepare the returns by drawing an abstract of the votes cast for each candidate and on each question submitted to a vote of people in its jurisdiction by the state and by each political subdivision and special district at the election. The abstract of votes drawn by the verification board shall be the official returns of the election.

3. **Any home rule city with more than four hundred thousand inhabitants and located in more than one county may by ordinance designate one of the election authorities situated partially or wholly within that home rule city to be the verification board that shall certify the returns of such city submitting a candidate or question at any election and shall notify each verification board within the city of that designation by providing each with a copy of such duly adopted ordinance. Not later than the second Tuesday after any election in any city making such a designation, each verification board within the city shall certify the returns of such city submitting a candidate or question at the election to the election authority so designated by the city to be its verification board, and such election authority shall announce the results of the election and certify the cumulative returns to the city in conformance with subsections 1 and 2 of this section not later than ten days thereafter.**

4. Not later than the second Tuesday after each election at which the name of a candidate for nomination or election to the office of president of the United States, United States senator, representative in Congress, governor, lieutenant governor, state senator, state representative, judge of the circuit court, secretary of state, attorney general, state treasurer, or state auditor, or at which an initiative, referendum, constitutional amendment or question of retaining a judge subject to the provisions of article V, section 29 of the state constitution, appears on the ballot in a jurisdiction, the election authority of the jurisdiction shall mail or deliver to the secretary of state the abstract of the votes given in its jurisdiction, by polling place or precinct, for each such office and on each such question. If mailed, the abstract shall be enclosed in a strong, sealed envelope or envelopes. On the outside of each envelope shall be printed: "Returns of election held in the county of ..... (City of St. Louis, Kansas City) on the ..... day of ....., ...", etc.

Approved June 27, 2002

HB 1659 [HB 1659]

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

Provides that court clerks can only collect certain surcharges authorized by ordinance, order, or resolution effective on or after January 1, 1997, if authorized by statute.

AN ACT to repeal section 488.005, RSMo, and to enact in lieu thereof one new section relating to surcharges.

SECTION
A. Enacting clause.
488.005. Clerk not to collect surcharge, when.

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

SECTION A. ENACTING CLAUSE. — Section 488.005, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 488.005, to read as follows:

488.005. CLERK NOT TO COLLECT SURCHARGE, WHEN. — Notwithstanding any other provision of law to the contrary, whether enacted before, on or after August 28, 1996, no clerk of any court shall collect any surcharge authorized by or pursuant to any ordinance, order or resolution which provides that the effective date to commence imposition of such surcharge is on or after January 1, 1997**, unless such ordinance, order or resolution is authorized by statute**.

Approved July 11, 2002

HB 1668 [HB 1668]

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

Creates Emergency Personnel Appreciation Day.

AN ACT to amend chapter 9, RSMo, by adding thereto one new section relating to Emergency Personnel Appreciation Day.

SECTION
A. Enacting clause.
9.132. Emergency Personnel Appreciation Date, date of — how observed.

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 9.132, to read as follows:

9.132. EMERGENCY PERSONNEL APPRECIATION DATE, DATE OF — HOW OBSERVED. — September eleventh of every year shall be known and designated as "Emergency Personnel Appreciation Day". It shall be set apart as a day of acknowledging, with special gratitude and profound respect, all emergency personnel, including police, firefighters,

ambulance personnel, and emergency dispatchers. All citizens of this state are requested to devote some portion of emergency personnel appreciation day to recognition and solemn contemplation of the sacrifices undertaken by emergency personnel in performance of their duties.

Approved July 1, 2002

HB 1674 [HB 1674]

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

Requires proposed rules of public employee retirement plans to be submitted to the Joint Committee on Public Employee Retirement.

AN ACT to repeal section 105.661, RSMo, and to enact in lieu thereof one new section relating to public retirement plans.

SECTION
A. Enacting clause.
105.661. All retirement plans to prepare financial report, content audit by state auditor and joint committee on public employee retirement — rulemaking authority.

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

SECTION A. ENACTING CLAUSE. — Section 105.661, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 105.661, to read as follows:

105.661. ALL RETIREMENT PLANS TO PREPARE FINANCIAL REPORT, CONTENT AUDIT BY STATE AUDITOR AND JOINT COMMITTEE ON PUBLIC EMPLOYEE RETIREMENT — RULEMAKING AUTHORITY. — 1. Each plan shall annually prepare and have available as public information a comprehensive annual financial report showing the financial condition of the plan as of the end of the plan's fiscal year. The report shall contain, but not be limited to, detailed financial statements prepared in accordance with generally accepted accounting principles for public employee retirement systems including an independent auditors report thereon, prepared by a certified public accountant or a firm of certified public accountants, a detailed summary of the plan's most recent actuarial valuation including a certification letter from the actuary and a summary of actuarial assumptions and methods used in such valuation, a detailed listing of the investments, showing both cost and market value, held by the plan as of the date of the report together with a detailed statement of the annual rates of investment return from all assets and from each type of investment, a detailed list of investments acquired and disposed of during the fiscal year, a listing of the plan's board of trustees or responsible administrative body and administrative staff, a detailed list of administrative expenses of the plan including all fees paid for professional services, a detailed list of brokerage commissions paid, a summary plan description, and such other data as the plan shall deem necessary or desirable for a proper understanding of the condition of the plan. In the event a plan is unable to comply with any of the disclosure requirements outlined above, a detailed statement must be included in the report as to the reason for such noncompliance.

2. **Any rule or portion of rule promulgated by any plan pursuant to the authority of chapter 536, RSMo, or of any other provision of law, shall be submitted to the joint committee on public employee retirement prior to or concurrent with the filing of a notice**

of proposed rulemaking with the secretary of state's office pursuant to section 536.021, RSMo. The requirement of this subsection is intended solely for the purpose of notifying the joint committee on public employee retirement with respect to a plan's proposed rulemaking so that the joint committee on public employee retirement has ample opportunity to submit comments with respect to such proposed rulemaking in accordance with the normal process. Any plan not required to file a notice of proposed rulemaking with the secretary of state's office shall submit any proposed rule or portion of a rule to the joint committee on public employee retirement within ten days of its promulgation.

3. A copy of the comprehensive annual financial report as outlined in subsection 1 of this section shall be forwarded within six months of the end of the plan's fiscal year to the state auditor and the joint committee on public employee retirement.

Approved July 3, 2002

HB 1711 [CCS HCS HB 1711]

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

Revises definitions section of state aid to include a definition of "district equalized assessed valuation".

AN ACT a2To repeal sections 108.140, 160.011, 160.051, 160.518, 160.530, 161.092, 163.011, 163.036, 166.260, and 168.400, RSMo, and to enact in lieu thereof fourteen new sections relating to state school aid.

SECTION

A. Enacting clause.
82.293. No surcharge or fee to compensate school districts without statutory authority (Lee's Summit).
108.140. Political subdivisions may refund, extend, unify indebtedness.
160.011. Definitions, certain chapters.
160.051. Public school system established — child attains age five, when — board shall provide free instruction for children between ages of five and six years — literacy programs — summer school for prekindergartners.
160.518. Statewide assessment system, standards, restriction — exemplary levels, outstanding school waivers — summary waiver of pupil testing requirements — waiver void, when — scores not counted, when — alternative assessments for special education students.
160.530. Eligibility for state aid, allocation of funds to professional development committee — statewide areas of critical need, funds — success leads to success grant program created, purpose.
160.531. Family literacy programs, funding — rulemaking authority.
160.720. Performance schools designation — priority schools identified, criteria, accountability compliance statements submitted — deficiency strategies, content — resource allocation plans, elements of — rules — enforceability, exceptions.
161.092. Powers and duties of state board.
163.011. Definitions — method of calculating state aid.
163.036. Estimates of average daily attendance, authorized, how computed — error in computation between actual and estimated attendance, how corrected — use of assessed valuation for state aid — delinquency in payment of property tax, effect on assessment.
166.260. Children at-risk in education program established — purposes.
168.400. Programs established for public school personnel — contents.
170.014. Reading instruction act — reading programs established, essential components — explicit systemic phonics defined.

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

SECTION A. ENACTING CLAUSE. — Sections 108.140, 160.011, 160.051, 160.518, 160.530, 161.092, 163.011, 163.036, 166.260, and 168.400, RSMo, are repealed and fourteen new sections enacted in lieu thereof, to be known as sections 82.293, 108.140, 160.011, 160.051, 160.518, 160.530, 160.531, 160.720, 161.092, 163.011, 163.036, 166.260, 168.400, and 170.014, to read as follows:

82.293. NO SURCHARGE OR FEE TO COMPENSATE SCHOOL DISTRICTS WITHOUT STATUTORY AUTHORITY (LEE'S SUMMIT). — 1. Absent explicit statutory authority, no constitutional charter city with more than seventy thousand five hundred but less than seventy-one thousand inhabitants located at least in part within a county of the first classification with more than eighty-two thousand but less than eighty-two thousand one hundred inhabitants shall enact any ordinance, regulation, or resolution that would impose a surcharge or other fee to compensate any political subdivision organized pursuant to chapter 162, RSMo.

2. If any provision of this section or the application thereof to anyone or to any circumstances is held invalid, the remainder of section A of this act and the application of such provisions to others or other circumstances shall not be affected thereby.

108.140. POLITICAL SUBDIVISIONS MAY REFUND, EXTEND, UNIFY INDEBTEDNESS. — 1. The various counties in this state for themselves, as well as for and on behalf of any township, or other political subdivision for which the counties may have issued any general obligation bonds, and the several cities, school districts or other political corporations or subdivisions of the state, are hereby authorized to refund, extend, and unify the whole or part of their valid general obligation bonded indebtedness, or judgment indebtedness, and for such purpose may issue, negotiate, sell and deliver refunding general obligation bonds and with the proceeds therefrom pay off, redeem and cancel the bonds to be refunded in advance of their maturity or redemption or as the same mature or are called for redemption, or pay and cancel such judgment indebtedness, or such refunding general obligation bonds may be issued and delivered in exchange for and upon surrender and cancellation of the bonds refunded thereby, or such judgment indebtedness. **School districts may pay costs and expenses related to issuing such refunding general obligation bonds from proceeds from the sale of such bonds.** In no case shall the refunding general obligation bonds exceed the amount of the principal of the outstanding bond or judgment indebtedness to be refunded and the interest accrued thereon to the date of such refunding bonds. No refunding bond issued as provided in this subsection shall be payable in more than twenty years from the date thereof and such refunding bonds shall bear interest not to exceed the same rate as the bonds refunded, or judgment indebtedness; provided, that nothing in this section shall be so construed as to prohibit any county, city, school district, or other political corporation or subdivision of the state from refunding its general obligation bonded indebtedness without the submission of the question to a popular vote.

2. The various counties in this state for themselves, as well as for and on behalf of any township, or other political subdivision for which the counties may have issued any revenue bonds, notes or other obligations, and the several cities, school districts or other political corporations or subdivisions of the state, are hereby authorized to refund, extend, and unify the whole or part of their valid outstanding revenue bonds, notes or other obligations, and for such purpose may issue, negotiate, sell and deliver refunding revenue bonds, notes or other obligations and with the proceeds therefrom pay off, redeem and cancel the obligations to be refunded in advance of their maturity or redemption or as the same mature or are called for redemption, or such refunding revenue bonds, notes or other obligations may be issued and delivered in exchange for and upon surrender and cancellation of the obligations refunded thereby. In no case shall the refunding revenue bonds, notes or other obligations exceed the amount determined by the governing body of the issuing political corporation or subdivision to be necessary to pay or provide for the payment of the principal of the outstanding obligations to be refunded, together

with the interest accrued thereon to the date of such refunding obligations and the interest to accrue thereon to the date of maturity or redemption of such obligations to be refunded and any premium which may be due under the terms of such obligations to be refunded and any amounts necessary for the payment of costs and expenses related to issuing such refunding obligations and to fund a debt service reserve fund for the obligations. All such refunding revenue bonds, notes or other obligations shall bear interest at such rates as the governing body of the issuing political subdivision shall provide, which rates of interest may exceed the rates of interest on the obligations being refunded but shall not exceed the maximum legal rate established by section 108.170. The refunding revenue bonds, notes or other obligations may be payable from the same sources as were pledged to the payment of the obligations refunded and, in the discretion of the governing body of the issuing political subdivision, may be payable from any other source which may be pledged to the payment of revenue bonds, notes or other obligations under any provision of law relating to the issuance of the obligations refunded. Nothing in this section shall be so construed as to prohibit any county, city, school district, or other political corporation or subdivision of the state from refunding its revenue bonded indebtedness without the submission of the question to a popular vote.

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;

[(3)**] (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;

[(4)**] (5)** "High school", a public school giving instruction in a grade or grades not lower than the ninth nor higher than the twelfth grade;

[(5)**] (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;

[(6)**] (7)** "Public school" includes all elementary and high schools operated at public expense;

[(7)**] (8)** "School board", the board of education having general control of the property and affairs of any school district;

[(8)**] (9)** "School term", a minimum of one hundred seventy-four school days, as that term is defined in section 160.041, 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;

[(9)**] (10)** "Secretary", the secretary of the board of a school district;

[(10)**] (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;

[(11)**] (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;

[(12)**] (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;

[(13)**] (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.

160.051. PUBLIC SCHOOL SYSTEM ESTABLISHED — CHILD ATTAINS AGE FIVE, WHEN — BOARD SHALL PROVIDE FREE INSTRUCTION FOR CHILDREN BETWEEN AGES OF FIVE AND SIX YEARS — LITERACY PROGRAMS — SUMMER SCHOOL FOR PREKINDERGARTNERS. — 1. A system of free public schools is established throughout the state for the gratuitous instruction of persons between the ages of five and twenty-one years. Any child whose fifth birthday occurs before the first day of August shall be deemed to have attained the age of five years at the commencement of the school year beginning in that calendar year or at the commencement of the summer school session immediately prior to the school term beginning in the school year beginning in that calendar year, whichever is earlier, for the purpose of apportioning state school funds and for all other purposes.

2. Public schools may establish family literacy programs for children of all ages and their families.

[2.**] 3.** The department of elementary and secondary education shall not use school for kindergarten pupils in the summer preceding such pupils' regular fall starting date as an element of the standards of the Missouri school improvement program.

160.518. STATEWIDE ASSESSMENT SYSTEM, STANDARDS, RESTRICTION — EXEMPLARY LEVELS, OUTSTANDING SCHOOL WAIVERS — SUMMARY WAIVER OF PUPIL TESTING REQUIREMENTS — WAIVER VOID, WHEN — SCORES NOT COUNTED, WHEN — ALTERNATIVE ASSESSMENTS FOR SPECIAL EDUCATION STUDENTS. — 1. Consistent with the provisions contained in section 160.526, the state board of education shall develop a statewide assessment system that provides maximum flexibility for local school districts to determine the degree to which students in the public schools of the state are proficient in the knowledge, skills and competencies adopted by such board pursuant to subsection 1 of section 160.514. The statewide assessment system shall assess problem solving, analytical ability, evaluation, creativity and application ability in the different content areas and shall be performance-based to identify what students know, as well as what they are able to do, and shall enable teachers to evaluate actual academic performance. The assessment system shall neither promote nor prohibit rote memorization and shall not include existing versions of tests approved for use pursuant to the provisions of section 160.257, nor enhanced versions of such tests. The statewide assessment shall measure, where appropriate by grade level, a student's knowledge of academic subjects including, but not limited to, reading skills, writing skills, mathematics skills, world and American history, forms of government, geography and science.

2. The assessment system shall only permit the academic performance of students in each school in the state to be tracked against prior academic performance in the same school.

3. The state board of education shall suggest criteria for a school to demonstrate that its students learn the knowledge, skills and competencies at exemplary levels worthy of imitation by students in other schools in the state and nation. "Exemplary levels" shall be measured by the assessment system developed pursuant to subsection 1 of this section, or until said assessment is available, by indicators approved for such use by the state board of education. The provisions

of other law to the contrary notwithstanding, the commissioner of education may, upon request of the school district, present a plan for the waiver of rules and regulations to any such school, to be known as "Outstanding Schools Waivers", consistent with the provisions of subsection 4 of this section.

4. For any school that meets the criteria established by the state board of education for three successive school years pursuant to the provisions of subsection 3 of this section, 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. 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, excepting such waivers shall be confined to the school and not other schools in the district unless such other schools meet the criteria established by the state board of education consistent with subsection 3 of this section and the waivers shall not include the requirements contained in this section and section 160.514. 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 criteria established by the state board of education consistent with subsection 3 of this section.

5. The score on any assessment test developed pursuant to this section or this chapter of any student for whom English is a second language shall not be counted until such time as such student has been educated for three full school years in a school in this state, or in any other state, in which English is the primary language.

6. The state board of education shall identify or, if necessary, establish one or more developmentally appropriate alternate assessments for students who receive special educational services, as that term is defined pursuant to section 162.675, RSMo. In the development of such alternate assessments, the state board shall establish an advisory panel consisting of a majority of active special education teachers and other education professionals as appropriate to research available assessment options. The advisory panel shall attempt to identify preexisting developmentally appropriate alternate assessments but shall, if necessary, develop alternate assessments and recommend one or more alternate assessments for adoption by the state board. The state board shall consider the recommendations of the advisory council in establishing such alternate assessment or assessments. Any student who receives special educational services, as that term is defined pursuant to section 162.675, RSMo, shall be assessed by an alternate assessment established pursuant to this subsection upon a determination by the student's individualized education program team that such alternate assessment is more appropriate to assess the student's knowledge, skills and competencies than the assessment developed pursuant to subsection 1 of this section. The alternate assessment shall evaluate the student's independent living skills, which include how effectively the student addresses common life demands and how well the student meets standards for personal independence expected for someone in the student's age group, sociocultural background, and community setting.

160.530. ELIGIBILITY FOR STATE AID, ALLOCATION OF FUNDS TO PROFESSIONAL DEVELOPMENT COMMITTEE — STATEWIDE AREAS OF CRITICAL NEED, FUNDS — SUCCESS LEADS TO SUCCESS GRANT PROGRAM CREATED, PURPOSE. — 1. Beginning with fiscal year 1994 and for all fiscal years thereafter, in order to be eligible for state aid distributed pursuant to section 163.031, RSMo, a school district shall allocate one percent of moneys received pursuant

to section 163.031, RSMo, exclusive of categorical add-ons, to the professional development committee of the district as established in subdivision (1) of subsection 4 of section 168.400, RSMo. Of the moneys allocated to the professional development committee in any fiscal year as specified by this subsection, seventy-five percent of such funds shall be spent in the same fiscal year for purposes determined by the professional development committee after consultation with the administrators of the school district and approved by the local board of education as meeting the objectives of a school improvement plan of the district that has been developed by the local board. Moneys expended for staff training pursuant to any provisions of this act shall not be considered in determining the requirements for school districts imposed by this subsection.

2. Beginning with fiscal year 1994 and for all fiscal years thereafter, ninety percent of one percent of moneys appropriated to the department of elementary and secondary education otherwise distributed to the public schools of the state pursuant to the provisions of section 163.031, RSMo, exclusive of categorical add-ons, shall be distributed by the commissioner of education to address statewide areas of critical need for learning and development as determined by rule and regulation of the state board of education with the advice of the commission established by section 160.510 and the advisory council provided by subsection 1 of section 168.015, RSMo. The moneys described in this subsection may be distributed by the commissioner of education to colleges, universities, private associations, professional education associations, statewide associations organized for the benefit of members of boards of education, public elementary and secondary schools, and other associations and organizations that provide professional development opportunities for teachers, administrators, **family literacy personnel** and boards of education for the purpose of addressing statewide areas of critical need, provided that subdivisions (1)**, [**and**]** (2) and (3) of this subsection shall constitute priority uses for such moneys. "Statewide areas of critical need for learning and development" shall include:

(1) Funding the operation of state management teams in districts with academically deficient schools and providing resources specified by the management team as needed in such districts;

(2) Funding for grants to districts, upon application to the department of elementary and secondary education, for resources identified as necessary by the district, for those districts which are failing to achieve assessment standards;

(3) Funding for family literacy programs;

[(3)**] (4)** Ensuring that all children, especially children at risk, children with special needs, and gifted students are successful in school;

[(4)**] (5)** Increasing parental involvement in the education of their children;

[(5)**] (6)** Providing information which will assist public school administrators and teachers in understanding the process of site-based decision making;

[(6)**] (7)** Implementing recommended curriculum frameworks as outlined in section 160.514;

[(7)**] (8)** Training in new assessment techniques for students;

[(8)**] (9)** Cooperating with law enforcement authorities to expand successful antidrug programs for students;

[(9)**] (10)** Strengthening existing curricula of local school districts to stress drug and alcohol prevention;

[(10)**] (11)** Implementing and promoting programs to combat gang activity in urban areas of the state;

[(11)**] (12)** Establishing family schools, whereby such schools adopt proven models of one-stop state services for children and families;

[(12)**] (13)** Expanding adult literacy services; and

[(13)**] (14)** Training of members of boards of education in the areas deemed important for the training of effective board members as determined by the state board of education.

3. Beginning with fiscal year 1994 and for all fiscal years thereafter, ten percent of one percent of moneys appropriated to the department of elementary and secondary education

otherwise distributed to the public schools of the state pursuant to the provisions of section 163.031, RSMo, exclusive of categorical add-ons, shall be distributed in grant awards by the state board of education, by rule and regulation, for the "Success Leads to Success" grant program, which is hereby created. The purpose of the success leads to success grant program shall be to recognize, disseminate and exchange information about the best professional teaching practices and programs in the state that address student needs, and to encourage the staffs of schools with these practices and programs to develop school-to-school networks to share these practices and programs.

160.531. FAMILY LITERACY PROGRAMS, FUNDING — RULEMAKING AUTHORITY. — 1. Beginning with fiscal year 2005 and for all fiscal years thereafter, an amount, as specified in subsection 2 of this section, of the appropriation to the department of elementary and secondary education otherwise distributed to the public schools of the state pursuant to the provisions of section 163.031, RSMo, shall be distributed by the department of elementary and secondary education to establish and fund family literacy programs in school attendance centers declared academically deficient by the state board of education as authorized by section 160.538 or school districts declared unaccredited or provisionally accredited by the state board of education pursuant to section 161.092, RSMo.

2. The amount to be distributed by the department of elementary and secondary education to establish and fund family literacy programs pursuant to subsection 1 of this section shall be one and one-half percent of the total line 14 distribution.

3. The department of elementary and secondary education shall promulgate rules for the distribution of family literacy funds.

4. 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.

160.720. PERFORMANCE SCHOOLS DESIGNATION — PRIORITY SCHOOLS IDENTIFIED, CRITERIA, ACCOUNTABILITY COMPLIANCE STATEMENTS SUBMITTED — DEFICIENCY STRATEGIES, CONTENT — RESOURCE ALLOCATION PLANS, ELEMENTS OF — RULES — ENFORCEABILITY, EXCEPTIONS. — 1. The department of elementary and secondary education shall identify for recognition by the governor schools demonstrating high student achievement to be designated as performance schools. In addition, the department of elementary and secondary education shall identify those waivers of administrative rule authorized under state law appropriate for the recognized school district or school. The department of elementary and secondary education shall endeavor to identify waivers of administrative rule that result in a meaningful reduction in administrative burden on the districts recognized in this section.

2. The department of elementary and secondary education shall identify priority school districts and priority schools based upon the following criteria:

(1) School attendance centers declared academically deficient by the state board of education as authorized by section 160.538;

(2) School districts declared unaccredited or provisionally accredited by the state board of education pursuant to section 161.092, RSMo; or

(3) School districts or school attendance centers that do not meet any of the accreditation standards on student performance established by the state board of education based upon the statewide assessment system authorized pursuant to section 160.518.

3. The board of education of any priority school district or priority school shall submit, as a part of a comprehensive school improvement plan, an accountability compliance statement that shall:

(1) Identify and analyze areas of deficiency in student performance by school, grade and academic content area;

(2) Provide a comprehensive strategy for addressing these areas of deficiency;

(3) Assure disclosure of these areas of deficiency in the school accountability report card required pursuant to section 160.522;

(4) Permit a metropolitan district that is implementing a program of academic improvement in a school or schools identified pursuant to a settlement agreement for a desegregation lawsuit to submit the elements of the accountability compliance statement required in subdivisions (1) to (3) of this subsection for review for possible waiver solely in regard to the schools identified for academic improvement pursuant to the settlement agreement; provided, however, that the department of elementary and secondary education shall meet with any district covered by the provisions of this subdivision prior to the district submitting any element of an accountability compliance statement, so that the department may identify elements of the settlement agreement academic improvement plan that are substantially similar to the requirements contained in this section, and the department shall advise such district if, based on its review, any further plan or reporting of such plans or elements is required; and

(5) Require school boards of each district to annually review the school discipline provisions contained in section 160.261, and sections 167.023, 167.026, 167.117, 167.161 to 167.171 and 167.335, RSMo, and ensure that the district's discipline policies are consistent with the above listed sections.

4. The comprehensive strategy for addressing areas of deficiency required pursuant to this section shall address the following areas:

(1) Align curriculum to address areas of deficiency in student achievement;

(2) Develop, for any student who is not receiving special education services under an individualized education plan pursuant to sections 162.670 to 162.699, RSMo, who is performing at a level not determined or at the lowest level of proficiency in any subject area under the statewide assessment established pursuant to section 160.518, an individual performance plan in that subject area which shall:

(a) Be developed by the teacher or teachers in consultation with the child's parent, guardian, or other adult responsible for the student's education;

(b) Outline responsibilities for the student, parent, guardian, or other adult responsible for the student's education, teachers, and administrators in implementing the plan. Such plans shall not require the level of documentation and procedural complexities of an individualized education plan pursuant to sections 162.670 to 162.699, RSMo, but shall contain sufficient detail for all parties to understand their responsibilities in the implementation of the student's performance plan;

(c) State that the student's parent, guardian, or other adult responsible for the student's education shall act in good faith to implement the student performance plan and make reasonable efforts to meet with the teacher when requested or required by the plan; and

(d) Require those students performing at a level not determined or at the lowest level of proficiency in any subject area under the statewide assessment established pursuant to section 160.518 to be provided with additional instruction time and for students in grade nine to eleven to retake the assessment;

(3) Focus state and local professional development funds on the areas of greatest academic need, including a statement relating to accessing the resources and services of the regional professional development center and support from state professional development funds;

(4) Create programs to improve teacher and administrator effectiveness;

(5) Establish school accountability councils consistent with the procedures stated in subsection 5 of section 160.538 or align any existing parent advisory council with the requirements of subsection 5 of section 160.538;

(6) Develop a resource reallocation plan for the district; and

(7) Consider the need to implement strategies pursuant to this subsection for feeder schools of any priority school.

5. The school district shall include in any program for improvement of teacher and administrator effectiveness in an accountability compliance statement policies that will:

(1) Require school administrators and teachers, including teachers who are provisionally or temporarily certified, to participate in one of the following programs of professional development:

(a) A mentoring program meeting standards established by the state board of education or supervised by an individual previously designated by the department of elementary and secondary education as a regional resource teacher;

(b) Successful completion of a training program for certification as a scorer under the statewide assessment program authorized pursuant to section 160.518; or

(c) Enrollment and making adequate progress towards national board certification;

(2) Provide one additional year of intensive professional development assistance to teachers and administrators who do not complete or make adequate progress in the professional development activities described in subdivision (1) of this subsection;

(3) Exempt from the professional development requirements accountability compliance statement as provided in subdivision (1) of this subsection any individual who:

(a) Holds qualifying scores in the appropriate professional assessment as determined by the state board of education or who elects to take and receive a qualifying score of that assessment;

(b) Holds national board certification;

(c) Is certified as a scorer under the statewide assessment program;

(d) Is designated by the department of elementary and secondary education as a regional resource teacher;

(e) Serves as a mentor teacher for one school year in a program meeting standards adopted by the state board of education; or

(f) Successfully completes an appropriate administrator academy program offered pursuant to section 168.407, RSMo;

6. Any resource reallocation plan shall include at least one of the following elements:

(1) Reduce class size in areas of academic concern;

(2) Establish full-day kindergarten or preschool programs;

(3) Establish after-school, tutoring and other programs offering extended time for learning;

(4) Employ regional resource teachers designated by the department of elementary and secondary education or national board-certified teachers, along with appropriate salary enhancements for such teachers;

(5) Establish programs of teacher home visitation to encourage parental support of student learning; and

(6) Create "school within a school" programs to achieve smaller learning communities within priority schools.

7. The state board of education shall establish by administrative rule standards to evaluate accountability compliance statements, based upon the following criteria:

(1) An accountability compliance statement shall be submitted to the department of elementary and secondary education on or before August fifteenth following any school year in which a school district meets the criteria established under subsection 2 of this section;

(2) The department of elementary and secondary education shall review and identify areas of deficiency in the plan within thirty days of receipt; and

(3) Changes to the plan shall be forwarded to the department of elementary and secondary education within thirty days of notice to the district of the areas of deficiency.

8. The department of elementary and secondary education shall withhold funds to be paid to the school district, as authorized in section 163.031, RSMo, until such time as the district submits an accountability compliance statement meeting the standards authorized pursuant to this section within the timelines established herein.

9. The department of elementary and secondary education shall develop within three years of the adoption of this section a program of administrator mentoring focusing on the need of priority schools and priority school districts and meeting standards established by the state board of education.

10. 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.

11. In any school year in which the school funding formula has a proration factor on line 1(b) of less than 0.9, the provisions of subsections 2 to 9 of this section relating to priority schools and priority school districts shall not be enforced. For any school year in which funding of the school aid formula at the level stated in this subsection appears to be in doubt after all appropriations bills are truly agreed and finally passed, the house budget chair and the senate appropriations chair shall send a joint letter to the commissioner of education by August fifteenth, notifying the department of elementary and secondary education of the likelihood that funding would be below the limit stated in this subsection and requesting that the department not enforce subsections 2 to 9 of this section unless and until the department's calculations for the first "live" school aid payment of the school year show that the formula will have a proration factor on line 1(b) of no less than 0.9.

161.092. POWERS AND DUTIES OF STATE BOARD. — The state board of education shall:

(1) Adopt rules governing its own proceedings and formulate policies for the guidance of the commissioner of education and the department of elementary and secondary education;

(2) Carry out the educational policies of the state relating to public schools that are provided by law and supervise instruction in the public schools;

(3) Direct the investment of all moneys received by the state to be applied to the capital of any permanent fund established for the support of public education within the jurisdiction of the department of elementary and secondary education and see that the funds are applied to the branches of educational interest of the state that by grant, gift, devise or law they were originally intended, and if necessary institute suit for and collect the funds and return them to their legitimate channels;

(4) Cause to be assembled information which will reflect continuously the condition and management of the public schools of the state;

(5) Require of county clerks or treasurers, boards of education or other school officers, recorders and treasurers of cities, towns and villages, copies of all records required to be made by them and all other information in relation to the funds and condition of schools and the management thereof that is deemed necessary;

(6) Provide blanks suitable for use by officials in reporting the information required by the board;

(7) When conditions demand, cause the laws relating to schools to be published in a separate volume, with pertinent notes and comments, for the guidance of those charged with the execution of the laws;

(8) Grant, without fee, certificates of qualification and licenses to teach in any of the public schools of the state, establish requirements therefor, formulate regulations governing the issuance thereof, **including, upon an appropriate background check, provisional certification to a person who holds a valid teaching certificate from another state and has five years of teaching experience in the same school district in the curriculum area and approximate grade level in another state, providing for full certification upon the satisfactory completion of five years of teaching in Missouri public schools,** and cause the certificates to be revoked for the reasons and in the manner provided in section 168.071, RSMo;

(9) Classify the public schools of the state, subject to limitations provided by law, establish requirements for the schools of each class, and formulate rules governing the inspection and accreditation of schools preparatory to classification;

(10) Make an annual report on or before the first Wednesday after the first day of January to the general assembly or, when it is not in session, to the governor for publication and transmission to the general assembly. The report shall be for the last preceding school year, and shall include: (a) a statement of the number of public schools in the state, the number of pupils attending the schools, their sex, and the branches taught; (b) a statement of the number of teachers employed, their sex, their professional training, and their average salary; (c) a statement of the receipts and disbursements of public school funds of every description, their sources, and the purposes for which they were disbursed; (d) suggestions for the improvement of public schools; and (e) any other information relative to the educational interests of the state that the law requires or the board deems important;

(11) Make an annual report to the general assembly and the governor concerning coordination with other agencies and departments of government that support family literacy programs and other services which influence educational attainment of children of all ages;

[(11)**] (12)** Require from the chief officer of each division of the department of elementary and secondary education, on or before the thirty-first day of August of each year, reports containing information the board deems important and desires for publication;

[(12)**] (13)** Cause fifty copies of its annual report to be reserved for the use of each division of the state department of elementary and secondary education, and ten copies for preservation in the state library;

[(13)**] (14)** Have other powers and duties prescribed by law.

163.011. DEFINITIONS — METHOD OF CALCULATING STATE AID. — As used in this chapter unless the context requires otherwise:

(1) "Adjusted gross income":

(a) "District adjusted gross income per return" shall be the total Missouri individual adjusted gross income in a school district divided by the total number of Missouri income tax returns filed from the school district as reported by the state department of revenue for the second preceding year;

(b) "State adjusted gross income per return" shall be the total Missouri individual adjusted gross income divided by the total number of Missouri individual income tax returns, of those returns designating school districts, as reported by the state department of revenue for the second preceding year;

(c) "District income factor" shall be one plus thirty percent of the difference of the district income ratio minus one, except that the district income factor applied to the portion of the assessed valuation corresponding to any increase in assessed valuation above the assessed valuation of a district as of December 31, 1994, shall not exceed a value of one;

(d) "District income ratio" shall be the ratio of the district adjusted gross income per return divided by the state adjusted gross income per return;

(2) "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;

(3) "Average daily attendance" means 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 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;

(4) "Current operating costs", all expenditures for instruction and support services excluding capital outlay and debt service expenditures less the revenue from federal categorical sources, food service, student activities and payments from other districts;

(5) **"District equalized assessed valuation" shall be the average of the "equalized assessed valuation of the property of a school district" for the first and second preceding years;**

(6) "District's target rate", the district's average percentage of pupils from fiscal years 2000 to 2005 scoring at or above the proficiency level on the statewide assessment system on either mathematics or reading/communication arts plus one percentage point for each year after fiscal year 2005 except that the district's target rate shall not exceed the statewide average percentage from fiscal year 2000 to fiscal year 2005 scoring at or above the proficiency level on the statewide assessment system on either mathematics or reading/communication arts;

[(6)**] (7)** "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;

[(7)**] (8)** "Eligible pupils" shall be the sum of the average daily attendance of the school term plus the product of two times the average daily attendance for summer school;

[(8)**] (9)** "Equalized assessed valuation of the property of a school district" **for a given year** shall be determined by multiplying the assessed valuation of the real property subclasses specified in section 137.115, RSMo, times the percent of true value as adjusted by the department of elementary and secondary education to an equivalent sales ratio of thirty-three and one-third percent and dividing by either the percent of true value as determined by the state tax commission on or before March fifteenth preceding the fiscal year in which the valuation will be effective as adjusted by the department of elementary and secondary education to an equivalent sales ratio of thirty-three and one-third percent or the average percent of true value for the highest three of the last four years as determined and certified by the state tax commission, whichever is greater. To the equalized locally assessed valuation of each district shall be added the assessed valuation of tangible personal property. The assessed valuation of property which has previously been excluded from the tax rolls, which is being contested as not being taxable and which increases the total assessed valuation of the school district by fifty percent or more, shall not be included in the calculation of equalized assessed valuation under this subdivision;

[(9)**] (10)** "Fiscal instructional ratio of efficiency", the quotient of the sum of the district's current operating costs for all kindergarten through grade twelve direct instructional and direct pupil support service functions plus the costs of improvement of instruction and the cost of purchased services and supplies for operation of the facilities housing those programs, excluding student activities, divided by the sum of the district's current operating cost for kindergarten through grade twelve, plus all tuition revenue received from other districts minus all noncapital transportation costs;

[(10)**] (11)** "Free and reduced lunch eligible 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;

[(11)**] (12)** "Guaranteed tax base" means the amount of equalized assessed valuation per eligible pupil guaranteed each school district by the state in the computation of state aid. To compute the guaranteed tax base, school districts shall be ranked annually from lowest to highest according to the amount of equalized assessed valuation per pupil. The guaranteed tax base shall be based upon the amount of equalized assessed valuation per pupil of the school district in which the ninety-fifth percentile of the state aggregate number of pupils falls during the third **and fourth** preceding **[**year**] years** and shall be equal to the state average equalized assessed valuation per eligible pupil for the third **and fourth** preceding **[**year**] years** times two and one hundred and sixty-seven thousandths; except that, for the purposes of line 14(b) the guaranteed tax base shall be no greater than the guaranteed tax base used for the 1998-99 payment year. The average equalized assessed valuation per pupil shall be the quotient of the total equalized assessed valuation of the state divided by the number of eligible pupils;

[(12)**] (13)** "Membership" shall be the average of (1) 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 (2) 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;

[(13)**] (14)** "Operating levy for school purposes" for districts making transfers pursuant to subsection 4 of section 165.011, RSMo, based upon amounts multiplied by the guaranteed tax base, or making payments or expenditures related to obligations made pursuant to section 177.088, RSMo, or any combination of such transfers, payments or expenditures, means 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, and, for other districts, means the sum of tax rates levied for incidental, teachers', debt service and capital projects funds plus the operating levy or sales tax equivalent pursuant to section 162.1100, RSMo, of any transitional school district containing the school district, with no more than eighteen cents of the sum levied in the debt service and capital projects funds. Any portion of the operating levy for school purposes levied in the debt service and capital projects funds in excess of a sum of ten cents must be authorized by a vote of the people, after August 28, 1998, approving an increase in the operating levy, or a full waiver of the rollback pursuant to section 164.013, RSMo, with a tax rate ceiling in excess of the minimum tax rate or an issuance of general obligation bond. The operating levy shall be, after all adjustments and equalization of the operating levy, no greater than a maximum value of four dollars and ninety-five cents per one hundred dollars assessed valuation, except that the operating levy shall be no greater than a maximum value of four dollars and seventy cents per one hundred dollars assessed valuation for the purposes of line 2 of subsection 6 of section 163.031. To equalize the operating levy, multiply the aggregate tax rates for teachers' and incidental funds by either the percent of true value, as determined by the state tax commission on or before March fifteenth preceding the fiscal year in which the evaluation will be effective as adjusted by the department of elementary and secondary education to an equivalent sales ratio of thirty-three and one-third percent, or the average percent of true value for the highest three of the last four years as determined and certified by the state tax commission, whichever is greater, and divide by the percent of true value as adjusted by the department of elementary and secondary education to an

equivalent sales ratio of thirty-three and one-third percent, provided that for any district for which the equivalent sales ratio is equal to or greater than thirty-three and one-third percent, the equalized operating levy shall be the adjusted operating levy. For any county in which the equivalent sales ratio is less than thirty-one and two-thirds percent, the state tax commission shall conduct a second study in that county and shall use a sample consisting of the parcels used as a sample in the original study combined with an equal number of newly selected parcels. If the new ratio is higher than the original ratio provided by this subdivision, the new ratio shall be used for the purposes of this subdivision and for determining equalized assessed valuation pursuant to subdivision **[**(8)**] (9)** of this section. For the purposes of calculating state aid pursuant to section 163.031, for any district which has not decreased its tax rate from the previous year amount due to an increased amount of a voluntary tax rate rollback, the tax rate used to determine a district's entitlement shall be adjusted so that any decrease in the entitlement due to a decrease in the tax rate resulting from the reassessment shall equal the decrease in the deduction for the assessed valuation of the district as a result of the change in the tax rate due to reassessment. The tax rate adjustments required under this subdivision due to reassessment shall be cumulative and shall be applied each year to determine the tax rate used to calculate the entitlement;

[(14)**] (15)** "School purposes" pertains to teachers' and incidental funds;

[(15)**] (16)** "Teacher" means 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.

163.036. ESTIMATES OF AVERAGE DAILY ATTENDANCE, AUTHORIZED, HOW COMPUTED — ERROR IN COMPUTATION BETWEEN ACTUAL AND ESTIMATED ATTENDANCE, HOW CORRECTED — USE OF ASSESSED VALUATION FOR STATE AID — DELINQUENCY IN PAYMENT OF PROPERTY TAX, EFFECT ON ASSESSMENT. — 1. In computing the amount of state aid a school district is entitled to receive under section 163.031, a school district may use an estimate of the number of eligible pupils for the ensuing year, the number of eligible pupils for the immediately preceding year or the number of eligible pupils for the second preceding school year, whichever is greater. Except as otherwise provided in subsection 3 of this section, any error made in the apportionment of state aid because of a difference between the actual number of eligible pupils and the estimated number of eligible pupils shall be corrected as provided in section 163.091, except that if the amount paid to a district estimating eligible pupils exceeds the amount to which the district was actually entitled by more than five percent, interest at the rate of six percent shall be charged on the excess and shall be added to the amount to be deducted from the district's apportionment the next succeeding year.

2. Notwithstanding the provisions of subsection 1 of this section or any other provision of law, the state board of education shall make an adjustment for the immediately preceding year for any increase in the actual number of eligible pupils above the number on which the state aid in section 163.031 was calculated. Said adjustment shall be made in the manner providing for correction of errors under subsection 1 of this section.

3. (1) For any district which has, for at least five years immediately preceding the year in which the error is discovered, adopted a calendar for the school term in which elementary schools are in session for twelve months of each calendar year, any error made in the apportionment of state aid to such district because of a difference between the actual number of eligible pupils and the estimated number of eligible pupils shall be corrected as provided in section 163.091 and subsection 1 of this section, except that if the amount paid exceeds the amount to which the district was actually entitled by more than five percent and the district provides written application to the state board requesting that the deductions be made pursuant to subdivision (2) of this subsection, then the amounts shall be deducted pursuant to subdivision (2) of this subsection.

(2) For deductions made pursuant to this subdivision, interest at the rate of six percent shall be charged on the excess and shall be included in the amount deducted and the total amount of such excess plus accrued interest shall be deducted from the district's apportionment in equal monthly amounts beginning with the succeeding school year and extending for a period of months specified by the district in its written request and no longer than sixty months.

4. For the purposes of distribution of state school aid pursuant to section 163.031, a school district may elect to use the district's equalized assessed valuation for the preceding year, or an estimate of the current year's assessed valuation if the current year's equalized assessed valuation is estimated to be more than ten percent less than the district's equalized assessed valuation for the preceding year. A district shall give prior notice to the department of its intention to use the current year's assessed valuation pursuant to this subsection. Any error made in the apportionment of state aid because of a difference between the actual equalized assessed valuation for the current year and the estimated equalized assessed valuation for the current year shall be corrected as provided in section 163.091, except that if the amount paid to a district estimating current equalized assessed valuation exceeds the amount to which the district was actually entitled, interest at the rate of six percent shall be charged on the excess and shall be added to the amount to be deducted from the district's apportionment the next succeeding year.

5. For the purposes of distribution of state school aid pursuant to section 163.031, a school district with ten percent or more of its assessed valuation that is owned by one person or corporation as commercial or personal property who is delinquent in a property tax payment may elect, after receiving notice from the county clerk on or before March fifteenth, except in the year enacted, that more than ten percent of its current taxes due the preceding December thirty-first by a single property owner are delinquent, to use on line 2 of the state aid formula the district's equalized assessed valuation for the preceding year or the actual assessed valuation of the year for which the taxes are delinquent less the assessed valuation of property for which the current year's property tax is delinquent. To qualify for use of the actual assessed valuation of the year for which the taxes are delinquent less the assessed valuation of property for which the current year's property tax is delinquent, a district must notify the department of elementary and secondary education on or before April first, except in the year enacted, of the current year amount of delinquent taxes, the assessed valuation of such property for which delinquent taxes are owed and the total assessed valuation of the district for the year in which the taxes were due but not paid. Any district giving such notice to the department of elementary and secondary education shall present verification of the accuracy of such notice obtained from the clerk of the county levying delinquent taxes. When any of the delinquent taxes identified by such notice are paid during a four year period following the due date, the county clerk shall give notice to the district and the department of elementary and secondary education, and state aid paid to the district shall be reduced by an amount equal to the delinquent taxes received plus interest. The reduction in state aid shall occur over a period not to exceed five years and the interest rate on excess state aid not refunded shall be six percent annually.

6. If a district receives state aid based on equalized assessed valuation as determined by subsection 5 of this section and if prior to such notice the district was paid state aid pursuant to subdivision (2) of subsection 5 of section 163.031, the amount of state aid paid during the year of such notice and the first year following shall equal the sum of state aid paid pursuant to line 1 minus line 10 as defined in subsections 1, 2, 3 and 6 of section 163.031 plus the difference between the state aid amount being paid after such notice minus the amount of state aid the district would have received pursuant to line 1 minus line 10 as defined in subsections 1, 2, 3 and 6 of section 163.031 before such notice. To be eligible to receive state aid based on this provision the district must levy during the first year following such notice at least the maximum levy permitted school districts by article

X, section 11(b) of the Missouri Constitution and have a voluntary rollback of its tax rate which is no greater than one cent per one hundred dollars assessed valuation.

166.260. CHILDREN AT-RISK IN EDUCATION PROGRAM ESTABLISHED — PURPOSES. — There is hereby created the "Children At-Risk in Education Program" which shall be administered by the commissioner of education. The program shall be funded by moneys provided to school districts pursuant to line 14 of subsection 6 of section 163.031, RSMo, and used solely as determined by local boards of education for: reductions of class size in schools containing high concentrations of children who are least advantaged or who have specially identified educational needs according to rule and regulation of the state board of education; or the following:

(1) The program of half-day instruction for developmentally delayed and at-risk children established pursuant to section 167.260, RSMo;

(2) The program to provide teacher assistants in grades kindergarten through three established pursuant to section 167.263, RSMo;

(3) The program of family literacy for children and families of children at risk of dropping out of school pursuant to section 160.531, RSMo;

[(3)**] (4)** The program to provide guidance counselors in grades kindergarten through nine established pursuant to section 167.265, RSMo;

[(4)**] (5)** The programs for pupils at risk of becoming high school dropouts established pursuant to section 167.270, RSMo, including specialized courses of instruction, alternative education programs for pregnant teens and teen mothers and supplemental services for teen mothers;

[(5)**] (6)** The program of support services to pupils identified as having a high risk of dropping out of school established pursuant to section 167.280, RSMo;

[(6)**] (7)** The program of professional development committees for in-service training on teaching children identified as at risk of failing in school pursuant to section 168.400, RSMo;

[(7)**] (8)** A program to contract for mental health services to meet the needs of children who are identified as being at risk of failing school as a result of emotional or environmental factors. Eligible contractors shall be approved by the department of mental health;

[(8)**] (9)** The program of special education and other special services for at-risk and handicapped children in grades kindergarten through third grade emphasizing prevention and early intervention, rather than remediation, known as the "Success for All Program";

[(9)**] (10)** Paying for building site operating costs in the proportion that the free and reduced-price meal eligible student count is to the total enrollment in that building; and

[(10)**] (11)** Other programs as approved by the commissioner of education that are exclusively targeted to provide educational services for students who are least advantaged or who have specially identified educational needs.

168.400. PROGRAMS ESTABLISHED FOR PUBLIC SCHOOL PERSONNEL — CONTENTS. — 1. Sections 168.400 to 168.415 shall be known and may be cited as the "Missouri Professional Teacher and Administrator Act". This section shall become effective September 1, 1988, and shall establish programs for the following public school personnel:

(1) The preservice teacher or student in training;

(2) The beginning teacher;

(3) The practicing teacher; and

(4) The administrator.

2. Preservice teacher programs established under this section shall include, but need not be limited to, the following provisions:

(1) A program of entry-level testing of all prospective teacher education students shall be established at all colleges and universities offering approved teacher education programs and, with the advice of the advisory council as provided in section 168.015, shall be administered by

the commissioner of education, who shall cause the department of elementary and secondary education to develop or select such tests to establish abilities necessary to receive a satisfactory rating, and to establish procedures for the administering of the test;

(2) The entry-level tests developed under this subsection shall include, but need not be limited to, an examination of basic oral and written communication skills and of basic mathematics skills, and may include both oral and written examinations;

(3) Each prospective teacher education student shall be required to obtain a satisfactory rating prior to admission into the approved teacher education program;

(4) The department of elementary and secondary education, with the advice of the advisory council as provided in section 168.015, shall establish and monitor exit requirements from approved teacher education programs which shall be met by all preservice teacher education students seeking certification in Missouri, and specific criteria for a preservice teacher assessment that all candidates for certification shall meet. The preservice teacher assessment established under this subdivision shall include, but need not be limited to, classroom achievement, practice teaching evaluation and observation, successful participation in assessment centers, interviews, tests and other evaluation measures. **The department of elementary and secondary education shall promulgate rules to allow all preservice teacher education students who have been employed for at least two years as teacher assistants to utilize their teacher assistant experience to bypass the practice teaching evaluation and observation process. These rules shall allow the certified teacher working with the teacher assistant to observe and evaluate the teacher assistants practice teaching. 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.** The preservice teacher assessment shall be reviewed by the certifying authority prior to issuance of a certificate. An unsatisfactory assessment shall result in the nonissuance of a certificate. Persons who are aggrieved by the nonissuance of a certificate may appeal such nonissuance in the manner provided in section 168.071. Any costs associated with the entry-level tests or the exit requirements established under this subsection shall be borne by each institution and costs defrayal included in the incidental fees charged to the student.

3. Each approved teacher education program shall require the faculty teaching preservice teacher education courses to further their professional development through direct personal involvement in the public schools in grades kindergarten through twelve on a periodic basis. As used in this subsection, the term "faculty" shall include, but need not be limited to, full- and part-time classroom instructors, and supervisors of practice teaching at institutions offering an approved teacher education program.

4. Beginning teacher assistance programs established under this section shall include, but need not be limited to, the following provisions:

(1) Such programs shall require each school district to provide a plan of professional development for the first two years of teaching for any teacher who does not have prior teaching experience. The professional development plan shall include assistance from a professional development committee, which is hereby established in each school district, which committee shall work with beginning teachers and experienced teachers in identifying instructional concerns and remedies; serve as a confidential consultant upon a teacher's request; assess faculty needs and develop in-service opportunities for school staff; and present to the proper authority faculty suggestions, ideas and recommendations pertaining to classroom instruction within the school district. The members of each professional development committee shall be selected by the teachers employed by the school district in question. The professional development plan may include guidance from a district-designated faculty member employed at a grade level comparable to the instructional grade level of the beginning teacher, and such other forms of assistance which the school district may choose to offer. The professional development committee may apply to the state board of education for a grant, which shall be in addition to any state aid provided to the committee for activities identified in this subdivision. The grant thus awarded shall be used by the committee to provide in-service training to the teachers of the

district on teaching children identified as at risk of failing in school as defined in section 167.273. The department of elementary and secondary education shall provide resource materials and assist the committee if such assistance is requested;

(2) Such programs shall include assistance from the teacher education program which provided the teacher's training if such training was provided in a Missouri college or university. Such assistance from the college or university may include retraining, internships, counseling, and in-service training.

5. The practicing teacher assistance programs established under this section shall include, but need not be limited to, programs of professional development and improvement as provided for experienced teachers by the professional development committee established under subsection 4 of this section, and in-service opportunities as provided by the local school district for all practicing teachers.

6. (1) The administrator assistance programs established under this section shall include, but shall not be limited to, programs of professional development and improvement for superintendents, principals, assistant principals, and other school district personnel charged with administrative duties.

(2) Establishment of programs by local districts and organizations for the training of school board members are encouraged and recommended.

170.014. READING INSTRUCTION ACT — READING PROGRAMS ESTABLISHED, ESSENTIAL COMPONENTS — EXPLICIT SYSTEMIC PHONICS DEFINED. — 1. This section shall be known as the "Reading Instruction Act" and is enacted to ensure that all public schools establish reading programs in kindergarten through grade three based in scientific research. Such programs shall include the essential components of phonemic awareness, phonics, fluency, vocabulary, and comprehension, and all new teachers who teach reading in kindergarten through grade three shall receive adequate training in these areas.

2. The program described in subsection 1 of this section may include "explicit systematic phonics", which, for the purposes of this section, shall mean the methodology of pronouncing and reading words by learning the phonetic sound association of individual letters, letter groups, and syllables, and the principles governing these associations.

3. Every public school in the state shall offer a reading program as described in subsection 1 of this section for kindergarten through grade three.

Approved June 19, 2002

HB 1715 [HB 1715]

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

Expands the use of state-funded interpreters for the deaf in judicial proceedings.

AN ACT to repeal section 476.753, RSMo, and to enact in lieu thereof one new section relating to interpreters for the hearing impaired.

SECTION

A. Enacting clause.

476.753. Interpretation of proceedings, when — admissibility of evidence — indigent persons.

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

SECTION A. ENACTING CLAUSE. — Section 476.753, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 476.753, to read as follows:

476.753. INTERPRETATION OF PROCEEDINGS, WHEN — ADMISSIBILITY OF EVIDENCE — INDIGENT PERSONS. — 1. A designated responsible authority shall provide, based on a deaf person's expressed needs, auxiliary aids and services to interpret the proceedings to a deaf person and, if a deaf person gives testimony or other communication, to interpret the deaf person's testimony or other communication when:

(1) A deaf person is a party, juror or witness at any stage of any judicial or quasi-judicial proceeding in this state or in its political subdivisions, including, but not limited to, any civil proceeding, criminal court proceeding or administrative hearing, preliminary hearing, postconviction proceeding, grand jury proceeding, proceeding before a magistrate, juvenile proceeding, adoption proceeding, parole or probation revocation proceeding or special proceeding;

(2) A juvenile whose parent, guardian or foster parent or other legally responsible party is deaf and such juvenile is brought before a court in any proceeding, including, but not limited to, any civil, criminal, or juvenile proceeding, including any investigation, interview or any other proceeding regarding the juvenile **that is authorized by or held under the supervision of a court**;

(3) A deaf person in any proceeding who may be subjected to confinement or criminal sanction or in any proceeding preliminary thereto, including, but not limited to, any coroner's inquest, grand jury proceeding, proceeding before a magistrate, juvenile proceeding and mental health commitment proceeding;

(4) There is any proceeding concerning the well-being or rehabilitation of a deaf person within a state prison**, or juvenile detention or correctional facility**, including, but not limited to, any disciplinary hearing, parole hearing, psychological evaluation/hearing, administrative hearing, sexual assault prevention program, counseling, medical care, any on-the-job or vocational training or any educational program.

2. No answer, statement, admission or other information, written or oral, shall be admissible as evidence in any judicial or administrative proceeding if obtained from a deaf person who is involuntarily detained or arrested before an interpreter or auxiliary aids and services are provided to that deaf person, based on the deaf person's expressed needs. No deaf arrestee, otherwise eligible for release, shall be held in custody pending arrival of an interpreter or auxiliary aids and services.

3. It is the policy and practice of any court of this state or of any of its political subdivisions to appoint counsel for indigent people in criminal proceedings, and the designated responsible authority shall provide and pay for an interpreter or provide auxiliary aids and services for deaf indigent people to assist in communication with counsel in all phases of the preparation and presentation of the case.

Approved July 2, 2002

HB 1756 [HS HCS HB 1756]

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

Creates crimes for sexual offenders who know they have HIV, amends HIV notification statutes, HIV disclosure statutes, prosecutors motion for HIV testing and the punishment for prostitution.

AN ACT to repeal sections 191.656, 191.659, 191.677, and 567.020, RSMo, and to enact in lieu thereof five new sections relating to sexually transmitted diseases, with penalty provisions.

SECTION

A. Enacting clause.
191.656. Confidentiality of reports and records, exceptions — violation, civil action for injunction, damages, costs and attorney fees — health care provider participating in judicial proceeding, immune from civil liability.
191.659. Department of corrections, HIV testing without right of refusal — exception — minors victim of sexual assault, testing, notice to parents or custodians required.
191.677. Prohibited acts, criminal penalties.
566.135. Defendant may be tested for various sexually transmitted diseases, when.
567.020. Prostitution.

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

SECTION A. ENACTING CLAUSE. — Sections 191.656, 191.659, 191.677 and 567.020, RSMo, are repealed and five new sections enacted in lieu thereof, and to be known as sections 191.656, 191.659, 191.677, 566.135 and 567.020, to read as follows:

191.656. CONFIDENTIALITY OF REPORTS AND RECORDS, EXCEPTIONS — VIOLATION, CIVIL ACTION FOR INJUNCTION, DAMAGES, COSTS AND ATTORNEY FEES — HEALTH CARE PROVIDER PARTICIPATING IN JUDICIAL PROCEEDING, IMMUNE FROM CIVIL LIABILITY. — 1. (1) All information known to, and 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 HIV infection status or the results of any individual's HIV testing shall be strictly confidential and shall not be disclosed except to:

(a) Public employees within the agency, department, or political subdivision who need to know to perform their public duties;

(b) Public employees of other agencies, departments, or political subdivisions who need to know to perform their public duties;

(c) Peace officers, as defined in section 590.100, RSMo, the attorney general or any assistant attorneys general acting on his or her behalf, as defined in chapter 27, RSMo, and prosecuting attorneys **or circuit attorneys** as defined in chapter 56, RSMo, and pursuant to section 191.657**;**

(d) Prosecuting attorneys or circuit attorneys as defined in chapter 56, RSMo, to prosecute cases pursuant to section 191.677 or 567.020, RSMo. Prosecuting attorneys or circuit attorneys may obtain from the department of health the contact information and test results of individuals with whom the HIV-infected individual has had sexual intercourse or deviate sexual intercourse. Any prosecuting attorney or circuit attorney who receives information from the department of health and senior services pursuant to the provisions of this section shall use such information only for investigative and prosecutorial purposes and such information shall be considered strictly confidential and shall only be released as authorized by this section;

[(d)**] (e)** Persons other than public employees who are entrusted

[(d)**] (f)** Persons other than public employees who are entrusted with the regular care of those under the care and custody of a state agency, including but not limited to operators of day care facilities, group homes, residential care facilities and adoptive or foster parents;

[(e)**] (g)** As authorized by subsection 2 of this section;

(h) Victims of any sexual offense defined in chapter 566, RSMo, which includes sexual intercourse or deviate sexual intercourse, as an element of the crime or to a victim of a section 566.135, RSMo, offense, in which the court, for good cause shown, orders the defendant to be tested for HIV, hepatitis B, hepatitis C, syphilis, gonorrhea, or chlamydia, once the charge is filed. Prosecuting attorneys or circuit attorneys, or the department of health and senior services may release information to such victims;

(i) Any individual who has tested positive or false positive to HIV, Hepatitis B, Hepatitis C, Syphilis, Gonorrhea, or Chlamydia, may request copies of any and all test results relating to said infections.

(2) Further disclosure by public employees shall be governed by subsections 2 and 3 of this section;

(3) Disclosure by a public employee or any other person in violation of this section may be subject to civil actions brought under subsection 6 of this section, unless otherwise required by chapter 330, 332, 334**,** or 335, RSMo, pursuant to discipline taken by a state licensing board.

2. (1) Unless the person acted in bad faith or with conscious disregard, no person shall be liable for violating any duty or right of confidentiality established by law for disclosing the results of an individual's HIV testing:

(a) To the department of health and senior services;

(b) To health care personnel working directly with the infected individual who have a reasonable need to know the results for the purpose of providing direct patient health care;

(c) Pursuant to the written authorization of the subject of the test result or results;

(d) To the spouse of the subject of the test result or results;

(e) To the subject of the test result or results;

(f) To the parent or legal guardian or custodian of the subject of the testing, if he is an unemancipated minor;

(g) To the victim of any sexual offense defined in chapter 566, RSMo, which includes sexual intercourse **or deviate sexual intercourse,** as an element of the crime **or to a victim of a section 566.135, RSMo, offense, in which the court, for good cause shown, orders the defendant to be tested for HIV, B, hepatitis C, syphilis, gonorrhea, or chlamydia, once the charge is filed**;

(h) To employees of a state licensing board in the execution of their duties under chapter 330, 332, 334**,** or 335, RSMo, pursuant to discipline taken by a state licensing board; **The department of health and senior services and its employees shall not be held liable for disclosing an HIV infected person's HIV status to individuals with whom that person had sexual intercourse or deviate sexual intercourse;**

(2) Paragraphs (b) and (d) of subdivision (1) of this subsection shall not be construed in any court to impose any duty on a person to disclose the results of an individual's HIV testing to a spouse or health care professional or other potentially exposed person, parent or guardian;

(3) No person to whom the results of an individual's HIV testing has been disclosed pursuant to paragraphs (b) and (c) of subdivision (1) of this subsection shall further disclose such results; **except that prosecuting attorneys or circuit attorneys may disclose such information to defense attorneys defending actions pursuant to section 191.677 or 567.020, RSMo, under the rules of discovery, or jurors or court personnel hearing cases pursuant to section 191.677 or 567.020, RSMo. Such information shall not be used or disclosed for any other purpose;**

(4) When the results of HIV testing, disclosed pursuant to paragraph (b) of subdivision (1) of this subsection, are included in the medical record of the patient who is subject to the test, the inclusion is not a disclosure for purposes of such paragraph so long as such medical record is afforded the same confidentiality protection afforded other medical records.

3. All communications between the subject of HIV testing and a physician, hospital, or other person authorized by the department of health and senior services who performs or conducts HIV sampling shall be privileged communications.

4. The identity of any individual participating in a research project approved by an institutional review board shall not be reported to the department of health and senior services by the physician conducting the research project.

5. The subject of HIV testing who is found to have HIV infection **and is aware of his or her HIV status** shall disclose such information to any health care professional from whom such person receives health care services. Said notification shall be made prior to receiving services

from such health care professional **if the HIV infected person is medically capable of conveying that information or as soon as he or she becomes capable of conveying that information**.

6. Any individual aggrieved by a violation of this section or regulations promulgated by the department of health and senior services may bring a civil action for damages. If it is found in a civil action that:

(1) A person has negligently violated this section, the person is liable, for each violation, for:

(a) The greater of actual damages or liquidated damages of one thousand dollars; and

(b) Court costs and reasonable attorney's fees incurred by the person bringing the action; and

(c) Such other relief, including injunctive relief, as the court may deem appropriate; or

(2) A person has willfully or intentionally or recklessly violated this section, the person is liable, for each violation, for:

(a) The greater of actual damages or liquidated damages of five thousand dollars; and

(b) Exemplary damages; and

(c) Court costs and reasonable attorney's fees incurred by the person bringing the action; and

(d) Such other relief, including injunctive relief, as the court may deem appropriate.

7. No civil liability shall accrue to any health care provider as a result of making a good faith report to the department of health and senior services about a person reasonably believed to be infected with HIV, or cooperating in good faith with the department in an investigation determining whether a court order directing an individual to undergo HIV testing will be sought, or in participating in good faith in any judicial proceeding resulting from such a report or investigations; and any person making such a report, or cooperating with such an investigation or participating in such a judicial proceeding, shall be immune from civil liability as a result of such actions so long as taken in good faith.

191.659. DEPARTMENT OF CORRECTIONS, HIV TESTING WITHOUT RIGHT OF REFUSAL — EXCEPTION — MINORS VICTIM OF SEXUAL ASSAULT, TESTING, NOTICE TO PARENTS OR CUSTODIANS REQUIRED. — 1. Except as provided in subsection 2 of this section, all individuals who are delivered to the department of corrections and all individuals who are released or discharged from any correctional facility operated by the department of corrections, before such individuals are released or discharged, shall undergo HIV testing without the right of refusal. In addition, the department of corrections may perform or conduct HIV testing on all individuals required to undergo annual or biannual physical examinations by the department of corrections at the time of such examinations.

2. The department of corrections shall not perform HIV testing on an individual delivered to the department if similar HIV testing has been performed on the individual subsequent to trial and if the department is able to obtain the results of the prior HIV test.

3. The department shall inform the victim of any sexual offense defined in chapter 566, RSMo, which includes sexual intercourse **or deviate sexual intercourse** as an element of the crime, of any confirmed positive results of HIV testing on an offender within the custody of the department. If the victim is an unemancipated minor, the department shall also inform the minor's parents or custodian, if any.

191.677. PROHIBITED ACTS, CRIMINAL PENALTIES. — 1. It shall be unlawful for any individual knowingly infected with HIV to:

(1) Be or attempt to be a blood, blood products, organ, sperm or tissue donor except as deemed necessary for medical research; **[**or**]**

(2) Act in a reckless manner by exposing another person to HIV without the knowledge and consent of that person to be exposed to HIV, **in one of the following manners:**

(a) Through contact with blood, semen or vaginal **[**fluid**] secretions** in the course of oral, anal or vaginal sexual intercourse**[**,**];** or

(b) By the sharing of needles**; or**

(c) By biting another person or purposely acting in any other manner which causes the HIV infected person's semen, vaginal secretions, or blood to come into contact with the mucous membranes or nonintact skin of another person.

Evidence that a person has acted recklessly in creating a risk of infecting another individual with HIV shall include, but is not limited to, the following:

[(a)**] a.** The HIV infected person knew of such infection before engaging in sexual activity with another person, **sharing needles with another person, biting another person, or purposely causing his or her semen, vaginal secretions, or blood to come into contact with the mucous membranes or nonintact skin of another person,** and such other person is unaware of the HIV infected person's condition or does not consent to contact with blood, semen or vaginal fluid in the course of **[**sexual activity, or by the sharing of needles**] such activities**;

[(b)**] b.** The HIV infected person has subsequently been infected with and tested positive to primary and secondary syphilis, or gonorrhea, or chlamydia; or

[(c)**] c.** Another person provides **[**corroborated**]** evidence of sexual contact with the HIV infected person after a diagnosis of an HIV status.

2. Violation of the provisions of **subdivision (1) or (2) of** subsection 1 of this section is a class **[**D**] B** felony **unless the victim contracts HIV from the contact in which case it is a class A felony.**

3. **[**Violation of the provisions of subsection 1 of this section with a person under the age of seventeen is a class C felony if the actor is over the age of twenty-one.

4.**]** The department of health and senior services or local law enforcement agency, victim or others may file a complaint with the prosecuting attorney **or circuit attorney** of a court of competent jurisdiction alleging that **[**an individual**] a person** has violated a provision of subsection 1 of this section. The department of health and senior services shall assist the prosecutor **or circuit attorney** in preparing such case**[.], and upon request, turn over to peace officers, police officers, the prosecuting attorney or circuit attorney, or the attorney general records concerning that person's HIV-infected status, testing information, counseling received, and the identity and available contact information for individuals with whom that person had sexual intercourse or deviate sexual intercourse and those individuals' test results.**

4. The use of condoms is not a defense to a violation of paragraph (a) of subdivision (2) of subsection 1 of this section.

566.135. DEFENDANT MAY BE TESTED FOR VARIOUS SEXUALLY TRANSMITTED DISEASES, WHEN. — 1. Pursuant to a motion filed by the prosecuting attorney or circuit attorney with notice given to the defense attorney and for good cause shown, in any criminal case in which a defendant has been charged by the prosecuting attorney's office or circuit attorney's office with any offense under this chapter or pursuant to section 575.150, 567.020, 565.050, 565.060, 565.070, 565.072, 565.073, 565.074, 565.075, 565.081, 565.082, 565.083, 568.045, 568.050, or 568.060, RSMo, or paragraph (a),(b), or (c), of subdivision (4) of subsection 1 of section 191.677, RSMo, the court may order that the defendant be conveyed to a state, city, or county operated HIV clinic for testing for HIV, hepatitis B, hepatitis C, syphilis, gonorrhea, and chlamydia. The results of the defendant's HIV, hepatitis B, hepatitis C, syphilis, gonorrhea, and chlamydia tests shall be released to the victim and his or her parent or legal guardian if the victim is a minor. The results of the defendant's HIV, hepatitis B, hepatitis C, syphilis, gonorrhea, and chlamydia tests shall also be released to the prosecuting attorney or circuit attorney and the defendant's attorney. The state's motion to obtain said testing, the court's order of the same, and the test results shall be sealed in the court file.

2. As used in this section "HIV", means the human immunodeficiency virus that causes acquired immunodeficiency syndrome.

567.020. PROSTITUTION. — 1. A person commits the crime of prostitution if the person performs an act of prostitution.

2. Prostitution is a class B misdemeanor **unless the person knew prior to performing the act of prostitution that he or she was infected with HIV in which case prostitution is a class B felony. The use of condoms is not a defense to this crime.**

3. As used in this section, "HIV" means the human immunodeficiency virus that causes acquired immunodeficiency syndrome.

[3.**] 4.** The judge may order a drug and alcohol abuse treatment program for any person found guilty of prostitution, either after trial or upon a plea of guilty, before sentencing. **For the class B misdemeanor offense,** upon the successful completion of such program by the defendant, the court **[**shall**] may at its discretion** allow the defendant to withdraw the plea of guilty or reverse the verdict and enter a judgment of not guilty. **For the class B felony offense, the court shall not allow the defendant to withdraw the plea of guilty or reverse the verdict and enter a judgment of not guilty. The judge, however, has discretion to take into consideration successful completion of a drug or alcohol treatment program in determining the defendant's sentence.**

Approved July 2, 2002

HB 1768 [HB 1768]

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

Increases the life of liens of judgments or decrees on real estate rendered after August 28, 1998, from three to ten years.

AN ACT to repeal section 511.360, RSMo, and to enact in lieu thereof one new section relating to liens of a judgment or decree on real estate.

SECTION

A. Enacting clause.

511.360. Commencement, extent and duration of lien — applicability of duration of lien.

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

SECTION A. ENACTING CLAUSE. — Section 511.360, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 511.360, to read as follows:

511.360. COMMENCEMENT, EXTENT AND DURATION OF LIEN — APPLICABILITY OF DURATION OF LIEN. — The lien of a judgment or decree shall extend as well to the real estate acquired after the rendition thereof, as to that which was owned when the judgment or decree was rendered. Such liens shall commence on the day of the rendition of the judgment, and shall continue for ten years, subject to be revived as herein provided; but when two or more judgments or decrees are rendered at the same term, as between the parties entitled to such judgments or decrees, the lien shall commence on the last day of the term at which they are rendered. **The provisions of this section relating to the duration of the lien on real estate shall apply only to judgments or decrees rendered or revived after August 28, 1998, and, for all judgments or decrees entered prior to such date, the lien of such judgment or decree shall continue for three years from the date such lien commenced.**

Approved July 12, 2002

HB 1773 [SCS HB 1773]

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

Revises the salary matrix for police officers in certain cities.

AN ACT to repeal sections 84.140 and 84.160, RSMo, and to enact in lieu thereof two new sections relating to the police force in certain cities, with an emergency clause.

SECTION

A. Enacting clause.
84.140. Vacations, holidays and off-duty time.
84.160. Annual salary tables — overtime, how compensated — other employment benefits — unused vacation, compensation for certain officers.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 84.140 and 84.160, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 84.140 and 84.160, to read as follows:

84.140. VACATIONS, HOLIDAYS AND OFF-DUTY TIME. — The boards **[**shall**] may** grant every member of the police force **[**hired prior to May 1, 1986,**] who has served for one year or more** a total of three weeks vacation each year with pay, and each member of the police force who has served the department for twelve years or more **[**shall**] may** receive four weeks vacation each year with pay, and each member of the police force who has served the department for twenty-one years or more shall receive five weeks vacation each year with pay; **[**however, the boards shall grant every member of the police force hired on or after May 1, 1986, a total of two weeks vacation each year with pay, and each such member of the police force who has served the department for five years or more shall receive three weeks vacation each year with pay, and each such member of the police force who has served the department for twelve years or more shall receive four weeks vacation each year with pay, and each such member of the police force who has served the department for twenty-one years or more shall receive five weeks vacation each year with pay**] however the board may grant an additional week of paid vacation to members after one year of service**. All members of the police force **[**shall**] may** receive **[**fourteen**] fifteen** holidays with pay, **however the board may grant additional holidays with pay,** and one hundred four days off duty each year with pay, and the boards may from time to time grant additional days off duty each year with pay when in the judgment of the boards, the granting thereof will not materially impair the efficiency of the department.

84.160. ANNUAL SALARY TABLES — OVERTIME, HOW COMPENSATED — OTHER EMPLOYMENT BENEFITS — UNUSED VACATION, COMPENSATION FOR CERTAIN OFFICERS. — 1. Based upon rank and length of service, the board of police commissioners may authorize maximum amounts of compensation for members of the police force in accordance with the following tables. The amounts of compensation set out in the following tables shall be the maximum amount of compensation payable to commissioned employees in each of the categories, except as expressly provided in this section.

2. **[**From July 1, 2000, to June 30, 2001:

SALARY MATRIX-POLICE OFFICER THROUGH CHIEF OF POLICE-FISCAL YEAR

Yrs.	P.O. Salary	Sgt. Salary	Lieut. Salary	Capt. Salary	Maj. Salary	Lt. Col. Salary	Asst. Chief Salary	Chief Salary
0	30564							
1	31730							
2	32809							
3	34812							
4	35803							
5	37090	45238						
6	38377	45380						
7	40847	48252	53180					
8	42620	50320	55442					
9	43608	51455	56677	61851				
10	43768	51615	56837	62011				
11	44272	51773	56995	62171	68115			
12	44439	51932	57156	62329	68274	70122	73845	87813
13	44597	52093	57314	62490	68432	72547	76269	88131
14	44756	52252	57474	62647	68591	72704	76427	88449
15	44916	52411	57632	62807	68751	72865	76588	88767
16	45074	52569	57791	62965	68910	73023	76746	89085
17	45235	52730	57952	63126	69070	73183	76906	89404
18	45394	52889	58110	63352	69228	73341	77065	89721
19	45552	53048	58271	63444	69388	73500	77223	90042
20	45711	53207	58428	63603	69547	73661	77384	90359
21	45870	53364	58588	63761	69707	73819	77541	90677
22	46030	53526	58748	63922	69865	73980	77702	90995
23	46190	53684	58907	64080	70023	74137	77861	91314
24	46348	53844	59067	64240	70183	74298	78020	91631
25	46508	54003	59224	64400	70343	74457	78180	91951
26	46666	54161	59384	64559	70503	74615	78338	92270
27	46828	54322	59543	64718	70661	74776	78498	92589
28	46985	54481	59703	64876	70819	74933	78657	92906
29	47144	54640	59861	65036	70980	75095	78816	93223
30	47304	54798	60021	65193	71139	75252	78977	93542

3. From July 1, 2001, until June 30, 2002:

SALARY MATRIX-POLICE OFFICER THROUGH CHIEF OF POLICE-FISCAL YEAR

Yrs.	P.O. Salary	Sgt. Salary	Lieut. Salary	Capt. Salary	Maj. Salary	Lt Col. Salary	Asst. Chief Salary	Chief Salary
0	31481							
1	32682							
2	33793							
3	35856							
4	36877							
5	38203	46595						
6	39529	46741						
7	42073	49700	54776					
8	43898	51829	57105					
9	45788	54028	59511	64943				
10	45957	54195	59678	65111				
11	46485	54363	59844	65279	71520			

12	46661	54529	60013	65446	71688	73629	77538	92204
13	46827	54697	60180	65614	71853	76173	80082	92537
14	46993	54865	60347	65780	72021	76339	80249	92871
15	47162	55031	60514	65947	72188	76508	80418	93205
16	47328	55198	60680	66114	72356	76674	80583	93540
17	47497	55366	60849	66282	72524	76843	80752	93874
18	47663	55533	61016	66519	72689	77008	80918	94207
19	47829	55700	61184	66616	72857	77175	81084	94543
20	47997	55867	61350	66783	73025	77343	81254	94878
21	48164	56033	61517	66950	73192	77510	81419	95211
22	48331	56202	61685	67117	73358	77679	81587	95545
23	48499	56369	61852	67285	73525	77844	81754	95880
24	48665	56535	62020	67452	73692	78014	81921	96212
25	48833	56703	62186	67620	73861	78179	82090	96548
26	49000	56869	62353	67787	74028	78346	82255	96883
27	49169	57038	62521	67953	74194	78515	82423	97218
28	49335	57205	62688	68121	74360	78680	82588	97552
29	49501	57371	62853	68288	74529	78849	82757	97884
30	49668	57539	63022	68453	74696	79014	82926	98220**]**

From July 1, 2002, until June 30, 2003:

SALARY MATRIX-POLICE OFFICER THROUGH CHIEF OF POLICE-FISCAL YEAR

Yrs.	**P.O. Salary**	**Sgt. Salary**	**Lieut. Salary**	**Capt. Salary**	**Maj. Salary**	**Lt. Col. Salary**	**Asst Chief Salary**	**Chief Salary**
0	**32981**							
1	**34182**							
2	**35293**							
3	**37356**							
4	**38377**							
5	**39703**	**48095**						
6	**41029**	**48241**						
7	**43573**	**51200**	**56276**					
8	**45398**	**53329**	**58605**					
9	**47288**	**55528**	**61011**	**66443**				
10	**47457**	**55695**	**61178**	**66611**				
11	**47985**	**55863**	**61344**	**66779**	**73020**			
12	**48161**	**56029**	**61513**	**66946**	**73188**	**75129**	**79038**	**93704**
13	**48327**	**56197**	**61680**	**67114**	**73353**	**77673**	**81582**	**94037**
14	**48493**	**56365**	**61847**	**67280**	**73521**	**77839**	**81749**	**94371**
15	**48662**	**56531**	**62014**	**67447**	**73688**	**78008**	**81918**	**94705**
16	**48828**	**56698**	**62180**	**67614**	**73856**	**78174**	**82083**	**95040**
17	**48997**	**56866**	**62349**	**67782**	**74024**	**78343**	**82252**	**95374**
18	**49163**	**57033**	**62516**	**68019**	**74189**	**78508**	**82418**	**95707**
19	**49329**	**57200**	**62684**	**68116**	**74357**	**78675**	**82584**	**96043**
20	**49497**	**57367**	**62850**	**68283**	**74525**	**78843**	**82754**	**96378**
21	**49664**	**57533**	**63017**	**68450**	**74692**	**79010**	**82919**	**96711**
22	**49831**	**57702**	**63185**	**68617**	**74858**	**79179**	**83087**	**97045**
23	**49999**	**57869**	**63352**	**68785**	**75025**	**79344**	**83254**	**97380**
24	**50165**	**58035**	**63520**	**68952**	**75192**	**79514**	**83421**	**97712**
25	**50333**	**58203**	**63686**	**69120**	**75361**	**79679**	**83590**	**98048**
26	**50500**	**58369**	**63853**	**69287**	**75528**	**79846**	**83755**	**98383**
27	**50669**	**58538**	**64021**	**69453**	**75694**	**80015**	**83923**	**98718**

28	**50835**	**58705**	**64188**	**69621**	**75860**	**80180**	**84088**	**99052**
29	**51001**	**58871**	**64353**	**69788**	**76029**	**80349**	**84257**	**99384**
30	**51168**	**59039**	**64522**	**69953**	**76196**	**80514**	**84426**	**99720**

[4.**]** **3.** Each of the above-mentioned salaries shall be payable in biweekly installments. Each officer of police and patrolman whose regular assignment requires nonuniformed attire may receive, in addition to his or her salary, an allowance not to exceed three hundred sixty dollars per annum payable biweekly. No additional compensation or compensatory time off for overtime, court time, or standby court time shall be paid or allowed to any officer of the rank of sergeant or above. Notwithstanding any other provision of law to the contrary, nothing in this section shall prohibit the payment of additional compensation pursuant to this subsection to officers of the ranks of sergeants and above, provided that funding for such compensation shall not:

(1) Be paid from the general funds of either the city or the board of police commissioners of the city; or

(2) Be violative of any federal law or other state law.

[5.**]** **4.** It is the duty of the municipal assembly or common council of the cities to make the necessary appropriation for the expenses of the maintenance of the police force in the manner herein and hereafter provided; provided, that in no event shall such municipal assembly or common council be required to appropriate for such purposes (including, but not limited to, costs of funding pensions or retirement plans) for any fiscal year a sum in excess of any limitation imposed by article X, section 21, Missouri Constitution; and provided further, that such municipal assembly or common council may appropriate a sum in excess of such limitation for any fiscal year by an appropriations ordinance enacted in conformity with the provisions of the charter of such cities.

[6.**]** **5.** The board of police commissioners shall pay additional compensation for all hours of service rendered by probationary patrolmen and patrolmen in excess of the established regular working period, and the rate of compensation shall be one and one-half times the regular hourly rate of pay to which each member shall normally be entitled; except that, the court time and court standby time shall be paid at the regular hourly rate of pay to which each member shall normally be entitled. No credit shall be given or deductions made from payments for overtime for the purpose of retirement benefits.

[7.**]** **6.** Probationary patrolmen and patrolmen shall receive additional compensation for authorized overtime, court time and court standby time whenever the total accumulated time exceeds forty hours. The accumulated forty hours shall be taken as compensatory time off at the officer's discretion with the approval of his supervisor.

[8.**]** **7.** The allowance of compensation or compensatory time off for court standby time shall be computed at the rate of one-third of one hour for each hour spent on court standby time.

[9.**]** **8.** The board of police commissioners may effect programs to provide additional compensation to its employees for successful completion of academic work at an accredited college or university, in amounts not to exceed ten percent of their yearly salaries or for **[**extra training**]** **field training officer** and lead officer responsibilities in amounts not to exceed three percent of their yearly salaries for field training officer responsibilities and an additional three percent of their yearly salaries for lead officer responsibilities. The board may designate up to one hundred fifty employees as field training officers and up to fifty employees as lead officers.

[10.**]** **9.** The board of police commissioners:

(1) Shall provide or contract for life insurance coverage and for insurance benefits providing health, medical and disability coverage for officers and employees of the department;

(2) Shall provide or contract for insurance coverage providing salary continuation coverage for officers and employees of the police department;

(3) Shall provide health, medical, and life insurance coverage for retired officers and employees of the police department;

(4) May pay an additional shift differential compensation to members of the police force for evening and night tour of duty in an amount not to exceed ten percent of the officer's base hourly rate.

[11.**] 10.** The board of police commissioners shall pay additional compensation to members of the police force up to and including the rank of police officer for any full hour worked between the hours of 11:00 p.m. and 7:00 a.m., in amounts equal to five percent of the officer's base hourly pay.

[12.**] 11.** The board of police commissioners, from time to time and in its discretion, may pay additional compensation to police officers, sergeants and lieutenants by paying commissioned officers in the aforesaid ranks for accumulated, unused vacation time. Any such payments shall be made in increments of not less than forty hours, and at rates equivalent to the base straight-time rates being earned by said officers at the time of payment; except that, no such officer shall be required to accept payment for accumulated unused vacation time.

[13. For each fiscal year between July 1, 2000, and June 30, 2002, the board of police commissioners may provide a salary increase for commissioned employees of years 0-8 in an amount in excess of the maximum amounts set out in the tables in subsections 2 and 3 of this section, provided that the amount actually paid pursuant to this section shall not exceed three percent of the amount set out for the appropriate category in such tables.

14. For each fiscal year between July 1, 2000, and June 30, 2002, the board of police commissioners may provide a salary increase for commissioned employees of years 9-30 in an amount in excess of the maximum amounts set out in the tables in subsections 2 and 3 of this section, provided that the amount actually paid pursuant to this section shall not exceed one percent of the amount set out for the appropriate category in such tables.**]**

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to ensure appropriate salaries for police officers, 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 28, 2002

HB 1776 [SCS HB 1776]

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

Transfers custodianship of the county recorder's fund to the Director of Revenue.

AN ACT to repeal sections 28.160 and 59.800, RSMo, and to enact in lieu thereof two new sections relating to certain state fund accounts.

SECTION

A. Enacting clause.
28.160. State entitled to certain fees — technology trust fund account established — additional fee, notary commissions — appropriation of funds, purpose — fees not collected, when.
59.800. Additional five-dollar fee imposed, when, distribution — fund established.

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

SECTION A. ENACTING CLAUSE. — Sections 28.160 and 59.800, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 28.160 and 59.800, to read as follows:

28.160. STATE ENTITLED TO CERTAIN FEES — TECHNOLOGY TRUST FUND ACCOUNT ESTABLISHED — ADDITIONAL FEE, NOTARY COMMISSIONS — APPROPRIATION OF FUNDS, PURPOSE — FEES NOT COLLECTED, WHEN. — 1. The state shall be entitled to fees for services to be rendered by the secretary of state as follows:

For issuing commission to notary public	$15.00
For countersigning and sealing certificates of official character	10.00
For all other certificates	5.00
For copying archive and state library records, papers or documents, for each page 8 ½ x 14 inches and smaller, not more than	.10
For duplicating microfilm, for each roll	15.00
For copying all other records, papers or documents, for each page 8 ½ x 14 inches and smaller, not more than**[.]**	.10
For certifying copies of records and papers or documents	5.00
For causing service of process to be made	10.00
For electronic telephone transmittal, per page	2.00

2. There is hereby established the "Secretary of State's Technology Trust Fund Account" which shall be administered by the state treasurer. All yield, interest, income, increment, or gain received from time deposit of moneys in the state treasury to the credit of the secretary of state's technology trust fund account shall be credited by the state treasurer to the account. The provisions of section 33.080, RSMo, to the contrary notwithstanding, moneys in the fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of a biennium exceeds five million dollars. In any such biennium the amount in the fund in excess of five million dollars shall be transferred to general revenue.

3. The secretary of state may collect an additional fee of ten dollars for the issuance of new and renewal notary commissions which shall be deposited in the state treasury and credited to the secretary of state's technology trust fund account.

4. The secretary of state may ask the general assembly to appropriate funds from the technology trust fund for the purposes of establishing, procuring, developing, modernizing and maintaining:

(1) An electronic data processing system and programs capable of maintaining a centralized database of all registered voters in the state;

(2) Library services offered to the citizens of this state;

(3) Administrative rules services, equipment and functions;

(4) Services, equipment and functions relating to securities;

(5) Services, equipment and functions relating to corporations and business organizations;

(6) Services, equipment and functions relating to the Uniform Commercial Code;

(7) Services, equipment and functions relating to archives; and

(8) Services, equipment and functions relating to record services.

5. Notwithstanding any provision of this section to the contrary, the secretary of state shall not collect fees, for processing apostilles, certifications and authentications prior to the placement of a child for adoption, in excess of one hundred dollars per child per adoption, or per multiple children to be adopted at the same time.

59.800. ADDITIONAL FIVE-DOLLAR FEE IMPOSED, WHEN, DISTRIBUTION — FUND ESTABLISHED. — 1. Beginning on July 1, 2001, notwithstanding any other condition precedent required by law to the recording of any instrument specified in subdivisions (1) and (2) of section 59.330, an additional fee of five dollars shall be charged and collected by every recorder of deeds in this state on each instrument recorded. The additional fee shall be distributed as follows:

(1) One dollar and twenty-five cents to the recorder's fund established pursuant to subsection 1 of section 59.319, provided, however, that all funds received pursuant to this section shall be used exclusively for the purchase, installation, upgrade and maintenance of modern technology necessary to operate the recorder's office in an efficient manner;

(2) One dollar and seventy-five cents to the county general revenue fund; and

(3) Two dollars to the fund established in subsection 2 of this section.

2. There is hereby established **[**in the state treasury**]** a revolving fund known as the "Statutory County Recorder's Fund", which shall receive funds paid to the recorders of deeds of the counties of this state pursuant to subdivision (3) of subsection 1 of this section. The **[**state treasurer**] director of the department of revenue** shall be custodian of the fund and shall make disbursements from the fund for the purpose of subsidizing the fees collected by counties that hereafter elect or have heretofore elected to separate the offices of clerk of the circuit court and recorder. The subsidy shall consist of the total amount of moneys collected pursuant to subdivisions (1) and (2) of subsection 1 of this section subtracted from fifty-five thousand dollars. The moneys paid to qualifying counties pursuant to this subsection shall be deposited in the county general revenue fund. For purposes of this section a "qualified county" is a county that hereafter elects or has heretofore elected to separate the offices of clerk of the circuit court and recorder and in which the office of the recorder of deeds collects less than fifty-five thousand dollars in fees pursuant to subdivisions (1) and (2) of subsection 1 of this section, on an annual basis. **Moneys in the statutory county recorder's fund shall not be considered state funds.**

[3. Any unexpended balance in the fund at the end of any biennium is exempt from the provisions of section 33.080, RSMo, relating to transfer of unexpended balances to the general revenue fund.**]**

Approved July 3, 2002

HB 1781 [HB 1781]

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 expiration date on the nursing facility reimbursement allowance to September 30, 2005.

AN ACT to repeal section 198.439, RSMo, and to enact in lieu thereof one new section relating to the nursing facility reimbursement allowance.

SECTION

A. Enacting clause.
198.439. Expiration date.

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

SECTION A. ENACTING CLAUSE. — Section 198.439, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 198.439, to read as follows:

198.439. EXPIRATION DATE. — Sections 198.401 to 198.436 shall expire on September 30, **[**2002**] 2005**.

Approved July 3, 2002

HB 1783 [SCS HB 1783]

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

Changes the name of the Missouri Commission for the Deaf to the Missouri Commission for the Deaf and Hard of Hearing.

AN ACT to repeal sections 161.400, 161.403, 161.405, 161.407, 191.928, 191.934, 209.285, 209.287, 209.292, 209.318, 209.319, 209.321, 209.323, 209.326, 209.334, 476.750, 476.760 and 476.763, RSMo, and to enact in lieu thereof twenty new sections relating to the deaf and hard of hearing.

SECTION

A. Enacting clause.
161.400. Commission for the deaf and hard of hearing created — appointment — qualifications — terms — expenses — chairperson — deaf members to be provided with interpreters, cost for, how paid.
161.403. Executive director — qualifications — compensation, office space, staff, to be provided by department.
161.405. Commission to function as agency of state — purpose — powers and duties.
161.407. Census of deaf population of state, purpose — census report content, filed when.
161.410. Missouri commission for the deaf and hard of hearing fund created in the state treasury, deposits and disbursements.
191.928. Surveillance and monitoring system for certain newborns — standards and follow-up procedure — confidentiality of information.
191.934. Newborn hearing screening advisory committee established, duties, members, compensation — committee to terminate, when.
209.285. Definitions.
209.287. Board for certification of interpreters established — appointment, qualification, terms — expenses — meetings — chairman elected how — quorum — removal from office, procedure.
209.292. Board's powers and duties — evaluation team to be appointed, qualifications, expenses — removal from team, procedure.
209.318. Fund for certification of interpreters established, purpose — lapse into general revenue when — first fiscal year, board's expenses, how paid.
209.319. State committee of interpreters to be established in division of professional registration, appointment, qualifications, terms, compensation — vacancies — quorum — meetings.
209.321. License required to practice interpreting — certain professions exempt — practice to be limited to training and education.
209.322. Certificates recognized by the board.
209.323. License application forms, content, oath, fee not refundable, qualifications, licenses expire, when — reinstatement procedure — replacement of license lost or destroyed.
209.326. Temporary license issued to persons licensed in other states, procedure, fee limitation.
209.334. Refusal to issue or renew license, grounds, complaint procedure — reinstatement procedure.
476.750. Definitions.
476.760. Privileged communications — commencement of proceedings, requirement — waiver of right, requirement — fees — payment.
476.763. Commission for the deaf and hard of hearing, list of qualified interpreters — compliance directives.

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

SECTION A. ENACTING CLAUSE. — Sections 161.400, 161.403, 161.405, 161.407, 191.928, 191.934, 209.285, 209.287, 209.292, 209.318, 209.319, 209.321, 209.323, 209.326,

209.334, 476.750, 476.760 and 476.763, RSMo, are repealed and twenty new sections enacted in lieu thereof, to be known as sections 161.400, 161.403, 161.405, 161.407, 161.410, 191.928, 191.934, 209.285, 209.287, 209.292, 209.318, 209.319, 209.321, 209.322, 209.323, 209.326, 209.334, 476.750, 476.760 and 476.763, to read as follows:

161.400. COMMISSION FOR THE DEAF AND HARD OF HEARING CREATED — APPOINTMENT — QUALIFICATIONS — TERMS — EXPENSES — CHAIRPERSON — DEAF MEMBERS TO BE PROVIDED WITH INTERPRETERS, COST FOR, HOW PAID. — 1. As used in sections 161.400 to 161.405, the term "commission" means the Missouri commission for the deaf **and hard of hearing**.

2. There is hereby established within the department of elementary and secondary education a commission, to be known as the "Missouri Commission for the Deaf **and Hard of Hearing**", which shall be composed of nine members. Each member shall be appointed by the governor for a term of three years, except that, of the members first appointed, three shall be appointed for a term of three years, three for a term of two years and three for a term of one year. Of the members appointed, two shall be deaf **or hard of hearing**, one shall be a parent of a deaf **or hard of hearing** child, one shall be a representative of an organization representing the interests of the deaf or hard of hearing, one shall be a representative of the Missouri School for the Deaf or the department of elementary and secondary education, one shall be an interpreter for the deaf, one shall be a representative of the business community, one shall be a representative of local public school administration and one shall be a professional from one of the following fields: audiology, psychology, speech pathology, mental health or medicine. No person shall be eligible to serve more than two successive terms, except that a person appointed to fill a vacancy may serve two additional successive terms. The members shall receive no compensation for their services on the Missouri commission for the deaf **and hard of hearing**, but shall be reimbursed for ordinary and necessary expenses incurred in the performance of their duties. The provisions of this subsection shall not prevent any person serving on the commission on August 28, 1994, from completing the term for which that person was appointed.

3. A chairperson shall be selected by the commission from among its members. The commission shall meet at the call of the chairperson, but not less than four times per year. Professional interpreting services for the deaf members shall be provided for at every meeting of the commission, with the expense of the services to be borne by the commission.

161.403. EXECUTIVE DIRECTOR — QUALIFICATIONS — COMPENSATION, OFFICE SPACE, STAFF, TO BE PROVIDED BY DEPARTMENT. — 1. The commission shall appoint an executive director, who shall serve as an executive officer of the commission. As a priority, the director shall be a deaf **or hard of hearing** person or shall have a background and knowledge of deafness and shall be fluent in using and reading American sign language or signed English as a means of communication.

2. Salary, office space and staff for the executive director shall be provided by the department of elementary and secondary education.

161.405. COMMISSION TO FUNCTION AS AGENCY OF STATE — PURPOSE — POWERS AND DUTIES. — The commission shall function as an agency of the state to advocate public policies, regulations and programs to improve the quality and coordination of existing services for deaf **and hard of hearing** persons and to promote new services whenever necessary. The commission shall:

(1) Promote deaf awareness to the general public and serve as a consultant to any public agency needing information regarding deafness;

(2) Develop a system of state certification for those individuals serving as interpreters of the deaf by:

(a) Conducting evaluations; and

(b) Developing a fee scale for different classes of interpreters;

(3) Maintain the quality of interpreting services by:

(a) Conducting interpreter training workshops to update knowledge and skills; and

(b) Working closely with the institutions of higher education which provide, or plan to provide, instructional programs for learning sign language;

(4) Conduct and maintain a census of the deaf population in Missouri;

(5) Promote the development of a plan which advocates the initiation of improved physical and mental health services for deaf Missourians;

(6) Conduct or make available workshops or seminars as needed for educating nondeaf individuals of the problems associated with deafness and ways by which these groups or agencies can more effectively interact with those who are deaf;

(7) Promote the development of services for deaf **and hard of hearing** adults, such as shelter homes, independent living skill training facilities and postschool educational training which will help provide for those deaf **and hard of hearing** individuals requiring such services an opportunity to live independently;

(8) Establish a network for effective communication among the deaf adult community and promote the establishment of TDD relay services where needed;

(9) Develop and establish interpreting services for state agencies.

161.407. CENSUS OF DEAF POPULATION OF STATE, PURPOSE — CENSUS REPORT CONTENT, FILED WHEN. — 1. In order to conduct and maintain a census of the deaf population in Missouri as mandated in section 161.405, the Missouri commission for the deaf **and hard of hearing** shall establish a census information system. The commission may also use the data collected by the census to determine needs of Missouri citizens who have a hearing loss.

2. Licensed professional clinical audiologists, licensed otolaryngologists, licensed hearing aid fitters and dealers or their designee shall inform all patients of the commission's purpose to maintain a census of the deaf population in Missouri and of the statutory requirement to file a report of deafness and hearing loss to the commission within one month of identification of such deafness or hearing loss.

3. To provide an accurate census of the deaf population in Missouri, the census report shall include the name of the patient, the patient's address, the patient's birth date, the type of hearing loss and, if known, the cause of the hearing loss being treated. The census report shall be on forms provided or approved by the commission. In order to protect identifying information, the commission shall assign a unique identifier for each report maintained in the census information system.

4. Nothing in sections 161.400 to 161.411 shall be construed to compel any individual to submit to any medical examination, treatment or supervision nor any examination, treatment or supervision by the commission of any kind.

161.410. MISSOURI COMMISSION FOR THE DEAF AND HARD OF HEARING FUND CREATED IN THE STATE TREASURY, DEPOSITS AND DISBURSEMENTS. — 1. The executive director of the Missouri commission for the deaf and hard of hearing shall administer a revolving fund to be known as the "Missouri Commission for the Deaf and Hard of Hearing Fund" which is hereby established in the state treasury. The fund shall consist of appropriations made by the general assembly, any gifts, contributions, grants, or bequests received from federal, private, or other sources, and moneys transferred or paid to the commission in return for goods and services provided by the commission to any governmental entity or the public. The state treasurer shall approve all disbursements from the fund for the purchase of goods or services at the request of the executive director of the commission.

2. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the fund shall not revert to the credit of the general revenue fund, unless and then only to the extent to which the unencumbered balance at the end of any fiscal year exceeds

one-half of the total amount appropriated, paid, or transferred to the fund during such fiscal year.

191.928. SURVEILLANCE AND MONITORING SYSTEM FOR CERTAIN NEWBORNS — STANDARDS AND FOLLOW-UP PROCEDURE — CONFIDENTIALITY OF INFORMATION. — 1. The department of health and senior services shall establish and maintain a newborn hearing screening surveillance and monitoring system for newborns who have been reported with possible hearing loss for the purpose of confirming the presence or absence of hearing loss, and referring those with hearing loss for early intervention services.

2. The department of health and senior services shall establish standards and follow-up procedures for all newborns reported with possible hearing loss pursuant to the provisions of section 191.925, as necessary to assure appropriate and timely diagnosis of hearing loss, delivery of amplification, and referral for early intervention services. Such standards and procedures shall include:

(1) Rescreening;

(2) Diagnostic audiological assessment;

(3) Individuals qualified to administer rescreening and diagnostic audiological assessment;

(4) Time lines for administering rescreening and diagnostic pediatric audiological assessment; and

(5) Time lines and content of contacts to be made by the surveillance and monitoring system.

3. The results of rescreening and diagnostic audiological assessment procedures shall be reported to the department of health and senior services in a manner prescribed by the department. Any person who acts in good faith in complying with this section in reporting rescreening or diagnostic audiological assessment procedures to the department of health and senior services, or the parents or guardians of a newborn shall not be civilly or criminally liable for furnishing the information required by this section.

4. Any newborn with a confirmed hearing loss in the surveillance and monitoring system shall be referred to the appropriate point of contact for the Part C of the Individuals with Disabilities Education Act (IDEA) system of early intervention services (First Steps) and shall be reported to the Missouri commission for the deaf **and hard of hearing** for census purposes.

5. Except as provided in this section, the information contained in the surveillance and monitoring system shall be confidential and shall not be divulged or made public in a manner that discloses the identity of an individual. The department of health and senior services may disclose and exchange such information as is necessary to provide follow-up services for newborns identified with hearing loss to the following persons without a parent's or guardian's written release:

(1) Employees of public agencies, departments and political subdivisions who need to know such information to carry out their public duties; or

(2) Health care professionals or their agents who undertake the pediatric care of the newborn.

If any person discloses such information for any other purposes, such person is guilty of an unauthorized release of confidential information and the person who discloses is liable for civil damages.

191.934. NEWBORN HEARING SCREENING ADVISORY COMMITTEE ESTABLISHED, DUTIES, MEMBERS, COMPENSATION — COMMITTEE TO TERMINATE, WHEN. — 1. There is hereby established a "Newborn Hearing Screening Advisory Committee".

2. The committee shall advise and assist the department of health and senior services in:

(1) Developing rules, regulations and standards for screening, rescreening and diagnostic audiological assessment;

(2) Developing forms for reporting screening, rescreening and diagnostic audiological assessment results to the surveillance and monitoring system;

(3) Designing a technical assistance program to support facilities implementing the screening program and those conducting rescreening and diagnostic audiological assessment;

(4) Developing educational materials to be provided to families; and

(5) Evaluating program outcomes to increase effectiveness and efficiency.

The committee shall also report information concerning the newborn hearing screening program to the state interagency coordinating council, as requested, to ensure coordination of programs within the state's early intervention system, and to identify and eliminate areas of duplication.

3. The committee shall be composed of the following sixteen members, with no less than two such members being deaf or hard of hearing, appointed by the director of the department of health and senior services:

(1) Three consumers, including one deaf individual who experienced hearing loss in early childhood, one hard-of-hearing individual who experienced hearing loss in early childhood and one parent of a child with a hearing loss;

(2) Two audiologists who have experience in evaluation and intervention of infants and young children;

(3) Two physicians who have experience in the care of infants and young children, one of which shall be a pediatrician;

(4) One representative of an organization with experience in providing early intervention services for children with hearing loss;

(5) One representative of the Missouri school for the deaf;

(6) One representative of a hospital with experience in the care of newborns;

(7) One representative of the Missouri commission for the deaf **and hard of hearing**;

(8) One representative from each of the departments of health and senior services, elementary and secondary education, mental health, social services and insurance.

4. The department of health and senior services member shall chair the first meeting of the committee. At the first meeting, the committee shall elect a chairperson from its membership. The committee shall meet at the call of the chairperson, but not less than four times a year.

5. The department of health and senior services shall provide technical and administrative support services as required by the committee. Such services shall include technical support from individuals qualified to administer infant hearing screening, rescreening and diagnostic audiological assessments.

6. Members of the committee shall receive no compensation for their services as members but shall be reimbursed for expenses incurred as a result of their duties as members of the committee.

7. The committee shall adopt written bylaws to govern its activities.

8. The newborn hearing screening advisory committee shall be terminated on August 28, 2001.

209.285. DEFINITIONS. — As used in sections 209.285 to 209.339, unless the context clearly requires otherwise, the following terms mean:

(1) "American sign language", a visual-gestural system of communication that has its own syntax, rhetoric and grammar. American sign language is recognized, accepted and used by many deaf Americans. This native language represents concepts rather than words;

(2) "Board", the Missouri board for certification of interpreters, established within the commission in section 209.287;

(3) "Certification", a document issued by the Missouri commission for the deaf **and hard of hearing** declaring that the holder is qualified to practice interpreting at a disclosed level;

(4) "Commission", the Missouri commission for the deaf **and hard of hearing**;

(5) "Committee", the Missouri state committee of interpreters, established in section 209.319;

(6) "Conversion levels", the process of granting levels of certification by the commission to individuals holding certification from another state or within another certification system in this state or another state;

(7) "Coordinator", a staff person, hired by the executive director of the Missouri commission for the deaf **and hard of hearing**, who shall serve as coordinator for the Missouri interpreter certification system;

(8) "Deaf person", any person who is not able to discriminate speech when spoken in a normal conversational tone regardless of the use of amplification devices;

(9) "Department", the Missouri department of economic development;

(10) "Director", the director of the division of professional registration in the department of economic development;

(11) "Division", the division of professional registration;

(12) "Executive director", the executive director of the Missouri commission for the deaf **and hard of hearing**;

(13) "Interpreter", any person who offers to render interpreting services implying that he **or she** is trained, and experienced in interpreting, and holds a current, valid certification and license to practice interpreting in this state; provided that a telecommunications operator providing deaf relay service or a person providing operator services for the deaf shall not be considered to be an interpreter;

(14) "Interpreter trainer", a person, certified and licensed by the state of Missouri as an interpreter, who trains new interpreters in the translating of spoken English or written concepts to any necessary specialized vocabulary used by a deaf consumer. Necessary specialized vocabularies include, but are not limited to, American sign language, Pidgin Signed English, oral, tactile sign and language deficient skills;

(15) "Interpreting", the translating of English spoken or written concepts to any necessary specialized vocabulary used by a deaf person or the translating of a deaf person's specialized vocabulary to English spoken or written concepts; provided that a telecommunications operator providing deaf relay service or a person providing operator services for the deaf shall not be considered to be interpreting. Necessary specialized vocabularies include, but are not limited to, American sign language, Pidgin Signed English, oral, tactile sign and language deficient skills;

(16) "Language deficient", mode of communication used by deaf individuals who lack crucial language components, including, but not limited to, vocabulary, language concepts, expressive skills, language skills and receptive skills;

(17) "Missouri commission for the deaf", Missouri commission for the deaf **and hard of hearing** established in section 161.400;

(18) "Oral", mode of communication having characteristics of speech, speech reading and residual hearing as a primary means of communication using situational and culturally appropriate gestures, without the use of sign language;

(19) "Pidgin Signed English", a mode of communication having characteristics of American sign language;

(20) "Practice of interpreting", rendering or offering to render or supervise those who render to individuals, couples, groups, organizations, institutions, corporations, schools, government agencies or the general public any interpreting service involving the translation of any mode of communication used by a deaf person to spoken English or of spoken English to a mode of communication used by a deaf person;

(21) "Tactile sign", mode of communication, used by deaf and blind individuals, using any one or a combination of the following: tactile sign, constricted space sign or notetaking.

209.287. BOARD FOR CERTIFICATION OF INTERPRETERS ESTABLISHED — APPOINTMENT, QUALIFICATION, TERMS — EXPENSES — MEETINGS — CHAIRMAN ELECTED HOW — QUORUM — REMOVAL FROM OFFICE, PROCEDURE. — 1. There is hereby established within the Missouri commission for the deaf **and hard of hearing** a board to be known as the "Board for Certification of Interpreters", which shall be composed of five members. The executive director of the Missouri commission for the deaf **and hard of hearing** or **[**his**] the director's** designee shall be a nonvoting member of the board.

2. The members shall be appointed by the governor with the advice and consent of the senate from a list of recommendations from the commission. The members shall be appointed for terms of three years, except those first appointed whose terms shall be staggered and one member appointed to serve for one year, two members to serve for two years and two members to serve for three years. No member shall be eligible to serve more than two consecutive terms, except a person appointed to fill a vacancy for a partial term may serve two additional terms. Two of the members appointed shall be deaf, two shall be certified interpreters and one shall be deaf or a certified interpreter. The members shall be fluent in American sign language, Pidgin Signed English, oral, tactile sign, or any specialized vocabulary used by deaf persons. The member shall have a background and knowledge of interpreting and evaluation.

3. The members shall receive no compensation for their services on the board, but the commission shall reimburse the members for actual and necessary expenses incurred in the performance of their official duties. The board shall meet not less than two times per year. The board shall elect from its membership a chairperson and a secretary. A quorum of the board shall consist of three of its members.

4. Any member of the commission may petition the governor to remove a member from the board for the following reasons: misconduct, inefficiency, incompetence or neglect of his official duties. The governor may remove the member after giving the committee member written notice of the charges against him and an opportunity to be heard pursuant to administrative procedures in chapter 621, RSMo.

209.292. BOARD'S POWERS AND DUTIES — EVALUATION TEAM TO BE APPOINTED, QUALIFICATIONS, EXPENSES — REMOVAL FROM TEAM, PROCEDURE. — 1. The board shall, with the approval of the commission:

(1) Prescribe qualifications for each of the several levels of certification based on proficiency and shall evaluate and certify interpreters using such qualifications;

(2) Issue the certificates, bearing the signature of the executive director, necessary to qualify for a license to interpret;

(3) Develop a fee scale for interpreting services, pursuant to section 161.405, RSMo;

(4) Maintain the quality of interpreting services, pursuant to section 161.405, RSMo, by:

(a) Generating ideas for conducting interpreter training workshops to update knowledge and skills; and

(b) Suggesting institutions of higher education to provide interpreter training programs;

(5) Develop specific guidelines for the use of interpreters according to their level of certification and submit the guidelines to the division and copies to be distributed to state departments, agencies, commissions, courts, interpreters and to the public;

(6) Develop ethical rules of conduct to be recommended for adoption by the division;

(7) Develop fees for application, administration of an evaluation, conversion and certificate renewal, to cover the cost of the certification system and administration;

(8) Compile a statewide registry of interpreters by skill level and include recommendations relating to the appropriate selection and utilization of interpreters for the deaf. The registry shall be made available to and recommended for adoption by state commissions, departments and agencies;

(9) Develop a conversion system and policy for accepting other certification systems into the certification offered by the Missouri commission for the deaf **and hard of hearing**;

(10) Develop acceptable professional development activities to maintain certification;

(11) Investigate and implement the most appropriate testing model for interpreter certification;

(12) When necessary, develop an evaluation team, appointed by the commission, to assist in evaluating interpreters;

(13) Provide opportunity to hear grievances against the certification process or one of its members using the guidelines established in chapter 621, RSMo.

2. An evaluation team appointed pursuant to subdivision (12) of subsection 1 of this section shall have similar backgrounds to the members of the board. The evaluation team shall serve at the pleasure of the commission. **[**The evaluation team shall serve without compensation but**]** The commission shall reimburse **[**them**] evaluators** for actual and necessary expenses incurred in the performance of their official duties **and may fairly compensate them**. A member of an evaluation team may be removed from the team by the executive director, after notice and an opportunity to be heard, for the following reasons: misconduct, inefficiency, incompetence or neglect of official duties.

209.318. FUND FOR CERTIFICATION OF INTERPRETERS ESTABLISHED, PURPOSE — LAPSE INTO GENERAL REVENUE WHEN — FIRST FISCAL YEAR, BOARD'S EXPENSES, HOW PAID. — 1. There is hereby established in the state treasury a fund to be known as the "Missouri Commission for the Deaf **and Hard of Hearing** Board of Certification of Interpreters Fund". All fees provided for in sections 209.287 to 209.318 shall be collected by the executive director of the commission and shall be transmitted to the department of revenue for deposit in the state treasury to the credit of the Missouri commission for the deaf **and hard of hearing** board of certification of interpreters fund. Such funds, upon appropriation, shall be disbursed only for payment of expenses of maintaining the board and for the enforcement of the provisions of sections 209.287 to 209.318 and shall not be used to pay the salary of the coordinator hired pursuant to section 209.289. Warrants shall be drawn on the state treasury for payment out of the 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 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 fund for the preceding fiscal year.

3. The expenses of maintaining the board enforcement of the provisions of sections 209.287 to 209.318 during the first fiscal year shall be paid by the commission from funds appropriated from general revenue for that purpose.

209.319. STATE COMMITTEE OF INTERPRETERS TO BE ESTABLISHED IN DIVISION OF PROFESSIONAL REGISTRATION, APPOINTMENT, QUALIFICATIONS, TERMS, COMPENSATION — VACANCIES — QUORUM — MEETINGS. — 1. There is hereby established in the division of professional registration the "Missouri State Committee of Interpreters", which shall consist of seven members, including two public members. At least one of the public members shall be deaf. The committee members shall be appointed by the governor with the advice and consent of the senate. Each member of the committee shall be a citizen of the United States and a resident of this state and, except as provided in subsections 2 and 3 of this section, shall be licensed as an interpreter by this state.

2. The initial interpreter appointments made to the committee shall be made from interpreters who have voluntarily registered with the Missouri commission for the deaf **and hard of hearing**. In making the initial appointments to the committee, the governor shall stagger the terms of the appointees so that two members serve initial terms of two years, two members serve

initial terms of three years, two members serve initial terms of four years and one member serves an initial term of one year.

3. At the time of appointment the public members shall be United States citizens, Missouri residents for a period of one year, registered voters, persons who are not and never were members of any profession licensed or regulated pursuant to sections 209.285 to 209.339, persons who do not have and never have had a material financial interest in providing interpreting services or persons who do not have and never have had a financial interest in an activity or organization directly related to interpreting.

4. Members shall be appointed to serve four-year terms. No person shall be eligible for reappointment who has served as a member of the committee for eight or more years. The membership of the committee shall reflect the differences in levels of certification, work experience and education. Not more than two interpreter educators shall be members of the committee at the same time.

5. A vacancy in the office of a member shall be filled by appointment by the governor for the remainder of the unexpired term. The governor may remove a committee member for misconduct, inefficiency, incompetence or neglect of his or her official duties after giving the committee member written notice of the charges against the committee member and an opportunity to be heard.

6. Each member of the committee shall receive as compensation an amount set by the committee not to exceed fifty dollars for each day devoted to the affairs of the committee and shall be reimbursed for necessary and actual expenses incurred in the performance of his or her official duties.

7. The committee shall hold an annual meeting at which it shall elect from its membership a chairperson and a secretary. The committee may hold such additional meetings as may be required in the performance of its duties. A quorum of the committee shall consist of four of its members.

8. The staff for the committee shall be provided by the director of the division of professional registration.

9. The committee may sue and be sued in its official name and shall have a seal which shall be affixed to all certified copies of records and papers on file and to such other instruments as the committee may direct. All courts shall take judicial notice of such seal. Copies of records and proceedings of the committee and of all papers on file with the division on behalf of the committee certified under the seal shall be received as evidence in all courts of record.

209.321. LICENSE REQUIRED TO PRACTICE INTERPRETING — CERTAIN PROFESSIONS EXEMPT — PRACTICE TO BE LIMITED TO TRAINING AND EDUCATION. — 1. No person shall represent himself **or herself** as an interpreter or engage in the practice of interpreting as defined in section 209.285 in the state of Missouri unless **[**he**] such person** is licensed as required by the provisions of sections 209.319 to 209.339.

2. A person registered, certified or licensed by this state, another state or any recognized national certification agent, acceptable to the committee that allows that person to practice any other occupation or profession in this state, is not considered to be interpreting if he **or she** is in performance of the occupation or profession for which he **or she** is registered, certified or licensed. The professions referred to in this subsection include, but are not limited to, physicians, psychologists, nurses, certified public accountants, architects and attorneys.

3. A licensed interpreter shall limit his **or her** practice to demonstrated areas of competence as documented by relevant professional education, training, experience and certification. An interpreter not trained in an area shall not practice in that area without obtaining additional relevant professional education, training and experience through an acceptable program as defined by rule by the Missouri commission for the deaf **and hard of hearing**.

4. A person is not considered to be interpreting pursuant to the provisions of this section if, in a casual setting and as defined by rule, a person is acting as an interpreter gratuitously or is engaged in interpreting incidental to traveling.

5. A person is not considered to be interpreting pursuant to the provisions of this section if a person is engaged as a telecommunications operator providing deaf relay service or operator services for the deaf.

209.322. CERTIFICATES RECOGNIZED BY THE BOARD. — The board shall recognize the following certificates:

(1) National Registry of Interpreters for the Deaf (NRID) certificates, which include Comprehensive Skills Certificate (CSC), Certificate of Interpreting/Certificate of Transliteration (CI/CT) and Certified Deaf Interpreter (CDI); and

(2) National Association of the Deaf (NAD) certificate levels 3, 4 and 5.

209.323. LICENSE APPLICATION FORMS, CONTENT, OATH, FEE NOT REFUNDABLE, QUALIFICATIONS, LICENSES EXPIRE, WHEN — REINSTATEMENT PROCEDURE — REPLACEMENT OF LICENSE LOST OR DESTROYED. — 1. Applications for licensure as an interpreter shall be submitted to the division on forms prescribed by the division and furnished to the applicant. The application shall contain the applicant's statements showing **[**his**]** **the applicant's** education, certification **by either the National Registry of Interpreters for the Deaf, National Association of the Deaf or Missouri Interpreter Certification System** and such other information as the division may require. Each application shall contain a statement that it is made under oath or affirmation and that the information contained in the application is true and correct to the best knowledge and belief of the applicant, subject to the penalties, as provided in sections 209.319 to 209.339, for the making of a false affidavit or declaration. Each application shall be accompanied by the required application fee. The application fee must be submitted in a manner as required by the committee and shall not be refundable. The applicant must be eighteen years of age or older. **[**Within a length of time established by rule, the applicant must submit to the committee, verification from the Missouri commission for the deaf that the applicant has achieved the appropriate certification to qualify for licensure.**]**

2. Each license issued pursuant to the provisions of sections 209.319 to 209.339 shall expire on the renewal date. The division shall mail a renewal notice to the last known address of each licensee prior to the registration renewal date. The license will expire upon failure to provide the division with the information required for registration or to pay the required registration fee within sixty days of the registration renewal date. The license may be reinstated within two years after the registration date, if the applicant applies for reinstatement and pays the required registration fee plus a delinquency fee as established by the committee.

3. Except as provided in section 209.321, the committee with assistance from the division shall issue or renew a license to each person who files an application and fee as required by the provisions of sections 209.319 to 209.339 and who furnishes satisfactory evidence to the committee that he has complied with the provisions of subsection 1 or 2 of this section.

4. The committee may issue a new license to replace any license which is lost, destroyed or mutilated upon payment of a fee as provided by the committee.

209.326. TEMPORARY LICENSE ISSUED TO PERSONS LICENSED IN OTHER STATES, PROCEDURE, FEE LIMITATION. — Any person who holds a valid unrevoked and unexpired license or certification as an interpreter issued by a state or organization other than this state and recognized by the committee and concurrently by the Missouri commission for the deaf **and hard of hearing** and, provided for by rule, may be granted a temporary license by the committee to practice interpreting in this state. The application for a temporary license must be accompanied by the appropriate fee as established by the committee and that fee is nonrefundable. If issued, the temporary license is valid for ninety days. A temporary license may

not be issued to the same individual more than once per year. The committee may not issue more than one temporary license to an individual who has established residency in this state during **[**his**]** **the individual's** residency.

209.334. REFUSAL TO ISSUE OR RENEW LICENSE, GROUNDS, COMPLAINT PROCEDURE — REINSTATEMENT PROCEDURE. — 1. The committee may refuse to issue or renew any license required by the provisions of sections 209.319 to 209.339 for one or any combination of causes stated in subsection 2 of this section. The committee 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 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 209.319 to 209.339 or any person who has failed to renew or has surrendered his 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 interpreting;

(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 an interpreter, for any offense an essential element of which is fraud, dishonesty or an act of violence, 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 209.319 to 209.339 or in obtaining permission to take any examination given or required pursuant to the provisions of sections 209.319 to 209.339;

(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 interpreting;

(6) Violation of, or assisting or enabling any person to violate, any provision of sections 209.319 to 209.339, or of any lawful rule or regulation adopted pursuant to sections 209.319 to 209.339;

(7) Impersonation of any person holding a license or allowing any person to use his or her license or certification;

(8) Discipline of a license or other right to practice interpreting granted by another state, territory, federal agency or country upon grounds for which discipline is authorized in this state;

(9) Discipline of a certification issued by the Missouri commission for the deaf **and hard of hearing** or any other certifying body upon grounds for which discipline is authorized in this state if the licensee was given notice and an opportunity to be heard before the certification was disciplined;

(10) A person is finally adjudged incapacitated by a court of competent jurisdiction;

(11) Assisting or enabling any person to practice or offer to practice interpreting who is not licensed and currently eligible to practice under the provisions of sections 209.319 to 209.339;

(12) Issuance of a license based upon a material mistake of fact;

(13) Violation of any professional trust or confidence;

(14) Failure to display or present a valid license if so required by sections 209.319 to 209.339 or any rule promulgated pursuant thereto.

3. Any person, organization, association or corporation who reports or provides information to the committee pursuant to the provisions of sections 209.319 to 209.339 and who does so in good faith shall not be subject to an action for civil damages as a result thereof.

4. 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 committee may singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the 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.

5. In any order of revocation, the committee may provide that the person may not apply for reinstatement of his license for three years after the revocation.

6. Before restoring to good standing a license issued pursuant to sections 209.319 to 209.339 which has been revoked, suspended or inactive for any cause, the committee shall require the applicant to submit to the committee, verification, from the Missouri commission for the deaf that the applicant has a current certification which qualifies that person for licensure.

476.750. DEFINITIONS. — As used in sections 476.750 to 476.766, the following terms mean:

(1) "Auxiliary aids and services", the device or service that the deaf person feels would best serve him **or her** which includes, but is not limited to, qualified interpreters, notetakers, transcription services, written materials, assistive listening devices, assistive listening systems, closed caption decoders, open and closed captioning, videotext displays or other effective method of making aurally delivered materials available to individuals with hearing loss as defined by the American with Disabilities Act of 1990, P.L. 101-336, as amended;

(2) "Deaf person", any person who, because of a hearing loss, is not able to discriminate speech when spoken in a normal conversational tone regardless of the use of amplification devices;

(3) "Designated responsible authority", the presiding officer, chairman, hearing officer, judge, clerk or similar official in any court, board, commission, department, agency or legislative body or the designated Americans with Disabilities Act coordinator who is responsible for providing auxiliary aids and services;

(4) "Primary consideration", when an auxiliary aid or service is required, the designated responsible authority shall when possible provide an opportunity for the qualified individual with a disability to designate the auxiliary aid or service of his or her choice. The designated responsible authority may honor the choice of the qualified individual with a disability, unless the designated responsible authority provides an equally effective auxiliary aid or service, or that use of the means chosen would result in a fundamental alteration in the service, program or activity or in undue financial or administrative burdens;

(5) "Qualified interpreter", an interpreter certified and licensed by the Missouri interpreter certification system or deemed competent by the Missouri commission for the deaf **and hard of hearing**, who is able to interpret effectively, accurately and impartially both receptively and expressively, using any necessary specialized vocabulary.

476.760. PRIVILEGED COMMUNICATIONS — COMMENCEMENT OF PROCEEDINGS, REQUIREMENT — WAIVER OF RIGHT, REQUIREMENT — FEES — PAYMENT. — 1. All communications between a deaf person and such person's attorney through the use of auxiliary aids and services shall be protected as privileged communications in the same manner as communications between an attorney and such attorney's hearing client. The auxiliary aids and services provider cannot be compelled to testify as to the information retained.

2. In any action or proceeding in which an auxiliary aids and services provider is required to be appointed, the court or administrative authority may not commence proceedings until the appointed auxiliary aids and services provider are in full view or spatially situated to assure proper communication with the deaf person or persons involved as participants.

3. No waiver of the right to auxiliary aids and services by a deaf person shall be valid unless that deaf person knowingly and voluntarily signs a written waiver. Such waiver is subject to the approval of counsel to the deaf person. If no counsel is used, then it is subject to the approval of the designated responsible authority. In no event is the failure of the deaf person to

request a qualified interpreter and auxiliary aids and services provider deemed a waiver of that right.

4. An auxiliary aids and services provider appointed pursuant to sections 476.750 to 476.766 is entitled to a reasonable fee for such provider's service, including waiting time, necessary travel expenses and subsistence expenses. The fee may be based on a fee schedule for interpreters and auxiliary aids and services recommended by the Missouri commission for the deaf **and hard of hearing**. Reimbursements for necessary travel and subsistence expenses shall be at the rates provided by law for state employees.

5. The fees and expenses of providers of auxiliary aids and services who serve before any civil court or criminal, civil or juvenile proceeding are payable from funds appropriated to the office of the state courts administrator.

6. At no time shall any deaf person involved in a proceeding or action as provided for in sections 476.750 to 476.766 assume any portion of the cost for an interpreter or auxiliary aids and services nor shall the court, board, commission, department, agency or legislative body assess the cost for an interpreter or auxiliary aids and services to the cost of such proceedings.

476.763. COMMISSION FOR THE DEAF AND HARD OF HEARING, LIST OF QUALIFIED INTERPRETERS — COMPLIANCE DIRECTIVES. — 1. Whenever a designated responsible authority is required to provide auxiliary aids and services, the authority shall request from the Missouri commission for the deaf **and hard of hearing** a current list of qualified interpreters or other auxiliary aids and services. If the choice of a qualified interpreter or other auxiliary aids and services does not meet the needs of, or adequately accommodate, the deaf person, the designated responsible authority may appoint another qualified interpreter or auxiliary aids and services.

2. The Missouri commission for the deaf **and hard of hearing** shall, in cooperation with the Missouri Assistive Technology Advisory Council, when appropriate, issue compliance directives for designated responsible authorities regarding the standards which should be followed, along with the resources available to comply with sections 476.750 to 476.766.

Approved July 2, 2002

HB 1811 [SCS HB 1811]

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 property known as the Hubert Wheeler State School in St. Louis.

AN ACT to authorize the governor to convey certain described property.

SECTION

1. Conveyance of Hubert Wheeler State School by the state for public sale.
2. Conveyance of property owned by state in Cole County to the General Services Administration or the Missouri Development Finance Board.
3. Conveyance by the state of the Western Missouri Mental Health Center to the Children's Mercy Hospital.
4. Conveyance by the state of property in Lee's Summit to original owners of the property.

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

SECTION 1. CONVEYANCE OF HUBERT WHEELER STATE SCHOOL BY THE STATE FOR PUBLIC SALE. — 1. The governor is hereby authorized and empowered to sell, transfer, grant and convey all interest in property owned by the state in the City of St. Louis which has been known as the Hubert Wheeler State School. The property is more particularly described as:

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 the 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 public sale of the property, 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 sale; whether a minimum bid shall be required; and whether to utilize a public auctioneer or licensed real estate broker to market the property. Any auctioneer or broker employed to market the property shall receive the customary fee. All costs and fees, directly related to such sale, shall be paid from the proceeds of such sale.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 2. CONVEYANCE OF PROPERTY OWNED BY STATE IN COLE COUNTY TO THE GENERAL SERVICES ADMINISTRATION OR THE MISSOURI DEVELOPMENT FINANCE BOARD. — 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 the County of Cole to the General Services Administration or to the Missouri Development Finance Board. The property to be conveyed is more particularly described as follows:

All of Inlots 187 and 188; All of Inlots 191 thru 200 inclusive; All of Inlots 225 thru 229; All that part of the Hough Street Right-of-way (previously vacated by Jefferson City Ordinance No. 3256); All that part of the Marshall Street Right-of-way lying north of the northerly line of State Street and south of the Missouri Pacific Railroad; All that part of the Lafayette Street Right-of-way (previously vacated by Jefferson City ordinance no. 3256); All that part of a 20 foot wide public alley lying between Marshall Street and Lafayette Street (previously vacated by Jefferson City Ordinance No. 3256); All that part of a 20 foot wide public alley, lying east of the easterly line of Inlots 185 and 190 and west of the westerly line of the Marshall Street Right-of-way; any part of Fractional Section 8,

lying south of the Missouri Pacific Railroad and north of Inlots 187 & 188, any part of Fractional Section 8, lying south of the Missouri Pacific Railroad and north of Inlots 225 thru 229 inclusive; according to the plat of the City of Jefferson, Missouri and according to the Government Land Office Plat of Township 44 North, Range 11 West, dated December 6, 1861. All of the aforesaid lies within Fractional Section 8 of said Township 44 North, Range 11 West, and within the Corporate Limits of the City of Jefferson, Cole County, Missouri, more particularly described as follows:

BEGINNING at the southwesterly corner of Inlot 191; thence N42 18'12"E, along the westerly line of said Inlot 191 and along the northerly extension thereof, 218.46 feet to a point intersecting the northerly line of a 20 foot wide alley at the southwest corner of Inlot 186; thence S47 41'48"E, along the northerly line of said alley, 69.58 feet to the southwesterly corner of Inlot 187; thence N42 18'12"E, along the westerly line of said Inlot 187 and the northerly extension thereof, 259.20 feet; thence S68 13'57"E, 766.53 feet to a point intersecting the easterly line of the aforesaid vacated Lafayette Street Right-of-way; thence S42 15'04"W, along the easterly line of said vacated Lafayette Street Right-of-way, 746.58 feet to a point intersecting the northerly line of the State Street Right-of-way (formerly Water Street); thence N47 42'13"W, along the northerly line of said State Street Right-of-way, 539.62 feet to a point in the center of the Marshall Street Right-of-way; thence N47 40'29"W, along the northerly line of said State Street Right-of-way, 248.46 feet to the POINT OF BEGINNING.

2. Consideration for the conveyance shall be the transfer of property of like value to the state of Missouri.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 3. CONVEYANCE BY THE STATE OF THE WESTERN MISSOURI MENTAL HEALTH CENTER TO THE CHILDREN'S MERCY HOSPITAL. — 1. The governor is hereby authorized to remise, release, and forever quitclaim all right, title, and interest to the real estate on Hospital Hill in Kansas City, Missouri, currently operated as the Western Missouri Mental Health Center, and more particularly described as follows, to the Children's Mercy Hospital:

Tract 1:

The East 200 feet of Lot 21, except that part in the Kansas City Terminal Railway Company right of way, and the East 200 feet of Lots 22, 23, 24, and 25, COLONEL E.M. McGEE'S SUBDIVISION, a subdivision in Kansas City, Jackson County, Missouri, according to the recorded plat thereof together with so much of the West one-half of the vacated alley adjacent thereto on the East as lies North of the Westerly prolongation of the North line of 22nd Street.

Tract 2:

All that part of Lots 34 and 35 and of the South 118 feet of Lot 36 that lies West of the West line of Holmes Street, COLONEL E.M. McGEE'S SUBDIVISION, and Lots 50, 51, 52, 53, 54, 55, and 56, HOME PARK, subdivisions in Kansas City, Jackson County, Missouri, according to the recorded plats thereof, together with the East one-half of the vacated alley lying West of and adjoining the aforesaid premises.

Tract 3:

The East 125 feet of the South 90.8 feet of Lot 26, the East 125 feet of Lot 27, and the East 125 feet of the North 142.1 feet of Lot 28, COLONEL E.M. McGEE'S SUBDIVISION, a subdivision in Kansas City, Jackson County, Missouri, according to the recorded plat thereof.

Together with all buildings and improvements thereon.

2. If some of the property is conveyed to, or subjected to temporary or permanent easements for the benefit of, the City of Kansas City for purposes of widening the existing

22nd Street right-of-way, the conveyance document shall adjust the legal description accordingly.

3. Consideration for the conveyance shall be the sum of one million five hundred thousand dollars whether or not some of property has been conveyed to, or subject to temporary or permanent easements for the benefit of, the City of Kansas City for purposes of widening the existing 22nd Street right-of-way. Proceeds of the sale shall be deposited to the state's general fund, provisions of Section 630.330, RSMo, to the contrary notwithstanding.

4. The attorney general shall approve the instrument of conveyance.

SECTION 4. CONVEYANCE BY THE STATE OF PROPERTY IN LEE'S SUMMIT TO ORIGINAL OWNERS OF THE PROPERTY. — 1. The governor is hereby authorized to remise, release and forever quit claim all right, title and interest to the following described real estate in Lee's Summit, Missouri to Robert D. McCubbin and Ethel A. McCubbin, husband and wife, the original owners of the property in consideration for the price of thirty-one thousand five hundred dollars. The property to be conveyed is particularly described as follows:

The East 116 feet of Lot 11, Frehling Orchard Acres, a subdivision in Independence, Jackson County, Missouri, except Right-of-way conveyed to the City of Independence on March 12, 1981, and recorded as document no. 1457242, subject to easement reserved for ingress and egress to grantor's adjoining property, reserved acres the South Forty (40) feet of the conveyed parcel.

2. The attorney general shall approve the instrument of conveyance.

Approved June 28, 2002

HB 1812 [HB 1812]

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 uses of the moneys in the Health Document Services Fund.

AN ACT to repeal section 192.323, RSMo, and to enact in lieu thereof one new section relating to the health document services fund.

SECTION

A. Enacting clause.

192.323. Department of health and senior services document services fund created — funding by certain fees — purpose — amount from fund exempt from lapse into general revenue.

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

SECTION A. ENACTING CLAUSE. — Section 192.323, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 192.323, to read as follows:

192.323. DEPARTMENT OF HEALTH AND SENIOR SERVICES DOCUMENT SERVICES FUND CREATED — FUNDING BY CERTAIN FEES — PURPOSE — AMOUNT FROM FUND EXEMPT FROM LAPSE INTO GENERAL REVENUE. — 1. The "Department of Health **and Senior Services** Document Services Fund" is hereby created. All funds received by the department of health **and senior services** from the fees charged for reports, studies, records and other publications and

documents including data tapes and audiovisual products produced or reproduced by the department shall be credited to the fund. The director of the department shall administer the fund. The state treasurer is the custodian of the fund and shall approve disbursements from the fund requested by the director of the department. When appropriated by the general assembly, moneys from the fund shall be used to **[**purchase goods or services that will ultimately be used for the following purposes only**] pay costs, including personnel costs, as follow**s:

(1) **To pay costs associated with the collection, processing, storage, and access to documents and data;**

(2) To produce publications or other documents including data tapes and audiovisual products requested by governmental agencies or members of the general public;

[(2)**] (3)** To publish the publications or other documents or to purchase reports, publications or other documents including data tapes and audiovisual products for reproduction; and

[(3)**] (4)** To pay shipping charges.

2. An unexpended balance in the fund at the end of the fiscal year not exceeding fifty thousand dollars is exempt from the provisions of section 33.080, RSMo, relating to the transfer of unexpended balances to the general revenue fund.

Approved July 3, 2002

HB 1814 [HB 1814]

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 regarding the filing of orders of protection, including prohibiting the assessment of filing fees, court costs, or bond for orders of protection.

AN ACT to repeal sections 455.027, 455.060, 455.067, 455.075, 455.504, 455.508, and 488.610, RSMo, and to enact in lieu thereof six new sections relating to orders of protection.

SECTION

A. Enacting clause.
455.027. No filing fee, court cost, or bond shall be required.
455.060. Modification of orders, when — termination — appeal — custody of children, may not be changed, when.
455.067. Foreign order of protection to be given full faith and credit — registration of order, content, procedure.
455.075. Costs of attorney's fees.
455.504. Court clerks to furnish petitioner with uniform forms and information to litigants having no counsel on procedure, filing forms and pleadings — services of clerks and location of office to file petition to be posted — rules — no fees required — guardian ad litem or CASA to be provided copy of petition.
488.610. Victim of domestic violence not to pay costs.
455.508. Duties of circuit clerks — rules, forms, instructions.

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

SECTION A. ENACTING CLAUSE. — Sections 455.027, 455.060, 455.067, 455.075, 455.504, 455.508, and 488.610, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 455.027, 455.060, 455.067, 455.075, 455.504, and 488.610, to read as follows:

455.027. NO FILING FEE, COURT COST, OR BOND SHALL BE REQUIRED. — **[**1. No advance filing fees or bond shall be required for filing a petition in an action commenced under sections 455.010 to 455.085.

2. The clerk shall advise the petitioner of his right to file a financial statement indicating the petitioner's income and liabilities. This information may be required by the court and shall be considered before assessment of court costs.

3. Assessment of court costs or a determination of indigency shall be considered by the court at the time of a termination of the proceeding.**]** **No filing fees, court costs, or bond shall be assessed in an action commenced pursuant to sections 455.010 to 455.085.**

455.060. MODIFICATION OF ORDERS, WHEN — TERMINATION — APPEAL — CUSTODY OF CHILDREN, MAY NOT BE CHANGED, WHEN. — 1. After notice and hearing, the court may modify an order of protection at any time, upon subsequent motion filed by the guardian ad litem, the court-appointed special advocate or by either party together with an affidavit showing a change in circumstances sufficient to warrant the modification. All full orders of protection shall be final orders and appealable and shall be for a fixed period of time as provided in section 455.040.

2. Any order for child support, custody, temporary custody, visitation or maintenance entered under sections 455.010 to 455.085 shall terminate prior to the time fixed in the order upon the issuance of a subsequent order pursuant to chapter 452, RSMo, or any other Missouri statute.

3. No order entered pursuant to sections 455.010 to 455.085 shall be res judicata to any subsequent proceeding, including, but not limited to, any action brought under chapter 452, RSMo, 1978 as amended.

4. All provisions of an order of protection shall terminate upon entry of a decree of dissolution of marriage or legal separation except as to those provisions which require the respondent to participate in a court-approved counseling program or enjoin the respondent from abusing, molesting, stalking or disturbing the peace of the petitioner and which enjoin the respondent from entering the premises of the dwelling unit of the petitioner as described in the order of protection when the petitioner continues to reside in that dwelling unit unless the respondent is awarded possession of the dwelling unit pursuant to a decree of dissolution of marriage or legal separation.

5. Any order of protection or order for child support, custody, temporary custody, visitation or maintenance entered under sections 455.010 to 455.085 shall terminate **[**when the parties voluntarily consent to the termination of the order by a written consent filed with the court which entered the order**]** **upon the filing of a motion to terminate the order of protection by the petitioner; except that, in cases where the order grants custody of a minor child to the respondent, the order shall terminate only upon consent of both parties or upon the respondent's failure to object within ten days of receiving the petitioner's notice of the filing of the motion to dismiss. If the respondent timely objects to the dismissal, the court shall set the motion to dismiss for hearing and both parties shall have an opportunity to be heard**.

6. The order of protection may not change the custody of children when an action for dissolution of marriage has been filed or the custody has previously been awarded by a court of competent jurisdiction.

455.067. FOREIGN ORDER OF PROTECTION TO BE GIVEN FULL FAITH AND CREDIT — REGISTRATION OF ORDER, CONTENT, PROCEDURE. — 1. Any order of protection issued by any other state, **tribe,** territory or possession of the United States, the Commonwealth of Puerto Rico, or the District of Columbia**[**,**]** shall be given full faith and credit throughout the state in all courts, and by all law enforcement officials and agencies, and all public officials **and shall be enforceable in the same manner as any order of protection issued by a court in this state**.

2. A person entitled to protection under a foreign order of protection as described in subsection 1 of this section may file a **[**petition seeking registration of the foreign order in the circuit court having jurisdiction. A certified copy of the foreign order of protection shall be attached to such petition. The petition shall set forth the date of the entry of the foreign order of protection and a record of any subsequent orders affecting such foreign order of protection, and shall state that to the best of such person's knowledge, the order filed with the petition is in effect. The court shall receive and consider such petition in the manner provided by sections 455.025 to 455.035, and its inquiry shall be limited to whether and the extent that the foreign order of protection is in effect. If the court decides such issues in the affirmative, the court shall issue an order giving full faith and credit to the foreign order of protection throughout the state, as if such foreign order was originally issued by a court of this state**] certified copy of the foreign order of protection and an affidavit or sworn statement from the petitioner that the copy of the foreign order is a true and accurate copy and has not been altered in the circuit court having jurisdiction. If the foreign order of protection terminates prior to the expiration date on the order, the petitioner shall notify the circuit court**. A foreign order of protection as described in subsection 1 of this section shall be enforceable in this state so long as it is in effect in the issuing state.

3. **[**A copy of the Missouri court's order recognizing a foreign order of protection shall be sent by the court to the respondent by certified mail, at his last known address, with a copy of the petition and foreign order of protection. At any time during the duration of the order recognizing the foreign order of protection, the respondent may move the court to modify or set aside its order recognizing the foreign order of protection. Such motion shall be heard only if a copy of the motion and a summons indicating a date and time certain for such hearing is personally served on the petitioner, and the respondent shall not be entitled to a continuance of such hearing. Such motion shall be sustained only if the respondent demonstrates to the court by clear and convincing evidence that the Missouri court's order was not issued in compliance with this section. The petitioner shall not be required to appear or to deny or rebut the allegations or evidence submitted by respondent in order for the court to deny respondent's motion.**] Filing of the foreign order of protection shall be without fee or cost.**

4. Registration and a Missouri court order recognizing a foreign order of protection shall not be required for the enforcement of a certified foreign order of protection in this state.

455.075. COSTS OF ATTORNEY'S FEES. — The court may order a party to pay a reasonable amount **[**for the cost**]** to the other party **[**of maintaining or defending any proceeding under sections 455.010 to 455.085 and**]** for attorney's fees**[**, including sums for legal services rendered and costs**]** incurred prior to the commencement of the proceeding or after entry of judgment. The court shall consider all relevant factors, including the financial resources of both parties, and may order that the amount be paid directly to the attorney, who may enforce the order in his name.

455.504. COURT CLERKS TO FURNISH PETITIONER WITH UNIFORM FORMS AND INFORMATION TO LITIGANTS HAVING NO COUNSEL ON PROCEDURE, FILING FORMS AND PLEADINGS — SERVICES OF CLERKS AND LOCATION OF OFFICE TO FILE PETITION TO BE POSTED — RULES — NO FEES REQUIRED — GUARDIAN AD LITEM OR CASA TO BE PROVIDED COPY OF PETITION. — 1. **The clerk of the court shall make available to the petitioner the uniform forms adopted by the supreme court pursuant to section 455.073. Except as provided in section 455.510,** clerks under the supervision of a circuit clerk shall explain to litigants not represented by counsel the procedures for filing all forms and pleadings necessary for the presentation of their petition filed pursuant to the provisions of sections 455.500 to 455.538 to the court. Notice of the fact that clerks will provide such assistance shall be conspicuously posted in the clerks' offices. The location of the office where a petition can be filed shall be conspicuously posted in the court building. The performance of duties prescribed in this section shall not constitute the practice of law as defined in section 484.010, RSMo. All

duties of the clerk prescribed in this section shall be performed without cost to the litigants. The supreme court may promulgate rules as necessary to govern conduct of court clerks under sections 455.500 to 455.538, and shall provide forms for petitions and written instructions on filling out all forms and pleadings necessary for the presentation of the petition to the court.

2. No **[**advance**]** filing fees**, court costs,** or bond shall be **[**required for filing a petition**]** **assessed** in an action commenced under sections 455.500 to 455.538.

3. **[**The clerk shall advise the petitioner of his right to file a financial statement indicating the petitioner's income and liabilities. This information may be required by the court and shall be considered before assessment of court costs.

4. Assessment of court costs or a determination of indigency shall be considered by the court at the time of a termination of the proceeding**]** **The clerk shall immediately notify the guardian ad litem or court-appointed special advocate of appointment and shall provide such guardian or advocate with a copy of the petition for the order of protection for the child. The clerk shall provide such guardian or advocate with the names, addresses, and telephone numbers of the parties within twenty-four hours of entry of the order appointing the guardian ad litem or court-appointed special advocate**.

488.610. VICTIM OF DOMESTIC VIOLENCE NOT TO PAY COSTS. — Notwithstanding any other law to the contrary, **no victim of the crime of domestic assault, as defined in sections 565.072 to 565.074, no victim of the crime of stalking, as defined in section 565.225, and** no victim, as defined in section 595.010, RSMo, shall be required to pay the costs associated with the filing of criminal charges against the offender, or the costs associated with the **filing,** issuance**, registration** or service of a warrant, protection order, **petition for protection order** or witness subpoena [associated with a domestic violence offense].

[455.508. DUTIES OF CIRCUIT CLERKS — RULES, FORMS, INSTRUCTIONS. — 1. Except as provided under section 455.510, clerks under the supervision of a circuit clerk shall explain to litigants not represented by counsel the procedures for filing all forms and pleadings necessary for the presentation of their petition to the court. The clerk shall advise the petitioner of his right to file a motion and affidavit to sue in forma pauperis pursuant to the Missouri Rules of Civil Procedure. Notice of the fact that clerks will provide such assistance shall be conspicuously posted in the clerks' offices. The location of the office where a petition can be filed shall be conspicuously posted in the court building. The performance of duties prescribed in this section shall not constitute the practice of law as defined in section 484.010, RSMo. All duties of the clerk prescribed in this section shall be performed without cost to the litigants. The supreme court may promulgate rules as necessary to govern conduct of court clerks under sections 455.500 to 455.538, and shall provide forms for petitions and written instructions on filling out all forms and pleadings necessary for the presentation of the petition to the court.

2. The clerk shall immediately notify the guardian ad litem or court-appointed special advocate of appointment and shall provide the guardian ad litem or court-appointed special advocate with a copy of the petition for the order of protection for the child. The clerk shall provide the guardian ad litem or court-appointed special advocate with the names, addresses and telephone numbers of the parties within twenty-four hours of entry of the order appointing the guardian ad litem or court-appointed special advocate.**]**

Approved July 10, 2002

HB 1822 [HB 1822]

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

Provides state employees protection against discharge if called to military duty or training and sets maximum hours of military leave and designates when and how such leave may be charged.

AN ACT to repeal section 105.270, RSMo, and to enact in lieu thereof one new section relating to leave of absences to perform military duty.

SECTION

A. Enacting clause.

105.270. Leave of absence to perform military duties mandatory — discrimination against militia members a misdemeanor — hours of leave, how computed.

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

SECTION A. ENACTING CLAUSE. — Section 105.270, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 105.270, to read as follows:

105.270. LEAVE OF ABSENCE TO PERFORM MILITARY DUTIES MANDATORY — DISCRIMINATION AGAINST MILITIA MEMBERS A MISDEMEANOR — HOURS OF LEAVE, HOW COMPUTED. — 1. All officers and employees of this state, or of any department or agency thereof, or of any county, municipality, school district, or other political subdivision, and all other public employees of this state who are or may become members of the national guard or of any reserve component of the armed forces of the United States, shall be entitled to leave of absence from their respective duties, without loss of time, pay, regular leave, impairment of efficiency rating, or of any other rights or benefits, to which otherwise entitled, for all periods of military services during which they are engaged in the performance of duty or training in the service of this state at the call of the governor and as ordered by the adjutant general without regard to length of time, and for all periods of military services during which they are engaged in the performance of duty in the service of the United States under competent orders for a period not to exceed a total of **[**fifteen calendar days**] one hundred twenty hours** in any federal fiscal year.

2. Before any payment of salary is made covering the period of the leave the officer or the employee shall file with the appointing authority or supervising agency an official order from the appropriate military authority as evidence of such duty for which military leave pay is granted which order shall contain the certification of the officer or employee's commanding officer of performance of duty in accordance with the terms of such order.

3. No member of the organized militia shall be discharged from employment by any of the aforementioned agencies because of being a member of the organized militia, nor shall he be hindered or prevented from performing any militia service he may be called upon to perform by proper authority nor otherwise be discriminated against or dissuaded from enlisting or continuing his service in the militia by threat or injury to him in respect to his employment. Any officer or agent of the aforementioned agencies violating any of the provisions of this section is guilty of a misdemeanor.

4. Notwithstanding the provisions of any other administrative rule or law to the contrary, any person entitled to military leave pursuant to the provisions of subsection 1 of this section shall only be charged military leave for any hours which that person would otherwise have been required to work had it not been for such military leave. The minimum charge for military leave shall be one hour and additional charges for military leave shall be in multiples of the minimum charge.

Approved June 28, 2002

HB 1838 [HB 1838]

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

Revises licensing procedures for motor vehicle and watercraft dealers.

AN ACT to repeal section 301.560, RSMo, and to enact in lieu thereof one new section relating to licensure of motor vehicle and watercraft dealers.

SECTION

A. Enacting clause.
301.560. Application requirements, additional — bonds, fees, signs required — license number, certificate of numbers — duplicate dealer plates, issues, fees — test driving motor vehicles and vessels, use of plates.

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

SECTION A. ENACTING CLAUSE. — Section 301.560, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 301.560, to read as follows:

301.560. APPLICATION REQUIREMENTS, ADDITIONAL — BONDS, FEES, SIGNS REQUIRED — LICENSE NUMBER, CERTIFICATE OF NUMBERS — DUPLICATE DEALER PLATES, ISSUES, FEES — TEST DRIVING MOTOR VEHICLES AND VESSELS, USE OF PLATES. — 1. In addition to the application forms prescribed by the department, each applicant shall submit the following to the department:

(1) **Every application other than a renewal application for a motor vehicle franchise dealer shall include a certification that the applicant has a bona fide established place of business.** When the application is being made for licensure as a manufacturer, **[**boat manufacturer,**]** motor vehicle dealer, **[**boat dealer,**]** wholesale motor vehicle dealer, wholesale motor vehicle auction or a public motor vehicle auction, **[**a**]** certification **shall be performed** by a uniformed member of the Missouri state highway patrol stationed in the troop area in which the applicant's place of business is located; except, that in counties of the first classification, certification may be **[**authorized**] performed** by an officer of a metropolitan police department when the applicant's established place of business of distributing or selling motor vehicles or trailers is in the metropolitan area where the certifying metropolitan police officer is employed**[**, that the applicant has a bona fide established place of business**]**. **When the application is being made for licensure as a boat manufacturer or boat dealer, certification shall be performed by a uniformed member of the Missouri state water patrol stationed in the district area in which the applicant's place of business is located or by a uniformed member of the Missouri state highway patrol stationed in the troop area in which the applicant's place of business is located or, if the applicant's place of business is located within the jurisdiction of a metropolitan police department in a first class county, by an officer of such metropolitan police department.** A bona fide established place of business for any new motor vehicle franchise dealer or used motor vehicle dealer shall include a permanent enclosed building or structure, either owned in fee or leased and actually occupied as a place of business by the applicant for the selling, bartering, trading or exchanging of motor vehicles or trailers and wherein the public may contact the owner or operator at any reasonable time, and wherein shall be kept and maintained the books, records, files and other matters required and necessary to conduct the business. The applicant's place of business shall contain a working telephone which shall be maintained during the entire registration year. In order to qualify as a bona fide established place of business for all applicants licensed pursuant to this section there shall be an exterior sign displayed carrying the name and class of business conducted in letters at least six inches in height and clearly visible to the public and there shall be an area or lot which shall not

be a public street on which one or more vehicles may be displayed, except when licensure is for a wholesale motor vehicle dealer, a lot and sign shall not be required. When licensure is for a boat dealer, a lot shall not be required. In the case of new motor vehicle franchise dealers, the bona fide established place of business shall include adequate facilities, tools and personnel necessary to properly service and repair motor vehicles and trailers under their franchisor's warranty;

(2) If the application is for licensure as a manufacturer, boat manufacturer, new motor vehicle franchise dealer, used motor vehicle dealer, wholesale motor vehicle auction, boat dealer or a public motor vehicle auction, a photograph, not to exceed eight inches by ten inches, showing the business building and sign shall accompany the initial application. In the case of a manufacturer, new motor vehicle franchise dealer or used motor vehicle dealer, the photograph shall include the lot of the business. A new motor vehicle franchise dealer applicant who has purchased a currently licensed new motor vehicle franchised dealership shall be allowed to submit a photograph of the existing dealership building, lot and sign but shall be required to submit a new photograph upon the installation of the new dealership sign as required by sections 301.550 to 301.573. Applicants shall not be required to submit a photograph annually unless the business has moved from its previously licensed location, or unless the name of the business or address has changed, or unless the class of business has changed;

(3) If the application is for licensure as a wholesale motor vehicle dealer or as a boat dealer, the application shall contain the business address, not a post office box, and telephone number of the place where the books, records, files and other matters required and necessary to conduct the business are located and where the same may be inspected during normal daytime business hours. Wholesale motor vehicle dealers and boat dealers shall file reports as required of new franchised motor vehicle dealers and used motor vehicle dealers;

(4) Every applicant as a new motor vehicle franchise dealer, a used motor vehicle dealer, a wholesale motor vehicle dealer, or boat dealer shall furnish with the application a corporate surety bond or an irrevocable letter of credit as defined in section 400.5-103, RSMo, issued by any state or federal financial institution in the penal sum of twenty-five thousand dollars on a form approved by the department. The bond or irrevocable letter of credit shall be conditioned upon the dealer complying with the provisions of the statutes applicable to new motor vehicle franchise dealers, used motor vehicle dealers, wholesale motor vehicle dealers and boat dealers, and the bond shall be an indemnity for any loss sustained by reason of the acts of the person bonded when such acts constitute grounds for the suspension or revocation of the dealer's license. The bond shall be executed in the name of the state of Missouri for the benefit of all aggrieved parties or the irrevocable letter of credit shall name the state of Missouri as the beneficiary; except, that the aggregate liability of the surety or financial institution to the aggrieved parties shall, in no event, exceed the amount of the bond or irrevocable letter of credit. The proceeds of the bond or irrevocable letter of credit shall be paid upon receipt by the department of a final judgment from a Missouri court of competent jurisdiction against the principal and in favor of an aggrieved party;

(5) Payment of all necessary license fees as established by the department. In establishing the amount of the annual license fees, the department shall, as near as possible, produce sufficient total income to offset operational expenses of the department relating to the administration of sections 301.550 to 301.573. All fees payable pursuant to the provisions of sections 301.550 to 301.573, other than those fees collected for the issuance of dealer plates or certificates of number collected pursuant to subsection 6 of this section, shall be collected by the department for deposit in the state treasury to the credit of the "Motor Vehicle Commission Fund", which is hereby created. The motor vehicle commission fund shall be administered by the Missouri department of revenue. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in such fund shall not be transferred and placed to the credit of the general revenue fund until the amount in the motor vehicle commission fund at the end of the biennium exceeds two times the amount of the appropriation from such fund for the preceding fiscal year or, if the department

requires permit renewal less frequently than yearly, then three times the appropriation from such 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 multiple of the appropriation from such fund for the preceding fiscal year.

2. In the event a new manufacturer, boat manufacturer, motor vehicle dealer, wholesale motor vehicle dealer, boat dealer, wholesale motor vehicle auction or a public motor vehicle auction submits an application for a license for a new business and the applicant has complied with all the provisions of this section, the department shall make a decision to grant or deny the license to the applicant within eight working hours after receipt of the dealer's application, notwithstanding any rule of the department.

3. Upon the initial issuance of a license by the department, the department shall assign a distinctive dealer license number or certificate of number to the applicant and the department shall issue one number plate or certificate bearing the distinctive dealer license number or certificate of number within eight working hours after presentment of the application. Upon the renewal of a boat dealer, boat manufacturer, manufacturer, motor vehicle dealer, public motor vehicle auction, wholesale motor vehicle dealer or wholesale motor vehicle auction, the department shall issue the distinctive dealer license number or certificate of number as quickly as possible. The issuance of such distinctive dealer license number or certificate of number shall be in lieu of registering each motor vehicle, trailer, vessel or vessel trailer dealt with by a boat dealer, boat manufacturer, manufacturer, public motor vehicle auction, wholesale motor vehicle dealer, wholesale motor vehicle auction or motor vehicle dealer.

4. Notwithstanding any other provision of the law to the contrary, the department shall assign the following distinctive dealer license numbers to:

New motor vehicle franchise dealers . . . . . D-0 through D-999
New motor vehicle franchise and commercial
motor vehicle dealers . . . . . D-1000 through D-1999
Used motor vehicle dealers . . . . . D-2000 through D-5399
and D-6000 through D-9999
Wholesale motor vehicle dealers. . . . . W-1000 through W-1999
Wholesale motor vehicle auctions. . . . . W-2000 through W-2999
Trailer dealers. . . . . T-0 through T-9999
Motor vehicle and trailer manufacturers . . . . . M-0 through M-9999
Motorcycle dealers . . . . . D-5400 through D-5999
Public motor vehicle auctions . . . . . A-1000 through A-1999
Boat dealers and boat manufacturers. . . . . B-0 through B-9999

5. Upon the sale of a currently licensed new motor vehicle franchise dealership the department shall, upon request, authorize the new approved dealer applicant to retain the selling dealer's license number and shall cause the new dealer's records to indicate such transfer.

6. In the case of manufacturers and motor vehicle dealers, the department shall also issue one number plate bearing the distinctive dealer license number to the applicant upon payment by the manufacturer or dealer of a fifty-dollar fee. 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. Boat dealers and boat manufacturers shall be entitled to one certificate of number bearing such number upon the payment of a fifty-dollar fee. As many additional number plates as may be desired by manufacturers and motor vehicle dealers and as many additional certificates of number as may be desired by boat dealers and boat manufacturers may be obtained upon payment of a fee of ten dollars and fifty cents for each additional plate or certificate. A motor vehicle dealer, boat dealer, manufacturer, boat manufacturer, public motor vehicle auction, wholesale motor vehicle dealer or wholesale motor vehicle auction obtaining a dealer license plate or certificate of number or additional license plate or additional certificate of number, throughout the calendar year, shall be required to pay a fee for such license plates or certificates of number computed on the basis of

one-twelfth of the full fee prescribed for the original and duplicate number plates or certificates of number for such dealers' licenses, multiplied by the number of months remaining in the licensing period for which the dealer or manufacturers shall be required to be licensed. In the event of a renewing dealer, the fee due at the time of renewal shall not be prorated.

7. The plates issued pursuant to subsection 3 or 6 of this section may be displayed on any motor vehicle owned and held for resale by the motor vehicle dealer or manufacturer, and used by a customer who is test driving the motor vehicle, or is used by an employee or officer, but shall not be displayed on any motor vehicle or trailer hired or loaned to others or upon any regularly used service or wrecker vehicle. Motor vehicle dealers may display their dealer plates on a tractor, truck or trailer to demonstrate a vehicle under a loaded condition.

8. The certificates of number issued pursuant to subsection 3 or 6 of this section may be displayed on any vessel or vessel trailer owned and held for resale by a boat manufacturer or a boat dealer, and used by a customer who is test driving the vessel or vessel trailer, or is used by an employee or officer, but shall not be displayed on any vessel or vessel trailer hired or loaned to others or upon any regularly used service vessel or vessel trailer. Boat dealers and manufacturers may display their certificate of number on a vessel or vessel trailer which is being transported to an exhibit or show.

Approved June 13, 2002

HB 1839 [HB 1839]

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

Changes voting requirements for dissolution of certain special road districts.

AN ACT to repeal section 233.160, RSMo, and to enact in lieu thereof one new section relating to dissolution of special road districts.

SECTION
A. Enacting clause.
233.160. Dissolution of special road district — procedure.

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

SECTION A. ENACTING CLAUSE. — Section 233.160, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 233.160, to read as follows:

233.160. DISSOLUTION OF SPECIAL ROAD DISTRICT — PROCEDURE. — 1. If any district has adopted the provisions of sections 233.010 to 233.165, the question may be resubmitted after the expiration of four years upon the petition of fifty voters of that district at an election.

2. The question shall be submitted in substantially the following form:

Shall the special road district be dissolved?

3. If a majority of the votes **[**upon such proposition are against it**] cast are in favor of the dissolution**, the district shall be disincorporated and the operation of the law shall cease in that district. In all other respects the election, and the results thereof, are governed by **[**the provisions of**]** sections 233.010 to 233.165.

Approved July 3, 2002

HB 1840 [HB 1840]

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

Revises law on electronic reporting system for lobbyist reports.

AN ACT to repeal section 105.477, RSMo, and to enact in lieu thereof one new section relating to electronic filing of lobbying reports.

SECTION
A. Enacting clause.
105.477. Electronic filing, lobbying reports — information to be made available, to whom — Internet web site connection, when.

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

SECTION A. ENACTING CLAUSE. — Section 105.477, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 105.477, to read as follows:

105.477. ELECTRONIC FILING, LOBBYING REPORTS — INFORMATION TO BE MADE AVAILABLE, TO WHOM — INTERNET WEB SITE CONNECTION, WHEN. — 1. The commission shall supply **[**a computer program**] an electronic reporting system** which shall be used **by all lobbyists registered with the ethics commission** for filing by **[**modem or by a common magnetic media chosen**] electronic format prescribed** by the commission. The **[**computer program**] electronic reporting system** shall be able to **[**run on DOS,**] operate using either the** Windows or Macintosh **[**based personal computers or run on any other common personal computer operating environment which may become available in the future**] operating environment with minimum standards set by the commission**.

2. The commission shall have the appropriate software and hardware in place by January 1, **[**1998**] 2003**, for acceptance of reports electronically. The commission shall make this information available via an Internet web site connection by no later than January 1, **[**1999**] 2004**.

3. All lobbyists shall file expenditure reports required by the commission electronically **[**either through modem or common magnetic media**] as prescribed by the commission**. In addition, lobbyists shall file a signed form prescribed by the commission which verifies the information filed electronically within five working days; except that, **[**if**] when** a means becomes available which will allow a verifiable electronic signature, the commission may accept this in lieu of a **[**written statement**] signed form**.

4. All records that are in electronic format, not otherwise closed by law, shall be available in electronic format to the public. The commission shall maintain and provide for public inspection, a listing of all reports, with a complete description for each field contained on the report, that has been used to extract information from their database files. The commission shall develop a report or reports which contain every field in each database.

5. Annually, the commission shall provide**[**, without cost, a system-wide dump of**] to the general assembly at no cost a complete copy of** information contained in the commission's electronic **reporting system** database files **[**to the general assembly**]**. The information **[**is to**] shall** be copied onto a medium specified by the general assembly. Such information shall not contain records otherwise closed by law. It is the intent of the general assembly to provide open access to the commission's records. The commission shall make every reasonable effort to comply with requests for information and shall take a liberal interpretation when considering such requests. Priority shall be given to public requests for reports identifying lobbyist or lobbyist principal expenditures per individual legislator.

Approved July 10, 2002

HB 1846 [SCS HB 1846]

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

Changes reporting due dates of town and village financial reports.

AN ACT to repeal section 80.210, RSMo, and to enact in lieu thereof one new section relating to boards of trustees of towns and villages.

SECTION
A. Enacting clause.
80.210. Trustees — semiannual reports.

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

SECTION A. ENACTING CLAUSE. — Section 80.210, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 80.210, to read as follows:

80.210. TRUSTEES — SEMIANNUAL REPORTS. — The chairman of each board of trustees shall, **[**on the first days of March and September in each year**]** **semiannually**, make out a correct statement of all moneys received and expended on account of their respective towns during the six months next preceding; and shall cause such statement, within ten days thereafter, to be published, either in some newspaper printed in the same town, or by causing copies of such statement to be put up in six of the most public places in such town.

Approved July 3, 2002

HB 1849 [SCS HB 1849]

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

Authorizes a conveyance of state property to the Crawford County Commission.

AN ACT to authorize the conveyance of property owned by the state in the county of Crawford to the county commission of Crawford County, with an emergency clause.

SECTION
1. Conveyance of property located in Crawford County and owned by the state of Missouri to the county commission of Crawford County.
A. Emergency clause.

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

SECTION 1. CONVEYANCE OF PROPERTY LOCATED IN CRAWFORD COUNTY AND OWNED BY THE STATE OF MISSOURI TO THE COUNTY COMMISSION OF CRAWFORD COUNTY. — 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 the county of Crawford to the county commission of Crawford County. The property to be conveyed is more particularly described as follows:

All that part of land described in Book 229, Page 161, Crawford County Records, all in Section 35, Township 40 North, Range 2 West, Crawford County, Missouri which lies within the following described right of way of Crawford County Bridge Project 14100121.

The project centerline for Sappington Bridge Road of said Crawford County Bridge Project is described as follows:

Commencing at the Southeast corner of the Northeast Quarter of said Section 35, thence North 78 degrees 06 minutes 20 seconds West, 1699.27 feet to a point, said point being shown on the plans of the proposed project as construction centerline station 0+00, Sappington Bridge Road; thence South 67 degrees 18 minutes 50 seconds East, 22.64 feet to the beginning of a curve, concave southwest, having a radius of 251.85 feet; thence southeasterly 216.64 feet along the arc of said curve through a central angle of 49 degrees 17 minutes 10 seconds to a point of reverse curvature of a curve having a radius of 251.85 feet; thence southeasterly 432.05 feet along the arc of said curve through a central angle of 98 degrees 17 minutes 21 seconds; thence North 63 degrees 40 minutes 59 seconds East, 351.70 feet to the beginning of a curve, concave southeast, having a radius of 251.85 feet; thence northeasterly 157.82 feet along the arc of said curve through a central angle of 35 degrees 54 minutes 17 seconds; thence South 80 degrees 24 minutes 44 seconds East, 169.15 feet to the ending point, said point being South 69 degrees 42 minutes 23 seconds East, 546.70 feet from the Southeast corner of the Northeast Quarter of said Section 35, said point being shown on the plans of the proposed as construction centerline station 13+50 at the end point of this description in the existing centerline of Sappington Bridge Road.

Widths of new right of way on the right side of the above described project centerline are as follows:

A tract of land having a width of 25.00 feet right of and adjacent to the above described project centerline at station 4+15.55; thence along a curve to the left 25.00 feet right of and parallel to the above described project centerline to a point 25.00 feet right of station 5+00; thence on a direct line to a point 82.00 feet right of station 6+71.32; thence on a direct line to a point 85.00 feet right of station 7+35.34; thence on a direct line to a point 55.00 feet right of station 7+84.39; thence on a direct line to a point 55.00 feet right of station 8+54.34.

Containing 21,634 square feet or 0.50 acres more or less, and being subject to easements of record.

Widths of new right of way on the left side of the above descried project centerline are as follows:

A tract of land having a width of 25.00 feet left of and adjacent to the above described project centerline at station 4+13.55; thence along a curve to the left 25.00 feet left of and parallel to the above described project centerline to a point 25.00 feet right of station 5+51.02; thence on a direct line to a point 90.00 feet left of station 6+15.08; thence on a direct line to a point 110.80 feet left of station 7+76.09.

Containing 24,880 square feet or 0.57 acres more or less, and being subject to easements of record.

Also a temporary construction easement more particularly described as follows:

Widths of temporary construction easement on the right side of the above described project centerline are as follows: A tract of land having a width of 40.00 feet right of and adjacent to the above described project centerline at station 4+16.01; thence along a curve to the left 40.00 feet right of and parallel to the above described project centerline to a point 40.00 feet right of station 5+12.75; thence on a direct line to a point 80.00 feet right of station 5+27.63; thence on a direct line to a point 150.00 feet right of station 5+90.01; thence on a direct line to a point 217.00 feet right of station 6+84.93; thence on a direct line to a point 117.00 feet right of station 8+83.60, said point being the terminus of said temporary construction easement.

Containing 44,000 square feet or 1.01 acres more or less, and being subject to easements of record, except for that contained in the above described right of way easement.

Widths of temporary construction easement on the left side of the above described project centerline are as follows:

A tract of land having a width of 40.00 feet left of and adjacent to the above described project centerline at station 4+12.77; thence along a curve to the left 40.00 feet left of and parallel to the above described project centerline to a point 40.00 feet left of station 5+40.86; thence on a direct line to a point 104.00 feet left of station 6+04.44; thence on a direct line to a point 125.00 feet left of station 7+69.39, said point being the terminus of said temporary construction easement.

Containing 4,998 square feet or 0.11 acres more or less, and being subject to easements of record, except for that contained in the above described right of way easement.

Upon completion of the construction of said Crawford County Bridge Project 14100121, the easement rights in the above descried temporary construction easement shall cease and be no longer in effect.

2. The commissioner of administration shall convey the property to the county for the sum of one dollar.

3. The attorney general shall approve as to form of the instrument of conveyance.

SECTION A. EMERGENCY CLAUSE. — Because immediate action is necessary to provide for necessary transportation infrastructure, 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 12, 2002

HB 1861 [HB 1861]

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

Authorizes a conveyance of state property to the Habitat for Humanity of St. Francois County.

AN ACT to authorize the conveyance of property owned by the state in the County of St. Francois to the Habitat for Humanity of St. Francois County.

SECTION

1. Conveyance of property owned by St. Francois County to Habitat for Humanity of St. Francois County.

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

SECTION 1. CONVEYANCE OF PROPERTY OWNED BY ST. FRANCOIS COUNTY TO HABITAT FOR HUMANITY OF ST. FRANCOIS COUNTY. — 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 the County of St. Francois, State of Missouri, to the Habitat for Humanity of St. Francois County. The property to be conveyed is more particularly described as follows:

A tract of land situated in the city of Farmington and the state of Missouri, lying in part of Lot 70 of the Subdivision of United States Survey 2969, Township 35 North, Range 5 East of the fifth Principal Meridian, described as follows, to wit: Commencing at the Southeast corner of Lot 4 of Crosswinds - Amended Plat 1, a subdivision filed for record in Plat Book 14 at Page 42, being on the West right-of-way line of Perrine Road, the POINT OF BEGINNING of the tract herein described; thence South 07 05'05" West 150.00' along said West right-of-way line; thence leaving said West right-of-way line, North 82 45'45" West 167.67'; thence North 07 05'05" East 150.00' to the Southwest corner of Lot 42 of Crosswinds - Plat 2, a subdivision filed for record in Plat Book 15 at Page 163; thence South 82 45'45" East 167.67' along the South line of said Lot 42 and said Lot 4 to the point of beginning. Containing 0.58 acres, more or less.

SUBJECT TO ALL easements, conditions, restrictions and right-of-ways of record and those not of record.

2. The commissioner of administration shall set the terms and conditions for the sale 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 sale.

3. The attorney general shall approve as to form of the instrument of conveyance.

Approved June 12, 2002

HB 1888 [SS SCS HCS HB 1888]

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

Requires Internet access of pawnshop information to law enforcement officials.

AN ACT to repeal sections 150.465, 191.905, 252.235, 367.031, 367.044, 367.055, 569.095, 569.097, 569.099, 570.010, 570.020, 570.030, 570.040, 570.080, 570.085, 570.090, 570.120, 570.123, 570.125, 570.130, 570.210, 570.300, 578.150, 578.377, 578.379, 578.381 and 578.385, RSMo, relating to stolen property and services, and to enact in lieu thereof twenty-seven new sections relating to the same subject, with penalty provisions.

SECTION

A. Enacting clause.
150.465. Sale by itinerant vendors and peddlers of baby food, drugs, cosmetics, devices — exception — penalty.
191.905. False statement to receive health care payment prohibited — kickback, bribe, purpose, prohibited, exceptions — abuse prohibited — penalty — prosecution, procedure — Medicaid fraud reimbursement fund created — restitution — civil penalty — notification to disciplinary agencies — civil action authorized.
252.235. Sale of any species of wildlife, fish parts thereof or eggs taken in violation of rules — penalties — sale and property defined.
367.031. Receipt for pledged property — contents — definitions — third party charge for database — access to database information, limitations — error in data, procedure — loss of pawn ticket, effect.
367.044. Definitions — pledged goods for money, pawnbroker entitled only to goods pledged, exception, misappropriated goods — procedure to recover.
367.055. Inspection of property, search warrant required — hold order, probable cause, contents, expiration — confidentiality.
569.095. Tampering with computer data, penalties.
569.097. Tampering with computer equipment, penalties.
569.099. Tampering with computer users, penalties.
570.010. Chapter definitions.
570.020. Determination of value.

570.030. Stealing — penalties.
570.040. Stealing, third offense.
570.080. Receiving stolen property.
570.085. Alteration or removal of item numbers with intent to deprive lawful owner.
570.090. Forgery.
570.120. Crime of passing bad checks, penalty — actual notice given, when — assessment of costs, amount — payroll checks, action, when — service charge may be collected — return of bad check to depositor by financial institution must be on condition that issuer is identifiable.
570.123. Civil action for damages for passing bad checks, only original holder may bring action — limitations — notice requirements — payroll checks, action to be against employer.
570.125. Fraudulently stopping payment on an instrument, penalties.
570.130. Fraudulent use of a credit device or debit device — penalty.
570.210. Library theft, penalty.
570.300. Theft of cable television service, penalty.
578.150. Failure to return rented personal property — prima facie evidence, when — law enforcement procedure — penalty — venue — notice, contents — exception.
578.377. Unlawful receipt of food stamps or ATP cards — grades of offense, penalty.
578.379. Unlawful conversion of food stamps or ATP cards — grades of offense, penalty.
578.381. Unlawful transfer of food stamps or ATP cards — grades of offense, penalty.
578.385. Perjury — committed when obtaining public assistance, penalty.
B. Severability clause.

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

SECTION A. ENACTING CLAUSE. — Sections 150.465, 191.905, 252.235, 367.031, 367.044, 367.055, 569.095, 569.097, 569.099, 570.010, 570.020, 570.030, 570.040, 570.080, 570.085, 570.090, 570.120, 570.123, 570.125, 570.130, 570.210, 570.300, 578.150, 578.377, 578.379, 578.381 and 578.385, RSMo, are repealed and twenty-seven new sections enacted in lieu thereof, to be known as sections 150.465, 191.905, 252.235, 367.031, 367.044, 367.055, 569.095, 569.097, 569.099, 570.010, 570.020, 570.030, 570.040, 570.080, 570.085, 570.090, 570.120, 570.123, 570.125, 570.130, 570.210, 570.300, 578.150, 578.377, 578.379, 578.381 and 578.385, to read as follows:

150.465. SALE BY ITINERANT VENDORS AND PEDDLERS OF BABY FOOD, DRUGS, COSMETICS, DEVICES — EXCEPTION — PENALTY. — 1. No itinerant vendor as defined in section 150.380, and no peddler as defined in section 150.470, shall offer for sale:

(1) Any food solely manufactured and packaged for sale for consumption by a child under the age of two years; or

(2) Drugs, devices and cosmetics as defined in section 196.010, RSMo.

2. This section shall not apply to authorized agents of a manufacturer of any item enumerated in subsection 1 of this section.

3. Violation of this section is a class A misdemeanor.

4. Itinerant vendors and peddlers shall make available within seventy-two hours upon request of any law enforcement officer any proof of purchase from a producer, manufacturer, wholesaler, or retailer of any new or unused property, as defined in section 570.010, RSMo.

5. Any forged receipt produced pursuant to subsection 4 of this section shall be prosecuted pursuant to section 570.090, RSMo.

191.905. FALSE STATEMENT TO RECEIVE HEALTH CARE PAYMENT PROHIBITED — KICKBACK, BRIBE, PURPOSE, PROHIBITED, EXCEPTIONS — ABUSE PROHIBITED — PENALTY — PROSECUTION, PROCEDURE — MEDICAID FRAUD REIMBURSEMENT FUND CREATED — RESTITUTION — CIVIL PENALTY — NOTIFICATION TO DISCIPLINARY AGENCIES — CIVIL ACTION AUTHORIZED. — 1. No health care provider shall knowingly make or cause to be made a false statement or false representation of a material fact in order to receive a health care payment, including but not limited to:

(1) Knowingly presenting to a health care payer a claim for a health care payment that falsely represents that the health care for which the health care payment is claimed was medically necessary, if in fact it was not;

(2) Knowingly concealing the occurrence of any event affecting an initial or continued right under a medical assistance program to have a health care payment made by a health care payer for providing health care;

(3) Knowingly concealing or failing to disclose any information with the intent to obtain a health care payment to which the health care provider or any other health care provider is not entitled, or to obtain a health care payment in an amount greater than that which the health care provider or any other health care provider is entitled;

(4) Knowingly presenting a claim to a health care payer that falsely indicates that any particular health care was provided to a person or persons, if in fact health care of lesser value than that described in the claim was provided.

2. No person shall knowingly solicit or receive any remuneration, including any kickback, bribe, or rebate, directly or indirectly, overtly or covertly, in cash or in kind in return for:

(1) Referring another person to a health care provider for the furnishing or arranging for the furnishing of any health care; or

(2) Purchasing, leasing, ordering or arranging for or recommending purchasing, leasing or ordering any health care.

3. No person shall knowingly offer or pay any remuneration, including any kickback, bribe, or rebate, directly or indirectly, overtly or covertly, in cash or in kind, to any person to induce such person to refer another person to a health care provider for the furnishing or arranging for the furnishing of any health care.

4. Subsections 2 and 3 of this section shall not apply to a discount or other reduction in price obtained by a health care provider if the reduction in price is properly disclosed and appropriately reflected in the claim made by the health care provider to the health care payer, or any amount paid by an employer to an employee for employment in the provision of health care.

5. Exceptions to the provisions of subsections 2 and 3 of this subsection shall be provided for as authorized in 42 U.S.C. section 1320a-7b(3)(E), as may be from time to time amended, and regulations promulgated pursuant thereto.

6. No person shall knowingly abuse a person receiving health care.

7. A person who violates subsections 1 to 4 of this section is guilty of a class D felony upon his first conviction, and shall be guilty of a class C felony upon his second and subsequent convictions. A prior conviction shall be pleaded and proven as provided by section 558.021, RSMo. A person who violates subsection 6 of this section shall be guilty of a class C felony, unless the act involves no physical, sexual or emotional harm or injury and the value of the property involved is less than **[**one hundred fifty**]** **five hundred** dollars, in which event a violation of subsection 6 of this section is a class A misdemeanor.

8. Each separate false statement or false representation of a material fact proscribed by subsection 1 of this section or act proscribed by subsection 2 or 3 of this section shall constitute a separate offense and a separate violation of this section, whether or not made at the same or different times, as part of the same or separate episodes, as part of the same scheme or course of conduct, or as part of the same claim.

9. In a prosecution **[**under**]** **pursuant to** subsection 1 of this section, circumstantial evidence may be presented to demonstrate that a false statement or claim was knowingly made. Such evidence of knowledge may include but shall not be limited to the following:

(1) A claim for a health care payment submitted with the health care provider's actual, facsimile, stamped, typewritten or similar signature on the claim for health care payment;

(2) A claim for a health care payment submitted by means of computer billing tapes or other electronic means;

(3) A course of conduct involving other false claims submitted to this or any other health care payer.

10. Any person convicted of a violation of this section, in addition to any fines, penalties or sentences imposed by law, shall be required to make restitution to the federal and state governments, in an amount at least equal to that unlawfully paid to or by the person, and shall be required to reimburse the reasonable costs attributable to the investigation and prosecution pursuant to sections 191.900 to 191.910. All of such restitution shall be paid and deposited to the credit of the "Medicaid Fraud Reimbursement Fund", which is hereby established in the state treasury. Moneys in the Medicaid fraud reimbursement fund shall be divided and appropriated to the federal government and affected state agencies in order to refund moneys falsely obtained from the federal and state governments. All of such cost reimbursements attributable to the investigation and prosecution shall be paid and deposited to the credit of the "Medicaid Fraud Prosecution Revolving Fund", which is hereby established in the state treasury. Moneys in the Medicaid fraud prosecution revolving fund may be appropriated to the attorney general, or to any prosecuting or circuit attorney who has successfully prosecuted an action for a violation of sections 191.900 to 191.910 and been awarded such costs of prosecution, in order to defray the costs of the attorney general and any such prosecuting or circuit attorney in connection with their duties provided by sections 191.900 to 191.910. No moneys shall be paid into the Medicaid fraud protection revolving fund pursuant to this subsection unless the attorney general or appropriate prosecuting or circuit attorney shall have commenced a prosecution pursuant to this section, and the court finds in its discretion that payment of attorneys' fees and investigative costs is appropriate under all the circumstances, and the attorney general and prosecuting or circuit attorney shall prove to the court those expenses which were reasonable and necessary to the investigation and prosecution of such case, and the court approves such expenses as being reasonable and necessary. The provisions of section 33.080, RSMo, notwithstanding, moneys in the Medicaid fraud prosecution revolving fund shall not lapse at the end of the biennium.

11. A person who violates subsections 1 to 4 of this section shall be liable for a civil penalty of not less than five thousand dollars and not more than ten thousand dollars for each separate act in violation of such subsections, plus three times the amount of damages which the state and federal government sustained because of the act of that person, except that the court may assess not more than two times the amount of damages which the state and federal government sustained because of the act of the person, if the court finds:

(1) The person committing the violation of this section furnished personnel employed by the attorney general and responsible for investigating violations of sections 191.900 to 191.910 with all information known to such person about the violation within thirty days after the date on which the defendant first obtained the information;

(2) Such person fully cooperated with any government investigation of such violation; and

(3) At the time such person furnished the personnel of the attorney general with the information about the violation, no criminal prosecution, civil action, or administrative action had commenced with respect to such violation, and the person did not have actual knowledge of the existence of an investigation into such violation.

12. Upon conviction **[**under**]** **pursuant to** this section, the prosecution authority shall provide written notification of the conviction to all regulatory or disciplinary agencies with authority over the conduct of the defendant health care provider.

13. The attorney general may bring a civil action against any person who shall receive a health care payment as a result of a false statement or false representation of a material fact made or caused to be made by that person. The person shall be liable for up to double the amount of all payments received by that person based upon the false statement or false representation of a material fact, and the reasonable costs attributable to the prosecution of the civil action. All such restitution shall be paid and deposited to the credit of the Medicaid fraud reimbursement fund, and all such cost reimbursements shall be paid and deposited to the credit of the Medicaid fraud prosecution revolving fund. No reimbursement of such costs attributable to the prosecution of the civil action shall be made or allowed except with the approval of the court having jurisdiction of the civil action. No civil action provided by this subsection shall be brought if restitution and

civil penalties provided by subsections 10 and 11 of this section have been previously ordered against the person for the same cause of action.

252.235. SALE OF ANY SPECIES OF WILDLIFE, FISH PARTS THEREOF OR EGGS TAKEN IN VIOLATION OF RULES — PENALTIES — SALE AND PROPERTY DEFINED. — The sale, taking for sale or possession for sale of any species of fish or wildlife, or parts thereof, which shall include eggs, which have been taken or possessed in violation of the rules and regulations of the commission, is prohibited. Any person violating the provisions of this section shall be guilty of a class A misdemeanor for the first offense if the sale amounts to less than **[**one hundred fifty**] five hundred** dollars. Any person violating the provisions of this section shall be guilty of a class D felony for the second and subsequent offense if the sale amounts to less than **[**one hundred fifty**] five hundred** dollars. Any person violating the provisions of this section shall be guilty of a class C felony for the first and all subsequent offenses if the sale amounts to **[**more than one hundred fifty**] five hundred** dollars **or more**. "Sale" means the exchange of an amount of money, other negotiable instruments, or property of value received by the person or persons selling the prohibited species. "Sale", for purposes of this section, shall also mean the intention to exchange an amount of money, other negotiable instruments or property of value for a prohibited species. For the purposes of this section "property" is defined by section 570.010, RSMo, and value shall be ascertained as set forth in section 570.020, RSMo.

367.031. RECEIPT FOR PLEDGED PROPERTY — CONTENTS — DEFINITIONS — THIRD PARTY CHARGE FOR DATABASE — ACCESS TO DATABASE INFORMATION, LIMITATIONS — ERROR IN DATA, PROCEDURE — LOSS OF PAWN TICKET, EFFECT. — 1. At the time of making any secured personal credit loan, the lender shall execute and deliver to the borrower a receipt for and describing the tangible personal property subjected to the security interest to secure the payment of the loan. The receipt shall contain the following:

(1) The name and address of the pawnshop;

(2) The name and address of the pledgor, the pledgor's description, and the driver's license number, military identification number, identification certificate number, or other official number capable of identifying the pledgor;

(3) The date of the transaction;

(4) An identification and description of the pledged goods, including serial numbers if reasonably available;

(5) The amount of cash advanced or credit extended to the pledgor;

(6) The amount of the pawn service charge;

(7) The total amount which must be paid to redeem the pledged goods on the maturity date;

(8) The maturity date of the pawn transaction; and

(9) A statement to the effect that the pledgor is not obligated to redeem the pledged goods, and that the pledged goods may be forfeited to the pawnbroker sixty days after the specified maturity date.

2. The pawnbroker may be required, in accordance with local ordinances, to furnish **[**local**] appropriate** law enforcement authorities with copies of information contained in subdivisions (1) to (4) of subsection 1 of this section **and information contained in subdivision (6) of subsection 4 of section 367.040. The pawnbroker may satisfy such requirements by transmitting such information electronically to a database in accordance with this section, except that paper copies shall be made available for an on-site inspection upon request of any appropriate law enforcement authority.**

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

(1) "Database", a computer database established and maintained by a third party engaged in the business of establishing and maintaining one or more databases;

(2) "Permitted user", persons authorized by law enforcement personnel to access the database;

(3) "Reportable data", the information required to be recorded by pawnbrokers for pawn transactions pursuant to subdivisions (1) to (4) of subsection 1 of this section and the information required to be recorded by pawnbrokers for purchase transactions pursuant to subdivision (6) of subsection 4 of section 367.040;

(5) "Reporting pawnbroker", a pawnbroker who chooses to transmit reportable data electronically to the database;

(6) "Search", the accessing of a single database record.

4. The database shall provide appropriate law enforcement officials with the information contained in subdivisions (1) to (4) of subsection 1 of this section and other useful information to facilitate the investigation of alleged property crimes while protecting the privacy rights of pawnbrokers and pawnshop customers with regard to their transactions.

5. The database shall contain the pawn and purchase transaction information recorded by reporting pawnbrokers pursuant to this section and section 367.040 and shall be updated as requested. The database shall also contain such security features and protections as may be necessary to ensure that the reportable data maintained in the database can only be accessed by permitted users in accordance with the provisions of this section.

6. The third party's charge for the database shall be based on the number of permitted users. Law enforcement agencies shall be charged directly for access to the database, and the charge shall be reasonable in relation to the costs of the third party in establishing and maintaining the database. No reporting pawnbroker or customer of a reporting pawnbroker shall be charged any costs for the creation or utilization of the database.

7. (1) The information in the database shall only be accessible through the Internet to permitted users who have provided a secure identification or access code to the database but shall allow such permitted users to access database information from any jurisdiction transmitting such information to that database. Such permitted users shall provide the database with an identifier number of a criminal action for which the identity of the pawn or purchase transaction customer is needed and a representation that the information is connected to an inquiry or to the investigation of a complaint or alleged crime involving goods delivered by that customer in that transaction. The database shall record, for each search, the identity of the permitted user, the pawn or purchase transaction involved in the search, and the identity of any customer accessed through the search. Each search record shall be made available to other permitted users regardless of their jurisdiction. The database shall enable reporting pawnbrokers to transmit to the database through the Internet reportable data for each pawn and purchase transaction.

(2) Any person who gains access to information in the database through fraud or false pretenses shall be guilty of a class C felony.

8. Any pawnbroker licensed after August 28, 2002, shall meet the following requirements:

(1) Provide all reportable data to appropriate users by transmitting it through the Internet to the database;

(2) Transmit all reportable data for one business day to the database prior to the end of the following business day;

(3) Make available for on-site inspection to any appropriate law enforcement official, upon request, paper copies of any pawn or purchase transaction documents.

9. If a reporting pawnbroker or permitted user discovers any error in the reportable data, notice of such error shall be given to the database, which shall have a period of thirty days in which to correct the error. Any reporting pawnbroker experiencing a computer malfunction preventing the transmission of reportable data or receipt of search requests shall be allowed a period of at least thirty but no more than sixty days to repair such

malfunction, and during such period such pawnbroker shall not be deemed to be in violation of this section if good faith efforts are made to correct the malfunction. During the periods specified in this subsection, the reporting pawnbroker and permitted user shall arrange an alternative method or methods by which the reportable data shall be made available.

10. No reporting pawnbroker shall be obligated to incur any cost, other than Internet service costs, in preparing, converting, or delivering its reportable data to the database.

[3.**]** **11.** If the pawn ticket is lost, destroyed, or stolen, the pledgor may so notify the pawnbroker in writing, and receipt of such notice shall invalidate such pawn ticket, if the pledged goods have not previously been redeemed. Before delivering the pledged goods or issuing a new pawn ticket, the pawnbroker shall require the pledgor to make a written affidavit of the loss, destruction or theft of the ticket. The pawnbroker shall record on the written statement the identifying information required, the date the statement is given, and the number of the pawn ticket lost, destroyed, or stolen. The affidavit shall be signed by a notary public appointed by the secretary of state pursuant to section 486.205, RSMo, to perform notarial acts in this state.

367.044. DEFINITIONS — PLEDGED GOODS FOR MONEY, PAWNBROKER ENTITLED ONLY TO GOODS PLEDGED, EXCEPTION, MISAPPROPRIATED GOODS — PROCEDURE TO RECOVER. — 1. As used in sections 367.044 to 367.055, the following terms mean:

(1) "Claimant", a person who claims that property in the possession of a pawnbroker is misappropriated from the claimant and fraudulently pledged or sold to the pawnbroker;

(2) "Conveying customer", a person who delivers property into the possession of a pawnbroker, either through a pawn transaction, a sale or trade, which property is later claimed to be misappropriated;

(3) "Hold order", a written legal instrument issued to a pawnbroker by a law enforcement officer commissioned by the law enforcement agency of the municipality or county that licenses and regulates the pawnbroker, ordering the pawnbroker to retain physical possession of pledged goods in the possession of a pawnbroker or property purchased by and in the possession of a pawnbroker and not to return, sell or otherwise dispose of such property as such property is believed to be misappropriated goods;

(4) "Law enforcement officer", the sheriff or sheriff's deputy designated by the sheriff of the county in which the pawnbroker's pawnshop is located, or when the pawnbroker's pawnshop is located within a municipality, the police chief or police officer designated by the police chief of the municipality in which the pawnbroker's pawnshop is located;

(5) "Misappropriated", stolen, embezzled, converted, or otherwise wrongfully appropriated or pledged against the will of the rightful owner or party holding a perfected security interest;

(6) "Pledgor", a person who pledges property to the pawnbroker;

(7) "Purchaser", a person who purchases property from a pawnbroker; and

(8) "Seller", a person who sells property to a pawnbroker.

2. A pawnbroker shall have no recourse against the pledgor for payment on a pawn transaction except the pledged goods themselves, unless the goods are found to have been misappropriated.

3. **[**To obtain possession of tangible personal property held by a pawnbroker which a claimant claims to be misappropriated, the claimant may file a petition in a court of competent jurisdiction in the county where the theft occurred or where the pawnbroker's pawnshop is located, requesting the return of the property, naming the pawnbroker as a defendant and serving the pawnbroker with the petition. The provisions of section 482.305, RSMo, to the contrary notwithstanding, a court of competent jurisdiction shall include a small claims court, even if the value of the property named in the petition is greater than three thousand dollars. Upon receiving notice that a petition has been filed by a claimant for the return of property in the pawnbroker's possession, the pawnbroker shall hold the property identified in the claimant's petition until the right to possession is resolved by the parties or by a court of competent jurisdiction.

4. Upon being served notice that a petition has been filed pursuant to this section, the pawnbroker may, after determining the validity of the claimant's claim, return the property to the claimant prior to a decision being rendered on the claimant's petition by the court. The pawnbroker shall return the property to the claimant free of any principal, interest and service charges, conditioned only upon the claimant withdrawing the petition filed with a court of competent jurisdiction seeking the disposition of said property. Property voluntarily returned by a pawnbroker to a claimant subject to this subsection shall be returned:

(1) Immediately when the property is not subject to a pawn transaction contract; and

(2) When the property is subject to a pawn transaction contract, the pawnbroker shall deliver the property to the claimant immediately upon the termination of the pawn transaction contract, except that if the pledgor of the property subject to a claimant's claim attempts to redeem the property as provided for by the pawn transaction contract, the pawnbroker may collect any principal, interest or service charges due and shall hold the property until the right to possession is resolved by the parties or by a court of competent jurisdiction. The provisions of this section to the contrary notwithstanding, the pawnbroker shall not be required to pay any costs incurred by the claimant and the claimant shall not be required to pay any costs incurred by the pawnbroker when the property subject to the claimant's petition is returned to the claimant pursuant to this subsection.

5. When a claimant files a petition pursuant to this section, the pawnbroker may bring the conveying customer of the alleged misappropriated property into that action as a third-party defendant. When a claimant files a petition pursuant to this section, the pawnbroker shall bring the conveying customer of the alleged misappropriated property into that action as a third-party defendant if the pawnbroker has collected any principal, interest or service charges pursuant to subdivision (2) of subsection 4 of this section. If after notice to the pawnbroker and an opportunity to add the conveying customer as a defendant, the property in the possession of the pawnbroker is found by a court of competent jurisdiction to be the claimant's property and the property is awarded to the claimant by the court, then:

(1) The prevailing claimant may recover from the pawnbroker the cost of the action, including attorney's fees;

(2) The conveying customer shall be liable to repay the pawnbroker the full amount received from the pawnbroker from the pawn or sales transaction, including all applicable fees and interest charged and the costs incurred by the pawnbroker in pursuing the procedure described in this section, including attorney's fees.**] A pawnbroker shall require of every person from whom the pawnbroker receives sold or pledged property proof of identification which includes a current address and, if applicable, telephone number, and a current picture identification issued by state or federal government.**

4. If any seller fails to provide a pawnbroker with proof of identification, the pawnbroker shall hold such property for a period of thirty days prior to selling or otherwise transferring such property, provided, the seller has submitted a signed statement that the seller is the legal owner of the property and stating when or from whom such property was acquired by the seller.

5. To obtain possession of tangible personal property held by a pawnbroker which a clamant claims to be misappropriated, the claimant shall provide the pawnbroker with a written demand for the return of such property, a copy of a police or sheriff report wherein claimant reported the misappropriation or theft of said property and which contains a particularized description of the property or applicable serial number, and a signed affidavit made under oath setting forth they are the true owner of the property, the name and address of the claimant, a description of the property being claimed, the fact that such property was taken from the claimant without the claimant's consent, permission or knowledge, the fact that the claimant has reported the theft to the police, the fact that the claimant will assist in any prosecution relating to such property, the promise that the claimant will respond to court process in any criminal prosecution relating to said

property and will testify truthfully as to all facts within the claimant's knowledge and not claim any testimonial privilege with respect to said facts. These documents shall be presented to the pawnbroker concurrently.

6. Upon being served with a proper demand by a claimant for the return of property pursuant to subsection 5 of this section, the pawnbroker shall return the property to the claimant, in the presence of a law enforcement officer, within seven days unless the pawnbroker has good reason to believe that any of the matters set forth in the claimant's affidavit are false or if there is a hold order on the property pursuant to section 367.055. If a pawnbroker refuses to deliver property to a claimant upon a proper demand as described in subsection 5 of this section, the claimant may file a petition in a court of competent jurisdiction seeking the return of said property. The non-prevailing party shall be responsible for the costs of said action and the attorney fees of the prevailing party. The provisions of section 482.305, RSMo, to the contrary notwithstanding, a court of competent jurisdiction shall include a small claims court, even if the value of the property named in the petition is greater than three thousand dollars.

7. If a pawnbroker returns property to a claimant relying on the veracity of the affidavit described in subsection 5 of this section, and later learns that the information contained in said affidavit is false or that the claimant has failed to assist in prosecution or otherwise testify truthfully with respect to the facts within the claimant's knowledge, the pawnbroker shall have a cause of action against the claimant for the value of the property. The non-prevailing party shall be responsible for the cost of said action and the attorney fees of the prevailing party.

8. Nothing contained in this section shall limit a pawnbroker from bringing the conveying customer into a suit as a third-party, nor limit a pawnbroker from recovering from a conveying customer repayment of the full amount received from the pawnbroker from the pawn or sales transaction, including all applicable fees and interest charged, attorney's fees and the cost of the action.

367.055. INSPECTION OF PROPERTY, SEARCH WARRANT REQUIRED — HOLD ORDER, PROBABLE CAUSE, CONTENTS, EXPIRATION — CONFIDENTIALITY. — 1. Upon request of a law enforcement officer to inspect property that is described in information furnished by the pawnbroker pursuant to subdivisions (1) to (4) of subsection 1 of section 367.031, the law enforcement officer shall be entitled to inspect the property described, 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 pawnbroker's business operation. When a law enforcement officer has probable cause to believe that goods or property in the possession of a pawnbroker are misappropriated, the officer may place a hold order on the property. The hold order shall contain the following:

(1) The name of the pawnbroker;

(2) The name and mailing address of the pawnshop where the property 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 property;

(5) A complete description of the property to be held including model and serial numbers;

(6) The expiration date of the holding period.

The hold order shall be signed and dated by the issuing officer and signed and dated by the pawnbroker or the pawnbroker's designee as evidence of the hold order's issuance by the officer, receipt by the pawnbroker and the beginning of the initial holding period. The officer issuing the hold order shall provide an executed copy of the hold order to the pawnbroker for the pawnbroker's record-keeping purposes at no cost to the pawnbroker.

2. Upon receiving the hold order, and subject to the provisions of section 367.047, the pawnbroker shall retain physical possession of the property subject to the order in a secured area. The initial holding period of the hold order shall not exceed two months, except that the hold order may be extended for up to two successive one-month holding periods upon written notification prior to the expiration of the immediately preceding holding period. A hold order may be released prior to the expiration of any holding period or extension thereof by written release from the agency placing the initial hold order. The initial hold order shall be deemed expired upon the expiration date if the holding period is not extended pursuant to this subsection.

3. Upon the expiration of the initial holding period or any extension thereof, the pawnbroker shall deliver written notice to the law enforcement officer issuing the hold order that such order has expired and that title to the property subject to the hold order will vest in the pawnbroker in ten business days. Ownership shall only vest in the pawnbroker upon the expiration of the ten-day waiting period subject to any restriction contained in the pawn contract and subject to the provisions of sections 367.044 to 367.053. **Vesting of title and ownership shall be subject to any claim asserted by a claimant pursuant to section 367.044.**

4. In addition to the penalty provisions contained in section 367.050, gross negligence or willful noncompliance with the provisions of this section by a pawnbroker shall be cause for the licensing authority to suspend or revoke the pawnbroker's license. Any imposed suspensions or revocation provided for by this subsection may be appealed by the pawnbroker to the licensing authority or to a court of competent jurisdiction.

5. A county or municipality may enact orders or ordinances to license or regulate the operations of pawnbrokers which are consistent with and not more restrictive than the provisions of sections **[**367.044**] 367.011** to 367.055**, except that municipalities located in any county with a charter form of government having a population greater than one million inhabitants or any city not within a county may regulate the number of pawn shop licensees**.

6. All records and information that relate to a pawnbroker's pawn, purchase or trade transactions and that are delivered to or otherwise obtained by an appropriate law enforcement officer pursuant to sections 367.031 and 367.040 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 item of property delivered to the pawnbroker in a pawn, purchase or trade transaction;

(2) The investigation of a pawnbroker's possible specific violation of the record-keeping or reporting requirements of sections 367.031 and 367.040, but only when the appropriate law enforcement officer, based on a review of the records and the information received, has probable cause to believe that such a violation occurred; and

(3) The notification of property crime victims of where property that has been reported misappropriated can be located.

569.095. TAMPERING WITH COMPUTER DATA, PENALTIES. — 1. A person commits the crime of tampering with computer data if he knowingly and without authorization or without reasonable grounds to believe that he has such authorization:

(1) Modifies or destroys data or programs residing or existing internal to a computer, computer system, or computer network; or

(2) Modifies or destroys data or programs or supporting documentation residing or existing external to a computer, computer system, or computer network; or

(3) Discloses or takes data, programs, or supporting documentation, residing or existing internal or external to a computer, computer system, or computer network; or

(4) Discloses or takes a password, identifying code, personal identification number, or other confidential information about a computer system or network that is intended to or does control **[**assess**] access** to the computer system or network;

(5) Accesses a computer, a computer system, or a computer network, and intentionally examines information about another person;

(6) Receives, retains, uses, or discloses any data he knows or believes was obtained in violation of this subsection.

2. Tampering with computer data is a class A misdemeanor, unless the offense is committed for the purpose of devising or executing any scheme or artifice to defraud or to obtain any property, the value of which is **[**one hundred fifty**]** **five hundred** dollars or more, in which case tampering with computer data is a class D felony.

569.097. TAMPERING WITH COMPUTER EQUIPMENT, PENALTIES. — 1. A person commits the crime of tampering with computer equipment if he knowingly and without authorization or without reasonable grounds to believe that he has such authorization:

(1) Modifies, destroys, damages, or takes equipment or data storage devices used or intended to be used in a computer, computer system, or computer network; or

(2) Modifies, destroys, damages, or takes any computer, computer system, or computer network.

2. Tampering with computer equipment is a class A misdemeanor, unless:

(1) The offense is committed for the purpose of executing any scheme or artifice to defraud or obtain any property, the value of which is **[**one hundred fifty**]** **five hundred** dollars or more, in which case it is a class D felony; or

(2) The damage to such computer equipment or to the computer, computer system, or computer network is **[**one hundred fifty**]** **five hundred** dollars or more but less than one thousand dollars, in which case it is a class D felony; or

(3) The damage to such computer equipment or to the computer, computer system, or computer network is one thousand dollars or greater, in which case it is a class C felony.

569.099. TAMPERING WITH COMPUTER USERS, PENALTIES. — 1. A person commits the crime of tampering with computer users if he knowingly and without authorization or without reasonable grounds to believe that he has such authorization:

(1) Accesses or causes to be accessed any computer, computer system, or computer network; or

(2) Denies or causes the denial of computer system services to an authorized user of such computer system services, which, in whole or in part, is owned by, under contract to, or operated for, or on behalf of, or in conjunction with another.

2. The offense of tampering with computer users is a class A misdemeanor unless the offense is committed for the purpose of devising or executing any scheme or artifice to defraud or to obtain any property, the value of which is **[**one hundred fifty**]** **five hundred** dollars or more, in which case tampering with computer users is a class D felony.

570.010. CHAPTER DEFINITIONS. — As used in this chapter:

(1) "Adulterated" means varying from the standard of composition or quality prescribed by statute or lawfully promulgated administrative regulations of this state lawfully filed, or if none, as set by commercial usage;

(2) "Appropriate" means to take, obtain, use, transfer, conceal or retain possession of;

(3) "Coercion" means a threat, however communicated:

(a) To commit any crime; or

(b) To inflict physical injury in the future on the person threatened or another; or

(c) To accuse any person of any crime; or

(d) To expose any person to hatred, contempt or ridicule; or

(e) To harm the credit or business repute of any person; or

(f) To take or withhold action as a public servant, or to cause a public servant to take or withhold action; or

(g) To inflict any other harm which would not benefit the actor.

A threat of accusation, lawsuit or other invocation of official action is not coercion if the property sought to be obtained by virtue of such threat was honestly claimed as restitution or indemnification for harm done in the circumstances to which the accusation, exposure, lawsuit or other official action relates, or as compensation for property or lawful service. The defendant shall have the burden of injecting the issue of justification as to any threat;

(4) "Credit device" means a writing, number or other device purporting to evidence an undertaking to pay for property or services delivered or rendered to or upon the order of a designated person or bearer;

(5) "Dealer" means a person in the business of buying and selling goods;

(6) "Debit device" means a card, code, number or other device, other than a check, draft or similar paper instrument, by the use of which a person may initiate an electronic fund transfer, including but not limited to devices that enable electronic transfers of benefits to public assistance recipients;

(7) "Deceit" means purposely making a representation which is false and which the actor does not believe to be true and upon which the victim relies, as to a matter of fact, law, value, intention or other state of mind. The term "deceit" does not, however, include falsity as to matters having no pecuniary significance, or puffing by statements unlikely to deceive ordinary persons in the group addressed. Deception as to the actor's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise;

(8) "Deprive" means:

(a) To withhold property from the owner permanently; or

(b) To restore property only upon payment of reward or other compensation; or

(c) To use or dispose of property in a manner that makes recovery of the property by the owner unlikely;

(9) "Mislabeled" means varying from the standard of truth or disclosure in labeling prescribed by statute or lawfully promulgated administrative regulations of this state lawfully filed, or if none, as set by commercial usage; or represented as being another person's product, though otherwise accurately labeled as to quality and quantity;

(10) **"New and unused property" means tangible personal property that has never been used since its production or manufacture and is in its original unopened package or container if such property was packaged;**

(11) "Of another" property or services is that "of another" if any natural person, corporation, partnership, association, governmental subdivision or instrumentality, other than the actor, has a possessory or proprietary interest therein, except that property shall not be deemed property of another who has only a security interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or other security arrangement;

[(11)**] (12)** "Property" means anything of value, whether real or personal, tangible or intangible, in possession or in action, and shall include but not be limited to the evidence of a debt actually executed but not delivered or issued as a valid instrument;

[(12)**] (13)** "Receiving" means acquiring possession, control or title or lending on the security of the property;

[(13)**] (14)** "Services" includes transportation, telephone, electricity, gas, water, or other public service, accommodation in hotels, restaurants or elsewhere, admission to exhibitions and use of vehicles;

[(14)**] (15)** "Writing" includes printing, any other method of recording information, money, coins, negotiable instruments, tokens, stamps, seals, credit cards, badges, trademarks and any other symbols of value, right, privilege or identification.

570.020. DETERMINATION OF VALUE. — For the purposes of this chapter, the value of property shall be ascertained as follows:

(1) Except as otherwise specified in this section, "value" means the market value of the property at the time and place of the crime, or if such cannot be satisfactorily ascertained, the cost of replacement of the property within a reasonable time after the crime;

(2) Whether or not they have been issued or delivered, certain written instruments, not including those having a readily ascertainable market value such as some public and corporate bonds and securities, shall be evaluated as follows:

(a) The value of an instrument constituting evidence of debt, such as a check, draft or promissory note, shall be deemed the amount due or collectible thereon or thereby, such figure ordinarily being the face amount of the indebtedness less any portion thereof which has been satisfied;

(b) The value of any other instrument which creates, releases, discharges or otherwise affects any valuable legal right, privilege or obligation shall be deemed the greatest amount of economic loss which the owner of the instrument might reasonably suffer by virtue of the loss of the instrument;

(3) When the value of property cannot be satisfactorily ascertained pursuant to the standards set forth in subdivisions (1) and (2) of this section, its value shall be deemed to be an amount less than **[**one hundred fifty**]** **five hundred** dollars.

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 under 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. **[**Stealing**]** **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 **[**seven**]** **five** hundred **[**fifty**]** 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) A United States national flag designed, intended and used for display on buildings or stationary flagstaffs in the open; or

(f) Any original copy of an act, bill or resolution, introduced or acted upon by the legislature of the state of Missouri; or

(g) 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) Any book of registration or list of voters required by chapter 115, RSMo; or

(i) Any animal of the species of horse, mule, ass, cattle, swine, sheep, or goat; or

(j) Live fish raised for commercial sale with a value of seventy-five dollars; or

(k) Any controlled substance as defined by section 195.010, RSMo**; or**

(l) Anhydrous ammonia.

4. If an actor appropriates any material with a value less than **[**one**] five** hundred **[**fifty**]** 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 D 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 C 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 **[**under**] pursuant to** subsection 3 of this section which exceeds **[**seven**] five** hundred **[**fifty**]** dollars may be considered a separate felony and may be charged in separate counts.

6. Any person with a prior conviction of paragraph (i) of subdivision (3) of subsection 3 of this section and who violates the provisions of paragraph (i) 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.

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 or been found guilty on two separate occasions of **[**stealing,**] a stealing-related offense where such offenses occurred within ten years of the date of occurrence of the present offense and where the person received and served a sentence of ten days or more on such previous offense** and who subsequently pleads guilty or is found guilty of **[**stealing**] a stealing-related offense** is guilty of a class C felony and shall be punished accordingly.

2. **[**For the purpose of this section, guilty pleas or findings of guilt in any state or federal court or in a municipal court of this state shall be considered by the court to be previous pleas or findings of guilt for the enhancement purposes of this section as long as:

(1) The defendant was either represented by counsel or knowingly waived counsel in writing; and

(2)**] As used in this section, the term "stealing-related offense" shall include federal and state violations of criminal statutes against stealing 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 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 **[**under**] pursuant to** this section to prove the requisite knowledge or belief of the alleged receiver:

(1) That he was found in possession or control of other property stolen on separate occasions from two or more persons;

(2) That he received other stolen property in another transaction within the year preceding the transaction charged;

(3) That he acquired the stolen property for a consideration which he knew was far below its reasonable value.

3. Receiving stolen property is a class A misdemeanor unless the property involved has a value of **[**one hundred fifty**] five hundred** dollars or more, or the person receiving the property is a dealer in goods of the type in question, in which cases receiving stolen property is a class C felony.

570.085. ALTERATION OR REMOVAL OF ITEM NUMBERS WITH INTENT TO DEPRIVE LAWFUL OWNER. — 1. A person commits the crime of alteration or removal of item numbers if he, with the purpose of depriving the owner of a lawful interest therein:

(1) Destroys, removes, covers, conceals, alters, defaces, or causes to be destroyed, removed, covered, concealed, altered, or defaced, the manufacturer's original serial number or other distinguishing owner-applied number or mark, on any item which bears a serial number attached by the manufacturer or distinguishing number or mark applied by the owner of the item, for any reason whatsoever;

(2) Sells, offers for sale, pawns or uses as security for a loan, any item on which the manufacturer's original serial number or other distinguishing owner-applied number or mark has been destroyed, removed, covered, concealed, altered, or defaced; or

(3) Buys, receives as security for a loan or in pawn, or in any manner receives or has in his possession any item on which the manufacturer's original serial number or other distinguishing owner-applied number or mark has been destroyed, removed, covered, concealed, altered, or defaced.

2. Alteration or removal of item numbers is a class D felony if the value of the item or items in the aggregate is **[**one hundred fifty**] five hundred** dollars or more. If the value of the item or items in the aggregate is less than **[**one hundred fifty**] five hundred** dollars, then it is a class B misdemeanor.

570.090. FORGERY. — 1. A person commits the crime of forgery if, with the purpose to defraud, **[**he**] the person:**

(1) Makes, completes, alters or authenticates any writing so that it purports to have been made by another or at another time or place or in a numbered sequence other than was in fact the case or with different terms or by authority of one who did not give such authority; or

(2) Erases, obliterates or destroys any writing; or

(3) Makes or alters anything other than a writing, **including receipts and universal product codes,** so that it purports to have a genuineness, antiquity, rarity, ownership or authorship which it does not possess; or

(4) Uses as genuine, or possesses for the purpose of using as genuine, or transfers with the knowledge or belief that it will be used as genuine, any writing or other thing **including receipts and universal product codes,** which the actor knows has been made or altered in the manner described in this section.

2. Forgery is a class C felony.

570.120. CRIME OF PASSING BAD CHECKS, PENALTY — ACTUAL NOTICE GIVEN, WHEN — ASSESSMENT OF COSTS, AMOUNT — PAYROLL CHECKS, ACTION, WHEN — SERVICE CHARGE MAY BE COLLECTED — RETURN OF BAD CHECK TO DEPOSITOR BY FINANCIAL INSTITUTION MUST BE ON CONDITION THAT ISSUER IS IDENTIFIABLE. — 1. A person commits the crime of passing a bad check when:

(1) With purpose to defraud, the person makes, issues or passes a check or other similar sight order for the payment of money, knowing that it will not be paid by the drawee, or that there is no such drawee; or

(2) The person makes, issues, or passes a check or other similar sight order for the payment of money, knowing that there are insufficient funds in that account or that there is no such account or no drawee and fails to pay the check or sight order within ten days after receiving actual notice in writing that it has not been paid because of insufficient funds or credit with the drawee or because there is no such drawee.

2. As used in subdivision (2) of subsection 1 of this section, "actual notice in writing" means notice of the nonpayment which is actually received by the defendant. Such notice may include the service of summons or warrant upon the defendant for the initiation of the prosecution of the check or checks which are the subject matter of the prosecution if the summons or warrant contains information of the ten-day period during which the instrument may be paid and that payment of the instrument within such ten-day period will result in dismissal of the charges. The requirement of notice shall also be satisfied for written communications which are tendered to the defendant and which the defendant refuses to accept.

3. The face amounts of any bad checks passed pursuant to one course of conduct within any ten-day period may be aggregated in determining the grade of the offense.

4. Passing bad checks is a class A misdemeanor, unless:

(1) The face amount of the check or sight order or the aggregated amounts is **[**one hundred fifty**] five hundred** dollars or more; or

(2) The issuer had no account with the drawee or if there was no such drawee at the time the check or order was issued, in which cases passing bad checks is a class D felony.

5. (1) In addition to all other costs and fees allowed by law, each prosecuting attorney or circuit attorney who takes any action pursuant to the provisions of this section shall collect from the issuer in such action an administrative handling cost. The cost shall be five dollars for checks of less than ten dollars, ten dollars for checks of ten dollars but less than one hundred dollars, and twenty-five dollars for checks of one hundred dollars or more. For checks of one hundred dollars or more an additional fee of ten percent of the face amount shall be assessed, with a maximum fee for administrative handling costs not to exceed fifty dollars total. Notwithstanding the provisions of sections 50.525 to 50.745, RSMo, the costs provided for in this subsection shall be deposited by the county treasurer into a separate interest-bearing fund to be expended by the prosecuting attorney or circuit attorney. The funds shall be expended, upon warrants issued by the prosecuting attorney or circuit attorney directing the treasurer to issue checks thereon, only for purposes related to that previously authorized in this section. Any revenues that are not required for the purposes of this section may be placed in the general revenue fund of the county or city not within a county. **Notwithstanding any law to the contrary, in addition to the administrative handling cost, the prosecuting attorney or circuit attorney shall collect an additional cost of one dollar per check for deposit to the Missouri office of prosecution services fund established in subsection 2 of section 56.765, RSMo. All moneys collected pursuant to this section which are payable to the Missouri office of prosecution services fund shall be transmitted at least monthly by the county treasurer to the director of revenue who shall deposit the amount collected pursuant to the credit of the Missouri office of prosecution services fund under the procedure established pursuant to subsection 2 of section 56.765, RSMo.**

(2) The moneys deposited in the fund may be used by the prosecuting or circuit attorney for office supplies, postage, books, training, office equipment, capital outlay, expenses of trial and witness preparation, additional employees for the staff of the prosecuting or circuit attorney and employees' salaries.

(3) This fund may be audited by the state auditor's office or the appropriate auditing agency.

(4) If the moneys collected and deposited into this fund are not totally expended annually, then the unexpended balance shall remain in said fund and the balance shall be kept in said fund to accumulate from year to year.

6. **[**Notwithstanding any other provisions of law to the contrary, in addition to the administrative handling costs provided for in subsection 5 of this section, the prosecuting attorney or circuit attorney may, in his discretion, collect from the issuer, in addition to the face amount of the check, a reasonable service charge, which along with the face amount of the check shall be turned over to the party to whom the bad check was issued. If the prosecuting attorney or circuit attorney does not collect the service charge and the face amount of the check, the party to whom the check was issued may collect from the issuer a reasonable service charge along with the face amount of the check**] Notwithstanding any other provision of law to the contrary:**

(1) In addition to the administrative handling costs provided for in subsection 5 of this section, the prosecuting attorney or circuit attorney may collect from the issuer, in addition to the face amount of the check, a reasonable service charge, which along with the face amount of the check, shall be turned over to the party to whom the bad check was issued;

(2) If a check that is dishonored or returned unpaid by a financial institution is not referred to the prosecuting attorney or circuit attorney for any action pursuant to the provisions of this section, the party to whom the check was issued, or his or her agent or assignee, or a holder, may collect from the issuer, in addition to the face amount of the check, a reasonable service charge, not to exceed twenty-five dollars, plus an amount equal to the actual charge by the depository institution for the return of each unpaid or dishonored instrument.

7. In all cases where a prosecutor receives notice from the original holder that a person has violated this section with respect to a payroll check or order, the prosecutor, if he determines there is a violation of this section, shall file an information or seek an indictment within sixty days of such notice and may file an information or seek an indictment thereafter if the prosecutor has failed through neglect or mistake to do so within sixty days of such notice and if he determines there is sufficient evidence shall further prosecute such cases.

8. When any financial institution returns a dishonored check to the person who deposited such check, it shall be in substantially the same physical condition as when deposited, or in such condition as to provide the person who deposited the check the information required to identify the person who wrote the check.

570.123. CIVIL ACTION FOR DAMAGES FOR PASSING BAD CHECKS, ONLY ORIGINAL HOLDER MAY BRING ACTION — LIMITATIONS — NOTICE REQUIREMENTS — PAYROLL CHECKS, ACTION TO BE AGAINST EMPLOYER. — In addition to all other penalties provided by law, any person who makes, utters, draws, or delivers any check, draft, or order for the payment of money upon any bank, savings and loan association, credit union, or other depositary, financial institution, person, firm, or corporation which is not honored because of lack of funds or credit to pay or because of not having an account with the drawee and who fails to pay the amount for which such check, draft, or order was made in cash to the holder within thirty days after notice and a written demand for payment, deposited as certified or registered mail in the United States mail**, or by regular mail, supported by an affidavit of service by mailing, notice deemed conclusive three days following the date the affidavit is executed,** and addressed to the maker and to the endorser, if any, of the check, draft, or order at each of their addresses as it appears on the check, draft, or order or to the last known address, shall, in addition to the face amount owing upon such check, draft, or order, be liable to the holder for three times the face amount owed or one hundred dollars, whichever is greater, plus attorney fees incurred in bringing an action pursuant to this section. Only the original holder, whether the holder is a person, bank, savings and loan association, credit union, or other depository, financial institution, firm or corporation, may bring an action **[**under**] pursuant to** this section. No original holder

shall bring an action pursuant to this section if the original holder has been paid the face amount of the check and costs recovered by the prosecuting attorney or circuit attorney pursuant to subsection 6 of section 570.120. If the issuer of the check has paid the face amount of the check and costs pursuant to subsection 6 of section 570.120, such payment shall be an affirmative defense to any action brought pursuant to this section. The original holder shall elect to bring an action **[**under**] pursuant to** this section or section 570.120, but may not bring an action **[**under**] pursuant to** both sections. In no event shall the damages allowed **[**under**] pursuant to** this section exceed five hundred dollars, exclusive of attorney fees. In situations involving payroll checks, the damages allowed **[**under**] pursuant to** this section shall only be assessed against the employer who issued the payroll check and not against the employee to whom the payroll check was issued. The provisions of sections 408.140 and 408.233, RSMo, to the contrary notwithstanding, a lender may bring an action pursuant to this section. The provisions of this section will not apply in cases where there exists a bona fide dispute over the quality of goods sold or services rendered.

570.125. FRAUDULENTLY STOPPING PAYMENT ON AN INSTRUMENT, PENALTIES. — 1. A person commits the crime of "fraudulently stopping payment of an instrument" if he, knowingly, with the purpose to defraud, stops payment on a check or draft given in payment for the receipt of goods or services.

2. Fraudulently stopping payment of an instrument is a class A misdemeanor, unless the face amount of the check or draft is **[**one hundred fifty**] five hundred** dollars or more or, if the stopping of payment of more than one check or draft is involved in the same course of conduct, the aggregate amount is **[**one hundred fifty**] five hundred** dollars or more, in which case the offense is a class D felony.

3. It shall be prima facie evidence of a violation of this section, if a person stops payment on a check or draft and fails to make good the check or draft, or return or make and comply with reasonable arrangements to return the property for which the check or draft was given in the same or substantially the same condition as when received within ten days after notice in writing from the payee that the check or draft has not been paid because of a stop payment order by the issuer to the drawee.

4. "Notice in writing" means notice deposited as certified or registered mail in the United States mail and addressed to the issuer at his address as it appears on the dishonored check or draft or to his last known address. The notice shall contain a statement that failure to make good the check or draft within ten days of receipt of the notice may subject the issuer to criminal prosecution.

570.130. FRAUDULENT USE OF A CREDIT DEVICE OR DEBIT DEVICE — PENALTY. — 1. A person commits the crime of fraudulent use of a credit device or debit device if the person uses a credit device or debit device for the purpose of obtaining services or property, knowing that:

(1) The device is stolen, fictitious or forged; or

(2) The device has been revoked or canceled; or

(3) For any other reason his use of the device is unauthorized.

2. Fraudulent use of a credit device or debit device is a class A misdemeanor unless the value of the property or services obtained or sought to be obtained within any thirty-day period is **[**one hundred fifty**] five hundred** dollars or more, in which case fraudulent use of a credit device or debit device is a class D felony.

570.210. LIBRARY THEFT, PENALTY. — 1. A person commits the crime of library theft if with the purpose to deprive, he:

(1) Knowingly removes any library material from the premises of a library without authorization; or

(2) Borrows or attempts to borrow any library material from a library by use of a library card:

(a) Without the consent of the person to whom it was issued; or

(b) Knowing that the library card is revoked, canceled or expired; or

(c) Knowing that the library card is falsely made, counterfeit or materially altered; or

(3) Borrows library material from any library pursuant to an agreement or procedure established by the library which requires the return of such library material and, with the purpose to deprive the library of the library material, fails to return the library material to the library.

2. It shall be prima facie evidence of the person's purpose to deprive the library of the library materials if, within ten days after notice in writing deposited as certified mail from the library demanding the return of such library material, he without good cause shown fails to return the library material. A person is presumed to have received the notice required by this subsection if the library mails such notice to the last address provided to the library by such person.

3. The crime of library theft is a class C felony if the value of the library material is **[**one hundred and fifty**]** **five hundred** dollars or more; otherwise, library theft is a class C misdemeanor.

570.300. THEFT OF CABLE TELEVISION SERVICE, PENALTY. — 1. A person commits the crime of theft of cable television service if he:

(1) Knowingly obtains or attempts to obtain cable television service without paying all lawful compensation to the operator of such service, by means of artifice, trick, deception or device; or

(2) Knowingly assists another person in obtaining or attempting to obtain cable television service without paying all lawful compensation to the operator of such service; or

(3) Knowingly connects to, tampers with or otherwise interferes with any cables, wires or other devices used for the distribution of cable television if the effect of such action is to obtain cable television without paying all lawful compensation therefor; or

(4) Knowingly sells, uses, manufactures, rents or offers for sale, rental or use any device, plan or kit designed and intended to obtain cable television service in violation of this section.

2. Theft of cable television service is a class C felony if the value of the service appropriated is **[**one hundred fifty**]** **five hundred** dollars or more; otherwise theft of cable television services is a class A misdemeanor.

3. Any cable television operator may bring an action to enjoin and restrain any violation of the provisions of this section or bring an action for conversion. In addition to any actual damages, an operator may be entitled to punitive damages and reasonable attorney fees in any case in which the court finds that the violation was committed willfully and for purposes of commercial advantage. In the event of a defendant's verdict the defendant may be entitled to reasonable attorney fees.

4. The existence on the property and in the actual possession of the accused of any connection wire, or conductor, which is connected in such a manner as to permit the use of cable television service without the same being reported for payment to and specifically authorized by the operator of the cable television service shall be sufficient to support an inference which the trial court may submit to the trier of fact, from which the trier of fact may conclude that the accused has committed the crime of theft of cable television service.

5. If a cable television company either:

(1) Provides unsolicited cable television service; or

(2) Fails to change or disconnect cable television service within ten days after receiving written notice to do so by the customer, the customer may deem such service to be a gift without any obligation to the cable television company from ten days after such written notice is received until the service is changed or disconnected.

6. Nothing in this section shall be construed to render unlawful or prohibit an individual or other legal entity from owning or operating a video cassette recorder or devices commonly

known as a "satellite receiving dish" for the purpose of receiving and utilizing satellite-relayed television signals for his own use.

7. As used in this section, the term "cable television service" includes microwave television transmission from a multipoint distribution service not capable of reception by conventional television receivers without the use of special equipment.

578.150. FAILURE TO RETURN RENTED PERSONAL PROPERTY — PRIMA FACIE EVIDENCE, WHEN — LAW ENFORCEMENT PROCEDURE — PENALTY — VENUE — NOTICE, CONTENTS — EXCEPTION. — 1. A person commits the crime of failing to return leased or rented property if, with the intent to deprive the owner thereof, he purposefully fails to return leased or rented personal property to the place and within the time specified in an agreement in writing providing for the leasing or renting of such personal property. In addition, any person who has leased or rented personal property of another who conceals the property from the owner, or who otherwise sells, pawns, loans, abandons or gives away the leased or rented property is guilty of the crime of failing to return leased or rented property. The provisions of this section shall apply to all forms of leasing and rental agreements, including, but not limited to, contracts which provide the consumer options to buy the leased or rented personal property, lease-purchase agreements and rent-to-own contracts. For the purpose of determining if a violation of this section has occurred, leasing contracts which provide options to buy the merchandise are owned by the owner of the property until such time as the owner endorses the sale and transfer of ownership of the leased property to the lessee.

2. It shall be prima facie evidence of the crime of failing to return leased or rented property when a person who has leased or rented personal property of another willfully fails to return or make arrangements acceptable with the lessor to return the personal property to its owner at the owner's place of business within ten days after proper notice following the expiration of the lease or rental agreement, except that if the motor vehicle has not been returned within seventy-two hours after the expiration of the lease or rental agreement, such failure to return the motor vehicle shall be prima facie evidence of the intent of the crime of failing to return leased or rented property. Where the leased or rented property is a motor vehicle, if the motor vehicle has not been returned within seventy-two hours after the expiration of the lease or rental agreement, the lessor may notify the local law enforcement agency of the failure of the lessee to return such motor vehicle, and the local law enforcement agency shall cause such motor vehicle to be put into any appropriate state and local computer system listing stolen motor vehicles. Any law enforcement officer which stops such a motor vehicle may seize the motor vehicle and notify the lessor that he may recover such motor vehicle after it is photographed and its vehicle identification number is recorded for evidentiary purposes. Where the leased or rented property is not a motor vehicle, if such property has not been returned within the ten-day period prescribed in this subsection, the owner of the property shall report the failure to return the property to the local law enforcement agency, and such law enforcement agency may within five days notify the person who leased or rented the property that such person is in violation of this section, and that failure to immediately return the property may subject such person to arrest for the violation.

3. This section shall not apply if such personal property is a vehicle and such return is made more difficult or expensive by a defect in such vehicle which renders such vehicle inoperable, if the lessee shall notify the lessor of the location of such vehicle and such defect before the expiration of the lease or rental agreement, or within ten days after proper notice.

4. Proper notice by the lessor shall consist of a written demand addressed and mailed by certified or registered mail to the lessee at the address given at the time of making the lease or rental agreement. The notice shall contain a statement that the failure to return the property may subject the lessee to criminal prosecution.

5. Any person who has leased or rented personal property of another who destroys such property so as to avoid returning it to the owner shall be guilty of property damage pursuant to section 569.100 or 569.120, RSMo, in addition to being in violation of this section.

6. Venue shall lie in the county where the personal property was originally rented or leased.

7. Failure to return leased or rented property is a class A misdemeanor unless the property involved has a value of **[**one hundred fifty**]** **five hundred** dollars or more, in which case failing to return leased or rented property is a class C felony.

578.377. UNLAWFUL RECEIPT OF FOOD STAMPS OR ATP CARDS — GRADES OF OFFENSE, PENALTY. — 1. A person commits the crime of unlawfully receiving food stamp coupons or ATP cards if he knowingly receives or uses the proceeds of food stamp coupons or ATP cards to which he is not lawfully entitled or for which he has not applied and been approved by the department to receive.

2. Unlawfully receiving food stamp coupons or ATP cards is a class D felony unless the face value of the food stamp coupon or ATP cards is less than **[**one hundred fifty**]** **five hundred** dollars, in which case unlawful receiving of food stamp coupons and ATP cards is a class A misdemeanor.

578.379. UNLAWFUL CONVERSION OF FOOD STAMPS OR ATP CARDS — GRADES OF OFFENSE, PENALTY. — 1. A person commits the crime of conversion of food stamp coupons or ATP cards if he knowingly engages in any transaction to convert food stamp coupons or ATP cards to other property contrary to statutes, rules and regulations, either state or federal, governing the food stamp program.

2. Unlawful conversion of food stamp coupons or ATP cards is a class D felony unless the face value of said food stamp coupons or ATP cards is less than **[**one hundred fifty**]** **five hundred** dollars, in which case unlawful conversion of food stamp coupons or ATP cards is a class A misdemeanor.

578.381. UNLAWFUL TRANSFER OF FOOD STAMPS OR ATP CARDS — GRADES OF OFFENSE, PENALTY. — 1. A person commits the crime of unlawful transfer of food stamp coupons or ATP cards if he knowingly transfers food stamp coupons or ATP cards to another not lawfully entitled or approved by the department to receive the food stamp coupons or ATP cards.

2. Unlawful transfer of food stamp coupons or ATP cards is a class D felony unless the face value of said food stamp coupons or ATP cards is less than **[**one hundred fifty**]** **five hundred** dollars, in which case unlawful transfer of food stamp coupons or ATP cards is a class A misdemeanor.

578.385. PERJURY — COMMITTED WHEN OBTAINING PUBLIC ASSISTANCE, PENALTY. — 1. A person commits the crime of perjury for the purpose of this section if he knowingly makes a false or misleading statement or misrepresents a fact material for the purpose of obtaining public assistance if the false or misleading statement is reduced to writing and verified by the signature of the person making the statement and by the signature of any employee of the Missouri department of social services. The same person may not be charged with unlawfully receiving public assistance benefits and perjury **[**under**]** **pursuant to** this section when both offenses arise from the same application for benefits.

2. A statement or fact is material, regardless of its admissibility under rules of evidence, if it could substantially affect or did substantially affect the granting of public assistance.

3. Knowledge of the materiality of the statement or fact is not an element of this crime, and it is no defense that:

(1) The defendant mistakenly believed the fact to be immaterial; or

(2) The defendant was not competent, for reasons other than mental disability, to make the statement.

4. Perjury committed as part of a transaction involving the making of an application to obtain public assistance is a class D felony unless the value of the public assistance unlawfully

obtained or unlawfully attempted to be obtained is less than **[**one hundred fifty**]** **five hundred** dollars in which case it is a class A misdemeanor.

SECTION B. SEVERABILITY CLAUSE. — If any provision of this act or the application thereof to anyone or to any circumstances is held invalid, the remainder of those sections and the application of such provisions to others or other circumstances shall not be affected thereby.

Approved July 11, 2002

HB 1890 [SCS HB 1890]

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

Changes procedures for mobile telecommunications services.

AN ACT to repeal sections 32.087 and 144.190, RSMo, and to enact in lieu thereof three new sections relating to the sales tax and refund procedures related to mobile telecommunications services, with an emergency clause.

SECTION

A. Enacting clause.

32.087. Local sales taxes, procedures and duties of director of revenue, generally — effective date of tax — duty of retailers — exemptions — discounts allowed — penalties — motor vehicle and boat sales — bond required — annual report of director, contents — reapproval, effect, procedures.

144.013. Tax imposed in accordance with federal Mobile Telecommunications Sourcing Act.

144.190. Refund of overpayments — claim for refund — time for making claims — paid to whom — direct pay agreement for certain purchasers — special rules for error corrections.

B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 32.087 and 144.190, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 32.087, 144.013 and 144.190, to read as follows:

32.087. LOCAL SALES TAXES, PROCEDURES AND DUTIES OF DIRECTOR OF REVENUE, GENERALLY — EFFECTIVE DATE OF TAX — DUTY OF RETAILERS — EXEMPTIONS — DISCOUNTS ALLOWED — PENALTIES — MOTOR VEHICLE AND BOAT SALES — BOND REQUIRED — ANNUAL REPORT OF DIRECTOR, CONTENTS — REAPPROVAL, EFFECT, PROCEDURES. — 1. Within ten days after the adoption of any ordinance or order in favor of adoption of any local sales tax authorized under the local sales tax law by the voters of a taxing entity, the governing body or official of such taxing entity shall forward to the director of revenue by United States registered mail or certified mail a certified copy of the ordinance or order. The ordinance or order shall reflect the effective date thereof.

2. Any local sales tax so adopted shall become effective on the first day of the second calendar quarter after the director of revenue receives notice of adoption of the local sales tax, except as provided in subsection 18 of this section.

3. Every retailer within the jurisdiction of one or more taxing entities which has imposed one or more local sales taxes under the local sales tax law shall add all taxes so imposed along with the tax imposed by the sales tax law of the state of Missouri to the sale price and, when

added, the combined tax shall constitute a part of the price, and 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. The combined rate of the state sales tax and all local sales taxes shall be the sum of the rates, multiplying the combined rate times the amount of the sale.

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

5. The ordinance or order imposing a local sales tax under the local sales tax law 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 sum of the combined rate of the state sales tax or state highway use tax and all local sales taxes imposed under the provisions of the local sales tax law.

6. On and after the effective date of any local sales tax imposed under the provisions of the local sales tax law, the 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 the sales tax for the state of Missouri all additional local sales taxes authorized under the authority of the local sales tax law. All local sales taxes imposed under the local sales tax law together with all taxes imposed under the sales tax law of the state of Missouri shall be collected together and reported upon such forms and under such administrative rules and regulations as may be prescribed by the director of revenue.

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

8. 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 under the provisions of sections 144.010 to 144.525, RSMo, as these sections now read and as they may hereafter be amended, it being the intent of this general assembly to ensure that the same sales tax exemptions granted from the state sales tax law also be granted under the local sales tax law, are hereby made applicable to the imposition and collection of all local sales taxes imposed under the local sales tax law.

9. 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 the local sales tax law, and no additional permit or exemption certificate or retail certificate shall be required; except that the director of revenue may prescribe a form of exemption certificate for an exemption from any local sales tax imposed by the local sales tax law.

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

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

12. (1) For the purposes of any local sales tax imposed by an ordinance or order under the local sales tax law, all sales, except the sale of motor vehicles, trailers, boats, and outboard motors, 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 his agent 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 agent or employee shall be deemed to be consummated at the place of business from which he works.

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

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

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

14. The director of revenue and any of his deputies, assistants and employees who have any duties or responsibilities in connection with the collection, deposit, transfer, transmittal, disbursement, safekeeping, accounting, or recording of funds which come into the hands of the director of revenue under the provisions of the local sales tax law shall enter a surety bond or bonds payable to any and all taxing entities in whose behalf such funds have been collected under the local sales tax law in the amount of one hundred thousand dollars for each such tax; but the director of revenue may enter into a blanket bond covering himself and all such deputies, assistants and employees. The cost of any premium for such bonds shall be paid by the director of revenue from the share of the collections under the sales tax law retained by the director of revenue for the benefit of the state.

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

16. Within the boundaries of any taxing entity where one or more local sales taxes have been imposed, if any person is delinquent in the payment of the amount required to be paid by him under the local sales tax law or in the event a determination has been made against him for taxes and penalty under the local sales tax law, the limitation for bringing suit for the collection of the delinquent tax and penalty shall be the same as that provided in sections 144.010 to 144.525, RSMo. Where the director of revenue has determined that suit must be filed against any person for the collection of delinquent taxes due the state under the state sales tax law, and where such person is also delinquent in payment of taxes under the local sales tax law, the director of revenue shall notify the taxing entity to which delinquent taxes are due under the local sales tax law by United States registered mail or certified mail at least ten days before turning the case over to the attorney general. The taxing entity, acting through its attorney, may join in such suit as a party plaintiff to seek a judgment for the delinquent taxes and penalty due such taxing entity. In the event any person fails or refuses to pay the amount of any local sales tax due, the director of revenue shall promptly notify the taxing entity to which the tax would be due so that appropriate action may be taken by the taxing entity.

17. Where property is seized by the director of revenue under the provisions of any law authorizing seizure of the property of a taxpayer who is delinquent in payment of the tax imposed by the state sales tax law, and where such taxpayer is also delinquent in payment of any

tax imposed by the local sales tax law, the director of revenue shall permit the taxing entity to join in any sale of property to pay the delinquent taxes and penalties due the state and to the taxing entity under the local sales tax law. The proceeds from such sale shall first be applied to all sums due the state, and the remainder, if any, shall be applied to all sums due such taxing entity.

18. If a local sales tax has been in effect for at least one year under the provisions of the local sales tax law and voters approve reimposition of the same local sales tax at the same rate at an election as provided for in the local sales tax law prior to the date such tax is due to expire, the tax so reimposed shall become effective the first day of the first calendar quarter after the director receives a certified copy of the ordinance, order or resolution accompanied by a map clearly showing the boundaries thereof and the results of such election, provided that such ordinance, order or resolution and all necessary accompanying materials are received by the director at least thirty days prior to the expiration of such tax. Any administrative cost or expense incurred by the state as a result of the provisions of this subsection shall be paid by the city or county reimposing such tax.

144.013. TAX IMPOSED IN ACCORDANCE WITH FEDERAL MOBILE TELECOMMUNICATIONS SOURCING ACT. — Notwithstanding any other provision of this chapter, the tax imposed on mobile telecommunications services pursuant to section 144.020 shall be imposed in accordance with the federal Mobile Telecommunications Sourcing Act, 4 U.S.C. Sections 116 through 124, as amended. All terms used in this section shall have the same meaning attributed to them by the federal Mobile Telecommunications Sourcing Act, 4 U.S.C. 124, as amended.

144.190. REFUND OF OVERPAYMENTS — CLAIM FOR REFUND — TIME FOR MAKING CLAIMS — PAID TO WHOM — DIRECT PAY AGREEMENT FOR CERTAIN PURCHASERS — SPECIAL RULES FOR ERROR CORRECTIONS. — 1. If a tax has been incorrectly computed by reason of a clerical error or mistake on the part of the director of revenue, such fact shall be set forth in the records of the director of revenue, and the amount of the overpayment shall be credited on any taxes then due from the person legally obligated to remit the tax pursuant to sections 144.010 to 144.525, and the balance shall be refunded to the person legally obligated to remit the tax, such person's administrators or executors, as provided for in section 144.200.

2. If any tax, penalty or interest has been paid more than once, or has been erroneously or illegally collected, or has been erroneously or illegally computed, such sum shall be credited on any taxes then due from the person legally obligated to remit the tax pursuant to sections 144.010 to **[**144.510**]144.525**, and the balance, with interest as determined by section 32.065, RSMo, shall be refunded to the person legally obligated to remit the tax, but no such credit or refund shall be allowed unless duplicate copies of a claim for refund are filed within three years from date of overpayment.

3. Every claim for refund must be in writing and signed by the applicant, and must state the specific grounds upon which the claim is founded. Any refund or any portion thereof which is erroneously made, and any credit or any portion thereof which is erroneously allowed, may be recovered in any action brought by the director of revenue against the person legally obligated to remit the tax. In the event that a tax has been illegally imposed against a person legally obligated to remit the tax, the director of revenue shall authorize the cancellation of the tax upon the director's record.

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

5. Special rules applicable to error corrections requested by customers of mobile telecommunications service are as follows:

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

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

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

SECTION B. EMERGENCY CLAUSE. — Because of the need to continue telecommunications services, 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 this act shall be in full force and effect upon its passage and approval, or August 1, 2002, whichever later occurs.

Approved July 11, 2002

HB 1895 [HB 1895]

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

Establishes the Criminal Records and Justice Information Advisory Committee.

AN ACT to repeal section 43.518, RSMo, and to enact in lieu thereof one new section relating to the criminal records and justice information advisory committee.

SECTION

A. Enacting clause.

43.518. Criminal records and justice information advisory committee, established — purpose — members — meetings, quorum — minutes, distribution, filing of.

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

SECTION A. ENACTING CLAUSE. — Section 43.518, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 43.518, to read as follows:

43.518. CRIMINAL RECORDS AND JUSTICE INFORMATION ADVISORY COMMITTEE, ESTABLISHED — PURPOSE — MEMBERS — MEETINGS, QUORUM — MINUTES, DISTRIBUTION, FILING OF. — 1. There is hereby established within the department of public safety a "Criminal Records **and Justice Information** Advisory Committee" whose purpose is to**:**

(1) Recommend general policies with respect to the philosophy, concept and operational principles of the Missouri criminal history record information system established by sections 43.500 to 43.530, in regard to the collection, processing, storage, dissemination and use of criminal history record information maintained by the central repository**[.];**

(2) Assess the current state of electronic justice information sharing; and

(3) Recommend policies and strategies, including standards and technology, for promoting electronic justice information sharing, and coordinating among the necessary agencies and institutions; and

(4) Provide guidance regarding the use of any state or federal funds appropriated for promoting electronic justice information sharing.

2. The committee shall be composed of the following officials or their designees: the director of the department of public safety; the director of the department of corrections and human resources; the attorney general; the director of the Missouri office of prosecution services; the president of the Missouri prosecutors association; the president of the Missouri court clerks association; the chief clerk of the Missouri state supreme court; the director of the state courts administrator; the chairman of the state judicial record committee; the chairman of the circuit court budget committee; the presidents of the Missouri peace officers association; the Missouri sheriffs association; the Missouri police chiefs association or their successor agency; the superintendent of the Missouri highway patrol; the chiefs of police of agencies in jurisdictions with over two hundred thousand population; except that, in any county of the first class having a charter form of government, the chief executive of the county may designate another person in place of the police chief of any countywide police force, to serve on the committee; and, at the discretion of the director of public safety, as many as three other representatives of other criminal justice records systems or law enforcement agencies may be appointed by the director of public safety. The director of the department of public safety will serve as the permanent chairman of this committee.

3. The committee shall meet as determined by the director but not less than semiannually to perform its duties. A majority of the appointed members of the committee shall constitute a quorum.

4. No member of the committee shall receive any state compensation for the performance of duties associated with membership on this committee.

5. Official minutes of all committee meetings will be prepared by the director, promptly distributed to all committee members, and filed by the director for a period of at least five years.

Approved July 12, 2002

HB 1921 [SCS HB 1921]

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 Director of the Division of Credit Unions to examine certain qualifying credit unions at least once every eighteen months.

AN ACT to repeal sections 370.061 and 370.120, RSMo, and to enact in lieu thereof two new sections relating to credit unions.

SECTION
A. Enacting clause.
370.061. Credit union commission, created, members, term, compensation — credit union representative defined.
370.120. Annual examination or audit report, exception — subpoena power.

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

SECTION A. ENACTING CLAUSE. — Sections 370.061 and 370.120, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 370.061 and 370.120, to read as follows:

370.061. CREDIT UNION COMMISSION, CREATED, MEMBERS, TERM, COMPENSATION — CREDIT UNION REPRESENTATIVE DEFINED. — 1. There is created in the division of credit unions a "Credit Union Commission" which shall have such powers and duties as are now or hereafter conferred upon it by law.

2. The commission shall consist of seven members who shall be appointed by the governor with the advice and consent of the senate. All members shall be residents of this state, and one of them shall be a member of the Missouri Bar in good standing. Four other members of the commission shall **[**each have had**] be credit union representatives. As used in this section, the term "credit union representative" shall mean a member of the commission who has** at least five years' experience in this state as an officer, director or member of a supervisory committee of one or more credit unions and two members shall be lay members who are not involved in the administration of a financial institution. Not more than four members of the commission shall be members of the same political party.

3. **[**The term of office of each member of the commission shall be six years.**] Effective March 25, 2005, the first three commissioners appointed, two of whom shall be credit union representatives, shall have a term expiring January 1, 2007. The next two commissioners appointed, one of whom shall be a credit union representative, shall have a term expiring January 1, 2009. The final two commissioners appointed, one of whom shall be a credit union representative, and all subsequent commissioners shall serve a six-year term.** Members shall serve until their successors are duly appointed and have qualified. Each member of the credit union commission shall serve for the remainder of the term for which the member was appointed to the commission. The commission shall select its own chairman and secretary. Vacancies in the commission shall be filled for the unexpired term in the same manner as in the case of an original appointment.

4. The members of the commission 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.

5. A majority of the members of the commission shall constitute a quorum and the decision of a majority of a quorum shall be the decision of the commission. The commission shall meet upon call of its chairman, or of the director of the division of credit unions, or of any three members of the commission, and may meet at any place in this state.

370.120. ANNUAL EXAMINATION OR AUDIT REPORT, EXCEPTION — SUBPOENA POWER. — 1. The director of the division of credit unions, in person or by his **or her** agents, shall examine each credit union annually and at other times as he **or she** shall direct, and at all times shall have free access to all books, papers, securities and other sources of information pertaining to the credit union**; except that the division of credit unions shall examine qualifying credit unions, as determined by the director, at least once each eighteen calendar months**.

2. The director of the division of credit unions and his **or her** agents may subpoena and examine witnesses under oath or affirmation, and documents pertaining to the business of the credit unions.

3. The director of the division of credit unions may accept, in lieu of making an annual examination of a credit union, an audit report of the condition of the credit union made by an auditor approved by the director of the division of credit unions for the purpose of making such credit union audits, the cost of which audit shall be borne by the credit union.

Approved July 3, 2002

HB 1926 [HB 1926]

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 expiration date on the Children's Health Insurance Program to July 1, 2007.

AN ACT to repeal sections 208.631 and 208.660, RSMo, and to enact in lieu thereof one new section relating to the extension of the termination date of the children's health program, with an emergency clause.

SECTION
A. Enacting clause.
208.631. Program established, terminates, when — definitions.
208.660. Children's health program outreach funding.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 208.631 and 208.660, RSMo, are repealed and one new section enacted in lieu thereof, to be known as section 208.631, to read as follows:

208.631. PROGRAM ESTABLISHED, TERMINATES, WHEN — DEFINITIONS. — 1. Notwithstanding any other provision of law to the contrary, the department of social services shall establish a program to pay for health care for uninsured children. Coverage pursuant to sections 208.631 to 208.660 is subject to appropriation. The provisions of sections 208.631 to 208.657 shall be void and of no effect after July 1, **[**2002**] 2007**.

2. For the purposes of sections 208.631 to 208.657, "children" are persons up to nineteen years of age. "Uninsured children" are persons up to nineteen years of age who **are emancipated and do not have access to affordable employer-subsidized health care insurance or other health care coverage or persons whose parent or guardian** have not had access to **affordable** employer-subsidized health care insurance or other health care coverage **for their children** for six months prior to application, are residents of the state of Missouri, and have parents or guardians who meet the requirements in section 208.636. A child who is eligible for medical assistance as authorized in section 208.151, is not uninsured for the purposes of sections 208.631 to 208.657.

[208.660. CHILDREN'S HEALTH PROGRAM OUTREACH FUNDING. — Up to ten percent of any federal funds received pursuant to the provisions of Title XXI of the Social Security Act and up to ten percent of any state funds used to match those federal funds may be used for outreach

through the division of medical services for children's health programs established through sections 208.631 to 208.657. The division of medical services may contract with local public health agencies for purposes of this section. The provisions of this section shall be subject to appropriations.**]**

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to ensure that the children of the state of Missouri continue to receive medical insurance coverage, 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 5, 2002

HB 1937 [HB 1937]

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 for the licensure of clinical perfusionists.

AN ACT to repeal sections 324.147, 324.150 and 324.171, RSMo, and to enact in lieu thereof three new sections relating to the licensure of clinical perfusionists.

SECTION
A. Enacting clause.
324.147. Issuance of a license by the board, when — provisional license, when.
324.150. Waiver of examination and education requirements by the board, when.
324.171. Refusal to issue a certificate of registration or authority, permit, or license, when.

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

SECTION A. ENACTING CLAUSE. — Sections 324.147, 324.150 and 324.171, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 324.147, 324.150 and 324.171, to read as follows:

324.147. ISSUANCE OF A LICENSE BY THE BOARD, WHEN — PROVISIONAL LICENSE, WHEN. — 1. A license as a provisional licensed clinical perfusionist may be issued by the board to a person who has successfully completed an approved perfusion education program and upon the filing of an application, payment of an application fee and the submission of evidence satisfactory to the board of the successful completion of the education requirements as provided in section 324.136.

2. **A license as a provisional licensed clinical perfusionist may also be issued by the board to a person who has held a certificate as a certified clinical perfusionist issued by the American Board of Cardiovascular Perfusion, or its successor, if the person's certificate lapsed for reasons other than disciplinary action by the American Board of Cardiovascular Perfusion. The board shall adopt rules to ensure that the person is actively seeking to obtain a current certification by the American Board of Cardiovascular Perfusion as a means of obtaining a license as a clinical perfusionist pursuant to subdivision (2) of section 324.150.**

3. A provisional licensed clinical perfusionist shall be under supervision and direction of a licensed clinical perfusionist at all times during which the provisional licensed clinical perfusionist performs perfusion. The board may adopt rules governing such supervision and direction which do not require the immediate physical presence of the supervising licensed clinical perfusionist.

[3.**] 4.** A provisional license shall be valid for one year from the date it is issued and may be renewed, subject to rules adopted by the board, by the same procedures established for the renewal of licenses pursuant to section 324.144, if the application for renewal is signed by a supervising licensed clinical perfusionist.

[4. If the person**] 5. If a provisional licensed clinical perfusionist who obtains a provisional license pursuant to subsection 1 of this section** fails any portion of the licensure examination, such person shall surrender the person's provisional license to the board.

324.150. WAIVER OF EXAMINATION AND EDUCATION REQUIREMENTS BY THE BOARD, WHEN. — On receipt of an application and application fee, the board may waive the examination and educational requirements for an applicant who at the time of application:

(1) Is appropriately licensed or certified by another state, territory or possession of the United States, if the requirements of such state, territory or possession for the license or certificate are substantially equivalent to the requirements of sections 324.125 to 324.183 as determined by the board; or

(2) Holds a current certificate as a certified clinical perfusionist **initially** issued by the American Board of Cardiovascular Perfusion, or its successor, prior to August 28, 1997.

324.171. REFUSAL TO ISSUE A CERTIFICATE OF REGISTRATION OR AUTHORITY, PERMIT, OR LICENSE, WHEN. — **[**The board shall revoke or suspend a license, place on probation a person whose license has been suspended or reprimand a license holder if there is proof of**] 1. The board may refuse to issue any certificate of registration or authority, permit, or license required by sections 324.125 to 324.183 for one or any combination of causes listed 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 in chapter 621, RSMo.**

2. The board may cause a complaint to be filed with the administrative hearing commission as provided in chapter 621, RSMo, against any holder of any certificate of registration or authority, permit, or license required by sections 324.125 to 324.183 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 combination of the following causes:

(1) Any violation of sections 324.125 to 324.183;

(2) Any violation of a rule or code of ethics adopted by the board; or

(3) Unprofessional conduct, which includes, but is not limited to, the following:

(a) Incompetence or gross negligence in carrying out usual perfusion functions;

(b) A conviction of practicing perfusion without a license or a provisional license;

(c) The use of advertising relating to perfusion in a way that violates state law;

(d) Procuring a license or provisional license by fraud, misrepresentation or mistake;

(e) Making or giving any false statement or information in connection with the application for a license or provisional license;

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions and duties of a perfusionist, in which event the record of the conviction shall be conclusive evidence of such offense; or

(g) Impersonating an applicant or acting as proxy for an applicant in any examination required pursuant to sections 324.125 to 324.183 for the issuance of a license.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with chapter 621, RSMo. Upon a finding by the administrative hearing

commission that the grounds in subsection 2 of this section for disciplinary action are met, the board may, singly or in combination:

(1) Reprimand or place the person on probation on such terms and conditions as the board deems appropriate for a period not to exceed ten years; or

(2) Suspend the person's license, certificate, or permit for a period not to exceed three years; or

(3) Revoke the person's license, certificate, or permit.

Approved July 2, 2002

HB 1953 [CCS SCS HB 1953]

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

Clarifies that the reimbursement of Department of Health and Senior Services advisory committees shall be subject to appropriations.

AN ACT to repeal sections 190.101, 191.305, 192.707, 192.712, 192.745, 197.272, 197.450, 344.060 and 701.302, RSMo, and to enact in lieu thereof nine new sections relating to various advisory offices of the department of health and senior services.

SECTION

A. Enacting clause.
190.101. State advisory council on emergency medical services, members, purpose, duties.
191.305. Missouri genetic advisory committee created — purpose — appointment, terms — qualifications — expenses.
192.707. Arthritis advisory board established — members — terms — appointment — vacancies — meetings — chairman, term — duties — reports — reimbursement of expenses.
192.712. Expenses of board and committee members to be paid, subject to appropriations.
192.745. Advisory council established — members — terms — appointment — meetings — expenses — chairman — duties — reports.
197.272. State hospice advisory council established — members, qualifications — appointment, terms, reappointment — compensation — duties.
197.450. Home health services advisory council — members — terms, qualifications — appointment — vacancies — expenses.
344.060. Board, membership, qualifications, terms, removed how, hearing.
701.302. Advisory committee on lead poisoning established — members — report, recommendations — compensation.

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

SECTION A. ENACTING CLAUSE. — Sections 190.101, 191.305, 192.707, 192.712, 192.745, 197.272, 197.450, 344.060 and 701.302, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as sections 190.101, 191.305, 192.707, 192.712, 192.745, 197.272, 197.450, 344.060 and 701.302, to read as follows:

190.101. STATE ADVISORY COUNCIL ON EMERGENCY MEDICAL SERVICES, MEMBERS, PURPOSE, DUTIES. — 1. There is hereby established a "State Advisory Council on Emergency Medical Services" which shall consist of fifteen members. The members of the council shall be appointed by the governor with the advice and consent of the senate and shall serve terms of four years. The governor shall designate one of the members as chairperson. The chairperson may appoint subcommittees that include noncouncil members.

2. The state EMS medical directors advisory committee and the regional EMS advisory committees will be recognized as subcommittees of the state advisory council on emergency medical services.

3. The council shall have geographical representation and representation from appropriate areas of expertise in emergency medical services including volunteers, professional organizations involved in emergency medical services, EMT's, paramedics, nurses, firefighters, physicians, ambulance service administrators, hospital administrators and other health care providers concerned with emergency medical services. The regional EMS advisory committees shall serve as a resource for the identification of potential members of the state advisory council on emergency medical services.

4. The members of the council and subcommittees shall serve without compensation except that **[**the department of health and senior services shall budget**] members of the council shall, subject to appropriations, be reimbursed** for reasonable travel expenses and meeting expenses related to the functions of the council.

5. The purpose of the council is to make recommendations to the governor, the general assembly, and the department on policies, plans, procedures and proposed regulations on how to improve the statewide emergency medical services system. The council shall advise the governor, the general assembly, and the department on all aspects of the emergency medical services system.

191.305. MISSOURI GENETIC ADVISORY COMMITTEE CREATED — PURPOSE — APPOINTMENT, TERMS — QUALIFICATIONS — EXPENSES. — 1. The "Missouri Genetic Advisory Committee", consisting of fifteen members, is hereby created to advise the department in all genetic programs including metabolic disease screening programs, hemophilia, sickle cell anemia, and cystic fibrosis programs. Members of the committee shall be appointed by the governor, by and with the advice and consent of the senate. The first appointments to the committee shall consist of five members to serve three-year terms, five members to serve two-year terms, and five members to serve one-year terms as designated by the governor. Each member of the committee shall serve for a term of three years thereafter.

2. The committee shall be composed of persons who reside in the state of Missouri, and a majority shall be licensed physicians. At least one member shall be a specialist in genetics; at least one member shall be a licensed obstetrician/gynecologist; at least one member shall be a licensed pediatrician in private practice; at least one member shall be a consumer, family member of a consumer or representative of a consumer group; at least one member shall be a licensed physician experienced in the study and treatment of hemophilia; at least one member shall be a specialist in sickle cell anemia; and at least **[**on**] one** member shall be a specialist in cystic fibrosis.

3. Members of the committee shall not receive any compensation for their services, but they shall**, subject to appropriations,** be reimbursed for actual and necessary expenses incurred in the performance of their duties from funds appropriated for that purpose.

192.707. ARTHRITIS ADVISORY BOARD ESTABLISHED — MEMBERS — TERMS — APPOINTMENT — VACANCIES — MEETINGS — CHAIRMAN, TERM — DUTIES — REPORTS — REIMBURSEMENT OF EXPENSES. — 1. The "Missouri Arthritis Advisory Board" is established within the department of health and senior services, as a continuation of the arthritis advisory board in existence on August 13, 1984. The board shall consist of twenty-five members. The members of the board that are serving on August 13, 1984, shall continue until the expiration of this term. The board shall submit a list of names to the director as recommendations to fill expired terms on the board. The director shall fill each expired membership on the board, each of the appointees to serve for a term of four years and until his successor is appointed and confirmed. Vacancies on the board arising from reasons other than expiration of the member's term shall be filled by the director for the time remaining in the unexpired term.

2. The board shall meet semiannually and at other such times as called by the chairman of the board. The chairman shall be elected from the board membership at the first board meeting, and shall serve as chairman until a new chairman is elected, or until his term on the board expires, whichever occurs first.

3. The board shall serve in an advisory capacity to the committee, and report annually to the department and to the state board of health regarding the implementing of the statewide arthritis plan, making recommendations for necessary changes in content and direction.

4. The board shall be responsible for development and recommendations of guidelines for programs supported under the state arthritis program, and make recommendations on program relevance of grant applications funded under the state arthritis program. The board will make final recommendations to the director regarding programs and grants of the state arthritis program.

5. Any reimbursement of members of the board for their actual and necessary expenses shall be subject to appropriations.

192.712. EXPENSES OF BOARD AND COMMITTEE MEMBERS TO BE PAID, SUBJECT TO APPROPRIATIONS. — Committee and board members shall serve without compensation, but their expenses incurred in carrying out their official duties shall**, subject to appropriations,** be reimbursed by the state.

192.745. ADVISORY COUNCIL ESTABLISHED — MEMBERS — TERMS — APPOINTMENT — MEETINGS — EXPENSES — CHAIRMAN — DUTIES — REPORTS. — 1. The "Missouri Head Injury Advisory Council" is hereby established as created by executive order of the governor on March 5, 1985. The council shall consist of twenty-five members. The members of the council that are serving on August 13, 1986, shall continue serving on the following basis: The two members of the council who are members of the house of representatives and appointed by the speaker of the house of representatives shall serve for the remainder of their terms; the two members of the council who are members of the senate appointed by the president pro tempore of the senate shall serve for the remainder of their terms; and the remaining twenty-one members shall determine by lot which seven are to have a one-year term, which seven are to have a two-year term, and which seven are to have a three-year term. Thereafter, the successors to each of these twenty-one members shall serve a three-year term and until **[**his**]** **the member's** successor is appointed by the governor with the advice and consent of the senate. In addition, two members who are members of the house of representatives shall be appointed by the speaker of the house and two members who are members of the senate shall be appointed by the president pro tempore of the senate. The members appointed by the governor shall represent people with head injuries, relatives of persons with head injuries, proprietary schools as defined in section 173.600, RSMo, professional groups, health institutions, or private industry and state agencies which administer programs regarding mental health, education, public health, public safety, insurance, and Medicaid. The appointment of individuals representing state agencies shall be conditioned on their continued employment with their respective agencies.

2. The Missouri head injury advisory council is assigned to the division of general services in the office of administration. The office of administration shall submit estimates of requirements for appropriations on behalf of the council for the necessary staff and expenses to carry out the duties and responsibilities assigned by the council. Such staff shall consist of a director and other support staff.

3. Meetings shall be held at least every ninety days or at the call of the council **[**chairman**]** **chairperson**, who shall be elected by the council.

4. Each member shall**, subject to appropriations,** be reimbursed for reasonable and necessary expenses actually incurred in the performance of **[**his**]** **the member's** official duties.

5. The council shall adopt written procedures to govern its activities. Staff and consultants shall be provided for the council from appropriations requested by the commissioner of the office of administration for such purpose.

6. The council shall make recommendations to the governor for developing and administering a state plan to provide services for head injured persons.

7. No member of the council may participate in or seek to influence a decision or vote of the council if the member would be directly involved with the matter or if **[**he**] the member** would derive income from it. A violation of the prohibition contained herein shall be grounds for a person to be removed as a member of the council by the governor.

8. The council shall be advisory and shall:

(1) Promote meetings and programs for the discussion of reducing the debilitating effects of head injuries and disseminate information in cooperation with any other department, agency or entity on the prevention, evaluation, care, treatment and rehabilitation of persons affected by head injuries;

(2) Study and review current prevention, evaluation, care, treatment and rehabilitation technologies and recommend appropriate preparation, training, retraining and distribution of manpower and resources in the provision of services to head injured persons through private and public residential facilities, day programs and other specialized services;

(3) Recommend what specific methods, means and procedures should be adopted to improve and upgrade the state's service delivery system for head injured citizens of this state;

(4) Participate in developing and disseminating criteria and standards which may be required for future funding or licensing of facilities, day programs and other specialized services for head injured persons in this state;

(5) Report annually to the commissioner of administration, the governor, and the general assembly on its activities, and on the results of its studies and the recommendations of the council.

9. The office of administration may accept on behalf of the council federal funds, gifts and donations from individuals, private organizations and foundations, and any other funds that may become available.

197.272. STATE HOSPICE ADVISORY COUNCIL ESTABLISHED — MEMBERS, QUALIFICATIONS — APPOINTMENT, TERMS, REAPPOINTMENT — COMPENSATION — DUTIES. — 1. There is hereby established a "State Hospice Advisory Council" which shall guide, advise and make recommendations to the department of health and senior services.

2. Members of the council shall be United States citizens and residents of the state for a period of not less than one year. The council shall consist of five members who have experience with hospices. Of the members appointed to the council at least one shall be employed by or associated with each of the following:

(1) A home health agency-based hospice;

(2) A hospital-based hospice; and

(3) A hospice based in a rural area.

3. All members of the council shall be appointed by the director of the department. The term of office of each member shall be for five years. Before a member's term expires, the director of the department shall appoint a successor to assume **[**his**] the member's** duties on the expiration of his **or her** predecessor's term. A vacancy in the office of a member shall be filled by appointment for the unexpired term. The members of the council shall annually designate one member to serve as **[**chairman**] chairperson** and another to serve as secretary.

4. No member of the council who has served two full terms may be reappointed to the council until at least one year after the expiration of **[**his**] the member's** most recent full term of office.

5. Members of the council shall receive no compensation for their service, but shall**, subject to appropriations,** be reimbursed for their actual and necessary expenses incurred in the performance of their duties.

6. The council shall advise and consult with the department of health and senior services in carrying out the administration of sections 197.250 to 197.280, and shall:

(1) Consult and advise with the department in matters of policy affecting administration of sections 197.250 to 197.280, and in the development of rules, regulations and standards provided for under sections 197.250 to 197.280;

(2) Review and make recommendations with respect to rules, regulations and standards authorized under sections 197.250 to 197.280 prior to their promulgation by the department of health and senior services.

197.450. HOME HEALTH SERVICES ADVISORY COUNCIL — MEMBERS — TERMS, QUALIFICATIONS — APPOINTMENT — VACANCIES — EXPENSES. — 1. There is hereby created the "Home Health Services Advisory Council", which shall guide, advise and make recommendations to the department relating to the rules and standards adopted and the implementation and administration of sections 197.400 to 197.475.

2. Members of the council shall be residents of this state. The council shall consist of members who shall serve for a term of three years. No member may serve more than two successive full terms. One member of the council shall be a representative of the department, and such member shall serve as chairman of the council. Three members shall be citizens selected from the state at large and shall have no connection with any home health agency. Five members shall be representatives of home health agencies and one of these five members shall be selected from each of the following types of home health agencies:

(1) Public sponsored home health agencies;

(2) Institutional sponsored home health agencies;

(3) Voluntary nonprofit home health agencies;

(4) Private nonprofit home health agencies; and

(5) For-profit home health agencies.

3. All members of the council shall be appointed by the director of the department. The term of office of each member shall be for three years or until his successor is appointed; except that, of the members first appointed, three shall be selected for one year, three shall be selected for two years, and three shall be selected for three years. Before a member's term expires, the director of the department shall appoint a successor to assume his duties on the expiration of his predecessor's term. A vacancy in the office of a member shall be filled by appointment for the unexpired term.

4. The council shall meet not less than quarterly each year at a place, day and hour determined by the council. The council may also meet at such other times and places as may be designated by the chairman, or upon the request of the majority of the other members of the council.

5. Members of the council shall receive no compensation for their services, but shall be reimbursed, **[**out of funds appropriated to the department for that purpose**]** **subject to appropriations**, for their actual and necessary expenses incurred in the performance of their duties.

344.060. BOARD, MEMBERSHIP, QUALIFICATIONS, TERMS, REMOVED HOW, HEARING. — 1. The director of the department of **[**social services**]** **health and senior services** shall appoint ten suitable persons who together with the director of the division of aging of the department of **[**social**]** **health and senior** services shall constitute the "Missouri Board of Nursing Home Administrators" which is hereby created **within the department of health and senior services** and which shall have the functions, powers and duties prescribed by sections 344.010 to 344.100.

2. In addition to the director of the division of aging or his designee the membership of the board shall consist of one licensed physician, two licensed health professionals, one person from the field of health care education, four persons who have been in general administrative charge of a licensed nursing home for a period of at least five years immediately preceding their appointment, and two public members. The public members shall be persons who are not, or never were, licensed nursing home administrators or the spouse of such persons, or persons who do not

have or never have had a material, financial interest in either the providing of licensed nursing home services or in an activity or organization directly related to licensed nursing home administration. Neither the one licensed physician, the two licensed health professionals, nor the person from the health care education field shall have any financial interest in a licensed nursing home.

3. The members of the board shall be appointed for three-year terms or until their successors are appointed and qualified provided that no more than four members' terms shall expire in the same year. All members appointed prior to September 28, 1979, shall serve the term for which they were appointed. The governor shall fill any vacancies on the board **[**from a list of five names submitted by the director of the department of social services**] as necessary**. Appointment to fill an unexpired term shall not be considered an appointment for a full term. Board membership, continued until successors are appointed and qualified, shall not constitute an extension of the three-year term and the successors shall serve only the remainder of the term.

4. **[**To**]** Every member **[**appointed by the director of the department of social services, there**]** shall **[**be issued**] receive** a certificate of appointment; and every appointee, before entering upon his **or her** duties, shall take the oath of office required by article VII, section 11, of the Constitution of Missouri.

5. Any member of the board may be removed by the director of the department of **[**social services**] health and senior services** for misconduct, incompetency or neglect to duty after first being given an opportunity to be heard in his own behalf.

701.302. ADVISORY COMMITTEE ON LEAD POISONING ESTABLISHED — MEMBERS — REPORT, RECOMMENDATIONS — COMPENSATION. — 1. There is hereby established the "Advisory Committee on Lead Poisoning". The members of the committee shall consist of twenty-seven persons who shall be appointed by the governor with the advice and consent of the senate, except as otherwise provided in this subsection. At least five of the members of the committee shall be African-Americans or representatives of other minority groups disproportionately affected by lead poisoning. The members of the committee shall include:

(1) The director of the department of health and senior services or the director's designee, who shall serve as an ex officio member;

(2) The director of the department of economic development or the director's designee, who shall serve as an ex officio member;

(3) The director of the department of natural resources or the director's designee, who shall serve as an ex officio member;

(4) The director of the department of social services or the director's designee, who shall serve as an ex officio member;

(5) The director of the department of labor and industrial relations or the director's designee, who shall serve as an ex officio member;

(6) One member of the senate, appointed by the president pro tempore of the senate, and one member of the house of representatives, appointed by the speaker of the house of representatives;

(7) A representative of the office of the attorney general, who shall serve as an ex officio member;

(8) A member of a city council, county commission or other local governmental entity;

(9) A representative of a community housing organization;

(10) A representative of property owners;

(11) A representative of the real estate industry;

(12) One representative of an appropriate public interest organization and one representative of a local public health agency promoting environmental health and advocating protection of children's health;

(13) A representative of the lead industry;

(14) A representative of the insurance industry;

(15) A representative of the banking industry;

(16) A parent of a currently or previously lead-poisoned child;

(17) A representative of the school boards association or an employee of the department of elementary and secondary education, selected by the commissioner of elementary and secondary education;

(18) Two representatives of the lead abatement industry, including one licensed lead abatement contractor and one licensed lead abatement worker;

(19) A physician licensed under chapter 334, RSMo;

(20) A representative of a lead testing laboratory;

(21) A lead inspector or risk assessor;

(22) The chief engineer of the department of transportation or the chief engineer's designee, who shall serve as an ex officio member;

(23) A representative of a regulated industrial business; and

(24) A representative of a business organization.

2. The committee shall make recommendations relating to actions to:

(1) Eradicate childhood lead poisoning by the year 2012;

(2) Screen children for lead poisoning;

(3) Treat and medically manage lead-poisoned children;

(4) Prevent lead poisoning in children;

(5) Maintain and increase laboratory capacity for lead assessments and screening, and a quality control program for laboratories;

(6) Abate lead problems after discovery;

(7) Identify additional resources, either through a tax or fee structure, to implement programs necessary to address lead poisoning problems and issues;

(8) Provide an educational program on lead poisoning for the general public and health care providers;

(9) Determine procedures for the removal and disposal of all lead contaminated waste in accordance with the Toxic Substances Control Act, as amended, 42 U.S.C. 2681, et seq., solid waste and hazardous waste statutes, and any other applicable federal and state statutes and regulations.

3. The committee members shall receive no compensation but shall**, subject to appropriations,** be reimbursed for actual and necessary expenses incurred in the performance of their duties. All public members and local officials shall serve for a term of two years and until their successors are selected and qualified, and other members shall serve for as long as they hold the office or position from which they were appointed.

4. No later than December fifteenth of each year, the committee shall provide a written annual report of its recommendations for actions as required pursuant to subsection 2 of this section to the governor and general assembly, including any legislation proposed by the committee to implement the recommendations.

5. 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.

Approved July 2, 2002

HB 1964 [SCS HB 1964]

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

Excludes certain neighborhood associations from certain statutes governing real estate agents.

AN ACT to repeal sections 339.010, 339.710, 339.720 and 339.770, RSMo, and to enact in lieu thereof four new sections relating to the selling of real estate.

SECTION
A. Enacting clause.
339.010. Definitions — applicability of chapter.
339.710. Definitions.
339.720. Licensee's duties and obligations in writing — licensee as transaction broker, exceptions.
339.770. Broker disclosure form for residential real estate transaction, provided by licensee, prior agreement, effect.

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

SECTION A. ENACTING CLAUSE. — Sections 339.010, 339.710, 339.720 and 339.770, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 339.010, 339.710, 339.720 and 339.770, to read as follows:

339.010. DEFINITIONS — APPLICABILITY OF CHAPTER. — 1. A "real estate broker" is any person, partnership, association or corporation, foreign or domestic who, for another, and for a compensation or valuable consideration, as a whole or partial vocation, does, or attempts to do, any or all of the following:

(1) Sells, exchanges, purchases, rents, or leases real estate;

(2) Offers to sell, exchange, purchase, rent or lease real estate;

(3) Negotiates or offers or agrees to negotiate the sale, exchange, purchase, rental or leasing of real estate;

(4) Lists or offers or agrees to list real estate for sale, lease, rental or exchange;

(5) Buys, sells, offers to buy or sell or otherwise deals in options on real estate or improvements thereon;

(6) Advertises or holds himself **or herself** out as a licensed real estate broker while engaged in the business of buying, selling, exchanging, renting, or leasing real estate;

(7) Assists or directs in the procuring of prospects, calculated to result in the sale, exchange, leasing or rental of real estate;

(8) Assists or directs in the negotiation of any transaction calculated or intended to result in the sale, exchange, leasing or rental of real estate;

(9) Engages in the business of charging to an unlicensed person an advance fee in connection with any contract whereby **[**he**] the real estate broker** undertakes to promote the sale of that person's real estate through its listing in a publication issued for such purpose intended to be circulated to the general public;

(10) Performs any of the foregoing acts as an employee of, or on behalf of, the owner of real estate, or interest therein, or improvements affixed thereon, for compensation.

2. A "real estate salesperson" is any person, who for a compensation or valuable consideration becomes associated, either as an independent contractor or employee, either directly or indirectly, with a real estate broker to do any of the things above mentioned, as a whole or partial vocation. The provisions of sections 339.010 to 339.180 shall not be construed to deny a real estate salesperson who is compensated solely by commission the right to be associated with a broker as an independent contractor.

3. The term "commission" as used in sections 339.010 to 339.180 means the Missouri real estate commission.

4. "Real estate" for the purposes of sections 339.010 to 339.180 shall mean, and include, leaseholds, as well as any other interest or estate in land, whether corporeal, incorporeal, freehold or nonfreehold, and whether the real estate is situated in this state or elsewhere.

5. The provisions of sections 339.010 to 339.180 shall not apply to:

(1) Any person, partnership or corporation who as owner or lessor shall perform any of the acts described in subsection 1 of this section with reference to property owned or leased by them,

or to the regular employees thereof, provided such owner or lessor is not engaged in the real estate business as a vocation;

(2) Any licensed attorney at law;

(3) An auctioneer employed by the owner of the property;

(4) Any person acting as receiver, trustee in bankruptcy, administrator, executor, or guardian or while acting under a court order or under the authority of a will, trust instrument or deed of trust or as a witness in any judicial proceeding or other proceeding conducted by the state or any governmental subdivision or agency;

(5) Any person employed or retained to manage real property by, for, or on behalf of, the agent or the owner, of any real estate shall be exempt from holding a license, if the person is limited to one or more of the following activities:

(a) Delivery of a lease application, a lease, or any amendment thereof, to any person;

(b) Receiving a lease application, lease, or amendment thereof, a security deposit, rental payment, or any related payment, for delivery to, and made payable to, a broker or owner;

(c) Showing a rental unit to any person, as long as the employee is acting under the direct instructions of the broker or owner, including the execution of leases or rental agreements;

(d) Conveying information prepared by a broker or owner about a rental unit, a lease, an application for lease, or the status of a security deposit, or the payment of rent, by any person;

(e) Assisting in the performance of brokers' or owners' functions, administrative, clerical or maintenance tasks;

(f) If the person described in this section is employed or retained by, for, or on behalf of a real estate broker, the real estate broker shall be subject to discipline under this chapter for any conduct of the person that violates this chapter or the regulations promulgated thereunder;

(6) Any officer or employee of a federal agency or the state government or any political subdivision thereof performing **[**his**]** official duties;

(7) Railroads and other public utilities regulated by the state of Missouri, or their subsidiaries or affiliated corporations, or to the officers or regular employees thereof, unless performance of any of the acts described in subsection 1 of this section is in connection with the sale, purchase, lease or other disposition of real estate or investment therein unrelated to the principal business activity of such railroad or other public utility or affiliated or subsidiary corporation thereof;

(8) Any bank, trust company, savings and loan association, credit union, insurance company**, mortgage banker,** or farm loan association organized under the laws of this state or of the United States when engaged in the transaction of business on its own behalf and not for others;

(9) Any newspaper or magazine or periodical of general circulation whereby the advertising of real estate is incidental to the operation of that publication or to any form of communications regulated or licensed by the Federal Communications Commission or any successor agency or commission;

(10) Any developer selling Missouri land owned by the developer if such developer has on file with the commission a certified copy of a currently effective statement of record on file with the Office of Interstate Land Sales pursuant to sections 1704 through 1706 of Title 15 of the United States Code or a current statement from the Office of Interstate Land Sales of the United States Department of Housing and Urban Development approving the documentation (together with a copy of such documentation) submitted to that office with respect to real estate falling within the scope of subsection 1702(a)(10) of Title 15 of the United States Code; **[**or**]**

(11) Any employee acting on behalf of a nonprofit community, or regional economic development association, agency or corporation which has as its principal purpose the general promotion and economic advancement of the community at large, provided that such entity:

(a) Does not offer such property for sale, lease, rental or exchange on behalf of another person or entity;

(b) Does not list or offer or agree to list such property for sale, lease, rental or exchange; or

(c) Receives no fee, commission or compensation, either monetary or in kind, that is directly related to sale or disposal of such properties. An economic developer's normal annual compensation shall be excluded from consideration as commission or compensation related to sale or disposal of such properties**; or**

(12) Any neighborhood association, as that term is defined in section 441.500, RSMo, that without compensation, either monetary or in kind, provides to prospective purchasers or lessors of property the asking price, location, and contact information regarding properties in and near the association's neighborhood, including any publication of such information in a newsletter, web site, or other medium.

339.710. DEFINITIONS. — For purposes of sections 339.710 to 339.860, the following terms mean:

(1) "Adverse material fact", a fact related to the physical condition of 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;

[(7)**] (8)** "Commission", the Missouri real estate commission;

[(8)**] (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;

[(9)**]** **(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 a licensee;

[(10)**]** **(11)** "Designated agent", a licensee named by a designated broker as the limited agent of a client as provided for in section 339.820;

[(11)**]** **(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;

[(12)**]** **(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;

[(13)**]** **(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;

[(14)**]** **(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;

[(15)**]** **(16)** "Licensee", a real estate broker or salesperson as defined in section 339.010;

[(16)**]** **(17)** "Limited agent", a licensee whose duties and obligations to a client are those set forth in sections 339.730 to 339.750;

[(17)**]** **(18)** "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;

(19) "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;

[(18)**] (20)** "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) "Seller's agent", which shall mean a licensee who represents the seller in a real estate transaction; and

(c) "Landlord's agent", which shall mean a licensee who represents a landlord in a leasing transaction;

(d) "Tenant's agent", which shall mean a licensee who represents the tenant in a leasing transaction;

[(19)**] (21)** "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;

[(20)**] (22)** "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.

339.720. LICENSEE'S DUTIES AND OBLIGATIONS IN WRITING — LICENSEE AS TRANSACTION BROKER, EXCEPTIONS. — 1. A licensee's general duties and obligations arising from the limited agency relationship shall be disclosed in writing to the seller and the buyer or to the landlord and the tenant pursuant to sections 339.760 to 339.780. Alternatively, when engaged in any of the activities enumerated in section 339.010, a licensee may act as an agent in any transaction in accordance with a written agreement as described in section 339.780.

2. A licensee shall be considered a transaction broker unless:

(1) The designated broker enters into a written seller's agent or landlord's agent agreement with the party or parties to be represented pursuant to subsection 2 of section 339.780;

(2) The designated broker enters into a subagency agreement with another designated broker pursuant to subsection 5 of section 339.780;

(3) The designated broker **[**enters into a written buyer's agent or tenant's agent agreement with the party or parties to be represented pursuant to subsection 3 of section 339.780**] establishes a buyer's or tenant's agency relationship pursuant to subsection 3 of section 339.780**;

(4) The designated broker enters into a written agency agreement pursuant to subsection 7 of section 339.780;

(5) The designated broker and the affiliated licensees are performing ministerial acts;

(6) The designated broker enters into a written dual agency agreement with the parties pursuant to subsection 4 of section 339.780;

(7) The designated broker is acting in a manner described in paragraph (c) of subdivision **[**(20)**] (22**) of section 339.710 without proper notice of assumption of transaction broker status; or

(8) The licensee is making a listing presentation, which may include pricing and marketing advice about a potential future transaction, to a customer in anticipation of entering into a signed agency brokerage service agreement as a direct result of the presentation.

3. Sections 339.710 to 339.860 do not obligate any buyer or tenant to pay compensation to a designated broker unless the buyer or tenant has entered into a written agreement with the designated broker specifying the compensation terms in accordance with subsection 3 of section 339.780.

4. A licensee may work with a single party in separate transactions pursuant to different relationships, including, but not limited to, selling one property as a transaction broker or a seller's agent working with that seller in buying another property as a buyer's agent, as a subagent or as a transaction broker if the licensee complies with sections 339.710 to 339.860 in establishing the relationships for each transaction.

339.770. BROKER DISCLOSURE FORM FOR RESIDENTIAL REAL ESTATE TRANSACTION, PROVIDED BY LICENSEE, PRIOR AGREEMENT, EFFECT. — 1. **In a residential real estate transaction,** at the earliest practicable opportunity during or following the first substantial contact by the designated broker or the affiliated licensees with a seller, landlord, buyer, or tenant who has not entered into a written agreement for services as described in subdivision (5) of section 339.710, the licensee shall provide that person with a written copy of the current broker disclosure form which has been prescribed by the commission.

2. When a seller, landlord, buyer, or tenant has already entered into a written agreement for services with a designated broker, no other licensee shall be required to make the disclosures required by this section.

3. Disclosures made in accordance with sections 339.710 to 339.860 shall be sufficient as a matter of law to disclose brokerage relationships to the public.

Approved June 28, 2002

HB 1973 [HB 1973]

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 Department of Elementary and Secondary Education to conduct a study relating to economics and personal finance education.

AN ACT to amend chapter 161, RSMo, by adding thereto one new section relating to economics and personal finance education.

SECTION

A. Enacting clause.

161.655. Economic and personal finance education study, report to general assembly, when — content of report — costs, how paid.

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

SECTION A. ENACTING CLAUSE. — Chapter 161, RSMo, is amended by adding thereto one new section, to be known as section 161.655, to read as follows:

161.655. ECONOMIC AND PERSONAL FINANCE EDUCATION STUDY, REPORT TO GENERAL ASSEMBLY, WHEN — CONTENT OF REPORT — COSTS, HOW PAID. — 1. For the purpose of promoting and improving each public school student's knowledge and responsibility relating to economics and personal finance, the department of elementary and secondary education shall conduct a study of economics and personal finance education and submit a report on the study to the Missouri general assembly on or before January 1, 2003.

2. The economics and personal finance report shall include, but not be limited to, the following:

(1) Recommendations on methods, materials, procedures, and in-service training of teachers;

(2) Recommendations relating to funding to facilitate the integration of grade-appropriate principles of economics and personal finance from kindergarten through the twelfth grade into math, reading, writing, social studies, business, and family and consumer science courses;

(3) Recommendations relating to detailed procedures and time tables to assure integration of testing on appropriate areas of economics and personal finance in the Missouri Assessment Program (MAP) with sufficient test questions to permit a separate reportable test score for each of these two subjects;

(4) Recommendations relating to content for a capstone high school course in economics and personal finance in which a passing grade shall be achieved by each public school student prior to graduation from high school;

(5) Recommendations relating to establishing appropriate undergraduate preparation requirements for teacher certification for teachers from kindergarten through the twelfth grade that will enable new teachers to meet these increased expectations in economics and personal finance education;

(6) Recommendations relating to appropriate changes in state laws, rules, or regulations that are necessary to implement the stated purpose of this study.

3. Any costs relating to the completion of this study shall not be paid by Missouri tax revenue funds, but shall be paid by federal funds, private funds, or other funding sources.

Approved July 2, 2002

HB 1982 [HB 1982]

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

Specifies travel expense guidelines for assessors in certain counties.

AN ACT to repeal section 53.135, RSMo, and to enact in lieu thereof one new section relating to travel expenses for assessors in certain counties.

SECTION
A. Enacting clause.
53.135. Travel expenses (third and fourth class counties).

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

SECTION A. ENACTING CLAUSE. — Section 53.135, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 53.135, to read as follows:

53.135. TRAVEL EXPENSES (THIRD AND FOURTH CLASS COUNTIES). — The county assessor in counties of the third and fourth classification shall be allowed a reimbursement for actual and necessary travel expenses incurred in the performance of **[**his or her**]** **the assessor's** official duties within the county at the rate allowed pursuant to subsection 10 of section 50.333, RSMo, payable monthly upon the filing of a statement by the assessor with the county commission showing the actual and necessary miles traveled during the month, to be paid out of the county treasury.

Approved July 10, 2002

HB 1988 [HB 1988]

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

Makes the fox trotting horse the official state horse.

AN ACT to amend chapter 10, RSMo, by adding thereto one new section relating to the establishment of an official state horse.

SECTION
A. Enacting clause.
10.140. Missouri fox trotting horse, official state horse.

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

SECTION A. ENACTING CLAUSE. — Chapter 10, RSMo, is amended by adding thereto one new section, to be known as section 10.140, to read as follows:

10.140. MISSOURI FOX TROTTING HORSE, OFFICIAL STATE HORSE. — The Missouri Fox Trotting Horse, is hereby selected for, and shall be known as, the official state horse of the state of Missouri.

Approved June 4, 2002

HB 2001 [HB 2001]

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 State Dental Board to enter into diversion agreements with dentists or dental hygienists.

AN ACT to repeal section 332.327, RSMo, and to enact in lieu thereof one new section relating to the Missouri dental board.

SECTION
A. Enacting clause.
332.327. Dental well-being committee, powers and duties, records confidential, when — diversion agreements, entered into when.

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

SECTION A. ENACTING CLAUSE. — Section 332.327, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 332.327, to read as follows:

332.327. DENTAL WELL-BEING COMMITTEE, POWERS AND DUTIES, RECORDS CONFIDENTIAL, WHEN — DIVERSION AGREEMENTS, ENTERED INTO WHEN. — 1. The board may establish an impaired dentist or dental hygienist committee, to be designated as the well-being committee, to promote the early identification, intervention, treatment and rehabilitation of dentists or dental hygienists who may be impaired by reasons of illness, substance abuse, or as a result of any physical or mental condition. The board may enter into a contractual agreement with a nonprofit corporation or a dental association for the purpose of creating, supporting and maintaining a committee to be designated as the well-being committee. The board may promulgate administrative rules subject to the provisions of this section and chapter 536, RSMo, to effectuate and implement any committee formed pursuant to this section. The board may expend appropriated funds necessary to provide for operational expenses of the committee formed pursuant to this section. Any member of the well-being committee, as well as any administrator, staff member, consultant, agent or employee of the committee, acting within the scope of his or her duties and without actual malice and, all other persons who furnish information to the committee in good faith and without actual malice, shall not be liable for any claim of damages as a result of any statement, decision, opinion, investigation or action taken by the committee, or by any individual member of the committee.

2. All information, interviews, reports, statements, memoranda or other documents furnished to or produced by the well-being committee, as well as communications to or from the committee, any findings, conclusions, interventions, treatment, rehabilitation or other proceedings of the committee which in any way pertain to a licensee who may be, or who actually is, impaired shall be privileged and confidential.

3. All records and proceedings of the well-being committee which pertain or refer to a licensee who may be, or who actually is, impaired shall be privileged and confidential and shall be used by the committee and its members only in the exercise of the proper function of the committee and shall not be considered public records pursuant to chapter 610, RSMo, and shall not be subject to court subpoena or subject to discovery or introduction as evidence in any civil, criminal or administrative proceedings except as provided in subsection 4 of this section.

4. The well-being committee may disclose information relative to an impaired licensee only when:

(1) It is essential to disclose the information to further the intervention, treatment or rehabilitation needs of the impaired licensee and only to those persons or organization with a need to know;

(2) Its release is authorized in writing by the impaired licensee;

(3) The committee is required to make a report to the board; or

(4) The information is subject to a court order.

5. In lieu of pursuing discipline against a dentist or dental hygienist for violating one or more causes stated in subsection 2 of section 332.321, the board may enter into a diversion agreement with a dentist or dental hygienist to refer the licensee to the dental well-being committee under such terms and conditions as are agreed to by the board and licensee for a period not to exceed five years. The board shall enter into no more than two diversion agreements with any individual licensee. If the licensee violates a term or condition of a diversion agreement entered into pursuant to this section, the board may

elect to pursue discipline against the licensee pursuant to chapter 621, RSMo, for the original conduct that resulted in the diversion agreement, or for any subsequent violation of subsection 2 of section 332.321. While the licensee participates in the well-being committee, the time limitations of section 620.154, RSMo, shall toll pursuant to subsection 7 of section 620.154, RSMo. All records pertaining to diversion agreements are confidential and may only be released pursuant to subdivision (7) of subsection 14 of section 620.010, RSMo.

Approved July 3, 2002

HB 2002 [HB 2002]

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

Revises provisions concerning coroner's inquests.

AN ACT to repeal sections 58.260, 58.270, 58.310, 58.330, 58.340, and 58.360, RSMo, and to enact in lieu thereof six new sections relating to coroners inquests.

SECTION
A. Enacting clause.
58.260. Coroner may issue warrant to summon coroner's jury, when.
58.270. Sheriff to execute warrant.
58.310. Charge to be given to jury by coroner.
58.330. Coroner to issue subpoenas.
58.340. Coroner to administer oath to witnesses.
58.360. Jury to deliver verdict in writing.

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

SECTION A. ENACTING CLAUSE. — Sections 58.260, 58.270, 58.310, 58.330, 58.340, and 58.360, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 58.260, 58.270, 58.310, 58.330, 58.340, and 58.360, to read as follows:

58.260. CORONER MAY ISSUE WARRANT TO SUMMON CORONER'S JURY, WHEN. — Every coroner, **[**so soon as he shall be notified**]** **having been notified** of the dead body of any person, supposed to have come to his **or her** death by violence or casualty, being found within his county, **[**shall**]** **may** make out his **or her** warrant, directed to the sheriff of the county where the dead body is found, requiring him **or her** forthwith to summon a jury of six good and lawful citizens of the county, to appear before such coroner, at the time and place in his **or her** warrant expressed, and to inquire**[**, upon a view of the body of the person there lying dead,**]** how and by whom he **or she** came to his **or her** death.

58.270. SHERIFF TO EXECUTE WARRANT. — The sheriff to whom such warrant shall be directed shall forthwith execute the same, and shall repair to the place where the **[**dead body is,**]** **inquest is to be held** at the time mentioned, and make return of the warrant, with his proceedings thereon, to the coroner who granted the same.

58.310. CHARGE TO BE GIVEN TO JURY BY CORONER. — As soon as the jury shall be sworn, the coroner shall give them a charge, upon their oaths, to declare of the death of the

person, whether he **or she** died by felony or accident; and if of felony, who were the principals and who were accessories, **and if the act was justified,** and all the material circumstances relating thereto; and if by accident, whether by the act of man, and the manner thereof, and who was present, and who was the finder of the body, and whether he **or she** was killed in the same place where the body was found, and, if elsewhere, by whom, and how the body was brought there, and all other circumstances relating to the death; and if he **or she** died of his **or her** own act, then the manner and means thereof, and the circumstances relating thereto.

58.330. CORONER TO ISSUE SUBPOENAS. — Every coroner shall be empowered to issue his **or her** summons for witnesses, **and such evidence, documents, and materials of substance,** commanding them to come before him **or her** to be examined, and to declare their knowledge concerning the matter in question.

58.340. CORONER TO ADMINISTER OATH TO WITNESSES. — He **or she** shall administer to them an oath or affirmation in form as follows:

You do swear (or affirm) that the evidence you shall give to the inquest, concerning the death of the person here **[**lying**]** dead, shall be the truth, the whole truth, and nothing but the truth.

58.360. JURY TO DELIVER VERDICT IN WRITING. — The jury, having viewed the body **by photographic, electronic, or other means**, heard the evidence, and made all the inquiry in their power, shall draw up and deliver to the coroner their verdict upon the death under consideration, in writing under their hand, and the same shall be signed by the coroner.

Approved July 2, 2002

HB 2008 [SS SCS HB 2008]

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

Adds a new category of motor vehicle dealer.

AN ACT to repeal sections 301.144, 301.550, 301.560, 301.600, 301.610, 301.620, 301.630, 301.640, 301.660, 301.661, 306.400, 306.405, 306.410, 306.420, 306.430, 306.440, 365.070, 365.120, 407.750, 407.751, 407.752, 407.850, 407.860, 407.870, 407.890, 407.892, 407.893, 454.516, 700.350, 700.355, 700.360, 700.365, 700.370, 700.380 and 700.390, RSMo, and to enact in lieu thereof twenty-eight new sections relating to motor vehicle dealers, with penalty provisions.

SECTION

A. Enacting clause.
301.144. Personalized license plates, appearance, fees — new plates every three years without charge — obscene or offensive plates prohibited — amateur radio operators, plates, how marked — repossessed vehicles, placards — retired U.S. military plates, how marked.
301.550. Definitions — classification of dealers.
301.560. Application requirements, additional — bonds, fees, signs required — license number, certificate of numbers — duplicate dealer plates, issues, fees — test driving motor vehicles and vessels, use of plates.
301.567. Advertising standards, violation of, when.
301.600. Liens and encumbrances, how perfected — effect of on vehicles and trailers brought into state — security procedures for verifying electronic notices.
301.610. Certificate of ownership, delivery to whom, when — electronic certificate of ownership, defined, maintained by director, when.

301.620. Duties of parties upon creation of lien or encumbrance.
301.630. Lien or encumbrance, assignment, procedure, effect of — perfection of assignment, how, fee — form for notice of electronic certificate.
301.640. Release of lienholders' rights upon satisfaction of lien or encumbrance, procedure — issuance of new certificate of ownership — certain liens deemed satisfied, when — penalty.
301.660. Law not to affect existing rights, duties and interests.
306.400. Liens and encumbrances — valid, perfected, when, how, future advances — boats and motors subject to, when, how determined — revenue to establish security procedure, electronic notices, rulemaking authority.
306.405. Certificates of title, delivery of, how, to whom — lienholder may elect to have revenue retain electronic title.
306.410. Duties of parties upon creation of lien or encumbrance — failure of owner to perform certain duties, penalty.
306.420. Satisfaction of lien or encumbrance, release of, procedure — duties of lienholder and director of revenue — penalty for unauthorized release of a lien.
306.430. Liens and encumbrances incurred before July 1, 2003 — how terminated, completed and enforced.
306.440. Owner's failure to indicate lienholder on title application, penalty.
365.070. Retail installment contracts to be in writing — form, contents.
365.120. Time price differential, computed how.
407.850. Definitions.
407.860. Inventory qualifying for repurchase — percentage to be paid — cost of transportation to warehouse to be paid by retailer — packing and loading, how paid — transferee of manufacturer or distributors, law to apply, when.
407.870. Inventory which does not qualify for repurchase.
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.
700.350. Liens and encumbrances — valid, perfected, when, how — home subject to, when, how determined — security procedures — validity of prior transactions.
700.355. Certificates of title, delivery of, how, to whom — election for director to retain possession, procedure.
700.360. Creation of lien or encumbrance by owner, duties, failure to perform, penalty — subordinate lienholders, perfection procedure — new certificate issued, when.
700.365. Assignment of lien or encumbrance by lienholder, rights and obligations — perfection by assignee, how.
700.370. Satisfaction of lien or encumbrance, release of, procedure.
700.380. Liens and encumbrances incurred before July 1, 2003 — how terminated, completed and enforced.
301.661. Changes in certain sections remedial.
407.750. Industrial maintenance and construction power equipment, repurchase of on cancellation of contract, when, amount, payments made, when — exceptions.
407.751. Remedy under contract, retailer may pursue as alternative — not a bar to action under repurchase law, when.
407.752. Failure to make payment, civil action authorized.
407.890. Outdoor power equipment, repurchase of on cancellation of contract, when, amount — payments made, when — exceptions.
407.892. Remedy under contract, retailer may pursue as alternative to law.
407.893. Failure to make payment, civil action authorized.
700.390. Failure to indicate lienholder on title application — penalty.

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

SECTION A. ENACTING CLAUSE. — Sections 301.144, 301.550, 301.560, 301.600, 301.610, 301.620, 301.630, 301.640, 301.660, 301.661, 306.400, 306.405, 306.410, 306.420, 306.430, 306.440, 365.070, 365.120, 407.750, 407.751, 407.752, 407.850, 407.860, 407.870, 407.890, 407.892, 407.893, 454.516, 700.350, 700.355, 700.360, 700.365, 700.370, 700.380 and 700.390, RSMo, are repealed and twenty-eight new sections enacted in lieu thereof, to be known as sections 301.144, 301.550, 301.560, 301.567, 301.600, 301.610, 301.620, 301.630, 301.640, 301.660, 306.400, 306.405, 306.410, 306.420, 306.430, 306.440, 365.070, 365.120, 407.850, 407.860, 407.870, 454.516, 700.350, 700.355, 700.360, 700.365, 700.370 and 700.380, to read as follows:

301.144. PERSONALIZED LICENSE PLATES, APPEARANCE, FEES — NEW PLATES EVERY THREE YEARS WITHOUT CHARGE — OBSCENE OR OFFENSIVE PLATES PROHIBITED — AMATEUR RADIO OPERATORS, PLATES, HOW MARKED — REPOSSESSED VEHICLES,

PLACARDS — RETIRED U.S. MILITARY PLATES, HOW MARKED. — 1. The director of revenue shall establish and issue special personalized license plates containing letters or numbers or combinations of letters and numbers, not to exceed six characters in length. 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. Any person desiring to obtain a special personalized license plate for any motor vehicle other than a commercial motor vehicle licensed for more than twelve thousand pounds shall apply to the director of revenue on a form provided by the director and shall pay a fee of fifteen dollars in addition to the regular registration fees. The director of revenue shall issue rules and regulations setting the standards and establishing the procedure for application for and issuance of the special personalized license plates and shall provide a deadline each year for the applications. 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. No two owners shall be issued identical plates. An owner shall make a new application and pay a new fee each year such owner desires to obtain or retain special personalized license plates; however, notwithstanding the provisions of subsection 8 of section 301.130 to the contrary, the director shall allow the special personalized license plates to be replaced with new plates every three years without any additional charge, above the fee established in this section, to the renewal applicant. Any person currently in possession of an approved personalized license plate shall have first priority on that particular plate for each of the following years that timely and appropriate application is made.

2. No personalized license plates shall be issued containing any letters, numbers or combination of letters and numbers which are obscene, profane, **[**inflammatory or contrary to public policy**] patently offensive or contemptuous of a racial or ethnic group, or offensive to good taste or decency, or would present an unreasonable danger to the health or safety of the applicant, of other users of streets and highways, or of the public in any location where the vehicle with such a plate may be found**. The director may recall any personalized license plates, including those issued prior to August 28, 1992, if the director determines that the plates are obscene, profane, **[**inflammatory or contrary to public policy**] patently offensive or contemptuous of a racial or ethnic group, or offensive to good taste or decency, or would present an unreasonable danger to the health or safety of the applicant, of other users of streets and highways, or of the public in any location where the vehicle with such a plate may be found**. Where the director recalls such plates pursuant to the provisions of this subsection, the director shall reissue personalized license plates to the owner of the motor vehicle for which they were issued at no charge, if the new plates proposed by the owner of the motor vehicle meet the standards established pursuant to this section. **The director shall not apply the provisions of this statute in a way that violates the Missouri or United States constitutions as interpreted by the courts with controlling authority in the state of Missouri. The primary purpose of motor vehicle licence plates is to identify motor vehicles. Nothing in the issuance of a personalized license plate creates a designated or limited public forum.** Nothing contained in this subsection shall be interpreted to prohibit the use of license plates, which are no longer valid for registration purposes, as collector's items or for decorative purposes.

3. The director may also establish categories of special license plates from which license plates may be issued. Any such person, other than a person exempted from the additional fee pursuant to subsection 6 of this section, that desires a personalized special license plate from any such category shall pay the same additional fee and make the same kind of application as that

required by subsection 1 of this section, and the director shall issue such plates in the same manner as other personalized special license plates are issued.

4. The director of revenue shall issue to residents of the state of Missouri who hold an unrevoked and unexpired official amateur radio license issued by the Federal Communications Commission, upon application and upon payment of the additional fee specified in subsection 1 of this section, except for a person exempted from the additional fee pursuant to subsection 6 of this section, personalized special license plates bearing the official amateur radio call letters assigned by the Federal Communications Commission to the applicant. The application shall be accompanied by an affidavit stating that the applicant has an unrevoked and unexpired amateur radio license issued by the Federal Communications Commission and the official radio call letters assigned by the Federal Communications Commission to the applicant.

5. Notwithstanding any other provision to the contrary, any business that repossesses motor vehicles or trailers and sells or otherwise disposes of them shall be issued a placard displaying the word "Repossessed", provided such business pays the fees presently required of a manufacturer, distributor, or dealer in subsection 1 of section 301.253. Such placard shall bear a number and shall be in such form as the director of revenue shall determine, and shall be only used for demonstrations when displayed substantially as provided for number plates on the rear of the motor vehicle or trailer.

6. Notwithstanding any provision of law to the contrary, any person who has retired from any branch of the United States armed forces or reserves, the United States Coast Guard or reserve, the United States Merchant Marines or reserve, the National Guard, or any subdivision of any such services shall be exempt from the additional fee required for personalized license plates issued pursuant to section 301.441. As used in this subsection, "retired" means having served twenty or more years in the appropriate branch of service and having received an honorable discharge.

301.550. DEFINITIONS — CLASSIFICATION OF DEALERS. — 1. The definitions contained in section 301.010 shall apply to sections 301.550 to 301.573, and in addition as used in sections 301.550 to 301.573, the following terms mean:

(1) "Boat dealer", any natural person, partnership, or corporation who, for a commission or with an intent to make a profit or gain of money or other thing of value, sells, barters, exchanges, leases or rents with the option to purchase, offers, attempts to sell, or negotiates the sale of any vessel or vessel trailer, whether or not the vessel or vessel trailer is owned by such person. The sale of six or more vessels or vessel trailers or both in any calendar year shall be required as evidence that such person is eligible for licensure as a boat dealer under sections 301.550 to 301.573. The boat dealer shall demonstrate eligibility for renewal of his license by selling six or more vessels or vessel trailers or both in the prior calendar year while licensed as a boat dealer pursuant to sections 301.550 to 301.573;

(2) "Boat manufacturer", any person engaged in the manufacturing, assembling or modification of new vessels or vessel trailers as a regular business, including a person, partnership or corporation which acts for and is under the control of a manufacturer or assembly in connection with the distribution of vessels or vessel trailers;

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

(4) "Director", the director of the Missouri department of revenue;

(5) "Manufacturer", any person engaged in the manufacturing, assembling or modification of new motor vehicles or trailers as a regular business, including a person, partnership or corporation which acts for and is under the control of a manufacturer or assembly in connection with the distribution of motor vehicles or accessories for motor vehicles;

(6) "Motor vehicle broker", a person who holds himself out through solicitation, advertisement, or otherwise as one who offers to arrange a transaction involving the retail sale of a motor vehicle, and who is not:

(a) A dealer, or any agent, or any employee of a dealer when acting on behalf of a dealer;

(b) A manufacturer, or any agent, or employee of a manufacturer when acting on behalf of a manufacturer;

(c) The owner of the vehicle involved in the transaction; or

(d) A public motor vehicle auction or wholesale motor vehicle auction where buyers are licensed dealers in this or any other jurisdiction;

(7) "Motor vehicle dealer" or "dealer", any person who, for commission or with an intent to make a profit or gain of money or other thing of value, sells, barters, exchanges, leases or rents with the option to purchase, or who offers or attempts to sell or negotiates the sale of motor vehicles or trailers whether or not the motor vehicles or trailers are owned by such person; provided, however, an individual auctioneer or auction conducted by an auctioneer licensed pursuant to chapter 343, RSMo, shall not be included within the definition of a motor vehicle dealer. The sale of six or more motor vehicles or trailers in any calendar year shall be required as evidence that such person is engaged in the motor vehicle business and is eligible for licensure as a motor vehicle dealer under sections 301.550 to 301.573;

(8) "New motor vehicle", any motor vehicle being transferred for the first time from a manufacturer, distributor or new vehicle dealer which has not been registered or titled in this state or any other state and which is offered for sale, barter or exchange by a dealer who is franchised to sell, barter or exchange that particular make of motor vehicle. The term "new motor vehicle" shall not include manufactured homes, as defined in section 700.010, RSMo;

(9) "New motor vehicle franchise dealer", any motor vehicle dealer who has been franchised to deal in a certain make of motor vehicle by the manufacturer or distributor of that make and motor vehicle and who may, in line with conducting his business as a franchise dealer, sell, barter or exchange used motor vehicles;

(10) "Person" includes an individual, a partnership, corporation, an unincorporated society or association, joint venture or any other entity;

(11) "Powersport dealer", any motor vehicle dealer who sells, either pursuant to a franchise agreement or otherwise, primarily motor vehicles including but not limited to motorcycles, all-terrain vehicles, and personal watercraft, as those terms are defined in this chapter and chapter 306, RSMo;

[(11)**]** **(12)** "Public motor vehicle auction", any person, firm or corporation who takes possession of a motor vehicle whether by consignment, bailment or any other arrangement, except by title, for the purpose of selling motor vehicles at a public auction by a licensed auctioneer;

[(12)**]** **(13)** "Storage lot", an area, within the same city or county where a dealer may store excess vehicle inventory;

[(13)**]** **(14)** "Used motor vehicle", any motor vehicle which is not a new motor vehicle, as defined in sections 301.550 to 301.573, and which has been sold, bartered, exchanged or given away or which may have had a title issued in this state or any other state, or a motor vehicle so used as to be what is commonly known as a secondhand motor vehicle. In the event of an assignment of the statement of origin from an original franchise dealer to any individual or other motor vehicle dealer other than a new motor vehicle franchise dealer of the same make, the vehicle so assigned shall be deemed to be a used motor vehicle and a certificate of ownership shall be obtained in the assignee's name. The term "used motor vehicle" shall not include manufactured homes, as defined in section 700.010, RSMo;

[(14)**]** **(15)** "Used motor vehicle dealer", any motor vehicle dealer who is not a new motor vehicle franchise dealer;

[(15)**]** **(16)** "Vessel", every boat and watercraft defined as a vessel in section 306.010, RSMo;

[(16)**]** **(17)** "Vessel trailer", any trailer, as defined by section 301.010 which is designed and manufactured for the purposes of transporting vessels;

[(17)**]** **(18)** "Wholesale motor vehicle auction", any person, firm or corporation in the business of providing auction services solely in wholesale transactions at its established place of

business in which the purchasers are motor vehicle dealers licensed by this or any other jurisdiction, and which neither buys, sells nor owns the motor vehicles it auctions in the ordinary course of its business. Except as required by law with regard to the auction sale of a government owned motor vehicle, a wholesale motor vehicle auction shall not provide auction services in connection with the retail sale of a motor vehicle;

[(18)**] (19)** "Wholesale motor vehicle dealer", a motor vehicle dealer who sells motor vehicles only to other new motor vehicle franchise dealers or used motor vehicle dealers or via auctions limited to other dealers of any class.

2. For purposes of sections 301.550 to 301.573, neither the term "motor vehicle" nor the term "trailer" shall include manufactured homes, as defined in section 700.010, RSMo.

3. Dealers shall be divided into classes as follows:

(1) Boat dealers;

(2) Franchised new motor vehicle dealers;

(3) Used motor vehicle dealers;

(4) Wholesale motor vehicle dealers;

(5) Recreational motor vehicle dealers;

(6) Historic motor vehicle dealers;

(7) Classic motor vehicle dealers; and

(8) **[**Motorcycle**] Powersport** dealers.

301.560. APPLICATION REQUIREMENTS, ADDITIONAL — BONDS, FEES, SIGNS REQUIRED — LICENSE NUMBER, CERTIFICATE OF NUMBERS — DUPLICATE DEALER PLATES, ISSUES, FEES — TEST DRIVING MOTOR VEHICLES AND VESSELS, USE OF PLATES. — 1. In addition to the application forms prescribed by the department, each applicant shall submit the following to the department:

(1) When the application is being made for licensure as a manufacturer, boat manufacturer, motor vehicle dealer, boat dealer, wholesale motor vehicle dealer, wholesale motor vehicle auction or a public motor vehicle auction, a certification by a uniformed member of the Missouri state highway patrol stationed in the troop area in which the applicant's place of business is located; except, that in counties of the first classification, certification may be authorized by an officer of a metropolitan police department when the applicant's established place of business of distributing or selling motor vehicles or trailers is in the metropolitan area where the certifying metropolitan police officer is employed, that the applicant has a bona fide established place of business. A bona fide established place of business for any new motor vehicle franchise dealer or used motor vehicle dealer shall include a permanent enclosed building or structure, either owned in fee or leased and actually occupied as a place of business by the applicant for the selling, bartering, trading or exchanging of motor vehicles or trailers and wherein the public may contact the owner or operator at any reasonable time, and wherein shall be kept and maintained the books, records, files and other matters required and necessary to conduct the business. The applicant's place of business shall contain a working telephone which shall be maintained during the entire registration year. In order to qualify as a bona fide established place of business for all applicants licensed pursuant to this section there shall be an exterior sign displayed carrying the name **[**and class**]** of **the** business **[**conducted**] set forth** in letters at least six inches in height and clearly visible to the public and there shall be an area or lot which shall not be a public street on which one or more vehicles may be displayed, except when licensure is for a wholesale motor vehicle dealer, a lot and sign shall not be required. **The sign shall contain the name of the dealership by which it is known to the public through advertising or otherwise, which need not be identical to the name appearing on the dealership's license so long as such name is registered as a fictitious name with the secretary of state, has been approved by its line-make manufacturer in writing in the case of a new motor vehicle franchise dealer and a copy of such fictitious name registration has been provided to the department.** When licensure is for a boat dealer, a lot shall not be required. In the case of new motor vehicle

franchise dealers, the bona fide established place of business shall include adequate facilities, tools and personnel necessary to properly service and repair motor vehicles and trailers under their franchisor's warranty;

(2) If the application is for licensure as a manufacturer, boat manufacturer, new motor vehicle franchise dealer, used motor vehicle dealer, wholesale motor vehicle auction, boat dealer or a public motor vehicle auction, a photograph, not to exceed eight inches by ten inches, showing the business building and sign shall accompany the initial application. In the case of a manufacturer, new motor vehicle franchise dealer or used motor vehicle dealer, the photograph shall include the lot of the business. A new motor vehicle franchise dealer applicant who has purchased a currently licensed new motor vehicle franchised dealership shall be allowed to submit a photograph of the existing dealership building, lot and sign but shall be required to submit a new photograph upon the installation of the new dealership sign as required by sections 301.550 to 301.573. Applicants shall not be required to submit a photograph annually unless the business has moved from its previously licensed location, or unless the name of the business or address has changed, or unless the class of business has changed;

(3) If the application is for licensure as a wholesale motor vehicle dealer or as a boat dealer, the application shall contain the business address, not a post office box, and telephone number of the place where the books, records, files and other matters required and necessary to conduct the business are located and where the same may be inspected during normal daytime business hours. Wholesale motor vehicle dealers and boat dealers shall file reports as required of new franchised motor vehicle dealers and used motor vehicle dealers;

(4) Every applicant as a new motor vehicle franchise dealer, a used motor vehicle dealer, a wholesale motor vehicle dealer, or boat dealer shall furnish with the application a corporate surety bond or an irrevocable letter of credit as defined in section 400.5-103, RSMo, issued by any state or federal financial institution in the penal sum of twenty-five thousand dollars on a form approved by the department. The bond or irrevocable letter of credit shall be conditioned upon the dealer complying with the provisions of the statutes applicable to new motor vehicle franchise dealers, used motor vehicle dealers, wholesale motor vehicle dealers and boat dealers, and the bond shall be an indemnity for any loss sustained by reason of the acts of the person bonded when such acts constitute grounds for the suspension or revocation of the dealer's license. The bond shall be executed in the name of the state of Missouri for the benefit of all aggrieved parties or the irrevocable letter of credit shall name the state of Missouri as the beneficiary; except, that the aggregate liability of the surety or financial institution to the aggrieved parties shall, in no event, exceed the amount of the bond or irrevocable letter of credit. The proceeds of the bond or irrevocable letter of credit shall be paid upon receipt by the department of a final judgment from a Missouri court of competent jurisdiction against the principal and in favor of an aggrieved party;

(5) Payment of all necessary license fees as established by the department. In establishing the amount of the annual license fees, the department shall, as near as possible, produce sufficient total income to offset operational expenses of the department relating to the administration of sections 301.550 to 301.573. All fees payable pursuant to the provisions of sections 301.550 to 301.573, other than those fees collected for the issuance of dealer plates or certificates of number collected pursuant to subsection 6 of this section, shall be collected by the department for deposit in the state treasury to the credit of the "Motor Vehicle Commission Fund", which is hereby created. The motor vehicle commission fund shall be administered by the Missouri department of revenue. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in such fund shall not be transferred and placed to the credit of the general revenue fund until the amount in the motor vehicle commission fund at the end of the biennium exceeds two times the amount of the appropriation from such fund for the preceding fiscal year or, if the department requires permit renewal less frequently than yearly, then three times the appropriation from such 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 multiple of the appropriation from such fund for the preceding fiscal year.

2. In the event a new manufacturer, boat manufacturer, motor vehicle dealer, wholesale motor vehicle dealer, boat dealer, wholesale motor vehicle auction or a public motor vehicle auction submits an application for a license for a new business and the applicant has complied with all the provisions of this section, the department shall make a decision to grant or deny the license to the applicant within eight working hours after receipt of the dealer's application, notwithstanding any rule of the department.

3. Upon the initial issuance of a license by the department, the department shall assign a distinctive dealer license number or certificate of number to the applicant and the department shall issue one number plate or certificate bearing the distinctive dealer license number or certificate of number within eight working hours after presentment of the application. Upon the renewal of a boat dealer, boat manufacturer, manufacturer, motor vehicle dealer, public motor vehicle auction, wholesale motor vehicle dealer or wholesale motor vehicle auction, the department shall issue the distinctive dealer license number or certificate of number as quickly as possible. The issuance of such distinctive dealer license number or certificate of number shall be in lieu of registering each motor vehicle, trailer, vessel or vessel trailer dealt with by a boat dealer, boat manufacturer, manufacturer, public motor vehicle auction, wholesale motor vehicle dealer, wholesale motor vehicle auction or motor vehicle dealer.

4. Notwithstanding any other provision of the law to the contrary, the department shall assign the following distinctive dealer license numbers to:

New motor vehicle franchise dealers	D-0 through D-999
New motor vehicle franchise and commercial motor vehicle dealers	D-1000 through D-1999
Used motor vehicle dealers	D-2000 through D-5399 and D-6000 through D-9999
Wholesale motor vehicle dealers	W-1000 through W-1999
Wholesale motor vehicle auctions	W-2000 through W-2999
Trailer dealers	T-0 through T-9999
Motor vehicle and trailer manufacturers	M-0 through M-9999
Motorcycle dealers	D-5400 through D-5999
Public motor vehicle auctions	A-1000 through A-1999
Boat dealers and boat manufacturers	B-0 through B-9999

5. Upon the sale of a currently licensed new motor vehicle franchise dealership the department shall, upon request, authorize the new approved dealer applicant to retain the selling dealer's license number and shall cause the new dealer's records to indicate such transfer.

6. In the case of manufacturers and motor vehicle dealers, the department shall also issue one number plate bearing the distinctive dealer license number to the applicant upon payment by the manufacturer or dealer of a fifty-dollar fee. 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. Boat dealers and boat manufacturers shall be entitled to one certificate of number bearing such number upon the payment of a fifty-dollar fee. As many additional number plates as may be desired by manufacturers and motor vehicle dealers and as many additional certificates of number as may be desired by boat dealers and boat manufacturers may be obtained upon payment of a fee of ten dollars and fifty cents for each additional plate or certificate. A motor vehicle dealer, boat dealer, manufacturer, boat manufacturer, public motor vehicle auction, wholesale motor vehicle dealer or wholesale motor vehicle auction obtaining a dealer license plate or certificate of number or additional license plate or additional certificate of number, throughout the calendar year, shall be required to pay a fee for such license plates or certificates of number computed on the basis of one-twelfth of the full fee prescribed for the original and duplicate number plates or certificates

of number for such dealers' licenses, multiplied by the number of months remaining in the licensing period for which the dealer or manufacturers shall be required to be licensed. In the event of a renewing dealer, the fee due at the time of renewal shall not be prorated.

7. The plates issued pursuant to subsection 3 or 6 of this section may be displayed on any motor vehicle owned and held for resale by the motor vehicle dealer or manufacturer, and used by a customer who is test driving the motor vehicle, or is used by an employee or officer, but shall not be displayed on any motor vehicle or trailer hired or loaned to others or upon any regularly used service or wrecker vehicle. Motor vehicle dealers may display their dealer plates on a tractor, truck or trailer to demonstrate a vehicle under a loaded condition.

8. The certificates of number issued pursuant to subsection 3 or 6 of this section may be displayed on any vessel or vessel trailer owned and held for resale by a boat manufacturer or a boat dealer, and used by a customer who is test driving the vessel or vessel trailer, or is used by an employee or officer, but shall not be displayed on any vessel or vessel trailer hired or loaned to others or upon any regularly used service vessel or vessel trailer. Boat dealers and manufacturers may display their certificate of number on a vessel or vessel trailer which is being transported to an exhibit or show.

301.567. ADVERTISING STANDARDS, VIOLATION OF, WHEN. — 1. For purposes of this section, a violation of any of the following advertising standards shall be deemed an attempt by the advertising dealer to obtain a fee or other compensation by fraud, deception or misrepresentation in violation of section 301.562:

(1) A motor vehicle shall not be advertised as new, either by express terms or implication, unless it is a "new motor vehicle" as defined in section 301.550;

(2) When advertising any motor vehicle which is not a new motor vehicle, such advertisement must expressly identify that the motor vehicle is a used motor vehicle by express use of the term "used", or by such other term as is commonly understood to mean that the vehicle is used;

(3) Any terms, conditions, and disclaimers relating to the advertised motor vehicle's price or financing options shall be stated clearly and conspicuously. An asterisk or other reference symbol may be used to point to a disclaimer or other information, but not be used as a means of contradicting or changing the meaning of an advertised statement;

(4) The expiration date, if any, of an advertised sale or vehicle price shall be clearly and conspicuously disclosed. In the absence of such disclosure, the advertised sale or vehicle price shall be deemed effective so long as such vehicles remain in the advertising dealership's inventory;

(5) The terms "list price", "sticker price", or "suggested retail price", shall be used only in reference to the manufacturer's suggested retail price for new motor vehicles, and, if used, shall be accompanied by a clear and conspicuous disclosure that such terms represent the "manufacturer's suggested retail price" of the advertised vehicle;

(6) Terms such as "at cost", "$..... above cost", shall not be used in advertisements because of the difficulty in determining a dealer's actual net cost at the time of the sale. Terms such as "invoice price", "$..... over invoice", may be used, provided that the invoice referred to is the manufacturer's factory invoice for a new motor vehicle and the invoice is available for customer inspection. For purposes of this section, "manufacturer's factory invoice" means that document supplied by the manufacturer to the dealer listing the manufacturer's charge to the dealer before any deduction for holdback, group advertising, factory incentives or rebates, or any governmental charges;

(7) When the price or financing terms of a motor vehicle are advertised, the vehicle shall be fully identified as to year, make, and model. In addition, in advertisements placed by individual dealers and not line-make marketing groups, the advertised price or credit terms shall include all charges which the buyer must pay to the dealer, except buyer-selected options and state and local taxes. If a processing fee or freight or

destination charges are not included in the advertised price, the amount of any such processing fee and freight or destination charge must be clearly and conspicuously disclosed within the advertisement;

(8) Advertisements which offer to match or better any competitors' prices shall not be used;

(9) Advertisements of "dealer rebates" shall not be used, however, this shall not be deemed to prohibit the advertising of manufacturer rebates, so long as all material terms of such rebates are clearly and conspicuously disclosed;

(10) "Free", "at no cost", shall not be used if any purchase is required to qualify for the "free" item, merchandise, or service;

(11) "Bait advertising", in which an advertiser may have no intention to sell at the prices or terms advertised, shall not be used. Bait advertising shall include, but not be limited to, the following examples:

(a) Not having available for sale the advertised motor vehicles at the advertised prices. If a specific vehicle is advertised, the dealer shall be in possession of a reasonable supply of such vehicles, and they shall be available at the advertised price. If the advertised vehicle is available only in limited numbers or only by order, such limitations shall be stated in the advertisement;

(b) Advertising a motor vehicle at a specified price, including such terms as "as low as $.....", but having available for sale only vehicles equipped with dealer added cost options which increase the selling price above the advertised price;

(12) Any reference to monthly payments, down payments, or other reference to financing or leasing information shall be accompanied by a clear and conspicuous disclosure of the following:

(a) Whether the payment or other information relates to a financing or a lease transaction;

(b) If the payment or other information relates to a financing transaction, the minimum down payment, annual percentage interest rate, and number of payments necessary to obtain the advertised payment amount must be disclosed, in addition to any special qualifications required for obtaining the advertised terms including, but not limited to, "first-time buyer" discounts, "college graduate" discounts, and a statement concerning whether the advertised terms are subject to credit approval;

(c) If the payment or other information relates to a lease transaction, the total amount due from the purchaser at signing with such costs broken down and identified by category, lease term expressed in number of months, whether the lease is closed-end or open-end, and total cost to the lessee over the lease term in dollars;

(13) Any advertisement which states or implies that the advertising dealer has a special arrangement or relationship with the distributor or manufacturer, as compared to similarly situated dealers, shall not be used;

(14) Any advertisement which, in the circumstances under which it is made or applied, is false, deceptive, or misleading shall not be used;

(15) No abbreviations for industry words or phrases shall be used in any advertisement unless such abbreviations are accompanied by the fully spelled or spoken words or phrases.

2. The requirements of this section shall apply regardless of whether a dealer advertises by means of print, broadcast, or electronic media, or direct mail.

3. Dealers shall clearly and conspicuously identify themselves in each advertisement by use of a dealership name which complies with subsection 6 of section 301.560.

301.600. LIENS AND ENCUMBRANCES, HOW PERFECTED — EFFECT OF ON VEHICLES AND TRAILERS BROUGHT INTO STATE — SECURITY PROCEDURES FOR VERIFYING ELECTRONIC NOTICES. — 1. Unless excepted by section 301.650, a lien or encumbrance on a

motor vehicle or trailer, as defined by section 301.010, is not valid against subsequent transferees or lienholders of the motor vehicle or trailer who took without knowledge of the lien or encumbrance unless the lien or encumbrance is perfected as provided in sections 301.600 to 301.660.

2. Subject to the provisions of section 301.620, a lien or encumbrance on a motor vehicle or trailer is perfected by the delivery to the director of revenue of a notice of a lien in a format as prescribed by the director of revenue. To perfect a subordinate lien, the notice of lien must be accompanied by the documents required to be delivered to the director pursuant to subdivision (3) of section 301.620. The notice of lien is perfected as of the time of its creation if the delivery of such notice to the director of revenue is completed within thirty days thereafter, otherwise as of the time of the delivery. A notice of lien shall contain the name and address of the owner of the motor vehicle or trailer and the secured party, a description of the motor vehicle or trailer, including the vehicle identification number, and such other information as the department of revenue may prescribe. A notice of lien substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading. **Provided the lienholder submits complete and legible documents, the director of revenue shall mail confirmation or electronically confirm receipt of such notice of lien to the lienholder as soon as possible, but no later than fifteen business days after the filing of the notice of lien.**

3. Liens may secure future advances. The future advances may be evidenced by one or more notes or other documents evidencing indebtedness and shall not be required to be executed or delivered prior to the date of the future advance lien securing them. The fact that a lien may secure future advances shall be clearly stated on the security agreement and noted as "subject to future advances" on the notice of lien and noted on the certificate of ownership if the motor vehicle or trailer is subject to only one notice of lien. To secure future advances when an existing lien on a motor vehicle or trailer does not secure future advances, the lienholder shall file a notice of lien reflecting the lien to secure future advances. A lien to secure future advances is perfected in the same time and manner as any other lien, except as follows: proof of the lien for future advances is maintained by the department of revenue; however, there shall be additional proof of such lien when the notice of lien reflects such lien for future advances, is receipted for by the department of revenue, and returned to the lienholder.

4. If a motor vehicle or trailer is subject to a lien or encumbrance when brought into this state, the validity and effect of the lien or encumbrance is determined by the law of the jurisdiction where the motor vehicle or trailer was when the lien or encumbrance attached, subject to the following:

(1) If the parties understood at the time the lien or encumbrance attached that the motor vehicle or trailer would be kept in this state and it was brought into this state within thirty days thereafter for purposes other than transportation through this state, the validity and effect of the lien or encumbrance in this state is determined by the law of this state;

(2) If the lien or encumbrance was perfected pursuant to the law of the jurisdiction where the motor vehicle or trailer was when the lien or encumbrance attached, the following rules apply:

(a) If the name of the lienholder is shown on an existing certificate of title or ownership issued by that jurisdiction, the lien or encumbrance continues perfected in this state;

(b) If the name of the lienholder is not shown on an existing certificate of title or ownership issued by that jurisdiction, the lien or encumbrance continues perfected in this state three months after a first certificate of ownership of the motor vehicle or trailer is issued in this state, and also thereafter if, within the three-month period, it is perfected in this state. The lien or encumbrance may also be perfected in this state after the expiration of the three-month period; in that case perfection dates from the time of perfection in this state;

(3) If the lien or encumbrance was not perfected pursuant to the law of the jurisdiction where the motor vehicle or trailer was when the lien or encumbrance attached, it may be perfected in this state; in that case perfection dates from the time of perfection in this state;

(4) A lien or encumbrance may be perfected pursuant to paragraph (b) of subdivision (2) or subdivision (3) of this subsection either as provided in subsection 2 or 3 of this section or by the lienholder delivering to the director of revenue a notice of lien or encumbrance in the form the director of revenue prescribes and the required fee.

5. By rules and regulations, the director of revenue shall establish a security procedure for the purpose of verifying that an electronic notice of lien or notice of satisfaction of a lien on a motor vehicle or trailer given as permitted in sections 301.600 to 301.640 is that of the lienholder, verifying that an electronic notice of confirmation of ownership and perfection of a lien given as required in section 301.610 is that of the director of revenue, and detecting error in the transmission or the content of any such notice. A security procedure may require the use of algorithms or other codes, identifying words or numbers, encryption, callback procedures or similar security devices. Comparison of a signature on a communication with an authorized specimen signature shall not by itself be a security procedure.

301.610. CERTIFICATE OF OWNERSHIP, DELIVERY TO WHOM, WHEN — ELECTRONIC CERTIFICATE OF OWNERSHIP, DEFINED, MAINTAINED BY DIRECTOR, WHEN. — 1. A certificate of ownership of a motor vehicle or trailer when issued by the director of revenue shall be mailed **[**or confirmation of such ownership shall be electronically transmitted or mailed to the first lienholder named in such certificate; and if no lienholder is shown, then the certificate of ownership shall be mailed to the**]** owner shown on the face of the title of such motor vehicle or trailer. **If the certificate of ownership is being held electronically by the director of revenue at the election of a lienholder, then confirmation of such ownership shall be electronically transmitted or mailed to the first lienholder named in such certificate.**

2. A lienholder may elect that the director of revenue retain possession of an electronic certificate of ownership, and the director shall issue regulations to cover the procedure by which such election is made. Each such certificate of ownership shall require a separate election, unless the director provides otherwise by regulation. A subordinate lienholder shall be bound by the election of the superior lienholder with respect to the certificate involved.

3. "Electronic certificate of ownership" means any electronic record of ownership, including a lien or liens that may be recorded.

301.620. DUTIES OF PARTIES UPON CREATION OF LIEN OR ENCUMBRANCE. — If an owner creates a lien or encumbrance on a motor vehicle or trailer:

(1) The owner shall immediately execute the application, in the space provided therefor on the certificate of ownership or on a separate form the director of revenue prescribes, to name the lienholder on the certificate, showing the name and address of the lienholder and the date of the lienholder's security agreement, and cause the certificate, application and the required fee to be delivered to the director of revenue;

(2) The lienholder or an authorized agent licensed pursuant to sections 301.112 to 301.119 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 as provided in section 301.600;

(3) **[**Upon request of the owner or subordinate lienholder, a lienholder in possession of the certificate of ownership shall either mail or deliver the certificate to the subordinate lienholder for delivery to the director of revenue or, upon receipt from the subordinate lienholder of the owner's application, the certificate and the required fee, mail or deliver them to the director of revenue with the certificate. The delivery of the certificate does not affect the rights of the first lienholder under the security agreement;**] 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 **[**certificate, application and the required fee**] documents and fee required in subdivision (3) of this section**, the director of revenue shall issue a new certificate of ownership containing the name and address of the new lienholder, and shall mail the certificate as prescribed in section 301.610 or if a lienholder who has elected for the director of revenue to retain possession of an electronic certificate of ownership 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. Upon receipt of such authorization **[**and**],** a notice of lien **and required documents and title fee, if applicable,** from a subordinate lienholder, the director shall add the subordinate lienholder to the certificate of ownership being electronically retained by the director and provide confirmation of the addition to both lienholders**;**

(5) Failure of the owner to name the lienholder in the application for title, as provided in this section is a class A misdemeanor.

301.630. LIEN OR ENCUMBRANCE, ASSIGNMENT, PROCEDURE, EFFECT OF — PERFECTION OF ASSIGNMENT, HOW, FEE — FORM FOR NOTICE OF ELECTRONIC CERTIFICATE. — 1. A lienholder may assign, absolutely or otherwise, his or her lien or encumbrance in the motor vehicle or trailer to a person other than the owner without affecting the interest of the owner or the validity or effect of the lien or encumbrance, but any person without notice of the assignment is protected in dealing with the lienholder as the holder of the lien or encumbrance and the lienholder remains liable for any obligations as lienholder until the assignee is named as lienholder on the certificate.

2. The assignee may, but need not**,** to perfect the assignment, have the certificate of ownership endorsed or issued with the assignee named as lienholder, upon delivering to the director of revenue the certificate and an assignment by the lienholder named in the certificate in the form the director of revenue prescribes the application and the required fee.

3. If the certificate of ownership is being electronically retained by the director of revenue, the original lienholder may mail or deliver a notice of assignment of a lien to the director in a form prescribed by the director. Upon receipt of notice of assignment the director shall update the electronic certificate of ownership to reflect the assignment of the lien and lienholder.

301.640. RELEASE OF LIENHOLDERS' RIGHTS UPON SATISFACTION OF LIEN OR ENCUMBRANCE, PROCEDURE — ISSUANCE OF NEW CERTIFICATE OF OWNERSHIP — CERTAIN LIENS DEEMED SATISFIED, WHEN — PENALTY. — 1. Upon the satisfaction of any lien or encumbrance of a motor vehicle or trailer **[**for which the certificate of ownership is in possession of the lienholder**]**, the lienholder shall, within ten business days release the lien or encumbrance on the certificate **or a separate document**, and mail or deliver the certificate **[**to the next lienholder named therein, or, if none,**] or a separate document** to the owner or any person who delivers to the lienholder an authorization from the owner to receive the certificate **or such documentation. The release on the certificate or separate document shall be notarized. Each perfected subordinate lienholder if any, shall release such lien or encumbrance as provided in this section for the first lienholder**. The owner may cause the certificate to be mailed or delivered to the director of revenue, who shall issue a new certificate of ownership upon application and payment of the required fee. A lien or encumbrance shall be

satisfied for the purposes of this section when a lienholder receives payment in full in the form of certified funds, as defined in section 381.410, RSMo.

2. If the electronic certificate of ownership is in the possession of the director of revenue, the lienholder shall notify the director within ten business days of any release of a lien and provide the director with the most current address of the owner. The director shall note such release on the electronic certificate and if no other lien exists the director shall mail or deliver the certificate free of any lien to the owner.

3. **[**Upon the satisfaction of any lien or encumbrance in a motor vehicle or trailer for which a certificate is in possession of a prior lienholder, the lienholder whose lien or encumbrance is satisfied shall within ten business days release the lien or encumbrance on the certificate and deliver the certificate to the owner or any person who delivers to the lienholder an authorization from the owner to receive it. The lienholder in possession of the certificate shall at the request of the owner and upon surrender of the certificate of title by the owner and receipt of the required fee, either mail or deliver the certificate of ownership to the director of revenue, or deliver the certificate to the owner, or the person authorized by the owner, for delivery to the director of revenue, who shall issue a new certificate.

4.**]** If the purchase price of a motor vehicle or trailer did not exceed six thousand dollars at the time of purchase, a lien or encumbrance which was not perfected by a motor vehicle financing corporation whose net worth exceeds one hundred million dollars, or a depository institution, shall be considered satisfied within six years from the date the lien or encumbrance was originally perfected unless a new lien or encumbrance has been perfected as provided in section 301.600. This subsection does not apply to motor vehicles or trailers for which the certificate of ownership has recorded in the second lienholder portion the words "subject to future advances".

[5.**]** **4.** Any lienholder who fails to comply with subsection 1**[**,**]** **or** 2 **[**or 3**]** of this section shall pay to the person or persons satisfying the lien or encumbrance twenty-five dollars for the first ten business days after expiration of the time period prescribed in subsection 1**[**,**]** **or** 2 **[**or 3**]** of this section, and such payment shall double for each ten days thereafter in which there is continued noncompliance, up to a maximum of five hundred dollars for each lien. If delivery of the certificate **or other lien release** is made by mail, the delivery date is the date of the postmark for purposes of this subsection.

5. Any person who knowingly and intentionally sends in a separate document releasing a lien of another without authority to do so shall be guilty of a class C felony.

301.660. LAW NOT TO AFFECT EXISTING RIGHTS, DUTIES AND INTERESTS. — All transactions involving liens or encumbrances on motor vehicles or trailers entered into before **[**July 1, 1991**]** **July 1, 2003**, and the rights, duties and interests flowing from them remain valid thereafter and may be terminated, completed, consummated or enforced as required or permitted by any statute or other law amended or repealed by sections 301.600 to 301.660 as though the repeal or amendment had not occurred.

306.400. LIENS AND ENCUMBRANCES — VALID, PERFECTED, WHEN, HOW, FUTURE ADVANCES — BOATS AND MOTORS SUBJECT TO, WHEN, HOW DETERMINED — REVENUE TO ESTABLISH SECURITY PROCEDURE, ELECTRONIC NOTICES, RULEMAKING AUTHORITY. — 1. As used in sections 306.400 to 306.440, the terms "motorboat", "vessel", and "watercraft" shall have the same meanings given them in section 306.010, and the term "outboard motor" shall include outboard motors governed by section 306.530.

2. Unless excepted by section 306.425, a lien or encumbrance on an outboard motor, motorboat, vessel, or watercraft shall not be valid against subsequent transferees or lienholders of the outboard motor, motorboat, vessel or watercraft, who took without knowledge of the lien or encumbrance unless the lien or encumbrance is perfected as provided in sections 306.400 to 306.430.

3. A lien or encumbrance on an outboard motor, motorboat, vessel or watercraft is perfected by the delivery to the director of revenue of a notice of lien in a format as prescribed by the director. Such lien or encumbrance shall be perfected as of the time of its creation if the delivery of the items required in this subsection to the director of revenue is completed within thirty days thereafter, otherwise such lien or encumbrance shall be perfected as of the time of the delivery. A notice of lien shall contain the name and address of the owner of the outboard motor, motorboat, vessel or watercraft and the secured party, a description of the outboard motor, motorboat, vessel or watercraft motor, including any identification number, and such other information as the department of revenue may prescribe. A notice of lien substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading. **Provided the lienholder submits complete and legible documents, the director of revenue shall mail confirmation or electronically confirm receipt of each notice of lien to the lienholder as soon as possible, but no later than fifteen business days after the filing of the notice of lien.**

4. Liens may secure future advances. The future advances may be evidenced by one or more notes or other documents evidencing indebtedness and shall not be required to be executed or delivered prior to the date of the future advance lien securing them. The fact that a lien may secure future advances shall be clearly stated on the security agreement and noted as "subject to future advances" in the second lienholder's portion of the notice of lien. To secure future advances when an existing lien on an outboard motor, motorboat, vessel or watercraft does not secure future advances, the lienholder shall file a notice of lien reflecting the lien to secure future advances. A lien to secure future advances is perfected in the same time and manner as any other lien, except as follows. Proof of the lien for future advances is maintained by the department of revenue; however, there shall be additional proof of such lien when the notice of lien reflects such lien for future advances, is receipted for by the department of revenue, and returned to the lienholder.

5. Whether an outboard motor, motorboat, vessel, or watercraft is subject to a lien or encumbrance shall be determined by the laws of the jurisdiction where the outboard motor, motorboat, vessel, or watercraft was when the lien or encumbrance attached, subject to the following:

(1) If the parties understood at the time the lien or encumbrances attached that the outboard motor, motorboat, vessel, or watercraft would be kept in this state and it is brought into this state within thirty days thereafter for purposes other than transportation through this state, the validity and effect of the lien or encumbrance in this state shall be determined by the laws of this state;

(2) If the lien or encumbrance was perfected pursuant to the laws of the jurisdiction where the outboard motor, motorboat, vessel, or watercraft was when the lien or encumbrance attached, the following rules apply:

(a) If the name of the lienholder is shown on an existing certificate of title or ownership issued by that jurisdiction, his or her lien or encumbrance continues perfected in this state;

(b) If the name of the lienholder is not shown on an existing certificate of title or ownership issued by the jurisdiction, the lien or encumbrance continues perfected in this state for three months after the first certificate of title of the outboard motor, motorboat, vessel, or watercraft is issued in this state, and also thereafter if, within the three-month period, it is perfected in this state. The lien or encumbrance may also be perfected in this state after the expiration of the three-month period, in which case perfection dates from the time of perfection in this state;

(3) If the lien or encumbrance was not perfected pursuant to the laws of the jurisdiction where the outboard motor, motorboat, vessel, or watercraft was when the lien or encumbrance attached, it may be perfected in this state, in which case perfection dates from the time of perfection in this state;

(4) A lien or encumbrance may be perfected pursuant to paragraph (b) of subdivision (2) or subdivision (3) of this subsection in the same manner as provided in subsection 3 of this section.

6. The director of revenue shall by rules and regulations establish a security procedure to verify that an electronic notice or lien or notice of satisfaction of a lien on an outboard motor, motorboat, vessel or watercraft given pursuant to sections 306.400 to 306.440 is that of the lienholder, to verify that an electronic notice of confirmation of ownership and perfection of a lien given pursuant to section 306.410 is that of the director of revenue and to detect error in the transmission or the content of any such notice. Such a security procedure may require the use of algorithms or other codes, identifying words or numbers, encryption, callback procedures or similar security devices. Comparison of a signature on a communication with an authorized specimen signature shall not by itself constitute a security procedure.

306.405. CERTIFICATES OF TITLE, DELIVERY OF, HOW, TO WHOM — LIENHOLDER MAY ELECT TO HAVE REVENUE RETAIN ELECTRONIC TITLE. — 1. All certificates of title of an outboard motor, motorboat, vessel, or watercraft issued by the director of revenue shall be mailed **[**or confirmation of such ownership shall be electronically transmitted or mailed to the first lienholder named in such certificate or, if no lienholder is named,**]** to the owner named therein. **If the certificate of ownership is being held electronically by the director of revenue at the election of a lienholder, then confirmation of such ownership shall be electronically transmitted or mailed to the first lienholder named in such certificate.**

2. A lienholder may elect to have the director of revenue retain possession of an electronic certificate of title and the director shall issue regulations to govern the procedure for making such an election. Each such certificate of title shall require a separate election unless the director provides otherwise by regulation. A subordinate lienholder shall be bound by the election of the superior lienholder with respect to the certificate involved.

3. "Electronic certificate of title" means any electronic record of ownership, including liens that may be recorded.

306.410. DUTIES OF PARTIES UPON CREATION OF LIEN OR ENCUMBRANCE — FAILURE OF OWNER TO PERFORM CERTAIN DUTIES, PENALTY. — 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) **[**Upon request of the owner or subordinate lienholder, a lienholder in possession of the certificate of title who receives the owner's application and required fee shall mail or deliver the certificate of title, application, and fee to the director of revenue, unless such certificate of title secures future advance liens. The delivery of the certificate of title to the director of revenue shall not affect the rights of the first lienholder under his or her security agreement**] 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 **[**certificate of title, application and the required fee**] 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 first lienholder 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.

306.420. SATISFACTION OF LIEN OR ENCUMBRANCE, RELEASE OF, PROCEDURE — DUTIES OF LIENHOLDER AND DIRECTOR OF REVENUE — PENALTY FOR UNAUTHORIZED RELEASE OF A LIEN. — 1. Upon the satisfaction of a lien or encumbrance on an outboard motor, motorboat, vessel, or watercraft **[**for which the certificate of title is in the possession of the lienholder and provided the owner waives any rights to future advances subject to a lien in this chapter**]**, the lienholder shall, within ten days **[**after demand and, in any event, within thirty days,**]** execute a release of his or her lien or encumbrance, **on the certificate or separate document,** and mail or deliver the certificate **[**and release to the next lienholder named therein, or, if no other lienholder is so named,**] or separate document** to the owner or any person who delivers to the lienholder an authorization from the owner to receive the **[**certificate.**] documentation. The release on the certificate or separate document shall be notarized. Each perfected subordinate lienholder, if any, shall release such lien or encumbrance as provided in this section for the first lienholder.** The owner may cause the certificate of title, the release, and the required fee to be mailed or delivered to the director of revenue, who shall release the lienholder's rights on the certificate and issue a new certificate of title.

2. **[**Upon the satisfaction of a second or third lien or encumbrance on an outboard motor, motorboat, vessel, or watercraft for which the certificate of title is in the possession of the first lienholder, the lienholder whose lien or encumbrance is satisfied shall, within ten days after demand, and, in any event, within thirty days, execute a release and deliver the release to the owner or any person who delivers to the lienholder an authorization from the owner to receive it. The lienholder in possession of the certificate of title shall, at the request of the owner and upon receipt of the release and the required fee, either mail or deliver the certificate, the release, and the required fee to the director of revenue, or deliver the certificate of title to the owner, or the person authorized by him or her, for delivery of the certificate, the release and required fee to the director of revenue, who shall release the subordinate lienholder's rights on the certificate of title and issue a new certificate of title.

3.**]** If the electronic certificate of title is in the possession of the director of revenue, the lienholder shall notify the director within ten business days of any release of lien and provide the director with the most current address of the owner. The director shall note such release on the electronic certificate and if no other lien exists, the director shall mail or deliver the certificate free of any lien to the owner.

3. Any person who knowingly and intentionally sends in a separate document releasing a lien of another without authority to do so shall be guilty of a class C felony.

306.430. LIENS AND ENCUMBRANCES INCURRED BEFORE JULY 1, 2003 — HOW TERMINATED, COMPLETED AND ENFORCED. — All transactions involving liens or encumbrances on outboard motors, motorboats, vessels, or watercraft entered into before **[**April 1, 1986**] July 1, 2003**, and the rights, duties, and interests flowing from such transactions shall remain valid after **[**April 1, 1986**] July 1, 2003**, and may be terminated, completed, con-

summated, or enforced as required or permitted by any statute or other law amended or repealed by sections 306.400 to 306.430 as though such repeal or amendment had not occurred.

306.440. OWNER'S FAILURE TO INDICATE LIENHOLDER ON TITLE APPLICATION, PENALTY. — Failure by the owner to indicate the lienholder of a lien or encumbrance attached to the outboard motor, motorboat, vessel, or watercraft at time of making application for title is a class A misdemeanor.

365.070. RETAIL INSTALLMENT CONTRACTS TO BE IN WRITING — FORM, CONTENTS. — 1. Each retail installment contract shall be in writing, shall be signed by both the buyer and the seller, and shall be completed as to all essential provisions prior to the signing of the contract by the buyer. In addition to the retail installment contract, the seller may require the buyer to execute and deliver a negotiable promissory note to evidence the indebtedness created by the retail installment transaction and the seller may require security for the payment of the indebtedness or the performance of any other condition of the transaction. Every note executed pursuant to a retail installment contract shall expressly state that it is subject to prepayment privilege required by law and the refund required by law in such cases. Any such note, if otherwise negotiable under the provisions of sections 400.3-101 to 400.3-805, RSMo, shall be negotiable. The retail installment contract may evidence the security.

2. The printed portion of the contract, other than instructions for completion, shall be in at least eight point type. The contract shall contain the following notice in a size equal to at least ten point bold type:

"Notice to the Buyer.

Do not sign this contract before you read it or if it contains any blank spaces.

You are entitled to an exact copy of the contract you sign.

Under the law you have the right to pay off in advance the full amount due and to obtain a partial refund of the time price differential."

3. The contract shall also contain, in a size equal to at least ten point bold type, a specific statement that liability insurance coverage for bodily injury and property damage caused to others is not included if that is the case.

4. The seller shall deliver to the buyer, or mail to him at his address shown on the contract, a copy of the contract signed by the seller. Until the seller does so, a buyer who has not received delivery of the motor vehicle may rescind his agreement and receive a refund of all payments made and return of all goods traded in to the seller on account of or in contemplation of the contract, or if the goods cannot be returned, the value thereof. Any acknowledgment by the buyer of delivery of a copy of the contract shall be in a size equal to at least ten point bold type and, if contained in the contract, shall appear directly above the buyer's signature.

5. The contract shall contain the names of the seller and the buyer, the place of business of the seller, the residence of the buyer and a brief description of the motor vehicle including its make, year model, model and identification numbers or marks.

6. The contract shall contain the following items:

(1) The cash sale price of the motor vehicle;

(2) The amount of the buyer's down payment, and whether made in money or goods, or partly in money and partly in goods, including a brief description of the goods traded in;

(3) The difference between items one and two;

(4) The aggregate amount, if any, if a separate identified charge is made therefor, included for all insurance on the motor vehicle against loss, damage to or destruction of the motor vehicle, specifying the types of coverage and period;

(5) The aggregate amount, if any, if a separate identified charge is made therefor, included for all bodily injury and property damage liability insurance for injuries to the person or property of others, specifying the types of coverage and coverage period;

(6) The aggregate amount, if any, if a separate identified charge is made therefor, included for all life, accident or health insurance, specifying the types of coverage and coverage period;

(7) The amounts, if any, if a separate identified charge is made therefor, included for other insurance and benefits, specifying the types of coverage and benefits and the coverage periods and separately stating each amount for each insurance premium or benefit;

(8) The amount of official fees;

(9) The principal balance which is the sum of items (3), (4), (5), (6), (7) and (8);

(10) The amount of the time price differential **expressed in the contract as a percent per annum**;

(11) The total amount of the time balance stated as one sum in dollars and cents, which is the sum of items (9) and (10), payable in installments by the buyer to the seller, the number of installments, the amount of each installment and the due date or period thereof **based on the contract's original amortization schedule**; and

(12) The time sale price. The above items need not be stated in the sequence or order set forth.

365.120. TIME PRICE DIFFERENTIAL, COMPUTED HOW. — 1. Notwithstanding the provisions of any other law, the time price differential included in a retail installment transaction **[**shall not exceed the following schedule:

Class 1. Any new motor vehicle designated by the manufacturer by a year model not earlier than the year in which the sale is made — ten dollars per hundred dollars per year.

Class 2. Any new motor vehicle not in class 1 and any used motor vehicle designated by the manufacturer by a year model of the same or not more than two years prior to the year in which the sale is made — ten dollars per one hundred dollars per year.

Class 3. Any used motor vehicle not in class 2 and designated by the manufacturer by a year model more than two years prior to the year in which the sale is made — thirteen dollars per one hundred dollars per year**] on any motor vehicle without regard to the year model designated by the manufacturer, the retail seller may charge, contract and receive any time price differential agreed to by the retail buyer, expressed in the contract as a percent per annum that shall apply to the contract regardless of its repayment schedule**.

2. The time price differential shall be computed on the principal balance as **[**determined under subsection 6 of section 365.070 on contracts payable in successive monthly payments substantially equal in amount from the date of the contract until the maturity of the final installment, notwithstanding that the total time balance thereof is required to be paid in installments**] a percent per annum**. A minimum time price differential of twenty-five dollars may be charged on any retail installment transaction.

[3. When a retail installment contract provides for payment in other than substantially equal monthly installments, the time price differential may be at a rate which will provide the same return as is permitted on substantially equal monthly payment contracts under subsections 1 and 2, having due regard for the schedule of payments in the contract.**]**

407.850. DEFINITIONS. — As used in sections 407.850 to 407.885, the following terms mean:

(1) "Current model", a model listed in the wholesaler's, manufacturer's or distributor's current sales manual or any supplements thereto;

(2) "Current net price", the price listed in the wholesaler's, manufacturer's or distributor's price list or catalogue in effect at the time the contract is canceled or discontinued, less any applicable trade and cash discounts;

(3) "Inventory", **[**farm**] equipment,** implements, machinery, attachments and repair parts;

(4) "Net cost", the price the retailer actually paid for the merchandise to the wholesaler, manufacturer or distributor, plus freight from the wholesaler's, manufacturer's or distributor's location to the dealer's location;

(5) "Retailer", any person, firm or corporation engaged in the business of selling, repairing and retailing:

(a) Farm implements, machinery, attachments or repair parts;

(b) Industrial, maintenance and construction power equipment; or

(c) Outdoor power equipment used for lawn, garden, golf course, landscaping or grounds maintenance;

but shall not include retailers of petroleum and motor vehicles and related automotive care and replacement products normally sold by such retailers.

407.860. INVENTORY QUALIFYING FOR REPURCHASE — PERCENTAGE TO BE PAID — COST OF TRANSPORTATION TO WAREHOUSE TO BE PAID BY RETAILER — PACKING AND LOADING, HOW PAID — TRANSFEREE OF MANUFACTURER OR DISTRIBUTORS, LAW TO APPLY, WHEN. — 1. The wholesaler, manufacturer or distributor shall repurchase that inventory previously purchased from him and held by the retailer at the date of termination of the contract. The provisions of sections 407.850 to 407.885 shall apply to the transferee of such wholesaler, manufacturer or distributor if such transferee acquired substantially all of the assets of such wholesaler, manufacturer or distributor. The wholesaler, manufacturer or distributor shall pay one hundred percent of the net cost of all new, unsold, undamaged and complete **[**farm**]** **equipment,** implements, machinery, and attachments and ninety-five percent of the current net price of all new, unused and undamaged repair parts. The retailer shall pay the cost of transportation to the nearest warehouse maintained by the wholesaler, manufacturer, or distributor, or to a mutually agreeable site. The wholesaler, manufacturer or distributor shall pay the retailer five percent of the current net price on all new, unused and undamaged repair parts returned to cover the cost of handling, packing and loading. The wholesaler, manufacturer or distributor shall have the option of performing the handling, packing and loading in lieu of paying the five percent for these services. The retailer shall pay the cost of transportation to the nearest warehouse maintained by the wholesaler, manufacturer, or distributor, or to a mutually agreeable site.

2. Upon payment of the repurchase amount to the retailer, the title and right of possession to the repurchased inventory shall transfer to the wholesaler, manufacturer or distributor.

407.870. INVENTORY WHICH DOES NOT QUALIFY FOR REPURCHASE. — The provisions of sections 407.850 to 407.885 shall not require the repurchase from a retailer of:

(1) Any repair part which because of its condition is not resalable as a new part without repackaging or reconditioning;

(2) Any inventory for which the retailer is unable to furnish evidence, satisfactory to the wholesaler, manufacturer or distributor, of title, free and clear of all claims, liens and encumbrances;

(3) Any inventory which the retailer desires to keep, provided the retailer has a contractual right to do so;

(4) Any **equipment,** implements, machinery, and attachments which are not in new, unused, undamaged, or complete condition;

(5) Any repair parts which are not in new, unused, or undamaged condition;

(6) Any **equipment,** implements, machinery or attachments which were purchased twenty-four months or more prior to notice of termination of the contract;

(7) Any inventory which was ordered by the retailer on or after the date of notification of termination of the contract;

(8) Any inventory which was acquired by the retailer from any source other than the wholesaler, manufacturer or distributor or transferee of such wholesaler, manufacturer or distributor **unless such inventory was acquired from any source authorized or arranged by the manufacturer**.

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 **[**subsection**]** **subsections** 2 **and 3** of this section or the obligee may cause a lien pursuant to subsection **[**9**]** **7** of this section for unpaid and delinquent child support to **[**be placed upon**]** **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**[**, if the title to the property is held by a lienholder**]**.

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**[**, and the department of revenue shall notify the lienholder of the existence of such lien**]**.

3. The **director or IV-D agency shall not notify the department of revenue and the** department of revenue shall not register **[**the**]** lien **[**unless**]** **except as provided in this subsection. After the director or IV-D agency decide 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 **[**director of revenue or the director's designee determines that 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 **[**by the director**]** that a lien exists pursuant to this section, the department of revenue shall **[**send a sticker of impaired title in an envelope which says prominently "important legal document" to the lienholder**]** **register the lien on the records of the department of revenue**. Such **[**sticker**]** **registration** shall contain the type and model of the property**[**,**]** **and** the serial number of the property **[**and the identification number of the obligor and shall be properly affixed to the certificate of title by the lienholder**]**.

6. Upon notification by the director that the lien shall be removed pursuant to subsection 4 of this section, the department of revenue shall **[**send a void sticker to the lienholder and such void sticker shall be properly affixed to the certificate of title by the lienholder covering the impaired title sticker. Such sticker**]** **register such removal of lien on its database, that** shall contain the type and model of the property**[**,**]** **and** the serial number of the property **[**and the identification number of the obligor**]**.

7. **[**When a lienholder has received notice of a lien created by the division or IV-D agency pursuant to this section and the obligor thereafter satisfies the debt to that lienholder, the lienholder shall mail to the division or IV-D agency the certificate of ownership on the motor vehicle, motor boat, outboard motor, manufactured home or trailer. The division or IV-D agency may hold the certificate of ownership 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. A lienholder shall inform dealers in the business of motor vehicles, motor boats, manufactured homes and trailers, upon request, of the existence or nonexistence of a lien imposed by the division pursuant to this section.

8.**]** A good faith purchaser for value without notice of the lien or a lender without notice of the lien takes free of the lien.

[9.**]** **8.** 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 **[**lienholder or payor**]** **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.

9. Notwithstanding any other law to the contrary, the department of revenue shall maintain a child support lien database that may be collected against the owner on a 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 or a lender without notice of the lien takes free of the lien.

700.350. LIENS AND ENCUMBRANCES — VALID, PERFECTED, WHEN, HOW — HOME SUBJECT TO, WHEN, HOW DETERMINED — SECURITY PROCEDURES — VALIDITY OF PRIOR TRANSACTIONS. — 1. As used in sections 700.350 to 700.390, the term "manufactured home" shall have the same meanings given it in section 700.010 **or section 400.9-102(a)(53), RSMo**.

2. Unless excepted by section 700.375, a lien or encumbrance on a manufactured home shall not be valid against subsequent transferees or lienholders of the manufactured home who took without knowledge of the lien or encumbrance unless the lien or encumbrance is perfected as provided in sections 700.350 to 700.380.

3. A lien or encumbrance on a manufactured home is perfected by the delivery to the director of revenue**[**, by the owner, of the existing certificate of ownership, if any, an application for a certificate of ownership containing the name and address of the lienholder and the date of his security agreement, and the required certificate of ownership fee**] of a notice of lien in a format as prescribed by the director of revenue**. Such lien or encumbrance shall be perfected as of the time of its creation if the delivery **[**of the items**] of the notice of lien** required in this subsection to the director of revenue is completed within thirty days thereafter, otherwise such lien or encumbrance shall be perfected as of the time of the delivery. **A notice of lien shall contain the name and address of the owner of the manufactured home and the secured party, a description of the manufactured home, including any identification number and such other information as the department of revenue shall prescribe. A notice of lien substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading.** Liens may secure future advances. The future advances may be evidenced by one or more notes or other documents evidencing indebtedness and shall not be required to be executed or delivered prior to the date of the **future advance** lien securing them. The fact that a lien may secure future advances shall be clearly stated on the security agreement and noted as "subject to future advances" **[**in the second lienholder's portion of the title application**] in the notice of lien** and noted on the certificate of ownership if the motor vehicle or trailer is subject to only one lien. **To secure future advances when an existing lien on a manufactured home does not secure future advances, the lienholder shall file a notice of lien reflecting the lien to secure future advances. A lien to secure future advances is perfected in the same time and manner as any other lien, except as follows: proof of the lien for future advances is maintained by the department of revenue; however, there shall be additional proof of such lien when the notice of lien reflects such lien for future advances, is receipted by the department of revenue, and returned to the lienholder.**

4. Whether a manufactured home is subject to a lien or encumbrance shall be determined by the laws of the jurisdiction where the manufactured home was when the lien or encumbrance attached, subject to the following:

(1) If the parties understood at the time the lien or encumbrances attached that the manufactured home would be kept in this state and it is brought into this state within thirty days

thereafter for purposes other than transportation through this state, the validity and effect of the lien or encumbrance in this state shall be determined by the laws of this state;

(2) If the lien or encumbrance was perfected under the laws of the jurisdiction where the manufactured home was when the lien or encumbrance attached, the following rules apply:

(a) If the name of the lienholder is shown on an existing certificate of title or ownership issued by that jurisdiction, his lien or encumbrance continues perfected in this state;

(b) If the name of the lienholder is not shown on an existing certificate of title or ownership issued by the jurisdiction, the lien or encumbrance continues perfected in this state for three months after the first certificate of title of the manufactured home is issued in this state, and also thereafter if, within the three-month period, it is perfected in this state. The lien or encumbrance may also be perfected in this state after the expiration of the three-month period, in which case perfection dates from the time of perfection in this state;

(3) If the lien or encumbrance was not perfected under the laws of the jurisdiction where the manufactured home was when the lien or encumbrance attached, it may be perfected in this state, in which case perfection dates from the time of perfection in this state;

(4) A lien or encumbrance may be perfected under paragraph (b) of subdivision (2) or subdivision (3) of this subsection in the same manner as provided in subsection 3 of this section **or by the lienholder delivering to the director or revenue a notice of lien or encumbrance in the form the director prescribes and the required fee**.

5. By rules and regulations, the director of revenue shall establish a security procedure for the purpose of verifying that an electronic notice of lien or notice of satisfaction of lien on a manufactured home given as permitted in this chapter is that of the lienholder, verifying that an electronic notice of confirmation of ownership and perfection of a lien given as required in this chapter is that of the director of revenue, and detecting error in the transmission or the content of such notice. A security procedure may require the use of algorithms or other codes, identifying words or numbers, encryption, call back procedures or similar security devices. Comparison of a signature on a communication with an authorized specimen signature shall not by itself be a security procedure.

6. All transactions involving liens or encumbrances on manufactured homes perfected pursuant to sections 700.350 to 700.390 after June 30, 2001, and before August 28, 2002, and the rights, duties, and interests flowing from them are and shall remain valid thereafter and may be terminated, completed, consummated, or enforced as required or permitted by section 400.9-303, RSMo, or this section. Section 400.9-303, RSMo, and this section are remedial in nature and shall be given that construction.

7. The repeal and reenactment of subsections 3 and 4 of this section shall become effective July 1, 2003.

700.355. CERTIFICATES OF TITLE, DELIVERY OF, HOW, TO WHOM — ELECTION FOR DIRECTOR TO RETAIN POSSESSION, PROCEDURE. — [All certificates of title to a manufactured home issued by the director of revenue shall be mailed or otherwise delivered to the first lienholder named in such certificate or, if no lienholder is named, to the owner named therein.**]**
1. A certificate of title to the manufactured home when issued by the director of revenue shall be mailed or confirmation of such title shall be electronically transmitted or mailed to the owner shown on the face of the title of such manufactured home. Provided the lienholder submits complete and legible documents, the director of revenue shall mail confirmation or electronically confirm receipt of each notice of lien to the lienholder as soon as possible, but no later than fifteen business days after the filing of the notice of lien.

2. A lienholder may elect that the director of revenue retain possession of an electronic certificate of title, and the director shall issue regulations to cover the procedure by which such election is made. Each such certificate of title shall require a separate election, unless the director provides otherwise by regulation. A subordinate lienholder

shall be bound by the election of the superior lienholder with respect to the certificate involved.

3. "Electronic certificate of ownership" means any electronic record of title, including a lien or liens that may be recorded.

700.360. CREATION OF LIEN OR ENCUMBRANCE BY OWNER, DUTIES, FAILURE TO PERFORM, PENALTY — SUBORDINATE LIENHOLDERS, PERFECTION PROCEDURE — NEW CERTIFICATE ISSUED, WHEN. — If an owner creates a lien or encumbrance on a manufactured home:

(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 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**, including naming the lienholder in such application,** is a class A misdemeanor;

(2) **[**Upon request of The owner or subordinate lienholder, a lienholder in possession of the certificate of title who receives the owner's application and required fee shall mail or deliver the certificate of title, application, and fee to the director of revenue. The delivery of the certificate of title to the director of revenue shall not affect the rights of the first lienholder under his security agreement;

(3) Upon receipt of the certificate of title, application and the required fee, 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 first lienholder named in it.**] 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 as provided in this section;**

(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 ownership containing the name and address of the new lienholder, and shall mail the certificate as prescribed in section 700.355, or if a lienholder who has elected for the director of revenue to retain possession of an electronic certificate of ownership 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. Upon receipt of such authorization, a notice of lien and required documents and title fee, if applicable, from a subordinate lienholder, the director shall add the subordinate lienholder to the certificate of ownership being electronically retained by the director and provide confirmation of the addition to both lienholders.

700.365. ASSIGNMENT OF LIEN OR ENCUMBRANCE BY LIENHOLDER, RIGHTS AND OBLIGATIONS — PERFECTION BY ASSIGNEE, HOW. — 1. A lienholder may assign, absolutely or otherwise, his lien or encumbrance on the manufactured home to a person other than the

owner without affecting the interest of the owner or the validity or effect of the lien or encumbrance, but any person without notice of the assignment is protected in dealing with the lienholder as the holder of the lien or encumbrance and the lienholder shall remain liable for any obligations as lienholder until the assignee is named as lienholder on the certificate of title.

2. An assignee under subsection 1 of this section may, but need not to perfect the assignment, have the certificate of title issued with the assignee named as lienholder, upon delivering to the director of revenue the certificate of title, an assignment by the lienholder named in the certificate of title, and the required fee in the form the director of revenue prescribes.

3. If the certificate of ownership is being electronically retained by the director of revenue, the original lienholder may mail or deliver a notice of assignment of a lien to the director in a form prescribed by the director. Upon receipt of notice of assignment, the director shall update the electronic certificate of ownership to reflect the assignment of the lien and lienholder.

700.370. SATISFACTION OF LIEN OR ENCUMBRANCE, RELEASE OF, PROCEDURE. — [1.**]** Upon the satisfaction of a lien or encumbrance on a manufactured home **[**for which the certificate of title is in the possession of the lienholder**]**, the lienholder shall, within ten days after demand, **[**and, in any event, within thirty days, execute a**]** release **[**of his**]** **the** lien or encumbrance **on the certificate or a separate document**, and mail or deliver the certificate **[**and release to the next lienholder named therein, or, if no other lienholder is so named**] or separate document**, to the owner or any person who delivers to the lienholder an authorization from the owner to receive the certificate **or separate document. Each perfected subordinate lienholder, if any, shall release such lien or encumbrance as provided in this section for the first lienholder. The release on the certificate or separate document shall be notarized**. The owner may cause the certificate of title, the release, and the required fee to be mailed or delivered to the director of revenue, who shall release the lienholder's rights on the certificate and issue a new certificate of title.

[2. Upon the satisfaction of a second or third lien or encumbrance on a manufactured home for which the certificate of title is in the possession of the first lienholder, the lienholder whose lien or encumbrance is satisfied shall, within ten days after demand, and, in any event, within thirty days, execute a release and deliver the release to the owner or any person who delivers to the lienholder an authorization from the owner to receive it. The lienholder in possession of the certificate of title shall, at the request of the owner and upon receipt of the release and the required fee, either mail or deliver the certificate, the release, and the required fee to the director of revenue, or deliver the certificate of title to the owner, or the person authorized by him, for delivery of the certificate, the release and required fee to the director of revenue, who shall release the subordinate lienholder's rights on the certificate of title and issue a new certificate of title.**]**

700.380. LIENS AND ENCUMBRANCES INCURRED BEFORE JULY 1, 2003 — HOW TERMINATED, COMPLETED AND ENFORCED. — All transactions involving liens or encumbrances on manufactured homes entered into before **[**December 31, 1985**] July 1, 2003**, and the rights, duties, and interests flowing from such transactions shall remain valid **[**after December 31, 1985**] thereafter**, and may be terminated, completed, consummated, or enforced as required or permitted by any statute or other law amended or repealed by sections 700.350 to 700.380 as though such repeal or amendment had not occurred.

[301.661. CHANGES IN CERTAIN SECTIONS REMEDIAL. — The changes in sections 301.190, 301.610, 301.620, 301.630 and 301.640 made through the provisions of house bill no. 884, as enacted in the second regular session of the eighty-sixth general assembly are remedial and should be given that construction.**]**

[407.750. INDUSTRIAL MAINTENANCE AND CONSTRUCTION POWER EQUIPMENT, REPURCHASE OF ON CANCELLATION OF CONTRACT, WHEN, AMOUNT, PAYMENTS MADE, WHEN — EXCEPTIONS. — Whenever any person, firm, or corporation engaged in the business of selling and repairing industrial, maintenance and construction power equipment enters into a written or parol contract whereby such retailer agrees to maintain a stock of parts or machines or equipment or attachments with any wholesaler, manufacturer, or distributor of industrial, maintenance and construction power equipment used for industrial, maintenance or construction applications and either such wholesaler, manufacturer, or distributor desires to cancel or discontinue the contract, such wholesaler, manufacturer, or distributor shall pay to such retailer, unless the retailer should desire to keep such merchandise, a sum equal to ninety percent of the net cost of all new, unused, undamaged and complete industrial, maintenance and construction power equipment used for industrial, maintenance and construction applications including transportation charges which have been paid by such retailer, and ninety percent of the current net price on new, unused and undamaged repair parts at the price listed in the current price lists or catalogues, which parts had previously been purchased from such wholesaler, manufacturer, or distributor in the previous two years, and held by such retailer on the date of the cancellation of such contract. Any parts in a dealer's inventory for more than two years shall be returned for ninety percent of his original purchase cost. "Net cost" means the price the retailer actually paid for the equipment. "Current net price" means the price listed in the manufacturer's, wholesaler's or distributor's price list or catalogue in effect on the date of termination, less any applicable trade or cash discounts. Upon the payment of the sum equal to ninety percent of the net cost of such equipment and ninety percent of the current net price on the repair parts, the title to such machinery and repair parts shall pass to the manufacturer, wholesaler or distributor making such payment, and such manufacturer, wholesaler, or distributor shall be entitled to the possession of such equipment and repair parts. All payments required to be made under the provisions of this section must be made within ninety days after the return of the machinery or repair parts. After ninety days, all payments or allowances shall include interest at the rate stated in section 408.040, RSMo. The provisions of this section shall not require the repurchase from a retailer of:

(1) Any repair part which has a limited storage life or is otherwise subject to deterioration, such as rubber items, gaskets or batteries;

(2) Any repair part which is in a broken or damaged package;

(3) Any single repair part which is priced as a set of two or more items;

(4) Any repair part which because of its condition is not resalable as a new part without repackaging or reconditioning;

(5) Any inventory for which the retailer is unable to furnish evidence, satisfactory to the wholesaler, manufacturer or distributor, of title, free and clear of all claims, liens and encumbrances;

(6) Any inventory which the retailer desires to keep, provided the retailer has a contractual right to do so;

(7) Any implements, machinery, and attachments which are not in new, unused, undamaged, or complete condition;

(8) Any repair parts which are not in new, unused, or undamaged condition;

(9) Any implements, machinery or attachments which were purchased twenty-four months or more prior to notice of termination of the contract;

(10) Any inventory which was ordered by the retailer on or after the date of notification of termination of the contract;

(11) Any inventory which was acquired by the retailer from any source other than the wholesaler, manufacturer or distributor or transferee of such wholesaler, manufacturer or distributor;

(12) Any part that has been removed from an engine or short block or piece of equipment or any part that has been mounted or installed on an engine or on equipment.**]**

[407.751. REMEDY UNDER CONTRACT, RETAILER MAY PURSUE AS ALTERNATIVE — NOT A BAR TO ACTION UNDER REPURCHASE LAW, WHEN. — The provisions of section 407.750 shall be supplemental to any agreement between the retailer and the manufacturer, wholesaler or distributor covering the return of equipment and repair parts. The retailer may elect to pursue either his contract remedy or the remedy provided herein, and an election by the retailer to pursue his contract remedy shall not bar his right to the remedy provided herein as to those equipment and repair parts not affected by the contract remedy.**]**

[407.752. FAILURE TO MAKE PAYMENT, CIVIL ACTION AUTHORIZED. — In the event that any manufacturer, wholesaler, or distributor of machinery and repair parts for industrial, maintenance and construction power equipment used for industrial, maintenance and construction applications, upon cancellation of a contract by either a retailer or a manufacturer, wholesaler, or distributor, fails or refuses to make payment to such dealer as required by the provisions of section 407.750, such manufacturer, wholesaler, or distributor shall be liable in a civil action to the retailer for costs of litigation and attorney's fees and for one hundred percent of the net cost of such machinery, plus transportation charges which have been paid by the retailer and one hundred percent of the current net price of the repair parts.]

[407.890. OUTDOOR POWER EQUIPMENT, REPURCHASE OF ON CANCELLATION OF CONTRACT, WHEN, AMOUNT — PAYMENTS MADE, WHEN — EXCEPTIONS. — Whenever any person, firm, or corporation engaged in the business of selling and repairing outdoor power equipment used for lawn, garden, golf course, landscaping or grounds maintenance, enters into a written or parol contract whereby such retailer agrees to maintain a stock of parts or machines or equipment or attachments with any wholesaler, manufacturer, or distributor of outdoor power equipment used for lawn, garden, golf course, landscaping or grounds maintenance, and either such wholesaler, manufacturer, or distributor desires to cancel or discontinue the contract, such wholesaler, manufacturer, or distributor shall pay to such retailer, unless the retailer should desire to keep such merchandise, a sum equal to ninety percent of the net cost of all new, unused, undamaged and complete outdoor power equipment used for lawn, garden, golf course, landscaping or grounds maintenance, including transportation charges which have been paid by such retailer, and ninety percent of the current net price on new, unused and undamaged repair parts at the price listed in the current price lists or catalogues, which parts had previously been purchased from such wholesaler, manufacturer, or distributor in the previous two years, and held by such retailer on the date of the cancellation of such contract. Any parts in dealer's inventory for more than two years shall be returned for ninety percent of his original purchase cost. "Net cost" means the price the retailer actually paid for the equipment. "Current net price" means the price listed in the manufacturer's, wholesaler's or distributor's price list or catalogue in effect on the date of termination, less any applicable trade or cash discounts. Upon the payment of the sum equal to ninety percent of the net cost of such equipment and ninety percent of the current net price on the repair parts, the title to such machinery and repair parts shall pass to the manufacturer, wholesaler or distributor making such payment, and such manufacturer, wholesaler, or distributor shall be entitled to the possession of such equipment and repair parts. All payments required to be made under the provisions of this section must be made within ninety days after the return of the machinery or repair parts. After ninety days, all payments or allowances shall include interest at the rate stated in section 408.040, RSMo. The provisions of this section shall not require the repurchase from a retailer of:

(1) Any repair part which has a limited storage life or is otherwise subject to deterioration, such as rubber items, gaskets or batteries;

(2) Any repair part which is in a broken or damaged package;

(3) Any single repair part which is priced as a set of two or more items;

(4) Any repair part which because of its condition is not resalable as a new part without repackaging or reconditioning;

(5) Any inventory for which the retailer is unable to furnish evidence, satisfactory to the wholesaler, manufacturer or distributor, of title, free and clear of all claims, liens and encumbrances;

(6) Any inventory which the retailer desires to keep, provided the retailer has a contractual right to do so;

(7) Any implements, machinery, and attachments which are not in new, unused, undamaged, or complete condition;

(8) Any repair parts which are not in new, unused, or undamaged condition;

(9) Any implements, machinery or attachments which were purchased twenty-four months or more prior to notice of termination of the contract;

(10) Any inventory which was ordered by the retailer on or after the date of notification of termination of the contract;

(11) Any inventory which was acquired by the retailer from any source other than the wholesaler, manufacturer or distributor or transferee of such wholesaler, manufacturer or distributor;

(12) Any part that has been removed from an engine or short block or piece of equipment or any part that has been mounted or installed on an engine or on equipment.**]**

[407.892. REMEDY UNDER CONTRACT, RETAILER MAY PURSUE AS ALTERNATIVE TO LAW. — The provisions of section 407.890 shall be supplemental to any agreement between the retailer and the manufacturer, wholesaler or distributor covering the return of equipment and repair parts. The retailer may elect to pursue either his contract remedy or the remedy provided herein, and an election by the retailer to pursue his contract remedy shall not bar his right to remedy provided herein as to those equipment and repair parts not affected by the contract remedy.**]**

[407.893. FAILURE TO MAKE PAYMENT, CIVIL ACTION AUTHORIZED. — In the event that any manufacturer, wholesaler, or distributor of machinery and repair parts for outdoor power equipment used for lawn, garden, golf course, landscaping or ground maintenance, upon cancellation of a contract by either a retailer or a manufacturer, wholesaler, or distributor, fails or refuses to make payment to such dealer as required by the provisions of section 407.890, such manufacturer, wholesaler, or distributor shall be liable in a civil action to the retailer for costs of litigation and attorneys' fees and for one hundred percent of the net cost of such machinery, plus transportation charges which have been paid by the retailer and one hundred percent of the current net price of the repair parts.**]**

[700.390. FAILURE TO INDICATE LIENHOLDER ON TITLE APPLICATION — PENALTY. — Failure by the owner to indicate the lienholder of a lien or encumbrance attached to the manufactured home at time of making application for title is a class A misdemeanor.**]**

Approved July 12, 2002

HB 2009 [SCS HB 2009]

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

Revises application for licensure process for motor vehicle dealers, manufacturers, and auctions.

AN ACT to repeal section 301.560, RSMo, and to enact in lieu thereof one new section relating to requirements for licensure of motor vehicle dealers, manufacturers, and auctions.

SECTION

A. Enacting clause.

301.560. Application requirements, additional — bonds, fees, signs required — license number, certificate of numbers — duplicate dealer plates, issues, fees — test driving motor vehicles and vessels, use of plates.

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

SECTION A. ENACTING CLAUSE. — Section 301.560, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 301.560, to read as follows:

301.560. APPLICATION REQUIREMENTS, ADDITIONAL — BONDS, FEES, SIGNS REQUIRED — LICENSE NUMBER, CERTIFICATE OF NUMBERS — DUPLICATE DEALER PLATES, ISSUES, FEES — TEST DRIVING MOTOR VEHICLES AND VESSELS, USE OF PLATES. — 1. In addition to the application forms prescribed by the department, each applicant shall submit the following to the department:

(1) When the application is being made for licensure as a manufacturer, boat manufacturer, motor vehicle dealer, boat dealer, wholesale motor vehicle dealer, wholesale motor vehicle auction or a public motor vehicle auction, a certification by a uniformed member of the Missouri state highway patrol stationed in the troop area in which the applicant's place of business is located; except, that in counties of the first classification, certification may be authorized by an officer of a metropolitan police department when the applicant's established place of business of distributing or selling motor vehicles or trailers is in the metropolitan area where the certifying metropolitan police officer is employed, that the applicant has a bona fide established place of business. A bona fide established place of business for any new motor vehicle franchise dealer or used motor vehicle dealer shall include a permanent enclosed building or structure, either owned in fee or leased and actually occupied as a place of business by the applicant for the selling, bartering, trading or exchanging of motor vehicles or trailers and wherein the public may contact the owner or operator at any reasonable time, and wherein shall be kept and maintained the books, records, files and other matters required and necessary to conduct the business. The applicant's place of business shall contain a working telephone which shall be maintained during the entire registration year. In order to qualify as a bona fide established place of business for all applicants licensed pursuant to this section there shall be an exterior sign displayed carrying the name **[**and class**]** of **the** business **[**conducted**] set forth** in letters at least six inches in height and clearly visible to the public and there shall be an area or lot which shall not be a public street on which one or more vehicles may be displayed, except when licensure is for a wholesale motor vehicle dealer, a lot and sign shall not be required. **The sign shall contain the name of the dealership by which it is known to the public through advertising or otherwise, which need not be identical to the name appearing on the dealership's license so long as such name is registered as a fictitious name with the secretary of state, has been approved by its line-make manufacturer in writing in the case of a new motor vehicle franchise dealer and a copy of such fictitious name registration has been provided to the department.** When licensure is for a boat dealer, a lot shall not be required. In the case of new motor vehicle franchise dealers, the bona fide established place of business shall include adequate facilities, tools and personnel necessary to properly service and repair motor vehicles and trailers under their franchisor's warranty;

(2) If the application is for licensure as a manufacturer, boat manufacturer, new motor vehicle franchise dealer, used motor vehicle dealer, wholesale motor vehicle auction, boat dealer or a public motor vehicle auction, a photograph, not to exceed eight inches by ten inches, showing the business building and sign shall accompany the initial application. In the case of a manufacturer, new motor vehicle franchise dealer or used motor vehicle dealer, the photograph

shall include the lot of the business. A new motor vehicle franchise dealer applicant who has purchased a currently licensed new motor vehicle franchised dealership shall be allowed to submit a photograph of the existing dealership building, lot and sign but shall be required to submit a new photograph upon the installation of the new dealership sign as required by sections 301.550 to 301.573. Applicants shall not be required to submit a photograph annually unless the business has moved from its previously licensed location, or unless the name of the business or address has changed, or unless the class of business has changed;

(3) If the application is for licensure as a wholesale motor vehicle dealer or as a boat dealer, the application shall contain the business address, not a post office box, and telephone number of the place where the books, records, files and other matters required and necessary to conduct the business are located and where the same may be inspected during normal daytime business hours. Wholesale motor vehicle dealers and boat dealers shall file reports as required of new franchised motor vehicle dealers and used motor vehicle dealers;

(4) Every applicant as a new motor vehicle franchise dealer, a used motor vehicle dealer, a wholesale motor vehicle dealer, or boat dealer shall furnish with the application a corporate surety bond or an irrevocable letter of credit as defined in section 400.5-103, RSMo, issued by any state or federal financial institution in the penal sum of twenty-five thousand dollars on a form approved by the department. The bond or irrevocable letter of credit shall be conditioned upon the dealer complying with the provisions of the statutes applicable to new motor vehicle franchise dealers, used motor vehicle dealers, wholesale motor vehicle dealers and boat dealers, and the bond shall be an indemnity for any loss sustained by reason of the acts of the person bonded when such acts constitute grounds for the suspension or revocation of the dealer's license. The bond shall be executed in the name of the state of Missouri for the benefit of all aggrieved parties or the irrevocable letter of credit shall name the state of Missouri as the beneficiary; except, that the aggregate liability of the surety or financial institution to the aggrieved parties shall, in no event, exceed the amount of the bond or irrevocable letter of credit. The proceeds of the bond or irrevocable letter of credit shall be paid upon receipt by the department of a final judgment from a Missouri court of competent jurisdiction against the principal and in favor of an aggrieved party;

(5) Payment of all necessary license fees as established by the department. In establishing the amount of the annual license fees, the department shall, as near as possible, produce sufficient total income to offset operational expenses of the department relating to the administration of sections 301.550 to 301.573. All fees payable pursuant to the provisions of sections 301.550 to 301.573, other than those fees collected for the issuance of dealer plates or certificates of number collected pursuant to subsection 6 of this section, shall be collected by the department for deposit in the state treasury to the credit of the "Motor Vehicle Commission Fund", which is hereby created. The motor vehicle commission fund shall be administered by the Missouri department of revenue. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in such fund shall not be transferred and placed to the credit of the general revenue fund until the amount in the motor vehicle commission fund at the end of the biennium exceeds two times the amount of the appropriation from such fund for the preceding fiscal year or, if the department requires permit renewal less frequently than yearly, then three times the appropriation from such 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 multiple of the appropriation from such fund for the preceding fiscal year.

2. In the event a new manufacturer, boat manufacturer, motor vehicle dealer, wholesale motor vehicle dealer, boat dealer, wholesale motor vehicle auction or a public motor vehicle auction submits an application for a license for a new business and the applicant has complied with all the provisions of this section, the department shall make a decision to grant or deny the license to the applicant within eight working hours after receipt of the dealer's application, notwithstanding any rule of the department.

3. Upon the initial issuance of a license by the department, the department shall assign a distinctive dealer license number or certificate of number to the applicant and the department shall issue one number plate or certificate bearing the distinctive dealer license number or certificate of number within eight working hours after presentment of the application. Upon the renewal of a boat dealer, boat manufacturer, manufacturer, motor vehicle dealer, public motor vehicle auction, wholesale motor vehicle dealer or wholesale motor vehicle auction, the department shall issue the distinctive dealer license number or certificate of number as quickly as possible. The issuance of such distinctive dealer license number or certificate of number shall be in lieu of registering each motor vehicle, trailer, vessel or vessel trailer dealt with by a boat dealer, boat manufacturer, manufacturer, public motor vehicle auction, wholesale motor vehicle dealer, wholesale motor vehicle auction or motor vehicle dealer.

4. Notwithstanding any other provision of the law to the contrary, the department shall assign the following distinctive dealer license numbers to:

New motor vehicle franchise dealers . . . . . D-0 through D-999
New motor vehicle franchise and commercial
motor vehicle dealers . . . . . D-1000 through D-1999
Used motor vehicle dealers . . . . . D-2000 through D-5399
and D-6000 through D-9999
Wholesale motor vehicle dealers. . . . . W-1000 through W-1999
Wholesale motor vehicle auctions. . . . . W-2000 through W-2999
Trailer dealers. . . . . T-0 through T-9999
Motor vehicle and trailer manufacturers . . . . . M-0 through M-9999
Motorcycle dealers . . . . . D-5400 through D-5999
Public motor vehicle auctions . . . . . A-1000 through A-1999
Boat dealers and boat manufacturers. . . . . B-0 through B-9999

5. Upon the sale of a currently licensed new motor vehicle franchise dealership the department shall, upon request, authorize the new approved dealer applicant to retain the selling dealer's license number and shall cause the new dealer's records to indicate such transfer.

6. In the case of manufacturers and motor vehicle dealers, the department shall also issue one number plate bearing the distinctive dealer license number to the applicant upon payment by the manufacturer or dealer of a fifty-dollar fee. 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. Boat dealers and boat manufacturers shall be entitled to one certificate of number bearing such number upon the payment of a fifty-dollar fee. As many additional number plates as may be desired by manufacturers and motor vehicle dealers and as many additional certificates of number as may be desired by boat dealers and boat manufacturers may be obtained upon payment of a fee of ten dollars and fifty cents for each additional plate or certificate. A motor vehicle dealer, boat dealer, manufacturer, boat manufacturer, public motor vehicle auction, wholesale motor vehicle dealer or wholesale motor vehicle auction obtaining a dealer license plate or certificate of number or additional license plate or additional certificate of number, throughout the calendar year, shall be required to pay a fee for such license plates or certificates of number computed on the basis of one-twelfth of the full fee prescribed for the original and duplicate number plates or certificates of number for such dealers' licenses, multiplied by the number of months remaining in the licensing period for which the dealer or manufacturers shall be required to be licensed. In the event of a renewing dealer, the fee due at the time of renewal shall not be prorated.

7. The plates issued pursuant to subsection 3 or 6 of this section may be displayed on any motor vehicle owned and held for resale by the motor vehicle dealer or manufacturer, and used by a customer who is test driving the motor vehicle, or is used by an employee or officer, but shall not be displayed on any motor vehicle or trailer hired or loaned to others or upon any regularly

used service or wrecker vehicle. Motor vehicle dealers may display their dealer plates on a tractor, truck or trailer to demonstrate a vehicle under a loaded condition.

8. The certificates of number issued pursuant to subsection 3 or 6 of this section may be displayed on any vessel or vessel trailer owned and held for resale by a boat manufacturer or a boat dealer, and used by a customer who is test driving the vessel or vessel trailer, or is used by an employee or officer, but shall not be displayed on any vessel or vessel trailer hired or loaned to others or upon any regularly used service vessel or vessel trailer. Boat dealers and manufacturers may display their certificate of number on a vessel or vessel trailer which is being transported to an exhibit or show.

Approved July 12, 2002

HB 2018 [HB 2018]

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

Requires county clerk of Jackson County to forward tax books for school districts by June 15.

AN ACT to repeal section 137.245, RSMo, and to enact in lieu thereof one new section relating to tax books for school districts.

SECTION
A. Enacting clause.
137.245. Assessor to prepare and return assessor's book, verification — clerk to abstract — failure, a misdemeanor — clerk to forward copy of valuations, to whom, when.

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

SECTION A. ENACTING CLAUSE. — Section 137.245, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 137.245, to read as follows:

137.245. ASSESSOR TO PREPARE AND RETURN ASSESSOR'S BOOK, VERIFICATION — CLERK TO ABSTRACT — FAILURE, A MISDEMEANOR — CLERK TO FORWARD COPY OF VALUATIONS, TO WHOM, WHEN. — 1. The assessor, except in St. Louis City, shall make out and return to the county governing body, on or before the thirty-first day of May in every year, the assessor's book, verified by **[**his**]** **an** affidavit annexed thereto, in the following words:

"..... being duly sworn, makes oath and says that **[**he**]** **such person** has made diligent efforts to ascertain all the taxable property being or situate, on the first day of January last past, in the county of which **[**he**]** **such person** is assessor; that, so far as **[**he**]** **such person** has been able to ascertain the same, it is correctly set forth in the foregoing book, in the manner and the value thereof stated therein, according to the mode required by law".

2. The clerk of the county governing body shall immediately make out an abstract of the assessment book, showing aggregate footings of the different columns, so as to set forth the aggregate amounts of the different kinds of real and tangible personal property and the valuation thereof, and forward the abstract to the state tax commission. Failure of the clerk to make out and forward the abstract to the state tax commission on or before the twentieth day of June is a misdemeanor.

3. The clerk of the county governing body in all counties, and the assessor in St. Louis City, shall make out an abstract of the assessment book showing the aggregate amounts of different kinds of real, personal and other tangible property and the valuations of each for each political subdivision in the county entitled to levy ad valorem taxes on property except for municipalities maintaining their own tax or assessment books. The clerk of each county, and the assessor in St. Louis City, shall forward a copy of the aggregate valuation listed in the tax book for each political subdivision, except counties and municipalities maintaining their own tax or assessment books, to the governing body of the subdivision by the first day of July of each year. In any county which contains a city with a population of one hundred thousand or more inhabitants which is located within a county of the first classification that adjoins no other county of the first classification, the clerk of the county shall provide the final revised assessed valuation listed in the tax book for each school district within the county to each such district on or before the fifteenth day of August of each year. **The clerk of any county of the first classification with a charter form of government and with more than six hundred thousand but less than seven hundred thousand inhabitants shall forward a copy of the aggregate valuation listed in the tax book for school districts within the county to each such district by the fifteenth day of June of each year.**

Approved July 3, 2002

HB 2022 [SCS HB 2022]

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

Reenacts section 178.870, relating to community college property tax rates, to cure possible constitutional defects.

AN ACT to repeal section 178.870, RSMo, relating to increases and decreases of certain tax rates, and to enact in lieu thereof two new sections relating to the same subject.

SECTION

A. Enacting clause.
178.870. Tax rates, limits — how increased and decreased.
178.881. Community college capital improvement subdistrict may be established, boundaries, taxation — ballot language — dissolution of subdistrict.

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

SECTION A. ENACTING CLAUSE. — Section 178.870, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 178.870 and 178.881, to read as follows:

178.870. TAX RATES, LIMITS — HOW INCREASED AND DECREASED. — **[**Any tax imposed on property subject to the taxing power of the junior college district under article X, section 11(a) of the constitution without voter approval shall not exceed the annual rate of ten cents on the hundred dollars assessed valuation in districts having one billion five hundred million dollars or more assessed valuation; twenty cents on the hundred dollars assessed valuation in districts having seven hundred fifty million dollars but less than one billion five hundred million dollars assessed valuation; thirty cents on the hundred dollars assessed valuation in districts having five hundred million dollars but less than seven hundred fifty million dollars assessed valuation; forty

cents on the hundred dollars assessed valuation in districts having less than five hundred million dollars assessed valuation; except that, no public junior college district having an assessed valuation in excess of one hundred million and less than two hundred fifty million which is levying an operating levy of thirty cents per one hundred dollars assessed valuation on September 28, 1975, shall increase such levy above thirty cents per one hundred dollars assessed valuation without voter approval. Tax rates specified in this section that were in effect in 1984 shall not be lowered due to an increase in assessed valuation created by general reassessment; however, the provisions of section 137.073, RSMo, or section 22(a) of article X of the Missouri Constitution are applicable. Districts which operate institutions awarding degrees above the associate degree shall not be affected by the changes provided in this section. Increases of the rate with voter approval shall be made in the manner provided in chapter 164, RSMo, for school districts**] Any tax imposed on property subject to the taxing power of the junior college district under article X, section 11(a) of the Missouri Constitution without voter approval shall not exceed the annual rate of ten cents on the hundred dollars assessed valuation in districts having one billion five hundred million dollars or more assessed valuation; twenty cents on the hundred dollars assessed valuation in districts having seven hundred fifty million dollars but less than one billion five hundred million dollars assessed valuation; thirty cents on the hundred dollars assessed valuation in districts having five hundred million dollars but less than seven hundred fifty million dollars assessed valuation; forty cents on the hundred dollars assessed valuation in districts having less than five hundred million dollars assessed valuation; except that, no public junior college district having an assessed valuation in excess of one hundred million and less than two hundred fifty million which is levying an operating levy of thirty cents per one hundred dollars assessed valuation on September 28, 1975, shall increase such levy above thirty cents per one hundred dollars assessed valuation without voter approval. Tax rates specified in this section that were in effect in 1984 shall not be lowered due to an increase in assessed valuation created by general reassessment; however, the provisions of section 137.073, RSMo, or section 22(a) of article X of the Missouri Constitution are applicable. Districts which operate institutions awarding degrees above the associate degree shall not be affected by the changes provided in this section. Increases of the rate with voter approval shall be made in the manner provided in chapter 164, RSMo, for school districts**.

178.881. COMMUNITY COLLEGE CAPITAL IMPROVEMENT SUBDISTRICT MAY BE ESTABLISHED, BOUNDARIES, TAXATION — BALLOT LANGUAGE — DISSOLUTION OF SUBDISTRICT. — 1. The board of trustees of any public community college district in this state may establish a community college capital improvement subdistrict by its order for the sole purpose of capital projects. The boundaries of any capital improvement subdistrict established pursuant to this section shall be within the boundaries of the community college district.

2. In the event a capital improvement subdistrict is so established, the board of trustees may propose an annual rate of taxation for the sole purpose of capital projects, within the limits of sections 178.770 to 178.891, which proposal shall be submitted to a vote of the people within the capital improvement subdistrict.

3. The question shall be submitted in substantially the following form:

Shall the board of trustees of ..... (name of district) be authorized, for the purpose of ..... (name of capital project), to borrow money in the amount of ..... dollars to be used in the capital improvement subdistrict of ..... (name of capital improvement subdistrict) for the purpose of ..... (name of capital project) and issue bonds for payment thereof?

[ ] YES [ ] NO

4. If a majority of the votes cast on the question are for the tax as submitted, the tax shall be levied and collected on property within the capital improvement subdistrict in the

same manner as other community college district taxes. Such funds shall be used for capital improvements in the community college capital improvement subdistrict.

5. Where a tax has not been approved by the voters within a five year period from the establishment of a community college capital improvement subdistrict, such capital improvement subdistrict shall be dissolved by the board of trustees.

Approved June 18, 2002

HB 2023 [SS HB 2023]

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

Revises language relating to challenges of a disciplinary change of placement and process of appeal of a hearing panel's decision.

AN ACT to repeal sections 162.670, 162.675, 162.961 and 162.962, RSMo, and to enact in lieu thereof four new sections relating to the appropriate educational placement of students.

SECTION

A. Enacting clause.
162.670. Statement of policy.
162.675. Definitions.
162.961. Resolution conference, conducted how — waiver of review, effect — attorney, capacity — hearing before panel, members and chairman chosen, how — written report — expedited hearing — forty-five day placement.
162.962. Decision subject to review, when, procedure.

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

SECTION A. ENACTING CLAUSE. — Sections 162.670, 162.675, 162.961 and 162.962 , RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 162.670, 162.675, 162.961 and 162.962, to read as follows:

162.670. STATEMENT OF POLICY. — In order to fully implement section 1(a) of article IX, constitution of Missouri, 1945, providing for the establishment and maintenance of free public schools for gratuitous instruction of all persons in this state within ages not in excess of twenty-one years as prescribed by law, it is hereby declared the policy of the state of Missouri to provide or to require public schools to provide to all handicapped and severely handicapped children within the ages prescribed herein, as an integral part of Missouri's system of gratuitous education, **[**special educational services sufficient to meet the needs and maximize the capabilities of handicapped and severely handicapped children**] a free appropriate education consistent with the provisions set forth in state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. Section 1400 et seq. and any amendments thereto**. The need of such children for early recognition, diagnosis and intensive educational services leading to more successful participation in home, employment and community life is recognized. The timely implementation of this policy is declared to be an integral part of the policy of this state.

162.675. DEFINITIONS. — As used in sections 162.670 to 162.995, unless the context clearly indicates otherwise, the following terms mean:

(1) "Gifted children", children who exhibit precocious development of mental capacity and learning potential as determined by competent professional evaluation to the extent that continued educational growth and stimulation could best be served by an academic environment beyond that offered through a standard grade level curriculum;

(2) "Handicapped children", children under the age of twenty-one years who have not completed an approved high school program and who, because of mental, physical, emotional or learning problems, require special educational services **[**in order to develop to their maximum capacity**]**;

(3) "Severely handicapped children", handicapped children under the age of twenty-one years who, because of the extent of the handicapping condition or conditions, as determined by competent professional evaluation, are unable to benefit from or meaningfully participate in programs in the public schools for handicapped children. The term "severely handicapped" is not confined to a separate and specific category but pertains to the degree of disability which permeates a variety of handicapping conditions and education programs;

(4) "Special educational services", programs designed to meet the needs **[**and maximize the capabilities**]** of handicapped or severely handicapped children and which include, but are not limited to, the provision of diagnostic and evaluation services, student and parent counseling, itinerant, homebound and referral assistance, organized instructional and therapeutic programs, transportation, and corrective and supporting services.

162.961. RESOLUTION CONFERENCE, CONDUCTED HOW — WAIVER OF REVIEW, EFFECT — ATTORNEY, CAPACITY — HEARING BEFORE PANEL, MEMBERS AND CHAIRMAN CHOSEN, HOW — WRITTEN REPORT — EXPEDITED HEARING — FORTY-FIVE DAY PLACEMENT. — 1. The resolution conference provided for in section 162.950 shall be conducted by the chief administrative officer of the responsible school district or a designee. The conference shall be informal, witnesses need not be sworn and a record of the proceedings need not be made. The school district or the state department of elementary and secondary education shall see that the parent or guardian or his representative is advised of and permitted to review all diagnoses, evaluations and reevaluations obtained by the board of education or the state department of elementary and secondary education which pertain to the child. The school district or state department of elementary and secondary education shall fully advise the parents or guardian or their representative of each reason relied upon by it in taking the proposed action. The parents or guardian or their representative may present any information whether written or oral to the officer which pertains to the recommended action. Questioning of all witnesses shall be permitted.

2. The resolution conference may be waived by the parents or guardian. If the parent or guardian waives the resolution conference and requests a three-member panel hearing, the state board of education shall empower such a panel pursuant to subsection 3 of this section. That empowerment shall take place within fifteen days of the request for the three-member panel hearing.

3. 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 6 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. 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.

4. 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.

5. After review of all evidence presented and a proper deliberation, the hearing panel, within forty-five days of receipt of the request for a due process hearing, except as provided in subsection 6 of this section relating to expedited hearings, 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 6 of this section.

6. An expedited due process hearing by the state board of education may be requested by a parent to challenge a **[**discipline**] disciplinary change of** placement **[**to an interim alternative educational setting,**]** or to challenge a manifestation determination in connection with a disciplinary **[**action involving a forty-five day placement for weapons, drugs, or because the child is a danger to himself or others,**] change of placement** or by a responsible educational agency to seek a forty-five 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. A specific extension of the time line is only permissible to the extent consistent with federal law and pursuant to state regulations.

7. If the responsible public agency requests a due process hearing to seek a forty-five 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 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 **[**access to**] progress in** the general education curriculum.

162.962. DECISION SUBJECT TO REVIEW, WHEN, PROCEDURE. — In a case where review of the hearing panel's decision is sought by a school district or a parent or guardian, either party may appeal as **[**provided in chapter 536, RSMo.**] follows:**

(1) The court shall hear the case without a jury and except as otherwise provided in subsection 4 of 536.140, RSMo, shall hear it upon the petition and record filed as provided in sections 162.950 to 162.961;

(2) The inquiry may extend to a determination of whether the action of the agency:

(a) Is in violation of constitutional provisions;

(b) Is unsupported by competent and substantial evidence upon the entire record;
(c) Is made upon unlawful procedure or without a fair trial;
(d) Is arbitrary, capricious, or unreasonable; or
(e) Involves an abuse of discretion.

Approved May 28, 2002

HB 2039 [HB 2039]

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

Authorizes any county, city, or village to designate memorial highways for law enforcement officers killed in the line of duty.

AN ACT to amend chapter 229, RSMo, by adding thereto one new section relating to memorial streets and roads.

SECTION
A. Enacting clause.
229.222. Designation of a certain road or highway as a memorial road for law enforcement officer killed in the line of duty.

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

SECTION A. ENACTING CLAUSE. — Chapter 229, RSMo, is amended by adding thereto one new section, to be known as section 229.222, to read as follows:

229.222. DESIGNATION OF A CERTAIN ROAD OR HIGHWAY AS A MEMORIAL ROAD FOR LAW ENFORCEMENT OFFICER KILLED IN THE LINE OF DUTY. — The governing assembly of any county, city, or village of this state may designate any street, road, or highway within such county, city, or village as a memorial road for any law enforcement officer who is killed in the line of duty. Any county, city, or village designating a memorial road pursuant to this section shall provide for and shall be responsible for the costs, erection, and maintenance of any signs marking the designated road.

Approved July 3, 2002

HB 2047 [SCS HB 2047]

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

Allows students of public institutions of higher education who are members of the National Guard called to active service to be eligible to receive a refund of tuition.

AN ACT to repeal sections 41.150 and 41.948, RSMo, and to enact in lieu thereof two new sections relating to military forces.

SECTION
A. Enacting clause.
41.150. Assistant adjutants general — appointment — duties — compensation.
41.948. Student of higher education called to active military service — option for refund or incomplete grade — requirements — rules and regulations, promulgation, procedure.

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

SECTION A. ENACTING CLAUSE. — Sections 41.150 and 41.948, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 41.150 and 41.948, to read as follows:

41.150. ASSISTANT ADJUTANTS GENERAL — APPOINTMENT — DUTIES — COMPENSATION. — The adjutant general may assign two assistant adjutants general in the grade of brigadier general or below, one from the ground forces and the other from the air forces of this state, **as well as a third assistant adjutant general in the grade of major general or below from the air forces of this state,** who, at the time of their appointment, have not less than four years of previous 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. The assistant adjutants general shall perform such duties as are assigned by the adjutant general; and during the absence of the adjutant general from the state, and during any period when **[**he**] the adjutant general** is unable to perform **[**his**] such** duties, the senior assistant adjutant general may perform the duties of the adjutant general. The assistant adjutants general shall **serve in the grade and** receive such compensation as the adjutant general determines.

41.948. STUDENT OF HIGHER EDUCATION CALLED TO ACTIVE MILITARY SERVICE — OPTION FOR REFUND OR INCOMPLETE GRADE — REQUIREMENTS — RULES AND REGULATIONS, PROMULGATION, PROCEDURE. — 1. In the 1990-91 academic year and in any subsequent academic year, when any person who is enrolled as a student in a public higher education institution in Missouri is called**[**, under**] into service of the United States pursuant to 32 U.S.C. 502(f)(1), section 41.470 or 41.480 or** the authority of **[**10 U.S.C. 672(d) or 10 U.S.C. 673b**] 10 U.S.C. 12301(d) or 10 U.S.C. 12304** or any such subsequent call or order by the President or the Congress, to active service in the armed forces of the United States, whether voluntarily or involuntarily, not including active service for training, prior to the completion of the semester, or similar grading period, that person shall be eligible for either:

(1) A complete refund of all tuition and incidental fees charged for enrollment at that institution for that semester, or similar grading period; or

(2) The awarding of a grade of "incomplete" pursuant to this section.

2. If such person has been awarded a scholarship to be used to pursue an academic program in any public higher education institution in Missouri and such person is unable to complete the academic term for which the scholarship is granted, that person shall be awarded that scholarship at any subsequent academic term, provided that the person returns to the academic program at the same institution at the beginning of the next academic term after the completion of active military service.

3. If the person chooses the option described in subdivision (1) of subsection 1 of this section, **[**he**] such person** may request that the official transcript indicate the courses from which **[**he**] such person** has withdrawn and the reason for the withdrawal, or **[**he**] such person** may request that all course titles be expunged from **[**his**] such person's** record. Choosing the option of a refund shall not affect the person's official academic record or standing at the public higher education institution.

4. If the person chooses the option described in subdivision (2) of subsection 1 of this section, **[**he**] such person** shall complete the course work to the satisfaction of the course

instructor and the institution. The grade of incomplete shall be converted to a failing grade if the person does not apply to complete the course work within six months of discharge or release from active military service. In the event the person cannot comply for medical reasons related to the active military service, **[**he**] such person** shall apply to complete the course work within three months of the end of the period of convalescence. Choosing the option of taking a grade of incomplete shall not affect the person's official academic record or standing at the public institution of higher education, unless the person fails to complete the course work. At the time the grade of incomplete is converted to a final grade, the person may choose either to have the grade of incomplete expunged from his official record or to have the grade of incomplete remain with the final grade and the reason for the grade of incomplete.

5. The coordinating board for higher education shall promulgate rules for the implementation of this section. For the purposes of this section, the term "public higher education institution" shall include public community colleges and state-supported institutions of higher education.

6. Notwithstanding any other provisions of this section to the contrary, nothing in this section shall be construed to prevent the governing body of any public higher education institution from enacting an academic policy more lenient in nature than the provisions of subsections 1 to 4 of this section.

7. **[**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 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, 2002, shall be invalid and void.**

Approved July 3, 2002

HB 2062 [HB 2062]

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

Revises various provisions relating to restricted driving privilege.

AN ACT to repeal sections 302.010, 302.304, 302.525, 302.535, 302.540, and 577.041, RSMo, and to enact in lieu thereof six new sections relating to restricted driving privilege.

SECTION

A. Enacting clause.
302.010. Definitions.
302.304. Notice of points — suspension or revocation of license, when, duration — reinstatement, condition, point reduction, fee — failure to maintain proof of financial responsibility, effect — point reduction prior to conviction, effect — surrender of license — reinstatement of license when drugs or alcohol involved, assignment recommendation, judicial review — fees for program — supplemental fees.
302.525. Suspension or revocation, when effective, duration — restricted driving privilege — effect of suspension or revocation by court on charges arising out of same occurrence.

302.535. Trial de novo, conduct, venue, what judge may hear, when — restricted driving privilege, when, duration of.
302.540. Reinstatement of license — completion of substance abuse traffic offender program a condition — individual assessment, judicial review — fees and cost, distribution of — treatment demonstration project may be created.
577.041. Refusal to submit to chemical test — notice, report of peace officer, contents — revocation of license, hearing — evidence, admissibility — reinstatement of licenses — substance abuse traffic offender program — assignment recommendations, judicial review — fees.

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

SECTION A. ENACTING CLAUSE. — Sections 302.010, 302.304, 302.525, 302.535, 302.540, and 577.041, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 302.010, 302.304, 302.525, 302.535, 302.540, and 577.041, to read as follows:

302.010. DEFINITIONS. — Except where otherwise provided, when used in this chapter, the following words and phrases mean:

(1) "Circuit court", each circuit court in the state;

(2) "Commercial motor vehicle", a motor vehicle designed or regularly used for carrying freight and merchandise, or more than fifteen passengers;

(3) "Conviction", any final conviction; also a forfeiture of bail or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated, shall be equivalent to a conviction, except that when any conviction as a result of which points are assessed pursuant to section 302.302 is appealed, the term "conviction" means the original judgment of conviction for the purpose of determining the assessment of points, and the date of final judgment affirming the conviction shall be the date determining the beginning of any license suspension or revocation pursuant to section 302.304;

(4) "Director", the director of revenue acting directly or through the director's authorized officers and agents;

(5) "Farm tractor", every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines and other implements of husbandry;

(6) "Highway", any public thoroughfare for vehicles, including state roads, county roads and public streets, avenues, boulevards, parkways, or alleys in any municipality;

(7) "Incompetent to drive a motor vehicle", a person who has become physically incapable of meeting the prescribed requirements of an examination for an operator's license, or who has been adjudged by a probate division of the circuit court in a capacity hearing of being incapacitated;

(8) "License", a license issued by a state to a person which authorizes a person to operate a motor vehicle;

(9) "Motor vehicle", any self-propelled vehicle not operated exclusively upon tracks except motorized bicycles, as defined in section 307.180, RSMo;

(10) "Motorcycle", a motor vehicle operated on two wheels; however, this definition shall not include motorized bicycles as defined in section 301.010, RSMo;

(11) "Motortricycle", a motor vehicle operated on three wheels, including a motorcycle operated with any conveyance, temporary or otherwise, requiring the use of a third wheel;

(12) "Moving violation", that character of traffic violation where at the time of violation the motor vehicle involved is in motion, except that the term does not include the driving of a motor vehicle without a valid motor vehicle registration license, or violations of sections 304.170 to 304.240, RSMo, inclusive, relating to sizes and weights of vehicles;

(13) "Municipal court", every division of the circuit court having original jurisdiction to try persons for violations of city ordinances;

(14) "Nonresident", every person who is not a resident of this state;

(15) "Operator", every person who is in actual physical control of a motor vehicle upon a highway;

(16) "Owner", a person who holds the legal title of 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 sections 302.010 to 302.540;

(17) "Record" includes, but is not limited to, papers, documents, facsimile information, microphotographic process, electronically generated or electronically recorded information, digitized images, deposited or filed with the department of revenue;

(18) **"Restricted driving privilege", a driving privilege issued by the director of revenue following a suspension of driving privileges for the limited purpose of driving in connection with the driver's business, occupation, employment, formal program of secondary, postsecondary or higher education, or for an alcohol education or treatment program.**

(19) "School bus", when used in sections 302.010 to 302.540, means any motor vehicle, either publicly or privately owned, used to transport students to and from school, or to transport pupils properly chaperoned to and from any place within the state for educational purposes. The term "school bus" shall not include a bus operated by a public utility, municipal corporation or common carrier authorized to conduct local or interstate transportation of passengers when such bus is not traveling a specific school bus route but is:

(a) On a regularly scheduled route for the transportation of fare-paying passengers; or

(b) Furnishing charter service for the transportation of persons enrolled as students on field trips or other special trips or in connection with other special events;

[(19)**] (20)** "School bus operator", an operator who operates a school bus as defined in subdivision (18) of this section in the transportation of any school children and who receives compensation for such service. The term "school bus operator" shall not include any person who transports school children as an incident to employment with a school or school district, such as a teacher, coach, administrator, secretary, school nurse, or janitor unless such person is under contract with or employed by a school or school district as a school bus operator;

[(20)**] (21)** "Signature", any method determined by the director of revenue for the signing, subscribing or verifying of a record, report, application, driver's license, or other related document that shall have the same validity and consequences as the actual signing by the person providing the record, report, application, driver's license or related document;

[(21)**] (22)** "Substance abuse traffic offender program", a program certified by the division of alcohol and drug abuse of the department of mental health to provide education or rehabilitation services pursuant to a professional assessment screening to identify the individual needs of the person who has been referred to the program as the result of an alcohol or drug related traffic offense. Successful completion of such a program includes participation in any education or rehabilitation program required to meet the needs identified in the assessment screening. The assignment recommendations based upon such assessment shall be subject to judicial review as provided in subsection 13 of section 302.304 and subsections 1 and 5 of section 302.540;

[(22)**] (23)** "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.

302.304. NOTICE OF POINTS — SUSPENSION OR REVOCATION OF LICENSE, WHEN, DURATION — REINSTATEMENT, CONDITION, POINT REDUCTION, FEE — FAILURE TO MAINTAIN PROOF OF FINANCIAL RESPONSIBILITY, EFFECT — POINT REDUCTION PRIOR TO

CONVICTION, EFFECT — SURRENDER OF LICENSE — REINSTATEMENT OF LICENSE WHEN DRUGS OR ALCOHOL INVOLVED, ASSIGNMENT RECOMMENDATION, JUDICIAL REVIEW — FEES FOR PROGRAM — SUPPLEMENTAL FEES. — 1. The director shall notify by ordinary mail any operator of the point value charged against the operator's record when the record shows four or more points have been accumulated in a twelve-month period.

2. In an action to suspend or revoke a license or driving privilege under this section points shall be accumulated on the date of conviction. No case file of any conviction for a driving violation for which points may be assessed pursuant to section 302.302 may be closed until such time as a copy of the record of such conviction is forwarded to the department of revenue.

3. The director shall suspend the license and driving privileges of any person whose driving record shows the driver has accumulated eight points in eighteen months.

4. The license and driving privilege of any person whose license and driving privilege have been suspended under the provisions of sections 302.010 to 302.540 except those persons whose license and driving privilege have been suspended under the provisions of subdivision (8) of subsection 1 of section 302.302 or has accumulated sufficient points together with a conviction under subdivision (10) of subsection 1 of section 302.302 and who has filed proof of financial responsibility with the department of revenue, in accordance with chapter 303, RSMo, and is otherwise eligible, shall be reinstated as follows:

(1) In the case of an initial suspension, thirty days after the effective date of the suspension;

(2) In the case of a second suspension, sixty days after the effective date of the suspension;

(3) In the case of the third and subsequent suspensions, ninety days after the effective date of the suspension.

Unless proof of financial responsibility is filed with the department of revenue, a suspension shall continue in effect for two years from its effective date.

5. The period of suspension of the driver's license and driving privilege of any person under the provisions of subdivision (8) of subsection 1 of section 302.302 or who has accumulated sufficient points together with a conviction under subdivision (10) of subsection 1 of section 302.302 shall be thirty days, followed by a sixty-day period of restricted driving privilege **[**issued by the director of revenue for the limited purpose of driving between a residence and a place of employment, or to and from an alcohol education or treatment program, or for both between a residence and a place of employment and to and from such a program**] as defined in section 302.010**. Upon completion of such period of restricted driving privilege, upon compliance with other requirements of law and upon filing of proof of financial responsibility with the department of revenue, in accordance with chapter 303, RSMo, the license and driving privilege shall be reinstated.

6. If the person fails to maintain proof of financial responsibility in accordance with chapter 303, RSMo, the person's driving privilege and license shall be resuspended.

7. The director shall revoke the license and driving privilege of any person when the person's driving record shows such person has accumulated twelve points in twelve months or eighteen points in twenty-four months or twenty-four points in thirty-six months. The revocation period of any person whose license and driving privilege have been revoked under the provisions of sections 302.010 to 302.540 and who has filed proof of financial responsibility with the department of revenue in accordance with chapter 303, RSMo, and is otherwise eligible, shall be terminated by a notice from the director of revenue after one year from the effective date of the revocation. Unless proof of financial responsibility is filed with the department of revenue, except as provided in subsection 2 of section 302.541, the revocation shall remain in effect for a period of two years from its effective date. If the person fails to maintain proof of financial responsibility in accordance with chapter 303, RSMo, the person's license and driving privilege shall be rerevoked. Any person whose license and driving privilege have been revoked under the provisions of sections 302.010 to 302.540 shall, upon receipt of the notice of termination of

the revocation from the director, pass the complete driver examination and apply for a new license before again operating a motor vehicle upon the highways of this state.

8. If, prior to conviction for an offense that would require suspension or revocation of a person's license under the provisions of this section, the person's total points accumulated are reduced, pursuant to the provisions of section 302.306, below the number of points required for suspension or revocation pursuant to the provisions of this section, then the person's license shall not be suspended or revoked until the necessary points are again obtained and accumulated.

9. If any person shall neglect or refuse to surrender the person's license, as provided herein, the director shall direct the state highway patrol or any peace or police officer to secure possession thereof and return it to the director.

10. Upon the issuance of a reinstatement or termination notice after a suspension or revocation of any person's license and driving privilege under the provisions of sections 302.010 to 302.540, the accumulated point value shall be reduced to four points, except that the points of any person serving as a member of the armed forces of the United States outside the limits of the United States during a period of suspension or revocation shall be reduced to zero upon the date of the reinstatement or termination of notice. It shall be the responsibility of such member of the armed forces to submit copies of official orders to the director of revenue to substantiate such overseas service. Any other provision of sections 302.010 to 302.540 to the contrary notwithstanding, the effective date of the four points remaining on the record upon reinstatement or termination shall be the date of the reinstatement or termination notice.

11. No credit toward reduction of points shall be given during periods of suspension or revocation or any period of driving under a **[**hardship**]** **limited** driving privilege granted by a court **or the director of revenue**.

12. Any person or nonresident whose license or privilege to operate a motor vehicle in this state has been suspended or revoked under this or any other law shall, before having the license or privilege to operate a motor vehicle reinstated, pay to the director a reinstatement fee of twenty dollars which shall be in addition to all other fees provided by law.

13. Notwithstanding any other provision of law to the contrary, if after two years from the effective date of any suspension or revocation issued under this chapter, the person or nonresident has not paid the reinstatement fee of twenty dollars, the director shall reinstate such license or privilege to operate a motor vehicle in this state.

14. No person who has had a license to operate a motor vehicle suspended or revoked as a result of an assessment of points for a violation under subdivision (8), (9) or (10) of subsection 1 of section 302.302 shall have that license reinstated until such person has participated in and successfully completed a substance abuse traffic offender program defined in section 302.010, or a program determined to be comparable by the department. Assignment recommendations, based upon the needs assessment as described in subdivision (21) of section 302.010, shall be delivered in writing to the person with written notice that the person is entitled to have such assignment recommendations reviewed by the court if the person objects to the recommendations. The person may file a motion in the associate division of the circuit court **of the county in which such assignment was given**, on a printed form provided by the state courts administrator, to have the court hear and determine such motion pursuant to the provisions of chapter 517, RSMo. The motion shall name the person or entity making the needs assessment as the respondent and a copy of the motion shall be served upon the respondent in any manner allowed by law. Upon hearing the motion, the court may modify or waive any assignment recommendation that the court determines to be unwarranted based upon a review of the needs assessment, the person's driving record, the circumstances surrounding the offense, and the likelihood of the person committing a like offense in the future, except that the court may modify but may not waive the assignment to an education or rehabilitation program of a person determined to be a prior or persistent offender as defined in section 577.023, RSMo, or of a person determined to have operated a motor vehicle with fifteen-hundredths of one percent or more by weight in such person's blood. Compliance with the court determination of the motion

shall satisfy the provisions of this section for the purpose of reinstating such person's license to operate a motor vehicle. The respondent's personal appearance at any hearing conducted pursuant to this subsection shall not be necessary unless directed by the court.

15. The fees for the program authorized in subsection 14 of this section, or a portion thereof to be determined by the department of mental health, shall be paid by the person enrolled in the program. Any person who is enrolled in the program shall pay, in addition to any fee charged for the program, a supplemental fee of sixty dollars. The administrator of the program shall remit to the division of alcohol and drug abuse of the department of mental health the supplemental fee for all persons enrolled in the program, less two percent for administrative costs. The supplemental fees received by the department of mental health pursuant to this section shall be deposited in the mental health earnings fund which is created in section 630.053, RSMo.

302.525. SUSPENSION OR REVOCATION, WHEN EFFECTIVE, DURATION — RESTRICTED DRIVING PRIVILEGE — EFFECT OF SUSPENSION OR REVOCATION BY COURT ON CHARGES ARISING OUT OF SAME OCCURRENCE. — 1. The license suspension or revocation shall become effective fifteen days after the subject person has received the notice of suspension or revocation as provided in section 302.520, or is deemed to have received the notice of suspension or revocation by mail as provided in section 302.515. If a request for a hearing is received by or postmarked to the department within that fifteen-day period, the effective date of the suspension or revocation shall be stayed until a final order is issued following the hearing; provided, that any delay in the hearing which is caused or requested by the subject person or counsel representing that person without good cause shown shall not result in a stay of the suspension or revocation during the period of delay.

2. The period of license suspension or revocation under this section shall be as follows:

(1) If the person's driving record shows no prior alcohol related enforcement contacts during the immediately preceding five years, the period of suspension shall be thirty days after the effective date of suspension, followed by a sixty-day period of restricted driving privilege **as defined in section 302.010 and** issued by the director of revenue **[**for the limited purpose of driving in connection with the person's business, occupation, or employment, and to and from an alcohol education or treatment program**]**. The restricted driving privilege shall not be issued until he or she has filed proof of financial responsibility with the department of revenue, in accordance with chapter 303, RSMo, and is otherwise eligible. In no case shall restricted driving privileges be issued pursuant to this section or section 302.535 until the person has completed the first thirty days of a suspension under this section;

(2) The period of revocation shall be one year if the person's driving record shows one or more prior alcohol related enforcement contacts during the immediately preceding five years.

3. For purposes of this section, "alcohol related enforcement contacts" shall include any suspension or revocation under sections 302.500 to 302.540, any suspension or revocation entered in this or any other state for a refusal to submit to chemical testing under an implied consent law, and any conviction in this or any other state for a violation which involves driving a vehicle while having an unlawful alcohol concentration.

4. Where a license is suspended or revoked under this section and the person is also convicted on charges arising out of the same occurrence for a violation of section 577.010 or 577.012, RSMo, or for a violation of any county or municipal ordinance prohibiting driving while intoxicated or alcohol related traffic offense, both the suspension or revocation under this section and any other suspension or revocation **[**under this chapter**]** **arising from such convictions** shall be imposed, but the period of suspension or revocation under sections 302.500 to 302.540 shall be credited against any other suspension or revocation **[**imposed under this chapter**]** **arising from such convictions**, and the total period of suspension or revocation shall not exceed the longer of the two suspension or revocation periods.

302.535. TRIAL DE NOVO, CONDUCT, VENUE, WHAT JUDGE MAY HEAR, WHEN — RESTRICTED DRIVING PRIVILEGE, WHEN, DURATION OF. — 1. Any person aggrieved by a decision of the department may file a petition for trial de novo by the circuit court. The burden of proof shall be on the state to adduce the evidence. Such trial shall be conducted pursuant to the Missouri rules of civil procedure and not as an appeal of an administrative decision pursuant to chapter 536, RSMo. The petition shall be filed in the circuit court of the county where the arrest occurred. The case shall be decided by the judge sitting without a jury. Until January 1, 2002, the presiding judge of the circuit court may assign a traffic judge, pursuant to section 479.500, RSMo 1994, a circuit judge or an associate circuit judge to hear such petition. After January 1, 2002, pursuant to local court rule pursuant to article V, section 15 of the Missouri Constitution, the case may be assigned to a circuit judge or an associate circuit judge, or to a traffic judge pursuant to section 479.500, RSMo.

2. The filing of a petition for trial de novo shall not result in a stay of the suspension or revocation order. **[**But upon the filing of such petition, a restricted driving privilege for the limited purpose of driving in connection with the petitioner's business, occupation, employment, or formal program of secondary, postsecondary or higher education shall be issued by the department**] A restricted driving privilege as defined in section 302.010 shall be issued in accordance with subsection 2 of section 302.525,** if the person's driving record shows no prior alcohol-related enforcement contact during the immediately preceding five years. Such **[**limited**] restricted** driving privilege shall terminate on the date of the disposition of the petition for trial de novo.

3. In addition to the **[**limited**] restricted** driving privilege as permitted in subsection 2 of this section, the department may upon the filing of a petition for trial de novo issue a restricted driving privilege **[**for the limited purpose of driving in connection with the petitioner's business, occupation, employment, or formal program of secondary, postsecondary or higher education**] as defined in section 302.010**. In determining whether to issue such a restrictive driving privilege, the department shall consider the number and the seriousness of prior convictions and the entire driving record of the driver.

4. Such time of restricted driving privilege pending disposition of trial de novo shall be counted toward any time of restricted driving privilege imposed pursuant to section 302.525. Nothing in this subsection shall be construed to prevent a person from maintaining his restricted driving privilege for an additional sixty days in order to meet the conditions imposed by section 302.540 for reinstating a person's driver's license.

302.540. REINSTATEMENT OF LICENSE — COMPLETION OF SUBSTANCE ABUSE TRAFFIC OFFENDER PROGRAM A CONDITION — INDIVIDUAL ASSESSMENT, JUDICIAL REVIEW — FEES AND COST, DISTRIBUTION OF — TREATMENT DEMONSTRATION PROJECT MAY BE CREATED. — 1. No person who has had a license to operate a motor vehicle suspended or revoked under the provisions of sections 302.500 to 302.540 shall have that license reinstated until such person has participated in and successfully completed a substance abuse traffic offender program defined in section 302.010, or a program determined to be comparable by the department. Assignment recommendations, based upon the needs assessment as described in subdivision (21) of section 302.010, shall be delivered in writing to the person with written notice that the person is entitled to have such assignment recommendations reviewed by the court if the person objects to the recommendations. The person may file a motion in the associate division of the circuit court **of the county in which such assignment was given**, on a printed form provided by the state courts administrator, to have the court hear and determine such motion pursuant to the provisions of chapter 517, RSMo. The motion shall name the person or entity making the needs assessment as the respondent and a copy of the motion shall be served upon the respondent in any manner allowed by law. Upon hearing the motion, the court may modify or waive any assignment recommendation that the court determines to be unwarranted based upon a review of the needs assessment, the person's driving record, the circumstances surrounding the offense,

and the likelihood of the person committing a like offense in the future, except that the court may modify but may not waive the assignment to an education or rehabilitation program of a person determined to be a prior or persistent offender as defined in section 577.023, RSMo, or of a person determined to have operated a motor vehicle with fifteen-hundredths of one percent or more by weight in such person's blood. Compliance with the court determination of the motion shall satisfy the provisions of this section for the purpose of reinstating such person's license to operate a motor vehicle. The respondent's personal appearance at any hearing conducted pursuant to this subsection shall not be necessary unless directed by the court.

2. The fees for the program authorized in subsection 1 of this section, or a portion thereof to be determined by the division of alcohol and drug abuse of the department of mental health, shall be paid by the person enrolled in the program. Any person who is enrolled in the program shall pay, in addition to any fee charged for the program, a supplemental fee of sixty dollars. The administrator of the program shall remit to the division of alcohol and drug abuse of the department of mental health the supplemental fee for all persons enrolled in the program, less two percent for administrative costs. The supplemental fees received by the department of mental health pursuant to this section shall be deposited in the mental health earnings fund which is created in section 630.053, RSMo.

3. Court-ordered participation in a substance abuse traffic offender program, pursuant to section 577.049, RSMo, shall satisfy the requirements of this section if the court action arose out of the same occurrence that resulted in a person's license being administratively suspended or revoked.

4. The division of alcohol and drug abuse of the department of mental health may create a treatment demonstration project within existing appropriations and shall develop and certify a program to provide education or rehabilitation services for individuals determined by the division to be serious or repeat offenders. The program shall qualify as a substance abuse traffic offender program. As used in this subsection, a "serious or repeat offender" is one who was determined to have a blood alcohol content of fifteen-hundredths of one percent or more by weight while operating a motor vehicle or a prior or persistent offender as defined in section 577.023, RSMo.

577.041. REFUSAL TO SUBMIT TO CHEMICAL TEST — NOTICE, REPORT OF PEACE OFFICER, CONTENTS — REVOCATION OF LICENSE, HEARING — EVIDENCE, ADMISSIBILITY — REINSTATEMENT OF LICENSES — SUBSTANCE ABUSE TRAFFIC OFFENDER PROGRAM — ASSIGNMENT RECOMMENDATIONS, JUDICIAL REVIEW — FEES. — 1. If a person under arrest, or who has been stopped pursuant to subdivision (2) or (3) of subsection 1 of section 577.020, refuses upon the request of the officer to submit to any test allowed pursuant to section 577.020, then none shall be given and evidence of the refusal shall be admissible in a proceeding pursuant to section 565.024 or 565.060, RSMo, or section 577.010 or 577.012. The request of the officer shall include the reasons of the officer for requesting the person to submit to a test and also shall inform the person that evidence of refusal to take the test may be used against such person and that the person's license shall be immediately revoked upon refusal to take the test. If a person when requested to submit to any test allowed pursuant to section 577.020 requests to speak to an attorney, the person shall be granted twenty minutes in which to attempt to contact an attorney. If upon the completion of the twenty-minute period the person continues to refuse to submit to any test, it shall be deemed a refusal. In this event, the officer shall, on behalf of the director of revenue, serve the notice of license revocation personally upon the person and shall take possession of any license to operate a motor vehicle issued by this state which is held by that person. The officer shall issue a temporary permit, on behalf of the director of revenue, which is valid for fifteen days and shall also give the person a notice of such person's right to file a petition for review to contest the license revocation.

2. The officer shall make a sworn report to the director of revenue, which shall include the following:

(1) That the officer has:

(a) Reasonable grounds to believe that the arrested person was driving a motor vehicle while in an intoxicated or drugged condition; or

(b) Reasonable grounds to believe that the person stopped, being under the age of twenty-one years, was driving a motor vehicle with a blood alcohol content of two-hundredths of one percent or more by weight; or

(c) Reasonable grounds to believe that the person stopped, being under the age of twenty-one years, was committing a violation of the traffic laws of the state, or political subdivision of the state, and such officer has reasonable grounds to believe, after making such stop, that the person had a blood alcohol content of two-hundredths of one percent or greater;

(2) That the person refused to submit to a chemical test;

(3) Whether the officer secured the license to operate a motor vehicle of the person;

(4) Whether the officer issued a fifteen-day temporary permit;

(5) Copies of the notice of revocation, the fifteen-day temporary permit and the notice of the right to file a petition for review, which notices and permit may be combined in one document; and

(6) Any license to operate a motor vehicle which the officer has taken into possession.

3. Upon receipt of the officer's report, the director shall revoke the license of the person refusing to take the test for a period of one year; or if the person is a nonresident, such person's operating permit or privilege shall be revoked for one year; or if the person is a resident without a license or permit to operate a motor vehicle in this state, an order shall be issued denying the person the issuance of a license or permit for a period of one year.

4. If a person's license has been revoked because of the person's refusal to submit to a chemical test, such person may petition for a hearing before a circuit or associate circuit court in the county in which the arrest or stop occurred. The person may request such court to issue an order staying the revocation until such time as the petition for review can be heard. If the court, in its discretion, grants such stay, it shall enter the order upon a form prescribed by the director of revenue and shall send a copy of such order to the director. Such order shall serve as proof of the privilege to operate a motor vehicle in this state and the director shall maintain possession of the person's license to operate a motor vehicle until termination of any revocation pursuant to this section. Upon the person's request the clerk of the court shall notify the prosecuting attorney of the county and the prosecutor shall appear at the hearing on behalf of the director of revenue. At the hearing the court shall determine only:

(1) Whether or not the person was arrested or stopped;

(2) Whether or not the officer had:

(a) Reasonable grounds to believe that the person was driving a motor vehicle while in an intoxicated or drugged condition; or

(b) Reasonable grounds to believe that the person stopped, being under the age of twenty-one years, was driving a motor vehicle with a blood alcohol content of two-hundredths of one percent or more by weight; or

(c) Reasonable grounds to believe that the person stopped, being under the age of twenty-one years, was committing a violation of the traffic laws of the state, or political subdivision of the state, and such officer had reasonable grounds to believe, after making such stop, that the person had a blood alcohol content of two-hundredths of one percent or greater; and

(3) Whether or not the person refused to submit to the test.

5. If the court determines any issue not to be in the affirmative, the court shall order the director to reinstate the license or permit to drive.

6. Requests for review as provided in this section shall go to the head of the docket of the court wherein filed.

7. No person who has had a license to operate a motor vehicle suspended or revoked pursuant to the provisions of this section shall have that license reinstated until such person has participated in and successfully completed a substance abuse traffic offender program defined in section 577.001, or a program determined to be comparable by the department or the court.

Assignment recommendations, based upon the needs assessment as described in subdivision (21) of section 302.010, RSMo, shall be delivered in writing to the person with written notice that the person is entitled to have such assignment recommendations reviewed by the court if the person objects to the recommendations. The person may file a motion in the associate division of the circuit court **of the county in which such assignment was given**, on a printed form provided by the state courts administrator, to have the court hear and determine such motion pursuant to the provisions of chapter 517, RSMo. The motion shall name the person or entity making the needs assessment as the respondent and a copy of the motion shall be served upon the respondent in any manner allowed by law. Upon hearing the motion, the court may modify or waive any assignment recommendation that the court determines to be unwarranted based upon a review of the needs assessment, the person's driving record, the circumstances surrounding the offense, and the likelihood of the person committing a like offense in the future, except that the court may modify but may not waive the assignment to an education or rehabilitation program of a person determined to be a prior or persistent offender as defined in section 577.023, RSMo, or of a person determined to have operated a motor vehicle with fifteen-hundredths of one percent or more by weight in such person's blood. Compliance with the court determination of the motion shall satisfy the provisions of this section for the purpose of reinstating such person's license to operate a motor vehicle. The respondent's personal appearance at any hearing conducted pursuant to this subsection shall not be necessary unless directed by the court.

8. The fees for the substance abuse traffic offender program, or a portion thereof to be determined by the division of alcohol and drug abuse of the department of mental health, shall be paid by the person enrolled in the program. Any person who is enrolled in the program shall pay, in addition to any fee charged for the program, a supplemental fee of sixty dollars. The administrator of the program shall remit to the division of alcohol and drug abuse of the department of mental health the supplemental fee for all persons enrolled in the program, less two percent for administrative costs. The supplemental fees received by the department of mental health pursuant to this section shall be deposited in the mental health earnings fund which is created in section 630.053, RSMo.

Approved June 12, 2002

HB 2064 [HB 2064]

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

Changes requirements for sheriff's deeds given under the Municipal Land Reutilization Law.

AN ACT to amend chapter 92, RSMo, by adding thereto one new section relating to deeds on real property sold at tax foreclosure sales.

SECTION

A. Enacting clause.

92.852. Recording fee, sheriff's deed given pursuant to municipal land reutilization law, assessed when — recorded, when.

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

SECTION A. ENACTING CLAUSE. — Chapter 92, RSMo, is amended by adding thereto one new section, to be known as section 92.852, to read as follows:

92.852. RECORDING FEE, SHERIFF'S DEED GIVEN PURSUANT TO MUNICIPAL LAND REUTILIZATION LAW, ASSESSED WHEN — RECORDED, WHEN. — Any sheriff's deed given pursuant to the municipal land reutilization law shall be subject to a recording fee for the costs of recording the deed that shall be assessed and collected from the purchaser of the property at the same time the proceeds from the sale are collected. All such deeds shall be recorded at the office of the recorder of deeds within two months after the sheriff's deed is given.

Approved June 28, 2002

HB 2078 [HB 2078]

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

Repeals expired sections of statutes.

AN ACT to repeal sections 141.265, 142.027, 313.335, 640.169, 640.170, 640.172, 640.175, 640.177, 640.179, 640.180, 640.182, 640.185, 640.195, 640.200, 640.203, 640.205, 640.207, 640.210, 640.212, 640.215 and 640.218, RSMo 2000, and section 217.440 as enacted by senate committee substitute for senate bill no. 430 of the eighty-ninth general assembly, first regular session, for the purpose of repealing expired provisions of law and sections made obsolete by expired provisions of law.

SECTION

A. Enacting clause.
141.265. Tax liens, proceedings to enforce, commenced, when — termination date.
142.027. Fuel ethanol and ethanol blends, defined — tax rate — reimbursement to state highways and transportation department fund, amount, how computed.
217.440. Program of restorative justice, requirements — termination date for program.
313.353. Commission may allow pre-October 22, 1998, lottery winners receiving annual payments to elect to receive a single cash payment, expiration date.
640.169. Termination of sections 640.170 to 640.218.
640.170. Definitions.
640.172. Application for loan funds, procedures — payback score, how determined.
640.175. Energy cost savings, computation of.
640.177. Repayment of loans, how — funds not to be derived from additional tax levy — deposit of funds received.
640.179. Energy conservation loan account, established — maintenance of records.
640.180. Local government energy conservation loan fund established, funding — state treasurer to administer — use of funds — fund not to lapse.
640.182. Use of loan proceeds — department may audit — rules and regulations, promulgation of.
640.185. Administration of funds, guidelines — expiration dates.
640.195. Definitions.
640.200. Application and technical assistance report, content and form — loans, how granted — limitation on loan.
640.203. Repayment of loan in semiannual payments, interest rate — renegotiate repayment, when — deposit of payments in fund.
640.205. Energy conservation loan account to be established by business with loan — accounting and records requirements.
640.207. Industrial/commercial energy conservation loan fund established, purpose — moneys to be deposited in fund — use and disbursement — transfer to general revenue prohibited.
640.210. Remittance for improper use of loan, procedure — attorney general's duties — audit of loan, when.
640.212. Rules authorized.
640.215. Money from sources other than state, how handled — report by department of natural resources, when, content.
640.218. Revenue bonds issued by authority, purpose.

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

SECTION A. ENACTING CLAUSE. — Sections 141.265, 142.027, 313.353, 640.169, 640.170, 640.172, 640.175, 640.177, 640.179, 640.180, 640.182, 640.185, 640.195, 640.200, 640.203, 640.205, 640.207, 640.210, 640.212, 640.215 and 640.218, RSMo 2000, and section 217.440 as enacted by senate committee substitute for senate bill no. 430 of the eighty-ninth general assembly, first regular session, are repealed as follows:

[141.265. TAX LIENS, PROCEEDINGS TO ENFORCE, COMMENCED, WHEN — TERMINATION DATE. — 1. In order to provide for the orderly implementation of, and notwithstanding other provisions of sections 141.210 to 141.810, the periods of delinquency upon which proceedings to foreclose the tax lien as otherwise authorized by sections 141.210 to 141.810 shall be as follows:

(1) Proceedings commenced in 1983 shall be for enforcement of the tax lien on tax bills billed 1978 and 1979 and falling delinquent in the calendar years 1979 and 1980;

(2) Proceedings commenced in 1984 shall be for enforcement of the tax lien of tax bills billed 1980 and 1981 and falling delinquent in the calendar years 1981 and 1982;

(3) Proceedings commenced after December 31, 1984, on bills billed in 1982 and thereafter shall be for the enforcement of the tax lien on tax bills as otherwise provided by sections 141.210 to 141.810.

2. Subsection 1 of this section shall terminate on December 31, 1984, but the termination shall not impair or invalidate any proceeding brought pursuant to sections 141.210 to 141.810, pending on that date.**]**

EXPLANATION: Subsection 1 of this section expired December 31, 1984. The remainder of the section is made obsolete.

[142.027. FUEL ETHANOL AND ETHANOL BLENDS, DEFINED — TAX RATE — REIMBURSEMENT TO STATE HIGHWAYS AND TRANSPORTATION DEPARTMENT FUND, AMOUNT, HOW COMPUTED. — 1. As used in this section, the following terms mean:

(1) "Fuel ethanol", one hundred ninety-eight proof ethanol denatured in conformity with United States Bureau of Alcohol, Tobacco and Firearms' regulations and fermented and distilled in a facility whose principal (over fifty percent) feed stock is cereal grain or cereal grain by-products;

(2) "Fuel ethanol blends", a mixture of ninety percent gasoline and ten percent fuel ethanol in which the gasoline portion of the blend or the finished blend meets the American Society for Testing and Materials - specification number D-439.

2. Notwithstanding any other law to the contrary, the rate of the license tax imposed by section 142.020 on qualified fuel ethanol blends used in propelling motor vehicles upon the public highways of Missouri is two cents per gallon less than the rate of tax stated in section 142.025, until July 1, 1996.

3. The state highways and transportation department fund shall be reimbursed from the state general revenue fund in the amount not to exceed two cents per gallon for each gallon of ethanol blend motor fuel taxed at a rate of taxation which is a maximum of two cents below the tax imposed on all other motor fuel sold in this state for propelling motor vehicles on the public highways of this state. The department of transportation, by December first of each year, shall determine from the reports filed by distributors with the department of revenue the number of gallons of ethanol blended motor fuel sold in this state for propelling motor vehicles upon the highways of this state during the preceding fiscal year ending on June thirtieth of that year. The department of transportation shall certify the number of gallons so derived to the respective chairpersons of the senate appropriations committee and the house budget committee by the last day of December. The figures and exemption credits so certified shall be the amount of

reimbursement to be appropriated annually to the state highways and transportation department fund from the state general revenue fund.**]**

EXPLANATION: This section expired June 30, 1996.

[217.440. PROGRAM OF RESTORATIVE JUSTICE, REQUIREMENTS — TERMINATION DATE FOR PROGRAM. — The director may establish a program of restorative justice within the department's correctional centers and require that offenders offer acts and expressions of sincere remorse for the offense committed and its impact on the victim(s) and the community. Such program requirements may include, but are not limited to, community service work while incarcerated and participation in victim-oriented programs, as well as other restorative activities to be determined by the department. The provisions of this section shall terminate December 31, 2000.**]**

EXPLANATION: Two versions of this section were enacted in 1997. This section expired December 31, 2000. The second version did not contain an expiration date and still exists.

[313.353. COMMISSION MAY ALLOW PRE-OCTOBER 22, 1998, LOTTERY WINNERS RECEIVING ANNUAL PAYMENTS TO ELECT TO RECEIVE A SINGLE CASH PAYMENT, EXPIRATION DATE. — Notwithstanding section 313.35 to the contrary, the commission as defined in section 313.205 may allow any state lottery prize winner who won the lottery, as defined in this chapter, before October 22, 1998, and who is currently receiving annual payments from annuities or securities, to elect to receive a single cash payment in lieu of the remaining annual payments. This section shall expire on December 31, 2000.**]**

EXPLANATION: This section expired December 31, 2000.

[640.169. TERMINATION OF SECTIONS 640.170 TO 640.218. — Sections 640.170 to 640.218 shall terminate July 1, 1996. Moneys in the local government energy conservation loan fund and the industrial commercial energy conservation loan fund shall be transferred to the energy set-aside energy fund and the local government energy conservation loan fund and the industrial commercial energy conservation loan fund shall be abolished.**]**

EXPLANATION: This section becomes obsolete when sections 640.170 to 640.218 are repealed.

[640.170. DEFINITIONS. — As used in sections 640.170 to 640.185, the following terms mean:

(1) "Application cycle", the period of time each year, as determined by the department, that the department shall accept and receive applications from local governments seeking loans under the provisions of sections 640.170 to 640.185;

(2) "Building", any structure owned and operated by a local government that includes a heating or cooling system, or both;

(3) "Department", the department of natural resources;

(4) "Energy conservation loan account", an account to be established on the books of a local government for purposes of tracking information related to the receipt or expenditure of loan funds, and to be used to receive and remit energy cost savings for purposes of making semiannual payments to retire the loan;

(5) "Energy conservation project" or "project", the design, acquisition and installation of one or more energy conserving devices, measures or modifications to a building or facility to reduce energy consumption or to allow for the use of alternative or energy resources;

(6) "Energy cost savings" or "savings", the value, in terms of dollars, that has or shall accrue from energy savings due to implementation of an energy conservation project;

(7) "Estimated simple payback", the estimated cost of a project divided by the estimated energy cost savings, usually expressed in terms of months or years;

(8) "Facility", any major energy using system owned and operated by a local government, whether or not housed in a building;

(9) "Fund", the local government energy conservation loan fund established in section 640.180;

(10) "Loan agreement", a document signed and agreed to by the governing body of the local government and the department that details all terms and requirements under which the loan was issued, and describes the terms under which the loan repayment shall be made;

(11) "Local government", any city, county or village, or any subdistrict of a zoological park and museum district as such subdistricts are defined in section 184.352, RSMo;

(12) "Payback score", a numeric value derived from the review of an application, calculated as prescribed by the department, which is used solely for purposes of ranking applications for the selection of loan recipients from within the balance of loan funds available;

(13) "Project cost", all costs determined by the department to be directly related to the implementation of an energy conservation project;

(14) "Repayment period", unless otherwise negotiated as required under section 640.177, the period in years required to repay a loan as determined by the projects' estimated simple payback and rounded to the next year in cases where the estimated simple payback is in a fraction of a year;

(15) "Technical assistance report", a specialized engineering report that identifies and specifies the quantity of energy savings and related energy cost savings that are likely to result from the implementation of one or more energy conservation measures;

(16) "Unobligated balance", that amount in the fund that has not been dedicated to any local government at the end of each state fiscal year.**]**

EXPLANATION: This section expired July 1, 1996.

[640.172. APPLICATION FOR LOAN FUNDS, PROCEDURES — PAYBACK SCORE, HOW DETERMINED. — 1. At the direction of its governing body, a local government may submit an application for loan funds to the department of natural resources for the purpose of financing all or a portion of the costs incurred in implementing an energy conservation project in a local government owned and operated building or facility. The application shall be accompanied by a technical assistance report that shall be in such form and contain such information as prescribed by the department. This section shall not preclude any local government from joining in a cooperative project with any other local governments or with any state or federal agency or entity in an energy conservation project, providing all other requirements of sections 640.170 to 640.185 are met.

2. All applications shall be assigned a payback score derived from the application review performed by the department. Applications shall be selected for loans beginning with the lowest payback score and continuing in ascending numeric order to the highest payback score until all available loan funds have been obligated within any given application cycle. In no case shall a loan be made to finance an energy project with a payback score of less than six months or more than eight years. Applications may be approved for loans only in those instances where the local government has furnished the department information satisfactory to assure that the project cost will be recovered through energy cost savings during the repayment period of the loan. In no case shall a loan be made to a local government unless a majority of the members of the governing body vote to approve the loan agreement.**]**

EXPLANATION: This section expired July 1, 1996.

[640.175. ENERGY COST SAVINGS, COMPUTATION OF. — Annually, at the conclusion of each state fiscal year, each local government which has received a loan pursuant to the provisions of sections 640.170 to 640.185 shall compute the actual energy cost savings resulting from the implementation of the energy conservation project financed by the loan. Energy cost savings shall be calculated in the manner prescribed by the department and reported to the department during the period of the loan.**]**

EXPLANATION: This section expired July 1, 1996.

[640.177. REPAYMENT OF LOANS, HOW — FUNDS NOT TO BE DERIVED FROM ADDITIONAL TAX LEVY — DEPOSIT OF FUNDS RECEIVED. — 1. Each local government to which a loan has been made under sections 640.170 to 640.185 shall repay such loan, with interest, in semiannual payments. The rate of interest shall be the rate required by the department of natural resources. The number, amounts and timing of the semiannual payments shall be as determined by the department.

2. Any local government which receives a loan through the provisions of sections 640.170 to 640.185 shall annually budget an amount which is at least sufficient to make the semiannual payments required under this section.

3. The local government shall not raise the funds needed to make the semiannual loan payment by the levy of additional taxes. The semiannual loan payments shall be derived solely from energy cost savings resulting from the implementation of the project. In the event that energy cost savings resulting from the project fail to equal or exceed the amount of the semiannual payment, the local government and the department shall renegotiate the repayment period in such a manner as to assure that the semiannual payment amount does not exceed the actual energy cost savings resulting from the project.

4. If a local government fails to remit a semiannual payment to the department in accordance with this section within sixty days of the due date of such payment, the department of natural resources shall notify the director of the department of revenue to deduct such payment amount from the next regular apportionment of local sales tax distributions to that jurisdiction. Such amount shall then immediately be deposited in the fund.

5. All local governments having received loans pursuant to sections 640.170 to 640.185 shall remit the semiannual payments required by subsection 1 of this section to the department. The department shall immediately deposit such payments in the local government energy conservation loan fund.**]**

EXPLANATION: This section expired July 1, 1996.

[640.179. ENERGY CONSERVATION LOAN ACCOUNT, ESTABLISHED — MAINTENANCE OF RECORDS. — 1. A local government receiving a loan under the provisions of sections 640.170 to 640.185 shall establish on its books an energy conservation loan account which it shall maintain until such time as the loan obligation has been repaid. Information sufficient to indicate the receipt and expenditure of all funds authorized and allowed under the terms of the loan shall be entered in this account.

2. The local government shall maintain all internal records directly related to the loan and the project in such a way as to provide for proper auditing of the project.**]**

EXPLANATION: This section expired July 1, 1996.

[640.180. LOCAL GOVERNMENT ENERGY CONSERVATION LOAN FUND ESTABLISHED, FUNDING — STATE TREASURER TO ADMINISTER — USE OF FUNDS — FUND NOT TO LAPSE. — 1. The state treasurer shall establish, maintain, and administer a special trust fund to be administered by the department and to be known as the "Local Government Energy Conservation

Loan Fund", which is hereby established. When appropriated by the general assembly, moneys from the fund shall be used to provide local governments with loans for the purpose of implementing energy conservation projects under the provisions of sections 640.170 to 640.185.

2. It is the intent of sections 640.170 to 640.185 to use oil overcharge moneys as the primary funding source for its implementation. Upon appropriation by the general assembly, that amount shall be deposited into the fund from the petroleum violation escrow fund. In addition, the department is authorized to receive and credit to the fund any federal funds, gifts, bequests, donations or any other moneys so designated, including general revenue appropriations. All money received pursuant to section 640.177, and all interest earned on and income generated from such moneys shall immediately be paid to and deposited in the local government energy conservation loan fund.

3. The full balance, or any portion thereof, of the fund shall be available to be issued and reissued for loans as authorized by sections 640.170 to 640.185. Following appropriation by the general assembly, the department may expend interest earned on the local government energy conservation loan fund, for the administration of the local government loan program contained in sections 640.170 to 640.185.

4. The commissioner of administration shall disburse such moneys at such times from the fund as are authorized by the department pursuant to section 640.172.

5. Except as otherwise provided in sections 640.170 to 640.185, the provisions of section 33.080, RSMo, requiring the transfer of unexpended funds to the general revenue fund of the state shall not apply to funds in the local government energy conservation loan fund.**]**

EXPLANATION: This section expired July 1, 1996.

[640.182. USE OF LOAN PROCEEDS — DEPARTMENT MAY AUDIT — RULES AND REGULATIONS, PROMULGATION OF. — 1. A loan made pursuant to sections 640.170 to 640.185 shall be used only for the purposes specified in an approved application. In the event the department determines that a loan has been expended for purposes other than those specified in an approved application, it shall immediately request the return of the full amount of the loan. If a local government fails to remit repayment to the department within sixty days of notification, collection shall be made through the provisions outlined in subsection 4 of section 640.177.

2. The department may, at its discretion, audit the expenditure of any loan made pursuant to sections 640.170 to 640.185 or the computation of any payment made pursuant to section 640.177.

3. The department shall promulgate such rules and regulations as are necessary for the administration of sections 640.170 to 640.185. No rule or portion of a rule promulgated under the authority of sections 640.170 to 640.185 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.**]**

EXPLANATION: This section expired July 1, 1996.

[640.185. ADMINISTRATION OF FUNDS, GUIDELINES — EXPIRATION DATES. — 1. All moneys from sources other than state appropriations which are specified to be used for purposes identified under the provisions of sections 640.170 to 640.185 shall be handled in the same manner as moneys received through state appropriations unless otherwise required in agreements or regulations with the sources from which such moneys are obtained. The director of the department of natural resources shall certify that the use of all such moneys and any required agreements or regulations are consistent with sections 640.170 to 640.185, and all other state and federal laws governing such moneys, agreements and regulations.

2. Loan-making authority under sections 640.170 to 640.185 shall cease as of January 1, 1998.

3. All moneys remaining in the fund plus accrued interest and the proceeds from repayments of outstanding loans shall be disbursed in a manner consistent with the rules, regulations, statutes or federal court orders governing the original source of the moneys.

4. All authorizations under sections 640.170 to 640.185 shall expire on January 1, 2006.**]**

EXPLANATION: This section expired July 1, 1996.

[640.195. DEFINITIONS. — 1. It is the intention of the general assembly that sections 640.195 to 640.218 are to be implemented so that loan funds are provided to small businesses in order for such small businesses to implement energy conservation projects and reduce their overall energy costs and consumption.

2. As used in sections 640.195 to 640.218, the following terms mean:

(1) "Applications cycle", the period of time each year, as determined by the department, that the department shall accept and receive applications seeking loans under the provisions of sections 640.195 to 640.218;

(2) "Authority", the environmental improvement and energy resources authority;

(3) "Building", any occupied structure that is owned and operated by an applicant business and which includes a heating or cooling system, or both;

(4) "Department", the department of natural resources;

(5) "Energy conservation project" or "project", the design, acquisition and installation of one or more energy conserving devices, measures or modifications to a building or facility to reduce energy consumption, to increase energy efficiency or to allow for the use of alternative energy resources;

(6) "Energy cost savings" or "savings", the value in terms of dollars that has or shall accrue from energy savings due to implementation of an energy conservation project;

(7) "Estimated simple payback", the estimated cost of a project divided by the estimated energy cost savings;

(8) "Facility", any major energy-using system owned and operated by an applicant business, whether or not housed in a building;

(9) "Fund", the industrial/commercial energy conservation loan fund established in section 640.207;

(10) "Loan agreement", a document signed and agreed to by authorized officials or principals in the applicant business and the department that details all terms and requirements under which the loan was issued and describes the terms under which the loan repayment shall be made;

(11) "Payback score", a numeric value derived from the review of an application, calculated as prescribed by the department, which is used solely for purposes of ranking applications for the selection of loan recipients within the balance of loan funds available;

(12) "Project cost", all costs determined by the department to be directly related to the implementation of an energy conservation project;

(13) "Repayment period", unless otherwise renegotiated as required under section 640.203, the period in years required to repay a loan as determined by the project's estimated simple payback and rounded to the next year in cases where the estimated simple payback is in a fraction of a year;

(14) "Technical assistance report", a specialized engineering report that identifies and specifies the quantity of energy savings and related energy cost savings that are likely to result from the implementation of one or more energy conservation measures;

(15) "Unobligated balance", that amount in the fund that has not been dedicated to energy conservation projects at the end of each state fiscal year.**]**

EXPLANATION: This section expired July 1, 1996.

[640.200. APPLICATION AND TECHNICAL ASSISTANCE REPORT, CONTENT AND FORM — LOANS, HOW GRANTED — LIMITATION ON LOAN. — 1. An application for loan funds may be submitted to the department for the purpose of financing all or a portion of the costs incurred in implementing an energy conservation project in a facility owned and operated by the applicant. The application shall be accompanied by a technical assistance report. If the applicant pays more than ten percent of the loan for the technical assistance report, the loan shall be denied. The application and the technical assistance report shall be in such form and contain such information as prescribed by the department.

2. All applications shall be assigned a payback score derived from the application review performed by the department. Applications shall be selected for loans beginning with the lowest payback score until all available loan funds have been obligated within any given application cycle. In no case shall a loan be made to finance an energy project with a payback score of less than six months or more than five years. Applications may be approved for loans only in those instances where the applicant has furnished the department information satisfactory to assure that the project cost will be recovered through energy cost savings during the repayment period of the loan.

3. All applications for loans or permits shall be approved or disapproved within ninety days or stand approved as submitted.

4. The department shall not issue a loan for more than one hundred fifty thousand dollars for any one energy conservation project.**]**

EXPLANATION: This section expired July 1, 1996.

[640.203. REPAYMENT OF LOAN IN SEMIANNUAL PAYMENTS, INTEREST RATE — RENEGOTIATE REPAYMENT, WHEN — DEPOSIT OF PAYMENTS IN FUND. — 1. Each applicant to which a loan has been made under sections 640.195 to 640.218 shall repay such loan with interest in semiannual payments. The rate of interest shall be the rate required by the funding source. The amount and timing of the semiannual payments shall be as determined by the department.

2. In the event that energy cost savings resulting from the project fail to equal or exceed the amount of the semiannual payment, the applicant and the department shall renegotiate the repayment period in such a manner as to assure that the semiannual payment amount does not exceed the actual energy cost savings resulting from the project.

3. All businesses which have received loans pursuant to sections 640.195 to 640.218 shall remit the semiannual payments required by subsection 1 of this section to the department. The department shall immediately deposit such payments in the industrial/commercial energy conservation loan fund.**]**

EXPLANATION: This section expired July 1, 1996.

[640.205. ENERGY CONSERVATION LOAN ACCOUNT TO BE ESTABLISHED BY BUSINESS WITH LOAN — ACCOUNTING AND RECORDS REQUIREMENTS. — 1. A business receiving a loan under the provisions of sections 640.195 to 640.218 shall establish on its books an energy conservation loan account which the business shall maintain until such time as the loan obligation has been repaid. Information sufficient to indicate the receipt and expenditure of all funds authorized and allowed under the terms of the loan shall be entered in this account.

2. The business shall maintain all internal records directly related to the loan and the project in such a way as to provide for proper auditing of the project.**]**

EXPLANATION: This section expired July 1, 1996.

[640.207. INDUSTRIAL/COMMERCIAL ENERGY CONSERVATION LOAN FUND ESTABLISHED, PURPOSE — MONEYS TO BE DEPOSITED IN FUND — USE AND DISBURSEMENT — TRANSFER TO GENERAL REVENUE PROHIBITED. — 1. The state treasurer shall establish and maintain a special trust fund to be administered by the department and to be known as the "Industrial/Commercial Energy Conservation Loan Fund", from which Missouri industrial and commercial businesses may seek and obtain loans for the purpose of implementing energy conservation projects under the provisions of sections 640.195 to 640.218.

2. All moneys duly authorized and appropriated by the general assembly, all moneys received from federal funds, gifts, bequests, donations or any other moneys so designated, all moneys received pursuant to section 640.203, and all interest earned on and income generated from moneys in the fund shall immediately be paid to and deposited in the industrial/commercial energy conservation loan fund.

3. Moneys in the fund including moneys from repayments of loans by business recipients, as specified in section 640.203, shall be available to be reissued for loans as authorized in sections 640.195 to 640.218. After appropriation by the general assembly, the department may expend the interest earned on the industrial/commercial energy conservation loan fund for the administration of sections 640.195 to 640.218.

4. The commissioner of administration shall disburse such moneys from the fund at such times as are authorized by the department.

5. Except as otherwise provided in sections 640.195 to 640.218, the provisions of section 33.080, RSMo, requiring the transfer of unexpended funds to the ordinary revenue funds of the state shall not apply to funds in the industrial/commercial energy conservation loan fund.**]**

EXPLANATION: This section expired July 1, 1996.

[640.210. REMITTANCE FOR IMPROPER USE OF LOAN, PROCEDURE — ATTORNEY GENERAL'S DUTIES — AUDIT OF LOAN, WHEN. — 1. A loan made pursuant to sections 640.195 to 640.218 shall be used only for the purposes specified in an approved application. In the event the department determines that a loan has been expended for purposes other than those specified in an approved application, it shall immediately request the return of the full amount of the loan. If an applicant fails to remit repayment to the department within sixty days of notification, the director of the department shall request the attorney general to file suit in a court of competent jurisdiction to recover repayment plus interest accrued from the date of the department's initial request for repayment.

2. The department may, at its discretion, audit the expenditure of any loan made pursuant to sections 640.195 to 640.218 or the computation of any payment made pursuant to section 640.203.**]**

EXPLANATION: This section expired July 1, 1996.

[640.212. RULES AUTHORIZED. — Under the provisions of sections 640.195 to 640.218, the department shall establish such procedures, policies and qualifications as may be necessary for the administration of sections 640.195 to 640.218.**]**

EXPLANATION: This section expired July 1, 1996.

[640.215. MONEY FROM SOURCES OTHER THAN STATE, HOW HANDLED — REPORT BY DEPARTMENT OF NATURAL RESOURCES, WHEN, CONTENT. — 1. All moneys from sources other than state appropriations which are specified to be used for purposes identified under the provisions of sections 640.195 to 640.218 shall be handled in the same manner as moneys received through state appropriations unless otherwise required in agreements or regulations with the sources from which such moneys are obtained. The department director shall certify that the

use of all such moneys and any required agreements or regulations are consistent with the intent of sections 640.195 to 640.218 and all other state and federal laws governing such moneys, agreements and regulations.

2. The division of energy of the department of natural resources shall annually report to the appropriate standing committees of jurisdiction within the general assembly regarding the effectiveness of the industrial/commercial energy conservation loan program, the total number of participants and dollars committed, energy savings realized, and projected future participation.**]**

EXPLANATION: This section expired July 1, 1996.

[640.218. REVENUE BONDS ISSUED BY AUTHORITY, PURPOSE. — 1. The department may act jointly with the authority to make loans to Missouri industrial and commercial businesses out of the proceeds of revenue bonds issued by the authority, which loans shall be for energy conservation and improvements, energy efficiency and alternative energy resources.

2. Revenue bonds issued by the authority, the proceeds of which are to be lent pursuant to this section, shall be issued and administered in accordance with the terms and conditions established in sections 260.005 to 260.125, RSMo, after approval by the general assembly.**]**

EXPLANATION: This section expired July 1, 1996.

Approved July 3, 2002

HB 2080 [SCS HB 2080]

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 county commissions to elect to give their prosecutors retirement benefits equal to prosecutors in first-class counties.

AN ACT to repeal sections 56.363 and 56.807, RSMo, and to enact in lieu thereof two new sections relating to county prosecutors.

SECTION

A. Enacting clause.

56.363. Full-time prosecutor, ballot — effective date — continuing education requirement, duty to provide to peace officers — may qualify for retirement benefits, when.

56.807. Local payments, amounts — prosecuting attorneys and circuit attorneys' retirement system fund created — donations may be accepted.

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

SECTION A. ENACTING CLAUSE. — Sections 56.363 and 56.807, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 56.363 and 56.807, to read as follows:

56.363. FULL-TIME PROSECUTOR, BALLOT — EFFECTIVE DATE — CONTINUING EDUCATION REQUIREMENT, DUTY TO PROVIDE TO PEACE OFFICERS — MAY QUALIFY FOR RETIREMENT BENEFITS, WHEN. — 1. The county commission of any county may on its own motion and shall upon the petition of ten percent of the total number of people who voted in the previous general election in the county submit to the voters at a general or special election the proposition of making the county prosecutor a full-time position. The commission shall cause

notice of the election to be published in a newspaper published within the county, or if no newspaper is published within the county, in a newspaper published in an adjoining county, for three weeks consecutively, the last insertion of which shall be at least ten days and not more than thirty days before the day of the election, and by posting printed notices thereof at three of the most public places in each township in the county. The proposition shall be put before the voters substantially in the following form:

Shall the office of prosecuting attorney be made a full-time position in ..... County?

[ ] Yes [ ] No

If a majority of the voters voting on the proposition vote in favor of making the county prosecutor a full-time position, it shall become effective upon the date that the prosecutor who is elected at the next election subsequent to the passage of such proposal is sworn into office.

2. The provisions of subsection 1 of this section notwithstanding, in any county where the proposition of making the county prosecutor a full-time position was submitted to the voters at a general election in 1998 and where a majority of the voters voting on the proposition voted in favor of making the county prosecutor a full-time position, the proposition shall become effective on May 1, 1999. Any prosecuting attorney whose position becomes full time on May 1, 1999, under the provisions of this subsection shall have the additional duty of providing not less than three hours of continuing education to peace officers in the county served by the prosecuting attorney in each year of the term beginning January 1, 1999.

3. In counties that, prior to August 28, 2001, have elected pursuant to this section to make the position of prosecuting attorney a full-time position, the county commission may at any time elect to have that position also qualify for the retirement benefit available for a full-time prosecutor of a county of the first classification. Such election shall be made by a majority vote of the county commission and once made shall be irrevocable. When such an election is made, the results shall be transmitted to the Missouri prosecuting attorneys and circuit attorneys' retirement system fund, and the election shall be effective on the first day of January following such election. Such election shall also obligate the county to pay into the Missouri prosecuting attorneys and circuit attorneys' system retirement fund the same retirement contributions for full-time prosecutors as are paid by counties of the first classification.

56.807. LOCAL PAYMENTS, AMOUNTS — PROSECUTING ATTORNEYS AND CIRCUIT ATTORNEYS' RETIREMENT SYSTEM FUND CREATED — DONATIONS MAY BE ACCEPTED. — 1. The funds for prosecuting attorneys and circuit attorneys provided for in subsection 2 of this section shall be paid from county or city funds.

2. Beginning thirty days after the establishment of this system and monthly thereafter, each county treasurer shall pay to the system the following amounts to be drawn from the general revenues of the county:

(1) For counties of the third and fourth classification except as provided in subdivision (3) of this subsection, three hundred seventy-five dollars;

(2) For counties of the second classification, five hundred forty-one dollars and sixty-seven cents;

(3) For counties of the first classification, counties which pursuant to section 56.363 elect to make the position of prosecuting attorney a full-time position after August 28, 2001, **or whose county commission has elected a full-time retirement benefit pursuant to subsection 3 of section 56.363,** and the city of St. Louis, one thousand two hundred ninety-one dollars and sixty-seven cents.

3. The county treasurer shall at least monthly transmit the sums specified in subsection 2 of this section to the Missouri office of prosecution services for deposit to the credit of the "Missouri Prosecuting Attorneys and Circuit Attorneys' Retirement System Fund", which is hereby created. All moneys held by the state treasurer on behalf of the system shall be paid to the system within ninety days after August 28, 1993. Moneys in the Missouri prosecuting

attorneys and circuit attorneys' retirement system fund shall be used only for the purposes provided in sections 56.800 to 56.840 and for no other purpose.

4. The board may accept gifts, donations, grants and bequests from private or public sources to the Missouri prosecuting attorneys and circuit attorneys' retirement system fund.

5. No state moneys shall be used to fund section 56.700 and sections 56.800 to 56.840 unless provided for by law.

Approved July 10, 2002

HB 2117 [HB 2117]

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 provisions regarding access to information technology by state departments and agencies.

AN ACT to repeal section 191.863, RSMo, and to enact in lieu thereof one new section relating to the assistive technology advisory council.

SECTION

A. Enacting clause.

191.863. Council to assure compliance with federal accessibility laws — duties of council to assure accessibility.

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

SECTION A. ENACTING CLAUSE. — Section 191.863, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 191.863, to read as follows:

191.863. COUNCIL TO ASSURE COMPLIANCE WITH FEDERAL ACCESSIBILITY LAWS — DUTIES OF COUNCIL TO ASSURE ACCESSIBILITY. — 1. The council shall work in conjunction with the office of information technology to assure state compliance with the provisions of Section 508 of the Workforce Investment Act of 1998 regarding accessibility of information technology for individuals with disabilities.

2. When developing, procuring, maintaining or using information technology, **or when administering contracts or grants that include the procurement, development, or upgrading of information technology,** each state department or agency shall ensure, unless an undue burden would be imposed on the department or agency, that the information technology allows employees, program participants and members of the general public access to and use of information and data that is comparable to the access by individuals without disabilities.

3. To assure accessibility, the council and the office of information technology shall:

(1) Adopt accessibility standards to be used by each state department or agency in the procurement of information technology, and in the development and implementation of custom-designed information technology systems, Web sites and other emerging information technology systems;

(2) Establish and implement a review procedure to be used to evaluate the accessibility of custom-designed information technology systems proposed by a state department or agency prior to expenditure of state funds;

(3) Review and evaluate accessibility of information technology commonly purchased by state departments and agencies, and provide accessibility reports on such products to those responsible for purchasing decisions;

(4) Provide training and technical assistance for state departments and agencies to assure procurement of information technology that meets adopted accessibility standards;

(5) Involve individuals with disabilities in accessibility reviews of information technology and in the delivery of training and technical assistance;

(6) Establish complaint procedures, consistent with Section 508 of the Workforce Development Act of 1998 to be used by an individual with a disability who alleges that a state department or agency fails to comply with the provisions of this section.

Approved July 2, 2002

HB 2120 [CCS SCS HB 2120]

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

Specifies how to ascertain the value of certain stolen property.

AN ACT to repeal section 570.020, RSMo, and to enact in lieu thereof one new section relating to the method of ascertaining the value of property.

SECTION
A. Enacting clause.
570.020. Determination of value.

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

SECTION A. ENACTING CLAUSE. — Section 570.020, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 570.020, to read as follows:

570.020. DETERMINATION OF VALUE. — For the purposes of this chapter, the value of property shall be ascertained as follows:

(1) Except as otherwise specified in this section, "value" means the market value of the property at the time and place of the crime, or if such cannot be satisfactorily ascertained, the cost of replacement of the property within a reasonable time after the crime**. If the victim is a merchant, as defined in section 400.2-104, RSMo, and the property is a type that the merchant sells in the ordinary course of business, then the property shall be valued at the price that such merchant would normally sell such property**;

(2) Whether or not they have been issued or delivered, certain written instruments, not including those having a readily ascertainable market value such as some public and corporate bonds and securities, shall be evaluated as follows:

(a) The value of an instrument constituting evidence of debt, such as a check, draft or promissory note, shall be deemed the amount due or collectible thereon or thereby, such figure ordinarily being the face amount of the indebtedness less any portion thereof which has been satisfied;

(b) The value of any other instrument which creates, releases, discharges or otherwise affects any valuable legal right, privilege or obligation shall be deemed the greatest amount of economic

loss which the owner of the instrument might reasonably suffer by virtue of the loss of the instrument;

(3) When the value of property cannot be satisfactorily ascertained pursuant to the standards set forth in subdivisions (1) and (2) of this section, its value shall be deemed to be an amount less than one hundred fifty dollars.

Approved July 10, 2002

HB 2130 [HB 2130]

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

Clarifies the deadline for filing tangible personal property listings.

AN ACT to repeal section 137.495, RSMo, and to enact in lieu thereof one new section relating to tangible personal property listings.

SECTION

A. Enacting clause.

137.495. Property owners to file return listing tangible personal property, when — filing on next business day when filing date is on a Saturday or Sunday.

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

SECTION A. ENACTING CLAUSE. — Section 137.495, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 137.495, to read as follows:

137.495. PROPERTY OWNERS TO FILE RETURN LISTING TANGIBLE PERSONAL PROPERTY, WHEN — FILING ON NEXT BUSINESS DAY WHEN FILING DATE IS ON A SATURDAY OR SUNDAY. — Every person, corporation, partnership or association, subject to taxation **[**under**]** **pursuant to** the laws of this state and owning or controlling tangible personal property taxable by the cities shall file with the assessor of the cities a return listing all such tangible personal property so owned or controlled on January first of each year and estimating the true value thereof in money. The return shall be filed between the first day of January and the first day of April of each year, shall be signed by the taxpayer, and shall be certified by the taxpayer as being a true and complete list and statement of all the tangible personal property and the estimated value thereof. **If the first day of April is a Saturday or Sunday, the last day for filing shall be the next business day.**

Approved June 28, 2002

HB 2137 [SCS HB 2137]

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

Changes the compensation scale for county treasurers.

AN ACT to repeal section 54.261, RSMo, and to enact in lieu thereof one new section relating to compensation for county treasurers.

SECTION
A. Enacting clause.
54.261. Compensation — training program, attendance required, when, expenses, compensation (second, third and fourth class counties and Clay County).

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

SECTION A. ENACTING CLAUSE. — Section 54.261, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 54.261, to read as follows:

54.261. COMPENSATION — TRAINING PROGRAM, ATTENDANCE REQUIRED, WHEN, EXPENSES, COMPENSATION (SECOND, THIRD AND FOURTH CLASS COUNTIES AND CLAY COUNTY). — 1. The county treasurer in counties of the first classification, not having a charter form of government and containing a portion of a city with a population of three hundred thousand or more, and in counties of the second, third and fourth classifications of this state, shall receive as compensation for services performed by the treasurer an annual salary based upon the assessed valuation of the county. The provisions of this section shall not permit or require a reduction**, nor shall require an increase,** in the amount of compensation being paid for the office of treasurer on January 1, **[**1997**] 2002**.

2. The amount of salary based upon assessed valuation shall be computed according to the following schedule:

Assessed Valuation	Salary
$ 18,000,000 to 40,999,999	$21,460
41,000,000 to 53,999,999	22,200
54,000,000 to 65,999,999	23,680
66,000,000 to 85,999,999	25,160
86,000,000 to 99,999,999	26,640
100,000,000 to 130,999,999	28,120
131,000,000 to 159,999,999	29,600
160,000,000 to 189,999,999	30,340
190,000,000 to 249,999,999	30,710
250,000,000 to 299,999,999	31,820
300,000,000 or more	33,300

3. In lieu of the salary schedule listed in subsection 2 of this section, the salary commission may authorize a salary schedule that exceeds the schedule in subsection 2 of this section, but such schedule shall not exceed the following:

Assessed Valuation	**Salary**
$ 18,000,000 to 40,999,999	**$29,000**
41,000,000 to 53,999,999	**30,000**
54,000,000 to 65,999,999	**32,000**
66,000,000 to 85,999,999	**34,000**
86,000,000 to 99,999,999	**36,000**
100,000,000 to 130,999,999	**38,000**
131,000,000 to 159,999,999	**40,000**
160,000,000 to 189,999,999	**41,000**
190,000,000 to 249,999,999	**41,500**
250,000,000 to 299,999,999	**43,000**
300,000,000 or more	**45,000**

[3.**] 4.** Two thousand dollars of the salary authorized in this section shall be payable to the treasurer only if the treasurer has completed at least twenty hours of classroom instruction each

calendar year relating to the operations of the treasurer's office when approved by a professional association of the county treasurers or county collectors of Missouri unless exempted from the training by the professional association. The professional association approving the program shall provide a certificate of completion to each treasurer who completes the training program and shall send a list of certified treasurers to the county commission of each county. Expenses incurred for attending the training session may be reimbursed to the county treasurer in the same manner as other expenses as may be appropriated for that purpose.

[4.**] 5.** The county treasurer in any county, other than a county of the first classification having a charter form of government or a county of the first classification not having a charter form of government and not containing any part of a city with a population of three hundred thousand or more, shall not, except upon two-thirds vote of all the members of the commission, receive an annual compensation in an amount less than the total compensation being received for the office of county treasurer in the particular county for services rendered or performed on the date the salary commission votes.

[5.**] 6.** In the event of a vacancy in the office of treasurer in any county except a county of the first classification with a charter form of government, when there is no deputy treasurer, the county commission shall appoint a qualified acting treasurer until such time as the vacancy is filled by the governor pursuant to section 105.030, RSMo.

Approved June 21, 2002